CITY COUNCIL AGENDA

Wednesday, March 27, 2024
9:00 am

CITY OF TYLER
A Natural Beauty

CITY COUNCIL

Donald P. Warren, Mayor
Stuart Hene, District 1
Broderick McGee, District 2
Dr. Shirley McKellar, District 3
James Wynne, District 4
Lloyd Nichols, District 5
Brad Curtis, District 6

CITY COUNCIL MEETING AGENDA

CITY COUNCIL CHAMBERS - CITY HALL

City Hall, City Council Chambers
212 N. Bonner Avenue, 2nd Floor
Tyler, Texas
Follow us on Facebook Live at:
https://www.facebook.com/CityofTylerTexas/
Wednesday, March 27, 2024
9:00 am

Internet website http://www.cityoftyler.org **and Cable Access Channel 3**

Please call (903) 531-1250 if you need assistance with interpretation or translation for this City meeting.

Si usted necesita ayuda con la interpretación o traducción de cualquier material en este sitio o en una reunión pública de la Ciudad de Tyler por favor llame al (903) 531-1250.

AMERICANS WITH DISABILITIES ACT NOTICE

The City of Tyler wants to ensure that City Council Meetings are accessible to persons with disabilities. If any individual needs special assistance or accommodations in order to attend a City Council meeting, please contact the City Manager's Office at 903.531.1250, in advance so accommodations can be made.

COURTESY RULES

Thank you for your presence. The City Council appreciates your interest in Tyler City Government. To ensure fairness and orderly meetings, the Council has adopted rules of courtesy which apply to all members of the Council, Administrative Staff, News Media, Citizens and Visitors. If you wish to address the Council, obtain a speaker card from the receptionist's desk outside the Council Chambers, complete the information requested on the card, and deliver to the City Clerk before the meeting or as soon as you can. Speakers will be heard as the individual item(s) in which they have registered an interest come before the Council. Your remarks will be limited in duration depending on the number of people wanting to speak on a particular item. Comments to the City Council should only be made from the podium. This will ensure that the comments are picked up by the microphones and are made a part of the official record. Delay or interruption of the proceedings will not be tolerated.

INVOCATION

PLEDGE OF ALLEGIANCE

MINUTES

Request that the City Council consider approving the minutes of the regular meeting of the City Council of the City of Tyler, Texas held on February 14, 2024.

AWARDS

A-1 Request that the City Council recognize the following Infants at Work participant for her program participation. She represents four months of service with the City of Tyler.

Cassidy Ingram, Infants at Work - Water Utilities, four months

A-2 Request that the City Council recognize the following employees for their years of service and commitment to the City of Tyler. They represent 45 years of service with the City of Tyler.

Heather Nick, Assistant City Manager, 20 years of service
Shawn Wilson, Fire Battalion Chief I, 25 years of service

PRESENTATION

P-1 Request that the City Council consider hearing a presentation and approving the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2023, as presented by Gollob Morgan Peddy.

ZONING

Z-1 PD24-004 BPI INC (3301 GOLDEN ROAD)
Request that the City Council consider adoption of an Ordinance approving a zone change from "PMXD-1", Planned Mixed-Use District to "PCD", Planned Commercial Development District with a site narrative.

Z-2 S24-003 JARVIS HOLDINGS LLC (3509 AND 3607 SOUTH SOUTHWEST LOOP 323)
Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for an outdoor archery range.

Z-3 S24-001 HOLLY TREE PROPERTIES (3035 FAIRLAWN DRIVE)
Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for an at-home day care with up to six children.

Z-4 Z24-002 WESLEY MARYION (1219 LOLLAR STREET)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-MF", Multi-Family Residential District to "R-1B", Single-Family Residential District.

Z-5 Z24-004 JOHN WALTZ (1822 FERDELL STREET)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-1B", Single-Family Residential District to "R-1D", Single-Family Detached and Attached Residential District.

Z-6 PD23-026 RAINWATER DAVID (2268 AND 2278 SUNNYBROOK DRIVE AND 1210, 1212, AND 1214 WEST 10TH STREET)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-1A", Single-Family Residential District to "PUR", Planned Unit Residential District with a final site plan.

Z-7 Z24-005 SRPG TROUP LLC (0.36 ACRE PORTION OF 5012 TROUP HIGHWAY)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-1A", Single-Family Residential District to "C-2", General Commercial District.

Z-8 Z24-003 DRAKE EQUITY PARTNERS, LP (16.15 ACRES OF 2951 WEST GRANDE BOULEVARD)
Request that the City Council consider adoption of an Ordinance approving a zone change from "AG", Agricultural District to "C-2", General Commercial District.

ORDINANCE

O-1 Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 8 relating to Glass Recreation membership fees.

O-2 Request that the City Council consider the adoption of an Ordinance amending Tyler City Code Chapter 8 relating to the "Field Light Usage" fee schedule.

O-3 Request that the City Council consider the adoption of an Ordinance amending the Fiscal Year 2023-2024 Budget to provide funding to complete the Keep Tyler Beautiful Lindsey Park Improvement Project.

MISCELLANEOUS

M-1 Request that the City Council consider authorizing the City Manager to award Bid No. 24-008 for the Lella Memorial to Smith Builders & Developers to furnish all necessary materials, equipment, superintendence, and labor in an amount not to exceed $74,900.

M-2 Request that the City Council consider authorizing the City Manager to execute a professional services contract in the amount of $10,939,680.00, with Garver, for the Westside Wastewater Treatment Plant Rehabilitation Project, which will include a Preliminary Design Report for all design phases and final design, bidding, and construction oversight for both Phase 1 improvements and an expedited sludge lagoon rehabilitation, and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

M-3 Request that the City Council consider authorizing the City Manager to execute a professional services contract in the amount of $120,000.00, with HDR, Inc., for the Lake Palestine Water Treatment Plant Taste and Odor Study project.

M-4 Request that the City Council consider authorizing the City Manager to execute an Engineering Services Contract, in an amount not to exceed $535,000, with KSA Engineers, Inc. for the Consent Decree Capacity Work Group 3 Alignment Analysis.

M-5 Request that the City Council consider authorizing the City Manager to execute an Engineering Services Contract Addendum 2, in an amount not to exceed $60,700 with KSA Engineers, Inc. for the Consent Decree Group 5 Remedial Measures Implementation Addendum 2.

M-6 Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of $1,811,346.00 with Halff for the design and construction phase services for the Upper Pressure Plane Elevated Storage Tank and Transmission Main project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

M-7 Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of $285,000 with Elledge Engineering for the design and construction phase services for the 2024 Water Main Improvements (2-Inch Replacement) project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

CONSENT

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.)

C-A-1 Request that the City Council consider authorizing the City Manager to abandon a sanitary sewer easement across the UT Health Medical Building, NCB 679-F.

C-A-2 Request that the City Council consider authorizing the City Manager to execute Contract Amendment No. 2 with KSA Engineers, Inc. for additional construction services associated with the construction of improvements that exceed the construction contract time stipulated in the previous contract amendment for the Southside Wastewater Treatment Plant Chlorination/Dechlorination Improvements project in the amount of $49,000.00.

C-A-3 Request that the City Council consider authorizing the City Manager to declare the designated vehicles from Vehicle Services, Water Treatment, and Police Department as surplus and ready to be auctioned.

C-A-4 Request that the City Council consider authorizing the City Manager to purchase a backhoe to replace unit 15402 for Street Department and 15459 for Waste Collection from Doggett through Sourcewell Contract 032119-JDC for a total purchase cost of $262,148.38.

C-A-5 Request that the City Council consider authorizing the City Manager to ratify an expenditure in the amount of $77,005.87 to JWC Environmental Inc. for the repairs to the Westside Wastewater Treatment Plant influent fine screen.

C-A-6 Request that the City Council consider authorizing the City Manager to ratify staff action for adoption of the Operations and Maintenance Plan and maintenance easement for the Rosewood Senior Villas detention pond located at 2929 Calloway Road.

C-A-7 Request that the City Council consider authorizing the City Manager to declare certain City of Tyler TV 3 studio equipment as surplus and ready to be auctioned.

C-A-8 Request that the City Council consider authorizing the City Manager to execute the replat of Lot 3-A in the Southpoint No. 1 Subdivision at Lake Tyler.

CITY MANAGER'S REPORT

EXECUTIVE SESSION

The City Council may go into Executive Session regarding any item posted on the Agenda as authorized by Title 5, Chapter 551 of the Texas Government Code. Notice is hereby given that the City Council may go into Executive Session in accordance with the following provisions of the Government Code:

Under Tex. Gov't Code section 551.074 "Personnel Matters" deliberation regarding the following:

The employment, duties and evaluation of the City Manager.

Any final action by the City Council will be taken in open session.

ADJOURNMENT

MINUTES OF THE REGULAR CALLED MEETING OF
THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
February 14, 2024

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, February 14, 2024 at 9:00 a.m. in the City Council Chambers, 2nd floor of City Hall, Tyler, Texas, with the following present:

Mayor:	Don Warren
Mayor Pro Tem:	Brad Curtis
Councilmembers:	Stuart Hene
	Shirley McKellar
	Broderick McGee
	James Wynne
	Lloyd Nichols
City Manager:	Edward Broussard
Deputy City Manager:	Stephanie Franklin
Asst. City Manager:	Heather Nick
City Attorney:	Deborah G. Pullum
Senior Asst. City Attorney:	Alesha Buckner
Director of Organizational Development:	Regina Y. Moss
Airport Manager:	Stephen Thompson
Main Street Director:	Amber Varona
Planning Director:	Kyle Kingma
Chief Information Officer:	Benny Yazdanpanahi
City Fire Chief:	David Coble
Police Chief:	Jimmy Toler
City Engineer:	Darin Jennings
Traffic Engineer:	Cameron Williams
Project Engineer:	Nikki Ingram
Director of Utilities:	Kate Dietz
Parks Director:	Leanne Robinette
Director of Solid Waste, Transit:	Leroy Sparrow
City Clerk:	Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Wynne.

MINUTES

Motion by Mayor Pro Tem Curtis to approve the January 10, 2024 minutes; seconded by Councilmember Wynne; motion carried 7 - 0 & approved as presented.

AWARDS

A-1 Request that the City Council consider accepting a commemorative award from Yachiyo, Japan celebrating 30 years of being sister cities.

Laura D'Eramo- Gave a brief experience she had while visiting Yachiyo, Japan.

RESOLUTION

R-1 **Request that the City Council consider adoption of a Resolution in support of various affordable housing tax credit project proposals and the approval of the waiver of development/permit fees in the amount of $500 for each awarded project. (R-2024-10)**

Justin Paris, 7925 S. Broadway and Michael Foe- Trinity Housing Development – Tyler Crossing – Asked the City Council to approve 84 units of affordable senior housing for Tyler, which is 55 and older. For both working and retired folks as well.

David Smith, 8506 Carrie Lane, Rowlett, TX. proposing an 84-unit senior development off of Southeast Loop 323.

Quinn Gormley,15204 Cascade Bluff and David Fournier, 106 Oakview Dr. – They are here for Moore Grocery Lofts – Stated that this is an existing affordable housing. Still, the opportunity to do a full renovation only comes every once in a while, as the stars align with TDHCA. In this particular case, it scores well. Their plan is to use historic tax credits as well as the low-income housing tax credits and completely refurbish the property. This ties well with the downtown initiative.

Motion by Councilmember Wynne to consider the adoption of a resolution for the Reserve of Tyler; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

R-2 **Request that the City Council consider adopting a Resolution authorizing the City Manager, as the designated representative of the City of Tyler, to execute Advanced Funding Agreements (AFA) with the Texas Department of Transportation for the Carbon Reduction Program (CRP), Traffic Signal Detection Upgrades and Pedestrian Signal Installations Projects. (R-2024-11)**

Motion by Mayor Pro Tem Curtis; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

R-3 **Request that the City Council consider adopting a Resolution authorizing eminent domain proceedings for the acquisition of an easement interest across the property owned by Steven A. Pickett and Elaine Hill Almand Pickett providing the necessity and public purpose for sanitary sewer system upgrades near Wynnwood Drive as part of the Consent Decree Program. (R-2024-12)**

Michael Tolbert, 4524 Edinburgh Dr. – Stated that the City Council's first priority is to defend the life, liberty, and property rights of the people. The fact that a higher authority is requiring the City to act in a responsible and proper manner does not diminish the responsibility to advocate for the private property owner. So, he appreciates the question regarding whether there has been contact with the property owners asking for alternative routes. In discussion, regarding the power of eminent domain, it was suggested that a property owner should follow the example of members of the Council. He understands that some members of this Council have encountered easements across their property and were told that they voluntarily and willingly accepted the easement because they were in a

financial position, whether it was net worth or income, to make that sacrifice. Not everybody is in that position. So even though the Council may not feel that those crepe myrtles are valuable, the property owner does. So, the Council should not assume that their view of those crepe myrtles is the same as theirs. So please understand that not everybody is in the same position. And lastly, he does not know the details of this, whether the current easement runs in the creek or not, but moving in easements from public property to private property suggests a matter of convenience more than necessity. So, let's make sure that every effort is being made to avoid infringing on those private property rights. He asked that the Council be transparent after the motion is made and discuss their position so that the public understands their position on the exercise of eminent domain.

Motion by Councilmember Nichols; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

ORDINANCE

O-1 **Request that the City Council consider adoption of an Ordinance amending Tyler City Code Chapter 3, Civil Service Classification Plan by amending the Civil Service Classification Plan and number of authorized Civil Service positions for Fiscal Year 2023-2024. (O-2024-20)**

Fire Chief, David Coble – Stated that this would add a Senior Captain to the training staff and delete a Captain from the number, so the overall numbers will not change. They will also take another staff Captain and add it to this training group, so there will be three people there to train the entire department as well as the recruit training class.

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

MISCELLANEOUS

M-1 **Request that the City Council consider authorizing the City Manager to execute a construction contract in the amount of $795,208.20, with A.E. Shull & Company, for the Earl Campbell Gravity Sewer Main project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2024-13)**

Motion by Councilmember McGee; seconded by Mayor Pro Tem Curtis; motion carried 7 - 0 & approved as presented.

M-2 **Request that the City Council consider authorizing the City Manager to execute an engineering services contract, in the amount of $87,500 with KSA Engineers, Inc. for the South Glenwood Ground Storage Tank Demolition and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2024-14)**

Motion by Councilmember McGee; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

M-3 Request that the City Council consider authorizing the City Manager to execute an engineering services contract, in the amount of $85,000 with KSA Engineers, Inc. for the Bellwood Lift Station Improvements Design Survey and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt. (R-2024-15)

Motion by Mayor Pro Tem Curtis; seconded by Councilmember McGee; motion carried 7 - 0 & approved as presented.

CONSENT

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item.)

C-A-1 Request that the City Council consider authorizing the City Manager to execute a contract with Donelson Construction Company, LLC, for the construction of the 2024 Tyler Pressure Pave Project in the amount of $487,726.20.

C-A-2 Request that the City Council consider authorizing the City Manager to purchase (4) tractor trucks that can haul waste sludge for Waste Collection from Holt Truck Centers Tyler, Texas BuyBoard contract 687-222 for a purchase price for each truck of $173,300 less a trade in allowance for used truck of $74,700 leaving a purchase cost of $98,600.00 per truck. The total purchase is $394,400.00.

C-A-3 Request that the City Council consider authorizing the City Manager to execute a contract in the amount of $69,100 for professional facilitation services with The Management Connection for the High Achieving Leaders (HAL) Development Program to occur in calendar year 2024.

C-A-4 Request that the City Council consider authorizing the City Manager to purchase two (2) pull-behind blower units from the lowest bidder, Turf and Soil Management for a total cost of $20,503.86.

C-A-5 Request that the City Council consider authorizing the City Manager to purchase fifteen (15) Chevrolet Tahoe Police Pursuit Vehicles (PPV) for the Police Department from Tyler Motor Company / Hall Chevrolet for $55,000.00 per unit for a total purchase of $825,000.00.

C-A-6 Request that the City Council consider adopting a Resolution calling an election for May 4, 2024, to fill the offices of the Mayor-at-Large and the Tyler City Council Members for Single Member District Numbers 2, 4 and 6 on the Tyler City Council, and calling for a joint election with Smith County. (R-2024-16)

C-A-7 Request that the City Council consider authorizing the City Manager to execute an Interlocal Elections Contract with Smith County to perform certain joint elections services for the City Council Election to be held May 4, 2024.

C-A-8 Request that the City Council consider authorizing the City Manager ratify the purchase of 10 Ford Explorers with the PPV package and upfit from Dana Safety of Fort Worth, Texas for a total purchase price of $737,260.00 through Buyboard Contract 698-23.

C-A-9 Request that the City Council consider authorizing the City Manager to approve a reconciliation change order and release of final payment and retainage with L&L Asphalt Corporation for the construction of the Vehicle Services Parking Lot Reconstruction Project Phase II in the amount of $38,975.00.

C-A-10 Request that the City Council consider authorizing the City Manager to execute the Reconciliation Change Order with Hartbeat Construction for the Repair of Inlet Boxes - 2023 project, decreasing the approved contract amount by $5,601.00, from $218,366.00 to $212,765.00.

C-A-11 Request that the City Council consider authorizing the City Manager to execute the Reconciliation Change Order with Precision Civil, LLC for the 321 Amberwood Circle Outfall Repair project, for the original contract amount of $9,852.00.

C-A-12 Request that the City Council consider authorizing the City Manager to purchase a Kubota RTV520D utility vehicle for Southside Waste Treatment Plant from Lowe Tractor in Tyler Buyboard contract 706-23 for $12,145.49.

C-A-13 Request that the City Council consider authorizing the City Manager to purchase (2) two 52" mowers from Tyler Power Equipment for Code Enforcement and Waste Treatment for a total purchase cost of $19,998.00.

C-A-14 Request that the City Council consider authorizing the City Manager to purchase (2) two 6" brush mowers from Lowe tractor through Buyboard contract 706-23, for Code Enforcement and Street Department for a total purchase cost of $9,515.00.

C-A-15 Request that the City Council consider authorizing the City Manager to execute Work Order No. 5 Amendment #3 to KSA Engineers, Inc. This is necessary to add compensation for construction administration for construction, and materials testing will be reduced to reflect the actual cost incurred in the Airport Fencing and Security Improvements project for a total increase in cost of $11,114.00.

C-A-16 Request that the City Council consider authorizing the City Manager to execute an amendment of an Airport Auto Rental Lease between the City of Tyler and The Hertz Corporation at Tyler Pounds Regional Airport.

C-A-17 Request that the City Council consider authorizing the City Manager to execute an amendment of an Airport Auto Rental Lease between the City of Tyler and EAN Holdings, LLC dba Enterprise Rent-A-Car at Tyler Pounds Regional Airport.

C-A-18 Request that the City Council consider authorizing the City Manager to execute an amendment of an Airport Auto Rental Lease between the City of Tyler and EAN Holdings, LLC dba National Car Rental at Tyler Pounds Regional Airport.

Motion by Mayor Pro Tem Curtis to approve the entire consent agenda; seconded by Councilmember McKellar; motion carried 7 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. On Sunday morning, as y'all probably were all awoken by the hailstorm that was pretty massive. One of the things that we experienced, really the only damage we had, was regarding a lightning strike that happened at the Golden Road Water Treatment Plant. And so, with that lightning damage, it affected electronic equipment throughout the plant. It was determined that the plant could no longer remain in operation and had to be shut down. At that point on Sunday morning, the Lake Palestine Water Treatment Plant increased production to supply the entire City with water. We were kind of concerned about, well, how long would this take to get back into operation? Would it be as far as 24, 48 hours, somewhere in that time frame? And I want to just as far as give gratitude for the staff there. Because they worked to resolve as many issues as possible. And called the vendors for support that was necessary to resolve the problems further. All of them worked together to find a solution to the issues to get the plant back in operation as soon as possible. After spending most of the day offline, the Golden Road Water Treatment Plant was back in production that night. While it would take quite a while to fully replace all the damaged equipment from the lightning strike, the efforts of staff and our vendor resulted in a rapid response that effectively meant the plant was back in service much faster than anyone could have anticipated. And so, we say a thank you to the following Tyler Water Utilities water production staff members. Scott Logue was the Chief Operator. Ken Johnson, Plant Operator 2. Mark Hagen, Plant Operator 2. Jordan Reisner, Plant Operator 2. Ben Sandoval, Plant Operator 2. Rick Sanders, Plant Operator 3. And who assisted by phone and with David Lowe who was our consultant on the project. We're especially gracious to them for just their hard work and ingenuity in taking something that could have been down for a considerable few days and getting it back up and in operation very quickly.

2. Shiloh Road water tower improvement. The Shiloh Road elevated storage tank rehabilitation project has moved down to the underground phase upon completion of the above ground tank painting and rehabilitation that was completed by the end of last year. The package booster pump station was scheduled to arrive pretty much in mid-February so about this point to hit another project milestone. The City was recently informed of a long lead time for the 480-volt electric panel that will be here about August of 2024. This lead time is the result of supply chain backups that have been seen across multiple projects with similar equipment.

3. We want to give our thanks and gratitude to the Smith County Master Gardeners who helped to clear out some of the beds at the Goodman-LeGrand Museum to prepare for spring plantings. Many new plants, shrubs and trees will be coming to the Goodman-LeGrand Museum grounds this Spring in preparation for the bee observatory that we're moving over there. It's a member of Bee City. That will be a move from the Tyler Rose Garden to the Goodman grounds.

4. Finally, this Saturday, if you're like me and you want to pick up tree seedlings that will probably die because you don't know how to take care of them properly. The Tyler Trees

Committee will be handing out free tree seedlings at the Christus Trinity Mother Francis Hospital in South Tyler from 8 a.m. to noon. Those actually go very quickly. A good amount of people come out to be able to enjoy that.

Councilmember Wynne – Commended the Tyler Street Department and our Bridge Street Contractor, Art Riley, for the work they did over in Dobbs College area. The neighbors are very appreciative.

Councilmember McKellar – First, I want to say happy Black History Month to everyone and the City of Tyler and Tyler Independent School District is collaborating. It's been an amazing program and I'd like to see some of our colleagues that's on the bench here to attend. The next program is Sunday and it's "Our Faith" will be held at Brookhill Park from 3 until 5. We will end with a banquet that will be on March 1st at Willowbrook Country Club at 6pm. So, I would like to see some show up for this Black History Program. They've been outstanding. Thank you.

ADJOURNMENT

Motion by Councilmember McKellar to adjourn the meeting at 10:22 am; seconded by Councilmember McGee; motion carried 7 - 0 & meeting adjourned.

_____
DONALD P WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

_____
CASSANDRA BRAGER, CITY CLERK

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: A-1

Date: March 27, 2024

Subject: Request that the City Council recognize the following Infants at Work participant for her program participation. She represents four months of service with the City of Tyler.

Cassidy Ingram, Infants at Work - Water Utilities, four months

Page: Page 1 of

Item Reference:

Request that the City Council consider recognizing the following Infants at Work participant for her program participation and the joy she brought to the City of Tyler. At this important milestone, we express our sincere appreciation for your dedication and for the special contribution you make to our organization. She represents four months of service with the City of Tyler.

Cassidy Ingram, Infants at Work - Water Utilities, four months

RECOMMENDATION:

Request that the City Council recognize the following Infants at Work participant for her program participation. She represents four months of service with the City of Tyler.

ATTACHMENTS:

March_27th_Infant_at_Work_CC

Drafted/Recommended By:
Department Leader

Regina Y. Moss, Director Organizational Development

Edited/Submitted By:
City Manager

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: **A-1**

Date: **March 27, 2024**

Subject: **Award for March 2024**

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Item Reference: **Infants at Work**

We would like to recognize the following Infants at Work participant for her program participation and the joy she brought to the City of Tyler. At this important milestone, we express our sincere appreciation for your dedication and for the special contribution you make to our organization. She represents **four** months of service with the City of Tyler

Infants at Work Retirement

Date of Hire	First Name	Last Name	Title	Department	Years of Service
11/13/2023	Cassidy	Ingram	Infants at Work	Water Utilities	4 mos.

Drafted/Recommended By: Department Leader **Regina Y. Moss**

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: **A-2**

Date: **March 27, 2024**

Subject: **Award for March 2024**

Page: **Page 1 of 1**

Item Reference: **Service Award**

We would like to recognize the following employees for their years of service and commitment to the City of Tyler. At this important milestone, we express our sincere appreciation for your dedication and for the special contribution you make to our organization. They represent **45** years of service with the City of Tyler.

Service Awards

Date of Hire	First Name	Last Name	Title	Department	Years of Service
3/22/2004	Heather	Nick	Assistant City Manager	Planning	20
3/31/1999	Shawn	Wilson	Fire Battalion Chief I	Fire	25

Drafted/Recommended By: Department Leader **Regina Y. Moss**

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: P-1

Date: March 27, 2024

Subject: Request that the City Council consider hearing a presentation and approving the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2023, as presented by Gollob Morgan Peddy.

Page: Page 1 of

Item Reference:

The audit firm of Gollob Morgan Peddy has completed the annual examination of the City of Tyler's combined financial statements for the fiscal year ending on September 30, 2023. This audit examination was made in accordance with generally accepted auditing standards and included tests of the accounting records and other auditing procedures as considered necessary. In regard to both the internal controls over financial reporting and the various grants, the external auditor did not find any material weaknesses and will issue an "unmodified opinion." An "unmodified opinion" (occasionally referred to as a "clean opinion") is extremely important to our citizens and to individuals holding the City of Tyler-issued revenue bonds.

Some major financial highlights from the "Management Discussion and Analysis" section of the report are as follows:

* The assets and deferred outflows of resources of the City of Tyler exceeded its liabilities and deferred inflows of resources at September 30, 2023, by $602,000,714 (net position).

* As of the close of the current fiscal year, the City of Tyler's governmental funds reported combined ending fund balances of $78,028,759. $12,974,604 is unassigned and available for use within the City's fund designation and fiscal policies.

The Audit Committee met with the external auditors on March 18, 2024, to review and discuss the draft Comprehensive Annual Financial Report and recommends that the City Council approve and accept this report. A copy of the report has been forwarded to each City Councilmember for review. A representative from Gollob Morgan Peddy is available to answer questions.

RECOMMENDATION:

It is recommended that the City Council hear the presentation and approve the Comprehensive Annual Financial Report for the fiscal year ending on September 30, 2023, presented by Gollob Morgan Peddy.

ATTACHMENTS:
2023 ACFR

Drafted/Recommended By:
Department Leader

Keidric Trimble, CFO

Edited/Submitted By:
City Manager

TYLER TRANSFORMING

Annual Comprehensive Financial Report for Fiscal Year Ending
September 30, 2023 - City of Tyler, Texas

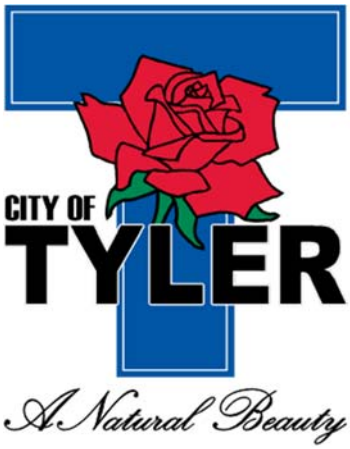


CITY OF TYLER, TEXAS

ANNUAL COMPREHENSIVE FINANCIAL REPORT

FOR THE FISCAL YEAR ENDED
SEPTEMBER 30, 2030

Prepared by:
Keidric Trimble, Chief Financial Officer
Finance Department
Tyler, Texas


CITY OF
TYLER
A Natural Beauty

CITY OF TYLER, TEXAS
COMPREHENSIVE ANNUAL FINANCIAL REPORT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

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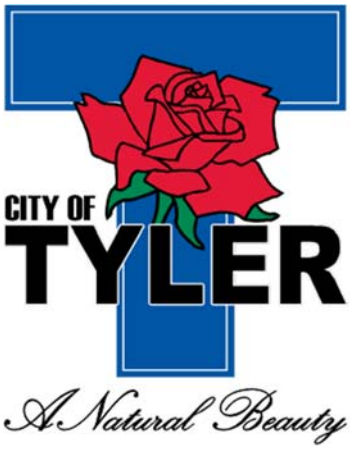
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INTRODUCTORY SECTION


CITY OF
TYLER
A Natural Beauty

March 27, 2024

The Honorable Mayor, Members of the City Council, and Citizens
City of Tyler
Tyler, Texas

The City of Tyler, Texas' (City) Charter requires an audit of the City's financial activities to be conducted by an independent certified public accountant at the end of each fiscal year. Upon completion of the audit, the results shall be reported in writing to the Council as soon as reasonably possible. This report is published to fulfill that requirement for the fiscal year ending September 30, 2023.

Management assumes full responsibility for the completeness and reliability of the information contained in this report, based upon a comprehensive framework of internal control. In developing and maintaining the City's accounting system, consideration is given to the adequacy of the internal control structure. Internal controls are designed to provide reasonable, but not absolute, assurance regarding: (1) the safeguarding of assets against loss from unauthorized use or disposition; and (2) the reliability of financial records for preparing financial statements that are free of any material misstatements. The concept of reasonable assurance recognizes that: (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the evaluation of costs and benefits requires estimates and judgments by management. All internal control evaluations occur within the above framework. We believe that the City's internal controls adequately safeguard assets and provide reasonable assurance of proper recording of financial transactions. To further ensure the validity of internal controls, we have implemented a fraud hotline.

Gollob Morgan Peddy & Co PC, Certified Public Accountants, have issued an unmodified ("clean") opinion on the City of Tyler's financial statements for the year ended September 30, 2023. In addition to meeting City Charter requirements, the audit was designed to meet the requirements of the Federal Single Audit Act of 1996 requirements and related Uniform Guidance requirements. The independent auditor's report is located at the front of the financial section of this report.

Management's discussion and analysis (MD&A) immediately follows the independent auditor's report and provides a narrative introduction, overview, and analysis of the basic financial statements. The MD&A complements this letter of transmittal and should be read in conjunction with this document.

City Profile

The City of Tyler, Texas, the county seat of Smith County, is considered the advanced manufacturing, health care, educational, and retail center of East Texas. Tyler is located on U.S. Highway 69 just south of Interstate 20, an equal distance (approximately 90 miles) between the cities of Dallas, Texas, and Shreveport, Louisiana. The City, encompassing approximately 53 square miles, had a 2020 census population of 105,995, which is a 9.38% increase from the 2010 census population of 96,900. Currently, the City's population is estimated to be 105,995. The City is commonly referred to as the City of Roses.

The City, incorporated in 1850, is a home rule city operating under the Council-Manager form of government. The City Charter was adopted on February 9, 1937. The home rule corporation status is granted under the Constitution and Laws of the State of Texas. The City Council is comprised of the Mayor and six Council members who function as the policy-making body of the City's government, determining the overall goals, objectives and direction for City services, and adopting the annual operating budgets for all City departments. The City Council appoints the City Manager and is responsible for the daily management and implementation of the City's policy, including appointing the various executive team members and department leaders. The Mayor and Council members serve two-year terms, with general Council elections occurring yearly based on district. The mayor is elected at large; the remaining Council members are elected by district.

The City is a full-service municipality. Major services provided under general government and enterprise functions are police and fire protection, water and sewer services, sanitation services, parks and recreational facilities, library services, street improvements, capital projects administration, municipal court, animal services, code enforcement, development and planning services, and general administrative services. The City also offers an airport and a convention center. Internal services of the City, accounted for on a cost reimbursement basis, are the fleet services operations; technology services;

property and facility management services; productivity pool; risk management services and the active and retired employee health and dental coverage. The City's Basic Financial Statements include all government activities, organizations, and functions for which the City is financially accountable, including blended component units as defined by the Governmental Accounting Standards Board (GASB).

The City Charter provides that the City Council shall adopt by ordinance an annual budget prepared by the City Manager. This budget is presented to the City Council, and opportunities are provided for public comment during a series of public hearings before adoption. Budgetary control has been established at the individual fund level. The City Manager is authorized to transfer budgeted amounts between line items and departments within any fund; however, the City Council must approve any revisions that alter the total revenues or expenditures of any fund. Although the budget is adopted at a fund level, continued line item review and forecasting are done monthly and quarterly throughout the fiscal year to ensure compliance with the budget and completion of projects.

Local Economy

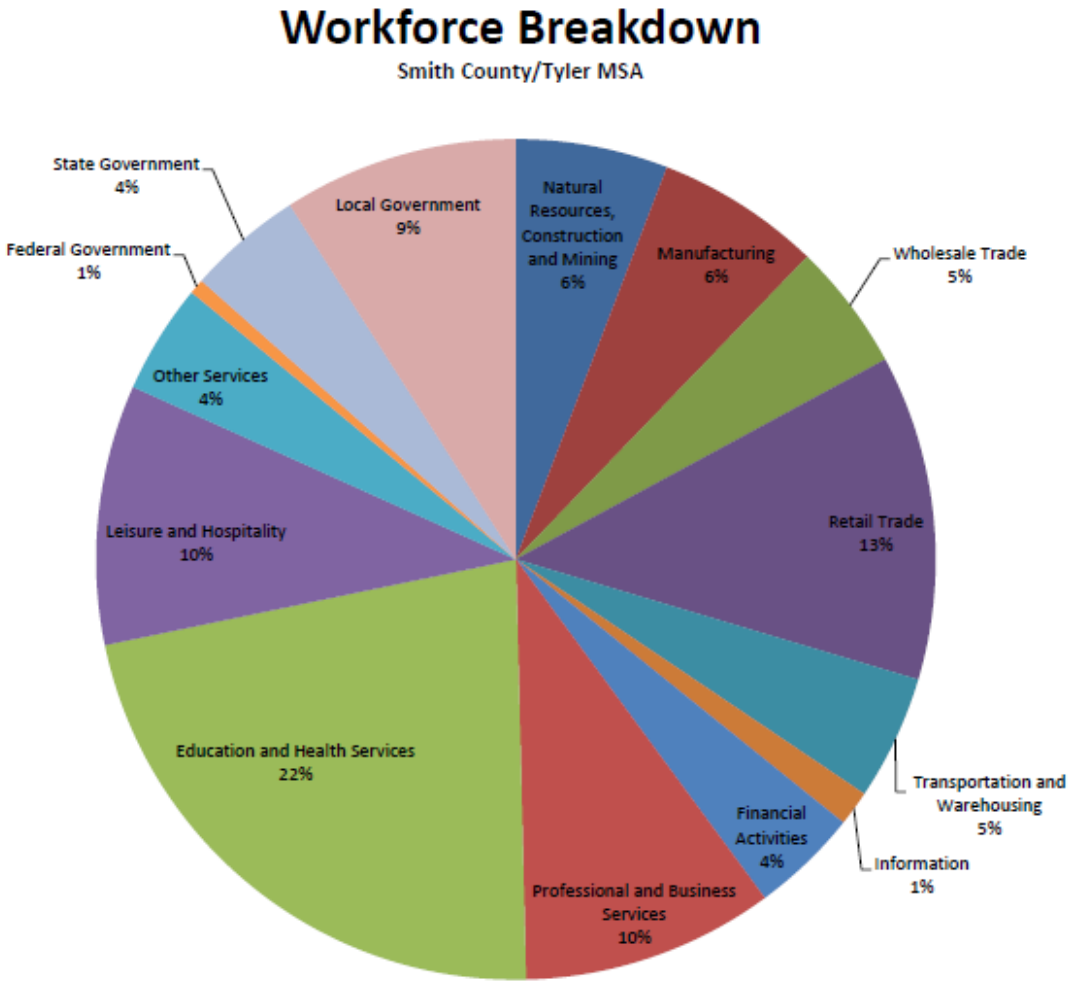
The information presented in the budget document is perhaps best understood when it is considered from the broader perspective of the specific environment within which the City operates. The chief industries in and around Tyler include health care and research; education; grocery distribution; retail and retail distribution; air conditioning unit manufacturing; cable, internet, and phone services; government services; engineering services; banking services; meat packing and processing; cast iron pipes and fitting manufacturing; oil and gas refining; ready mix concrete production; tourism; and growing and shipping rose bushes. This diversification is evident in the fact that no single taxpayer represents more than 2.24% of assessed valuation in the City.

Four institutions of higher education are located in Tyler. They are The University of Texas at Tyler, The University of Texas Health Science Center, Texas College, and Tyler Junior College. Several public school districts provide primary and secondary education, three charter schools, and ten private/parochial schools in the Tyler area.

Tyler is also the medical center of East Texas with three hospitals and numerous other supporting clinics, practices and specialty hospitals. Additionally, Tyler has many tourist attractions. The Texas Rose Festival includes the crowning of the Rose Queen, attracting a large number of visitors each year. The Azalea Trails attract additional tourism in the spring. Each September Tyler hosts the East Texas State Fair for one week providing midway, craft and 4H activities. Tyler State Park is located just north of Tyler and provides nature trails and camping in a scenic setting. Lake Tyler and Lake Tyler East, located twelve miles southeast of the City, are popular recreational and fishing sites.

The City actively works with the Tyler Economic Development Corporation and local industries to encourage expansions and relocations to our community. Two TIF/TIRZ zones were created in 2008, one in downtown and another in north Tyler in coordination with revitalization efforts. In fiscal year 2016, the downtown TIF/TIRZ was dissolved due to the value falling below the initial baseline. This was due to governmental agencies purchasing of properties and housing units receiving favorable tax exemptions. In October 2016, the city began the process of creating the new downtown TIRZ. In February 2018, the interlocal agreements were approved by City Council creating zone 4. Land is available for development; the area has an abundant water supply and typically mild weather. The Tyler area cost of living index has consistently been 90-96% of the national average for the past five years. Economic incentives as well as historic preservation incentives are available to facilitate business expansions or relocations.

Because of its location in a region with a varied economic base, unemployment is relatively stable, and in the last five years, trending with the State of Texas has remained consistently below the national average. During the past ten years, the unemployment rate has ranged from a low of 3.2 percent (2019) to a previous decade high of 6.9 percent (2013), only to end at the current rate of 3.3 percent. This figure indicates a decrease of 0.9 % over the prior year while remaining in line with the State and National trends. The total workforce for the Tyler region has increased from 48,106 in 2010 to 50,674 in 2020.

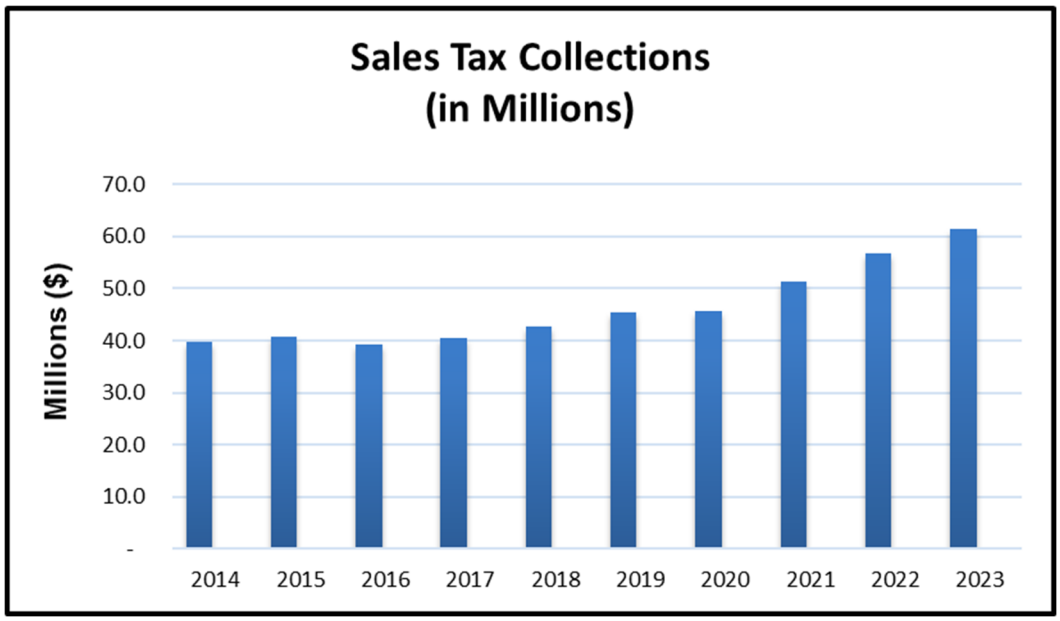


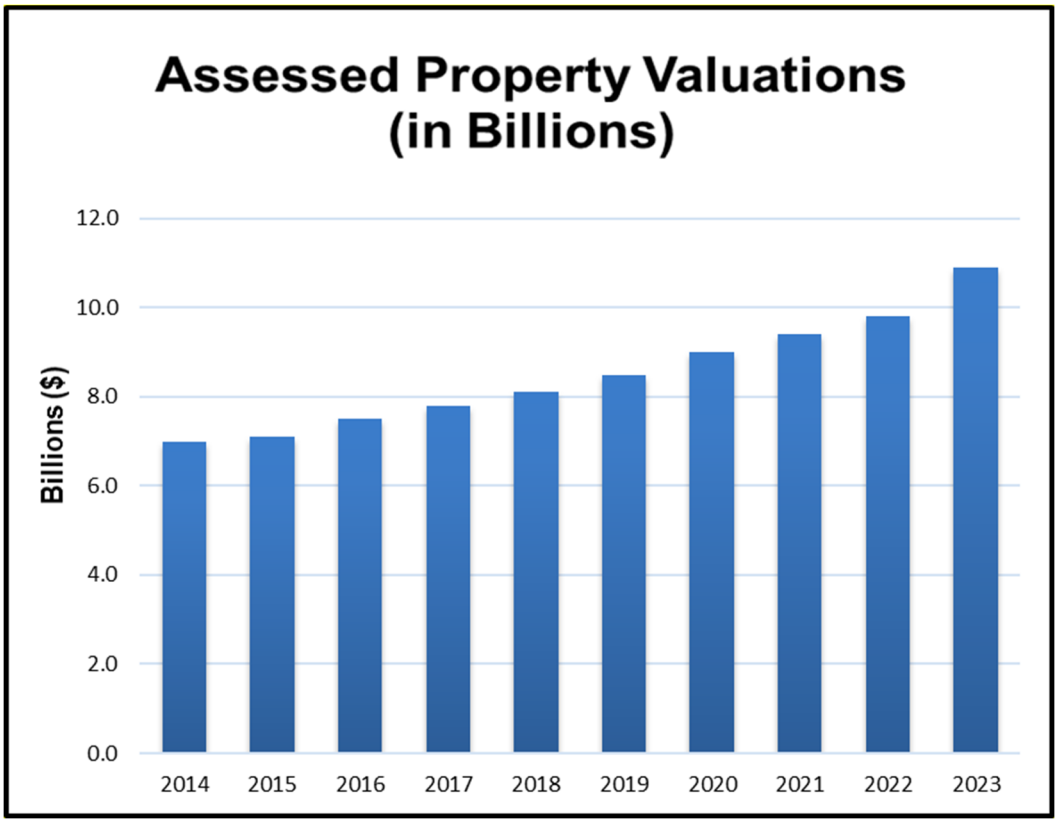
Population growth in the last five years has outpaced previous periods. The population grew 10 percent from 1990 to the year 2000. From 2000 to 2010, the population grew 16 percent. From 2010 to 2020, the population grew by 6 percent. From 2020 to the current year, the growth has been 1 percent. Market and economic analysts estimate that as many as 270,000 people come to Tyler daily to work, attend school, seek medical services, or shop. Loop 49 Toll Project is complete from State Highway 110 to I-20 to the west of Tyler. Loop 49 Toll will create a horseshoe loop around Tyler, connecting the City's southern regions to I-20. The loop allows for increased traffic from I-20 into the City of Tyler for shopping and economic development purposes.

Along with the Loop 49 project, the Northeast Texas Regional Mobility Authority was authorized in 2004 to construct, operate, and maintain turnpike projects in the state, including the Tyler area. Including various other interstate access means, the Tyler Pounds Regional Airport allows for secure and efficient air travel in and out of the region. Total flight enplanements have declined due to COVID-19 from 85,069 in 2014 to a current level of 43,170 in 2023. Tyler is the first Certified Retirement City in Texas. Tyler meets high standards for retiree living such as low cost of living, low crime rate, quality health care, abundant recreation and educational opportunities. Tyler is 16th in the nation for cost of living in Retirement Places Rated: Special Millennium Edition.

The economic outlook for Tyler is encouraging, with an increase in sales tax collections by 8.27%. According to economist Dr. Ray Perryman, Tyler should see job growth over the next five years. Growth in Tyler is expected to occur at a pace faster than the nationwide rate. Assessed values have increased by 11.22% in 2023. The potential for sustained development is present, and many governmental and business leaders are working to ensure the City is poised for economic growth.

Economic Signs:





Long-term Financial Planning

Within the policy guidelines set by the Council for budgetary and planning purposes, the City of Tyler maintains an unassigned fund balance greater than 15 percent of total General Fund expenditures less transfers. In addition to the Capital Projects Fund, the City takes advantage of half cent sales tax (4B) dollars to pay for capital projects related to street improvements, drainage projects, park improvements and other projects as approved by the corporation board and the City Council. By paying cash for infrastructure projects, the City has attained its goal of eliminating general obligation debt as of February 2008.

The City has continued to maintain the lowest property tax rate for mid to large-sized cities in Texas in an effort to balance citizen desire for lower property tax rates and the City's need to match operating costs associated with future planning initiatives. Sales tax has played a significant role in allowing the City to obtain this objective with a ten-year average increase of 5.29 percent. However, such a significant dependence has caused budgeting constraints and all other sources of revenues will need to be reviewed to stabilize the cities revenue stream in the future. By maintaining adequate reserves and monitoring future economic conditions, the city plans to continue to provide for future citizens' needs in a streamlined and cost-effective manner.

Relevant Financial Policies

Multiyear forecasting is used in the revenue and expenditure budgeting process to realize all potential budgetary gains during restricted budgetary cycles. An OPEB trust was created in fiscal year 2009 to separate and invest the dollars related to retiree benefits to realize a greater rate of return while maintaining fiduciary responsibility and security of principal.

Major Initiatives

Tyler's rapid growth and potential for change make this the critical moment for a new comprehensive plan to guide and shape future development. The comprehensive plan, entitled Tyler 1st, was adopted in late 2007 and sets out a strategic framework for making decisions about Tyler's long-term physical development. It defines a vision for the future linked to overall goals and policies, and it contains strategies and action items for achieving those goals. During the planning process, residents and others with a stake in Tyler's future had the opportunity to articulate and review community values and goals through public discussion, create a vision for the kind of place they want Tyler to be for their children and grandchildren, and identify the key areas where the city must act -- both to preserve enduring character and to shape change so that their vision for Tyler's future can be achieved.

Tyler 1st provides policy and strategic guidance on the physical development and redevelopment of the City; guides the City to actively seek positive change and deflect negative change rather than react to change; provides predictability for developers, businesses, and residents; helps the City save money because it plans for orderly investment in services, facilities, and infrastructure; and helps Tyler preserve the sense of place and identity that make it unique.

Upgraded Bond Rating

The City of Tyler received an upgrade to AAA from Standard and Poor for general obligation indebtedness in 2009. This rating increase was partly due to the current pay as you go environment and elimination of general obligation bond debt. Additional planning initiatives that the City began during 2009 include a Lean Sigma program for standardizing and reducing costs and continued multiyear planning, including replacement funding for fleet acquisitions, HVAC replacement and roof replacements. This rating was reaffirmed in 2014.

Reimagining Downtown Tyler

We are building Tyler's future cityscape today, and it begins in the heart of our community. Within the next three years, Downtown Tyler will undergo a transformation to become a more vibrant, pedestrian-friendly and livable community space through a County-City partnership.

Our revitalization project will provide a more connected and cohesive Downtown, with a focus on enhancing our quality of life through the creation of green spaces and streetscapes. The revitalized square will be a beautiful central park, which will serve as a gathering spot for community members and visitors alike. The park will have multiple amenities, including seating areas, water features, bathrooms and a small food truck park. The east side of the square will be an open space to allow for large community events and festivals.

Smith County has jumpstarted the transformation with the construction of a second parking structure with 500 spaces to accommodate visitors. This will be followed by the construction of the new County Courthouse, which will be an architectural masterpiece at the center of Downtown.

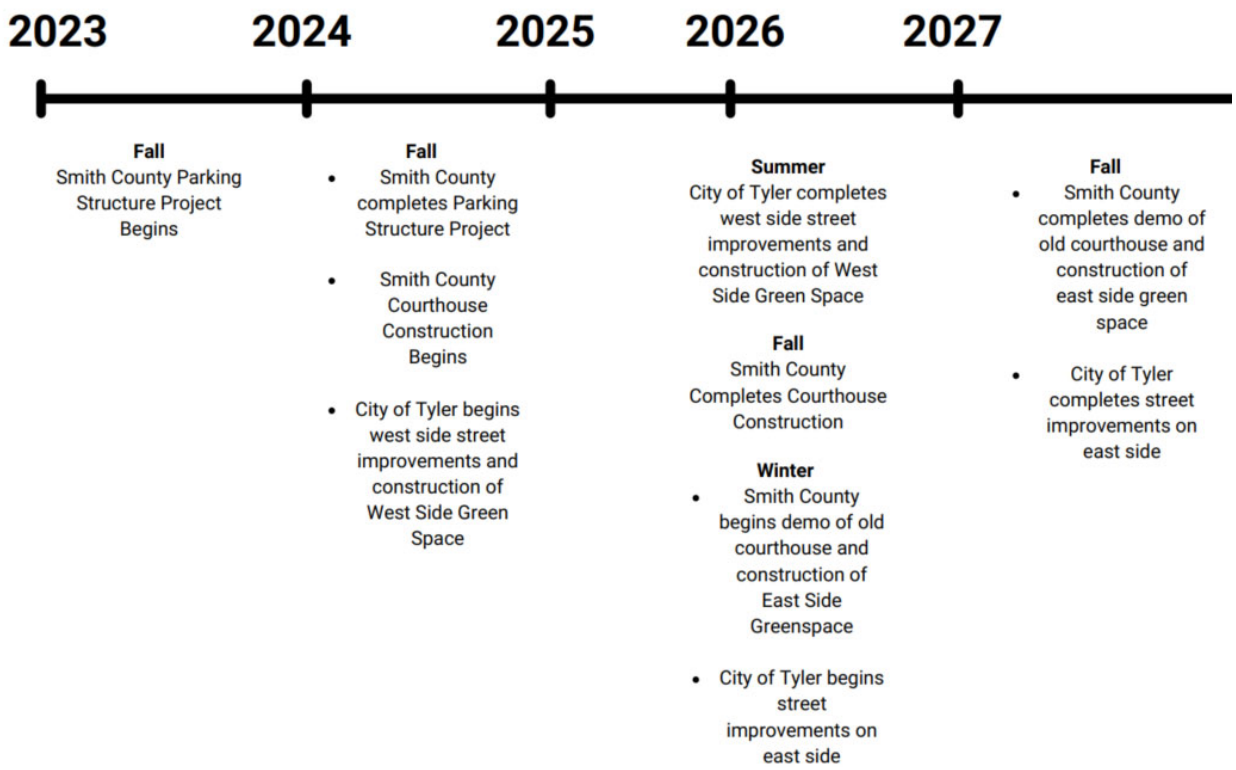
We are also prioritizing improving mobility for all forms of transportation. Streets will be reconfigured to allow for two-way traffic, and roundabouts will be installed to slow down, but not stop, the flow of traffic. We will also widen sidewalks and install new street furniture, lighting, and landscaping. All these changes will make the area more pedestrian-friendly and a place you go to, not through.

The project will promote economic development and attract new businesses to the area, encouraging the creation of new mixed-use developments, as well as the renovation of existing buildings to bring about new retail, office, and residential spaces. These initiatives will help generate new jobs and opportunities for local residents while also making Downtown Tyler a more attractive destination.

Investing in Downtown Tyler is an investment in the future of our City. By creating a more livable, walkable, and connected Downtown, we are positioning ourselves for long-term economic growth and success. We look forward to sharing a thriving and vibrant Downtown!

Our Downtown revitalization project would not be possible without the partnership and monetary contributions from Smith County and Tyler Junior College. The additional funding approved by both entities through the Tax Increment Reinvestment Zone will support public safety and maintenance of our beautiful new Downtown.

Estimated Timeline:



Mayor's Initiative – Tyler Rose Complex

Rose Complex / Conference Center:
Centrally located in Northeast Texas, Tyler is a hub for the region and is easily accessible to several major cities like Dallas and Shreveport, which makes it the perfect location to host groups for conferences and tours. The Tyler Rose Complex includes the newly built conference center, the historic Rose Garden and Mayfair building, the Tyler Civic Theater, Tyler ISD regional sport stadium and the surrounding areas. Altogether, it will boast over 60,000 square feet of meeting space. The new Complex will position Tyler as a destination experience for visitors and locals alike. The City's goal is to cultivate a distinct, all-inclusive atmosphere, nestled among the natural beauty of Tyler, with the best lodging, dining, shopping, and entertainment scene in East Texas.

The conference center, built as the centerpiece of the Rose Complex, is sure to offer attendees a conference experience like no other. A three-acre park stands before the mid-century-modern-inspired building to create an impressive and inviting entrance. The Center's unique design brings the outdoor beauty of the Tyler Rose Garden indoors, even inspiring the names of each room. From small break out rooms to one big space seating almost 1,800 people or 1,300 banquet style, the space can literally transform to fit all conference needs. Attractive and efficient meeting spaces will aid Tyler in recruiting larger conventions to the region.

Mayfair:

From its inception in 1927, The Mayfair was a cornerstone of entertainment, hosting everything from concerts and festivals to the occasional wrestling match. Following the renovations, it now serves as a dynamic extension of the Rose Complex, integrating with the neighboring W.T. Brookshire Conference Center and Tyler Rose Garden. This multipurpose venue boasts the capacity to host intimate gatherings or grand spectacles, with seating for up to 300 in a dinner-style arrangement or 500 in an auditorium format.

The former dance hall was renovated to preserve its historical elements, including the original floors, windows, stage and green room. The dressing room has been transformed into a small museum, displaying items found during the construction, like a vintage amplifier and record player, an unopened bottle of whiskey from the prohibition era and the mirror Elvis once sat in front of for a photo.

But the revitalization doesn't end there. New structural enhancements ensure the building's longevity, while expanded storage and ADA-compliant facilities cater to the needs of all, plus roll-up doors leading to a future spacious deck and food truck park.

The Mayfair's unique stories and its community relevance have earned it a spot in the esteemed National Register of Historic Places alongside the Tyler Rose Garden. As it stands on the cusp of a new chapter, The Mayfair epitomizes Tyler's commitment to honoring its heritage while embracing a future brimming with promise and possibility.

Awards and Acknowledgements

The Government Finance Officers Association (GFOA) awarded the City a Certificate of Achievement for Excellence in Financial Reporting for its comprehensive annual financial report for the fiscal year ended September 30, 2022. This is the thirty-seventh consecutive year the government has received this prestigious award. To be awarded a Certificate of Achievement, a governmental unit must publish an easily readable and efficiently organized comprehensive annual financial report whose contents conform to program standards. Such reports must satisfy both generally accepted accounting principles and applicable legal requirements. A Certificate of Achievement is valid for a period of one year only.

In addition, the City has received the Government Treasurer's Organization of Texas (GTOT) Investment Policy Certificate of Distinction for the City's annually adopted investment policy for eight consecutive periods. The award is valid for a two-year period. To qualify for the award, the City must demonstrate compliance with the State investment act and fiscal responsibility of their investments.

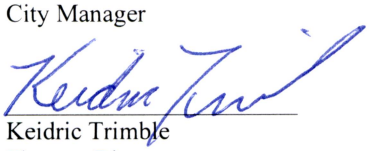
For seventeen years in a row, the City of Tyler has been presented with the Distinguished Budget Presentation Award from the Government Finance Officers Association of the United States and Canada. This award assures that state and local governments prepare budget documents of the highest quality that reflect the guidelines established by the National Advisory Council on State and Local Budgeting and the GFOA's best practices on budgeting.

The timely preparation of this report could not be accomplished without the efficient and dedicated services of all the staff of all City Departments. Appreciation is expressed to all City staff members who assisted and contributed to its preparation. Sincere thanks are extended to the Mayor and City Council members for their interest and support in planning and conducting the City's financial operations in a responsible and progressive manner.

Respectfully submitted,



Edward Broussard
City Manager



Keidric Trimble
Finance Director

Government Finance Officers Association

Certificate of Achievement for Excellence in Financial Reporting

Presented to

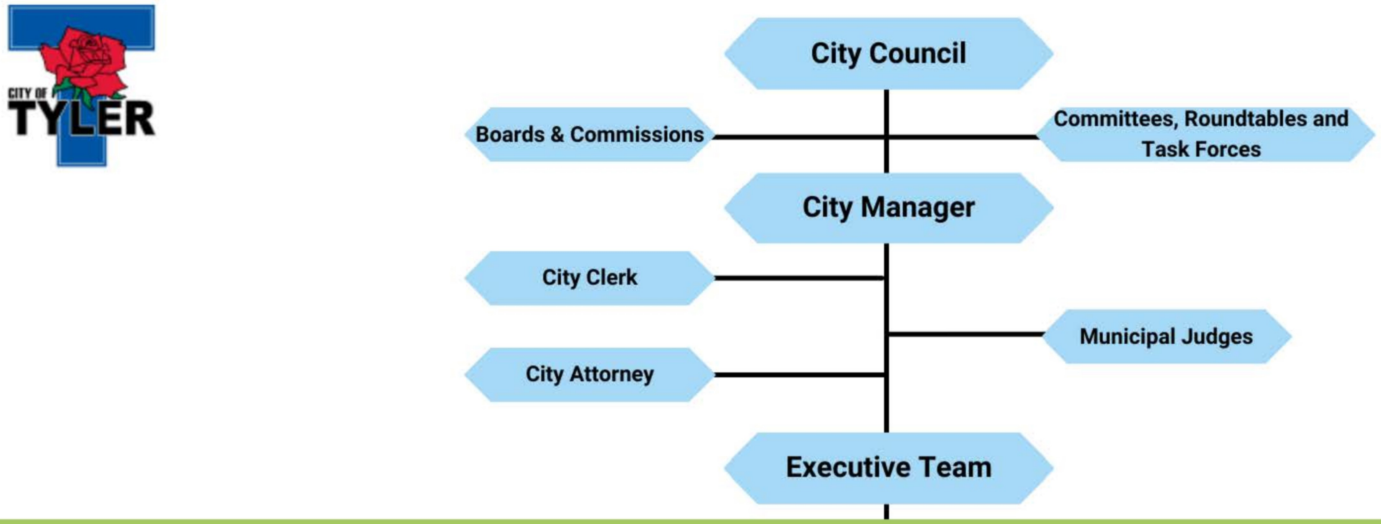
City of Tyler
Texas

For its Annual Comprehensive
Financial Report
For the Fiscal Year Ended

September 30, 2022

Christopher P. Morrill

Executive Director/CEO



David Coble
Fire Chief

Strategic Planning Priorities:
Public Safety and Emergency Management

Areas of Responsibility:
- Fire
- Emergency Management
- Emergency Medical Services Liaison
- Catalyst 100 Executive Committee

Heather Nick
Assistant City Manager

Strategic Planning Priorities:
Development and Growth

Areas of Responsibility:
- Planning and Development Services
- Metropolitan Planning Organization
- Geographic Information Systems
- Historic Preservation
- Tyler 1st Comprehensive Plan
- Permit Center
- Economic Development (TIRZ Liaison)
- Engineering
- Street, Stormwater and Traffic

Stephanie Franklin
Deputy City Manager

Strategic Planning Priorities:
Quality of Life and Places

Areas of Responsibility:
- Organizational Strategic Planning
- Visitor & Convention Facilities
- Library
- Main Street
- Liberty Hall
- Cultural Affairs Board
- Building Inspections
- Facility Services
- Visit Tyler
- Innovations Pipeline Liaison

Jimmy Toler
Police Chief

Strategic Planning Priorities:
Public Safety and Emergency Management

Areas of Responsibility:
- Police
- Centralized Dispatch
- 911 Liaison
- Code Enforcement
- Animal Services
- Homeless Roundtable Liaison
- Human Needs Network Liaison

Keidric Trimble
Chief Financial Officer

Strategic Planning Priorities:
Fiscal, Tech and Human Resources

Areas of Responsibility:
- Finance
- Budget
- Purchasing
- Municipal Court
- Internal Audit Services
- Utility Billing

Leroy Sparrow
Director of Solid Waste, Transit and VES

- Solid Waste
- Transit
- Vehicle Services

Leanne Robinette
Director of Parks & Recreation

- Parks and Recreation
- Tourism Facilities
- Cemeteries
- Keep Tyler Beautiful

Regina Moss
Director of Organizational Development

- Human Resources
- Volunteer Services
- City University
- Lean Six Sigma
- Risk

Julie Goodgame
Director of Marketing & Communication

- Marketing
- Internal/External Communication
- Legislative Affairs
- Liberty Hall
- Film Friendly Program

Kate Dietz
Director of Utilities

- Water Production
- Wastewater Treatment
- Water Service Center
- Utilities Engineering

Benny Yazdanpanahi
Chief Information Officer

- Information Technology

x

CITY OF TYLER, TEXAS
LIST OF PRINCIPAL OFFICIALS
SEPTEMBER 30, 2023

MAYOR – DON WARREN

Members of City Council:

Stuart Hene, District 1
Broderick McGee, District 2
Shirley McKellar, District 3
James Wynne, District 4
Lloyd Nichols, District 5
Brad Curtis, District 6

City Manager – Edward Broussard

Chief Financial Officer – Keidric Trimble

City Attorney – Deborah Pullum

FINANCIAL SECTION

INDEPENDENT AUDITORS' REPORT

To the Honorable Mayor and City Council
City of Tyler, Texas

Report on the Financial Statements

Opinions

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of City of Tyler, Texas , as of and for the year ended September 30, 2023, and the related notes to the financial statements, which collectively comprise City of Tyler, Texas' basic financial statements as listed in the table of contents.

In our opinion, based on our audit and the report of other auditors, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of City of Tyler, Texas , as of September 30, 2023, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of City of Tyler, Texas and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

City of Tyler, Texas's management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about City of Tyler, Texas' ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. 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. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- 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 City of Tyler, Texas's internal control. Accordingly, no such opinion is expressed.
- 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.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about City of Tyler, Texas's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 4-13 and the schedules related to pension and OPEB activity on pages 79-85 will 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. We and other auditors have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise City of Tyler, Texas's basic financial statements. The introductory section, additional supplementary information and statistical section are presented for purposes of additional analysis and are not a required part of the basic financial statements. The schedules of expenditures of federal and state awards is presented for purposes of additional analysis as required by the audit requirements of Title 2 U. S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), and the State of Texas *Uniform Grant Management Standards* are also not a required part of the basic financial statements.

The additional supplementary information and the schedules of expenditures of federal and state awards is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the additional supplementary information and the schedule of expenditures of federal awards are fairly stated in all material respects in relation to the basic financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated March 8, 2024, on our consideration of City of Tyler, Texas's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering City of Tyler, Texas's internal control over financial reporting and compliance.

Gollob Morgan Peddy PC

Certified Public Accountants

Tyler, Texas
March 8, 2024

As management of the City of Tyler, we offer readers of the City's financial statements this narrative overview and analysis of the financial activities for the fiscal year ended September 30, 2023. We encourage readers to consider the information presented here in conjunction with additional information that we have furnished in our letter of transmittal, which can be found on pages i-vii of this report.

FINANCIAL HIGHLIGHTS

- The assets and deferred outflows of resources of the City of Tyler exceeded its liabilities and deferred inflows of resources on September 30, 2023, by $602,000,714 (net position).
- The City's total net position increased by $31,998,825 for the current year.
- As of the close of the current fiscal year, the City of Tyler's governmental funds reported combined ending fund balances of $78,028,759. $12,974,604 is unassigned and available for use within the City's fund designation and fiscal policies.
- At the end of the current fiscal year, the unassigned fund balance for the general fund was $12,920,186. The general fund operating reserve targeted amount was $13,484,882 (15% of general fund expenditures).
- The City's revenue bond payable had a net decrease of $6,145,000. The City has no general obligation bond payable.

OVERVIEW OF THE FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to the City's basic financial statements. The City's basic financial statements are comprised of three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements.

Government-wide financial statements - The government-wide financial statements are designed to provide readers with a broad overview of the City's finances in a manner similar to a private-sector business.

The Statement of Net Position presents information on all the City's assets and liabilities, with the difference between the two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the City's financial position is improving or deteriorating.

The Statement of Activities presents information indicating how the City's net position changed during the fiscal year. All changes in net position are reported when the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., uncollected taxes and earned but unused compensated absences).

Both government-wide financial statements distinguish between functions of the City that are principally supported by taxes and intergovernmental revenues (governmental activities) from functions that are intended to recover all or a significant portion of their costs through user fees and charges (business-type activities). The City's governmental activities include general government, public safety, highways and streets, public services, and culture and recreation. The business-type activities of the City include utilities, airport, and sanitation operations. The government-wide financial statements are on pages 16-17 of this report.

Fund financial statements - A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. Like other state and local governments, the City uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. All the funds of the City can be divided into three categories: governmental funds, proprietary funds, and fiduciary funds.

Governmental Funds - Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on current sources and uses of spendable resources and balances of spendable resources available at the end of the fiscal year. Such information may be helpful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is helpful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. The Governmental Funds Balance Sheet and the Governmental Fund Statements of Revenues, Expenditures, and Changes in Fund Balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The City maintains 25 governmental funds. Information is presented separately in the Governmental Fund Balance Sheet and in the Governmental Fund Statement of Revenues, Expenditures, and Changes in Fund Balances for the General and the Capital Projects Half Cent Sales Tax Fund, both considered major funds. Data from the other 23 funds are combined into a single, aggregated presentation. Individual fund data for each of these non-major governmental funds is provided in the form of combining statements elsewhere in this report. The basic governmental funds financial statements can be found on pages 18-23.

Proprietary Funds - The City maintains two types of proprietary funds. Enterprise funds are used to report the same functions presented as business-type activities in the government-wide financial statements. The City uses enterprise funds to account for its utilities, airport, and sanitation operations. Internal service funds are an accounting device used to accumulate and allocate costs internally among the City's various functions. The City uses its internal service funds to account for its fleet services, risk management, technology, property and facility management, productivity pay, active employee benefit program, and retiree benefit program. Because these services predominantly benefit governmental rather than business-type functions, they have been included within governmental activities in the government-wide financial statements.

Proprietary funds provide the same type of information as the government-wide financial statements, only in more detail. The proprietary fund financial statements provide separate information for the utilities, airport, and sanitation funds as they are considered to be major funds of the City. All internal service funds are combined into a single aggregated presentation in the proprietary fund financial statements. Individual fund data for the internal service funds is provided by combining statements elsewhere in this report. The basic proprietary fund financial statements are on pages 24-26 of this report.

Fiduciary Funds - Fiduciary funds are used to account for resources held for the benefit of parties outside the government. Fiduciary funds are not reflected in the government-wide financial statement because the resources of those funds are not available to support the City of Tyler's own programs. The accounting used for fiduciary funds is much like that used for proprietary funds. The basic fiduciary funds financial statements are on pages 27-28 of this report. Individual fund data for the fiduciary funds is provided by combining statements elsewhere in this report. An additional fiduciary fund was created in 2009 for the Other Post Employment Benefit Trust. Information about Other Post-Employment Benefits and the related trust can be found in note E-2 on pages 62-64. The Fireman's Relief and Retirement Fund as of 2012 is reported in the City's financial statements as a blended component unit. This information is included in the basic fiduciary fund statement on pages 27-28. A separate independent audit of the Fund's financial condition is completed each fiscal year, and details can be found in note E-2 on pages 62-64.

Notes to the Financial Statements - The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found on pages 29-76.

Other Information - In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information concerning the City's progress in funding its obligation to provide pension and other post-employment benefits to its employees. Required supplementary information can be found on pages 79-85 of this report.

The combined statements referred to earlier in connection with general governmental funds, non-major governmental funds, enterprise funds, internal service funds, and fiduciary funds are presented following the required supplementary information on pensions. Combining and individual statements and schedules can be found on pages 87-147 of this report.

GOVERNMENT-WIDE FINANCIAL ANALYSIS

As noted earlier, net assets may serve over time as a useful indicator of governments' financial position. In the case of the City of Tyler, assets exceeded liabilities by $602,000,714 as of September 30, 2023.

The largest portion of the City's net position, 90.7%, or $546,096,364, reflects its investments in capital assets (e.g., land, building, equipment, improvements, construction-in-progress, and infrastructure), less any outstanding debt used to acquire the assets. The City uses these capital assets to provide service to citizens; consequently, these assets are not available for future spending. Although the City's investment in its capital assets is reported net of related debt, it should be noted the resources needed to repay this debt must be provided from other sources since the capital assets themselves cannot be used to liquidate these liabilities.

CITY OF TYLER'S NET POSITION – Fiscal Year 2023

	Governmental Activities		Business-Type Activities		Total	
	2023	2022	2023	2022	2023	2022
Current and other assets	$144,184,166	$136,868,334	$47,840,713	$77,186,161	$192,024,879	$214,054,495
Capital assets	313,985,957	296,940,391	378,769,801	344,760,233	692,755,758	641,700,624
Total Assets	458,170,123	433,808,725	426,610,514	421,946,394	884,780,637	855,755,119
Deferred Outflow of Resources	57,775,494	20,459,452	13,651,327	785,987	71,426,821	21,245,439
Non-current liabilities	128,450,791	83,893,042	158,591,217	150,901,148	287,042,008	234,794,190
Other liabilities	31,005,158	27,705,652	10,293,661	10,090,301	41,298,819	37,795,953
Total Liabilities	159,455,949	111,598,694	168,884,878	160,991,449	328,340,827	272,590,143
Deferred Inflows of Resources	20,115,566	29,403,543	5,750,351	5,004,983	25,865,917	34,408,526
Net Position:						
Net Investment in Captial Assets	302,282,138	286,947,161	243,814,226	203,399,552	546,096,364	490,346,713
Restricted	58,646,738	57,958,272	16,720,857	51,496,593	75,367,595	109,454,865
Unrestricted	(24,554,774)	(31,639,493)	5,091,529	1,839,804	(19,463,245)	(29,799,689)
Total Net Position	$336,374,102	$313,265,940	$265,626,612	$256,735,949	$602,000,714	$570,001,889

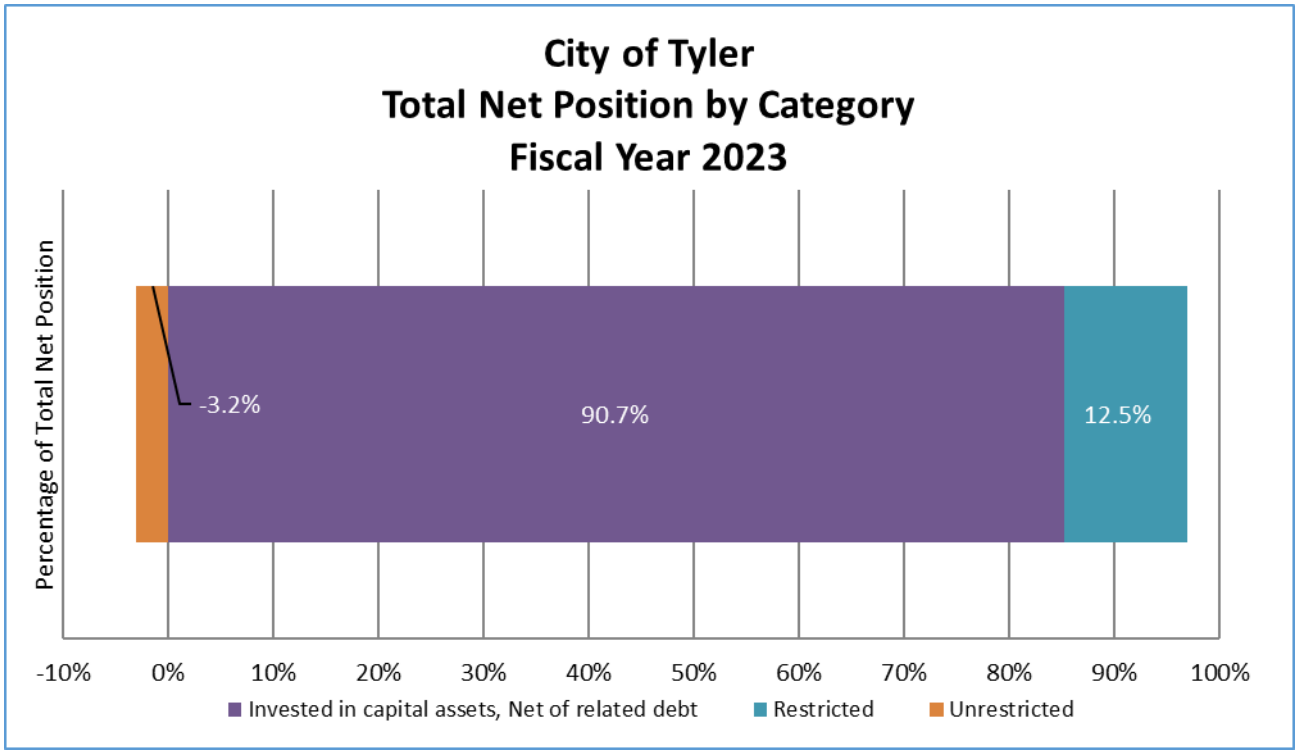
An additional portion of the City's net position, 12.5% or $75,367,595, represents resources that are subject to external restrictions on how they may be used. The remaining balance of unrestricted net position is (3.2%) at $(19,463,245).

The negative remaining balance in unrestricted net position is related to the implementation of GASB 68, 71, and 75 in prior years, requiring the recording of all pension and Other Post-Employment Benefits (OPEB) related assets and liabilities in the financial statements. Currently, Pension and OPEB liabilities exceed pension assets. The City of Tyler has two pension plans on its books: the Texas Municipal Retirement System (TMRS) and the Tyler Firemen's Relief and Retirement Fund (TFDRRF). Texas Municipal Retirement plan has a thirty-year closed amortization period. The TMRS pension plan is estimated to be 100% funded in 2036. 100% funding will mean that pension and

OPEB assets will be equal to liabilities. Once that has been achieved, it is expected that the City's contribution rate (TMRS) and actuarial determined contribution (ADC) will be reduced. Tyler Firemen's Relief and Retirement Fund is an open amortization plan that aims to amortize its unfunded actuarial accrued liability over fifteen to twenty-five year period.

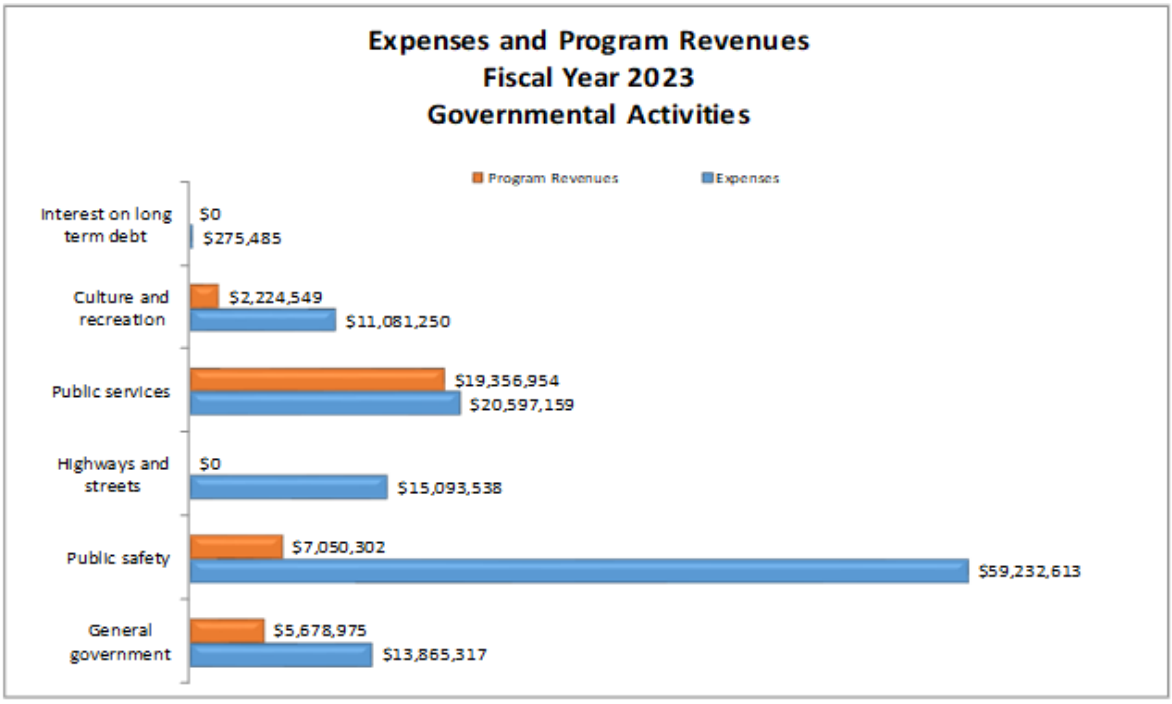
This negative impact on the City's net position is not unique to the City of Tyler. Many organizations across the country are experiencing similar scenarios with the implementation of this new accounting standard. This new standard has been discussed for some time, and organizations have prepared for its implementation. Pension plans like TMRS have worked with us and made changes to ensure we are properly setting aside the appropriate dollars for future benefits. The City has implemented a reduction in retiree Medicare RX and Medicare supplemental insurance contributions and increased its ADC to begin work toward reducing its OPEB liability.

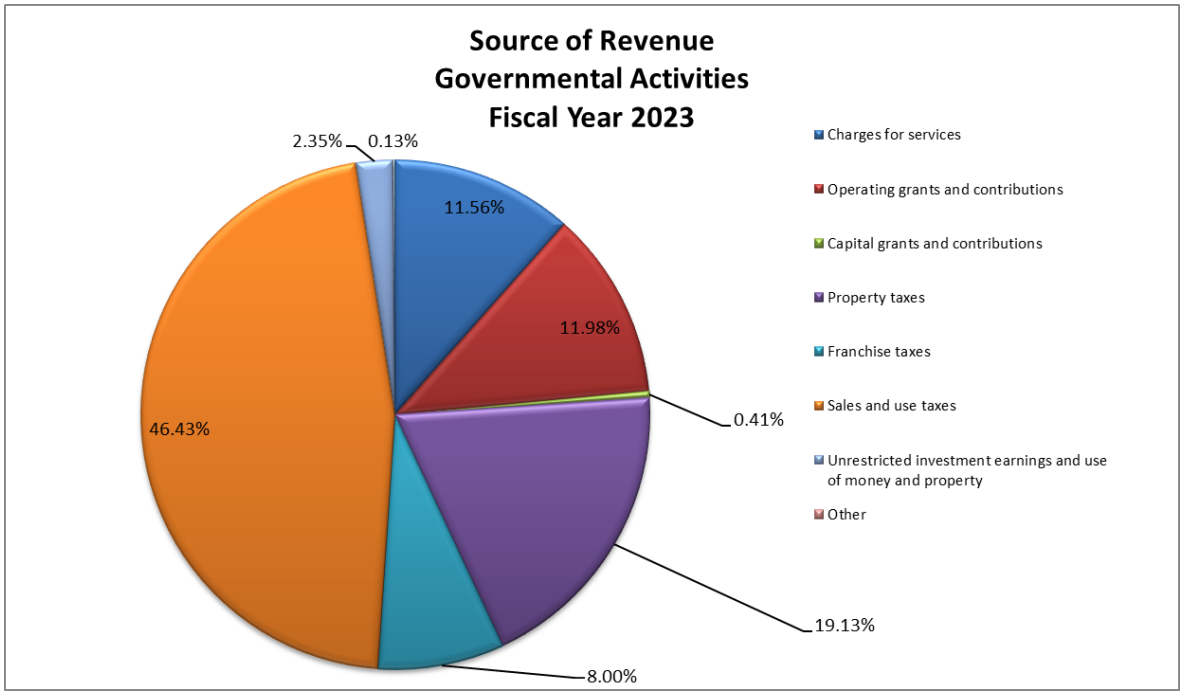
As of September 30, 2023 the City is able to report positive balances in two of the three categories of net position. The prior fiscal year also had positive balances in two of the three categories. The following chart illustrates the percentage of total net position that each category encompasses for the current fiscal year.



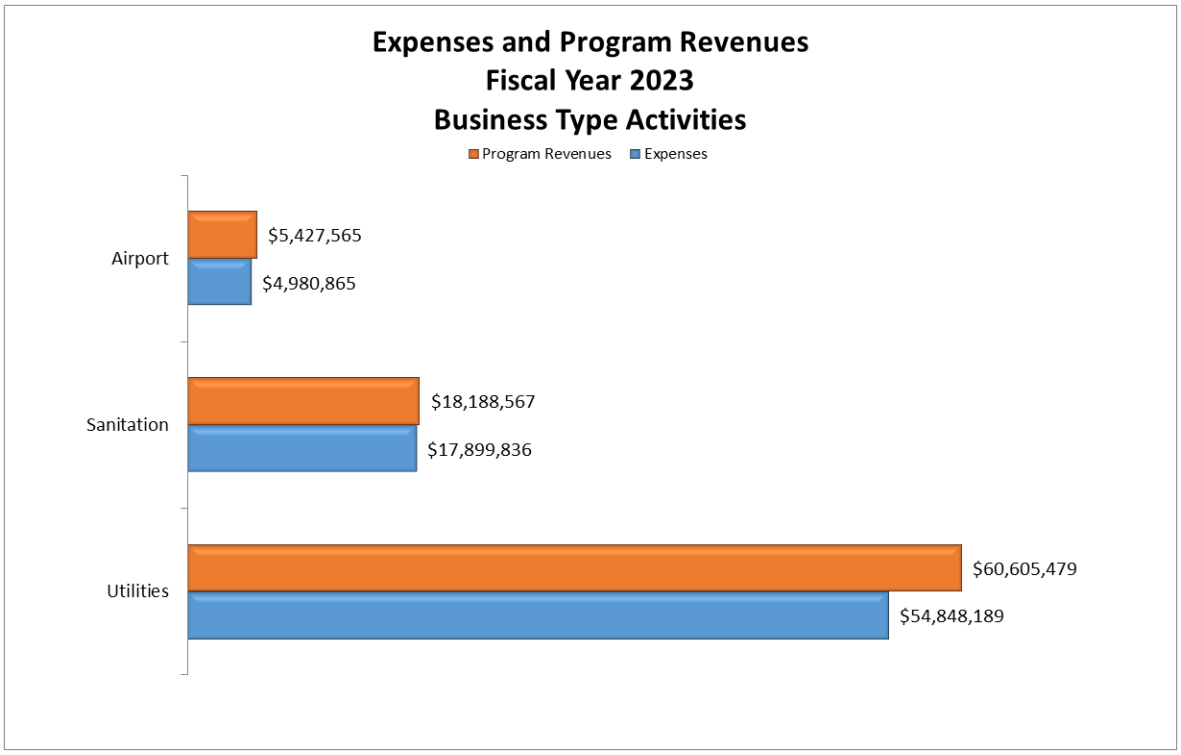
Analysis of the City's Operations – Overall, the City's total net position increased by $31,998,825 for the current year.

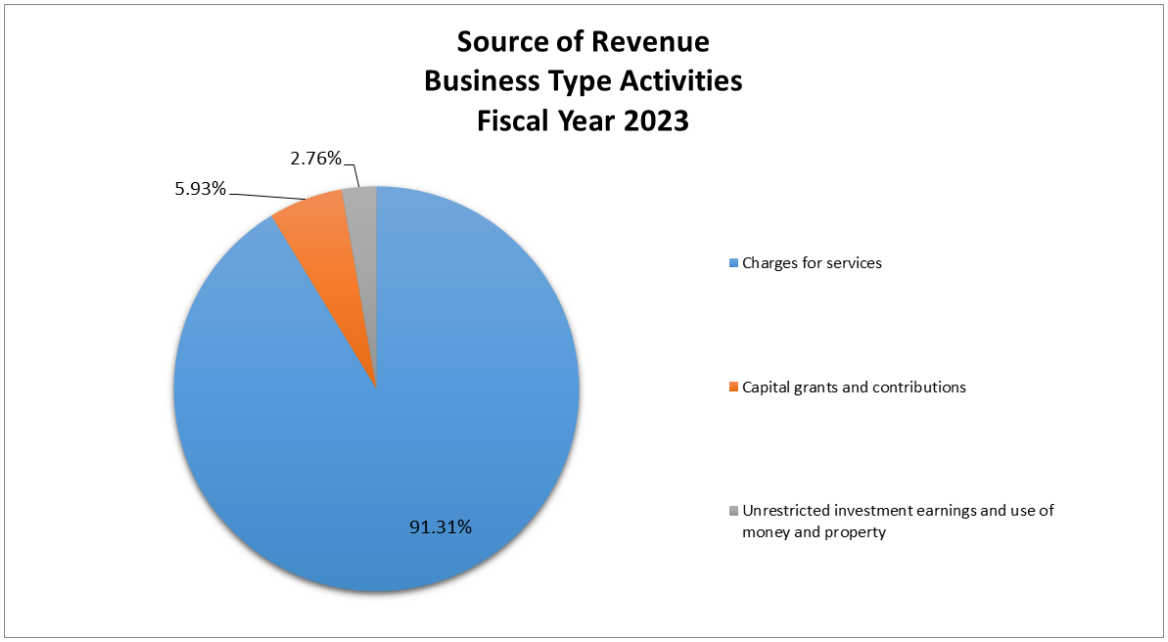
Governmental Activities: Governmental activities increased total net position by $23,108,162. Net position invested in capital assets; net of related debt increased by $15,334,977 addition of assets. Restricted net position increased by $688,466.


Expenses and Program Revenues
Fiscal Year 2023
Governmental Activities
Program Revenues
Expenses
Interest on long term debt
$0
$275,485
Culture and recreation
$2,224,549
$11,081,250
Public services
$19,356,954
$20,597,159
Highways and streets
$0
$15,093,538
Public safety
$7,050,302
$59,232,613
General government
$5,678,975
$13,865,317


Source of Revenue
Governmental Activities
Fiscal Year 2023
2.35%
0.13%
11.56%
11.98%
0.41%
46.43%
19.13%
8.00%
Charges for services
Operating grants and contributions
Capital grants and contributions
Property taxes
Franchise taxes
Sales and use taxes
Unrestricted investment earnings and use of money and property
Other

Business-type Activities: Net Position from business-type activities increased by $8,890,663. This increase was primarily due to increased capital assets related to the Airport and Water Utilities Fund.





The following table provides a summary of the City's operations for the year ended September 30, 2023 with comparative totals for the year ended September 30, 2022.

CITY OF TYLER'S CHANGES IN NET POSITION

	Governmental Activities		Business-Type Activities		Total	
	2023	2022	2023	2022	2023	2022
Revenues:						
Program Revenues:						
Charges for services	$16,567,263	$15,632,970	$79,089,178	$67,843,449	$95,656,441	$83,476,419
Operating grants and contributions	17,161,327	34,247,902	-	-	17,161,327	34,247,902
Capital grants and contributions	582,190	354,955	5,132,433	2,839,431	5,714,623	3,194,386
General revenues:						
Property taxes	27,403,562	25,387,943	-	-	27,403,562	25,387,943
Franchise taxes	11,462,535	11,243,225	-	-	11,462,535	11,243,225
Sales and use taxes	66,519,588	62,847,166	-	-	66,519,588	62,847,166
Investment earnings and use of money and property	3,372,781	829,440	2,392,860	2,461,694	5,765,641	3,291,134
Gain on sale of assets	189,360	646,760	-	-	189,360	646,760
Donations	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	-
Total revenues	143,258,606	151,190,361	86,614,471	73,144,574	229,873,077	224,334,935
Expenses:						
General government	13,865,317	27,066,638	-	-	13,865,317	27,066,638
Public safety	59,232,613	47,800,696	-	-	59,232,613	47,800,696
Streets	15,093,538	12,417,649	-	-	15,093,538	12,417,649
Public services	20,597,159	18,045,764	-	-	20,597,159	18,045,764
Culture and recreation	11,081,250	9,554,147	-	-	11,081,250	9,554,147
Interest on long-term debt	275,485	3,850,936	-	-	275,485	3,850,936
Water and sewer	-	-	54,848,189	50,266,374	54,848,189	50,266,374
Sanitation	-	-	17,899,836	15,083,456	17,899,836	15,083,456
Airport	-	-	4,980,865	5,192,442	4,980,865	5,192,442
Total Expenses	120,145,362	118,735,830	77,728,890	70,542,272	197,874,252	189,278,102
Increases (decreases) in net position before transfers	23,113,244	32,454,531	8,885,581	2,602,302	31,998,825	35,056,833
Transfers	(5,082)	744,035	5,082	(744,035)	-	-
Change in net position	23,108,162	33,198,566	8,890,663	1,858,267	31,998,825	35,056,833
Net position – October 1	313,265,940	280,067,374	256,735,949	254,877,682	570,001,889	534,945,056
Prior Period Adjustment	-	-	-	-	-	-
Net position – September 30	$ 336,374,102	$ 313,265,940	$ 265,626,612	$ 256,735,949	$ 602,000,714	$ 570,001,889

FINANCIAL ANALYSIS OF THE GOVERNMENT'S FUNDS

Governmental funds - The focus of the City of Tyler's governmental funds is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the City's financing requirements. In particular, unassigned fund balance may be a useful measure of a government's net resources available for spending at the end of the fiscal year.

At the end of the current fiscal year, the City of Tyler's governmental funds reported combined ending fund balances of $78,028,759. Approximately 17% of this total amount, $12,974,604, constitutes an unassigned fund balance. The remainder of the fund balance is reserved to indicate that it is not available for new spending because it has already been restricted or assigned for the following: 1) to pay for capital projects, $35,050,589; 2) to pay for the perpetual care of city cemeteries, $3,323,804; 3) to purchase items restricted under grant and donation terms, $20,506,999; 4) to purchase items restricted under tourism and conventions, $1,457,977 and 5) to pay for other miscellaneous restrictions, $4,714,786. The City of Tyler also self-imposes an operating designation in the general fund equivalent to approximately 15 percent of total expenditures, $13,484,882.

In the general fund, the City's original budget planned to increase the fund balance on a budget basis by $883,591. Additional amendments were made to fund various expenses required for operations for a net budgeted decrease in the fund balance of $3,300,532. Due to revenue and expenditure budget variances, the actual net increase in fund balance for fiscal year 2023 was $2,404,637. Capital Projects Half Cent Sales Tax Fund balance increased in 2023 by $5,027,858. Other non-major governmental fund balances decreased in 2023 by $4,396,125, from $19,027,958 to $14,631,833.

Proprietary funds - The City's proprietary fund statements provide the same type of information found in the government-wide financial statements but in more detail.

Unrestricted net position of the respective proprietary funds are Utilities - $7,981,855, Sanitation – $(1,662,850) and Airport – $379,875. The following funds had a net position increase/(decrease) in 2023 as follows: Utilities $5,538,499, Sanitation $(706,722), and Airport- $1,873,206.

General Fund Budgetary Highlights - The City revised the original budget appropriations approved by the City Council. Overall, these changes resulted in increased budgeted appropriations of $4,184,123.

Actual revenues were above the final budgeted amounts by a total of $2,714,661. Actual expenditures including transfers were under the final budgeted amounts by a total of $2,990,568.

CAPITAL ASSETS

The City of Tyler's investment in capital assets for its governmental and business-type activities as of September 30, 2023, amounts to $692,755,758 (net of accumulated depreciation). This investment in capital assets includes land, water rights, buildings, equipment, improvements, infrastructure, and construction in progress. The total net increase in capital assets for the current fiscal year was $51,055,134.

Major capital asset events during the current fiscal year included the following:

- $ 9,466,276 Roadway improvement projects
- $ 5,138,084 Airport capital projects
- $39,516,513 Water and Sewer capital projects
- $ 9,101,888 Rose Complex Convention Center
- $ 3,056,969 Drainage Capital Projects

Capital Assets at Year End Net of Accumulated Depreciation						
	Governmental Activities		Business-Type Activities		Total	
	2023	2022	2023	2022	2023	2022
Land	$17,309,365	$17,138,642	$12,073,047	$12,063,799	$29,382,412	$29,202,441
Water rights	-	-	12,526,700	12,526,700	12,526,700	12,526,700
Building	40,642,396	49,241,223	23,720,063	24,979,091	64,362,459	74,220,314
Improvements	36,124,133	38,408,886	292,511,953	259,941,775	328,636,086	298,350,661
Machinery & equipment	25,521,953	22,144,980	6,851,004	6,343,325	32,372,957	28,488,305
Infrastructure	137,509,165	140,490,558	15,496,769	15,953,386	153,005,934	156,443,944
Right-to-use lease assets	671,802	833,394	-	-	671,802	833,394
Subscription Assets	907,456	-	-	-	907,456	-
Construction in progress	55,299,687	28,682,708	15,590,265	12,952,157	70,889,952	41,634,865
Total	$313,985,957	$296,940,391	$378,769,801	$344,760,233	$692,755,758	$641,700,624

Additional information on the City of Tyler's capital assets can be found in note 4 on page 45-48 of this report.

DEBT ADMINISTRATION

At the end of the current fiscal year, the City of Tyler had a total bonded debt of $136,535,000 comprised of bonds secured by water and sewer revenues $127,230,000, airport customer facility revenue $465,000, and hotel bond revenue $8,840,000.

Outstanding Debt at Year End Bonds and Notes Payable						
	Governmental Activities		Business-Type Activities		Total	
	2023	2022	2023	2022	2023	2022
Capital leases	$718,459	$893,210	-	-	$718,459	$893,210
Subscription Leases	724,258	-	-	-	724,258	-
Revenue bonds payable	-	-	136,535,000	142,680,000	136,535,000	142,680,000
Total	1,442,717	$893,210	$136,535,000	$142,680,000	$137,977,717	$143,573,210

During the fiscal year, the City's revenue bond debt decreased by $6,145,000 or (4.3) %.

The City's General Obligation and Revenue Bond ratings are listed below.

	Standard & Poor's
General Obligation Bonds	AAA
Revenue Bonds	AA+
Revenue Bonds (Rose Complex)	A+

Please see note 4 on page 49 to explain reserve requirements for the City of Tyler. State statutes limit the amount of general obligation debt a governmental entity may issue to 10 percent of its total assessed valuation. The current debt limitation for the City of Tyler is $1,094,882,883. The City of Tyler has no outstanding general obligation bond debt.

Additional information on the City of Tyler's long term-debt can be found in note 4 on pages 49-50 of this report.

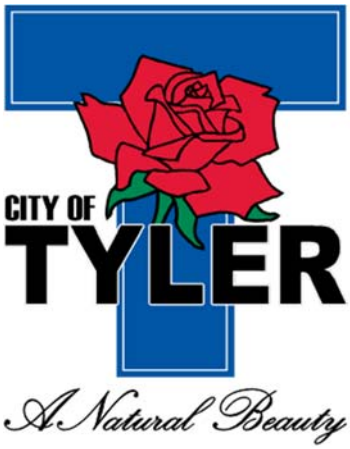
ECONOMIC FACTORS AND NEXT YEAR'S BUDGET AND RATES

- The unemployment rate for the City of Tyler is currently 3.3%, which is a decrease from 0.9% a year ago. This compares to the state's average unemployment rate of 3.9% and the national average of 3.7%.
- Sales tax receipt growth over a ten-year average increased slightly to 5.29%. Property values have grown at an average of 4.84% over the last ten years. Growth in values includes new and existing values.

All of these factors were considered in preparing the budget for the fiscal year 2023-2024 and the City of Tyler anticipates that total net position will remain at similar levels by September 30, 2024.

REQUEST FOR INFORMATION

The financial report is designed to give our citizens, customers, investors, and creditors a general overview of the City's finances. If you have questions about this report or need any additional information, contact the Department of Finance, Attn: Chief Financial Officer at P.O. Box 2039, Tyler, Texas 75710, call (903) 531-1138, or email cfo@tylertexas.com.


CITY OF
TYLER
A Natural Beauty

BASIC FINANCIAL STATEMENTS

EXHIBIT 1

CITY OF TYLER, TEXAS
STATEMENT OF NET POSITION
SEPTEMBER 30, 2023

	PRIMARY GOVERNMENT		
	GOVERNMENTAL ACTIVITIES	BUSINESS-TYPE ACTIVITIES	TOTAL
ASSETS			
Cash and cash equivalents	$ 51,282,476	$ 19,469,966	$ 70,752,442
Receivables (net of allowance for doubtful accounts)	29,580,936	12,991,001	42,571,937
Internal balances	3,494,706	(3,494,706)	-
Inventories	383,394	1,600,833	1,984,227
Prepaid items	2,092,832	61,970	2,154,802
Restricted Assets:			
Temporarily restricted			
Cash and cash equivalents	49,861,331	17,105,956	66,967,287
Permanently restricted			
Cash and cash equivalents	3,306,701	-	3,306,701
Lease receivable	123,214	105,693	228,907
Investment in joint venture	4,058,576	-	4,058,576
Capital assets not being depreciated:			
Land	17,309,365	12,073,047	29,382,412
Water rights	-	12,526,700	12,526,700
Construction in progress	55,299,687	15,590,265	70,889,952
Capital Assets net of accumulated depreciation:			
Buildings	40,642,396	23,720,063	64,362,459
Improvements, other than buildings	36,124,133	292,511,953	328,636,086
Machinery and equipment	25,521,953	6,851,004	32,372,957
Infrastructure	137,509,165	15,496,769	153,005,934
Right-to-use lease assets	671,802	-	671,802
Subscription assets (SBITA)	907,456	-	907,456
Total assets	458,170,123	426,610,514	884,780,637
DEFERRED OUTFLOWS OF RESOURCES			
Deferred outflows related to pensions	52,599,733	11,672,563	64,272,296
Deferred outflows related to OPEB	5,175,761	1,978,764	7,154,525
Total deferred outflows of resources	57,775,494	13,651,327	71,426,821
LIABILITIES			
Accounts payable	9,568,689	9,809,759	19,378,448
Deposits and other refundable balances	2,365,268	98,803	2,464,071
Insurance claims payable	1,297,275	-	1,297,275
Accrued interest payable	30,135	385,099	415,234
Unearned revenues	17,743,791	-	17,743,791
Non-current liabilities:			
Due within one year	1,742,228	6,153,686	7,895,914
Due in more than one year	126,708,563	152,437,531	279,146,094
Total liabilities	159,455,949	168,884,878	328,340,827
DEFERRED INFLOWS OF RESOURCES			
Deferred inflows related to leases	122,189	100,348	222,537
Deferred inflows related to OPEB	5,665,916	877,502	6,543,418
Deferred inflows related to pensions	14,327,461	4,772,501	19,099,962
Total deferred inflows of resources	20,115,566	5,750,351	25,865,917
NET POSITION			
Net investment in capital assets	302,282,138	243,814,226	546,096,364
Restricted for:			
Perpetual care - nonexpendable	3,323,804	-	3,323,804
Storm water management	-	2,082,767	2,082,767
Public Safety	813,045	-	813,045
Capital improvements	1,399,525	-	1,399,525
Tourism and convention	1,107,720	-	1,107,720
Donor restrictions	1,101,004	-	1,101,004
Capital projects	29,798,945	8,276,596	38,075,541
Airport improvements	406,483	-	406,483
Communications	1,286,454	-	1,286,454
Housing assistance	1,213,052	-	1,213,052
Grant restrictions	472,029	-	472,029
COVID fiscal recovery	17,720,914		17,720,914
Debt service	3,763	6,361,494	6,365,257
Unrestricted	(24,554,774)	5,091,529	(19,463,245)
Total net position	$ 336,374,102	$ 265,626,612	$ 602,000,714

The notes to the financial statements are an integral part of this statement.

EXHIBIT 2

CITY OF TYLER, TEXAS
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED SEPTEMBER 30, 2023

FUNCTIONS / PROGRAMS	EXPENSES	PROGRAM REVENUES: CHARGES FOR SERVICES	PROGRAM REVENUES: OPERATING GRANTS AND CONTRIBUTIONS	PROGRAM REVENUES: CAPITAL GRANTS AND CONTRIBUTIONS	NET (EXPENSE) REVENUE AND CHANGES IN NET ASSETS: GOVERNMENTAL ACTIVITIES	NET (EXPENSE) REVENUE AND CHANGES IN NET ASSETS: BUSINESS-TYPE ACTIVITIES	TOTAL
Governmental activities:							
General government	$ 13,865,317	$ 5,625,573	$ 53,402	$ -	$ (8,186,342)	$ -	$ (8,186,342)
Public safety	59,232,613	5,628,794	839,318	582,190	(52,182,311)	-	(52,182,311)
Highways and streets	15,093,538	-	-	-	(15,093,538)	-	(15,093,538)
Public services	20,597,159	3,088,347	16,268,607	-	(1,240,205)	-	(1,240,205)
Culture and recreation	11,081,250	2,224,549	-	-	(8,856,701)	-	(8,856,701)
Interest on long term debt	275,485	-	-	-	(275,485)	-	(275,485)
Total governmental activities	120,145,362	16,567,263	17,161,327	582,190	(85,834,582)	-	(85,834,582)
Business-type activities:							
Utilities	54,848,189	60,605,479	-	-	-	5,757,290	5,757,290
Sanitation	17,899,836	18,188,567	-	-	-	288,731	288,731
Airport	4,980,865	295,132	-	5,132,433	-	446,700	446,700
Total business-type activities	77,728,890	79,089,178	-	5,132,433	-	6,492,721	6,492,721
Total primary government	$ 197,874,252	$ 95,656,441	$ 17,161,327	$ 5,714,623	(85,834,582)	6,492,721	(79,341,861)
General revenues:							
Property taxes					27,403,562	-	27,403,562
Franchise taxes					11,462,535	-	11,462,535
Sales and use taxes					66,519,588	-	66,519,588
Unrestricted investment earnings and use of money and property					3,372,781	2,392,860	5,765,641
Gain (loss) on sale of assets					189,360	-	189,360
Transfers					(5,082)	5,082	-
Total general revenues and transfers					108,942,744	2,397,942	111,340,686
Change in net position					23,108,162	8,890,663	31,998,825
Net position - beginning of year					313,265,940	256,735,949	570,001,889
Net position - end of year					$ 336,374,102	$ 265,626,612	$ 602,000,714

The notes to the financial statements are an integral part of this statement.

EXHIBIT 3

CITY OF TYLER, TEXAS
BALANCE SHEET
GOVERNMENTAL FUNDS
SEPTEMBER 30, 2023

	MAJOR FUNDS		OTHER NON-MAJOR GOVERNMENTAL FUNDS	TOTAL GOVERNMENTAL FUNDS
	GENERAL	ONE-HALF CENT SALES TAX		
ASSETS				
Cash and cash equivalents	$ 26,439,981	$ -	$ 8,334,542	$ 34,774,523
Receivables (net of allowance for doubtful accounts) :				
Property taxes	765,979	-	-	765,979
Other	22,401,955	3,606,517	1,869,126	27,877,598
Due from other funds	3,043,055	-	-	3,043,055
Inventories	71,734	-	4,450	76,184
Prepaid items	119,128	687,847	8,902	815,877
Cash and cash equivalents - restricted	17,720,914	28,745,143	6,701,975	53,168,032
Total assets	$ 70,562,746	$ 33,039,507	$ 16,918,995	$ 120,521,248
LIABILITIES				
Accounts payable	$ 3,812,257	$ 3,240,432	$ 1,647,538	$ 8,700,227
Deposits and other refundable balances	2,073,286	-	291,982	2,365,268
Other liabilities	-	130	5,202	5,332
Due to other funds	-	-	341,611	341,611
Unearned Revenues	17,742,962	-	829	17,743,791
Total liabilities	23,628,505	3,240,562	2,287,162	29,156,229
DEFERRED INFLOWS OF RESOURCES				
Unavailable revenue-property taxes	721,206	-	-	721,206
Unavailable revenue-fines	12,574,941	-	-	12,574,941
Unavailable revenue-permits	40,113	-	-	40,113
Total deferred inflows of recourses	13,336,260	-	-	13,336,260
FUND BALANCES				
Nonspendable:				
Inventory	71,734	-	4,450	76,184
Prepaid items	119,128	-	450	119,578
Permanent fund principal	-	-	3,323,804	3,323,804
Restricted for:				
Debt service	-	-	3,763	3,763
Public Safety	-	-	813,045	813,045
Capital improvements	-	-	1,399,525	1,399,525
Tourism and convention	-	-	1,107,720	1,107,720
Donor restrictions	-	-	1,101,004	1,101,004
Capital projects	-	29,798,945	-	29,798,945
Airport improvements	-	-	406,483	406,483
Communications	-	-	1,286,454	1,286,454
Housing assistance	-	-	1,213,052	1,213,052
Grant restrictions	-	-	472,029	472,029
COVID fiscal recovery	17,720,914	-	-	17,720,914
Assigned to:				
Development services	2,415,762	-	-	2,415,762
Capital improvements	-	-	-	-
Capital projects	-	-	3,445,636	3,445,636
Tourism and convention	350,257	-	-	350,257
Unassigned	12,920,186	-	54,418	12,974,604
Total fund balances	33,597,981	29,798,945	14,631,833	78,028,759
Total liabilities, deferred inflows of resources, and fund balances	$ 70,562,746	$ 33,039,507	$ 16,918,995	$ 120,521,248

The notes to the financial statements are an integral part of this statement.

CITY OF TYLER, TEXAS
RECONCILIATION OF THE GOVERNMENTAL FUNDS
BALANCE SHEET TO THE STATEMENT OF NET POSITION
SEPTEMBER 30, 2023

Total fund balances governmental funds (Exhibit 3)	$	78,028,759
Capital assets used in governmental activities are not current financial resources and, therefore, are not reported in the governmental funds balance sheet.		288,410,420
Equity in an affiliated joint venture is included in governmental activities in the statement of net assets.		4,058,576
Other long-term assets are not available to pay for current-period expenditures and, therefore, are reported as unavailable revenue in the funds.		13,336,260
Deferred outflows of funds related to pension and OPEB activities		55,284,396
Deferred inflows of funds related to pension and OPEB activities		(18,962,569)
Net pension and OPEB liabilities reflected under GASB 68 and 75 at year end		(97,876,957)
Internal service funds are used by management to charge the costs of various goods or services provided to other departments or agencies of the City. The assets and liabilities of the internal service funds are included in governmental activities in the statement of net assets (Net of the amount allocated to business-type activities - $2,719,682)		39,041,481
Long term liabilities are not due and payable in the current period and therefore are not reported in the governmental funds balance sheet.		(24,946,264)
Net position of governmental activities (Exhibit 1)	$	336,374,102

The notes to the financial statements are an integral part of this statement.

EXHIBIT 5

CITY OF TYLER, TEXAS
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS
FOR THE YEAR ENDED SEPTEMBER 30, 2023

	MAJOR FUNDS				
	GENERAL	ONE-HALF CENT SALES TAX	OTHER NON-MAJOR GOVERNMENTAL FUNDS	ELIMINATIONS	TOTAL GOVERNMENTAL FUNDS
REVENUES					
Taxes:					
Property	$ 27,025,622	$ -	$ 307,094	$ -	$ 27,332,716
Franchise	11,261,210	-	201,325	-	11,462,535
Sales and use	41,625,717	20,532,756	4,361,115	-	66,519,588
Licenses and permits	2,827,021	-	111,929	-	2,938,950
Fines, forfeitures, and penalties	3,995,667	-	497,775	-	4,493,442
Revenues from use of money or property	2,538,322	1,076,019	468,327	-	4,082,668
Charges for current services	2,778,097	-	1,098,895	-	3,876,992
Revenues from other agencies	862,773	37,764	16,842,980	-	17,743,517
Donations	-	-	755,453	-	755,453
Miscellaneous	988,536	117,392	583,498	-	1,689,426
Total revenues	93,902,965	21,763,931	25,228,391	-	140,895,287
EXPENDITURES					
Current:					
General government	11,226,356	183,750	1,413,365	-	12,823,471
Public safety	58,499,878	-	450,943	-	58,950,821
Public services	3,702,308	63,840	16,410,676	-	20,176,824
Highways and streets	6,371,171	-	-	-	6,371,171
Culture and recreation	9,376,180	-	608,268	-	9,984,448
Capital outlay	723,318	12,932,095	15,115,569	-	28,770,982
Debt service:					
Principal retirement	-	-	230,000	-	230,000
Interest and fiscal charges	-	-	364,055	-	364,055
Total expenditures	89,899,211	13,179,685	34,592,876	-	137,671,772
Excess (deficiency) of revenues over (under) expenditures	4,003,754	8,584,246	(9,364,485)	-	3,223,515
OTHER FINANCING SOURCES (USES)					
Other financing - SBITA's	45,548	-	-	-	45,548
Transfers in	2,500,000	-	8,190,730	(697,370)	9,993,360
Transfers out	(4,144,665)	(3,556,388)	(3,222,370)	697,370	(10,226,053)
Total other financing sources (uses)	(1,599,117)	(3,556,388)	4,968,360	-	(187,145)
Net change in fund balances	2,404,637	5,027,858	(4,396,125)	-	3,036,370
Fund balances - beginning of year	31,193,344	24,771,087	19,027,958	-	74,992,389
Fund balances - end of year	$ 33,597,981	$ 29,798,945	$ 14,631,833	$ -	$ 78,028,759

The notes to the financial statements are an integral part of this statement.

EXHIBIT 6

CITY OF TYLER, TEXAS
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED SEPTEMBER 30, 2023

Amounts reported for governmental activities in the statement of activities (Exhibit 2) are different because:

Net change in fund balances - total governmental funds	$	3,036,370
Governmental funds report capital outlays as expenditures. However, in the statement of activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. This is the amount by which capital outlay exceeded depreciation in the current period.		12,960,730
The net increase of the equity in investment in an affiliated joint venture is reflected on the statement of activities.		460,937
The net effect of various transactions involving capital assets (i.e., sales, trade-ins, and donations) is to decrease net assets.		757,222
Revenues in the statement of activities that do not provide current financial resources are not reported as revenues in the funds. The current adjustment reflects a net decrease in the deferral of the revenue.		689,129
The issuance of long-term debt (e.g. capital leases) provides current financial resources to governmental funds, while the repayment of the principal of long-term debt consumes the current financial resources of governmental funds.		362,715
Some expenses reported in the statement of activities do not require the use of current financial resources; therefore, they are not reported as expenditures in governmental funds. This amount reflects the change in the accrued liability for compensated absences, accrued legal expenses, and net pension expense.		2,163,884
Internal service funds are used by management to charge the costs of certain activities, such as insurance and fleet management, to individual funds. The net revenue of the internal service funds is reported with governmental activities, net of amount allocated to business-type activities of $1,780,710		2,677,175
Change in net assets of governmental activities	$	23,108,162

The notes to the financial statements are an integral part of this statement.

CITY OF TYLER, TEXAS
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	BUDGET AMOUNTS			VARIANCE WITH FINAL BUDGET
	ORIGINAL	FINAL	ACTUAL	POSITIVE (NEGATIVE)
REVENUES				
Property tax collections	$ 27,223,265	$ 27,223,265	$ 27,025,622	$ (197,643)
Franchise fees	11,204,758	11,204,758	11,261,210	56,452
Sales and use taxes	39,568,835	39,568,835	41,625,717	2,056,882
Licenses and permits	2,782,863	2,782,863	2,827,021	44,158
Fines, forfeitures, and penalties	3,961,000	3,961,000	3,995,667	34,667
Revenues from use of money or property	1,162,380	1,162,380	2,538,322	1,375,942
Charges for current services	2,700,293	2,966,593	2,778,097	(188,496)
Revenues from other agencies	607,365	1,268,882	862,773	(406,109)
Miscellaneous	1,361,576	1,095,276	1,034,084	(61,192)
Total revenues	90,572,335	91,233,852	93,948,513	2,714,661
EXPENDITURES				
GENERAL GOVERNMENT:				
General Government Services	5,258,369	7,923,779	7,009,402	914,377
Communications	608,367	608,367	592,083	16,284
Finance	1,655,454	1,676,504	1,683,234	(6,730)
Human Resources	648,329	648,329	594,223	54,106
Legal	1,473,172	1,472,672	1,338,656	134,016
Innovation Pipeline	140,659	8,481	8,758	(277)
Total General Government	9,784,350	12,338,132	11,226,356	1,111,776
PUBLIC SAFETY				
Police	33,755,203	33,606,339	33,191,180	415,159
Fire	22,997,223	23,125,003	22,932,303	192,700
Municipal Court	2,383,101	2,383,101	2,164,925	218,176
COPS	191,521	191,521	211,470	(19,949)
Total Public Safety	59,327,048	59,305,964	58,499,878	806,086
PUBLIC SERVICES				
Animal Services	1,500,206	1,478,206	1,423,635	54,571
Planning and Zoning Services	1,035,653	1,035,653	846,843	188,810
Building Services	1,542,582	1,547,089	1,431,830	115,259
Total Public Services	4,078,441	4,060,948	3,702,308	358,640

(Continued)

The notes to the financial statements are an integral part of this statement.

CITY OF TYLER, TEXAS
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	BUDGET AMOUNTS			VARIANCE WITH FINAL BUDGET
	ORIGINAL	FINAL	ACTUAL	POSITIVE (NEGATIVE)
EXPENDITURES (continued)				
HIGHWAYS AND STREETS				
Engineering	$ 877,723	$ 882,723	$ 769,565	$ 113,158
Street administration	3,539,271	3,534,271	3,158,556	375,715
Traffic operations	2,736,864	2,736,864	2,443,050	293,814
Total Highways and Streets	7,153,858	7,153,858	6,371,171	782,687
CULTURE AND RECREATION				
Library	2,013,281	2,014,641	1,964,141	50,500
Parks administration	3,120,910	3,129,910	3,071,613	58,297
Indoor recreation	642,030	642,030	670,940	(28,910)
Outdoor recreation	290,921	281,921	289,642	(7,721)
Median maintenance and arborist	474,973	474,973	422,504	52,469
Rose Garden center	391,391	391,391	366,341	25,050
Rose Garden maintenance	610,091	610,091	618,426	(8,335)
Visitor facilities	1,165,574	1,165,574	1,293,512	(127,938)
Main Street	493,829	496,129	456,378	39,751
Liberty Hall	493,699	320,583	222,683	97,900
Total Culture and Recreation	9,696,699	9,527,243	9,376,180	151,063
Capital outlay	236,860	677,567	723,318	(45,751)
Total expenditures	90,277,256	93,063,712	89,899,211	3,164,501
Excess (deficiency) of revenues over (under) expenditures	295,079	(1,829,860)	4,049,302	5,879,162
OTHER FINANCING SOURCES (USES)				
Transfers in	2,500,000	2,500,000	2,500,000	-
Transfers out	(1,911,488)	(3,970,672)	(4,144,665)	(173,993)
Total other financing sources (uses)	588,512	(1,470,672)	(1,644,665)	(173,993)
Net change in fund balance	883,591	(3,300,532)	2,404,637	5,705,169
Fund balance - beginning of year	13,321,493	11,309,242	31,193,344	19,884,102
Fund balance - end of year	$ 14,205,084	$ 8,008,710	$ 33,597,981	$ 25,589,271

The notes to the financial statements are an integral part of this statement.

CITY OF TYLER, TEXAS
STATEMENT OF NET POSITION
PROPRIETARY FUNDS
SEPTEMBER 30, 2023

	BUSINESS-TYPE ACTIVITIES ENTERPRISE FUNDS				GOVERNMENTAL ACTIVITIES
ASSETS	UTILITIES	SANITATION	AIRPORT	TOTAL ENTERPRISE FUNDS	INTERNAL SERVICE FUNDS
Current assets:					
Unrestricted current assets					
Cash and cash equivalents	$ 17,755,600	$ 757,730	$ 956,636	$ 19,469,966	$ 16,507,953
Prepaid expenses	53,636	8,334	-	61,970	1,276,955
Accounts receivable (net of allowance for doubtful accounts)	8,168,943	2,518,880	2,280,553	12,968,376	937,359
Accrued interest receivable	11,365	5,804	5,456	22,625	-
Inventories - at average cost	1,600,833	-	-	1,600,833	307,210
Lease receivable	18,899	-	-	18,899	4,691
Total unrestricted current assets	27,609,276	3,290,748	3,242,645	34,142,669	19,034,168
Restricted Current assets:					
Temporarily restricted:					
Cash and cash equivalents for payment of current maturities of revenue bond principal and interest	6,642,413	-	104,180	6,746,593	-
Total restricted current assets	6,642,413	-	104,180	6,746,593	-
Total current assets	34,251,689	3,290,748	3,346,825	40,889,262	19,034,168
Noncurrent assets:					
Restricted assets:					
Temporarily restricted					
Cash and cash equivalents	9,850,155	509,208	-	10,359,363	-
Total restricted assets	9,850,155	509,208	-	10,359,363	-
Lease receivable	86,794	-	-	86,794	118,523
Capital assets:					
Land	6,842,055	3,285,312	1,945,680	12,073,047	274,972
Construction in progress	9,324,304	54,280	6,211,681	15,590,265	361,235
Water rights	12,526,700	-	-	12,526,700	-
Buildings and infrastructure	41,380,122	727,319	42,144,225	84,251,666	2,246,833
Improvements other than buildings	373,886,198	605,496	81,657,912	456,149,606	2,524,359
Machinery and equipment	8,177,930	9,396,068	2,380,868	19,954,866	59,094,397
Subscription asset	-	-	-	-	1,421,205
Right-to-use lease asset	-	-	-	-	1,009,016
Less accumulated depreciation	(178,342,707)	(6,958,121)	(36,475,521)	(221,776,349)	(41,356,480)
Total capital assets net of accumulated depreciation	273,794,602	7,110,354	97,864,845	378,769,801	25,575,537
Total noncurrent assets	283,731,551	7,619,562	97,864,845	389,215,958	25,694,060
Total assets	317,983,240	10,910,310	101,211,670	430,105,220	44,728,228
DEFERRED OUTFLOWS OF RESOURCES					
Deferred outflows related to pensions	8,012,916	3,199,980	459,667	11,672,563	2,130,272
Deferred outflows related to OPEB	1,358,396	542,384	77,984	1,978,764	360,826
Total deferred outflows of resources	9,371,312	3,742,364	537,651	13,651,327	2,491,098
LIABILITIES					
Current liabilities:					
Unrestricted current liabilities:					
Accounts and contracts payable	8,787,012	658,536	364,211	9,809,759	863,130
Due to other funds	-	-	1,887,355	1,887,355	814,089
Insurance claims payable	-	-	-	-	1,297,275
Current portion of lease liability	-	-	-	-	193,458
Current portion of compensated absences payable	26,375	10,971	1,340	38,686	12,096
Current portion of SBITA payable	-	-	-	-	547,817
Total unrestricted current liabilities	8,813,387	669,507	2,252,906	11,735,800	3,727,865
Current liabilities payable from restricted assets:					
Revenue bonds payable	6,030,000	-	85,000	6,115,000	-
Customer deposits	98,803	-	-	98,803	-
Accrued interest	385,099	-	-	385,099	30,135
Total current liabilities payable from restricted assets	6,513,902	-	85,000	6,598,902	30,135
Total current liabilities	15,327,289	669,507	2,337,906	18,334,702	3,758,000
Noncurrent liabilities:					
Revenue bonds payable (net)	128,460,575	-	380,000	128,840,575	-
Lease liability	-	-	-	-	362,815
SBITA payable	-	-	-	-	84,510
Net pension obligation	13,313,747	5,316,881	763,753	19,394,381	3,539,526
Net OPEB obligation	2,247,622	897,436	129,034	3,274,092	597,031
Compensated absences	633,010	263,309	32,164	928,483	290,317
Total noncurrent liabilities	144,654,954	6,477,626	1,304,951	152,437,531	4,874,199
Total liabilities	159,982,243	7,147,133	3,642,857	170,772,233	8,632,199
DEFERRED INFLOWS OF RESOURCES					
Deferred inflows related to OPEB	198,383	593,749	85,370	877,502	394,997
Deferred inflows related to pensions	3,680,227	955,080	137,194	4,772,501	635,811
Deferred inflows related to leases	100,348	-	-	100,348	122,189
Total deferred inflows of resources	3,978,958	1,548,829	222,564	5,750,351	1,152,997
NET POSITION					
Net investment in capital assets	139,304,027	7,110,354	97,399,845	243,814,226	24,386,937
Restricted for:					
Debt service	6,257,314	-	104,180	6,361,494	-
Storm water management	2,082,767	-	-	2,082,767	-
Capital projects	7,767,388	509,208	-	8,276,596	-
Unrestricted	7,981,855	(1,662,850)	379,875	6,698,880	13,047,193
Total net position	$ 163,393,351	$ 5,956,712	$ 97,883,900	$ 267,233,963	$ 37,434,130
Reconciliation to government-wide statements of net assets:					
Adjustment to reflect the consolidation of internal service fund activities related to enterprise funds			Prior years	(3,793,031)	
			Current year	2,185,680	
Net position of business-type activities				$ 265,626,612	

The notes to the financial statements are an integral part of this statement.

EXHIBIT 9

CITY OF TYLER, TEXAS
STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN NET POSITION
PROPRIETARY FUNDS
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	BUSINESS-TYPE ACTIVITIES ENTERPRISE FUNDS				GOVERNMENTAL ACTIVITIES
	UTILITIES	SANITATION	AIRPORT	TOTAL ENTERPRISE FUNDS	INTERNAL SERVICE FUNDS
OPERATING REVENUES					
Water and sewer operations	$ 53,308,796	$ -	$ -	$ 53,308,796	$ -
Trash and garbage	-	17,136,236	-	17,136,236	-
Airport services	-	-	239,654	239,654	-
Charges for services	-	-	-	-	25,780,707
Contributions	-	-	-	-	13,101,363
Miscellaneous	6,115,124	83,287	20,401	6,218,812	9,462,908
Total operating revenues	59,423,920	17,219,523	260,055	76,903,498	48,344,978
OPERATING EXPENSES					
Water and sewer operations	40,766,092	-	-	40,766,092	-
Sanitation operations	-	17,308,371	-	17,308,371	-
Municipal Airport operations	-	-	1,625,979	1,625,979	-
Garage operations	-	-	-	-	8,580,511
Depreciation	10,088,026	591,465	3,334,206	14,013,697	5,254,108
Insurance claims	-	-	-	-	18,554,279
Administrative	-	-	-	-	8,856,531
Special services	-	-	-	-	2,286,196
Maintenance	-	-	-	-	483,213
Total operating expenses	50,854,118	17,899,836	4,960,185	73,714,139	44,014,838
Operating income (loss)	8,569,802	(680,313)	(4,700,130)	3,189,359	4,330,140
NON-OPERATING REVENUES (EXPENSES)					
Revenues from use of money and property	1,188,421	49,244	1,155,195	2,392,860	556,525
Gain (loss) on sale of assets	-	-	-	-	(207,276)
Interest expense	(3,994,071)	-	(20,680)	(4,014,751)	(44,145)
Total non-operating revenues (expenses)	(2,805,650)	49,244	1,134,515	(1,621,891)	305,104
Income (loss) before capital contributions and transfers	5,764,152	(631,069)	(3,565,615)	1,567,468	4,635,244
Capital contributions	-	-	5,132,433	5,132,433	-
Transfers in	-	-	306,388	306,388	227,611
Transfers out	(225,653)	(75,653)	-	(301,306)	-
Net transfers and capital contributions	(225,653)	(75,653)	5,438,821	5,137,515	227,611
Change in net position	5,538,499	(706,722)	1,873,206	6,704,983	4,862,855
Net position - beginning of year	157,854,852	6,663,434	96,010,694		32,571,275
Net position - end of year	$ 163,393,351	$ 5,956,712	$ 97,883,900		$ 37,434,130
Reconciliation to government-wide statements of net assets					
Adjustment to reflect the consolidation of internal service funds activities related to enterprise funds				2,185,680	
Change in net position of business-type activities				$ 8,890,663	

The notes to the financial statements are an integral part of this statement.

CITY OF TYLER, TEXAS
STATEMENT OF CASH FLOWS
PROPRIETARY FUNDS
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	BUSINESS-TYPE ACTIVITIES ENTERPRISE FUNDS				GOVERNMENTAL ACTIVITIES
	UTILITIES	SANITATION	AIRPORT	TOTAL ENTERPRISE FUNDS	INTERNAL SERVICE FUNDS
CASH FLOWS FROM OPERATING ACTIVITIES					
Cash received from customers and users	$ 58,046,207	$ 17,169,267	$ 260,055	$ 75,475,529	$ 47,491,567
Cash paid to suppliers for goods and services	(25,338,240)	(11,334,207)	(780,971)	(37,453,418)	(18,994,779)
Cash paid to employees for services	(13,071,804)	(5,611,226)	(952,068)	(19,635,098)	(3,649,795)
Insurance claims paid	-	-	-	-	(18,365,212)
Net cash provided by (used in) operating activities	19,636,163	223,834	(1,472,984)	18,387,013	6,481,781
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES					
Advances from/ (to) other funds	-	-	211,160	211,160	814,089
Transfers in from other funds	-	-	306,388	306,388	227,611
Transfers out to other funds	(225,653)	(75,653)	-	(301,306)	-
Net cash (used in) provided by non-capital financing activities	(225,653)	(75,653)	517,548	216,242	1,041,700
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES					
Acquisition and construction of capital assets	(43,232,504)	(434,812)	(4,977,050)	(48,644,366)	(8,714,402)
Proceeds from grants for capital purposes	-	-	5,176,646	5,176,646	-
Payments on subscription (SBITA) liabilities	-	-	-	-	(791,765)
Proceeds from sale of assets	-	-	-	-	560,163
Payments on debt and lease liabilities	(5,830,000)	-	(85,000)	(5,915,000)	(190,220)
Interest paid	(2,339,332)	-	(20,680)	(2,360,012)	(37,738)
Net cash provided by (used in) capital and related financing activities	(51,401,836)	(434,812)	93,916	(51,742,732)	(9,173,962)
CASH FLOWS FROM INVESTING ACTIVITIES					
Interest and dividends on investments	1,188,421	49,244	1,155,195	2,392,860	556,525
Net cash (used in) provided by investing activities	1,188,421	49,244	1,155,195	2,392,860	556,525
Net increase (decrease) in cash and cash equivalents	(30,802,905)	(237,387)	293,675	(30,746,617)	(1,093,956)
CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR	65,751,073	1,504,325	767,141	68,022,539	17,601,909
CASH AND CASH EQUIVALENTS AT END OF YEAR	$ 34,948,168	$ 1,266,938	$ 1,060,816	$ 37,275,922	$ 16,507,953
Reconciliation to Exhibit 8:					
Unrestricted cash and cash equivalents	$ 17,755,600	$ 757,730	$ 956,636	$ 19,469,966	$ 16,507,953
Restricted cash - current asset	6,642,413	-	104,180	6,746,593	-
Restricted cash - noncurrent asset	9,850,155	509,208	-	10,359,363	-
Total Cash and Cash Equivalents at End of Year	$ 34,248,168	$ 1,266,938	$ 1,060,816	$ 36,575,922	$ 16,507,953
RECONCILIATION OF OPERATING INCOME TO NET CASH PROVIDED BY (USED IN) OPERATING ACTIVITIES					
Operating income (loss)	$ 8,569,802	$ (680,313)	$ (4,700,130)	$ 3,189,359	$ 4,330,140
Adjustments to reconcile operating income (loss) to net cash provided by (used in) operating activities:					
Depreciation expense	10,088,026	591,465	3,334,206	14,013,697	5,254,108
(Increase) decrease in accounts receivable	(1,384,743)	(50,256)	-	(1,434,999)	(762,333)
(Increase) decrease in prepaid expenses	(8,027)	8,849	-	822	(1,203,317)
(Increase) decrease in inventories	(403,307)	-	-	(403,307)	47,076
(Increase) decrease in net pension asset	-	-	-	-	24,190
(Increase) decrease in deferred outflows related to pensions	(7,810,359)	(2,967,538)	(382,845)	(11,160,742)	(1,888,768)
(Increase) decrease in deferred outflows related to OPEB	(1,164,102)	(473,001)	(67,495)	(1,704,598)	(552,503)
Increase (decrease) in accounts payable	259,782	44,773	(13,273)	291,282	(860,127)
Increase (decrease) in claims payable	-	-	-	-	(390,955)
Increase (decrease) in accrued interest payable	-	-	-	-	-
Increase (decrease) in customer deposits	30,280	-	-	30,280	-
Increase (decrease) in compensated absences payable	(38,412)	(9,495)	(6,948)	(54,855)	(6,641)
Increase (decrease) in post employment benefits liability	361,875	16,755	(18,536)	360,094	60,273
Increase (decrease) in deferred inflows related to pensions	2,114,004	314,830	51,420	2,480,254	301,341
Increase (decrease) in deferred inflows related to OPEB	(1,584,035)	(118,334)	(7,841)	(1,710,210)	98,217
Increase (decrease) in net pension obligation	9,905,379	3,546,099	338,458	13,789,936	2,031,080
Total adjustments	10,366,361	904,147	3,227,146	14,497,654	2,151,641
NET CASH PROVIDED BY (USED IN) OPERATING ACTIVITIES	$ 18,936,163	$ 223,834	$ (1,472,984)	$ 17,687,013	$ 6,481,781

The notes to the financial statements are an integral part of this statement.

EXHIBIT 11

CITY OF TYLER, TEXAS
STATEMENT OF NET POSITION
FIDUCIARY FUNDS
SEPTEMBER 30, 2023

	EMPLOYEE BENEFIT TRUST FUNDS	PRIVATE-PURPOSE TRUST FUNDS
ASSETS		
Equity in pooled cash	$ 2,589,910	$ 3,091,783
Investments, at fair value		
Equities	47,459,431	84,101
Mutual funds	46,864,084	-
Total investments	94,323,515	84,101
Receivables		
Contributions receivable	194,206	-
Interest receivable	70,088	15,879
Total receivables	264,294	15,879
Total assets	97,177,719	3,191,763
LIABILITIES		
Accounts payable	1,106,369	-
Total liabilities	1,106,369	-
NET POSITION		
Held in trust for OPEB benefits	18,540,195	-
Restricted for pensions	77,234,598	-
Held in trust for other purposes	296,557	3,191,763
Total net position held in trust for pension/OPEB benefits and other purposes	$ 96,071,350	$ 3,191,763

The notes to the financial statements are an integral part of this statement.

EXHIBIT 12

CITY OF TYLER, TEXAS
STATEMENT OF CHANGES IN NET POSITION
FIDUCIARY FUNDS
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	EMPLOYEE BENEFIT TRUST FUNDS	PRIVATE-PURPOSE TRUST FUNDS
ADDITIONS		
Contributions:		
Employees	$ 2,130,873	$ -
Employer	6,409,214	-
Other	-	36,000
Total contributions	8,540,087	36,000
Investment income:		
Interest and dividend income	3,792,706	114,389
Net depreciation in fair value of investments	5,056,825	7,871
Less investment expense	(334,744)	(3,215)
Total investment income	8,514,787	119,045
Other income	1,106,987	-
Total additions	18,161,861	155,045
DEDUCTIONS		
Reimbursement for benefit claims	1,422,061	-
Benefits	6,587,010	-
Total deductions	8,009,071	-
Change in net position	10,152,790	155,045
Net position - beginning of year	85,918,560	3,036,718
Net position - end of year	$ 96,071,350	$ 3,191,763

The notes to the financial statements are an integral part of this statement.

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. General Statement

The City of Tyler, Texas (City) was incorporated on January 29, 1850. The City Charter was adopted February 9, 1937. The City operates under a Council-Manager form of government and provides the following services as authorized by its charter: public safety (police and fire), highways and streets, health and social services, culture-recreation, public transportation, public improvements, planning and zoning, and general administrative services.

The accounting and reporting policies of the City relating to the funds included in the accompanying basic financial statements conform to accounting practices generally accepted in the United States of America applicable to state and local governments. Generally accepted accounting principles for local governments include those principles prescribed by the Governmental Accounting Standards Board (GASB), the American Institute of Certified Public Accountants in the publication entitled Audits of State and Local Governments Units and by the Financial Accounting Standards Board (when applicable). The more significant accounting policies of the City are described below.

B. Blended Component Unit

The criteria for including organizations as component units within the City's reporting entity, as set forth in Section 2100 of GASB's Codification of Governmental Accounting and Financial Reporting Standards, include whether:

- the organization is legally separate (can sue in their own name)
- the City holds the corporate powers of the organization.
- the City appoints a voting majority of the organization's board.
- the City is able to impose its will on the organization.
- the organization has the potential to impose a financial benefit/burden on the City.
- there is fiscal dependency by the organization on the City.

Based upon the aforementioned criteria, the City has two component units.

The Tyler One-Half Cent Sales Tax Corporation, Inc.
The Tyler One-Half Cent Sales Tax Corporation, Inc. was formed in 1996, and is governed by a seven-member board of directors. Each member of the City Council and the Mayor may nominate one member. Directors are appointed for a two-year term and are removable by the City Council at any time without cause. For financial reporting purposes, the Tyler One-Half Cent Sales Tax Corporation, Inc. has been presented as a blended component unit of the City. It is reported as a Capital Projects Fund, because its purpose is to account for construction activities funded by the revenues generated by the one-half cent sales tax. The Tyler One-Half Cent Sales Tax Corporation, Inc. does not issue separate financial statements. The City uses the proceeds of the one-half cent sales tax to pay for infrastructure, thereby removing the need for debt financing of such improvements, which has resulted in the elimination of general obligation indebtedness and has enabled the City to reduce its property tax rate.

Tyler Fire Department Relief and Retirement Fund
The City's fire department employees participate in the Tyler Fire Department Relief and Retirement Fund (TFDRRF). TFDRRF functions for the benefit of these employees and is governed by a pension board. The City and TFDRRF participants are obligated to fund all TFDRRF costs based upon actuarial valuations. The City is authorized to approve the actuarial assumptions used in the determination of contribution levels. For financial reporting purposes, TFDRRF is reported if it were a part of the City's operations as a fiduciary fund, and therefore is not included in the government wide financial statements. TFDRRF's fiscal year-end is December 31 but the information reported corresponds with the City's September 30, 2023 reporting period. Financial statements of TFDRRF can be obtained directly from the FIRE Pension Board, 1520 West Front St., Tyler, Texas 75702.

C. Government-Wide and Fund Financial Statements

The government-wide financial statements (the statement of net position and the statement of activities) report information on all the nonfiduciary activities of the primary government. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely, to a significant extent, on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function. Program revenues include 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function. Taxes and other items not properly included among program revenues are reported instead as general revenues.

Separate financial statements are provided for governmental funds, proprietary funds, and fiduciary funds, even though the latter are excluded from the government-wide financial statements. Major individual governmental funds and major individual enterprise funds are reported as separate columns in the fund financial statements.

D. Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting, as are the proprietary fund and fiduciary fund financial statements. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues, except grants and similar items, to be available if they are collected within 60 days of the end of the current fiscal period. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is due.

Property taxes, franchise taxes, licenses, and interest associated with the current fiscal period are all considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period. Only the portion of special assessments receivable due within the current fiscal period is susceptible to accrual as revenue of the current period. All other revenue items are measurable when earned.

The government reports the following major governmental funds:

The General Fund is the government's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

The One-Half Cent Sales Tax Fund accounts for the acquisition and construction of major capital facilities other than those financed by Proprietary Funds and Trust Funds.

D. Measurement Focus, Basis of Accounting, and Financial Statement Presentation - continued

The government reports the following major proprietary funds:

The Utilities Fund is used to account for the sale of water and wastewater treatment by the City to businesses and residential customers and to surrounding communities.

The Sanitation Fund accounts for residential and commercial solid waste collection, disposal services, and recycling operations of the City.

The Airport Fund is used to account for operations of the Tyler Pounds Regional Airport.

Additionally, the government reports the following fund types:

Internal service funds are used to account for the financing of goods or services provided by one department or agency to other departments or agencies of the City on a cost-reimbursement basis.

The City of Tyler reports the following Internal Service Funds:

1. Productivity Improvement Fund – to track performance pay of City employees. This fund accounts for City University, Lean Six Sigma, and the Internal Audit functions.
2. Fleet Maintenance and Replacement Fund – performs maintenance and repair work on vehicles of all City departments. The fund also acquires vehicles and equipment for use by all City departments.
3. Property and Liability Insurance Funds – accounts for the City's property, casualty, liability, disability, and workers' compensation insurance programs.
4. Employee Benefits Fund – accounts for the City's self-insurance program for health and dental insurance as well as life insurance for current employees.
5. Retiree Benefits Fund – accounts for the City's self-insurance program for health and dental insurance as well as life insurance for retired employees.
6. Property and Facility Management Fund – accounts for maintenance on City's facilities including roof and HVAC repairs and replacement.
7. Technology Fund – accounts for the City's investment and maintenance of technology and office automation.

The City of Tyler reports the following Fiduciary Funds:

The Employee Benefit Trust (Section 125 Plan) Fund is used to account for the resources accumulated and payments made on behalf of the City employees enrolled in the City's cafeteria plan administered by Health First.

The Other Post Employment Benefit (OPEB) Trust Fund is used to account for the resources accumulated to meet ARC (annual required contributions) and long-term liability requirements associated with administering post-employment health, dental and life benefits for retired employees in accordance with GASB 43 and 45.

The Tyler Fire Department Relief and Retirement Fund is used to account for the resources accumulated to be used for the retirement benefits payments to the members of the fund.

The Greenwood Landfill Private-Purpose Trust Fund is used to accumulate resources held in trust for Allied Waste Management and is used for closure and post-closure expenses of the Greenwood Landfill.

The Lindsey Trust Fund is used to account for the endowment fund created for the charitable purpose of making awards to police officers and firefighters employed by the City of Tyler for outstanding service and providing aid to those injured in the line of duty.

D. Measurement Focus, Basis of Accounting, and Financial Statement Presentation – continued

Generally, the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions to the general rule are payments-in-lieu of taxes and other charges between the government's water utilities function and various other functions. Elimination of these charges would distort the direct costs and program revenues reported for the various functions concerned.

Amounts reported as program revenues include 1) charges to customers or applicants for goods, services, or privileges provided, 2) operating grants and contributions, and 3) capital grants and contributions, including special assessments. Internally dedicated resources are reported as general revenues rather than as program revenues. Likewise, general revenues include all taxes.

Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the City's enterprise funds and of the internal service funds are charges to customers for sales and services. The City also recognizes as operating revenue the portion of tap fees intended to recover the cost of connecting new customers to the system. Operating expenses for enterprise funds and internal service funds include the cost of sales and services, administrative expense, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

When more than one classification of fund balance is available for use, it is the government's policy to use the most restricted resources first.

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity

1. Equity in Pooled Cash and Investments

   The City classifies certain of its cash, investments, due to, and due from accounts into "equity in pooled cash and investments." Each fund participates on a daily transaction basis and income for all assets included in "pooled cash and investments" is allocated to individual funds based on their respective balance in "equity in pooled cash and investments."

   For the statements of cash flows for the Proprietary and Internal Service Funds, the City considers all assets included in "equity in pooled cash and investments" to be "cash and cash equivalents."

2. Investments

   Accounting pronouncement Governmental Accounting Standards Board Statement 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools*, is applied to investments in external investment pools, investments purchased with maturities greater than one-year, mutual funds, and certain investment agreements. Generally, governmental entities are required to report the "fair value" changes for these investments at year-end and record these gains or losses on their income statement. Investments with maturities less than one year at the time of purchase are stated at cost or amortized cost. The fair value of the City's position in these investment pools is the same as the value of the pool shares.

   Methods and Assumptions used to Estimate Fair Value

   The City maintains investment accounting records and adjusts those records to "fair value" on an annual basis. This information is provided by the City's investment custodian. The investments held by the City are widely traded in the financial markets and trading values are readily available from numerous published sources. Material unrealized gains and losses are recorded on an annual basis and the carrying value of its investments is considered "fair value".

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

Consistent with GASB Statement 42, *Fair Value Measurement and Application*, the City categorizes its fair value measurements within the fair value hierarchy. The hierarchy is based on the valuation inputs used to measure the fair value of the asset. Level 1 inputs are quoted prices in active markets for identical assets; Level 2 inputs are significant other observable inputs; Level 3 inputs are significant unobservable inputs. A detail of the fair value hierarchy of investments held by the City is disclosed in Note 4 to the financial statements.

Investment Pools

The City holds investments in an external investment pool, TexPool.

Texas Local Government Investment Pool (TexPool) was created by the Texas Treasury Safekeeping Trust Company, which was authorized by the Texas Legislature in 1986. Only local governments having contracted to participate in TexPool have an undivided beneficial interest in its pool of assets. TexPool does not place any restrictions such as notice periods or maximum transaction amounts. TexPool is not registered with the Securities and Exchange Commission as an investment company but is subject to annual review by an independent auditor consistent with the Public Funds Investment Act. Audited financial statements of the Pool are available by request at www.texpool.com.

The investment pool carries investments at amortized cost as the pool meets the requirements of GASB 79, *Certain External Investment Pools and Pool Participants*. The investment pool is priced daily and compared to carrying value. If the ratio of the fair value of the portfolio of investments to the carrying value of investments is less than .995 or greater than 1.005, the investment pool will sell investment securities, as required, to maintain the ratio at a point between .995 and 1.005.

Other

State statutes authorize the City to invest in obligations of the U.S. Treasury, commercial paper, corporate bonds, and repurchase agreements. The City is authorized by its governing board to invest in the obligations of the United States government, bonds guaranteed by the United States government, certificates of deposit at financial institutions, local government investment pools, direct obligations of the State of Texas, no load government money market mutual funds, and repurchase agreements. Investments are stated at cost or amortized cost.

3. Receivables and Payables

Activity between funds that are representative of lending/borrowing arrangements outstanding at the end of the fiscal year are referred to as either “due to/from other funds” (the current portion of interfund loans) or “advances to/from other funds” (the non-current portion of interfund loans). All other outstanding balances between funds are reported as “due to/from other funds.” Any residual balances outstanding between the governmental activities and business-type activities are reported in the government-wide financial statements as “internal balances.”

Advances between funds, as reported in the fund financial statements, are offset by a fund balance reserve account in applicable governmental funds to indicate that they are not available for appropriation and are not expendable available financial resources.

The City provides an allowance for doubtful accounts based upon the anticipated collectability of each specific account, as determined by experience. All receivables are shown net of this allowance. A detailed schedule of receivables can be found at Note 4:B.

Property taxes are levied October 1 on the assessed value of property at January 1 and are due by January 31 of the following year. Unpaid taxes attach as an enforceable lien on property as of January 31. Revenue from taxes assessed is recorded as unavailable revenue on October 1. The unavailable revenue from taxes is then recognized as revenue during the year as the taxes are actually received. All delinquent property tax receivables are assets of the General Fund.

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

The City Charter limits the City's ad valorem tax rate to $1.75 per $100 of assessed valuation. The tax rate for the year ended September 30, 2023, was $.261850 per $100, which means that the City has a tax margin of $1.4882 per $100 and could raise up to $162,746,083 additional taxes a year from the present valuation of $10,935,766,883 before the limit is reached.

4. Inventories and Prepaid Items

Inventories of materials and supplies are accounted for using the consumption method. Under the consumption method, inventories are recorded as expenditures when they are used with significant amounts on hand reported on the balance sheet at average cost.

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid in both the government-wide and fund financial statements. Prepaid items are accounted for using the consumption method.

In Governmental Funds, reported inventories and prepaid items do not represent available spendable resources and are, therefore, equally offset by a non-spendable fund balance account.

5. Due from Other Funds

Current portions of long-term interfund loans receivable (reported in "Due from" asset accounts) are considered "available spendable resources."

6. Capital Assets

Capital assets, which include property, plant, equipment, and infrastructure assets (e.g. roads, bridges, sidewalks, and similar items), are reported in the applicable governmental or business-type activities columns in the government-wide financial statements. Capital assets are defined by the government as assets with an initial, individual cost of more than $10,000 and an estimated life in excess of two years. Such assets are recorded at historical cost or estimated historical cost if actual historical cost is not available. The cost of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized. Donated capital assets are recorded at acquisition value. Infrastructure assets are reported retroactively based on estimated historical cost.

Major outlays for capital assets and improvements are capitalized as projects are constructed. Interest incurred during the construction phase of capital assets of business-type activities is included as part of the capitalized value of the assets constructed.

Property, plant, and equipment of the primary government, as well as the component units, is depreciated using the straight-line method over the following estimated useful lives:

Assets	Years
Buildings	50
Building improvements	10 to 20
Improvements other than buildings	10 to 50
Public domain infrastructure	15 to 50
Heavy equipment	7 to 10
Small equipment	3 to 7
Vehicles	3 to 5
Computer and other electronic equipment	3 to 5
Office equipment	3

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

7. Construction-in-Progress

Expenditures on incomplete capital projects have been capitalized as construction-in-progress. The assets resulting from these projects will be transferred from the construction-in-progress accounts to the appropriate asset account as the projects are completed.

8. Leases

Leases are defined by the general government as the right to use an underlying asset. As lessee, the City recognizes a lease liability and an intangible right-to-use lease asset at the beginning of a lease unless the lease is considered a short-term lease or transfers ownership of the underlying asset. Right-to-use lease assets are measured based on the net present value of the future lease payments at inception, using the weighted average cost of capital, which approximates the incremental borrowing rate. Remeasurement of a lease liability occurs when there is a change in the lease term and/or other changes that are likely to have a significant impact on the lease liability.

The City calculates the amortization of the discount on the lease liability and reports that amount as outflows of resources. Payments are allocated first to accrued interest liability and then to the lease liability. Variable lease payments based on the usage of the underlying assets are not included in the lease liability calculations but are recognized as outflows of resources in the period in which the obligation was incurred.

As lessor, the City recognizes a lease receivable. The lease receivable is measured using the net present value of the future lease payments to be received for the lease term and deferred inflow of receivables at the beginning of the lease term. Periodic amortization of the discount on the receivable are reported as interest revenue for that period. Deferred inflows of resources are recognized as inflows in a straight-line basis over the term of the lease. This recognition does not apply to short-term leases, contracts that transfer ownership, leases of assets that are investments, or certain regulated leases. Any initial direct costs are reported as an outflow of resources for that period. Remeasurement of lease receivables occurs when there are modifications, including but not limited to changes in the contract price, lease term, and adding or removing an underlying asset to the lease agreements. In the case of a partial or full lease termination, the carrying value of the lease receivable and the related deferred inflow of resources will be reduced and will include a gain or loss for the difference.

For lease contracts that are short-term, the City recognizes short-term lease payments as inflows of resources (revenues) based on the payment provisions of the lease contract. Liabilities are only recognized if payments are received in advance, and receivables are only recognized if payments are received subsequent to the reporting period.

Leases between the Airport and air carriers, Lake Tyler Marina, and other aeronautical users are subject to external laws and regulations. As permitted by GASB Statement No. 87, paragraph 43, the City recognizes inflows of resources based on the payment provisions of the lease contract, and the accounting policies do not apply to certain regulated leases. Additional disclosures regarding regulated leases are in Note 4F.

9. Subscription-Based Information Technology Arrangements – SBITAs

Subscription-based information technology arrangements (SBITAs) are defined by the City as a contract that conveys control of the right to use another party's IT software, alone or in combination with tangible capital assets, as specified in the contract for a period of time in exchange or exchange-like transactions. The City recognizes an intangible subscription asset and subscription liability. The subscription liability is measured as the present value of the total subscription payments expected to be made to the vendor during the subscription term. The total future payments are discounted using the interest rate the vendor charges, or if the implicit interest rate is not readily determinable the City uses an estimated incremental borrowing rate. The subscription asset is measured as the initial value of the subscription liability plus and initial capitalized costs and less any vendor incentives received at the commencement of the subscription term.

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

10. Restricted Assets

Certain proceeds of the City's enterprise fund revenue bonds, as well as certain resources set aside for their repayment, are classified as restricted assets on the balance sheet because they are maintained in separate bank accounts and their use is limited by applicable bond covenants. The Utilities Fund is used to report those proceeds of revenue bond issuances that are restricted for use in water and sewer projects. The Utilities Fund is also used to segregate resources accumulated for debt service payments over the life of the bonds. The City also classifies other cash and cash equivalents as restricted because of the restrictions due to enabling legislation and trust agreements established to govern the spending of funds for the permanent care of the City's cemeteries.

Non-Civil Service Employees

Full-time, permanent, non-civil service employees earn paid time off (PTO), which may be used as vacation, sick time or personal time. The PTO is accrued in hourly increments at the end of each pay period. The total amounts accrued annually depend on the number of years of service with the City. Maximums are from 18 to 24 days. All existing non-civil service employees on January 1, 1999, with accumulated vacation and sick time, were allowed to carryover accrued vacation into the PTO program at a maximum of 240 hours. The employees with accrued sick time were allowed to carryover up to 720 hours, only to be paid after 10 years of service. The employees eligible to receive accrued sick leave balance upon termination would be paid at the pay rate applicable when the PTO program was implemented.

Any non-civil service employees hired after January 1, 1999, were enrolled into the PTO program and may only carryover 30 days of PTO per year. Any amount accrued above the 30 days carryover is lost as of December 31 of that year. Unused PTO up to 30 days will be paid to the employee upon termination at employee's current pay rate.

Civil Service Employees

Civil service employees are granted vacation and sick time benefits in varying amounts to specified maximums depending on tenure with the City. Civil service employees are 100% vested in both sick time and vacation time at the start of their employment.

Civil and Non-Civil Service Employees

Vested or accumulated vacation leave is recorded as an expense and a liability, as the benefits accrue to employees, in the government-wide, proprietary, and fiduciary fund financial statements. In accordance with the provisions of Governmental Accounting Standards Board Statement No.16, "*Accounting For Compensated Absences*," no liability is recorded for nonvesting accumulating rights to receive sick pay benefits. However, a liability is recognized for that portion of cumulative sick leave benefits that it is estimated will be taken as "terminal leave" prior to retirement.

11. Long-Term Obligations

In the government-wide financial statements, and proprietary fund types in the fund financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities, business-type activities, or proprietary fund type statement of net position. Bond premiums and discounts are deferred and amortized over the life of the bonds using the effective interest method. Bonds payable are reported net of the applicable bond premium or discount. Bond issuance costs are expensed as incurred.

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

12. Bond Premiums, Discounts, and Issuance Costs

Bond premiums in enterprise funds are amortized over the term of the bonds using the effective interest amortization method. Gains or losses on enterprise fund refunding are reported as deferred inflows or outflows and are amortized over the term of the lessor of the new bonds or the refunded bonds using the effective interest method. Debt issuance costs are recognized as expenditures/expenses when incurred.

13. Deferred Outflows/Inflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then. They City has the following items that qualify for reporting in this category:

- Deferred charges on refunding - A deferred charge on refunding results from the difference in the carrying value of refunded debt and its reacquisition price. The amount is deferred and amortized over the shorter of the life of the refunded or refunding debt.
- Pension contributions after measurement date – The pension contributions made from the measurement date of the pension plan to the current fiscal year end are deferred and will be recognized in the subsequent fiscal year.
- Difference between estimated and actual experience related to – These are amortized as a component of pension and OPEB expense over a closed period equal to the average of the expected remaining service lives of all employees that are provided with pensions and benefits through the pension and OPEB plans (active employees and inactive employees) determined as of the beginning of the measurement period.
- Changes in assumptions related to pensions and OPEB – These are amortized as a component of pension and OPEB expense over a closed period equal to the average of the expected remaining service lives of all employees that are provided with pensions and benefits through the pension and OPEB plans (active employees and inactive employees) determined as of the beginning of the measurement period.

In addition to liabilities, the balance sheet and statement of net position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net assets that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The City has the following items that qualify for reporting in this category:

- Deferred charges on refunding – A deferred charge on refunding results from the difference in the carrying value of refunded debt and its reacquisition price. The amount is deferred and amortized over the shorter of the life of the refunded or refunding debt.
- Unavailable revenue – This item arises only under the modified accrual basis of accounting. Accordingly, unavailable revenue is reported only in the governmental funds balance sheet. These amounts are deferred and recognized as an inflow of resources in the period that the amounts become available. The deferred inflow is reclassified to revenue on the government-wide financial statements.
- Net difference in projected and actual earnings on pension assets and difference between estimated and actual experience related to pensions – These are amortized as a component of pension expense over a closed period of five years.
- Difference between estimated and actual experience related to pensions and OPEB - These are amortized as a component of pension and OPEB expense over a closed period equal to the average of the expected remaining service lives of all employees that are provided with pensions and benefits through the pension and OPEB plans (active employees and inactive employees) determined as of the beginning of the measurement period.

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

- Changes in assumptions related to pensions and OPEB – These are amortized as a component of pension and OPEB expense over a closed period equal to the average of the expected remaining service lives of all employees that are provided with pensions and benefits through the pension and OPEB plans (active employees and inactive employees) determined as of the beginning of the measurement period.
- Deferred inflows of resources related to leases are reported when the City is the lessor. At the commencement of the lease, both a lease receivable and deferred inflow of resources are reported. The deferred inflow of resources is amortized and recognized as inflow of resources (revenue) over the term of the lease.

14. Fund Equity

In the fund financial statements, governmental funds report fund balance categorized as non-spendable, restricted, committed, assigned or unassigned.

Non-spendable fund balance – represents amounts that cannot be spent because they are either not in spendable form (such as inventory or prepaid items) or legally required to remain intact (such as notes receivable or principal of a permanent fund).

Restricted fund balance – represents amounts with external constraints placed on the use of these resources (such as debt covenants, grantors, other governments, etc.) or imposed by enabling legislation.

Committed fund balance – represents amounts that can only be used for specific purposes imposed by an ordinance of the City's highest level of decision-making authority, the City Council. Committed resources cannot be used for any other purpose unless the City Council removes or changes the specified use by the same type of action previously used to commit those amounts.

Assigned fund balance – represents amounts the City intends to use for the specific purpose as expressed by the City Council. The City Council may also assign fund balance when appropriating fund balance to cover a gap between estimated revenues and appropriations in the subsequent year's appropriated budget. The amount reflected in the financial statements has been assigned for the purpose intended by the City Council.

Unassigned fund balance – represents the residual classification for the general fund or deficit balances in other funds.

The City's minimum fund balance policy requires that fund balance shall be maintained at a level of 15 percent of estimated annual operating expenditures for the General Fund and at 15 percent of estimated annual operating expenses in the Utility Fund and Solid Waste Fund.

When an expenditure is incurred for a purpose for which more than one fund balance classification could be used, the City considers the expenditure to be made from the most restrictive classification first.

15. Net Position

Net position represents the difference between assets, deferred outflows of resources, liabilities, and deferred inflows of resources. Net invested in capital assets consists of the City's capital assets, net of accumulated depreciation, reduced by any outstanding debt used for the acquisition or construction of those assets less unspent cash acquired through debt at year-end. Net position reported as restricted are those amounts which have limitations imposed by creditors, grantors or other laws and regulations. The government-wide statement of net position reports $75,367,595 of restricted net position.

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

In the City's governmental activities, there is a deficit unrestricted net position of $24,554,774 as a result of long-term liabilities for items such as bonds, compensated absences, net pension liability, and OPEB. Because of the focus on current assets and liabilities, the City's budget is developed to address the needs of current operations. The City plans to fund long-term liabilities in future budgets as those liabilities consume current assets.

16. Tax Abatements

The City has evaluated the total tax abatements issued for the year and has determined that the amount is not material to the financial statements.

17. Pensions and Other Post-Employment Benefits

For purposes of measuring the net pension and OPEB liabilities, deferred outflows of resources and deferred inflows of resources related to pension and OPEB, and pension and OPEB expense, information about the fiduciary net position of the City's retirement and OPEB plan and additions to/deductions from the plans' fiduciary net position have been determined on the same basis as they are reported by the plans. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

For the fiscal year ending September 30, 2023, the City recognized total pension expense of $19,654,183, $13,365,127 of which was for the TMRS Plan and $6,289,056 for the TFDRRF Plan. For the fiscal year ending September 30, 2023, the City recognized total net OPEB income of $766,479, income of $(874,835) of which was for the Health Plan and expense of $108,356 for the TMRS Supplemental Death Benefit Plan.

18. Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets, deferred outflows of resources, liabilities, and deferred inflows of resources at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

19. Encumbrances

Encumbrance accounting, under which purchase orders, contracts, and other commitments for the expenditure of monies are recorded to reserve that portion of the applicable appropriation, is employed in Governmental Funds. However, encumbrances in the Governmental Funds lapse at the end of the each year and are re-budgeted during the next fiscal year.

Encumbrance accounting is also employed by Proprietary Funds for management control purposes. Encumbrances outstanding at year-end are not reported as restrictions of net position nor have they been included as expenses or liabilities of Proprietary Funds.

20. Newly Implemented Standards

In May 2019, the GASB issued Statement No. 91, *Conduit Debt Obligations*, which will provide a single method of reporting conduit debt obligations by issuers and eliminate diversity in practice associated with (1) commitments extended by issuers, (2) arrangements associated with conduit debt obligations, and (3) related note disclosures. This statement is effective for reporting periods beginning after December 15, 2021. The City is evaluating the impact of this statement on its financial statements.

E. Assets, Liabilities, Deferred Outflows/Inflows of Resources, and Net Position or Equity – continued

In March 2020, the GASB issued Statement No. 94, *Public-Private and Public-Public Partnerships and Availability of Payment Arrangements*, which will improve financial reporting by addressing issues related to public-private and public-public partnership arrangements (PPPs). This statement also provides guidance for account and financial reporting for availability payment arrangements (APAs). This statement is effective for fiscal years beginning after June 15, 2022. The City is evaluating the impact of this statement on its financial statements.

In May 2020, the GASB issued Statement No. 96, *Subscription-Based Information Technology Arrangements*, which provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (SBITAs) for government end users. Under this statement, a government generally should recognize a right-to-use subscription asset- an intangible asset- and a corresponding subscription liability. This statement is effective for fiscal years beginning after June 15, 2022. The City is evaluating the impact of this statement on its financial statements.

21. Future Implementation of New Standards

In April 2022, the GASB issued Statement No. 99, *Omnibus 2022*, which enhances comparability in accounting and financial reporting and improves the consistency of authoritative literature by addressing practice issues that have been identified during implementation and application of certain GASB Statements and accounting and financial reporting for financial guarantees. This statement is effective for fiscal years beginning after June 15, 2023. The City is evaluating the impact of this statement on its financial statements.

In June 2022, GASB issues statement No., 100, *Accounting Changes and Error Corrections – An Amendment of GASB Statement No. 62* which defines accounting changes as changes in accounting principles, changes in accounting estimates, and changes to or within the financial reporting entity and describes the transactions or other events that constitute those changes. As part of those descriptions, for (1) certain changes in accounting principles and (2) certain changes in accounting estimates that result from a change in measurement methodology, a new principle or methodology should be justified on the basis that it is preferable to the principle or methodology used before the change. That preferability should be based on the qualitative characteristics of financial reporting—understandability, reliability, relevance, timeliness, consistency, and comparability. This Statement also addresses corrections of errors in previously issued financial statements. The requirements of this statement are effective for reporting periods beginning after June 15, 2023. The City is evaluating the impact of this statement on its financial statements.

In June 2022, the GASB issued Statement No. 101, *Compensated Absences,* which updates the recognition and measurement guidance for compensated absences by aligning the recognition and measurement under a unified model and by amending previously required disclosures. This statement is effective for fiscal periods beginning after December 31, 2023. The City is evaluating the impact of this statement on its financial statements.

NOTE 2: RECONCILIATION OF GOVERNMENT-WIDE AND FUND FINANCIAL STATEMENTS

A. Explanation of certain differences between the governmental fund balance sheet and the government-wide statement of net assets

The governmental fund balance sheet includes a reconciliation between fund balance – total governmental funds and net assets – governmental activities as reported in the government-wide statement of net position. One element of that reconciliation explains "long-term liabilities, including bonds payable, are not due and payable in the current period and therefore are not reported in the funds." The details of this $(24,946,264) difference are as follows:

A. Explanation of certain differences between the governmental fund balance sheet and the government-wide statement of net assets - continued

Claims and judgement	$ (100,000)
Lease liabilities	(119,450)
SBITA liabilities	(32,548)
Revenue bond	(10,366,221)
Compensation absences	(14,328,045)
Net adjustment to reduce fund balance - total governmental funds to arrive at net position - governmental activities	$ (24,946,264)

Another element of that reconciliation states that "Other long-term assets are not available to pay for current-period expenditures and, therefore, are deferred in the funds." The details of this $13,336,260 difference are as follows:

Unavailable property tax revenues	$ 721,206
Unavailable fines	12,574,941
Unavailable permits	40,113
Net adjustment to increase balance - total governmental funds to arrive at net position - governmental activities	$ 13,336,260

The governmental fund statement of revenues, expenditures, and changes in fund balances includes a reconciliation between net changes in fund balances – total governmental funds and changes in net assets of governmental activities as reported in the government-wide statement of activities. One element of that reconciliation explains that "Governmental funds report capital outlays as expenditures". However, in the statement of activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. The details of this 12,960,730 difference are as follows:

Capital outlay	$ 26,775,587
Depreciation expense	(13,814,857)
Net adjustment to increase net changes in fund balances - total Governmental funds to arrive at changes in net position of Governmental activities	$ 12,960,730

NOTE 3: STEWARDSHIP, COMPLIANCE, AND ACCOUNTIBILITY

A. Budgetary Information

The City follows these procedures in establishing the budgetary data reflected in the financial statements:

1. After August 1, the City Manager submits to the City Council a proposed operating budget for the fiscal year commencing the following October 1. The operating budget includes proposed expenditures and the means of financing them.

2. Public hearings are conducted in Council chambers at City Hall to obtain taxpayer comments.

3. Prior to October 1, the budget is legally enacted through passage of an ordinance.

4. Budgetary control is established at the fund level. The City Manager is authorized to transfer budgeted amounts between departments within any fund; however, any revisions that alter the total expenditures of any fund must be approved by the City Council. The City Charter prohibits budgeting total proposed expenditures in excess of total anticipated revenues and any unencumbered funds from prior years; therefore, expenditures may not legally exceed revenues and unencumbered fund balances from prior years for each fund.

A. Budgetary Information - continued

5. Formal budgetary integration is employed as a management control device during the year for the General Fund, certain Special Revenue Funds (Police Forfeiture Fund, Court Special Fee Fund, Hotel-Motel Occupancy Tax Fund, Passenger Facility Charge Fund, PEG Fee Fund, Homeownership and Housing Fund, CDBG Fund, Home Grant Fund, Housing Assistance Payment Fund, Transit System Fund, TIF/TIRZ #3 Fund), Capital Projects Fund, all Enterprise Funds, all Internal Service Funds and Permanent Funds.

   Budgets for the General Fund, certain Special Revenue Funds (Police Forfeiture Fund, Court Special Fee Fund, Hotel-Motel Occupancy Tax Fund, Passenger Facility Charge Fund, PEG Fee Fund, Homeownership and Housing Fund, CDBG Fund, Home Grant Fund, Housing Assistance Payment Fund, Transit System Fund, TIF/TIRZ #3 Fund), Capital Projects Fund and Permanent Funds are adopted by the Council and presented in this report on a basis consistent with generally accepted accounting principles (GAAP). Budgeted expenditures for the General Fund's current fiscal year as adopted in the original budget and amendments thereto were $86,810,085. Appropriations, which are not expended or encumbered at year-end, must be re-budgeted in the succeeding year.

6. Budgets for Proprietary Funds are adopted on a basis consistent with GAAP (accrual basis) except that for budgetary comparisons capital outlay items are expensed, accrual for compensated absences is excluded, and principal payments on debt are treated as expenses. The budgetary comparisons for Proprietary Funds are on this non-GAAP budgetary basis.

B. Expenditures Over Appropriations

For the year ended September 30, 2023, neither the general fund nor any major special revenue fund had expenditures in excess of appropriations.

NOTE 4: DETAILED NOTES ON ALL FUNDS

A. Deposits and Investments

Statutes authorize the City to invest in obligations of the U.S. Treasury and U.S. Agencies, municipal bonds, and managed public funds investment pools. The City's cash and investments for the year ended September 30, 2023, are as follows:

Statement of net position:		
Primary Government		
Cash and cash equivalents	$	70,752,442
Temporarily restricted cash and cash equivalents		66,967,287
Permanently restricted cash and cash equivalents		3,306,701
Fiduciary Funds		
Cash and cash equivalents		5,681,693
Investments		94,407,616
Total Cash and Investments	$	241,115,739
Cash on hand	$	14,262
Savings and checking accounts		43,220,363
Cash and cash equivalents held in investment accounts		1,074,305
Investments		196,806,809
Total Cash and Investments	$	241,115,739

A. Deposits and Investments – continued

Custodial Credit Risk – Deposits – At September 30, 2023, the City held several bank accounts, including a NOW interest bearing account, at one financial institution. The City's bank balances totaled $16,597,212 All bank balances not covered by federal depository insurance, were covered by collateral held in the pledging financial institutions' trust department in the City's name. In accordance with the City's deposit and investment policy, all deposits placed at a financial institution shall be insured or collateralized in compliance with applicable State law. The City requires market value of pledged securities in excess of 102% of all uninsured deposits.

Investments are stated at fair value or amortized costs, which approximates fair value. As of September 30, 2023, the City had the following investments:

Investment Type	Fair Value	Weighted Average Maturity (Years)	Credit Risk
Primary Government			
Certificates of deposit	$ 100,520,780	0.78	N/A
Texas government investment pool	1,878,413	0.06	AAAm
Total Primary Government	102,399,193		
Fiduciary Funds			
Equities	47,543,532	N/A	N/A
Mutual Funds	22,042,685	N/A	N/A
Fixed income	24,821,399	N/A	N/A
Total Fiduciary Funds	94,407,616		
Total Reporting Entity	$ 196,806,809		
Portfolio weighted average maturity (years)		0.77	

Interest Risk Rate – This is the risk that changes in market risk rates will adversely affect the fair value of an investment. Investments with interest rates that are fixed for longer periods of time are more likely to be subject to increased variability in their fair values due to changes in the market interest rates. The City, in compliance with its investment policy adopted by the City Council, invests in shorter-term securities to protect market valuation from unanticipated rate movements. In addition, the City will not directly invest in securities maturing more than two years from the date of purchase.

Credit Risk – This is the risk that an issuer or other counterparty of a debt type investment will not fulfill its obligation to the holder of the investment. The City's investment policy requires the City to invest in U.S. Treasury and Agency securities along with Texas Local Government Pool (TexPool) investments. In addition, the City's investment policy requires approved broker/dealer meeting strict qualification.

Concentration of Credit Risk – This is the risk of loss attributed to the magnitude of a government's investment in a single issuer. The City's attempts to avoid over-investment in local government pools and matches a portion of its investments with anticipated cash flow requirements.

A. Deposits and Investments – continued

Custodial Credit Risk – This custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, a government will not be able to recover the value of the investment or collateral securities that are in the possession of an outside party. As noted previously, the City requires market value of pledged securities in excess of 102% of all uninsured deposits.

Foreign Currency risk – This is the risk that exchange rates will adversely affect the fair value of an investment. At year-end, the City was not exposed to foreign currency risk.

The City categorizes its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The hierarchy is based on the valuation inputs used to measure the fair value of the asset. Level 1 inputs are quoted prices in active markets for identical assets, level 2 inputs are significant other observable inputs, and level 3 inputs are significant unobservable inputs.

A summary of the City's investments under the requirements of the fair value hierarchy as of September 30, 2023 are as follows:

	Assets at Fair Value as of September 30, 2023			
	Level 1	Level 2	Level 3	Total
Primary Government:				
Certificates of Deposit	$ -	$ 100,520,780	$ -	$ 100,520,780
Texas government investment pool	-	1,878,413	-	1,878,413
Total Primary Government	-	102,399,193	-	102,399,193
Fiduciary Funds:				
Equities	47,543,532	-	-	47,543,532
Mutual Funds	22,042,685	-	-	22,042,685
Fixed income	-	24,821,399	-	24,821,399
Total Fiduciary Funds	69,586,217	24,821,399	-	94,407,616
Total Reporting Entity	$ 69,586,217	$ 127,220,592	$ -	$ 196,806,809

B. Receivables

Receivables as of year-end for the City's individual major funds and nonmajor, internal service and fiduciary funds in the aggregate, including the applicable allowances for uncollectible accounts, are as follows:

Receivables:	General Fund	One-Half Cent Sales Tax Fund	Utilities Fund	Sanitation Fund	Airport Fund	Non-Major Governmental Funds	Internal Service Funds	Total
Accounts	$ 23,717,196	$ -	$ 8,378,905	$ 2,588,893	$ 2,286,009	$ 869,625	$ 937,359	$ 38,777,987
Grants	141,288	-	-	-	-	999,501	-	1,140,789
Taxes	9,879,497	3,460,130	-	-	-	-	-	13,339,627
Lease	-	-	105,693	-	-	-	123,214	228,907
Miscellaneous	205,956	146,387	-	-	-	-	-	352,343
Gross receivables	33,943,937	3,606,517	8,484,598	2,588,893	2,286,009	1,869,126	1,060,573	53,839,653
Less: Allowance for uncollectibles	(10,776,003)	-	(198,597)	(64,209)	-	-	-	(11,038,809)
Net total receivables	$ 23,167,934	$ 3,606,517	$ 8,286,001	$ 2,524,684	$ 2,286,009	$ 1,869,126	$ 1,060,573	$ 42,800,844

C. Lindsey Trust Fund

The S.A. Lindsey Police and Firemen's Trust was created by Louise Lindsey Merrick on July 20, 1971, for the charitable purpose of making awards to police officers and firefighters employed by the City of Tyler for outstanding service and to aid those and their families injured in the line of duty. The S.A. Lindsey Police and Fireman's Trust was terminated by court order on September 24, 2007, on the petition of the Trustee, Bank of America, due to new legislation making continuation of the trust economically infeasible.

As a result, the Lindsey Police and Firemen's Board contracted with the East Texas Communities Foundation to receive and manage the assets distributed from the termination of the S.A. Lindsey Police And Firemen's Trust, to create an Endowment Fund, to be known as the Lindsey Police and Firemen's Endowment Fund (Fund), designed to meet the primary purposes outlined in the originating trust document. The Lindsey Trust Fund was created to account for this Fund, as reflected in the Private-Purpose Trust Funds Combining Statement of Net Position and Combining Statement of Changes in Net Position, schedules E-3 and E-4 in the additional supplemental information.

The Fund is defined as a Permanent Endowment. The permanent portion or corpus of the Fund is $25,000, with the remaining amount of the Fund considered net appreciation. Under the terms of the endowment, and consistent with State statutes, distributions from the Fund are to be made from the net appreciation so that the corpus of the fund will not be exhausted or depleted. Distributions may only be made to the City. Ordinary distributions to the City shall be made from the Fund once per calendar year in the amount requested by the City up to a cumulative limit of five percent (5%) of the value of the Fund determined as of the preceding December 31. Any portion of the net appreciation available for distribution which is not withdrawn by the City in one year may be withdrawn in a subsequent year. No additional distributions shall be made from the Fund. To the extent possible, the Donor intends to preserve the permanent portion or corpus of the Fund by limiting distributions to 5% per year. At September 30, 2023, the net appreciation on investments of the Fund was $7,871.

Because the Lindsey Police and Firefighters' Endowment Fund is separately organized and managed by contract with an investment company as directed by the Lindsey Police and Firefighters' Fund Board, it is excluded from the City of Tyler's Investment Fund policy.

D. Capital Assets

Governmental and business-type capital asset activity for the year ended September 30, 2023 was as follows:

Governmental activities:	Beginning Balance	Increases	Decreases	Ending Balance
Capital assets, not being depreciated:				
Land	$ 17,138,642	$ 170,723	$ -	$ 17,309,365
Construction in progress	28,682,708	36,645,996	(10,029,017)	55,299,687
Total capital assets, not being depreciated	45,821,350	36,816,719	(10,029,017)	72,609,052
Capital assets, being depreciated:				
Buildings	77,556,829	1,832,522	(8,686,660)	70,702,691
Improvements other than buildings	123,677,470	414,933	-	124,092,403
Machinery and equipment	84,060,025	10,015,629	(3,367,980)	90,707,674
Infrastructure	385,476,349	4,987,801	-	390,464,150
Right-to-use assets	1,245,515	-	-	1,245,515
SBITAs	-	1,466,753	-	1,466,753
Total capital assets being depreciated	672,016,188	18,717,638	(12,054,640)	678,679,186
Less accumulated depreciation and amortization for:				
Buildings	(28,315,606)	(1,744,689)	-	(30,060,295)
Improvements other than buildings	(85,268,584)	(2,699,686)	-	(87,968,270)
Machinery and equipment	(61,915,045)	(5,993,793)	2,723,117	(65,185,721)
Infrastructure	(244,985,791)	(7,969,194)	-	(252,954,985)
Right-to-use assets	(412,121)	(161,592)	-	(573,713)
SBITAs	-	(559,297)	-	(559,297)
Total accumulated depreciation and amortization	(420,897,147)	(19,128,251)	2,723,117	(437,302,281)
Total capital assets, being depreciated, net	251,119,041	(410,613)	(9,331,523)	241,376,905
Governmental activities capital assets, net	$ 296,940,391	$ 36,406,106	$ (19,360,540)	$ 313,985,957

D. Capital Assets – continued

	Beginning Balance	Increases	Decreases	Ending Balance
Business-type activities:				
Capital assets, not being depreciated:				
Land	$ 12,063,799	$ 9,248	$ -	$ 12,073,047
Water Rights	12,526,700	-	-	12,526,700
Construction in progress	12,952,157	11,121,426	(8,483,318)	15,590,265
Total capital assets, not being depreciated	37,542,656	11,130,674	(8,483,318)	40,190,012
Capital assets, being depreciated:				
Buildings	63,500,219	-	-	63,500,219
Improvements other than buildings	412,695,900	43,453,706	-	456,149,606
Machinery and equipment	18,032,663	1,922,203	-	19,954,866
Infrastructure	20,751,447	-	-	20,751,447
Total capital assets being depreciated	514,980,229	45,375,909	-	560,356,138
Less accumulated depreciation and amortization for:				
Buildings	(38,521,128)	(1,259,028)	-	(39,780,156)
Improvements other than buildings	(152,754,125)	(10,883,528)	-	(163,637,653)
Machinery and equipment	(11,689,338)	(1,414,524)	-	(13,103,862)
Infrastructure	(4,798,061)	(456,617)	-	(5,254,678)
Total accumulated depreciationand amortization	(207,762,652)	(14,013,697)	-	(221,776,349)
Total capital assets, being depreciated, net	307,217,577	31,362,212	-	338,579,789
Business-type activities capital assets, net	$ 344,760,233	$ 42,492,886	$ (8,483,318)	$ 378,769,801

Depreciation expense was charged to functions/programs of the City as follows:

Governmental activities:	
General Government	$ 1,287,570
Public Safety	1,607,720
Highways and streets, including depreciation of general infrastructure assets	8,812,284
Public Services	743,284
Culture and recreation	1,363,999
Capital assets held by the government's internal service funds are charged to the various functions based on their usage of the assets	5,313,394
Total depreciation expense - governmental activities	$ 19,128,251
Business-type activities:	
Utilities	$ 10,088,026
Sanitation	3,334,206
Airport	591,465
Total depreciation expense - business-type activities	$ 14,013,697

Water Rights

In 1965, the City purchased the right to 40% of the perpetual annual water yield of Lake Palestine from the Upper Neches River Municipal Water Authority for $12,524,200. At September 30, 2023, total water rights were $12,526,700. Management believes there is no impairment in the value of the water rights at September 30, 2023.

D. Capital Assets – continued

Construction Commitments

As of September 30, 2023, the City has active construction projects. At year-end the City's commitments with contractors are as follows:

Project	Spent To-Date	Estimated Remaining Commitment
WT Brookshire Convention Center	$ 30,544,913	$ 1,250,000
Group 3 24"-42" CIPP	6,907,431	2,551,221
Cambridge Road Drainage	3,540,788	606,050
Taxiway Alpha Rehab	4,634,700	2,295,592
Group 4 Traditional Mainline	4,114,547	710,178
Group 1 Sewer Sites 2e1 and 10a1	3,444,061	642,062
Southside WWTP Chlorination/Aeration	3,266,364	395,256
2023 Asphalt Enhancement (Overlay)	2,956,145	1,517,916
Group 2 Traditional Pipe Rehabilitation	2,010,782	2,327,322
Group 4 Manhole Specialty	1,759,378	769,471
2023 Seal Coat	1,584,122	65,650
Group 4 Mainline Specailty CIPP	1,423,385	2,217,227
Group 5 Manhole Rehab	1,269,995	222,755
Group 4 Mainline Specialty	1,265,836	1,108,896
Group 5 Remedial Open Cut	1,249,598	5,388,915
Security Fencing Construction	890,296	1,088,501
S Thompson Drainage Imp	820,767	497,623
Traffic Signal Modernization	795,072	28,751
CIPP Drainage Improvements	757,881	288,294
Melinda/Donna Street Reconstruction	722,317	459,747
Misc Drainage Improvements	633,027	114,931
Legacy Trails	278,891	343,595
Group 3: Remedial Measures	271,485	11,739,554
Ferguson Training Room Improvements	239,644	47,673
John Soules Waterline Extension	237,905	3,232,629
Group 4 Manhole Traditional	232,383	237,432
VES Parking Lot - Phases 4-7	229,151	1,740,849
Group 5 Pipeburst	147,336	4,524,050
Fire Station 10 Renovations	139,712	17,764
Gentry MLK Traffic Signal	123,508	537,217
Brick Street Repair	119,060	874,101
Charleston LS Rehab	113,445	507,588
Golden Road WTP Clarifier & Filters 11-14	112,100	4,411,180
WMC-Glenwood Church	89,792	3,670,058
Earl Campbell Gravity Sewer Main	88,950	706,258
Shiloh Rd Elevated Storage Tank Site Improv.	78,244	881,756
Off-System Bridge Maintenance	76,703	930,301
Keaton Ave Drainage Study	75,850	3,677,750
Streets Building Renovations	48,320	15,680
Traffic Signal Grande/Noonday	35,496	361,627
2023 Water Main Improvements	16,578	1,161,367
Sludge Lagoon Cleanout	4,589	2,745,411
Street Reconstruction	2,174	4,782,604

D. Capital Assets – continued

The above projects are funded by resources held in the One-Half Cent Sales Tax Fund, airport revenue bonds, water and sewer revenue bonds, and grant funding.

E. Interfund Receivables, Payables, and Transfers

The interfund balance in the General Fund resulted from overdrafts in the City's pooled cash accounts that were funded by the Utility Fund.

The composition of interfund balances as of September 30, 2023, is as follows:

Receivable Fund	Payable Fund	Amount
Utility Fund	General Fund	$2,185,680

Interfund transfers are recorded to reflect the allocation of internal service fund activities between governmental and business-type fund types.

The composition of interfund transfers as of September 30, 2023, is as follows:

	Transfer In					
	General Fund	One-Half Cent Sales Tax Fund	Nonmajor Governmental Funds	Airport Enterprise Funds	Internal Service Funds	Total
Transfers Out:						
General Fund	$ -	$ -	$ 4,043,360	$ -	$ 101,305	$ 4,144,665
One-Half Cent Sales Tax Fund	-	-	3,250,000	306,388	-	3,556,388
Nonmajor Governmental Funds	2,500,000	-	-	-	25,000	2,525,000
Utilities Enterprise Funds	-	-	175,000	-	50,653	225,653
Airport Enterprise Funds	-	-	-	-	-	-
Sanitation Enterprise Funds	-	-	25,000	-	50,653	75,653
Totals	$ 2,500,000	$ -	$ 7,493,360	$ 306,388	$ 227,611	$ 10,527,359

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F. Leases

City as Lessee

The City has obtained various equipment and infrastructure through long-term operating leases. The terms and conditions for these leases vary. The leases contain fixed, periodic payments over the lease terms, which range between 1-20 years. The interest rates for the leases vary between 0.5120% and 3.0161%. At September 30, 2023, operating leases consisted of the following:

GOVERNMENTAL ACTIVITIES	Balance as of October 1, 2022	Additions	Reductions	Balance as of September 30, 2023
Lease Assets				
Equipment				
Pitney Bowes Lease-SLA Equipment	$ 19,294	$ -	$ -	$ 19,294
Pitney Bowes Lease-Send Pro P Series	28,759	-	-	28,759
Xerox Copiers	348,249	-	-	348,249
PD Body Cams	451,480	-	-	451,480
Breathing Apparatus	236,499	-	-	236,499
Total Equipment Lease Assets	1,084,281	-	-	1,084,281
Infrastructure				
702 West Cumberland Rd - Radio Tower	161,241	-	-	161,241
Total Infrastructure Lease Assets	161,241	-	-	161,241
Total Lease Assets	1,245,522	-	-	1,245,522
Lesae Accumulated Amortization				
Equipment				
Pitney Bowes Lease-SLA Equipment	4,027	3,853	-	7,880
Pitney Bowes Lease-Send Pro P Series	6,002	5,730	-	11,732
Xerox Copiers	65,297	87,062	-	152,359
PD Body Cams	178,479	90,993	-	269,472
Breathing Apparatus	59,125	59,125	-	118,250
Total Equipment Lease Accumulated Amortization	312,930	246,763	-	559,693
Infrastructure				
702 West Cumberland Rd - Radio Tower	6,783	7,238	-	14,021
Total Infrastructure Lease Assets	6,783	7,238	-	14,021
Total Lease Accumulated Amortization	319,713	254,001	-	573,714
Total Governmental Lease Assets, Net	$ 925,809	$ (254,001)	$ -	$ 671,808

Principal and interest requirements to maturity for the lease liability at September 30, 2022 are as follows:

	Governmental Activities		
Fiscal Year	Principal Payments	Interest Payments	Total Payments
2024	$ 252,357	$ 12,234	$ 264,591
2025	257,336	7,254	264,590
2026	35,822	2,255	38,077
2027	6,287	2,113	8,400
2028	6,389	2,011	8,400
2029 - 2033	33,533	8,467	42,000
2034 - 2038	36,344	5,656	42,000
2039 - 2044	47,657	2,744	50,401
Total	$ 675,725	$ 42,734	$ 718,459

F. Leases – continued

City as Lessor

On October 1, 2021, the City leased water tower space to a cellular company. The lease is a seventy-seven-month lease with one extension option for an additional sixty months. The lessee is required to make monthly fixed payments of $1,659 with no additional variable payments. The lease has an interest rate of 0.740%.

On October 1, 2021, the City leased land from its utilities fund to a tower company for the placement of a radio tower. The lease is a 331-month lease with five extension options for an additional sixty months in each option. The lessee is required to make annual fixed payments of $6,000 with no additional variable payments. The lease has an interest rate of 1.703%.

On October 1, 2021, the City leased space in the airport to a car rental company. The lease is a sixteen-month lease with no extension options. The lessee is required to make monthly fixed payments of $500 with no additional variable payments. The lease has an interest rate of 0.193%.

Principal and interest to maturity for the lease receivable at September 30, 2023 are as follows:

	Business-Type Activities		
Fiscal Year	Principal Payments	Interest Payments	Total Payments
2024	$ 23,184	$ 704	$ 23,888
2025	23,357	531	23,888
2026	23,530	358	23,888
2027	23,705	184	23,889
2028	11,919	26	11,945
Total	$ 105,695	$ 1,803	$ 107,498

	Governmental Activities		
Fiscal Year	Principal Payments	Interest Payments	Total Payments
2024	$ 3,902	$ 2,098	$ 6,000
2025	3,968	2,032	6,000
2026	4,036	1,964	6,000
2027	4,104	1,895	5,999
2028	4,174	1,825	5,999
2029 - 2033	21,962	8,038	30,000
2034 - 2038	23,897	6,103	30,000
2039 - 2044	26,003	3,997	30,000
2045 - 2048	31,166	1,644	32,810
Total	$ 123,212	$ 29,596	$ 152,808

The balance of the deferred inflows of resources related to lease payments receivable as of September 30, 2023 were as follows:

Deferred Inflows of Resources	Balance as of September 30, 2023
Business-Type Activities	$ 222,537
Total	$ 222,537

F. Leases – continued

The total amount of inflows of resources relating to leases recognized in the current fiscal year are as follows:

Inflows of Resources	Governmental Activities		Total
Lease Revenue	29,451	$	29,451
Interest Revenue	2,588	$	2,588

Regulated Leases

The City does not recognize a lease receivable and a deferred inflow of resources for regulated leases. Regulated leases are certain leases that are subject to external laws, regulations, or legal rulings, e.g., the U.S. Department of Transportation and the Federal Aviation Administration (FAA) regulated aviation leases between airports, air carriers, and other aeronautical users.

The City has regulated leases for the following City property:

- Airport hangar space subject to FAA requirements,
- Lake Tyler marina space subject to City code related to lake activity, and
- Certain tower leases subject to Federal Communications Commission requirements related to lighting, marking, and painting of towers.

The future expected minimum rentals to be received related to existing regulated leases as of September 30, 2022 are as follows:

Fiscal Year	Future Minimum Expected Receipts	
2024	$	197,869
2025		195,222
2026		137,697
2027		115,334
2028		115,334
2028 - 2033		519,215
2034 - 2038		463,044
2039 - 2043		355,841
2044 - 2048		350,985
2049 - 2053		183,759
	$	2,634,300

G. Subscription -based information technology arrangements - SBITAs

On 10/01/2022, the City entered into a 16-month subscription for the use of Granicus Software. An initial subscription liability was recorded in the amount of $24,723. As of 09/30/2023, the value of the subscription liability is $0. The City is required to make annual fixed payments of $34,918. The subscription has an interest rate of 3.14%. The value of the right to use asset as of 09/30/2023 of $79,998 with accumulated amortization of $63,999.

On 10/01/2022, the City entered into a 47-month subscription for the use of Bibliotheca SaaS. An initial subscription liability was recorded in the amount of $19,638. As of 09/30/2023, the value of the subscription liability is $13,293. The City is required to make annual fixed payments of $6,974. The subscription has an interest rate of 3.27%. The value of the right to use asset as of 09/30/2023 of $19,638 with accumulated amortization of $4,934.

G. Subscription-based information technology arrangements – SBITAs – continued

On 10/01/2022, the City entered into an 18-month subscription for the use of ESRI Enterprise License. An initial subscription liability was recorded in the amount of $80,993. As of 09/30/2023, the value of the subscription liability is $0. The City is required to make annual fixed payments of $82,500. The subscription has an interest rate of 3.21%. The value of the right to use asset as of 09/30/2023 of $80,992 with accumulated amortization of $53,995.

On 10/01/2022, the City entered into a 24-month subscription for the use of ProjectDox SaaS Subscription. An initial subscription liability was recorded in the amount of $69,700. As of 09/30/2023, the value of the subscription liability is $34,300. The City is required to make annual fixed payments of $65,100. The subscription has an interest rate of 3.217%. The value of the right to use asset as of 09/30/2023 of $69,700 with accumulated amortization of $34,850.

On 07/01/2023, the City entered into a 48-month subscription for the use of Darktrace DETECT Platform. An initial subscription liability was recorded in the amount of $195,218. As of 09/30/2023, the value of the subscription liability is $144,384. The City is required to make annual fixed payments of $50,834. The subscription has an interest rate of 2.79%. The value of the right to use asset as of 09/30/2023 of $195,218 with accumulated amortization of $12,201.

On 10/01/2022, the City entered into a 20-month subscription for the use of Standard Enterprise License. An initial subscription liability was recorded in the amount of $85,179. As of 09/30/2023, the value of the subscription liability is $0. The City is required to make annual fixed payments of $87,000. The subscription has an interest rate of 3.21%. The value of the right to use asset as of 09/30/2023 of $85,179 with accumulated amortization of $51,107.

On 10/01/2022, the City entered into a 22-month subscription for the use of StormWind Software. An initial subscription liability was recorded in the amount of $14,432. As of 09/30/2023, the value of the subscription liability is $0. The City is required to make annual fixed payments of $14,850. The subscription has an interest rate of 3.21%. The value of the right to use asset as of 09/30/2023 of $14,432 with accumulated amortization of $7,585.

On 10/01/2022, the City entered into a 32-month subscription for the use of Microsoft 365 - Azure. An initial subscription liability was recorded in the amount of $876,048. As of 09/30/2023, the value of the subscription liability is $440,350. The City is required to make annual fixed payments of $454,609. The subscription has an interest rate of 3.24%. The value of the right to use asset as of 09/30/2023 of $876,048 with accumulated amortization of $328,518.

On 08/11/2023, the City entered into a 36-month subscription for the use of DebtBook. An initial subscription liability was recorded in the amount of $45,548. As of 09/30/2023, the value of the subscription liability is $32,548. The City is required to make annual fixed payments of $13,000. The subscription has an interest rate of 2.90%. The value of the right to use asset as of 09/30/2023 of $45,548 with accumulated amortization of $2,109.

G. Subscription-based information technology arrangements – SBITAs - continued

At September 30, 2023, SBITAs consisted of the following:

GOVERNMENTAL ACTIVITIES:	Balance as of October 1, 2022	Additions	Reductions	Balance as of September 30, 2023
Subscription Assets				
Software				
Granicus Software	$ 79,999	$ -	$ -	$ 79,999
Bibliotheca SaaS	19,637	-	-	19,637
ESRI Enterprise License	80,992	-	-	80,992
ProjectDox SaaS Subscription	69,700	-	-	69,700
Darktrace DETECT Platform	-	195,218	-	195,218
Standard Enterprise License	85,179	-	-	85,179
StormWind Software	14,432	-	-	14,432
Microsoft 365 - Azure	876,048	-	-	876,048
DebtBook	-	45,548	-	45,548
Total Subscription Assets	$ 1,225,987	$ 240,766	$ -	$ 1,466,753

Subscription Accumulated Amortization	Balance as of October 1, 2022	Additions	Reductions	Balance as of September 30, 2023
Software				
Granicus Software	$ -	$ 63,999	$ -	$ 63,999
Bibliotheca SaaS	-	4,933	-	4,933
ESRI Enterprise License	-	53,995	-	53,995
ProjectDox SaaS Subscription	-	34,850	-	34,850
Darktrace DETECT Platform	-	12,201	-	12,201
Standard Enterprise License	-	51,107	-	51,107
StormWind Software	-	7,585	-	7,585
Microsoft 365 - Azure	-	328,518	-	328,518
DebtBook	-	2,109	-	2,109
Total Software Subscription Accumulated Amortization	$ -	$ 559,297	$ -	$ 559,297
Total Governmental Subscription Assets, Net	$ 1,225,987	$ (318,531)	$ -	$ 907,456

Principal and interest requirements to maturity for the lease liability at September 30, 2023 are as follows:

	Governmental Activities		
Fiscal Year	Principal Payments	Interest Payments	Total Payments
2024	$ 575,797	$ 21,819	$ 597,616
2025	72,362	3,446	75,808
2026	49,456	1,378	50,834
	$ 697,615	$ 26,643	$ 724,258

H. Long-term debt

Revenue Bonds

The City issues bonds where the City pledges income derived from the acquired or constructed assets to pay debt service. The revenue bonds issued by the City in prior years were to fund construction projects to improve or expand the water system and to refund prior issuances. Additionally, the City issued a revenue bond in 2021 to fund the construction of the Rose Complex Convention Center. The original amount of the outstanding revenue bonds was $163,590,000 with maturities ranging from 2027 to 2052.

H. Long-term debt - continued

Revenue bonds currently outstanding are as follows:

Issue	Purpose	Interest Rates	Amount
Series 2012	Water and sewer refunding	1.50 to 2.625%	$ 545,000
Series 2013	Customer facilty use	3.76%	465,000
Series 2015A	Water refunding and improvements	2.00 to 4.00%	6,340,000
Series 2015B	Water and sewer refunding	2.00 to 5.00%	9,505,000
Series 2017A	Water and sewer refunding	3.00 to 4.00%	2,680,000
Series 2017B	Water and sewer refunding	2.00 to 3.50%	7,950,000
Series 2018A	Water and sewer revenue	3.00 to 4.00%	6,890,000
Series 2018B	Water and sewer refunding	3.00%	4,860,000
Series 2019	Water and sewer revenue	2.00 to 5.00%	18,255,000
Series 2020	Water and sewer revenue	2.00 to 3.00%	3,715,000
Series 2021	Hotel occupancy tax revenue	2.00 to 5.00%	8,840,000
Series 2021	Water and Sewer revenue	2.00 to 5.00%	25,960,000
Series 2022	Water and sewer revenue	2.00 to 5.00%	40,530,000
Total outstanding revenue bonds			$ 136,535,000

Annual debt service requirements to maturity for revenue bonds are as follows:

Year ending September 30	Principal	Interest	Total
2024	$ 6,355,000	$ 4,498,596	$ 10,853,596
2025	6,600,000	4,156,601	10,756,601
2026	6,855,000	4,010,636	10,865,636
2027	7,125,000	3,720,188	10,845,188
2028	7,275,000	3,435,966	10,710,966
2029-2033	30,145,000	13,137,808	43,282,808
2034-2038	21,475,000	8,902,960	30,377,960
2039-2043	18,745,000	6,028,303	24,773,303
2044-2048	19,905,000	3,273,170	23,178,170
2049-2052	12,055,000	718,588	12,773,588
	$ 136,535,000	$ 51,882,816	$ 188,417,816

Cash in the amount of $6,361,494 as restricted at September 30, 2023 in order to fund the City's annual debt service requirements, to meet the debt service reserve fund requirements of bond covenants and for construction costs in connection with the 2013 Customer Facility Charge Bonds. Revenue bonds are subject to the provisions of the Internal Revenue Code of 1986 related to arbitrage and interest tax regulations under these provisions.

H. Long-term debt - continued

Changes in long-term liabilities

Long-term liability activity for the year ended September 30, 2023, was as follows:

	Beginning Balance 10/1/2022	Additions	Reductions	Ending Balance 9/30/2023	Due Within One Year	Due in More Than One Year
Governmental Activities:						
Revenue bonds payable	$ 9,070,000	$ -	$ 230,000	$ 8,840,000	$ 240,000	$ 8,600,000
ADD: bond premiums/(discounts)	1,658,936	-	132,715	1,526,221	-	1,526,221
Claims and judgements	100,000	-	-	100,000	100,000	-
Lease liability	923,230	-	247,507	675,723	252,357	423,366
Subscription liability	-	677,875	13,000	664,875	563,817	101,058
Net pension liability	49,163,133	43,541,312	-	92,704,445	-	92,704,445
Net OPEB liability	8,021,323	1,287,746	-	9,309,069	-	9,309,069
Compensated absences	14,956,420	254,863	580,825	14,630,458	586,054	14,044,404
Governmental activities Long-term liabilities	$ 83,893,042	$ 45,761,796	$ 1,204,047	$ 128,450,791	$ 1,742,228	$ 126,708,563
Business-Type Activities:						
Revenue bonds payable	$ 133,610,000	$ -	$ 5,915,000	$ 127,695,000	$ 6,115,000	$ 121,580,000
ADD: bond premium/(discount)	7,750,681	-	490,106	7,260,575	-	-
Net pension liability	5,604,445	13,789,936	-	19,394,381	-	19,394,381
Net OPEB liability	2,913,998	360,094	-	3,274,092	-	3,274,092
Compensated absences	1,022,024	25,683	80,538	967,169	38,686	928,483
Business-Type Activities Long-Term Liabilities	$ 150,901,148	$ 14,175,713	$ 6,485,644	$ 158,591,217	$ 6,153,686	$ 145,176,956

The liabilities listed above for claims and judgments, net pension obligation, compensated absences, and contracts payable will be liquidated by the City's General and Proprietary Funds. The liability for leases will be liquidated by the General and Technology Funds. The net pension and OPEB obligations are liquidated primarily by the General Fund, the remaining obligations are liquidated across other funds on a pro rata basis calculated by historical pension and OPEB expenses in each fund.

The City has defeased certain bonds by placing the proceeds of new bond issues in an irrevocable trust for all future debt service payments on the old bonds. Accordingly, the trust account assets and liability for the defeased bonds are not included in the City's financial statements. The 2017A Series bonds were issued to refund the remaining portion of the 2008 Series bonds and resulted in a $80,000 reduction in the City's debt service fund. The 2017B Series bonds were issued to retire the 2009 Series bonds and this issue resulted in an economic gain of $286,681 to the City and the debt service fund was reduced by $273,921 as a result of the issuance of these bonds. The 2020A Series bonds were issued to retire the 2011 Series bond, which resulted in the City's debt service fund being reduced by $395,000. At September 30, 2023, $21,045,000 of bonds outstanding are considered defeased. The issues and amounts of outstanding defeased bonds are as follows:

Bond Issue	Year Refunded	Outstanding
Series 2017A Water and Sewer System Refunding Bonds	2008	$ 2,680,000
Series 2017B Water and Sewer System Refunding Bonds	2009	7,950,000
Series 2018B Water and Sewer System Refunding Bonds	2009	4,860,000
Series 2020A Water and Sewer System Refunding Bonds	2011	3,715,000
Total Bonds Defeased		$ 19,205,000

NOTE 5: OTHER INFORMATION

A. Risk management

Property and Casualty Insurance Plans

The City is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions and natural disasters. A comprehensive insurance plan for property and casualty coverage has been established. Third-party administrators handle property and casualty claims review and processing. Deductibles and self-insured retentions for building and contents are $100,000 deductible; $100,000 for claims involving flood and earthquake; 5% with $250,000 minimum per occurrence for claims involving wind/hail damage. Automobile liability, general liability, employment practices liability, law enforcement liability, and management liability; and $50,000 for airport liability. The amount of settlements has not exceeded insurance coverage for the last three fiscal years.

Worker's Compensation Plan

The City is exposed to risk of loss due to injuries incurred by employees while performing work-related duties. The City has established and maintains a comprehensive self-insurance worker's compensation plan. Third party administrators handle claims review and processing. An insurance company provides excess workers compensation insurance for losses over $1,000,000 fire and police and %500,000 all other employee classifications self-insured retention with an aggregate retention of $2,000,000.

Health, Dental, and Life Plans

HEALTH - Employee/Dependents and Non-Medicare Eligible Retirees/Dependents

The City implemented a partially self-insured health plan for employees, their dependents, and retirees/dependents, who are non-Medicare eligible. Non-Medicare Retirees and/or their dependents that have been continuously covered under the City's health plan may elect to continue their coverage at retirement. Active employees pay a portion of current premiums with the City paying the remainder. To reduce long term liabilities, the City elected to eliminate the subsidy for non-Medicare Retiree premiums for those employees hired after January 1, 1997. For those employees hired before January 1, 1997, the same apportionment of premiums continues at retirement. For those employees hired after January 1, 1997, the employee is responsible for the full cost of current premiums.

The city has retained an insurance policy for specific and aggregate stop-loss coverage. There is an individual stop-loss of $375,000 per illness. A third-party administrator administers health claims and payments.

Medicare Eligible Retirees/Dependents

Retirees and/or their spouses who become eligible for Medicare and have been continuously covered under the City's health insurance plan may elect to participate in a Medicare Supplement Insurance Program. The City provides Retirees hired before January 1, 1997, a monthly subsidy to assist with payment of the Medicare premiums. The Medicare Supplement insurance provider processes and pays all health claims.

DENTAL - Employees/Retirees

The City offers fully self-funded dental and orthodontic benefits to eligible employees/dependents and retirees/dependents. Employees and retirees hired after January 1, 1997, pay a portion of the premiums and the City pays the remainder. Employees and retirees hired after January 1, 1997, pay the full cost of the current premium. A third-party administrator administers dental claims and payments.

A. Risk management - continued

LIFE INSURANCE - Employees/Retirees

The City provides a $10,000 basic life and AD&D insurance for all full-time active employees. Additionally, the City provides a $5,000 basic life and AD&D insurance policy for eligible retirees. For active employees, supplemental Life insurance is available for purchase by the employee without evidence of insurability, if purchased during initial election period in the amounts of 5 times their annual salary up to a maximum of $300,000 (guarantee issuance). Spousal Life insurance of 50% of the employee's covered amount up to a maximum of $50,000 (Guarantee Issuance) whichever is less. Dependent child(ren) coverage is also available for purchase by the employee in $5,000 increments of to a maximum of $20,000.

For employees actively at work, Employee and/or Spousal Life Insurance Benefit amounts reduce beginning at age 65 thru 69 by 65%, age 70 thru 74 by 50% and age 75 and thereafter by 30%.

Other Self-Insurance Plans

In addition, the City meets the self-insurance requirements as promulgated by the Environmental Protection Agency, through the Texas Water Commission, for potential third-party claims.

Estimated liabilities for claims incurred but not reported at year-end have been recorded in the Self-Insurance Funds and a reconciliation of changes in claims liabilities is included in the note on contingent liabilities.

B. Contingent liabilities

Amounts received or receivable from grantor agencies are subject to audit and adjustment by grantor agencies, principally the Federal Government. Any disallowed claims, including amounts already collected, may constitute a liability of the applicable funds. The amount, if any, of expenditures which may be disallowed by the grantor cannot be determined at this time although the government expects such amounts, if any, to be immaterial.

The City is a defendant in various lawsuits. Although the outcome of these lawsuits is not presently determinable, in the opinion of the City's management and collective legal counsel the resolution of these matters will not have a material adverse effect on the financial condition of the City. City management and the collective legal counsel have determined the estimated liability for outstanding lawsuit contingencies at September 30, 2023, was $100,000. See Note 4: G for a reconciliation of changes in claims and judgments.

The City's self-insurance program is described in Note 5: A. The following is a reconciliation of the changes in the estimated liabilities for claims payable within 90 days for the years ended September 30, 2023 and 2022:

	Insurance Claims Payable At Beginning of Year	Current Year Claims and Changes In Estimates	Actual Claim Payments	Insurance Claims Payable At End of Year
Employees Benefits Fund				
FYE 2022	$ 416,440	$ 13,114,036	$ 12,857,196	$ 673,280
FYE 2023	673,280	14,398,701	14,606,650	465,331
Retiree Benefits Fund				
FYE 2022	$ 40,101	$ 1,871,320	$ 1,768,789	$ 142,632
FYE 2023	142.632	1,721,207	1,806,008	57,831

C. Joint Venture

The Northeast Public Health District ("District") was established by a cooperative agreement between the City and Smith County, Texas pursuant to authority granted by the Texas Health & Safety Code for the purpose of providing public health services previously provided by the participating entities. The District is considered a joint venture between the City and County with each retaining an equity interest based upon the percentage each contributed to the budget.

For the year ended September 30, 2023, the City budgeted funding of $200,000 for the District. The City's equity interest in the District at September 30, 2023 is $4,058,576. The Health District's total fund balance at September 30, 2023 was approximately $6.5 million. Financial statements for the Health District may be obtained at the entity's administrative offices.

D. Deferred Compensation

The City offers its employees a deferred compensation plan created in accordance with Internal Revenue Code Section 457. The plan, available to all City employees, permits them to defer a portion of their salary until future years. The deferred compensation is not available to employees until termination, retirement death, or an unforeseeable emergency. The plan assets are not part of the City's financial statements because a third-party administrator holds these plan assets in trust.

The market value and carrying value of deferred compensation plan assets is $31,631,076 for September 30, 2023.

E. Pension Plans

1. Texas Municipal Retirement System Plan

TMRS Plan Description

The City of Tyler participates as one of 887 plans in the nontraditional, joint contributory, hybrid defined benefit pension plan administered by the Texas Municipal Retirement System (TMRS). TMRS is an agency created by the State of Texas and administered in accordance with the TMRS Act, Subtitle G, Title 8, Texas Government Code (the TMRS Act) as an agent multiple-employer retirement system for municipal employees in the State of Texas. The TMRS Act places the general administration and management of the System with a six-member Board of Trustees. Although the Governor, with the advice and consent of the Senate, appoints the Board, TMRS is not fiscally dependent on the State of Texas. TMRS's defined benefit pension plan is a tax-qualified plan under Section 401(a) of the Internal Revenue Code.

All eligible employees of the City are required to participate in TMRS.

Firefighters are covered by a separate pension plan (see Note 5 E: 2); therefore, they are not included in the Texas Municipal Retirement System Plan. TMRS issues a publicly available annual comprehensive financial report that includes financial statements and required supplementary information (RSI) for TMRS; the report also provides detailed explanations of the contributions, benefits and actuarial methods and assumptions used by the System. This report may be obtained from TMRS' website at *www.tmrs.com*.

Benefits Provided

TMRS provides retirement, disability, and death benefits. Benefit provisions are adopted by the governing body of the City, within the options available in the state statutes governing TMRS.

At retirement, the benefit is calculated as if the sum of the employee's contributions, with interest, and the city-financed monetary credits with interest were used to purchase an annuity. Members may choose to receive their retirement benefit in one of seven payment options. Members may also choose to receive a portion of their benefit as a Partial Lump Sum Distribution in an amount equal to 12, 24, or 36 monthly payments, which cannot exceed 75% of the member's deposits and interest.

E. Pension Plans - continued

The plan provisions are adopted by the governing body of the City, within the options available in the state statutes governing TMRS. Plan provisions for the City were as follows:

	Plan Year 2022	Plan Year 2021
Employee deposit rate	7.0%	7.0%
Matching ratio (city to employee)	2 to 1	2 to 1
Year required for vesting	5	5
Service retirement eligibility	60/5, 0/20	60/5, 0/20
Updated Service Credit	100% Repeating Transfers	100% Repeating Transfers
Annuity Increase (to retirees)	70% of CPI Repeating	70% of CPI Repeating

Employees Covered by Benefit Terms

At the December 31, 2022 valuation and measurement date, the following employees were covered by the benefit terms:

	12/31/2022	12/31/2021
Inactive employees or beneficiaries currently receiving benefits	622	613
Inactive emplyees entitled to but not yet receiving benefits	356	340
Active employees	708	710
	1,686	1,663

Contributions

The contribution rates for employees in TMRS are either 5%, 6%, or 7% of employee gross earnings, and the City matching percentages are either 100%, 150%, or 200%, both as adopted by the governing body of the City. Under the state law governing TMRS, the contribution rate for each city is determined annually by the actuary, using the Entry Age Normal (EAN) actuarial cost method. The actuarially determined rate is the estimated amount necessary to finance the cost of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability.

Employees for the City of Tyler were required to contribute 7% of their annual gross earnings during the fiscal year. The contribution rates for the City of Tyler were 20.64% and 20.65% in calendar years 2022 and 2023, respectively. The City's contributions to TMRS for the year ended September 30, 2023, were $9,711,604, and exceeded the required contributions by $271.

Net Pension Liability

The City's Net Pension Liability (NPL) was measured as of December 31, 2022, and the Total Pension Liability (TPL) used to calculate the Net Pension Liability was determined by an actuarial valuation as of that date.

Actuarial assumptions:
The Total Pension Liability in the December 31, 2022, actuarial valuation was determined using the following actuarial assumptions:

- Inflation at 2.50% per year
- Overall payroll growth between 3.50% to 11.50%
- Investment Rate of Return at 6.75%, net of pension plan investment expense, including inflation

E. Pension Plans - continued

Salary increases were based on a service-related table. Mortality rates for active members, retirees, and beneficiaries were based on the gender distinct 2019 Municipal Retirees of Texas mortality tables. The rates are projected on a fully generational basis by scale UMP to account for future mortality improvements. For disabled annuitants, the gender-distinct 2019 Municipal Retirees of Texas mortality tables were used with a 4 year set-forward for males and a 3 year set-forward for females. In addition, a 3.5% and 3% minimum mortality rate is applied to reflect the impairment for younger members who become disabled for males and females, respectively. The rates are projected on a fully generational basis by scale UMP to account for future mortality improvements subject to the floor.

The actuarial assumptions were developed primarily from the actuarial investigation of the experience of TMRS over the four-year period from December 31, 2014 to December 31, 2018. They were adopted in 2019 and first used in the December 31, 2019 actuarial valuation. For determining the amount of the monthly benefit at the time of retirement for both healthy and disabled annuitants, the annuity purchase rates (APRs) until 2027 are based on a mortality study performed in 2013, with the factors phasing into being based on a unisex blend of the RP-2000 Combined Healthy Mortality Tables with Blue Collar Adjustment for males and females with both male and female rates multiplied by 107.5% and projected on a fully generational basis with scale BB. The current table of APRs is explicitly valued through 2032 and then it is assumed the APRs and the valuation mortality assumptions will be consistent over time. For members, a unisex blend of 70% of the males table and 30% of the female table is used, while 30% of the male table and 70% of the female table is used for beneficiaries.

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighing the expected future real rates of return by the target asset allocation percentage and by adding expected inflation. In determining their best estimate of a recommended investment return assumption under the various alternative asset allocation portfolios, GRS focused on the area between (1) arithmetic mean (aggressive) without an adjustment for time (conservative) and (2) the geometric mean (conservative) with an adjustment for time (aggressive).

The target allocation and best estimates of real rates of return for each major asset class in fiscal year 2023 are summarized in the following table:

Asset Class	Target Allocation	Long-Term Expected Real Rate of Return (Arithmetic)
Global Equity	35.00%	7.70%
Core Fixed Income	6.00%	4.90%
Non-Core Fixed Income	20.00%	8.70%
Other Public and Private	12.00%	8.10%
Real Estate	12.00%	5.80%
Hedge Funds	5.00%	6.90%
Private Equity	10.00%	11.80%
Total	100.00%	

Discount Rate

The discount rate used to measure the Total Pension Liability was 6.75%. The projection of cash flows used to determine the discount rate assumed that employee and employer contributions will be made at the rates specified in statute. Based on that assumption, the pension plan's Fiduciary Net Position was projected to be available to make all projected future benefit payments of current active and inactive employees. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the Total Pension Liability.

E. Pension Plans – continued

Changes in the Net Pension Liability

	Increase (Decrease)		
	Total Pension Liability (a)	Plan Fiduciary Net Position (b)	Net Pension Liability (a)-(b)
Balance at 12/31/2021	$ 287,389,756	$ 255,907,901	$ 31,481,855
Changes for the year:			
Service cost	7,462,072	-	7,462,072
Interest	19,191,678	-	19,191,678
Change of benefit terms	-	-	-
Difference between expected and actual experience	5,894,474	-	5,894,474
Changes of assumptions	-	-	-
Contributions - employer	-	9,363,589	(9,363,589)
Contributions - employee	-	3,175,209	(3,175,209)
Net investment income	-	(18,674,379)	18,674,379
Benefit payments, including refunds of employee contributions	(13,599,266)	(13,599,266)	-
Administrative expense	-	(161,649)	161,649
Other changes	-	192,895	(192,895)
Net changes	18,948,958	(19,703,601)	38,652,559
Balance at 12/31/2022	$ 306,338,714	$ 236,204,300	$ 70,134,414

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the City, calculated using the discount rate of 6.75%, as well as what the City's net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (5.75%) or 1-percentage-point higher (7.75%) than the current rate:

	1% Decrease in Discount Rate (5.75%)	Discount Rate (6.75%)	1% Increase in Discount Rate (7.75%)
City's net pension liability	$ 112,628,379	$ 70,134,414	$ 35,287,633

Pension Plan Fiduciary Net Position
Detailed information about the pension plan's Fiduciary Net Position is available in a separately-issued TMRS financial report. That report may be obtained on the Internet at *www.tmrs.com*.

Pension Expense and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions

For the year ended September 30, 2023, the City recognized pension expense of $13,365,127.

At September 30, 2023, the City reported deferred outflows of resource and deferred inflows of resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual economic experience	$ 6,396,285	$ 29,743
Changes in actuarial assumptions	-	-
Difference between projected and actual investment earnings	32,677,134	17,775,876
Contributions subsequent to the measurement date	7,055,776	-
Total	$ 46,129,195	$ 17,805,619

E. Pension Plans - continued

$7,055,776 reported as deferred outflows of resources related to pensions resulting from contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability for the year ending September 30, 2024. Other amounts reported as deferred outflows and inflows of resources related to pensions will be recognized in pension expense as follows:

Year Ended December 31		
2023	$	3,556,201
2024		6,464,232
2025		5,346,394
2026		7,189,631
2027		-
Thereafter		-
	$	22,556,458

2. Tyler Firefighter's Relief and Retirement Fund

Plan Description

The City contributes to the retirement plan for firefighters in the Tyler Fire Department known as the Tyler Firefighters' Relief and Retirement Fund (the Fund). The Fund is a single employer, contributory, defined benefit plan. The benefit provisions of the Fund are authorized by the Texas Local Fire Fighters' Retirement Act (TLFFRA). TLFFRA provides the authority and procedure to amend benefit provisions. The plan is administered by the Board of Trustees of the Tyler Firefighters' Relief and Retirement Fund. The City does not have access to nor can it utilize assets within the retirement plan trust. The Fund issues a stand-alone report pursuant to GASB Statement No. 67, which may be obtained by writing the Tyler Firefighters' Relief and Retirement Fund at 1718 West Houston, Tyler, Texas 75702.

The Tyler Firefighter's Relief and Retirement Fund is considered part of the City's financial reporting entity and is included in the City's financial reports as a Pension Trust Fund.

Benefits Provided

Firefighters in the Tyler Fire Department are covered by the Tyler Firefighters' Relief and Retirement Fund which provides service retirement, death, disability, and withdrawal benefits. These benefits fully vest after 20 years of credited service. Firefighters become eligible for normal service retirement at age 50 with 25 years of service or at age 55 with 20 years of service. If a terminated firefighter has a vested benefit but is not eligible for normal retirement, he may elect an actuarially equivalent early retirement benefit or he may wait to retire starting on the date he would have first satisfied both age and service requirements for normal retirement if he had remained a Tyler firefighter. The present plan effective July 1, 2011 provides a monthly normal service retirement benefit, payable in a Joint and Two-Thirds to Spouse form of annuity (except those who had 20 years of service as of January 1, 2005 have a normal form of a Joint and 100% to Spouse form), equal to 71.5% of Highest 60-Month Average Salary plus $113 for each year of service in excess of 20. A $1,000 minimum monthly benefit was added in 2018.

A retiring firefighter eligible for normal service retirement with certain minimum combinations of years of service and age has the option to elect the Retroactive Deferred Retirement Option Plan (RETRO DROP) which will provide a lump sum benefit and a reduced monthly benefit. The reduced monthly benefit is based on the service and Highest 60-Month Average Salary as if they had terminated employment on their selected RETRO DROP benefit calculation date, which is no earlier than the later of the date they meet the RETRO DROP eligibility requirements and the date preceding the date they actually retire by the maximum lump sum accumulation period (36 or 60 months, depending upon age and service). Upon retirement, the member will receive, in addition to their monthly retirement benefit, a lump sum equal to the sum of (1) the amount of monthly contributions the member has made to the fund, after the RETRO DROP benefit calculation date plus (2) the total of the monthly retirement benefits the member would have received between the RETRO DROP benefit calculation date and the date they retired under the plan. There are no account balances. The lump sum is calculated at the time of retirement and distributed as soon as administratively possible.

E. Pension Plans - continued

There is no provision for automatic postretirement benefit increases. The Fund has the authority to provide, and has periodically in the past provided, ad hoc postretirement benefit increases.

Members Covered by the Fund

In the December 31, 2022 actuarial valuation roll-forward, the following numbers of members were covered by the Fund:

Retirees and beneficiaries currently receiving benefits	119
Inactive employees entitled to but not yet receiving benefits	-
Active employees	161
	280

Funding Policy

The contribution provisions of the Fund are authorized by TLFFRA. TLFFRA provides the authority and procedure to change the amount of contributions determined as a percentage of pay by each firefighter and a percentage of payroll by the City.

The funding policy of the Tyler Firefighters' Relief and Retirement Fund requires contributions equal to 13.50% of pay by the firefighters, the rate elected by the firefighters according to TLFFRA. The City currently contributes according to an agreement between the City and the Fund's board of trustees. In 2020, the City agreed to a new contribution policy that will contribute 23% over the remainder of the unfunded liability amortization period. This new policy will gradually phase in from the 21.38% contribution rate to an ultimate rate of 23%. The actual City contribution rate was 21.50% in 2022 and 22.00% in 2023. The costs of administering the plan are paid from the Fund assets.

Ultimately, the funding policy also depends upon the total return of the Fund's assets, which varies from year to year. Investment policy decisions are established and maintained by the board of trustees. The board selects and employs investment managers with the advice of their investment consultant who is completely independent of the investment managers. For the year ending December 31, 2022, the money-weighted rate of return on pension plan investments was -14.23%. This measurement of the investment performance is net of investment-related expenses, reflecting the effect of the timing of the contributions received and the benefits paid during the year.

While the contribution requirements are not actuarially determined, state law requires that each change in plan benefits adopted by the Fund must first be approved by an eligible actuary, certifying that the contribution commitment by the firefighters and the assumed City contribution rate together provide an adequate contribution arrangement. Using the entry age actuarial cost method, the plan's normal cost contribution rate is determined as a percentage of payroll. The excess of the total contribution rate over the normal cost contribution rate is used to amortize the plan's unfunded actuarial accrued liability (UAAL). The number of years needed to amortize the plan's UAAL is actuarially determined using an open, level percentage of payroll method.

E. Pension Plans – continued

Net Pension Liability

The City's total pension liability used to calculate the net pension liability was determined based on the actuarial valuation as of December 31, 2022.

Total pension liability	$ 116,730,034
Plan fiduciary net position	74,765,622
City's net pension liability	$ 41,964,412
Plan fiduciary net position as a percentage of the total pension liability	64.1%

Actuarial Method and Assumptions

The total pension liability in the December 31, 2022 actuarial valuation was determined using the following actuarial assumptions, applied to all periods included in the measurement:

Inflation	2.75%
Salary increases	2.75%, plus promotion, step and longevity increases that vary by service
Investment rate of return	7%, net of pension plan investment expense, including inflation

Mortality rates were based on the PubS-2010 (public safety) total dataset mortality tables for employees and retirees (sex distinct), projected generationally using projection scale MP-2019.

The long-term expected rate of return on pension plan investments is reviewed for each biennial actuarial valuation and was determined using a building-block method in which expected future net real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class. These components are combined to produce the long-term expected rate of return by weighting the expected future net real rates of return by the target asset allocation percentage (currently resulting in 4.31%) and by adding expected inflation (2.75%). In addition, the final 7% assumption was selected by "rounding up". The target allocation and expected arithmetic net real rates of return for each major asset class are summarized in the following table:

Asset Class	Target Allocation	Long-Term Expected Real Rate of Return
Equities		
Large cap domestic	29.00%	5.80%
Mid cap domestic	9.00%	5.89%
Small cap domestic	6.00%	5.97%
International developed	7.00%	6.52%
International developing	5.00%	7.25%
Alternatives		
Real estate	5.00%	4.14%
Commodities	5.50%	1.11%
Fixed income		
Domestic core	19.30%	1.98%
Domestic high yield	4.00%	2.77%
Global	5.00%	1.70%
Domestic bank loan	3.70%	2.15%
Cash	1.50%	0.00%
Total	100.00%	
Weighted Average		4.31%

E. Pension Plans – continued

Discount Rate

The discount rate used to measure the total pension liability was 7 %. No projection of cash flows was used to determine the discount rate because the December 31, 2022 actuarial valuation showed that expected contributions would pay the normal cost and amortize the unfunded actuarial accrued liability (UAAL) in 27 years. Because of the 27-year amortization period of the UAAL, the pension plan's fiduciary net position is expected to be available to make all projected future benefit payments of current active and inactive members. Therefore, the long-term expected rate of return on pension plan investments of 7% was applied to all periods of projected benefit payments as the discount rate to determine the total pension liability.

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the City of Tyler, calculated using the discount rate of 7%, as well as what the city's net pension liability would be if it were calculated using a discount rate that is 1-percentage-point lower (6%) or 1-percentage-point higher (8%) than the current rate:

	1% Decrease in Discount Rate (6%)	Discount Rate (7%)	1% Increase in Discount Rate (8%)
City's net pension liability	$ 55,919,341	$ 41,964,412	$ 30,252,154

Plan Fiduciary Net Position

The plan fiduciary net position reported above is the same as reported by the Fund. Detailed information about the plan fiduciary net position is available in the Fund's separately issued audited financial statements, which are reported using the economic resources measurement focus and the accrual basis of accounting in conformity with accounting principles generally accepted in the United States of America. Revenues are recorded when earned, and expenses are recorded when a liability is incurred, regardless of the timing of the related cash flows. Investments are reported at fair value, the price that would be recognized to sell an asset in an orderly transaction between market participants at the measurement date.

Changes in the Net Pension Liability

	Increase (Decrease)		
	Total Pension Liability (a)	Plan Fiduciary Net Position (b)	Net Pension Liability (a)-(b)
Balance as of September 30, 2022	$ 112,583,614	$ 89,297,890	$ 23,285,724
Changes for the year:			
Service cost	2,802,208	-	2,802,208
Interest	7,849,328	-	7,849,328
Difference between expected and actual experience	-	-	-
Contributions by the City	-	2,858,276	(2,858,276)
Firefighter contributions	-	1,794,764	(1,794,764)
Net investment income	-	(12,570,100)	12,570,100
Benefit payments	(6,505,116)	(6,505,116)	-
Administrative expenses	-	(110,092)	110,092
Assumption changes	-	-	-
Other changes	-	-	-
Net changes	4,146,420	(14,532,268)	18,678,688
Balance as of September 30, 2023	$ 116,730,034	$ 74,765,622	$ 41,964,412

E. Pension Plans – continued

Pension Expense and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions

For the year ended September 30, 2023, the City's GASB 68 pension expense was $6,289,056. Amounts recognized in the fiscal year represent changes between the current and prior measurement dates.

Components of Pension Expense for the Fiscal Year Ended September 30, 2023:

Components of Pension Expense	
Service cost	$ 2,802,208
Interest	7,849,328
Firefighter contributions	(1,794,764)
Projected earnings on pension plan investments	(6,182,176)
Amortization of differences between projected and actual earnings on plan investments	2,463,263
Amortization of changes of assumptions	1,152,428
Amortization of differences between expected and actual experienc	(111,323)
Pension plan administrative expenses	110,092
Changes in benefit provisions	-
Total pension expense	$ 6,289,056

Deferred Outflows of Resources and Deferred Inflows of Resources to Be Recognized in Pension Expense in Future Years

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual economic experience	$ 1,335,248	$ 1,294,343
Changes in actuarial assumptions	5,254,131	-
Difference between projected and actual investment earnings	9,125,269	-
Contributions subsequent to the measurement date	2,428,453	-
Total	$ 18,143,101	$ 1,294,343

$2,428,453 reported as deferred outflows of resources related to pensions resulting from contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability for the year ending September 30, 2024. Other amounts reported as deferred outflows and inflows of resources related to pensions will be recognized in pension expense as follows:

Year Ended September 30	
2024	$ 1,488,476
2025	2,899,171
2026	3,809,965
2027	4,653,098
2028	717,352
Thereafter	852,243
Total	$ 14,420,305

F. Post-Employment Benefits Other Than Pensions

1. Health Plan

Plan Description

In addition to the pension benefits previously described, the City makes available health care benefits to eligible employees, and their spouses and children, who retire from the City and who are receiving benefits from a City sponsored retirement program (Texas Municipal Retirement System or Tyler Firefighters' Relief and Retirement Fund) through a single-employer defined benefit healthcare plan.

The plan does not issue a stand-alone report.

Benefits Provided

In addition to providing pension benefits, the City may provide group medical, dental, life and other benefits to eligible employees and their dependents. Detailed and summary information concerning eligibility, coverage and costs will be provided annually by the Finance Department and any outside service or insurance providers. The nature and extent of such benefits are subject to change without prior notice.

Employees who are working for City at the time of their retirement are eligible to continue to participate in City group health, dental, and life insurance plan. If such retiree's dependents were enrolled for coverage at the time of the retiree's retirement, then retiree may continue to have retiree's dependents covered.

Retirees who elect to remain in the insurance plan must continue to pay their portion of premiums and abide by the other conditions of the plan to have coverage. A retiree seeking continued coverage must inform the Finance Department no later than the date of retirement that the person elects to continue coverage for the retiree and/or dependents. Employees hired after 01/01/1997 must pay the full cost of premiums to continue coverage upon retirement. The City may substitute Medicare supplement health benefits coverage as the coverage provided for a retiree who receives health benefits coverage under this policy, including a dependent, after the date that the retiree becomes eligible for Federal Medicare benefits. The City may refuse health benefits coverage to a retiree and/or the retiree's dependent covered under this policy if the retiree and/or retiree's dependent is eligible for group health benefits coverage through another employer; or if premiums are not paid; or if they do not provide required certificate of insurance from insurance company. Non-Medicare Retirees, Medicare Retirees, and their dependents, who elect to opt out of the health and/or dental plan(s), may do so by submitting a written notice to the Finance Department. This written notice must include which plan(s) (health, dental and/or both) and the effective date (first day no longer covered). Retirees terminated for non-payment or who opted out and had not served 20 years with the City of Tyler will not be eligible to opt back into the health and/or dental plan(s) at a later date.

Retirees terminated due to alternative coverage may be able to opt back into the City's coverage if the retiree:

1. No longer qualifies for coverage,
2. Served 20 years with the City of Tyler, and
3. Had selected the coverage at the time of retirement.

Only the coverage selected at the time of retirement will be considered for the 20-year opt-in provision.

Additionally, the City provides eligible retirees with $5,000 in basic life insurance coverage at no cost to the retirees.

F. Post-Employment Benefits Other Than Pensions – continued

Employees Covered by Benefit Terms

At the December 31, 2022 valuation and measurement date, the following employees were covered by the benefit terms:

Inactive employees currently receiving benefits	521
Inactive emplyees entitled to but not yet receiving benefits	-
Active employees	860
	1,381

Contributions

City contributions consists of monthly premium contributions to the Public Agency Retirement Services (PARS) Post-Retirement Health Funding Plan Trust, which is a multi-employer irrevocable trust that has a private letter ruling confirming it is in full compliance with the requirements of Section 115 of the Internal Revenue Code.

Medicare eligible retirees are provided with a Medicare insurance supplement program. For retirees hired before January 1,1997, the City contributions are fixed at the 2013 subsidy level for age-band as of December 31, 2017 For retirees hired on and after January 1, 1997, there is no City contribution. See the table below for the monthly rates for employees:

			Vision Plan	
	Medical Plan	Dental Plan	Gold 100	Gold 150
Employee only	$ 107.14	$ 9.82	$ 5.50	$ 6.14
Employee + Spouse	357.24	36.10	9.30	10.50
Employee + Child(ren)	277.58	34.96	9.90	11.14
Employee + Family	484.06	54.34	14.80	16.70

Consistent with the requirements of GASB Statement No. 74, the employer contributions include amounts for OPEB as the benefits come due that will not be reimbursed to the employer using OPEB plan assets.

Net OPEB Liability

The City's Net OPEB Liability was measured as of December 31, 2022, and the Total OPEB Liability used to calculate the Net OPEB Liability was determined by an actuarial valuation as of that date.

Actuarial assumptions:
The Total OPEB Liability in the December 31, 2022, actuarial valuation was determined using the following actuarial assumptions:

Inflation	2.50%
Overall payroll growth	TMRS: 3.50% to 11.50%, including inflation FIRE: 2.75% to 8.92%, including inflation
Healthcare cost trend rates	Initial rates of 7.00% declining to ultimate rates of 4.15% after 13 years

F. Post-Employment Benefits Other Than Pensions – continued

Salary increases were based on a service-related table obtained from either TMRS or FTDRRF. Per TMRS, mortality rates for active members, retirees, and beneficiaries were based on the gender distinct RP2000 Combined Healthy Mortality Tables with Blue Collar Adjustment, with male rates multiplied by 109% and female rates multiplied by 103%. The rates are projected on a fully generational basis by scale BB to account for future mortality improvements. For disabled annuitants, the gender-distinct RP2000 Combined Healthy Mortality Tables with Blue Collar Adjustment are used with male rates multiplied by 109% and female rates multiplied by 103% with a 3-year set-forward for both males and females.

In addition, a 3.5% and 3% minimum mortality rate is applied to reflect the impairment for younger members who become disabled for males and females, respectively. The rates are projected on a fully generational basis by scale BB to account for future mortality improvements subject to the 3% floor. Per FTDRRF, mortality rates for active members, retirees, and beneficiaries were based on the RP2000 Combined Healthy Mortality Tables projected to 2024 using Scale AA for males and females.

The actuarial assumptions for TMRS members are based on the assumptions that were developed for the defined benefit plan in which the City participates. The assumptions are based on the experience study covering the four-year period ending December 31, 2018 as conducted for the Texas Municipal Retirement Plan (TMRS). The assumptions for firefighters are based on the pension valuation report provided by the City as of December 31, 2021.

Discount Rate

The discount rate used to measure the Total OPEB Liability was 6.25%. Projected benefit payments are required to be discounted to their actuarial present values using a Single Discount that reflects (1) a long-term expected rate of return on OPEB plan investments (to the extent that the plan's fiduciary net position is projected to be sufficient to pay benefits), and (2) tax-exempt municipal bond rate based on an index of 20-year general obligation bonds with an average AA credit rating as of the measurement date (to the extent that the contributions for use with the long-term expected rate of return are not met).

For the purpose of this valuation, the expected rate of return on OPEB plan investments is 6.25%; the municipal bond rate is 4.05% (based on the daily rate closest to but not later than the measurement date of the Fidelity "20-Year Municipal GO AA Index"); and the resulting Single Discount Rate is 6.25%.

The City is expected to consistently fund the actuarially determined employer contribution, which uses a closed amortization period. As a result, the plan's fiduciary net position is expected to be sufficient to pay all future benefits.

F. Post-Employment Benefits Other Than Pensions – continued

Changes in the Net OPEB Liability

	Increase (Decrease)		
	Total OPEB Liability (a)	Fiduciary Net Position (b)	Net OPEB Liability/(Asset) (a) - (b)
Balances as of December 31, 2021	$ 25,196,568	$ 18,025,524	$ 7,171,044
Changes for the year:			
Service cost	532,651	-	532,651
Interest on the total OPEB liability	1,516,111	-	1,516,111
Changes in benefit terms	-	-	-
Differences between expected and actual experience	371,763	-	371,763
Changes in assumptions	-	-	-
Employer contributions	-	3,590,759	(3,590,759)
Net investment income	-	(3,126,981)	3,126,981
Benefit payments	(2,410,244)	(2,410,244)	-
Administrative expenses	-	(43,346)	43,346
Other	-	-	-
Net Changes	10,281	(1,989,812)	2,000,093
Balances as of December 31, 2022	$ 25,206,849	$ 16,035,712	$ 9,171,137

Sensitivity Analysis

The following presents the Net OPEB Liability of the City, calculated using the discount rate of 6.25%, as well as what the City's Net OPEB Liability would be if it were calculated using a discount rate that is 1-percentage-point lower (5.25%) or 1-percentage-point higher (7.25%) than the current rate:

	1% Decrease in Discount Rate (5.25%)	Discount Rate (6.25%)	1% Increase in Discount Rate (7.25%)
Net OPEB Liability	$ 11,005,253	$ 9,171,137	$ 7,519,675

The following presents the Net OPEB Liability of the City, calculated using the assumed trend rates (7.00% declining to the ultimate rate of 4.15% after 13 years), as well as what the City's Net OPEB Liability would be if it were calculated using a trend rate that is 1-percentage-point lower (5.25% declining to the ultimate rate of 3.15% after 13 years) or 1-percentage-point higher (7.25% declining to the ultimate rate of 5.15% after 13 years) than the current rate:

	1% Decrease in Trend Rates	Current Trend Rates	1% Increase in Trend Rates
Net OPEB Liability	$ 7,496,952	$ 9,171,137	$ 11,080,247

F. Post-Employment Benefits Other Than Pensions – continued

OPEB Income

For the year ended September 30, 2023, the City recognized OPEB income of $874,835.

Components of OPEB Expense		
Service cost	$	532,651
Interest on total OPEB liability		1,516,111
Current-period benefit changes		-
Employee contributions		-
Projected earnings on OPEB plan investments		(1,162,132)
OPEB plan administrative expenses		43,346
Other changes in plan fiduciary net position		-
Recognition of current year outflow/(inflow) due to liabilities		61,971
Recognition of current year outflow/(inflow) due to assets		857,823
Amortization of prior year outflow/(inflow) due to liabilities		(2,397,351)
Amortization of prior year outflow/(inflow) due to assets		(327,254)
Total OPEB expense	$	(874,835)

Deferred Outflows of Resources and Deferred Inflows of Resources to be Recognized in OPEB expense in Future Years

At September 30, 2023, the City reported deferred outflows of resources and deferred inflows of resources related to OPEB from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual economic experience	$ 309,792	$ 4,704,532
Changes in actuarial assumptions	210,893	158,350
Difference between projected and actual investment earnings	3,123,863	754,785
Contributions subsequent to the measurement date	3,253,421	-
Total	$ 6,897,969	$ 5,617,667

The City had 3,253,421 reported as deferred outflows of resources related to OPEB resulting from contributions subsequent to the measurement date will be recognized as a reduction/(addition) of the total OPEB liability for the year ending September 30, 2024. The employer contributions include trust contributions of $3,414,159 plus the benefit payments paid by the City of $2,410,244 minus the trust reimbursements of $2,233,644. Other amounts reported as deferred outflows of resources related to OPEB will be recognized in OPEB expense as follows:

Year Ended December 31		
2023	$	(2,055,046)
2024		(1,680,876)
2025		83,479
2026		329,467
2027		61,199
Thereafter		-
	$	(3,261,777)

F. Post-Employment Benefits Other Than Pensions - continued

2. Supplemental Death Benefits Plan

Plan Description

The City also participates in a single-employer defined benefit group-term life insurance plan operated by the Texas Municipal Retirement System (TMRS) known as the Supplemental Death Benefits Fund (SDBF). Like the Defined Benefit Pension Plan, the OPEB Plan is under the general administration and management of the System with a six-member Board of Trustees. Although the Governor, with the advice and consent of the Senate, appoints the Board, TMRS is not fiscally dependent on the State of Texas.

This is a voluntary program in which participating member cities may elect, by ordinance, to provide group-term life insurance coverage for their active members, including or not including retirees. The City may terminate coverage under and discontinue participation in the SDBF by adopting an ordinance before November 1 of any year to be effective the following January 1.

TMRS issues a publicly available annual comprehensive financial report (ACFR) that can be obtained at *www.tmrs.com*.

Benefits Provided

Payments from this fund are similar to group term life insurance benefits, and are paid to the designated beneficiaries upon the receipt of an approved application for payment. The death benefit for active employees provides a lump-sum payment approximately equal to the employee's annual salary (calculated based on the employee's actual earnings, for the 12-month period preceding the month of death). The death benefit for retirees is considered an "other postemployment benefit" (OPEB) and is a fixed amount of $7,500.

Employees Covered by Benefit Terms

At the December 31, 2022 valuation and measurement date, the following employees were covered by the benefit terms:

	12/31/2022	12/31/2021
Inactive employees currently receiving benefits	499	487
Inactive emplyees entitled to but not yet receiving benefits	81	75
Active employees	708	710
	1,288	1,272

Contributions

The member cities contributes to the SDBF at a contractually required rate as determined by an annual actuarial valuation. The rate is based on the mortality and service experience of all employees covered by the SDBF and the demographics specific to the workforce of the City. The rate is equal to the cost of providing one-year term life insurance. The funding policy for the SDBF program is to assure that adequate resources are available to meet all death benefit payments for the upcoming year. The intent is not to pre-fund retiree life insurance during employee's entire careers.

As the SDBF covers both active and retiree participants, with no segregation of assets, the SDBF is considered to be an unfunded OPEB plan (i.e. no assets are accumulated).

For calendar year 2023, the total SDB contributions rate for the City was 0.44%, while the retiree portion of the SDB contribution was 0.22%. The City's contributions for the year ended September 30, 2023, were $190,236 for the retiree portion, and $103,144 for the total SDB rate. Due to the SDBF being considered an unfunded OPEB plan, benefit payments are treated as being equal to the employer's yearly contributions for retirees.

F. Post-Employment Benefits Other Than Pensions - continued

Total OPEB Liability

The City's total OPEB liability was measured as of December 31, 2022 and was determined by an actuarial valuation as of that date.

Actuarial Assumptions

The total OPEB liability in the December 31, 2022 actuarial valuation was determined using the following actuarial assumptions:

Inflation	2.50%
Overall payroll growth	3.50% to 11.5% including inflation
Discount rate *	4.05%
Retiree's share of benefit-related costs	$0
Administrative expenses	All administrative expenses are paid through the Pension Trust and accounted for under reporting requirements of GASB Statement No. 68.
Mortality rates - service retirees	2019 Municipal Retirees of Texas Mortality Tables. The rates are projected on a fully generational basis with scale UMP
Mortality rates - disabled retirees	2019 Municipal Retirees of Texas Mortality Tables with a 4 year set-forward for males and a 3 year set-forward for females. In addition, a 3.5% and 3% minimum mortality rate will be applied to reflect the impairment for younger members who become disabled for males and females, respectively. The rates are prjected on a fully generational basis by Scale UMP to account for future mortality

* The discount rate was based on the Fidelity Index's "20-Year Municipal GO AA Index" rate as of December 31, 2022.

The actuarial cost method being used is known as the Entry Age Normal Method. This method develops the annual cost of the Plan in two parts: that attributable to benefits accruing in the current year, known as the normal cost, and that due to service earned prior to the current year, known as the amortization of the unfunded actuarial accrued liability. The normal cost and the actuarial accrued liability are calculated individually for each member. The normal cost rate for an employee is the contribution rate which, if applied to a member's compensation through their period of anticipated covered service with the municipality, would be sufficient to meet all benefits payable on their behalf. The normal cost is calculated using an entry age based on benefit service with the City. If a member has additional time-only vesting service through service with other TMRS cities or other public agencies, they retain this for determination of benefit eligibility and decrement rates. The salary-weighted average of these rates is the total normal cost rate. The unfunded actuarial accrued liability reflects the difference between the portion of projected benefits attributable to service credited prior to the valuation date and assets already accumulated.

These actuarial assumptions were developed primarily from the actuarial investigation of the experience of TMRS over the four year period from December 31, 2014 to December 31, 2018. The assumptions were adopted in 2019 and first used in the December 31, 2019 actuarial valuation.

F. Post-Employment Benefits Other Than Pensions - continued

Changes in the Total OPEB Liability

	Increase (Decrease) Total OPEB Liability
Balance at 12/31/2021	$ 3,764,277
Changes for the year:	
Service cost	167,840
Interest	69,930
Change of benefit terms	-
Difference between expected and actual experience	(32,526)
Changes of assumptions or other inputs	(1,207,422)
Benefit payments	(95,260)
Net changes	(1,097,438)
Balance at 12/31/2022	$ 2,666,839

Sensitivity of the Total OPEB Liability to Changes in the Discount Rate

The following presents the total OPEB liability of the City, calculated using the discount rate of 4.05%, would be if it were calculated using a discount rate that is 1-percentage-point lowers (3.05%) or 1-percentage-point higher (5.05%) than the current rate:

	1% Decrease in Discount Rate (3.05%)	Discount Rate (4.05%)	1% Increase in Discount Rate (5.05%)
Total OPEB Liability	$ 3,134,809	$ 2,666,839	$ 2,295,609

OPEB Expense and Deferred Outflow of Resources and Deferred Inflows of Resources Related to OPEB

For the year ended September 30, 2023, the City recognized OPEB expense of $108,356.

Components of OPEB Expense	
Service cost	$ 167,840
Interest on total OPEB liability	69,930
Changes in benefit terms	-
Employer administrative costs	-
Recognition of deferred outflows/inflows of resources:	
Differences between expected and actual experience	(57,355)
Changes in assumptions or other inputs	(72,059)
Total OPEB expense	$ 108,356

F. Post-Employment Benefits Other Than Pensions - continued

Deferred Outflows of Resources and Deferred Inflows of Resources to Be Recognized in OPEB Expense in Future Years

At September 30, 2023, the City reported deferred outflows of resources and deferred inflows of resources related to OPEB from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual economic experience	$ -	$ 84,503
Changes in actuarial assumptions	181,383	841,248
Difference between projected and actual investment earnings	-	-
Contributions subsequent to the measurement date	75,173	-
Total	$ 256,556	$ 925,751

The City had $75,173 reported as deferred outflows of resources related to OPEB resulting from contributions subsequent to the measurement date will be recognized as a reduction of the total OPEB liability for the year ending September 30, 2024. Other amounts reported as deferred outflows of resources related to OPEB will be recognized in OPEB expense as follows:

Year Ended December 31	
2023	$ (117,218)
2024	(185,305)
2025	(246,068)
2026	(195,776)
2027	-
Thereafter	-
	$ (744,367)

G. Commitments

The City invested in other projects and contracts with outside parties. The more significant of these at September 30, 2023, are as follows:

Greenwood Landfill TX, L.P. – The City established a trust fund in January 2001 to ensure the eventual closure and post-closure expenditure requirements. The trust fund will be 100% funded by Greenwood Landfill TX, L.P. (Greenwood). The initial agreement was that Greenwood would fund the trust at the annual rate of $400,000 per year for 5 years. In January 2005 the agreement was amended to reduce the annual funding rate to $36,000 per year beginning October 1, 2004 to allow Greenwood to actively pursue authorization to expand the Landfill from the appropriate regulatory agencies. The funding will be re-evaluated periodically to determine future needs. The trust is set up as an expendable trust with expenditures restricted to closure and post-closure costs. Liability for closure and post-closure costs are the responsibility of Greenwood and will be calculated annually under requirements established by the Texas Commission on Environmental Quality.

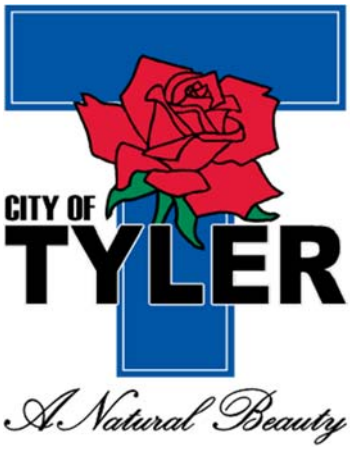
Water Sales Contracts – The City has an agreement with surrounding cities and water supply corporations to provide a supplemental source of water. The parties have established a minimum annual and monthly take or pay volume and a surcharge to water taken above maximum day volume.

H. Landfill Closure and Post-closure Costs

Greenwood Landfill – The City has contracted with a private enterprise to operate the Greenwood Landfill. The private enterprise bears the full financial responsibility of operating the landfill including all closure and post-closure costs. The operator is funding a landfill trust, which is administered by the City of Tyler and established for the future closure and post-closure costs of the Greenwood Landfill.

J. Subsequent Events

Subsequent to the year ended September 30, 2023, the City issued Water & Sewer System Revenue Bonds – Series 2023, in the amount of $62,505,000 for future water and sewer system infrastructure and improvements. Subsequent events were evaluated through March 8, 2024, the date on which the financial statements were available to be issued.


CITY OF
TYLER
A Natural Beauty

REQUIRED SUPPLEMENTARY INFORMATION

CITY OF TYLER, TEXAS
REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULE OF CHANGES IN NET PENSION LIABILITY AND RELATED RATIOS
FISCAL YEAR ENDED SEPTEMBER 30, 2023

Total pension liability	**Measurement Year 2014**	**Measurement Year 2015**	**Measurement Year 2016**	**Measurement Year 2017**	**Measurement Year 2018**	**Measurement Year 2019**	**Measurement Year 2020**	**Measurement Year 2021**	**Measurement Year 2022**
Service Cost	$ 4,665,697	$ 5,126,201	$ 5,561,888	$ 5,616,579	$ 5,645,418	$ 5,888,461	$ 6,538,350	$ 7,005,071	$ 7,462,072
Interest (on the Total Pension Liability)	14,108,492	14,704,123	14,812,165	15,456,387	16,127,408	16,704,156	17,359,476	18,090,098	19,191,678
Changes in benefit terms	-	-	-	-	-	-	-	-	-
Difference between expected and actual results	(1,004,139)	(331,903)	(473,353)	(196,987)	(1,686,661)	(1,141,178)	(159,058)	4,626,384	5,894,474
Change of assumptions	-	(478,359)	-	-	-	347,014	-	-	-
Benefit payments, including refunds of employee contributions	(9,268,702)	(9,713,879)	(10,000,772)	(10,767,252)	(11,131,440)	(12,195,107)	(12,634,794)	(13,661,415)	(13,599,266)
Net Change in Total Pension Liability	8,501,348	9,306,183	9,899,928	10,108,727	8,954,725	9,603,346	11,103,974	16,060,138	18,948,958
Total Pension Liability - Beginning	203,851,387	212,352,735	221,658,918	231,558,846	241,667,573	250,622,298	260,225,644	271,329,618	287,389,756
Total Pension Liability - Ending (a)	$ 212,352,735	$ 221,658,918	$ 231,558,846	$ 241,667,573	$ 250,622,298	$ 260,225,644	$ 271,329,618	$ 287,389,756	$ 306,338,714
Plan Fiduciary Net Position									
Contributions - Employer	$ 6,710,788	$ 7,010,794	$ 7,040,230	$ 7,170,297	$ 7,214,614	$ 7,579,707	$ 8,375,887	$ 8,969,352	$ 9,363,589
Contributions - Employee	2,227,512	2,327,022	2,388,648	2,420,194	2,438,458	2,539,876	2,801,479	2,982,695	3,175,209
Net Investment Income	8,776,879	238,696	10,912,920	23,797,094	(5,816,547)	28,874,055	16,195,750	29,723,296	(18,674,379)
Benefit payments, including refunds of employee contributions	(9,268,702)	(9,713,879)	(10,000,772)	(10,767,252)	(11,131,440)	(12,195,107)	(12,634,794)	(13,661,415)	(13,599,266)
Administrative Expense	(91,634)	(145,395)	(123,252)	(123,321)	(112,418)	(163,154)	(104,816)	(137,546)	(161,649)
Other	(7,534)	(7,181)	(6,641)	(6,250)	(5,873)	(4,901)	(4,089)	942	192,895
Net Change in Plan Fiduciary Net Position	8,347,309	(289,943)	10,211,133	22,490,762	(7,413,206)	26,630,476	14,629,417	27,877,324	(19,703,601)
Plan Fiduciary Net Position - Beginning	153,424,630	161,771,939	161,481,996	171,693,129	194,183,891	186,770,685	213,401,161	228,030,578	255,907,901
Plan Fiduciary Net Position - Ending (b)	$ 161,771,939	$ 161,481,996	$ 171,693,129	$ 194,183,891	$ 186,770,685	$ 213,401,161	$ 228,030,578	$ 255,907,901	$ 236,204,300
Net Pension Liability (Asset) - Ending (a)-(b)	$ 50,580,796	$ 60,176,922	$ 59,865,717	$ 47,483,682	$ 63,851,613	$ 46,824,483	$ 43,299,040	$ 31,481,855	$ 70,134,414
Plan Fiduciary Net Position as a Percentage of Total Pension Liability	76.18%	72.85%	74.15%	80.35%	74.52%	82.01%	84.04%	89.05%	77.11%
Covered Payroll	$ 31,816,401	$ 33,222,301	$ 34,080,198	$ 34,542,306	$ 34,783,842	$ 36,281,338	$ 39,817,416	$ 42,609,922	$ 45,362,142
Net Pension Liability as a Percentage of Covered Payroll	158.98%	181.13%	175.66%	137.47%	183.57%	129.06%	108.74%	73.88%	154.61%

Notes to Schedule:
This schedule will present 10 years information when it becomes available.

CITY OF TYLER, TEXAS
REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULE OF CONTRIBUTIONS
FISCAL YEAR ENDED SEPTEMBER 30, 2023

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Actuarially Determined Contribution	$ 6,596,251	$ 6,906,104	$ 7,323,791	$ 7,067,763	$ 7,242,722	$ 7,480,539	$ 7,930,591	$ 8,631,602	$ 9,404,910	$ 9,711,882
Contributions in relation to the actuarially determined contributions	6,596,251	6,906,104	7,323,791	7,067,763	7,242,722	7,480,539	7,930,591	8,631,602	9,404,910	9,711,604
Contribution deficiency (Overpayment)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 278
Covered payroll	$31,503,109	$ 32,746,475	$ 35,299,165	$ 34,107,320	$ 34,968,816	$ 35,884,086	$ 37,823,838	$ 41,049,345	$ 44,647,369	$ 47,037,135
Contributions as a percentage of covered payroll	20.94%	21.09%	20.75%	20.72%	20.71%	20.85%	20.97%	21.03%	21.06%	20.65%

NOTES TO SCHEDULE OF CONTRIBUTIONS

Valuation Date:	Actuarially determined contribution rates are calculated as of December 31 and become effective in January 13 months later.
Methods and Assumptions Used to Determine Contribution Rates:	
Actuarial Cost Method	Entry Age Normal
Amortization Method	Level Percentage of Payroll, Closed
Remaining Amortization Period	22 Years
Asset Valuation Method	10 Year smoothed market; 12% soft corridor
Inflation	2.50%
Salary Increases	3.50% to 11.50% including inflation
Investment Rate of Return	6.75%
Retirement Age	Experience-based table of rates that are specific to the City's plan of benefits. Last updated for the 2019 valuation pursuant to an experience study of the period 2014 - 2018.
Mortality	Post-retirement: 2019 Municipal Retirees of Texas Mortality Tables. The rates are projected on a fully generational basis with scale UMP. Pre-retirement: PUB(10) mortality tables, with the Public Safety table used for males and the General Employee table used for females. The rates are projected on a fully generational basis with scale UMP.
Other Information:	There were no benefit changes during the year.

Note: Schedule is intended to show information for 10 years. Additional years will be displayed as they become available.

CITY OF TYLER, TEXAS
REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULE OF CHANGES IN NET PENSION LIABILITY AND RELATED RATIOS
FIREFIGHTERS' RELIEF AND RETIREMENT FUND
FISCAL YEAR ENDED SEPTEMBER 30, 2023

Total pension liability	**Measurement Year 2014**	**Measurement Year 2015**	**Measurement Year 2016**	**Measurement Year 2017**	**Measurement Year 2018**	**Measurement Year 2019**	**Measurement Year 2020**	**Measurement Year 2021**	**Measurement Year 2022**
Service Cost	$ 2,135,428	$ 2,215,179	$ 2,248,539	$ 2,327,238	$ 2,303,706	$ 2,382,032	$ 2,548,466	$ 2,624,920	$ 2,802,208
Interest (on the Total Pension Liability)	5,987,025	6,277,350	6,474,280	6,684,234	6,849,003	7,121,777	7,296,397	7,506,525	7,849,328
Changes in benefit terms	-	-	-	-	158,198	-	-	-	-
Difference between expected and actual results	-	198,165	-	(1,038,495)	-	(1,839,950)	-	1,726,837	-
Change of assumptions	-	808,186	-	1,214,295	-	4,861,656	-	2,949,576	-
Benefit payments, including refunds of employee contributions	(3,413,612)	(5,498,546)	(6,299,846)	(5,814,190)	(4,940,827)	(6,247,265)	(7,770,776)	(6,275,210)	(6,505,116)
Net Change in Total Pension Liability	4,708,841	4,000,334	2,422,973	3,373,082	4,370,080	6,278,250	2,074,087	8,532,648	4,146,420
Total Pension Liability - Beginning	76,823,319	81,532,160	85,532,494	87,955,467	91,328,549	95,698,629	101,976,879	104,050,966	112,583,614
Total Pension Liability - Ending (a)	$ 81,532,160	$ 85,532,494	$ 87,955,467	$ 91,328,549	$ 95,698,629	$ 101,976,879	$ 104,050,966	$ 112,583,614	$116,730,034
Plan Fiduciary Net Position									
Contributions - Employer	$ 2,407,993	$ 2,452,070	$ 2,336,615	$ 2,405,117	$ 2,430,912	$ 2,511,677	$ 2,708,618	$ 2,739,984	$ 2,858,276
Contributions - Employee	1,522,493	1,555,182	1,512,916	1,549,098	1,568,701	1,605,481	1,722,252	1,730,935	1,794,764
Net Investment Income	2,403,790	(2,891,814)	5,091,311	9,480,792	(4,565,736)	12,119,485	9,868,054	10,095,696	(12,570,100)
Benefit payments, including refunds of employee contributions	(3,413,612)	(5,498,546)	(6,299,846)	(5,814,190)	(4,940,827)	(6,247,265)	(7,770,776)	(6,275,210)	(6,505,116)
Administrative Expense	(53,740)	(30,035)	(54,206)	(15,132)	(35,836)	(15,903)	(46,062)	(48,171)	(110,092)
Other	-	-	-	-	-	-	-	-	-
Net Change in Plan Fiduciary Net Position	2,866,924	(4,413,143)	2,586,790	7,605,685	(5,542,786)	9,973,475	6,482,086	8,243,234	(14,532,268)
Plan Fiduciary Net Position - Beginning	61,495,625	64,362,549	59,949,406	62,536,196	70,141,881	64,599,095	74,572,570	81,054,656	89,297,890
Plan Fiduciary Net Position - Ending (b)	$ 64,362,549	$ 59,949,406	$ 62,536,196	$ 70,141,881	$ 64,599,095	$ 74,572,570	$ 81,054,656	$ 89,297,890	$ 74,765,622
Net Pension Liability (Asset) - Ending (a)-(b)	$ 17,169,611	$ 25,583,088	$ 25,419,271	$ 21,186,668	$ 31,099,534	$ 27,404,309	$ 22,996,310	$ 23,285,724	$ 41,964,412
Plan Fiduciary Net Position as a Percentage of Total Pension Liability	78.94%	70.09%	71.10%	76.80%	67.50%	73.13%	77.90%	79.32%	64.05%
Covered Payroll	$ 11,272,803	$ 11,519,867	$ 11,206,785	$ 11,474,800	$ 11,620,007	$ 11,892,452	$ 12,757,422	$ 12,821,741	$ 13,294,548
Net Pension Liability as a Percentage of Covered Payroll	152.31%	222.08%	226.82%	184.64%	267.64%	230.43%	180.26%	181.61%	315.65%

Notes to Schedule:
This schedule will present 10 years information when it becomes available.

CITY OF TYLER, TEXAS
REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULE OF CONTRIBUTIONS
FIREFIGHTERS' RELIEF AND RETIREMENT FUND
FISCAL YEAR ENDED SEPTEMBER 30, 2023

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Actuarially Determined Contribution	$ 2,402,466	$ 2,448,625	$ 2,508,633	$ 2,244,357	$ 2,640,922	$ 2,525,746	$ 2,578,616	$ 2,696,067	$ 2,838,333	$ 3,228,787
Contributions in relation to the actuarially determined contributions	2,402,466	2,448,625	2,442,540	2,189,346	2,620,919	2,487,004	2,578,616	2,697,932	2,838,333	3,229,058
Contribution deficiency	$ -	$ -	$ 66,093	$ 55,011	$ 20,003	$ 38,742	$ -	$ (1,865)	$ -	$ (271)
Covered payroll	$ 11,272,803	$ 11,506,705	$ 11,963,428	$ 10,721,551	$ 12,616,845	$ 11,985,380	$ 12,160,729	$ 12,634,170	$ 13,219,703	$ 14,760,951
Contributions as a percentage of covered payroll	21.31%	21.28%	20.42%	20.42%	20.77%	20.75%	21.20%	21.35%	21.47%	21.88%

NOTES TO SCHEDULE OF CONTRIBUTIONS

Valuation Date:	Actuarially determined contribution rates are calculated as of December 31 and become effective in January 13 months later.
Methods and Assumptions Used to Determine Contribution Rates:	
Actuarial Cost Method	Entry Age
Amortization Method	Level Percentage of Payroll Method
Remaining Amortization Period	26 years
Inflation	2.75%
Salary Increases	2.75%, plus promotion, step and longevity increases that vary by service
Investment Rate of Return	7%, net of pension plan investment expense, including inflation
Retirement Age	Firefighters become eligible for normal service retirement at age 50 with 25 years of service or at age 55 with 20 years of service.
Mortality	Based on the PubS-2010 (public safety) total dataset mortality tables for employees and retirees (sex distinct), projected using projection scale MP-2019
Other Information:	There were no benefit changes during the year.

Note: Schedule is intended to show information for 10 years. Additional years will be displayed as they become available.

CITY OF TYLER, TEXAS
REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULE OF CHANGES IN NET OPEB LIABILITY AND RELATED RATIOS
HEALTH PLAN
FISCAL YEAR ENDED SEPTEMBER 30, 2023

Total OPEB liability	**Measurement Year 2017**	**Measurement Year 2018**	**Measurement Year 2019**	**Measurement Year 2020**	**Measurement Year 2021**	**Measurement Year 2022**
Service Cost	$ 617,273	$ 656,975	$ 660,205	$ 597,389	$ 578,751	$ 532,651
Interest (on the Total OPEB Liability)	2,303,993	2,317,569	2,329,351	1,780,085	1,791,868	1,516,111
Changes in benefit terms	-	-	-	-	-	-
Difference between expected and actual experience	-	(736,059)	(9,134,915)	(517,661)	(3,838,670)	371,763
Change of assumptions	-	-	(477,666)	-	316,309	-
Benefit payments	(3,459,056)	(2,005,477)	(2,112,205)	(1,479,405)	(1,859,031)	(2,410,244)
Net Change in Total OPEB Liability	(537,790)	233,008	(8,735,230)	380,408	(3,010,773)	10,281
Total OPEB Liability - Beginning	36,866,945	36,329,155	36,562,163	27,826,933	28,207,341	25,196,568
Total OPEB Liability - Ending (a)	$ 36,329,155	$ 36,562,163	$ 27,826,933	$ 28,207,341	$ 25,196,568	$ 25,206,849
Plan Fiduciary Net Position						
Contributions - Employer	$ 6,125,793	$ 2,880,184	$ 3,188,005	$ 2,119,542	$ 1,862,790	$ 3,590,759
Contributions - Employee	-	-	-	-	-	-
OPEB plan net investment income	1,042,478	(539,956)	2,019,451	1,709,041	1,869,730	(3,126,981)
Benefit payments	(3,459,056)	(2,005,477)	(2,112,205)	(1,479,405)	(1,859,031)	(2,410,244)
OPEB plan administrative Expense	(23,966)	(29,550)	(37,313)	(35,395)	(44,114)	(43,346)
Other	-	-	-	-	-	-
Net Change in Plan Fiduciary Net Position	3,685,249	305,201	3,057,938	2,313,783	1,829,375	(1,989,812)
Plan Fiduciary Net Position - Beginning	6,833,978	10,519,227	10,824,428	13,882,366	16,196,149	18,025,524
Plan Fiduciary Net Position - Ending (b)	$ 10,519,227	$ 10,824,428	$ 13,882,366	$ 16,196,149	$ 18,025,524	$ 16,035,712
Net OPEB Liability (Asset) - Ending (a)-(b)	$ 25,809,928	$ 25,737,735	$ 13,944,567	$ 12,011,192	$ 7,171,044	$ 9,171,137
Plan Fiduciary Net Position as a Percentage of Total OPEB Liability	28.96%	29.61%	49.89%	57.42%	71.54%	63.62%
Covered-Employee Payroll	$ 45,211,468	$ 45,363,280	$ 48,419,528	$ 52,976,140	$ 55,515,984	$ 58,782,015
Net OPEB Liability as a Percentage of Covered-Employee Payroll	57.09%	56.74%	28.80%	22.67%	12.92%	15.60%

Notes to Schedule:
This schedule will present 10 years information when it becomes available.

CITY OF TYLER, TEXAS
REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULE OF CONTRIBUTIONS
HEALTH PLAN
FISCAL YEAR ENDED SEPTEMBER 30, 2023

	2018	2019	2020	2021	2022	2023
Actuarially Determined Contribution	$ 2,988,214	$ 2,988,214	$ 2,748,039	$ 2,769,150	$ 1,627,754	$ 1,627,754
Contributions in relation to the actuarially determined contributions	3,226,151	3,129,268	3,414,231	3,421,369	3,413,596	4,188,625
Contribution excess	$ (237,937)	$ (141,054)	$ (666,192)	$ (652,219)	$ (1,785,842)	$ (2,560,871)
Covered-Employee Payroll	$ 44,647,862	$ 48,416,755	$ 50,375,986	$ 53,826,836	$ 57,964,136	$ 61,269,497
Contributions as a percentage of Covered-Employee Payroll	7.23%	6.46%	6.78%	6.36%	5.89%	6.84%

NOTES TO SCHEDULE OF CONTRIBUTIONS

Valuation Date:	The actuarially determined contribution for fiscal year ending September 30, 2023 was developed in the December 31, 2021 roll-forward valuation.
Methods and Assumptions Used to Determine Contribution Rates:	
Actuarial Cost Method	Individual Entry Age Normal
Amortization Method	Level Dollar
Amortization Period	Closed, 20 years as of FYE23
Asset Valuation Method	Market Value
Investment Rate of Return	6.50%, net of investment expenses, including inflation
Inflation	2.50%
Salary Increases	TMRS: 3.50% to 11.50%, including inflation FIRE: 3.50% to 9.71%, including inflation
Demographic Assumptions	TMRS: Based on the experience study covering the four-year period ending December 31, 2018 as conducted by the Texas Municipal Retirement System. FIRE: Based on the pension valuation report for the Tyler Firefighters' Relief and Retirement Fund as of December 31, 2021.
Mortality	TMRS: For healthy retirees, the gender-distinct RP-2019 Municipal Retirees of Texas mortality tables are used. The rates are projected on a fully generational basis using the ultimate mortality improvement rates in the MP tables published through 2019 to account for future mortalitiy improvements. FIRE: PubS-2010 (public safety) total dataset mortality tables for employees and retirees (sex distinct), projected using projection scale MP-2019
Participation Rates	It was assumed that 85% of future retirees who were hired before January 1, 1997 and 30% of future retirees who were hired after January 1, 1997 would choose to receive retiree health care benefits through the City.
Healthcare Cost Trend Rates	Initial rates of 7.0% declining to ultimate rates of 4.15% after 15 years.

Notes to Schedule:
(1) Schedule is intended to show information for 10 years. Additional years will be displayed as they become available.

(2) There are no assets accumulated in a trust that meets the criteria of GASB codification P22.101 or P52.101 to pay related benefits for the OPEB plan.

CITY OF TYLER, TEXAS
REQUIRED SUPPLEMENTARY INFORMATION
SCHEDULE OF CHANGES IN NET OPEB LIABILITY AND RELATED RATIOS
SUPPLEMENTAL DEATH BENEFITS PLAN
FISCAL YEAR ENDED SEPTEMBER 30, 2023

Total OPEB liability	**Measurement Year 2017**	**Measurement Year 2018**	**Measurement Year 2019**	**Measurement Year 2020**	**Measurement Year 2021**	**Measurement Year 2022**
Service Cost	$ 72,539	$ 86,960	$ 79,819	$ 115,476	$ 144,874	$ 167,840
Interest	86,877	86,971	95,473	84,548	71,588	69,930
Changes in benefit terms	-	-	-	-	-	-
Difference between expected and actual experience	-	(27,611)	(111,448)	(85,897)	(18,292)	(32,526)
Change of assumptions and other inputs	190,285	(168,451)	451,855	442,998	108,151	(1,207,422)
Benefit payments	(27,634)	(27,827)	(29,025)	(35,837)	(98,003)	(95,260)
Net Change in Total OPEB Liability	322,067	(49,958)	486,674	521,288	208,318	(1,097,438)
Total OPEB Liability - Beginning	2,275,888	2,597,955	2,547,997	3,034,671	3,555,959	3,764,277
Total OPEB Liability - Ending (a)	$ 2,597,955	$ 2,547,997	$ 3,034,671	$ 3,555,959	$ 3,764,277	$ 2,666,839
Covered Payroll	$34,542,306	$34,783,842	$36,281,338	$39,819,429	$42,609,992	$47,037,135
Net OPEB Liability as a Percentage of Covered Payroll	7.52%	7.33%	8.36%	8.93%	8.83%	5.67%

NOTES TO SCHEDULE OF CONTRIBUTIONS

Summary of Actuarial Assumptions:

Inflation	2.50%
Salary Increases	3.50% to 11.50% including inflation
Discount Rate*	4.05%
Retirees' share of benefit-related costs	$0.00
Administrative Expenses	All administrative expenses are paid through the Pension Trust and accounted for under reporting requirements under GASB Statement No. 68
Mortality Rates - Service Retirees	2019 Municipal Retirees of Texas Mortality Tables. The rates are projected on a fully generational basis with scale UMP.
Mortality Rates - Disabled Retirees	2019 Municipal Retirees of Texas Mortality Tables with a 4 year set-forward for males and a 3 year set-forward for females. In addition, a 3.5% and 3% minimum mortality rate will be applied to reflect the impairment for younger members who become disabled for males and females, respectively. The rates are projected on a fully generational basis by Scale UMP to account for future mortality improvements subject to the floor.
Other Information:	The Supplemental Death Benefits Fund is considered to be an unfunded OPEB plan (i.e. no assets are accumulated).

* The discount rate was based on the Fidelity Index's "20-Year Municipal GO AA Index" rate as of December 31, 2022.

Note: Schedule is intended to show information for 10 years. Additional years will be displayed as they become available.

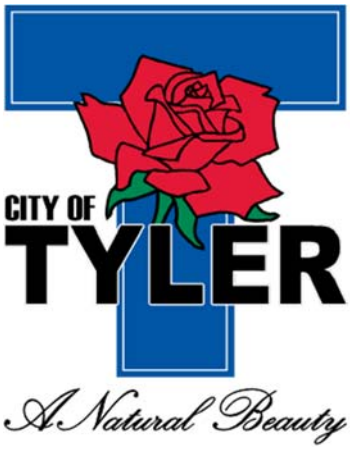
ADDITIONAL SUPPLEMENTARY INFORMATION

CITY OF TYLER, TEXAS
COMBINING BALANCE SHEET
GENERAL GOVERNMENTAL FUNDS
SEPTEMBER 30, 2023

	GENERAL	DEVELOPMENT SERVICES	TOURISM AND CONVENTION	RAINY DAY	FAIR PARKING GARAGE	ELIMINATIONS	TOTAL GENERAL GOVERNMENTAL FUNDS
ASSETS							
Cash and cash equivalents	$ 11,217,785	$ 4,507,140	$ 503,066	$ 10,211,990	$ -	$ -	$ 26,439,981
Receivables (net of allowance for doubtful accounts) :							
Property taxes	765,979	-	-	-	-	-	765,979
Other	22,281,834	69,228	3,528	47,365	-	-	22,401,955
Due from other funds	3,043,779	-	-	-	-	(724)	3,043,055
Inventories	71,734	-	-	-	-	-	71,734
Prepaid items	117,660	730	738	-	-	-	119,128
Cash and cash equivalents - restricted	17,720,914	-	-	-	-	-	17,720,914
Total assets	$ 55,219,685	$ 4,577,098	$ 507,332	$ 10,259,355	$ -	$ (724)	$ 70,562,746
LIABILITIES							
Accounts payable	$ 3,564,003	$ 106,599	$ 140,651	$ -	$ 1,004	$ -	$ 3,812,257
Due to other funds	-	-	-	-	724	(724)	-
Deposits and other refundable balances	38,706	2,013,894	15,686	5,000	-	-	2,073,286
Unearned revenue	17,742,962	-	-	-	-	-	17,742,962
Total liabilities	21,345,671	2,120,493	156,337	5,000	1,728	(724)	23,628,505
DEFERRED INFLOWS OF RESOURCES							
Unavailable revenue - property taxes	721,206	-	-	-	-	-	721,206
Unavailable revenue - fines	12,574,941	-	-	-	-	-	12,574,941
Unavailable revenue - permits	-	40,113	-	-	-	-	40,113
Total deferred inflows of resources	13,296,147	40,113	-	-	-	-	13,336,260
FUND BALANCES							
Restricted	17,720,914	-	-	-	-	-	17,720,914
Nonspendable:							
Inventories	71,734	-	-	-	-	-	71,734
Prepaid items	117,660	730	738	-	-	-	119,128
Assigned to:							
Development services	-	2,415,762	-	-	-	-	2,415,762
Capital improvements	-	-	-	-	-	-	-
Tourism and convention	-	-	350,257	-	-	-	350,257
Unassigned	2,667,559	-	-	10,254,355	(1,728)	-	12,920,186
Total fund balances	20,577,867	2,416,492	350,995	10,254,355	(1,728)	-	33,597,981
Total liabilities, deferred inflows of resources, and fund balances	$ 55,219,685	$ 4,577,098	$ 507,332	$ 10,259,355	$ -	$ (724)	$ 70,562,746

CITY OF TYLER, TEXAS
COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
GENERAL GOVERNMENTAL FUNDS
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	GENERAL	DEVELOPMENT SERVICES	TOURISM AND CONVENTION	RAINY DAY	FAIR PARKING GARAGE	ELIMINATIONS	TOTAL GENERAL GOVERNMENTAL FUNDS
REVENUES							
Taxes:							
Property	$ 27,025,622	$ -	$ -	$ -	$ -	$ -	$ 27,025,622
Franchise	11,261,210	-	-	-	-	-	11,261,210
Sales and use	41,625,717	-	-	-	-	-	41,625,717
Licenses and permits	457,240	2,369,781	-	-	-	-	2,827,021
Fines, forfeitures and penalties	3,995,667	-	-	-	-	-	3,995,667
Revenues from use of money or property	1,670,124	152,262	406,211	309,725	-	-	2,538,322
Charges for current services	2,602,577	71,638	103,882	-	-	-	2,778,097
Revenues from other agencies	847,135	15,638	-	-	-	-	862,773
Miscellaneous	692,059	222,700	19,065	54,712	-	-	988,536
Total revenues	90,177,351	2,832,019	529,158	364,437	-	-	93,902,965
EXPENDITURES							
Current:							
General government	10,189,420	39,328	-	975,144	1,764	-	11,205,656
Public safety	58,492,641	-	-	-	-	-	58,492,641
Public services	1,423,635	2,274,424	-	-	-	-	3,698,059
Highways and streets	6,371,171	-	-	-	-	-	6,371,171
Culture and recreations	6,418,840	-	2,989,526	-	-	-	9,408,366
Capital Outlay	669,081	-	54,237	-	-	-	723,318
Total expenditures	83,564,788	2,313,752	3,043,763	975,144	1,764	-	89,899,211
Excess (deficiency) of revenues over (under) expenditures	6,612,563	518,267	(2,514,605)	(610,707)	(1,764)	-	4,003,754
OTHER FINANCING SOURCES (USES)							
Other financing - SBITA's	45,548	-	-	-	-	-	45,548
Transfers in	-	-	2,500,000	3,000,000	-	(3,000,000)	2,500,000
Transfers out	(6,692,873)	-	-	(451,792)	-	3,000,000	(4,144,665)
Total other financing sources (uses)	(6,647,325)	-	2,500,000	2,548,208	-	-	(1,599,117)
Net change in fund balances	(34,762)	518,267	(14,605)	1,937,501	(1,764)	-	2,404,637
Fund balances - beginning of year	20,612,629	1,898,225	365,600	8,316,854	36	-	31,193,344
Fund balances - end of year	$ 20,577,867	$ 2,416,492	$ 350,995	$ 10,254,355	$ (1,728)	$ -	$ 33,597,981


CITY OF
TYLER
A Natural Beauty

NONMAJOR GOVERNMENTAL FUNDS

SPECIAL REVENUE FUNDS

Special Revenue Funds are used to account for specific revenues that are legally restricted to expenditures for particular purposes.

The ***Police Forfeiture Fund*** was established to account for the receipt and disbursement of funds seized by the Police Department and subsequently awarded to the City through court-ordered judgements, primarily cases involving illegal drugs.

The ***Park Improvement Fund*** was established to account for the receipt and disbursement of funds that are allocated and utilized to improve parks around the City.

The ***Court Special Fee Fund*** was established to track the receipt of court fees restricted for court technology purchases by the State of Texas.

The ***Economic Development Fund*** was established to account for the receipt and disbursement of funds to promote, encourage and enhance the creation and retention of jobs which retain and expand the City tax base.

The ***Hotel-Motel Occupancy Tax Fund*** was established to account for the receipt and disbursement of funds generated by the Hotel-Motel Occupancy Tax.

The ***Donations Fund*** was established to account for the receipt and disbursement of funds for specified miscellaneous projects.

The ***Passenger Facility Charge Fund*** was established to account for the receipt and disbursement of fees collected during the purchase of airline travel tickets and/or fees collected from the rental of vehicles at Tyler Pounds Regional Airport.

The ***Public, Educational and Governmental Access Channel (PEG) Fee Fund*** was established to account for the receipt and disbursement of funds to be spent on governmental access channel facilities and related capital items.

The ***CDBG Fund*** was established to account for the receipt and disbursement of CDBG Grant monies allocated to the City.

The ***Home Grant Fund*** was established to account for the receipt and disbursement of Home Grant monies allocated to the City to provide affordable housing for low-income households.

The ***Homeownership and Housing Fund*** was established to account for the receipt and disbursement of Homeownership and Housing funds allocated to the City.

The ***Housing Assistance Payment Fund*** was established to account for the receipt and disbursement of Department of Housing and Urban Development- Housing Assistance Payments Program Fund.

SPECIAL REVENUE FUNDS, CONTINUED

The ***State and Federal Grants Fund*** was created to account for the receipt and disbursement of Federal and State Grants for which no separate fund has been established. These are generally fairly small grants which are expended fairly quickly.

The ***Transit System Fund*** was established to account for the receipt and disbursement of Federal and State Grant Funds received for the operation of the City's Transit System.

The ***TIF/TIRZ #3 and #4 Funds*** were established to encourage economic development in the Downtown area. These Funds account for additional value and associated taxes received from the property taxand sales tax on improvements and new construction within the zones.

CAPITAL PROJECTS FUND

The ***General Capital Projects Fund*** is funded periodically by excesses remaining in the General Fund and is used to pay for one time only capital expenditures.

The ***Quality Street Improvement Fund*** is funded through $0.02 of the City's property tax rate and is used to pay for street improvements in the City as needed.

DEBT SERVICE FUND

The ***Rose Complex Debt Service Fund*** was established to account for the debt service requirements related to the revenues bond issued in 2021 to fund the construction of the Rose Complex Convention Center.

PERMANENT FUND

The ***Cemeteries Fund*** was established to provide perpetual care and maintenance to the City's cemeteries.

CITY OF TYLER, TEXAS
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEET
SEPTEMBER 30, 2023

	SPECIAL REVENUE FUND											
	POLICE FORFEITURE	PARK IMPROVEMEN	COURT SPECIAL FEE	ECONOMIC DEVELOPMENT	HOTEL-MOTEL OCCUPANCY	DONATIONS	PASSENGER FACILITY CHARGE	PEG FEE	CDBG	HOME GRANT	HOMEOWNER AND HOUSING	HOUSING ASSISTANCE PAYMENT
ASSETS												
Equity in pooled cash and investments	$ -	$ -	$ -	$ 407,323	$ 804,131	$ -	$ 406,387	$ 1,233,230	$ 30,457	$ 356,438	$ 444	$ -
Accounts and grants receivable	1,997	-	698	-	764,041	-	96	55,903	335,247	114,575	-	8,077
Inventories	-	-	-	-	-	-	-	-	-	4,450	-	-
Prepaid items	-	-	450	-	-	-	-	-	-	-	-	-
Cash - restricted	401,244	325,349	127,222	-	-	1,116,338	-	-	-	-	-	1,417,715
Total assets	$ 403,241	$ 325,349	$ 128,370	$ 407,323	$ 1,568,172	$ 1,116,338	$ 406,483	$ 1,289,133	$ 365,704	$ 475,463	$ 444	$ 1,425,792
LIABILITIES												
Accounts payable	$ -	$ 62,782	$ 10,346	$ -	$ 460,452	$ 15,334	$ -	$ 2,679	$ 259,126	$ 114,102	$ -	$ 36,295
Deposits and other refundable balances	115,093	-	-	-	-	-	-	-	-	-	-	176,889
Due to other funds	-	-	-	-	-	-	-	-	-	-	-	-
Unearned revenue	-	-	-	-	-	-	-	-	-	-	-	-
Total Liabilities	115,093	62,782	10,346	-	460,452	15,334	-	2,679	259,126	114,102	-	213,184
FUND BALANCES												
Nonspendable:												
Inventories	-	-	-	-	-	-	-	-	-	4,450	-	-
Prepaid items	-	-	450	-	-	-	-	-	-	-	-	-
Permanent fund principal	-	-	-	-	-	-	-	-	-	-	-	-
Restricted for:												
Debt service	-	-	-	-	-	-	-	-	-	-	-	-
Public safety	288,148	-	117,574	407,323	-	-	-	-	-	-	-	-
Capital improvements	-	262,567	-	-	-	-	-	-	-	-	-	-
Tourism and convention	-	-	-	-	1,107,720	-	-	-	-	-	-	-
Donor restrictions	-	-	-	-	-	1,101,004	-	-	-		-	-
Airport improvements	-	-	-	-	-	-	406,483	-	-	-	-	-
Communications	-	-	-	-	-	-	-	1,286,454	-	-	-	-
Housing assistance	-	-	-	-	-	-	-	-	-	-	444	1,212,608
Grant restrictions	-	-	-	-	-	-	-	-	106,578	356,911		-
Assign to:												
Capital projects	-	-	-	-	-	-	-	-	-	-	-	-
Cemetery maintenance	-	-	-	-	-	-	-	-	-	-	-	-
Unassigned	-	-	-	-	-	-	-	-	-	-	-	-
Total fund balances	288,148	262,567	118,024	407,323	1,107,720	1,101,004	406,483	1,286,454	106,578	361,361	444	1,212,608
Total liabilities and fund balances	$ 403,241	$ 325,349	$ 128,370	$ 407,323	$ 1,568,172	$ 1,116,338	$ 406,483	$ 1,289,133	$ 365,704	$ 475,463	$ 444	$ 1,425,792

CITY OF TYLER, TEXAS
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEET
SEPTEMBER 30, 2023

	SPECIAL REVENUE FUND					CAPITAL PROJECTS FUND		DEBT SERVICE FUND	PERMANENT FUNDS	
	STATE AND FEDERAL GRANTS	TRANSIT SYSTEM	TIF / TIRZ #3 FUND	TIF / TIRZ #4 FUND	TOTAL SPECIAL REVENUE FUNDS	GENERAL CAPITAL PROJECTS	QUALITY STREET IMPROVEMENT FUND	ROSE COMPLEX DEBT SERVICE	CEMETERIES	TOTAL NON-MAJOR GOVERNMENTAL FUNDS
ASSETS										
Equity in pooled cash and investments	$ -	$ -	$ 929,056	$ 200,976	$ 4,368,442	$ 2,322,630	$ 1,572,870	$ 3,763	$ 66,837	$ 8,334,542
Accounts and grants receivable	95,296	454,383	4,779	2,147	1,837,239	7,845	6,817	-	17,225	1,869,126
Inventories	-	-	-	-	4,450	-	-	-	-	4,450
Prepaid items	425	8,027	-	-	8,902	-	-	-	-	8,902
Cash - restricted	-	250	-	-	3,388,118	7,156	-	-	3,306,701	6,701,975
Total assets	$ 95,721	$ 462,660	$ 933,835	$ 203,123	$ 9,607,151	$ 2,337,631	$ 1,579,687	$ 3,763	$ 3,390,763	$ 16,918,995
LIABILITIES										
Accounts payable	$ 12,508	$ 194,893	$ -	$ -	$ 1,168,517	$ 419,206	$ 47,274	$ -	$ 12,541	$ 1,647,538
Accrued interest payable	-	-	-	-	-	5,202	-	-	-	5,202
Deposits and other refundable balances	-	-	-	-	291,982	-	-	-	-	291,982
Due to other funds	82,384	259,227	-	-	341,611	-	-	-	-	341,611
Unearned revenue	829	-	-	-	829	-	-	-	-	829
Total Liabilities	95,721	454,120	-	-	1,802,939	424,408	47,274	-	12,541	2,287,162
FUND BALANCES										
Nonspendable:										
Inventories	-	-	-	-	4,450	-	-	-	-	4,450
Prepaid items	-	-	-	-	450	-	-	-	-	450
Permanent fund principal	-	-	-	-	-	-	-	-	3,323,804	3,323,804
Restricted for:										
Debt service	-	-	-	-	-	-	-	3,763	-	3,763
Public safety	-	-	-	-	813,045	-	-	-	-	813,045
Capital improvements	-	-	933,835	203,123	1,399,525	-	-	-	-	1,399,525
Tourism and convention	-	-	-	-	1,107,720	-	-	-	-	1,107,720
Donor restrictions	-	-	-	-	1,101,004	-	-	-	-	1,101,004
Airport improvements	-	-	-	-	406,483	-	-	-	-	406,483
Communications	-	-	-	-	1,286,454	-	-	-	-	1,286,454
Housing assistance	-	-	-	-	1,213,052	-	-	-	-	1,213,052
Grant restrictions	-	8,540	-	-	472,029	-	-	-	-	472,029
Assign to:										
Capital projects	-	-	-	-	-	1,913,223	1,532,413	-	-	3,445,636
Unassigned	-	-	-	-	-	-	-	-	54,418	54,418
Total fund balances	-	8,540	933,835	203,123	7,804,212	1,913,223	1,532,413	3,763	3,378,222	14,631,833
Total liabilities and fund balances	$ 95,721	$ 462,660	$ 933,835	$ 203,123	$ 9,607,151	$ 2,337,631	$ 1,579,687	$ 3,763	$ 3,390,763	$ 16,918,995

CITY OF TYLER, TEXAS
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	SPECIAL REVENUE FUND											
	POLICE FORFEITURE	PARK IMPROVEMENT	COURT SPECIAL FEE	ECONOMIC DEVELOPMENT	HOTEL-MOTEL OCCUPANCY	DONATIONS	PASSENGER FACILITY CHARGE	PEG FEE	CDBG	HOME GRANT	HOUSING	HOUSING ASSISTANCE PAYMENT
REVENUES												
Taxes:												
Property	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Franchise	-	-	-	-	-	-	-	201,325	-	-	-	-
Sales and use	-	-	-	-	4,361,115	-	-	-	-	-	-	-
Licenses and permits	-	-	-	-	-	-	-	-	-	-	-	-
Grants	-	-	-	-	-	-	-	-	2,186,198	351,675	-	10,641,578
Fines, forfeitures and penalties	31,663	-	466,112	-	-	-	-	-	-	-	-	-
Revenues from use of money and property	15,450	-	3,256	12,048	34,253	-	10,245	44,363	-	-	14	55,336
Donations	-	-	-	-	-	755,453	-	-	-	-	-	-
Charges for services	-	695,325	-	-	-	-	181,838	-	-	-	-	-
Miscellaneous	-	-	-	-	500,000	-	-	-	10,943	-	-	-
Total revenues	47,113	695,325	469,368	12,048	4,895,368	755,453	192,083	245,688	2,197,141	351,675	14	10,696,914
EXPENDITURES												
Current:												
General government	-	-	-	165,000	-	51,693	-	126,923	-	-	-	1,712
Public safety	-	-	395,815	-	-	55,128	-	-	-	-	-	-
Culture and recreation	-	-	-	-	-	151,050	-	-	-	-	-	-
Public services	-	-	-	-	943,626	60,646	-	-	190,804	351,676	-	10,393,924
Capital outlay	89,899	971,782	-	-	9,004,185	78,100	-	19,373	1,995,395	-	-	-
Debt service:												
Principal	-	-	-	-	-	-	-	-	-	-	-	-
Interest and fiscal charges	2,012	-	-	-	-	-	-	-	-	-	-	-
Total expenditures	91,911	971,782	395,815	165,000	9,947,811	396,617	-	146,296	2,186,199	351,676	-	10,395,636
Excess (deficiency) of revenues over (under) expenditures	(44,798)	(276,457)	73,553	(152,952)	(5,052,443)	358,836	192,083	99,392	10,942	(1)	14	301,278
OTHER FINANCING SOURCES (USES)												
Capital lease proceeds	-	-	-	-	-	-	-	-	-	-	-	-
Transfers in	-	-	-	200,000	3,250,000	-	-	-	-	-	-	-
Transfers out	-	-	-	-	(3,117,800)	-	-	-	-	-	-	-
Total other financing sources (uses)	-	-	-	200,000	132,200	-	-	-	-	-	-	-
Change in net assets	(44,798)	(276,457)	73,553	47,048	(4,920,243)	358,836	192,083	99,392	10,942	(1)	14	301,278
Fund balances - beginning of year	332,946	539,024	44,471	360,275	6,027,963	742,168	214,400	1,187,062	95,636	361,362	430	911,330
Fund balances - end of year	$ 288,148	$ 262,567	$ 118,024	$ 407,323	$ 1,107,720	$ 1,101,004	$ 406,483	$ 1,286,454	$ 106,578	$ 361,361	$ 444	$ 1,212,608

CITY OF TYLER, TEXAS
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	SPECIAL REVENUE FUND					CAPITAL PROJECTS FUND		DEBT SERVICE	PERMANENT FUNDS	
	STATE AND FEDERAL GRANTS	TRANSIT SYSTEM	TIF / TIRZ #3 FUND	TIF / TIRZ #4 FUND	TOTAL SPECIAL REVENUE	GENERAL CAPITAL PROJECTS	QUALITY STREET IMPROVEMENT FUND	ROSE COMPLEX DEBT SERVICE	CEMETERIES	TOTAL NON-MAJOR GOVERNMENTAL FUNDS
REVENUES										
Taxes:										
Property	$ -	$ -	$ 172,979	$ 134,115	$ 307,094	$ -	$ -	$ -	$ -	$ 307,094
Franchise	-	-	-	-	201,325	-	-	-	-	201,325
Sales and use	-	-	-	-	4,361,115	-	-	-	-	4,361,115
Licenses and permits	-	-	-	-	-	-	-	-	111,929	111,929
Grants	582,190	3,081,339	-	-	16,842,980	-	-	-	-	16,842,980
Fines, forfeitures and penalties	-	-	-	-	497,775	-	-	-	-	497,775
Revenues from use of money and property	-	5,200	32,708	-	212,873	81,513	52,268	-	121,673	468,327
Donations	-	-	-	-	755,453	-	-	-	-	755,453
Charges for services	-	157,249	-	-	1,034,412	-	-	-	64,483	1,098,895
Miscellaneous	-	50,122	-	-	561,065	22,433	-	-	-	583,498
Total revenues	582,190	3,293,910	205,687	134,115	24,774,092	103,946	52,268	-	298,085	25,228,391
EXPENDITURES										
Current:										
General government	-	-	447	-	345,775	1,067,590	-	-	-	1,413,365
Public safety	-	-	-	-	450,943	-	-	-	-	450,943
Culture and recreation	-	-	-	-	151,050	-	-	-	457,218	608,268
Public services	532,197	3,937,803	-	-	16,410,676	-	-	-	-	16,410,676
Capital outlay	49,994	226,832	-	-	12,435,560	1,142,408	1,537,601	-	-	15,115,569
Debt service:										
Principal	-	-	-	-	-	-	-	230,000	-	230,000
Interest and fiscal charges	-	-	-	-	2,012	(2,157)	-	364,200	-	364,055
Total expenditures	582,191	4,164,635	447	-	29,796,016	2,207,841	1,537,601	594,200	457,218	34,592,876
Excess (deficiency) of revenues over (under) expenditures	(1)	(870,725)	205,240	134,115	(5,021,924)	(2,103,895)	(1,485,333)	(594,200)	(159,133)	(9,364,485)
OTHER FINANCING SOURCES (USES)										
Capital lease proceeds	-	-	-	-	-	-	-	-	-	-
Transfers in	-	891,706	-	-	4,341,706	1,021,792	1,829,862	592,800	404,570	8,190,730
Transfers out	-	-	-	-	(3,117,800)	-	-	-	(104,570)	(3,222,370)
Total other financing sources (uses)	-	891,706	-	-	1,223,906	1,021,792	1,829,862	592,800	300,000	4,968,360
Change in net assets	(1)	20,981	205,240	134,115	(3,798,018)	(1,082,103)	344,529	(1,400)	140,867	(4,396,125)
Fund balances - beginning of year	1	(12,441)	728,595	69,008	11,602,230	2,995,326	1,187,884	5,163	3,237,355	19,027,958
Fund balances - end of year	$ -	$ 8,540	$ 933,835	$ 203,123	$ 7,804,212	$ 1,913,223	$ 1,532,413	$ 3,763	$ 3,378,222	$ 14,631,833

CITY OF TYLER, TEXAS
POLICE FORFEITURE FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Fines, forfeitures and penalties	$ 41,000	$ 31,663	$ (9,337)
Revenues from use of money and property	22,233	15,450	(6,783)
Total revenues	63,233	47,113	(16,120)
EXPENDITURES			
Public safety:			
Supplies and services	7,000	-	7,000
Capital outlay	170,000	89,899	80,101
Debt service:			
Interest	-	2,012	(2,012)
Total expenditures	177,000	91,911	85,089
Excess of revenues over (under) expenditures - GAAP basis	$ (113,767)	(44,798)	$ 68,969
Fund balance - beginning of year		332,946	
Fund balance - end of year		$ 288,148	

CITY OF TYLER, TEXAS
PARK IMPROVEMENT FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Charges for services	$ 674,615	$ 695,325	$ 20,710
Total revenues	674,615	695,325	20,710
EXPENDITURES			
Capital outlay	1,047,374	971,782	75,592
Total expenditures	1,047,374	971,782	75,592
Excess of revenues over (under) expenditures - GAAP basis	(372,759)	(276,457)	96,302
OTHER FINANCING SOURCES (USES)			
Total other financing sources (uses)	-	-	-
Excess of revenues and other financing sources over (under) expenditures and other financing ues - GAAP basis	$ (372,759)	(276,457)	$ 96,302
Fund balance - beginning of year		539,024	
Fund balance - end of year		$ 262,567	

CITY OF TYLER, TEXAS
COURT SPECIAL FEE FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Fines, forfeitures and penalties	$ 497,000	$ 466,112	$ (30,888)
Revenues from use of money and property	4,019	3,256	(763)
Total revenues	501,019	469,368	(31,651)
EXPENDITURES			
Public safety:			
Salaries and benefits	231,855	156,666	75,189
Supplies and services	221,100	208,834	12,266
Maintenance	32,866	30,315	2,551
Total expenditures	485,821	395,815	90,006
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 15,198	73,553	$ (121,657)
Fund balance - beginning of year		44,471	
Fund balance - end of year		$ 118,024	

CITY OF TYLER, TEXAS
ECONOMIC DEVELOPMENT FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 1,500	$ 12,048	$ 10,548
Total revenues	1,500	12,048	10,548
EXPENDITURES			
General government:			
Supplies and services	208,750	165,000	43,750
Total expenditures	208,750	165,000	43,750
Excess of revenues over (under) expenditures	(207,250)	(152,952)	43,750
OTHER FINANCING SOURCES (USES)			
Transfers in	275,000	200,000	
Total other financing sources (uses)	275,000	200,000	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 67,750	47,048	$ 54,298
Fund balance - beginning of year		360,275	
Fund balance - end of year		$ 407,323	

CITY OF TYLER, TEXAS
HOTEL-MOTEL OCCUPANCY TAX FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Taxes	$ 4,273,062	$ 4,361,115	$ 88,053
Revenues from use of money and property	30,000	34,253	4,253
Miscellaneous	500,000	500,000	-
Total revenues	4,803,062	4,895,368	92,306
EXPENDITURES			
Hotel-motel administration:			
Texas Rose Festival	10,000	10,000	-
Discovery Place	32,400	32,400	-
East Texas Symphony	50,000	50,000	-
Tyler Museum of Art	35,000	35,000	-
Historical Museum	13,500	13,500	-
Historic Aviation Museum	13,500	13,500	-
Visitors and Convention Bureau	691,500	691,500	-
McClendon House	4,500	4,500	-
Sports Tyler Award	25,000	25,000	-
Supplies and services	115,500	68,226	47,274
Contingency	130,000	-	130,000
Capital outlay	8,960,000	9,004,185	(44,185)
Total expenditures	10,080,900	9,947,811	133,089
Excess of revenues over (under) expenditures - GAAP basis	(5,277,838)	(5,052,443)	225,395
OTHER FINANCING SOURCES (USES)			
Transfers in	3,250,000	3,250,000	-
Transfers out	(3,117,800)	(3,117,800)	-
Total other financing sources (uses)	132,200	132,200	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ (5,145,638)	(4,920,243)	$ 225,395
Fund balance - beginning of year		6,027,963	
Fund balance - end of year		$ 1,107,720	

CITY OF TYLER, TEXAS
DONATIONS FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Donations	$ 468,987	$ 755,453	$ 286,466
Total revenues	468,987	755,453	286,466
EXPENDITURES			
General Government			
Supplies and services	138,582	51,693	86,889
Public safety			
Supplies and services	236,041	55,128	180,913
Public services			
Supplies and services	224,930	60,646	164,284
Culture and recreation			
Supplies and services	497,098	151,050	346,048
Capital Outlay	184,388	78,100	106,288
Total expenditures	1,281,039	396,617	884,422
Excess of revenues over (under) expenditures	(812,052)	358,836	1,170,888
OTHER FINANCING SOURCES (USES)			
	-	-	-
Total other financing sources (uses)	-	-	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ (812,052)	358,836	$ 1,170,888
Fund balance - beginning of year		742,168	
Fund balance - end of year		$ 1,101,004	

CITY OF TYLER, TEXAS
PASSENGER FACILITY CHARGE FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 2,000	$ 10,245	$ 8,245
Charges for services	150,000	181,838	31,838
Total revenues	152,000	192,083	40,083
EXPENDITURES			
Public services			
Supplies and services	-	-	-
Total expenditures	-	-	-
Excess of revenues over (under) expenditures	152,000	192,083	40,083
OTHER FINANCING SOURCES (USES)			
Transfers out	(72,000)	-	72,000
Total other financing sources (uses)	(72,000)	-	72,000
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 80,000	192,083	$ 112,083
Fund balance - beginning of year		214,400	
Fund balance - end of year		$ 406,483	

CITY OF TYLER, TEXAS
PEG FEE FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Franchise fees	$ 236,293	$ 201,325	$ (34,968)
Revenues from use of money and property	7,875	44,363	36,488
Total revenues	244,168	245,688	1,520
EXPENDITURES			
General government	116,116	126,923	(10,807)
Capital outlay	200,000	19,373	180,627
Total expenditures	316,116	146,296	169,820
Excess of revenues over (under) expenditures	(71,948)	99,392	171,340
OTHER FINANCING SOURCES (USES)			
Total other financing sources (uses)	-	-	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ (71,948)	99,392	$ 171,340
Fund balance - beginning of year		1,187,062	
Fund balance - end of year		$ 1,286,454	

CITY OF TYLER, TEXAS
CDBG FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Grants	$ 2,492,793	$ 2,186,198	$ (306,595)
Miscellaneous	10,000	10,943	943
Total revenues	2,502,793	2,197,141	(305,652)
EXPENDITURES			
Public services:			
Salaries and benefits	96,747	117,731	(20,984)
Supplies and services	102,725	72,965	29,760
Premiums	50	50	-
Utilities	75	58	17
Maintenance	1,500	-	1,500
Capital outlay	2,291,696	1,995,395	296,301
Total expenditures	2,492,793	2,186,199	306,594
Excess of revenues over (under) expenditures - GAAP basis	$ 10,000	10,942	$ 942
Fund balance - beginning of year		95,636	
Fund balance - end of year		$ 106,578	

CITY OF TYLER, TEXAS
HOME GRANT FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Grants	$ 1,483,442	$ 351,675	$ (1,131,767)
Miscellaneous	672,000	-	
Total revenues	2,155,442	351,675	(1,131,767)
EXPENDITURES			
Public services:			
Homebuyers services	1,799,324	310,365	1,488,959
Salaries and benefits	10,112	28,904	(18,792)
Supplies and services	30,305	12,407	
Contingencies	266,782	-	266,782
Total expenditures	2,106,523	351,676	1,754,847
Excess of revenues over (under) expenditures - GAAP basis	$ 48,919	(1)	$ (48,920)
Fund balance - beginning of year		361,362	
Fund balance - end of year		$ 361,361	

CITY OF TYLER, TEXAS
HOMEOWNERSHIP AND HOUSING FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenue from use of money and property	$ 14	$ 14	$ -
Total revenues	14	14	-
EXPENDITURES			
Total expenditures	-	-	-
Excess of revenues over (under) expenditures	14	14	-
OTHER FINANCING SOURCES (USES)			
Total other financing sources (uses)	-	-	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 14	14	$ -
Fund balance - beginning of year		430	
Fund balance - end of year		$ 444	

CITY OF TYLER, TEXAS
HOUSING ASSISTANCE FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from other agencies	$ 9,664,763	$ 10,641,578	$ 976,815
Revenue from use of money and property	24,000	55,336	31,336
Total revenues	9,688,763	10,696,914	1,008,151
EXPENDITURES			
Governmnet services:			
General government	431,511	1,712	429,799
Public services:			
Salaries and benefits	881,380	594,902	286,478
Supplies and services	9,245,243	9,768,132	(522,889)
Utilities	18,700	15,541	3,159
Maintenance	27,500	15,349	12,151
Total expenditures	10,604,334	10,395,636	208,698
Excess of revenues over (under) expenditures - GAAP basis	$ (915,571)	301,278	$ 1,216,849
Fund balance - beginning of year		911,330	
Fund balance - end of year		$ 1,212,608	

CITY OF TYLER, TEXAS
STATE AND FEDERAL GRANTS FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from other agencies	$ 881,817	$ 582,190	$ (299,627)
Total revenues	881,817	582,190	(299,627)
EXPENDITURES			
Public services:			
Salaries and benefits	249,547	172,284	77,263
Supplies and services	581,536	359,906	221,630
Utilities	50	7	43
Capital outlay	49,994	49,994	-
Total expenditures	881,127	582,191	298,936
Excess of revenues over (under) expenditures - GAAP basis	$ 690	(1)	$ (691)
Fund balance - beginning of year		1	
Fund balance - end of year		$ -	

CITY OF TYLER, TEXAS
TRANSIT SYSTEM FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Grants	$ 4,203,764	$ 3,081,339	$ (1,122,425)
Charges for services	155,000	157,249	2,249
Revenue from use of money and property	25,000	5,200	(19,800)
Miscellaneous	34,000	50,122	16,122
Total revenues	4,417,764	3,293,910	(1,123,854)
EXPENDITURES			
Public services			
Salaries and benefits	2,144,644	1,933,220	211,424
Supplies and services	1,105,261	1,457,741	(352,480)
Utilities	73,661	45,429	28,232
Maintenance	503,549	501,413	2,136
Capital outlay	1,003,066	226,832	776,234
Total expenditures	4,830,181	4,164,635	665,546
Excess of revenues over (under) expenditures	(412,417)	(870,725)	(458,308)
OTHER FINANCING SOURCES (USES)			
Transfers in	717,713	891,706	173,993
Total other financing sources (uses)	717,713	891,706	173,993
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 305,296	20,981	$ (284,315)
Fund balance - beginning of year		(12,441)	
Fund balance - end of year		$ 8,540	

CITY OF TYLER, TEXAS
TIF / TRIZ #3 FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Taxes	$ 125,371	$ 172,979	$ 47,608
Revenue from use of money and property	3,000	32,708	29,708
Total revenues	128,371	205,687	77,316
EXPENDITURES			
Special services	5,000	447	4,553
Total expenditures	5,000	447	4,553
Excess of revenues over (under) expenditures	123,371	205,240	81,869
OTHER FINANCING SOURCES (USES)			
Transfers in	-	-	-
Total other financing sources (uses)	-	-	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 123,371	205,240	$ 81,869
Fund balance - beginning of year		728,595	
Fund balance - end of year		$ 933,835	

CITY OF TYLER, TEXAS
TIF/TIRZ #4 FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Taxes	$ 102,516	$ 134,115	$ 31,599
Revenue from use of money and property	150	-	(150)
Total revenues	102,666	134,115	31,449
EXPENDITURES			
Total expenditures	-	-	-
Excess of revenues over (under) expenditures	102,666	134,115	31,449
OTHER FINANCING SOURCES (USES)			
Total other financing sources (uses)	-	-	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 102,666	134,115	$ 31,449
Fund balance - beginning of year		69,008	
Fund balance - end of year		$ 203,123	

CITY OF TYLER, TEXAS
GENERAL CAPITAL PROJECTS FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenue from use of money and property	$ 1,000	$ 81,513	$ 80,513
Miscellaneous	8,000	22,433	14,433
Total revenues	9,000	103,946	94,946
EXPENDITURES			
General government	862,214	1,067,590	(205,376)
Capital outlay	2,541,999	1,142,408	1,399,591
Debt service			
Principal			
Interest and fiscal charges			
Total expenditures	2,541,999	2,209,998	1,399,591
Excess of revenues over (under) expenditures	(2,532,999)	(2,106,052)	1,494,537
OTHER FINANCING SOURCES (USES)			
Interest and fiscal charges	2,157	2,157	-
Transfers in	1,045,603	1,021,792	(23,811)
Total other financing sources (uses)	1,047,760	1,023,949	(23,811)
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ (1,485,239)	(1,082,103)	$ 1,470,726
Fund balance - beginning of year		2,995,326	
Fund balance - end of year		$ 1,913,223	

CITY OF TYLER, TEXAS
STREET PROJECTS FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenue from use of money and property	$ 1,394	$ 52,268	$ 50,874
Total revenues	1,394	52,268	50,874
EXPENDITURES			
Capital outlay	2,959,801	1,537,601	1,422,200
Total expenditures	2,959,801	1,537,601	1,422,200
Excess of revenues over (under) expenditures	(2,958,407)	(1,485,333)	1,473,074
OTHER FINANCING SOURCES (USES)			
Transfers in	1,829,862	1,829,862	-
Total other financing sources (uses)	1,829,862	1,829,862	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ (1,128,545)	344,529	$ 1,473,074
Fund balance - beginning of year		1,187,884	
Fund balance - end of year		$ 1,532,413	

CITY OF TYLER, TEXAS
ROSE COMPLEX DEBT SERVICE FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Miscellaneous	$ -	$ -	$ -
Total revenues	-	-	-
EXPENDITURES			
Debt Service:			
Principal	230,000	230,000	-
Interest and fiscal charges	362,800	364,200	(1,400)
Total expenditures	592,800	594,200	(1,400)
Excess of revenues over (under) expenditures	(592,800)	(594,200)	(1,400)
OTHER FINANCING SOURCES (USES)			
Transfers in	592,800	592,800	-
Total other financing sources (uses)	592,800	592,800	-
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ -	(1,400)	$ (1,400)
Fund balance - beginning of year		5,163	
Fund balance - end of year		$ 3,763	

CITY OF TYLER, TEXAS
CEMETERIES FUND
DETAILED SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Trust fund:			
Revenue from use of money and property	$ 15,000	$ 121,673	$ 106,673
Charges for services	109,600	64,483	(45,117)
Operations:			
Licenses and permits	11,369	3,150	(8,219)
Chareges for services	174,500	108,779	(65,721)
Total revenues	310,469	298,085	(12,384)
EXPENDITURES			
Operations:			
Salaries and benefits	183,363	168,685	14,678
Supplies and services	195,815	191,431	4,384
Utilities	49,000	47,647	1,353
Maintenance	42,692	49,455	(6,763)
Total expenditures	470,870	457,218	13,652
Excess of revenues over (under) expenditures	(160,401)	(159,133)	1,268
OTHER FINANCING SOURCES (USES)			
Transfers in	315,000	404,570	89,570
Transfers out	(104,570)	(104,570)	-
Total other financing sources (uses)	210,430	300,000	89,570
Excess of revenues and other financing sources over (under) expenditures and other financing uses - GAAP basis	$ 50,029	140,867	$ 90,838
Fund balance - beginning of year		3,237,355	
Fund balance - end of year		$ 3,378,222	

INTERNAL SERVICE FUNDS

Internal Service Funds are used to account for the financing of goods or services provided by one department or agency to other departments or agencies of the City on a cost-reimbursement basis.

The ***Productivity Improvement Fund*** was established to track performance pay of the City employees. This fund accounts for City University, Lean Six Sigma, and the Internal Audit functions.

The ***Fleet Maintenance and Replacement Fund*** performs maintenance and repair work on vehicles of all City departments. The Fund also acquires vehicles and equipment for use by all City departments.

The ***Property and Liability Insurance Fund*** accounts for the City's property, casualty, liability, disability and worker's compensation insurance programs.

The ***Employee Benefits Fund*** accounts for the City's self-insurance program for health anddental insurance as well as life insurance for current employees.

The ***Retiree Benefits Fund*** accounts for the City's self-insurance program for health and dental insurance as well as life insurance for retired employees.

The ***Property and Facility Management Fund*** was established to facilitate maintenance onCity's facilities including roof and HVAC repairs and replacement.

The ***Technology Fund*** was established to account for the City's investment and maintenance of technology and office automation.

CITY OF TYLER, TEXAS
INTERNAL SERVICE FUNDS
COMBINING STATEMENT OF NET POSITION
SEPTEMBER 30, 2023

	PRODUCTIVITY IMPROVEMENT	FLEET MAINTENANCE AND REPLACEMENT	PROPERTY AND LIABILITY INSURANCE	EMPLOYEE BENEFITS	RETIREE BENEFITS	PROPERTY AND FACILITY MANAGEMENT	TECHNOLOGY	TOTAL
ASSETS								
Current assets:								
Equity in pooled cash and investments	$ 2,110,331	$ 4,372,599	$ 3,004,248	$ 2,959,776	$ -	$ 1,067,783	$ 2,993,216	$ 16,507,953
Prepaid expenses	-	1,199,603	-	-	77,030	-	322	1,276,955
Accounts receivable (net)	10,936	6,607	14,544	6,360	881,059	4,615	13,238	937,359
Inventories - at average cost	-	307,210	-	-	-	-	-	307,210
Lease receivable	-	-	-	-	-	-	4,691	4,691
Total current assets	2,121,267	5,886,019	3,018,792	2,966,136	958,089	1,072,398	3,011,467	19,034,168
Noncurrent assets:								
Other post employment benefit assets	-	-	-	-	-	-	-	-
Lease receivable	-	-	-	-	-	-	118,523	118,523
Capital assets:								
Land	-	104,249	-	-	-	-	170,723	274,972
Construction in progress	-	229,151	-	-	-	132,084	-	361,235
Buildings	-	587,725	-	-	-	778,619	686,160	2,052,504
Improvements other than buildings	-	1,023,932	-	-	-	1,493,939	6,488	2,524,359
Machinery and equipment	-	46,600,092	-	-	-	546,651	11,947,654	59,094,397
Infrastructure	-	-	-	-	-	194,329	-	194,329
Subscription asset	-	-	-	-	-	-	1,421,205	1,421,205
Right-to-use lease asset	-	-				-	1,009,016	1,009,016
Less: accumulated depreciation and amortization	-	(27,703,827)	-	-	-	(1,417,840)	(12,234,813)	(41,356,480)
Total capital assets, net of accumulated depreciation	-	20,841,322	-	-	-	1,727,782	3,006,433	25,575,537
Total assets	2,121,267	26,727,341	3,018,792	2,966,136	958,089	2,800,180	6,136,423	44,728,228
DEFERRED OUTFLOWS OF RESOURCES								
Deferred outflows related to pensions	58,239	692,986	120,022	104,959	25,326	115,364	1,013,376	2,130,272
Deferred outflows related to OPEB	9,871	117,458	20,343	17,790	4,047	19,554	171,763	360,826
Total deferred outflows of resources	68,110	810,444	140,365	122,749	29,373	134,918	1,185,139	2,491,098
LIABILITIES								
Current liabilities:								
Accounts and contracts payable	42,920	505,575	43,426	29,920	7,251	58,178	175,860	863,130
Insurance claims payable	-	-	774,113	465,331	57,831	-	-	1,297,275
Due to other funds	-	-	-	-	814,089	-	-	814,089
Accrued interest payable	-	4,428	-	-	-	-	25,707	30,135
Current portion of compensated absences payable	327	2,938	896	-	-	2,283	5,652	12,096
Current portion of lease liability	-	-	-	-	-	-	193,458	193,458
Current portion of SBITA payable						-	547,817	547,817
Total current liabilities	43,247	512,941	818,435	495,251	879,171	60,461	948,494	3,758,000
Noncurrent liabilities:								
Compensated absences payable	7,853	70,514	21,503	-	-	54,793	135,654	290,317
Net pension obligation	96,766	1,151,422	199,421	174,394	42,081	191,681	1,683,761	3,539,526
Net OPEB obligation	16,334	194,348	33,660	29,436	6,697	32,354	284,202	597,031
SBITA payable	-	-	-	-	-		84,510	84,510
Lease liability	-	-	-	-	-	-	362,815	362,815
Total noncurrent liabilities	120,953	1,416,284	254,584	203,830	48,778	278,828	2,550,942	4,874,199
Total Liabilities	164,200	1,929,225	1,073,019	699,081	927,949	339,289	3,499,436	8,632,199
DEFERRED INFLOWS OF RESOURCES								
Deferred inflows related to OPEB	10,806	128,582	22,269	19,475	4,431	21,405	188,029	394,997
Deferred inflows related to pensions	17,382	206,832	35,822	31,327	7,559	34,432	302,457	635,811
Deferred Inflows related to leases	-	-	-	-	-	-	122,189	122,189
Total deferred inflows of resources	28,188	335,414	58,091	50,802	11,990	55,837	612,675	1,152,997
NET POSITION								
Net investment in capital assets	-	20,841,322	-	-	-	1,727,782	1,817,833	24,386,937
Unrestricted	1,996,989	4,431,824	2,028,047	2,339,002	47,523	812,190	1,391,618	13,047,193
Total net position	$ 1,996,989	$ 25,273,146	$ 2,028,047	$ 2,339,002	$ 47,523	$ 2,539,972	$ 3,209,451	$ 37,434,130

CITY OF TYLER, TEXAS
INTERNAL SERVICE FUNDS
COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	PRODUCTIVITY IMPROVEMENT	FLEET MAINTENANCE AND REPLACEMENT	PROPERTY AND LIABILITY INSURANCE	EMPLOYEE BENEFITS	RETIREE BENEFITS	PROPERTY AND FACILITY MANAGEMENT	TECHNOLOGY	ELIMINATIONS	TOTAL
OPERATING REVENUES									
Charges for services	$ 550,000	$ 13,569,287	$ 3,904,727	$ 5,949	$ -	$ 587,957	$ 7,162,787	$ -	$ 25,780,707
Contributions	-	-	67,535	12,346,505	687,323	-	-	-	13,101,363
Miscellaneous	-	485,200	101,682	6,252,920	2,374,747	-	248,359	-	9,462,908
Total operating revenues	550,000	14,054,487	4,073,944	18,605,374	3,062,070	587,957	7,411,146	-	48,344,978
OPERATING EXPENSES									
Garage operations	-	8,580,511	-	-	-	-	-	-	8,580,511
Depreciation and amortization	-	3,868,300	-	-	-	198,101	1,187,707	-	5,254,108
Insurance claims	-	-	2,141,621	14,606,650	1,806,008	-	-	-	18,554,279
Administrative	102,414	-	161,987	1,624,883	1,275,892	259,686	5,431,669	-	8,856,531
Special services	493,733	-	-	1,767,261	25,202	-	-	-	2,286,196
Maintenance	-	-	-	-	-	483,213	-	-	483,213
Total operating expenses	596,147	12,448,811	2,303,608	17,998,794	3,107,102	941,000	6,619,376	-	44,014,838
Operating income (loss)	(46,147)	1,605,676	1,770,336	606,580	(45,032)	(353,043)	791,770	-	4,330,140
NON-OPERATING REVENUES (EXPENSES)									
Revenues from use of money and property	87,421	124,869	89,028	67,139	-	63,461	124,607	-	556,525
Gain (loss) on sale of assets	-	(207,276)	-	-	-	-	-	-	(207,276)
Interest expense	-	(13,417)	-	-	-	-	(30,728)	-	(44,145)
Total non-operating revenues (expenses)	87,421	(95,824)	89,028	67,139	-	63,461	93,879	-	305,104
Income (loss) before transfers	41,274	1,509,852	1,859,364	673,719	(45,032)	(289,582)	885,649	-	4,635,244
Transfers in	-	-	-	-	-	227,611	-	-	227,611
Transfers out	-	-	-	-	-	-	-	-	-
Change in net position	41,274	1,509,852	1,859,364	673,719	(45,032)	(61,971)	885,649	-	4,862,855
Net position - beginning of year	1,955,715	23,763,294	168,683	1,665,283	92,555	2,601,943	2,323,802	-	32,571,275
Net position - end of year	$ 1,996,989	$ 25,273,146	$ 2,028,047	$ 2,339,002	$ 47,523	$ 2,539,972	$ 3,209,451	$ -	$ 37,434,130

CITY OF TYLER, TEXAS
INTERNAL SERVICE FUNDS
COMBINING STATEMENT OF CASH FLOWS
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	PRODUCTIVITY IMPROVEMENT	FLEET MAINTENANCE AND REPLACEMENT	PROPERTY AND LIABILITY INSURANCE	EMPLOYEE BENEFITS	RETIREE BENEFITS	PROPERTY AND FACILITY MANAGEMENT	TECHNOLOGY	ELIMINATIONS	TOTAL
CASH FLOWS FROM OPERATING ACTIVITIES									
Cash received from customers and users	$ 541,552	$ 14,056,655	$ 4,060,610	$ 18,508,096	$ 2,339,673	$ 583,342	$ 7,401,639	$ -	$ 47,491,567
Cash paid to suppliers for goods and services	(375,326)	(9,447,984)	(5,135)	(3,131,965)	(1,801,421)	(504,876)	(3,728,072)	-	(18,994,779)
Cash paid to employees for services	(397,004)	(1,302,300)	(193,089)	(24,064)	(32,786)	(250,914)	(1,449,638)	-	(3,649,795)
Insurance claims paid	-	-	(2,231,058)	(14,814,599)	(1,319,555)	-	-	-	(18,365,212)
Net cash provided by (used in) operating activities	(230,778)	3,306,371	1,631,328	537,468	(814,089)	(172,448)	2,223,929	-	6,481,781
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES									
Advances from (to) other funds	-	-	-	-	814,089	-	-	-	814,089
Transfers in from other funds	-	-	-	-	-	227,611	-	-	227,611
Transfers out to other funds	-	-	-	-	-	-	-	-	-
Net cash provided by (used in) non-capital financing activities	-	-	-	-	814,089	227,611	-	-	1,041,700
CASH FLOWS FROM CAPITAL & RELATED FINANCING ACTIVITIES									
Acquisition, construction, and retirement of capital assets	-	(7,612,599)	-	-	-	(222,633)	(879,170)	-	(8,714,402)
Interest paid	-	(13,417)	-	-	-	-	(24,321)	-	(37,738)
Payment on subscription (SBITA) liabilities	-	-	-	-	-	-	(791,765)		(791,765)
Payment of lease liabilities	-	-	-	-	-	-	(190,220)	-	(190,220)
Proceeds from sale of assets	-	560,163	-	-	-	-	-	-	560,163
Net cash provided by (used in) capital and related financing activities	-	(7,065,853)	-	-	-	(222,633)	(1,885,476)	-	(9,173,962)
CASH FLOWS FROM INVESTING ACTIVITIES									
Interest and dividends	87,421	124,869	89,028	67,139	-	63,461	124,607	-	556,525
Net cash provided by investing activities	87,421	124,869	89,028	67,139	-	63,461	124,607	-	556,525
Net increase (decrease) in cash and cash equivalents	(143,357)	(3,634,613)	1,720,356	604,607	-	(104,009)	463,060	-	(1,093,956)
Cash and cash equivalents - beginning of year	2,253,688	8,007,212	1,283,892	2,355,169	-	1,171,792	2,530,156	-	17,601,909
Cash and cash equivalents - end of year	$ 2,110,331	$ 4,372,599	$ 3,004,248	$ 2,959,776	$ -	$ 1,067,783	$ 2,993,216	$ -	$ 16,507,953

CITY OF TYLER, TEXAS
INTERNAL SERVICE FUNDS
COMBINING STATEMENT OF CASH FLOWS
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

Reconciliation of Operating Income to Net Cash Provided by (used in) Operating Activities

	PRODUCTIVITY IMPROVEMENT	FLEET MAINTENANCE AND REPLACEMENT	PROPERTY AND LIABILITY INSURANCE	EMPLOYEE BENEFITS	RETIREE BENEFITS	PROPERTY AND FACILITY MANAGEMENT	TECHNOLOGY	TOTAL
Operating income (loss)	$ (46,147)	$ 1,605,676	$ 1,770,336	$ 606,580	$ (45,032)	$ (353,043)	$ 791,770	$ 4,330,140
Adjustments to reconcile operating income (loss) to net cash provided by (used in) operating activities:								
Depreciation expense	-	3,868,300	-	-	-	198,101	1,187,707	5,254,108
(Increase) decrease in accounts receivable	(8,448)	2,168	(13,334)	(6,200)	(722,397)	(4,615)	(9,507)	(762,333)
(Increase) decrease in prepaid expenses	611	(1,199,603)	-	-	(4,528)	-	203	(1,203,317)
(Increase) decrease in inventories	-	47,076	-	-	-	-	-	47,076
(Increase) decrease in net pension asset	-	-	-	24,190	-	-	-	24,190
(Increase) decrease in deferred outflows related to pensions	31,890	(598,944)	(136,220)	(117,884)	(32,550)	(91,424)	(943,636)	(1,888,768)
(Increase) decrease in deferred outflows related to OPEB	(55,220)	(96,413)	(20,343)	(16,606)	(3,552)	(16,441)	(343,928)	(552,503)
Increase (decrease) in accounts payable	14,673	(963,403)	8,768	(2,263)	(2,363)	26,397	58,064	(860,127)
Increase (decrease) in claims payable	-	-	(98,205)	(207,949)	(84,801)	-	-	(390,955)
Increase (decrease) in accrued interest payable	-	-	-	-	-	-	-	-
Increase (decrease) in compensated absences payable	(2,207)	(8,335)	6,817	-	-	1,071	(3,987)	(6,641)
Increase (decrease) in post employment benefits liability	(53,356)	8,432	(4,143)	27,879	15,977	(2,001)	67,485	60,273
Increase (decrease) in deferred inflows related to pensions	(6,003)	79,895	35,822	23,693	4,464	(3,803)	167,273	301,341
Increase (decrease) in deferred inflows related to OPEB	(9,154)	(333)	(19,813)	9,323	(171)	14,204	104,161	98,217
Increase (decrease) in net pension obligation	(97,417)	561,855	101,643	196,705	60,864	59,106	1,148,324	2,031,080
Total adjustments	(184,631)	1,700,695	(139,008)	(69,112)	(769,057)	180,595	1,432,159	2,151,641
Net cash provided by (used in) operating activities	$ (230,778)	$ 3,306,371	$ 1,631,328	$ 537,468	$ (814,089)	$ (172,448)	$ 2,223,929	$ 6,481,781

CITY OF TYLER, TEXAS
PRODUCTIVITY IMPROVEMENT FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUDGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 45,428	$ 87,421	$ 41,993
Charges for services	550,000	550,000	-
Total revenues	595,428	637,421	41,993
Transfers in	-	-	-
Total revenues - budget and GAAP basis	$ 595,428	$ 637,421	$ 41,993
EXPENSES			
Salaries and benefits	$ 265,679	$ 265,101	$ 578
Supplies and services	29,517	26,573	2,944
Special services	1,094,714	493,733	600,981
Total expenses - budget basis	$ 1,389,910	$ 785,407	$ 604,503
Financial statement adjustments:			
Adjustment for net pension liability		5,037	
Adjustment for OPEB liability		(194,297)	
Total expenses - GAAP basis		$ 596,147	

CITY OF TYLER, TEXAS
FLEET MAINTENANCE AND REPLACEMENT FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 40,000	$ 124,869	$ 84,869
Current service charges	16,424,911	13,569,287	(2,855,624)
Miscellaneous	1,000	485,200	484,200
Sale of assets	308,000	560,163	252,163
Total revenues	16,773,911	14,739,519	(2,034,392)
Transfers out - COGS	-	-	-
Transfers in	-	-	-
Total revenues - budget basis	$ 16,773,911	14,739,519	$ (2,034,392)
Financial statement adjustments:			
Retirement of assets sold		(767,439)	
Total revenues - GAAP basis		$ 13,972,080	
EXPENSES			
Garage administration and operations:			
Salaries and benefits	$ 1,416,369	$ 1,188,418	$ 227,951
Supplies and services	7,080,911	7,138,015	(57,104)
Utilities	66,382	75,397	(9,015)
Maintenance	420,170	237,606	182,564
Capital outlay	11,957,525	9,443,805	2,513,720
Total garage administration and operations	20,941,357	18,083,241	2,858,116
Total expenses - budget basis	$ 20,941,357	18,083,241	$ 2,858,116
Financial statement adjustments:			
Adjustment for net pension liability		59,939	
Adjust OPEB assets and liabilities		(105,447)	
Capital outlay items not expensed		(9,443,805)	
Depreciation expense		3,868,300	
Total expenses - GAAP basis		$ 12,462,228	

CITY OF TYLER, TEXAS
PROPERTY AND LIABILITY INSURANCE FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUDGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 20,000	$ 89,028	$ 69,028
Collections - subrogation	1,500	101,682	100,182
Charges for services	3,811,838	3,904,727	92,889
Income from other agencies	-	67,535	
Total revenues - budget and GAAP basis	$ 3,833,338	$ 4,162,972	$ 262,099
EXPENSES			
Claims and premiums	$ 2,982,410	$ 2,141,621	$ 840,789
Administrative	398,261	205,041	193,220
	3,380,671	2,346,662	1,034,009
Transfers out	-	-	-
Total expenses - budget basis	$ 3,380,671	$ 2,346,662	$ 1,034,009
Financial statement adjustments:			
Adjustment for net pension liability		10,381	
Adjustment for OPEB liability		(53,435)	
Total expenses - GAAP basis		$ 2,303,608	

CITY OF TYLER, TEXAS
EMPLOYEE BENEFITS FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUDGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 28,794	$ 67,139	$ 38,345
Charges for services	24,949	5,949	(19,000)
Contributions from City of Tyler	12,220,546	9,953,790	(2,266,756)
Contributions from employees	2,825,698	2,392,715	(432,983)
Income from other agencies	-	91,078	91,078
Miscellaneous	800,000	6,161,842	5,361,842
Total revenues - budget and GAAP basis	$ 15,899,987	$ 18,672,513	$ 2,772,526
EXPENSES			
Employee insurance fund administration:			
Special services	$ 1,082,109	$ 1,767,261	$ (685,152)
Claims	12,835,159	14,306,802	(1,471,643)
Contributions	75,000	15,000	
Administrative	1,308,595	1,462,583	(153,988)
Life insurance	266,015	299,848	(33,833)
Total expenses - budget and GAAP basis	$ 15,566,878	17,851,494	$ (2,344,616)
Financial statement adjustments:			
Adjustment for net pension liability		9,078	
Adjustment for OPEB liability		138,222	
Total expenses - GAAP basis		$ 17,998,794	

CITY OF TYLER, TEXAS
RETIREE BENEFITS FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUDGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 2,486	$ -	$ (2,486)
Contributions from retirees	753,645	687,323	(66,322)
Contributions - OPEB Trust and RDS Reimbursement	2,189,428	2,374,747	185,319
Total revenues - budget and GAAP basis	$ 2,945,559	$ 3,062,070	$ 116,511
EXPENSES			
Employee insurance fund administration:			
Special services	$ 30,000	$ 25,202	$ 4,798
Claims	1,553,302	1,806,008	(252,706)
Administrative fees	1,340,040	1,199,172	140,868
Life insurance	36,571	31,688	4,883
Total expenses - budget and GAAP basis	$ 2,959,913	3,062,070	$ (102,157)
Financial statement adjustments:			
Adjustment for net pension liability		32,885	
Adjustment for OPEB liability		12,147	
Total expenses - GAAP basis		$ 3,107,102	

CITY OF TYLER, TEXAS
PROPERTY AND FACILITY MANAGEMENT FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 24,000	$ 63,461	$ 39,461
Charges for services	588,305	587,957	(348)
Total revenues	612,305	651,418	39,113
Transfers in	227,611	227,611	-
Total revenues - budget and GAAP basis	$ 839,916	$ 879,029	$ 39,113
EXPENSES			
Salaries and benefits	$ 189,068	$ 201,631	$ (12,563)
Supplies and services	103,775	98,414	5,361
Maintenance	533,045	483,213	49,832
Capital Outlay	700,555	222,634	477,921
Total property and facility administration	1,526,443	1,005,892	520,551
Transfers out	-	-	-
Total expenses - budget basis	$ 1,526,443	1,005,892	$ 520,551
Financial statement adjustments:			
Adjust OPEB assets and liabilities		(21,816)	
Adjustment for net pension liability		(18,543)	
Capital outlay items not expensed		(222,634)	
Depreciation expense		198,101	
Total expenses - GAAP basis		$ 941,000	

CITY OF TYLER, TEXAS
TECHNOLOGY FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money and property	$ 36,275	$ 124,607	$ 88,332
Charges for services	7,262,787	7,162,787	(100,000)
Miscellaneous	187,768	248,359	60,591
Total revenues - budget and GAAP basis	$ 7,486,830	$ 7,535,753	$ 48,923
EXPENSES			
Office technology fund administration:			
Salaries and benefits	$ 1,666,728	$ 1,645,330	$ 21,398
Supplies and services	942,935	15,434	927,501
Utilities	150	54	96
Maintenance	1,430.00	1,094	336
Total office technology fund administration	2,611,243	1,661,912	949,331
Office technology services:			
Supplies and services	2,225,918	1,508,930	716,988
Utilities	202,616	131,279	71,337
Maintenance	2,992,733	2,743,068	249,665
Capital outlay	-	879,170	(879,170)
Total office technology services	5,421,267	5,262,447	158,820
Transfers out	0	0	-
Total expenses - budget basis	$ 8,032,510	6,924,359	$ 1,108,151
Financial statement adjustments:			
Adjustment for net pension liability		309,649	
Adjust OPEB assets and liabilities		(109,970)	
Capital outlay items not expensed		(879,170)	
Principal paid on capital leases		(813,199)	
Amortization of subscription assets		661,603	
Interest expense		30,728	
Depreciation expense		526,104	
Total expenses - GAAP basis		$ 6,650,104	

FIDUCIARY FUNDS

Fiduciary Funds are used to account for assets held in a trustee or agency capacity for others and therefore cannot be used to support the government's own programs.

Employee Benefit Trust Funds

The ***Employee Benefit Trust (section 125 Plan) Fund*** is used to account for the resources accumulated and payments made on behalf of the City employees enrolled in the City's cafeteria plan administered by Health First.

The ***OPEB Trust Fund*** is used to account for the resources accumulated to meet ARC (annual required contributions) and long-term liability requirements associated with administering post-employment health, dental, and life benefits for retired employees in accordance with GASB 43 and 45.

The ***Tyler Fire Department Relief and Retirement Fund*** is used to account for the resources accumulated to be used for the retirement benefit payments to the members of the fund.

Private Purpose Trust Funds

The ***Greenwood Landfill Private-Purpose Trust Fund*** is used to accumulate resources held in trust for Allied Waste Management and is used for closure and post-closure expenses of the Greenwood Landfill. These closures and post-closure expenses will not begin occurring until many years if not decades in the future.

The ***Lindsey Trust Fund*** is used to account for the endowment fund created for the charitable purpose of making awards to police officers and firefighters employed by the City foroutstanding service and to aid them and their families injured in the line of duty.

CITY OF TYLER, TEXAS
FIDUCIARY FUNDS
EMPLOYEE BENEFIT TRUST FUNDS
COMBINING STATEMENT OF NET POSITION
SEPTEMBER 30, 2023

	EMPLOYEE BENEFIT PLAN (SECTION 125 PLAN)	OPEB TRUST	TYLER FIRE DEPARTMENT RELIEF AND RETIREMENT FUND	TOTAL
ASSETS				
Equity in pooled cash	$ 1,401,955	$ 113,650	$ 1,074,305	$ 2,589,910
Investments, at fair value				
Equities	-	-	47,459,431	47,459,431
Mutual funds	-	18,426,545	28,437,539	46,864,084
Total investments	-	18,426,545	75,896,970	94,323,515
Receivables				
Contributions receivable	971	-	193,235	194,206
Interest receivable	-	-	70,088	70,088
Total receivables	971	-	263,323	264,294
Total assets	1,402,926	18,540,195	77,234,598	97,177,719
LIABILITIES				
Accounts payable	1,106,369	-	-	1,106,369
Total liabilities	1,106,369	-	-	1,106,369
NET POSITION				
Held in trust for OPEB benefits	-	18,540,195	-	18,540,195
Held in trust for pension benefits	-	-	77,234,598	77,234,598
Held in trust for other purposes	296,557	-	-	296,557
Total net position	$ 296,557	$ 18,540,195	$ 77,234,598	$ 96,071,350

CITY OF TYLER, TEXAS
FIDUCIARY FUNDS
EMPLOYEE BENEFIT TRUST FUNDS
COMBINING STATEMENT OF CHANGES IN NET POSITION
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	EMPLOYEE BENEFIT PLAN (SECTION 125 PLAN)	OPEB TRUST	TYLER FIRE DEPARTMENT RELIEF AND RETIREMENT FUND	TOTAL
ADDITIONS				
Contributions				
Employees	$ 224,506	$ -	$ 1,906,367	$ 2,130,873
Employer	-	3,244,031	3,165,183	6,409,214
Total contributions	224,506	3,244,031	5,071,550	8,540,087
Investment income				
Interest and dividend income	-	1,528,901	2,263,805	3,792,706
Net depreciation in fair value of investments	-	50,032	5,006,793	5,056,825
Less investment expense	-	(78,320)	(256,424)	(334,744)
Total investment income	-	1,500,613	7,014,174	8,514,787
Other income	-	-	1,106,987	1,106,987
Total additions	224,506	4,744,644	13,192,711	18,161,861
DEDUCTIONS				
Reimbursement for benefit claims	-	2,161,520	-	2,161,520
Benefits	173,525	-	6,413,485	6,587,010
Total deductions	173,525	2,161,520	6,413,485	8,748,530
Change in net position	50,981	2,583,124	6,779,226	9,413,331
Net position- beginning of year	245,576	15,217,612	70,455,372	85,918,560
Net position - end of year	$ 296,557	$ 17,800,736	$ 77,234,598	$ 95,331,891

CITY OF TYLER, TEXAS
FIDUCIARY FUNDS
PRIVATE-PURPOSE TRUST FUNDS
COMBINING STATEMENT OF NET POSITION
SEPTEMBER 30, 2023

	GREENWOOD LANDFILL PRIVATE-PURPOSE TRUST	LINDSEY TRUST PRIVATE-PURPOSE TRUST	TOTAL
ASSETS			
Equity in pooled cash	$ 3,091,783	$ -	$ 3,091,783
Investments, at fair value			
Equities	-	84,101	84,101
Total investments	-	84,101	84,101
Receivables			
Interest receivable	15,879	-	15,879
Total receivables	15,879	-	15,879
Total assets	3,107,662	84,101	3,191,763
NET POSITION			
Held in trust for other purposes	$ 3,107,662	$ 84,101	$ 3,191,763

CITY OF TYLER, TEXAS
FIDUCIARY FUNDS
PRIVATE-PURPOSE TRUST FUNDS
COMBINING STATEMENT OF CHANGES IN NET POSITION
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2023

	GREENWOOD LANDFILL PRIVATE-PURPOSE TRUST	LINDSEY TRUST PRIVATE-PURPOSE TRUST	TOTAL
ADDITIONS			
Contributions	$ 36,000	$ -	$ 36,000
Investment income			
Interest and dividend income	112,150	2,239	114,389
Net appreciation in fair value of investments	-	7,871	7,871
Less investment expense	-	(3,215)	(3,215)
Total investment income	112,150	6,895	119,045
Total additions	148,150	6,895	155,045
DEDUCTIONS			
Benefits	-	-	-
Total deductions	-	-	-
Change in net position	148,150	6,895	155,045
Net position - beginning of year	2,959,512	77,206	3,036,718
Net position - end of year	$ 3,107,662	$ 84,101	$ 3,191,763

DETAILED BUDGETARY COMPARISONS

The following schedules are additional supplementary information for the General Fund and each Enterprise Fund.

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF REVENUES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
PROPERTY TAX COLLECTIONS			
Current taxes	$ 26,914,322	$ 26,604,078	$ (310,244)
Delinquent taxes	138,693	187,175	48,482
Penalty and interest	170,250	234,369	64,119
Total property tax collections	27,223,265	27,025,622	(197,643)
FRANCHISE FEES			
Franchise - light and power	4,505,044	4,589,676	84,632
Franchise - natural gas	1,047,933	1,024,361	(23,572)
Franchise - telephone	599,852	516,481	(83,371)
Franchise - cable television	1,115,349	1,006,625	(108,724)
Franchise - street use fee	1,096,561	1,166,519	69,958
Franchise - water and sewer	2,840,019	2,957,548	117,529
Total franchise fees	11,204,758	11,261,210	56,452
SALES AND USE TAXES			
General sales tax	38,919,609	40,926,266	2,006,657
Mixed drink tax	602,911	664,824	61,913
Bingo tax	46,315	34,627	(11,688)
Total sales and use taxes	39,568,835	41,625,717	2,056,882
LICENSES AND PERMITS			
Parking meter	140,513	125,724	(14,789)
Taxicab and limousine	4,000	3,850	(150)
Burglar alarm	359,000	327,666	(31,334)
Building	1,616,755	1,623,379	6,624
Electrical	185,000	269,203	84,203
Plumbing	135,000	176,717	41,717
Zoning	80,000	68,168	(11,832)
Mechanical	90,000	82,574	(7,426)
Cert. of Occupancy	30,000	24,790	(5,210)
TABC Fee	15,000	24,830	9,830
Billboard Registration	17,595	17,000	(595)
Sign	60,000	35,080	(24,920)
Contractor license	50,000	48,040	(1,960)
Total licenses and permits	2,782,863	2,827,021	44,158
FINES, FORFEITURES AND PENALTIES			
Moving violation fines	2,000,000	2,063,492	63,492
Tax service fees on fines	140,000	135,436	(4,564)
Arrest fee fines	100,000	105,753	5,753
Municipal court administrative fees	102,000	78,633	(23,367)
Warrant fees	200,000	241,061	41,061
Child safety fees	100,000	128,361	28,361
Miscellaneous municipal court fines	40,000	56,777	16,777
Special court fees	900,000	851,504	(48,496)
Collection firm fee	280,000	261,734	(18,266)
Parking fees	55,000	34,184	(20,816)
Scofflaw	12,000	6,082	(5,918)
Animal fines	9,000	9,625	625
Omnibase program	23,000	23,025	25
Total fines, forfeitures and penalties	3,961,000	3,995,667	34,667

(Continued)

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF REVENUES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES FROM USE OF MONEY OR PROPERTY			
Rent - miscellaneous	$ 938,400	$ 448,209	$ (490,191)
Distributed interest	223,980	2,090,113	1,866,133
Total revenues from use of money or property	1,162,380	2,538,322	1,375,942
CHARGES FOR CURRENT SERVICES			
Swimming pool admissions	9,500	21,746	12,246
Fire inspection fees	104,000	25,104	(78,896)
Lot mowing	61,138	47,582	(13,556)
Glass membership fees	50,000	69,503	19,503
Copying fees	20,000	17,377	(2,623)
Utility cut fees	132,000	132,000	-
Open records	33,000	24,201	(8,799)
Participant fees	20,160	9,826	(10,334)
Sports field maintenance	75,000	78,481	3,481
Recreation classes and events	50,000	58,813	8,813
Reimbursement of overhead from tourism and convention fund	47,566	47,566	-
One-Half cent administration costs	183,750	183,750	-
Reimbursement of overhead from water and sewer operating fund	1,399,273	1,399,273	-
Reimbursement of overhead from sanitation fund	259,084	129,542	(129,542)
Animal adoption fees	35,000	16,535	(18,465)
Animal shelter fees	15,000	13,678	(1,322)
Liberty hall tickets sales	69,000	103,882	34,882
Fire cost recovery	266,300	282,443	16,143
Library	56,822	45,204	(11,618)
Total charges for current services	2,966,593	2,778,097	(188,496)
REVENUES FROM OTHER AGENCIES			
State government	20,000	7,512	(12,488)
County hazardous material service	6,000	6,250	250
Prior year restitution income	-	305	305
Auto theft task force grant	124,681	125,818	1,137
Safe and Sober grant	64,000	58,777	(5,223)
School crossing guards	258,342	277,803	19,461
COPS grant	90,342	81,440	(8,902)
CLG grant	-	15,638	15,638
Police safety OOG	94,725	94,725	-
AFG Grant	82,864	82,864	-
SAFER grant	483,928	50,376	(433,552)
Fire TCLEOSE allocation	1,000	-	(1,000)
Federal JAG	25,000	33,765	8,765
Justice assistance	18,000	27,500	9,500
Total revenues from other agencies	1,268,882	862,773	(406,109)

(Continued)

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF REVENUES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
MISCELLANEOUS			
Oil and lease royalties	$ 560,000	$ 461,866	$ (98,134)
Miscellaneous charges	163,276	301,546	138,270
Unclaimed property revenue	15,000	17,168	2,168
Returned check fees	-	425	425
Funeral escorts	14,000	11,300	(2,700)
Contractor testing fees	250,000	191,700	(58,300)
Merchandise sales	32,000	19,065	(12,935)
Subdivision plan review	60,000	31,000	(29,000)
Sale of equipment	1,000	14	(986)
Total miscellaneous	1,095,276	1,034,084	(59,577)
Total revenues before other financing sources	91,233,852	93,948,513	2,714,661
OTHER FINANCING SOURCES			
Transfers in from other funds	2,500,000	2,500,000	-
Total other financing sources	2,500,000	2,500,000	-
Total revenue	$ 93,733,852	$ 96,448,513	$ 2,714,661

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF EXPENDITURES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
GENERAL GOVERNMENT			
GENERAL GOVERNMENT SERVICES			
Salaries and benefits	$ 3,025,556	$ 2,681,295	$ 344,261
Supplies and services	4,776,821	4,207,312	569,509
Utilities	88,550	89,967	(1,417)
Maintenance	32,852	30,828	2,024
Total general government services	7,923,779	7,009,402	914,377
COMMUNICATIONS			
Salaries and benefits	484,187	485,688	(1,501)
Supplies and services	123,915	105,521	18,394
Utilities	15	-	15
Maintenance	250	874	(624)
Total communications	608,367	592,083	16,284
FINANCE			
Salaries and benefits	1,002,093	993,078	9,015
Supplies and services	668,761	683,894	(15,133)
Utilities	200	38	162
Maintenance	5,450	6,224	(774)
Total finance	1,676,504	1,683,234	(6,730)
HUMAN RESOURCES			
Salaries and benefits	557,942	515,846	42,096
Supplies and services	90,262	78,227	12,035
Utilities	125	150	(25)
Total human resources	648,329	594,223	54,106
LEGAL			
Salaries and benefits	1,252,256	1,157,829	94,427
Supplies and services	219,317	180,163	39,154
Utilities	260	19	241
Maintenance	839	645	194
Total legal	1,472,672	1,338,656	134,016
INNOVATION PIPELINE			
Salaries and benefits	-	-	-
Supplies and services	3,717	3,717	-
Utilities	1,584	1,861	(277)
Maintenance	3,180	3,180	-
Total innovation pipeline	8,481	8,758	(277)
Total general government	12,338,132	11,226,356	1,111,776

(Continued)

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF EXPENDITURES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
PUBLIC SAFETY			
POLICE			
Salaries and benefits	$ 28,511,422	$ 28,302,711	$ 208,711
Supplies and services	3,160,978	2,958,438	202,540
Utilities	128,260	139,434	(11,174)
Maintenance	1,805,679	1,790,597	15,082
Total police	33,606,339	33,191,180	415,159
FIRE			
Salaries and benefits	20,445,784	20,739,965	(294,181)
Supplies and services	1,600,075	1,340,200	259,875
Utilities	154,625	188,602	(33,977)
Maintenance	924,519	663,536	260,983
Total fire	23,125,003	22,932,303	192,700
MUNICIPAL COURT			
Salaries and benefits	1,369,366	1,167,091	202,275
Supplies and services	958,764	950,122	8,642
Utilities	8,700	9,282	(582)
Maintenance	46,271	38,430	7,841
Total municipal court	2,383,101	2,164,925	218,176
COPS			
Salaries and benefits	191,521	211,470	(19,949)
Total cops	191,521	211,470	(19,949)
Total public safety	59,305,964	58,499,878	806,086
PUBLIC SERVICES			
ANIMAL SERVICES			
Salaries and benefits	1,028,359	1,016,492	11,867
Supplies and services	309,862	271,396	38,466
Utilities	28,850	25,751	3,099
Maintenance	111,135	109,996	1,139
Total animal services	1,478,206	1,423,635	54,571
PLANNING AND ZONING SERVICES			
Salaries and benefits	918,755	707,661	211,094
Supplies and services	116,148	139,148	(23,000)
Utilities	750	34	716
Total planning and zoning services	1,035,653	846,843	188,810
BUILDING SERVICES			
Salaries and benefits	1,132,962	1,057,896	75,066
Supplies and services	377,863	339,938	37,925
Utilities	400	27	373
Maintenance	35,864	33,969	1,895
Total building services	1,547,089	1,431,830	115,259
Total public services	4,060,948	3,702,308	358,640

(Continued)

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF EXPENDITURES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
HIGHWAYS AND STREETS			
ENGINEERING			
Salaries and benefits	$ 807,149	$ 692,385	$ 114,764
Supplies and services	70,271	71,994	(1,723)
Utilities	50	34	16
Maintenance	5,253	5,152	101
Total engineering	882,723	769,565	113,158
STREET ADMINISTRATION			
Salaries and benefits	2,121,014	1,681,099	439,915
Supplies and services	375,750	384,032	(8,282)
Utilities	2,750	2,646	104
Maintenance	1,034,757	1,090,779	(56,022)
Total street administration	3,534,271	3,158,556	375,715
TRAFFIC OPERATIONS			
Salaries and benefits	895,129	807,593	87,536
Supplies and services	178,189	125,566	52,623
Utilities	1,263,952	1,262,307	1,645
Maintenance	399,594	247,584	152,010
Total traffic operations	2,736,864	2,443,050	293,814
Total highways and streets	7,153,858	6,371,171	782,687
CULTURE AND RECREATION			
LIBRARY			
Salaries and benefits	1,492,962	1,448,547	44,415
Supplies and services	410,928	404,753	6,175
Utilities	50,785	53,346	(2,561)
Maintenance	59,966	57,495	2,471
Total library	2,014,641	1,964,141	50,500
PARKS ADMINISTRATION			
Salaries and benefits	1,242,874	1,191,769	51,105
Supplies and services	773,162	703,070	70,092
Utilities	602,850	620,858	(18,008)
Maintenance	511,024	555,916	(44,892)
Total parks administration	3,129,910	3,071,613	58,297

(Continued)

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF EXPENDITURES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
CULTURE AND RECREATION (cont'd)			
INDOOR RECREATION			
Salaries and benefits	$ 482,615	$ 486,094	$ (3,479)
Supplies and services	104,099	129,989	(25,890)
Utilities	100	21	79
Maintenance	55,216	54,836	380
Total indoor recreation	642,030	670,940	(28,910)
OUTDOOR RECREATION			
Salaries and benefits	193,670	189,048	4,622
Supplies and services	87,751	100,594	(12,843)
Maintenance	500	-	500
Total outdoor recreation	281,921	289,642	(7,721)
MEDIAN MAINTENANCE AND ARBORIST			
Salaries and benefits	309,670	213,892	95,778
Supplies and services	119,578	163,267	(43,689)
Maintenance	45,725	45,345	380
Total median maintenance and arborist	474,973	422,504	52,469
ROSE GARDEN CENTER			
Salaries and benefits	234,900	220,627	14,273
Supplies and services	34,503	35,943	(1,440)
Utilities	50,000	38,018	11,982
Maintenance	71,988	71,753	235
Total rose garden center	391,391	366,341	25,050
ROSE GARDEN MAINTENANCE			
Salaries and benefits	337,611	281,664	55,947
Supplies and services	136,307	199,790	(63,483)
Utilities	45,650	23,899	21,751
Maintenance	90,523	113,073	(22,550)
Total rose garden maintenance	610,091	618,426	(8,335)
VISITOR FACILITIES			
Salaries and benefits	834,674	839,383	(4,709)
Supplies and services	192,281	289,453	(97,172)
Utilities	114,075	140,174	(26,099)
Maintenance	24,544	24,502	42
Total visitor facilities	1,165,574	1,293,512	(127,938)
MAIN STREET			
Salaries and benefits	281,271	273,376	7,895
Supplies and services	211,503	181,244	30,259
Utilities	3,355	1,758	1,597
Maintenance	-	-	-
Total main street	496,129	456,378	39,751

(Continued)

CITY OF TYLER, TEXAS
GENERAL FUND
DETAILED SCHEDULE OF EXPENDITURES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
CULTURE AND RECREATION (cont'd)			
LIBERTY HALL			
Salaries and benefits	$ 76,134	$ 80,193	$ (4,059)
Supplies and services	201,073	110,620	90,453
Utilities	17,681	11,775	5,906
Maintenance	25,695	20,095	5,600
Total liberty hall	320,583	222,683	97,900
Total culture and recreation	9,527,243	9,376,180	151,063
OTHER FINANCING USES			
Transfer to transit system	717,713	891,706	(173,993)
Transfer to capital projects	1,021,792	1,021,792	-
Transfer to property and facility	101,305	101,305	-
Transfer to street projects	1,829,862	1,829,862	-
Transfer to cemeteries	300,000	300,000	-
Total other financing uses	3,970,672	4,144,665	(173,993)
Capital outlay	677,567	723,318	(45,751)
Total expenditures	$ 97,034,384	$ 94,043,876	$ 2,990,508

CITY OF TYLER, TEXAS
UTILITIES FUND
DETAILED SCHEDULE OF REVENUES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Revenues from use of money or property	$ 248,704	$ 1,188,421	$ 939,717
Charges for current services	53,293,704	53,308,796	15,092
Miscellaneous income	11,704,981	6,115,124	(5,589,857)
Total revenue - budget and GAAP basis	$ 65,247,389	$ 60,612,341	$ (4,635,048)

CITY OF TYLER, TEXAS
UTILITIES FUND
DETAILED SCHEDULE OF EXPENSES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
WATER ADMINISTRATION AND SUNDRY			
Salaries and benefits	$ 1,689,469	$ 1,578,107	$ 111,362
Supplies and services	3,854,095	3,127,151	726,944
Utilities	14,350	12,297	2,053
Maintenance	55,308	42,967	12,341
Total water administration and sundry	5,613,222	4,760,522	852,700
WATER OFFICE			
Salaries and benefits	1,535,385	1,216,949	318,436
Supplies and services	1,784,942	1,389,256	395,686
Utilities	250	100	150
Maintenance	55,539	68,117	(12,578)
Total water office	3,376,116	2,674,422	701,694
WATER DISTRIBUTION			
Salaries and benefits	2,779,545	2,913,487	(133,942)
Supplies and services	435,945	424,704	11,241
Utilities	67,764	33,545	34,219
Maintenance	965,353	1,063,727	(98,374)
Total water distribution	4,248,607	4,435,463	(186,856)
WATER PLANT			
Salaries and benefits	2,342,729	2,104,631	238,098
Supplies and services	4,802,699	4,021,642	781,057
Utilities	1,655,061	1,754,822	(99,761)
Maintenance	556,406	263,272	293,134
Total water plant	9,356,895	8,144,367	1,212,528
WASTE COLLECTION			
Salaries and benefits	1,815,416	1,971,572	(156,156)
Supplies and services	359,251	395,269	(36,018)
Utilities	275	-	275
Maintenance	996,176	939,971	56,205
Total waste collection	3,171,118	3,306,812	(135,694)
CD/CMOM (REGULATORY)			
Salaries and benefits	65,329	69,076	(3,747)
Supplies and services	4,634,134	4,333,662	300,472
Total cd/cmom (regulatory)	4,699,463	4,402,738	296,725
WASTE TREATMENT PLANT			
Salaries and benefits	2,300,813	2,136,182	164,631
Supplies and services	1,702,241	1,716,483	(14,242)
Utilities	737,140	744,456	(7,316)
Maintenance	846,122	701,093	145,029
Total waste treatment plant	5,586,316	5,298,214	288,102

(Continued)

CITY OF TYLER, TEXAS
UTILITIES FUND
DETAILED SCHEDULE OF EXPENSES - BUDGET AND ACTUAL
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
LAKE TYLER			
Salaries and benefits	$ 730,064	$ 526,734	$ 203,330
Supplies and services	362,784	234,669	128,115
Utilities	10,800	8,697	2,103
Maintenance	513,265	174,687	338,578
Total Lake Tyler	1,616,913	944,787	672,126
STORM WATER MANAGEMENT			
Salaries and benefits	974,362	1,096,756	(122,394)
Supplies and services	223,715	202,784	20,931
Utilities	6,050	4,688	1,362
Maintenance	680,625	619,822	60,803
Total storm water management	1,884,752	1,924,050	(39,298)
GEOGRAPHICAL INFORMATION SYSTEMS			
Salaries and benefits	808,373	687,027	121,346
Supplies and services	423,913	476,111	(52,198)
Total geographical information systems	1,232,286	1,163,138	69,148
SLUDGE HAULING			
Salaries and benefits	318,669	340,306	(21,637)
Supplies and services	758,508	752,976	5,532
Utilities	16,200	11,144	5,056
Maintenance	242,980	301,627	(58,647)
Total sludge hauling	1,336,357	1,406,053	(69,696)
PURCHASING			
Salaries and benefits	282,921	256,577	26,344
Supplies and services	841,396	831,677	9,719
Utilities	150	11	139
Maintenance	8,683	23,724	(15,041)
Total purchasing	1,133,150	1,111,989	21,161
Capital outlay	19,558,276	42,443,580	(22,885,304)
Principal payments on bonds	5,830,000	5,830,000	-
Interest expense	4,339,362	4,484,180	(144,818)
Transfers (in)/out	225,653	225,653	-
Total expenditures - budget basis	$ 73,208,486	92,555,968	$ (19,347,482)
Financial statement adjustments:			
Adjustment for net pension liability		424,491	
Adjustment OPEB assets and liabilities		769,046	
Capital outlay items not expensed		(42,443,580)	
Principal payments of bonds		(5,830,000)	
Amortization expense		(490,109)	
Depreciation expense		10,088,026	
Total expenditures - GAAP basis		$ 55,073,842	

CITY OF TYLER, TEXAS
SANITATION FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUDGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Franchise fees	$ 793,761	$ 873,253	$ 79,492
Revenue from use of money or property	13,365	49,244	35,879
Current service charges	16,323,264	16,262,983	(60,281)
Miscellaneous	151,188	83,287	(67,901)
Total revenues - budget basis	$ 17,281,578	17,268,767	$ (12,811)
Financial statement adjustments:			
Retirement of assets sold		-	
Total revenues - GAAP basis		$ 17,268,767	
EXPENSES			
Solid waste administration			
Salaries and benefits	$ 926,339	$ 943,999	$ (17,660)
Supplies and services	1,374,261	1,349,630	24,631
Utilities	4,937	3,531	1,406
Total solid waste administration	2,305,537	2,297,160	8,377
Residential collections			
Salaries and benefits	2,396,586	2,369,518	27,068
Supplies and services	2,780,803	2,918,799	(137,996)
Utilities	2,020	2,190	(170)
Maintenance	2,845,746	3,057,999	(212,253)
Total residential collections	8,025,155	8,348,506	(323,351)
Commercial collections			
Salaries and benefits	1,366,544	1,616,931	(250,387)
Supplies and services	2,404,690	2,531,949	(127,259)
Utilities	4,175	8,624	(4,449)
Maintenance	851,810	880,985	(29,175)
Total commercial collections	4,627,219	5,038,489	(411,270)
Litter control			
Salaries and benefits	79,895	80,440	(545)
Supplies and services	114,495	104,850	9,645
Utilities	800	1,016	(216)
Total litter control	195,190	186,306	8,884

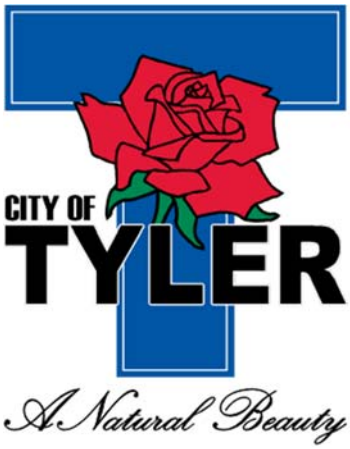
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CITY OF TYLER, TEXAS
SANITATION FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUDGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
EXPENSES (cont'd)			
Code enforcement			
Salaries and benefits	$ 976,813	$ 909,654	$ 67,159
Supplies and services	128,895	117,217	11,678
Utilities	100	15	85
Maintenance	80,162	92,213	(12,051)
Total code enforcement	1,185,970	1,119,099	66,871
Capital outlay	760,000	434,812	325,188
Transfers out	150,653	75,653	75,000
Total expenses - budget basis	$ 17,249,724	17,500,025	$ (250,301)
Financial statement adjustments:			
Adjustment for net pension liability		883,062	
Adjust OPEB assets and liabilities		(564,251)	
Capital outlay items not expensed		(434,812)	
Depreciation expense		591,465	
Total expenses - GAAP basis		$ 17,975,489	

CITY OF TYLER, TEXAS
AIRPORT FUND
DETAILED SCHEDULE OF REVENUES AND EXPENSES -
BUDGET AND ACTUAL (NON-GAAP BUDGET BASIS)
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
REVENUES			
Airport services	$ 204,600	$ 239,654	$ 35,054
Revenues from use of money and property	986,817	1,155,195	168,378
Income from other agencies	8,390,577	5,132,433	(3,258,144)
Miscellaneous revenues	14,176	20,401	6,225
Total revenues	9,596,170	6,547,683	(3,048,487)
Transfers in	72,000	306,388	234,388
Total revenues - budget and GAAP basis	$ 9,668,170	$ 6,854,071	$ (2,814,099)
EXPENSES			
Municipal airport operations			
Salaries and benefits	871,786	858,281	13,505
Supplies and services	578,887	454,587	124,300
Utilities	167,510	186,593	(19,083)
Maintenance	227,750	214,674	13,076
Total municipal airport operations	1,845,933	1,714,135	131,798
Interest expense	20,680	20,680	-
Principal payments on bonds	85,000	85,000	-
Capital outlay	2,582,863	6,221,151	(3,638,288)
Total expenses- budget basis	$ 4,534,476	8,040,966	$ (3,506,490)
Financial statement adjustments:			
Adjustment for net pension liability		5,542	
Adjust OPEB assets and liabilities		(93,698)	
Principal payments on bonds		(85,000)	
Capital outlay items not expensed		(6,221,151)	
Depreciation expense		3,334,206	
Total expenses - GAAP basis		$ 4,980,865	


CITY OF
TYLER
A Natural Beauty

STATISTICAL SECTION (UNAUDITED)

CITY OF TYLER, TEXAS
STATISTICAL SECTION

This part of the City's comprehensive annual financial report presents detailed information as a context for understanding the information in the financial statements, note disclosures, and required supplementary information says about the City's overall financial health.

Contents Pages

Financial Trends 152 - 157
These schedules contain trend information to help the reader understand how the City's financial performance and well-being have changed over time.

Revenue Capacity 158 - 162
These schedules contain trend information to help the reader assess the City's most significant local revenue sources.

Debt Capacity 163 - 168
Theses schedules contain trend information to help the reader assess the affordability of the City's current levels of outstanding debt and the City's ability to issue additional debt in the future.

Economic and Demographic Indicators 169 - 170
These schedules contain economic and demographic information to help the reader understand the environment within which the City's financial activities take place.

Operating Information 171 - 173
These schedules contain operating data to help the reader understand how the information in the City's financial reports relates to the services and the activities it performs.

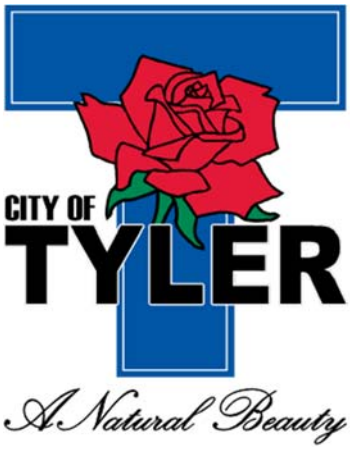

CITY OF
TYLER
A Natural Beauty

TABLE 1

CITY OF TYLER, TEXAS
NET POSITION BY COMPONENT
LAST TEN FISCAL YEARS
(accrual basis of accounting)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Governmental activities										
Invested in capital assets	$ 243,391,685	$ 248,481,237	$ 255,335,707	$ 254,071,947	$ 250,403,768	$ 257,564,279	$ 265,255,743	$ 262,616,982	$ 286,947,161	$ 302,253,762
Restricted	22,022,830	21,857,483	19,998,703	24,687,498	34,538,182	36,220,286	34,968,630	47,018,449	57,958,272	58,646,738
Unrestricted	21,104,444	(23,090,282)	(29,206,408)	(29,239,172)	(44,703,390)	(42,727,945)	(40,259,967)	(29,568,057)	(31,639,493)	(24,526,398)
Total governmental activities net position	$ 286,518,959	$ 247,248,438	$ 246,128,002	$ 249,520,273	$ 240,238,560	$ 251,056,620	$ 259,964,406	$ 280,067,374	$ 313,265,940	$ 336,374,102
Business-type activities										
Invested in capital assets	$ 161,933,656	$ 171,337,799	$ 185,888,696	$ 199,364,645	$ 207,347,257	$ 220,412,254	$ 219,486,636	$ 209,627,651	$ 203,399,552	$ 243,814,226
Restricted	19,104,927	14,620,332	13,984,060	11,622,220	17,540,832	16,738,113	28,681,236	41,650,116	51,496,593	16,720,857
Unrestricted	6,150,703	676,523	803,659	1,418,179	(989,693)	(207,880)	324,881	3,599,915	1,839,804	5,091,529
Total business-type activities net position	$ 187,189,286	$ 186,634,654	$ 200,676,415	$ 212,405,044	$ 223,898,396	$ 236,942,487	$ 248,492,753	$ 254,877,682	$ 256,735,949	$ 265,626,612
Primary government										
Invested in capital assets	$ 405,325,341	$ 419,819,036	$ 441,224,403	$ 453,436,592	$ 457,751,025	$ 477,976,533	$ 484,742,379	$ 472,244,633	$ 490,346,713	$ 546,067,988
Restricted	41,127,757	36,477,815	33,982,763	36,309,718	52,079,014	52,958,399	63,649,866	88,668,565	109,454,865	75,367,595
Unrestricted	27,255,147	(22,413,759)	(28,402,749)	(27,820,993)	(45,693,083)	(42,935,825)	(39,935,086)	(25,968,142)	(29,799,689)	(19,434,869)
Total primary government net position	$ 473,708,245	$ 433,883,092	$ 446,804,417	$ 461,925,317	$ 464,136,956	$ 487,999,107	$ 508,457,159	$ 534,945,056	$ 570,001,889	$ 602,000,714

Source: Government-wide Statement of Net Position

CITY OF TYLER, TEXAS
CHANGES IN NET POSITION
LAST TEN FISCAL YEARS
(accrual basis of accounting)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Expenses										
Governmental activities:										
General government	$ 10,788,232	$ 7,411,863	$ 10,454,415	$ 8,541,513	$ 7,135,438	$ 6,929,613	$ 8,546,671	$ 12,525,483	$ 27,066,638	$ 13,865,317
Public safety	43,241,597	42,751,866	50,776,656	50,698,376	49,127,207	54,290,654	52,163,878	47,833,820	47,800,696	59,232,613
Highways and streets	13,828,933	12,190,307	12,564,341	12,901,307	12,904,261	12,863,503	14,331,423	14,403,381	12,417,649	15,093,538
Public services	14,207,356	15,086,795	15,609,073	15,935,764	16,243,252	16,293,667	18,825,525	16,021,187	18,045,764	20,597,159
Cultures and recreation	7,737,071	9,344,668	7,933,036	7,629,494	8,284,920	8,573,123	11,208,328	8,130,411	9,554,147	11,081,250
Interest on long term debt	67,788	69,680	60,341	29,600	31,629	68,488	43,768	500,109	3,850,936	275,485
Total governmental activities expenses	89,870,977	86,855,179	97,397,862	95,736,054	93,726,707	99,019,048	105,119,593	99,414,391	118,735,830	120,145,362
Business-type activities:										
Water and sewer	31,080,132	31,574,214	32,754,688	34,766,700	37,299,452	38,465,495	39,991,263	40,830,853	50,266,374	54,848,189
Sanitation	11,474,007	11,586,745	11,997,643	12,102,806	13,182,876	13,836,676	14,135,998	13,347,311	15,083,456	17,899,836
Airport	2,839,883	3,074,982	3,421,977	3,235,501	3,057,006	3,390,497	3,735,130	4,184,540	5,192,442	4,980,865
Total business-type activities expenses	45,394,022	46,235,941	48,174,308	50,105,007	53,539,334	55,692,668	57,862,391	58,362,704	70,542,272	77,728,890
Total primary government expenses	$ 135,264,999	$ 133,091,120	$ 145,572,170	$ 145,841,061	$ 147,266,041	$ 154,711,716	$ 162,981,984	$ 157,777,095	$ 189,278,102	$ 197,874,252
Program Revenues										
Governmental activities:										
Charges for services:										
General government	$ 2,451,394	$ 2,413,406	$ 3,144,517	$ 3,666,701	$ 3,674,604	$ 2,919,670	$ 2,602,642	$ 5,228,000	$ 4,719,311	$ 5,625,573
Public safety	7,910,583	7,709,536	7,278,868	5,820,726	8,113,402	7,411,401	3,401,998	4,907,296	7,250,359	5,628,794
Highways and streets	92,034	175,622	142,380	38,880	-	-	-	-	-	-
Public services	2,449,877	2,125,553	2,317,480	2,070,577	2,015,878	2,328,149	2,832,501	2,725,747	3,484,014	3,088,347
Cultures and recreation	1,206,025	1,201,230	1,141,469	1,300,735	1,566,802	1,578,234	123,850	5,204	179,286	2,224,549
Operating grants and contributions	11,870,746	11,016,862	11,447,285	13,517,732	12,456,026	11,744,468	19,981,326	12,606,998	34,247,902	17,161,327
Capital grants and contributions	393,979	319,933	1,010,989	476,557	454,666	411,605	308,143	463,061	354,955	582,190
Total governmental activities program revenues	26,374,638	24,962,142	26,482,988	26,891,908	28,281,378	26,393,527	29,250,460	25,936,306	50,235,827	34,310,780
Business-type activities:										
Charges for services:										
Water and sewer	33,520,628	34,651,646	36,512,873	38,567,044	44,496,473	43,571,235	47,113,899	48,402,804	51,996,254	60,605,479
Sanitation	11,508,277	11,485,864	11,378,673	11,842,892	14,037,513	14,793,110	14,164,974	14,409,981	15,629,328	18,188,567
Airport	1,559,769	1,625,731	1,345,440	1,185,962	1,299,196	1,274,805	217,900	228,115	217,867	295,132
Capital grants and contributions	2,310,974	6,479,939	11,482,387	9,500,432	10,402,222	8,459,328	5,804,364	1,797,054	2,839,431	5,132,433
Total business-type activities program revenues	48,899,648	54,243,180	60,719,373	61,096,330	70,235,404	68,098,478	67,301,137	64,837,954	70,682,880	84,221,611
Total primary government program revenues	$ 75,274,286	$ 79,205,322	$ 87,202,361	$ 87,988,238	$ 98,516,782	$ 94,492,005	$ 96,551,597	$ 90,774,260	$ 120,918,707	$ 118,532,391
Net (expense)/revenue										
Governmental activities	$ (63,496,339)	$ (61,893,037)	$ (70,914,874)	$ (68,844,146)	$ (65,445,329)	$ (72,625,521)	$ (75,869,133)	$ (73,478,085)	$ (68,500,003)	$ (85,834,582)
Business-type activities	3,505,626	8,007,239	12,545,065	10,991,323	16,696,070	12,405,810	9,438,746	6,475,250	140,608	6,492,721
Total primary government net expense	$ (59,990,713)	$ (53,885,798)	$ (58,369,809)	$ (57,852,823)	$ (48,749,259)	$ (60,219,711)	$ (66,430,387)	$ (67,002,835)	$ (68,359,395)	$ (79,341,861)

CITY OF TYLER, TEXAS
CHANGES IN NET POSITION
LAST TEN FISCAL YEARS
(accrual basis of accounting)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
General Revenues and Other Changes in Net Assets										
Governmental activities:										
Property taxes	$ 15,458,985	$ 15,859,234	$ 16,464,898	$ 17,722,103	$ 19,125,723	$ 20,736,120	$ 22,858,131	$ 23,485,458	$ 25,387,943	$ 27,403,562
Franchise taxes	10,434,684	10,476,018	10,592,842	10,847,085	11,187,605	11,019,217	11,124,504	10,896,182	11,243,225	11,462,535
Sales and use taxes	43,577,045	45,043,290	43,321,470	44,434,519	47,178,374	50,168,540	49,273,911	57,065,720	62,847,166	66,519,588
Unrestricted investment earnings and use of money and property	205,478	255,243	181,013	349,543	434,301	1,264,860	1,531,778	855,460	829,440	3,372,781
Gain (loss) on sale of assets	385,327	(443,252)	294,107	(825,967)	191,946	170,908	(336,086)	(886,629)	646,760	189,360
Miscellaneous	294,476	334,677	-	-	-	-	-	-	-	-
Donations	2,745,000	-	-	-	-	-	-	-	-	-
Equity in earnings of joint venture	-	-	-	-	-	-	-	-	-	-
Transfers	325,400	(250,581)	(1,059,892)	(290,866)	(1,168,328)	83,936	324,681	2,164,862	744,035	(5,082)
Total governmental activities	73,426,395	71,274,629	69,794,438	72,236,417	76,949,621	83,443,581	84,776,919	93,581,053	101,698,569	108,942,744
Business-type activities:										
Unrestricted investment earnings and use of money and property	242,517	177,701	251,601	342,277	469,638	661,536	2,406,201	1,919,575	2,461,694	2,392,860
Gain (loss) on sale of assets	324,964	92,824	185,203	104,163	342,894	60,681	30,000	154,966	-	-
Transfers	(325,400)	250,581	1,059,892	290,866	1,168,328	(83,936)	(324,681)	(2,164,862)	(744,035)	5,082
Total business-type activities	242,081	521,106	1,496,696	737,306	1,980,860	638,281	2,111,520	(90,321)	1,717,659	2,397,942
Total primary government	$ 73,668,476	$ 71,795,735	$ 71,291,134	$ 72,973,723	$ 78,930,481	$ 84,081,862	$ 86,888,439	$ 93,490,732	$ 103,416,228	$ 111,340,686
Change in Net Position										
Governmental activities	$ 9,930,056	$ 9,381,592	$ (1,120,436)	$ 3,392,271	$ 11,504,292	$ 10,818,060	$ 8,907,786	$ 20,102,968	$ 33,198,566	$ 23,108,162
Business-type activities	3,747,707	8,528,345	14,041,761	11,728,629	18,676,930	13,044,091	11,550,266	6,384,929	1,858,267	8,890,663
Total primary government	$ 13,677,763	$ 17,909,937	$ 12,921,325	$ 15,120,900	$ 30,181,222	$ 23,862,151	$ 20,458,052	$ 26,487,897	$ 35,056,833	$ 31,998,825

Source: Government-wide Statement of Net Position

CITY OF TYLER, TEXAS
GOVERNMENTAL ACTIVITIES TAX REVENUES BY SOURCE
LAST TEN FISCAL YEARS
(accrual basis of accounting)

Fiscal Year	Property Tax	Franchise Tax	Sales and Use Tax [1]	Total
2014	15,458,985	10,434,684	43,577,045	69,470,714
2015	15,859,234	10,476,018	45,043,290	71,378,542
2016	16,464,898	10,592,842	43,321,470	70,379,210
2017	17,722,103	10,847,085	44,434,519	73,003,707
2018	19,125,723	11,187,605	47,178,374	77,491,702
2019	20,736,120	11,019,217	50,168,540	81,923,877
2020	22,858,131	11,124,504	49,273,911	83,256,546
2021	23,485,458	10,896,182	57,065,720	91,447,360
2022	25,387,943	11,243,225	62,847,166	99,478,334
2023	27,406,562	11,462,535	66,519,588	105,388,685

Source: Government-wide Statement of Activities

[1] Texas law prohibits the disclosure of Sales and Use Tax revenues by source.

CITY OF TYLER, TEXAS
FUND BALANCES OF GOVERNMENTAL FUNDS
LAST TEN FISCAL YEARS
(modified accrual basis of accounting)

	Fiscal Year									
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
General Fund										
Reserved For:										
Reserved	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Unreserved	-	-	-	-	-	-	-	-	-	-
Nonspendable	48,318	41,624	98,179	95,719	136,805	128,379	168,872	172,995	171,677	190,862
Restricted	-	-	-	-	-	-	-	10,105,793	18,117,432	17,720,914
Committed	-	-	-	-	-	-	-	-	-	-
Assigned	1,208,611	1,549,828	2,092,909	1,742,596	2,093,261	1,389,151	921,304	1,099,496	2,262,547	2,766,019
Unassigned	10,823,011	12,766,508	12,717,634	14,324,791	16,246,434	18,559,488	25,785,219	17,889,357	10,641,688	12,920,186
Total General Fund	$ 12,079,940	$ 14,357,960	$ 14,908,722	$ 16,163,106	$ 18,476,500	$ 20,077,018	$ 26,875,395	$ 29,267,641	$ 31,193,344	$ 33,597,981
One-Half Cent Sales Tax fund										
Reserved	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Restricted	13,183,589	13,391,689	10,491,754	14,750,799	22,942,254	23,136,162	21,942,766	24,298,737	24,771,087	29,798,945
Total One-Half Cent Sales Tax fund	$ 13,183,589	$ 13,391,689	$ 10,491,754	$ 14,750,799	$ 22,942,254	$ 23,136,162	$ 21,942,766	$ 24,298,737	$ 24,771,087	$ 29,798,945
All Other Governmental Funds										
Reserved For:										
Reserved	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Unreserved	-	-	-	-	-	-	-	-	-	-
Nonspendable	2,751,496	2,841,929	2,930,388	2,965,480	3,024,870	3,213,067	3,099,119	3,176,356	3,246,668	3,328,704
Restricted	6,092,195	5,645,636	7,576,542	6,976,269	8,577,798	9,875,815	9,931,297	19,547,806	11,651,408	7,803,075
Committed	-	-	-	-	-	-	-	-	-	-
Assigned	1,807,246	784,195	586,738	313,516	497,286	490,429	671,931	1,670,510	4,134,745	3,445,636
Unassigned	34,151	-	-	-	-	-	142,420	15,843	(4,863)	54,418
Total All Other Governmental Funds	$ 10,685,088	$ 9,271,760	$ 11,093,668	$ 10,255,265	$ 12,099,954	$ 13,579,311	$ 13,844,767	$ 24,410,515	$ 19,027,958	$ 14,631,833

Note: Beginning in 2011, Fund Balance information is presented in accordance with GASB 54

CITY OF TYLER, TEXAS
CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS
LAST TEN FISCAL YEARS
(modified accrual basis of accounting)

	Fiscal Year									
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Revenues										
Taxes	$ 69,452,558	$ 71,348,666	$ 70,367,919	$ 72,992,685	$ 77,480,218	$ 81,904,923	$ 83,224,890	$ 91,452,903	$ 99,430,169	$ 105,314,839
Licenses and permits	1,675,295	1,526,595	1,818,538	1,687,299	2,446,051	1,769,360	1,734,830	2,197,199	3,218,225	2,938,950
Revenues from other agencies	11,816,379	11,276,795	12,458,274	13,994,289	12,910,692	12,156,073	20,289,469	13,070,059	16,846,154	17,743,517
Fines, forfeitures, and penalties	7,684,828	7,510,714	6,771,908	5,325,902	5,125,706	4,997,271	4,009,595	4,353,777	4,690,005	4,493,442
Revenues from use of money or property	802,335	841,955	750,320	845,170	915,646	1,696,680	1,160,080	667,202	841,284	4,082,668
Donations	352,948	339,795	374,071	586,470	365,044	682,566	168,415	406,590	388,457	755,453
Charges for current services	2,849,107	2,792,386	2,807,579	2,780,962	2,985,838	3,123,455	2,954,723	2,819,181	3,656,191	3,876,992
Miscellaneous	836,490	2,239,017	1,338,192	1,915,362	1,219,342	733,920	1,038,050	2,291,918	3,921,011	1,689,426
Total revenues	95,469,940	97,875,923	96,686,801	100,128,139	103,448,537	107,064,248	114,580,052	117,258,829	132,991,496	140,895,287
Expenditures										
General government	8,323,657	7,758,004	7,185,846	7,585,488	7,751,217	7,726,127	7,343,378	8,392,015	8,536,953	12,823,471
Public safety	42,316,320	44,644,245	45,249,043	45,075,237	45,801,648	48,017,964	49,788,910	51,164,922	53,656,640	58,950,821
Public services	12,926,496	14,324,967	15,072,374	15,234,239	15,548,886	15,729,247	15,767,993	16,240,888	18,127,995	20,176,824
Highways and streets	5,090,951	5,228,922	5,596,575	5,375,760	4,805,677	3,893,759	4,839,899	5,612,393	6,209,923	6,371,171
Culture and recreation	7,105,539	7,707,090	7,461,931	7,005,094	7,652,792	7,912,551	8,416,058	8,239,821	9,013,992	9,984,448
Capital outlay	22,200,604	16,213,454	16,659,253	12,717,841	8,292,421	18,494,375	20,806,944	22,407,603	35,606,264	28,770,982
Debt service										
Principal	313,756	376,998	54,094	188,157	167,214	270,211	136,114	871,732	3,500,261	230,000
Interest	13,936	7,133	5,867	9,894	5,777	23,003	17,715	14,538	469,886	364,055
Total expenditures	98,291,259	96,260,813	97,284,983	93,191,710	90,025,632	102,067,237	107,117,011	112,943,912	135,121,914	137,671,772
Excess of revenues over (under) expenditures	(2,821,319)	1,615,110	(598,182)	6,936,429	13,422,905	4,997,011	7,463,041	4,314,917	(2,130,418)	3,223,515
Other financing sources (uses)										
Proceeds of long-term capital-related debt	71,610	126,480	405,126	-	817,083	-	-	10,752,436	236,499	45,548
Transfers in	5,028,638	3,364,434	50,000	638,000	3,388,915	4,231,066	4,214,521	8,127,557	13,493,751	9,993,360
Transfers out	(4,962,965)	(4,033,232)	(1,369,619)	(1,913,993)	(5,231,692)	(5,954,294)	(5,807,127)	(8,042,299)	(14,584,327)	(10,226,053)
Sale of capital assets	-	-	-	-	-	-	-	-	-	-
Total other financing sources (uses)	137,283	(542,318)	(914,493)	(1,275,993)	(1,025,694)	(1,723,228)	(1,592,606)	10,837,694	(854,077)	(187,145)
Net Change in fund balances	$ (2,684,036)	$ 1,072,792	$ (1,512,675)	$ 5,660,436	$ 12,397,211	$ 3,273,783	$ 5,870,435	$ 15,152,611	$ (2,984,495)	$ 3,036,370
Debt service as a percentage of noncapital expenditures	0.4307%	0.4799%	0.0744%	0.2461%	0.2117%	0.3508%	0.1782%	0.9789%	3.9895%	0.5455%

Source: Governmental Funds Statement of Revenues, Expenditures, and Changes in Fund Balances

Note: To properly calculate the debt service as a percentage of noncapital expenditures, only those expenditures for Capital Assets are deducted from total expenditures This amount may or may not be equal to total Capital Outlay as stated in the Statement of Revenues, Expenditures and Changes in Fund Balances for Governmental Funds.

CITY OF TYLER, TEXAS
GENERAL GOVERNMENTAL TAX REVENUES BY SOURCE
LAST TEN FISCAL YEARS 1
(modified accrual basis of accounting)

Fiscal Year	Property Tax	Franchise Tax	Sales and Use Tax [1]	Total
2014	15,440,829	10,434,684	43,577,045	69,452,558
2015	15,829,358	10,476,018	45,043,290	71,348,666
2016	16,453,607	10,592,842	43,321,470	70,367,919
2017	17,711,081	10,847,085	44,434,519	72,992,685
2018	19,114,239	11,187,605	47,178,374	77,480,218
2019	20,717,166	11,019,217	50,168,540	81,904,923
2020	22,826,475	11,124,504	49,273,911	83,224,890
2021	23,491,001	10,896,182	57,065,720	91,452,903
2022	25,339,778	11,243,225	62,847,166	99,430,169
2023	27,332,716	11,462,535	66,519,588	105,314,839

Source: Governmental Funds Statement of Revenues, Expenditures, and Changes in Fund Balances

[1] Texas law prohibits the disclosure of Sales and Use Tax revenues by source.

Note: Current year revenues comes from Exh 5

CITY OF TYLER, TEXAS
RETAIL SALES AND SALES TAX REVENUE ALLOCATION
LAST TEN FISCAL YEARS

Fiscal Year Ended September 30	Retail Sales Tax Revenue (Fiscal Year) [1] General Fund Revenue - 1.0%	Capital Projects Special Revenue - 0.5%	Total Revenue [2]
2014	26,539,723	13,269,861	39,809,584
2015	26,917,614	13,458,807	40,376,421
2016	26,338,713	13,169,356	39,508,069
2017	26,775,850	13,387,905	40,163,755
2018	28,494,304	14,247,152	42,741,456
2019	30,257,590	15,128,795	45,386,385
2020	30,442,521	15,221,261	45,663,782
2021	34,258,124	17,129,062	51,387,186
2022	37,874,791	18,937,935	56,812,726
2023	40,995,889	20,497,945	61,493,834

[1] Source: Texas Comptroller of Public Accounts

[2] Does not include Hotel / Motel Taxes, Mixed Beverage Taxes or Bingo Taxes.

Note: In accordance with Title 3, Subtitle C, Chapter 321 of the Texas Tax Code, the City impose a sales and Use Tax of 1.5 %.

Note: The Retail Sales Tax Rate in the City is 8.25 %. Of this 6.25% is State Tax, 0.5 % is Smith County Tax, 1.0% is City Tax available for General Government Services and 0.5 % is City Tax available only for Capital Projects.

CITY OF TYLER, TEXAS
ASSESSED VALUE AND ESTIMATED ACTUAL VALUE OF TAXABLE PROPERTY
LAST TEN FISCAL YEARS

Fiscal Year Ended September 30	Real Property		Personal Property	Mineral Property	Less: Tax Exempt Real Property	Total Taxable Assessed Value	Total Direct Tax Rate
	Residential Property	Commercial Property					
2014	6,005,291,458	N/A	995,470,019	N/A	N/A	7,000,761,477	0.220000
2015	6,186,217,088	N/A	1,004,310,191	N/A	N/A	7,190,527,279	0.220000
2016	6,529,329,564	N/A	990,187,897	N/A	N/A	7,519,517,461	0.220000
2017	6,803,228,476	N/A	1,003,167,122	N/A	N/A	7,806,395,598	0.230000
2018	7,076,840,787	N/A	1,041,040,039	N/A	N/A	8,117,880,826	0.240000
2019	7,351,032,270	N/A	1,170,198,591	N/A	N/A	8,521,230,861	0.244452
2020	7,842,251,272	N/A	1,221,764,551	N/A	N/A	9,064,015,823	0.259900
2021	8,190,719,246	N/A	1,208,670,533	N/A	N/A	9,399,389,779	0.259000
2022	8,573,322,571	N/A	1,197,485,343	N/A	N/A	9,770,807,914	0.269900
2023	9,671,805,519	N/A	1,277,023,312	N/A	N/A	10,948,828,831	0.261850

Source: Smith County Appraisal District

Note: Property is assessed at 100% of actual value for all types of real and personal property. Tax rates are per $100 of assessed value. At this time no distinction is made between residential and commercial property.

N/A - Not available

CITY OF TYLER, TEXAS
PROPERTY TAX RATES*
DIRECT AND OVERLAPPING GOVERNMENTS
LAST TEN FISCAL YEARS

Fiscal Year Ended	City of Tyler			Overlapping Rates					Total Direct and Overlapping Rates
	Operating	Debt Service	Total**	Smith County Total	Tyler ISD Total	Tyler Junior College Total	Chapel Hill ISD Total	Whitehouse ISD Total	
2014	0.220000	-	0.220000	0.323564	1.37500	0.199926	1.253000	1.193000	4.56449
2015	0.220000	-	0.220000	0.323560	1.37500	0.199926	1.245000	1.193000	4.55649
2016	0.220000	-	0.220000	0.330000	1.37500	0.199926	1.240000	1.193000	4.55793
2017	0.230000	-	0.230000	0.330000	1.37500	0.199926	1.240000	1.193000	4.56793
2018	0.240000	-	0.240000	0.330000	1.40500	0.199926	1.230000	1.413000	4.81793
2019	0.244452	-	0.244452	0.337311	1.40500	0.199926	1.230000	1.413000	4.82969
2020	0.259900	-	0.259900	0.345000	1.33500	0.199926	1.145900	1.325000	4.61073
2021	0.259000	-	0.259000	0.345000	1.30410	0.199926	1.099000	1.274600	4.48163
2022	0.269900	-	0.269900	0.335000	1.28910	0.199926	1.099000	1.222600	4.41553
2023	0.261850	-	0.261850	0.330000	1.17930	0.188001	1.020500	1.152600	4.13225

Sources: Smith County Appraisal District

Note:
* Rates are per $100 valuation.
** The City Charter limits the City's property tax rate to $1.75 per $100 of assessed valuation.

CITY OF TYLER, TEXAS
PRINCIPAL PROPERTY TAXPAYERS
CURRENT YEAR AND NINE YEARS AGO

	2023			2014		
Taxpayer	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value *	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value [b]
Tyler Regional Hospital LLC	$ 245,459,547	1	2.24%	-		0.00%
Delek Refining LTD	216,840,566	2	1.98%	302,021,202	1	
Brookshire Grocery	127,865,688	3	1.17%	128,078,997	2	1.78%
Trane Co / American Standard Inc	120,453,848	4	1.10%	90,742,318	3	1.26%
Oncore Electric Delivery	107,941,260	5	0.99%	61,368,512	6	
Wal-Mart Stores / Wal-Mart Rel Estate	84,113,056	6	0.77%	69,459,475	5	0.97%
Tyler Broadway / Centennial LP	69,074,768	7	0.63%	-		
Genecov Investments LTD	63,256,979	8	0.58%	83,033,150	4	1.15%
Simon Property Group	41,415,703	9	0.38%	42,815,000	7	0.60%
CWS SAF XII Cascades I Ownder LLC	37,689,687	10	0.34%	24,256,185	10	0.34%
Texas SJH Holdings LTD	-		0.00%	36,455,925	8	0.51%
Cebridge Acquisitions LP	-		0.00%	34,991,295	9	0.49%
Total	$ 1,104,829,015		10.09%	$ 714,519,153		9.94%

Source: Smith County Appraisal District

Note:

* Total taxable value including real and personal property for tax year 2022 (fiscal year 2023) is-- $ 10,948,828,831

[b] Total taxable value including real and personal property for tax year 2013 (fiscal year 2014) is -- 7,190,527,279

CITY OF TYLER, TEXAS
PROPERTY TAX LEVIES AND COLLECTIONS
LAST TEN FISCAL YEARS

Fiscal Year	Total Tax Levy for Fiscal Year	Collected within the Fiscal Year of the Levy		Collections in Subsequent Years	Total Collections to Date	
		Amount	Percentage of Levy		Amount	Percentage of Levy
2014	15,308,284	15,114,733	98.7%	173,479	15,288,212	99.9%
2015	15,668,435	15,498,266	98.9%	150,097	15,648,363	99.9%
2016	16,342,661	16,109,924	98.6%	210,629	16,320,553	99.9%
2017	17,589,933	17,391,772	98.9%	170,029	17,561,800	99.8%
2018	18,942,816	18,728,538	98.9%	178,082	18,906,620	99.8%
2019	20,582,774	20,493,070	99.6%	44,875	20,537,945	99.8%
2020	22,545,337	22,384,533	99.3%	82,431	22,466,964	99.7%
2021	23,372,081	23,110,215	98.9%	175,708	23,285,923	99.6%
2022	25,279,302	25,057,149	99.1%	96,652	25,153,801	99.5%
2023	27,164,224	26,880,577	99.0%	-	26,880,577	99.0%

Source: Smith County Tax Assessor/Collector

CITY OF TYLER, TEXAS
RATIO OF OUTSTANDING DEBT BY TYPE
LAST TEN FISCAL YEARS

	Governmental Activities		Business-Type Activities				
Fiscal Year	General Obligation Bonds	Other Obligations***	Water and Sewer Revenue Bonds**	Other Obligations***	Total Primary Government	Percentage of Personal Income*	Per Capita*
2014	-	5,265,104	62,983,762	-	68,248,866	2.35%	656
2015	-	4,240,385	66,705,618	-	70,946,003	2.37%	700
2016	-	1,621,501	63,482,669	249,044	65,353,214	2.12%	630
2017	-	2,614,333	60,172,765	201,083	62,988,181	1.99%	546
2018	-	2,525,885	65,450,122	152,215	68,128,222	2.09%	649
2019	-	1,753,490	61,706,243	102,423	63,562,156	1.89%	601
2020	-	1,621,501	78,375,653	51,691	80,048,845	2.38%	745
2021	-	10,053,218	102,268,236	-	112,321,454	3.69%	1,072
2022		9,993,230	141,360,681	-	151,353,911	4.97%	1,432
2023	-	11,041,944	134,955,575	-	145,997,519	4.62%	1,381

Note: Details regarding the City's outstanding debt can be found in the notes to the financial statements.

* See Table 17 for personal income and population data

** Revenue bonds issued for the construction of a new water treatment plant resulted in a 75% increase in production capacity in 2003 (see table 20). This also includes Customer Facility Charge Revenue Bonds

*** In 2013, we started including lease obligationsin Other Obligations

TABLE 13

CITY OF TYLER, TEXAS
RATIO OF GENERAL BONDED DEBT OUTSTANDING
LAST TEN FISCAL YEARS

Fiscal Year	General Bonded Debt Outstanding: General Obligation Bonds	General Bonded Debt Outstanding: Debt Service Fund Balance	General Bonded Debt Outstanding: Total	Percentage of Actual Taxable Value of Property[a]	Per Capita[b]
2014	-	-	-	n/a	-
2015	-	-	-	n/a	-
2016	-	-	-	n/a	-
2017	-	-	-	n/a	-
2018	-	-	-	n/a	-
2019	-	-	-	n/a	-
2020	-	-	-	n/a	-
2021	-	-	-	n/a	-
2022	-	-	-	n/a	-
2023	-	-	-	n/a	-

Note: Details regarding the City's outstanding debt can be found in the notes to the financial statements.

[a]See Table 8 for property value data.

[b]See Table 17 for population data.

TABLE 14

CITY OF TYLER, TEXAS
DIRECT AND OVERLAPPING GOVERNMENTAL ACTIVITIES DEBT
AS OF SEPTEMBER 30, 2023

Governmental Unit	Debt Outstanding	Estimated Percentage Applicable*	Estimated Share of Overlapping Debt
Debt repaid with property taxes			
Smith County	$ 54,735,338	50.08%	$ 27,411,457
Tyler Independent School District	440,695,000	71.04%	313,069,728
Tyler Junior College	89,579,181	65.00%	58,226,468
Chapel Hill Independent School District	13,263,565	19.15%	2,539,973
Whitehouse Independent School District	101,740,000	27.37%	27,846,238
Subtotal, overlapping debt			429,093,864
City (direct debt)**	11,041,944	100%	11,041,944
Total direct and overlapping debt			$ 440,135,808

Source: Debt outstanding data provided by each governmental unit.

Note:
* The percentage of overlapping debt applicable is estimated using taxable assessed property values. Applicable percentages were estimated by determining the portion of the City's taxable assessed value that is within the government's boundaries and dividing it by the City's total taxable assessed value.

** The City does not have any general obligation debt. Direct debt includes leases and revenue bonds for governmental activities. See Note 4.G

CITY OF TYLER, TEXAS
LEGAL DEBT MARGIN INFORMATION
LAST TEN FISCAL YEARS

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Debt limit	$ 700,076,148	$ 719,052,728	$ 751,851,746	$ 780,639,560	$ 811,788,083	$ 852,123,086	$ 906,410,582	$ 939,938,978	$ 977,080,791	$ 10,948,828,831
Total net debt applicable to limit	-	-	-	-	-	-	-	-	-	-
Legal debt margin	$ 700,076,148	$ 719,052,728	$ 751,851,746	$ 780,639,560	$ 811,788,083	$ 852,123,086	$ 906,410,582	$ 939,938,978	$ 977,080,791	$ 10,948,828,831
Total net debt applicable to limit as a percentage of debt limit	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Legal Debt Margin Calculation for Fiscal Year 2023

Assessed value	$ 10,948,828,831
Add back: exempt real property	-
Total assessed value	10,948,828,831
Debt limit (10% of total assessed value)	1,094,882,883
Debt applicable to limit:	
General obligation bonds	-
Less: Amount set aside for repayment of general obligation bond	-
Total net debt applicable to limit	-
Legal debt margin	$ 1,094,882,883

Note: The City Charter limits the bonded debt to ten percent of assessed value. By law the general obligation debt subject to the limitation may be offset by amounts set aside for repaying general obligation bonds.

TABLE 16

CITY OF TYLER, TEXAS
PLEDGED-REVENUE COVERAGE
LAST TEN FISCAL YEARS

	Water and Sewer Revenue Bonds				
Fiscal Year	Total Revenues[a]	Less: Operating Expenses[b]	Net Available Revenue	Annual Debt Service Requirement	Times Coverage
2014	35,376,457	23,875,525	11,500,932	5,416,208	2.123
2015	36,163,014	24,803,360	11,359,654	5,416,505	2.097
2016	38,535,182	26,166,490	12,368,692	5,542,223	2.232
2017	40,076,947	28,637,471	11,439,476	6,137,685	1.864
2018	44,516,891	30,341,446	14,175,445	5,336,960	2.656
2019	43,746,419	31,211,611	12,534,808	5,795,915	2.163
2020	47,331,799	37,185,066	10,146,733	6,674,173	1.520
2021	48,630,919	29,595,705	19,035,214	5,727,149	3.324
2022	52,214,121	33,561,700	18,652,421	8,786,087	2.123
2023	60,900,611	42,311,336	18,589,275	8,275,012	2.246

Note: [a]Includes operating and non-operating revenues.

In 2010 new bond covenants were amended to include only operating revenues in determining Net Available Revenue.

[b]Includes operating expenses (excluding capital activity) minus depreciation plus net transfers out.

Source: Annual Comprehensive Financial Report

CITY OF TYLER, TEXAS
DEMOGRAPHIC AND ECONOMIC STATISTICS
LAST TEN FISCAL YEARS

Fiscal Year	Estimated Population[1]	Estimated Personal Income (thousands of dollars)	Per Capita Personal Income[2]	Median Age[2]	Education Level in Years of Formal Schooling[2]	School Enrollment[3]	Unemployment Rate[2]
2014	104,083	2,902,762	27,889	33.5	13.6	18,029	5.8%
2015	101,421	2,774,980	27,361	33.5	13.6	18,198	5.8%
2016	103,700	2,796,996	26,972	33.9	13.6	18,172	4.2%
2017	115,453	2,979,034	25,803	32.9	13.6	18,139	4.3%
2018	104,991	2,790,355	26,577	33.4	13.6	18,130	3.3%
2019	105,729	2,894,268	27,374	33.1	13.6	18,260	3.2%
2020	107,479	3,030,439	28,196	33.7	13.6	17,721	5.9%
2021	104,798	3,043,492	29,042	35.2	13.6	18,147	3.3%
2022	105,719	3,162,346	29,913	34.3	13.6	17,705	4.2%
2023	105,995	3,265,720	30,810	33.4	13.6	18,328	3.3%

Data sources:

[1]City Planning Department

[2]Tyler Economic Development Council

[3]Tyler Independent School District

Note: Population, median age, and education level information are based on surveys conducted during the last quarter of the calendar year.
Personal income information is from the 2000 year census using a 3.0% growth rate and adjusting for the 2004 population study results.
Unemployment rate information is an adjusted yearly average.
School enrollment is based on the census at the start of the school year.

TABLE 18

CITY OF TYLER, TEXAS
PRINCIPAL EMPLOYERS
CURRENT YEAR AND NINE YEARS AGO

	2023			2014		
Employer	Employees	Rank	Percentage of Total City Employment (1)	Employees	Rank	Percentage of Total City Employment (2)
CHRISTUS Trinity Mother Frances *	5,000	1	9.9%	4,030	1	8.4%
UT Health East Texas *	3,550	2	7.0%	3,092	2	6.4%
Tyler Independent School District	2,550	3	5.0%	2,359	3	4.9%
Sanderson Farms	1,750	4	3.5%	**		
Walmart	1,500	5	3.0%	1,296	8	2.7%
Trane Technologies	1,450	6	2.9%	1,500	7	3.1%
Brookshire Grocery Company	1,450	7	2.9%	1,762	4	3.7%
UT Health Science Center at Tyler	1,450	8	2.9%	1,050	9	2.2%
The University of Texas at Tyler	1,200	9	2.4%	1,557	6	3.2%
Optimum Communications	1,150	10	2.3%	1,600	5	3.3%
John Soules Foods	1,000	11	2.0%	**		
Tyler Junior College	1,000	12	2.0%	935	10	1.9%
Target Distribution Center	1,000	13	2.0%	670	13	1.4%
City of Tyler	850	14	1.7%	803	11	0.0%
Smith County	850	15	1.7%	784	12	1.6%
Total	25,750		51.2%	21,438		42.8%

Source: Tyler Economic Development Council

* Headquarters located in Tyler

(1) total city employment of 50,674

(2) total city employment of 47,975

** Not part of top 10 in 2014

TABLE 19

CITY OF TYLER, TEXAS
FULL-TIME EQUIVALENT CITY GOVERNMENT EMPLOYEES BY FUNCTION
LAST TEN FISCAL YEARS

Function	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
General government	60	64	84	77	98	96	97	99	102	101
Public safety	436	440	428	422	425	439	432	429	426	430
Highways and streets	53	51	53	47	53	51	55	58	58	58
Public Services	37	47	28	36	16	16	16	17	15	18
Culture and Recreation	66	68	76	64	68	75	73	75	67	76
Water & sewer	101	111	120	123	114	122	123	129	127	122
Sanitation	39	44	44	48	45	49	45	46	49	48
Airport	10	11	10	10	9	10	9	10	10	9
All Others	29	48	43	39	37	40	47	57	66	70
Total	831	884	886	866	865	898	897	920	920	932

Source: City Finance Department

CITY OF TYLER, TEXAS
OPERATING INDICATORS BY FUNCTION
LAST TEN FISCAL YEARS

Function/Program	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
General government										
Accounting										
Dollar value of accounts payable	$ 88,038,170	$ 92,771,122	$ 93,396,592	$ 88,948,885	$ 90,615,261	$ 95,296,379	$ 107,598,733	$ 103,307,589	$ 141,819,950	$ 145,191,927
Legal										
Number of ordinances prepared and adopted	112	93	113	107	88	110	129	106	109	121
Number of resolutions prepared and adopted	30	26	45	51	41	69	105	60	42	50
Public Safety										
Police										
Number of sworn officers authorized	194	194	194	188	191	198	200	200	202	202
Fire										
Number of structure fires	107	84	98	103	124	107	121	136	124	104
Highways and Streets										
Streets										
Streets PCI (Pavement Condition Index)	81.0%	**	**	77.0%	**	**	**	74.0%	**	**
Traffic										
Number of traffic signals maintained	152	156	148	158	158	150	149	151	151	151
Public Services										
Planning										
Number of historic building designations awarded	102	113	117	124	130	132	134	134	134	134
Culture and Recreation										
Parks										
Amount of park acreage	1216	1216	1216	1216	1207	1207	1207	1207	1207	1207
Number of rose bushes planted	600	2785	1337	205	300	362	308	700	400	1100
Library *										
Total number of volumes owned	183,154	180,136	179,668	208,838	215,431	228,019	216,411	235,184	382,665	212,894
Water & sewer										
Average volume of wastewater treated daily (gallons)	15.67 million	17.26 million	17.89 million	15.36 million	15.37 million	18.87 million	17.1 million	19.56 million	14.5 million	15 million
Average monthly volume of water production (gallons)	719.54 million	748.92 million	733.87 million	691.83 million	807.63 million	716.36 million	717.77 million	662.38 million	803.26 million	695 million
Water production capability (gallons per day)	74.7 million	74.7 million	74.7 million	74.7 million	74.7 million	74.7 million	74.7 million	74.7 million	74.7 million	58 million
Average monthly revenue billed	$ 2,819,163	$ 2,883,216	$ 3,098,527	$ 2,924,870	$ 3,414,080	$ 3,299,543	$ 3,613,527	$ 3,663,945	$ 2,105,955	$ 2,300,970.45
Sanitation										
Number of residential customers	27,778	28,745	35,681	35,916	36,209	36,479	36,952	37,504	31,333	31,478
Number of curbside garbage carts in use	30,516	34,959	29,261	29,488	29,928	30,123	30,463	30,793	31,117	31,277
Airport										
Annual gallons of fuel flowage	1,480,379	1,327,585	1,249,362	1,108,054	1,244,805	1,396,406	995,136	1,237,943	1,425,881	1,440,487
Number of annual enplanements	85,069	66,951	55,693	49,226	48,505	60,038	26,430	40,179	40,707	43,170

Source: City Departments
n/a - Data not available.

* E-books are included.
**Streets are rated by PCI every 4 years- as of 2007

TABLE 21

CITY OF TYLER, TEXAS
CAPITAL ASSET STATISTICS BY FUNCTION
LAST TEN FISCAL YEARS

Function/Program	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Public Safety										
Police Stations	2	2	3	3	3	2	2	2	2	2
Police Patrol Units	56	68	70	68	78	81	92	92	82	81
Police Motorcycle Units	16	16	15	10	9	7	6	5	5	5
Fire Stations	10	10	10	10	10	10	10	10	10	10
Highways and Streets										
City Maintained Paved Streets- (miles)***	1120	1120	1120	1169	1169	1169	1169	1169	1313	1373
Annual Street Overlays- (miles)***	28	32	32	39	11	35	44	56	67.5	84
Public Services										
Transit Buses	13	15	16	17	16	16	16	16	18	18
Culture and Recreation										
Parks (acres)	1,216.40	1,216.40	1,216.40	1,216.80	1,207.40	1,207.40	1,207.40	1,207.40	1,207.40	1207.40
Playgrounds	23	22	22	22	22	19	19	21	19	22
Splash Pads	*	*	*	*	*	*	*	4	4	5
Swimming Pools	2	2	2	1	1	1	1	1	1	1
Recreation Centers	1	1	1	1	1	1	1	1	1	1
Senior Centers	1	1	1	1	1	1	1	1	1	1
Public Library	1	1	1	1	1	1	1	1	1	1
Water & Sewer										
Water mains (miles)	727	734	745	734	734	734.24	734.24	734.24	734.5	745
Fire Hydrants	4118	4279	4310	4351	4379	4428	4434	4467	4493	4530
Water Plants	2	2	2	2	2	2	2	2	2	2
Sanitary Sewers (miles)	658	688	718	694	699	709.44	711.21	716.1	692	710
Sanitation										
Garbage Trucks	29	34	47	45	45	45	45	45	45	48
Airport										
Airport Terminal	1**	1**	1**	1**	1**	1**	1**	1**	1**	1**
Airport Runways	3	3	3	3	3	3	3	3	3	3

Source: City Departments
n/a - Data not available.

* Started tracking Splash Pads FY 21
** As of FY 2012, the old airport terminal is now used by the Historic Aviation Memorial Museum and Skyline Café.
*** As of FY 2013 Streets converted over to PCI, streets maintained and overlays are now calculated by lane miles.

GOVERNMENTAL COMPLIANCE SECTION

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

The Honorable City Council and Audit Committee
City of Tyler, Texas

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of City of Tyler, Texas as of and for the year ended September 30, 2023, and the related notes to the financial statements, which collectively comprise City of Tyler's basic financial statements, and have issued our report thereon dated March 8, 2024.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered City of Tyler (2023)'s internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of City of Tyler (2023)'s internal control. Accordingly, we do not express an opinion on the effectiveness of the City of Tyler's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether City of Tyler (2023)'s financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards.*

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Gollob Morgan Peddy PC

Certified Public Accountants

Tyler, Texas
March 8, 2024

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INDEPENDENT AUDITORS' REPORT ON COMPLIANCE FOR EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH THE UNIFORM GUIDANCE

To Honorable City Council and Audit Committee
City of Tyler, Texas

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited the City of Tyler's compliance with the types of compliance requirements identified as subject to audit in the *OMB Compliance Supplement* that could have a direct and material effect on each of City of Tyler's major federal programs for the year ended September 30, 2023. The City of Tyler's major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs.

In our opinion, the City of Tyler, Texas complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended September 30, 2023.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements*, *Cost Principles*, and *Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the City of Tyler, Texas and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of the City of Tyler's compliance with the compliance requirements referred to above.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to the City of Tyler's federal programs.

Auditors' Responsibility for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the City of Tyler's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the City of Tyler's compliance with the requirements of each major federal program as a whole.

Auditors' Responsibility for the Audit of Compliance – (continued)

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the City of Tyler's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the City of Tyler's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the City of Tyler's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

Report on Internal Control Over Compliance

A *deficiency in internal control* over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness* in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency* in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Gollob Morgan Peddy PC

Certified Public Accountants

Tyler, Texas
March 8, 2024

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CITY OF TYLER, TEXAS
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

FEDERAL GRANTOR/PASS-THROUGH GRANTOR/PROGRAM TITLE	FEDERAL CFDA NUMBER	PASS-THROUGH GRANTORS NUMBER	PASSED THROUGH TO SUBRECIPIENTS	FEDERAL EXPENDITURES	
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
CDBG - Entitlement Grants Cluster					
Community Development Block Grant Entitlement Grants	14.218	B04MC480028		$ 2,186,198	
HOME Investment Partnership Grant	14.239	-		351,675	
Housing Voucher Cluster					
Section 8 Housing Choice Voucher Program	14.871	TX456VO		10,504,614	
Family Self Sufficiency Coordinator Grant	14.871	FSS8-TX456-5106		67,201	
Total Housing Voucher Program				10,571,815	
Total U.S. Department of Housing and Urban Development				13,109,688	
U.S. DEPARTMENT OF JUSTICE					
Passed through Smith County:					
JAG Program Cluster					
Edward Byrne Memorial Justice Assistance Grant	16.738	2022-15PBJA-22-GG-02538-JAGX		33,765	
Passed through East Texas Council of Governments:					
JAG Program Cluster					
Edward Byrne Memorial Justice Assistance Grant	16.738	DJ 4201001		27,500	
COPS Hiring Program	16.710	2020UMWX0213		81,440	
Total U.S. Department of Justice				142,705	
U.S. DEPARTMENT OF TREASURY					
Passed Through Texas Division of Emergency Management					
Coronavirus State and Local Fiscal Recovery Fund Grant	21.027	1505-0271		396,518	+
Total U.S. Department of Treasury				396,518	
U.S. DEPARTMENT OF TRANSPORTATION					
Passed through Federal Aviation Administration:					
Airport Improvement Program	20.106	3-48-0215-042-2019		6,110	+
Airport Improvement Program	20.106	3-48-0215-045-2020		176,395	+
Airport Improvement Program	20.106	3-48-0215-047-2021		322,484	+
Airport Improvement Program	20.106	3-48-0215-049-2021		176,397	+
Airport Improvement Program	20.106	3-48-0215-052-2022		4,171,230	+
Airport Improvement Program	20.106	3-48-0215-053-2023		222,436	+
Airport Improvement Program	20.106	3-48-0215-054-2023		4,465	+
Airport Improvement Program	20.106	3-48-0215-055-2022		9,416	+
Total Airport Improvement Program				5,088,933	
Passed through Texas Department of Transportation:					
Section 104F Grant MPO	20.505	50-XXXF0016		511,396	
Comprehensive Traffic Enforcement Grant programs	20.600	0910-16-183		58,777	
Comprehensive Traffic Enforcement Grant programs	20.600	51510F7140		37,764	
Total Texas Department of Transportation				607,937	

+ Denotes Major Program

CITY OF TYLER, TEXAS
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE FISCAL PERIOD ENDED SEPTEMBER 30, 2023

FEDERAL GRANTOR/PASS-THROUGH GRANTOR/PROGRAM TITLE	FEDERAL CFDA NUMBER	PASS-THROUGH GRANTORS NUMBER	PASSED THROUGH TO SUBRECIPIENTS	FEDERAL EXPENDITURES
U.S. DEPARTMENT OF TRANSPORTATION (cont'd)				
Passed through Federal Transit Administration:				
Federal Transit Cluster				
Federal Transit Capital and Operating Assistance Formula - COVID-19	20.507	TX-2020-074-01		$ 84,393
Federal Transit Capital and Operating Assistance Formula	20.507	TX-2020-039-00		2,587,820
Total Federal Transit Formula Grants				2,672,213
Total U.S. Department of Transportation				8,369,083
U.S. DEPARTMENT OF HOMELAND SECURITY				
Passed through Texas Division of Emergency Management				
Law Enforcement Officer Reimbursement Agreement	97.090	HSTS02-13-H-SLR721		20,800
Passed through Texas Office of the Govenor:				
Homeland Security Grant Program	97.067	EMW-2022-SS-00021		49,994
Passed through Texas Office of the Govenor:				
Homeland Security Grant Program	97.083	EMW-2021-FF-01332		50,376
Passed through Texas Office of the Govenor:				
Homeland Security Grant Program	97.044	EMW-2021-FG-09781		82,864
Total U.S. Department of Homeland Security				204,034
Total Federal Assistance			$ -	$ 22,222,028

+ Denotes Major Program

CITY OF TYLER, TEXAS
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED SEPTEMBER 30, 2023

NOTE A – BASIS OF ACCOUNTING

The accompanying schedule of expenditures of federal awards (the schedule) includes the federal grant activity of the City of Tyler, Texas under programs of the federal government for the year ended September 30, 2023 and is presented on the modified accrual basis of accounting. This information in this schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Because the schedule presents only a selected portion of the operation the City of Tyler, Texas, it is not intended to and does not present the financial position, changes in net assets, or cash flows of the City of Tyler, Texas

NOTE B – NON-CASH ASSISTANCE, INSURANCE, AND LOANS

The City of Tyler did not receive any non-cash assistance through federal awards during the year ended September 30, 2023. There were no federal loans or loan guarantees outstanding at year end.

Certain federal awards require the City of Tyler to maintain adequate insurance coverage. Following is a summary of the City of Tyler's insurance policies and the liability limits:

Type of Coverage	Liability Limit
Property	$ 352,924,912
Contractors' Equipment	8,629,188
General Liability	3,000,000
Employee Benefits Liability	3,000,000
Abuse and Molestation Liability	2,000,000
Law Enforcement Liability	3,000,000
Management Liability (Claims Made)	3,000,000
Employment Practices Liability (Claims Made)	4,000,000
Automobile Liability	1,000,000
Garagekeepers Legal Liability	1,000,000
Crime	500,000
Airport Liability	5,000,000
Unmanned Aircraft (Drones)	1,000,000
Pollution Liability	2,000,000
Animal Mortality	Self-insured
Marine Hull	98,677
Cyber Liability	2,000,000
Umbrella Liability	3,000,000
Tenant Users General Liability	1,000,000

NOTE C- INDIRECT COST RATES

The City of Tyler, Texas has elected not to use the 10% de minimis cost rate as permitted in the UG, section 200.414.

CITY OF TYLER, TEXAS
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED SEPTEMBER 30, 2023

Section I – Summary of Auditors' Results

Financial Statements

Type of auditors' report issued:	*Unmodified*
Internal control over financial reporting:	
• Material weakness(es) identified?	No
• Significant deficiency(s) identified that are not considered to be material weaknesses?	None reported
Noncompliance material to financial statement noted?	No

Federal Awards

Internal control over major programs:	
• Material weakness(es) identified?	No
• Significant deficiency(s) identified that are not considered to be material weaknesses?	No
Type of auditors' report issued on compliance for major programs:	*Unmodified*
Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516 (a)?	No

Identification of major programs:

FEDERAL

CFDA Numbers	Name of Federal Program or Cluster
20.106	Federal Aviation Administration Airport Improvement Program
21.027	Coronavirus State and Local Fiscal Recovery Fund

Dollar threshold used to distinguish between Type A and Type B programs:	$ 750,000
City of Tyler was classified as a low-risk auditee Auditee qualified as a low-risk auditee	No

CITY OF TYLER, TEXAS
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED SEPTEMBER 30, 2023

Section II – Financial Statement Findings

None.

Section III – Federal Award Findings and Questioned Costs

None.

CITY OF TYLER, TEXAS
SUMMARY SCHEDULE OF PRIOR YEAR AUDIT FINDINGS
YEAR ENDED SEPTEMBER 30, 2023

None.

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-1

Date: March 27, 2024

Subject: PD24-004 BPI INC (3301 GOLDEN ROAD)
Request that the City Council consider adoption of an Ordinance approving a zone change from "PMXD-1", Planned Mixed-Use District to "PCD", Planned Commercial Development District with a site narrative.

Page: Page 1 of

Item Reference:

The applicant is requesting the zone change to bring the existing development into zoning conformance on Lot 27B of NCB 976, one lot containing approximately 2.43 acres of land located at the northwest intersection of Troup Highway and Golden Road (3301 Golden Road).

According to the Unified Development Code (UDC), the "PCD", Planned Commercial Development District will be designated where retail, commercial, office and limited industrial facilities are needed throughout the city. All development created in a PCD district must be designed and developed in accordance with an approved site development plan and submitted for approval to the Planning Commission and City Council.

According to UDC Section 10-617, the City Council will consider the following approval criteria for zoning changes:

a. The application is complete, and the information contained within the application is sufficient and correct enough to allow adequate review and final action;
b. The zoning change is consistent with the Tyler 1st Comprehensive Plan;
c. The zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, and healthful development of the city;
d. The zoning change is compatible with the present zoning and/or conforming uses of nearby property and with the character of the neighborhood; and
e. The property to be rezoned is suitable for uses permitted by the District that would be applied by the proposed amendment.

In addition to the zoning change criteria above, the City Council will consider the following specific objectives and criteria for approving any type of planned district currently permitted in this code:

a. A variety of housing types, employment opportunities, or commercial services to

achieve a balanced community;
b. An orderly and creative arrangement of all land uses with respect to each other and to the entire community;
c. A planned and integrated comprehensive transportation system providing for a separation of pedestrian and vehicular traffic, to include facilities such as roadways, bicycle ways and pedestrian walkways;
d. The provisions of cultural or recreational facilities for all segments of the community;
e. The location of general building envelopes to take maximum advantage of the natural and manmade environment; and
f. The staging of development in a manner which can be accommodated by the timely provision of public utilities, facilities, and services.

According to UDC Section 10-587, the burden of proof or persuasion is on the applicant to show that an application complies with approval criteria.

The adjacent property to the north is zoned "INT", Institutional District and is the location of a rehabilitation hospital. The adjacent properties to the west and south are zoned "PMXD-1", Planned Mixed-Use District and are the locations of a motor bank and an apartment complex, respectively. The adjacent property to the east across Troup Highway is zoned "C-1", Light Commercial District and is the location of the Alpha Centre.

This request is consistent with the Tyler 1st Future Land Use Guide which identifies the property as Mixed-Use Center.

The applicant is requesting the change to establish development standards for the planned development. To the best of Staff's knowledge, the property's zoning was established without a site plan. Since the property is not mixed-use, "PCD" would be more appropriate zoning since it does not meet the minimum five acres lot size for "PMXD-1". The applicant is proposing to limit the allowable uses to "RPO", Restricted Professional Office which is how the property is currently used. The development standards are typical of a high-rise office building and are detailed in the written narrative shown in Exhibit "D".

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. There was no significant discussion.

As of Friday, March 22, 2024, of the nine notices mailed, none were returned in favor or in opposition to the request.

All other departments have reviewed the application and anticipate no significant impact on services and facilities by the proposed rezoning request.

RECOMMENDATION:

The Planning and Zoning Commission by a 5-0-1, with one abstention vote recommends approval of the zone change from "PMXD-1", Planned Mixed-Use District to "PCD", Planned Commercial Development District with a site narrative.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Notification Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CHANGING THE ZONING FROM "PMXD-1", PLANNED MIXED-USE DISTRICT TO "PCD", PLANNED COMMERCIAL DEVELOPMENT DISTRICT WITH SITE NARRATIVE ON LOT 27B OF NCB 976, ONE LOT CONTAINING APPROXIMATELY 2.43 ACRES OF LAND LOCATED AT THE NORTHWEST INTERSECTION OF TROUP HIGHWAY AND GOLDEN ROAD (3301 GOLDEN ROAD); DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION PD24-004

That the following described property, which has heretofore been zoned "PMXD-1", Planned Mixed-Use District to "PCD", Planned Commercial Development District with site narrative, to wit:

> On Lot 27B of NCB 976, one lot containing approximately 2.43 acres of land located at the northwest intersection of Troup Highway and Golden Road (3301 Golden Road) and in accordance with the Final Site Plan in Exhibit "A" attached hereto and incorporated herein.

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or

be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 29th, 2024.

PASSED AND APPROVED this the 27th day of March A.D., 2024.

_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

_____
CASSANDRA BRAGER, CITY CLERK

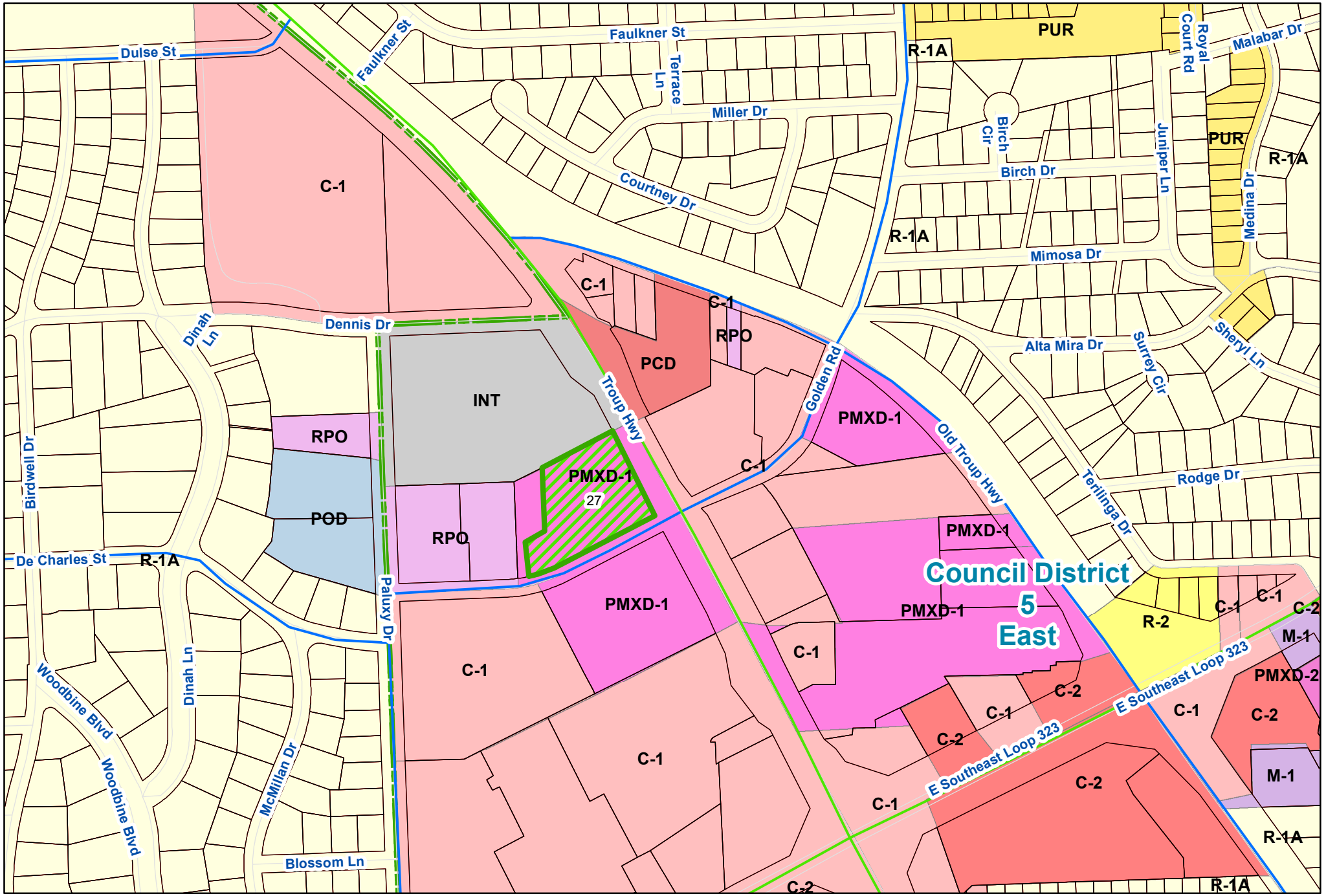
APPROVED:

_____
DEBORAH G. PULLUM,
CITY ATTORNEY

ORDINANCE NO. O-2024-
EXHIBIT "A"
FINAL SITE NARRATIVE

Uses: Uses permissible in RPO
Minimum lot area: 2.437 acres
Minimum frontage: 80 feet
Minimum building separation same lot: 15 feet
Maximum height: 55 feet
Minimum height or story: 25 feet
Maximum height (stories): 5
Minimum setbacks:
- **a) Front yard:** 10 feet
- **b) Rear year:** 15 feet
- **c) Side yard:** 15 feet
- **d) Corner side yard:** 15 feet

Maximum lot coverage: 60%



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425 0 425 Feet

ZONING CASE
Zoning Case #: PD24-004
Current Zoning: PMXD-1 Proposed Zoning: PCD
BPI INC

Subject Property

Council District Boundary

N W E S

230



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425 0 425 Feet

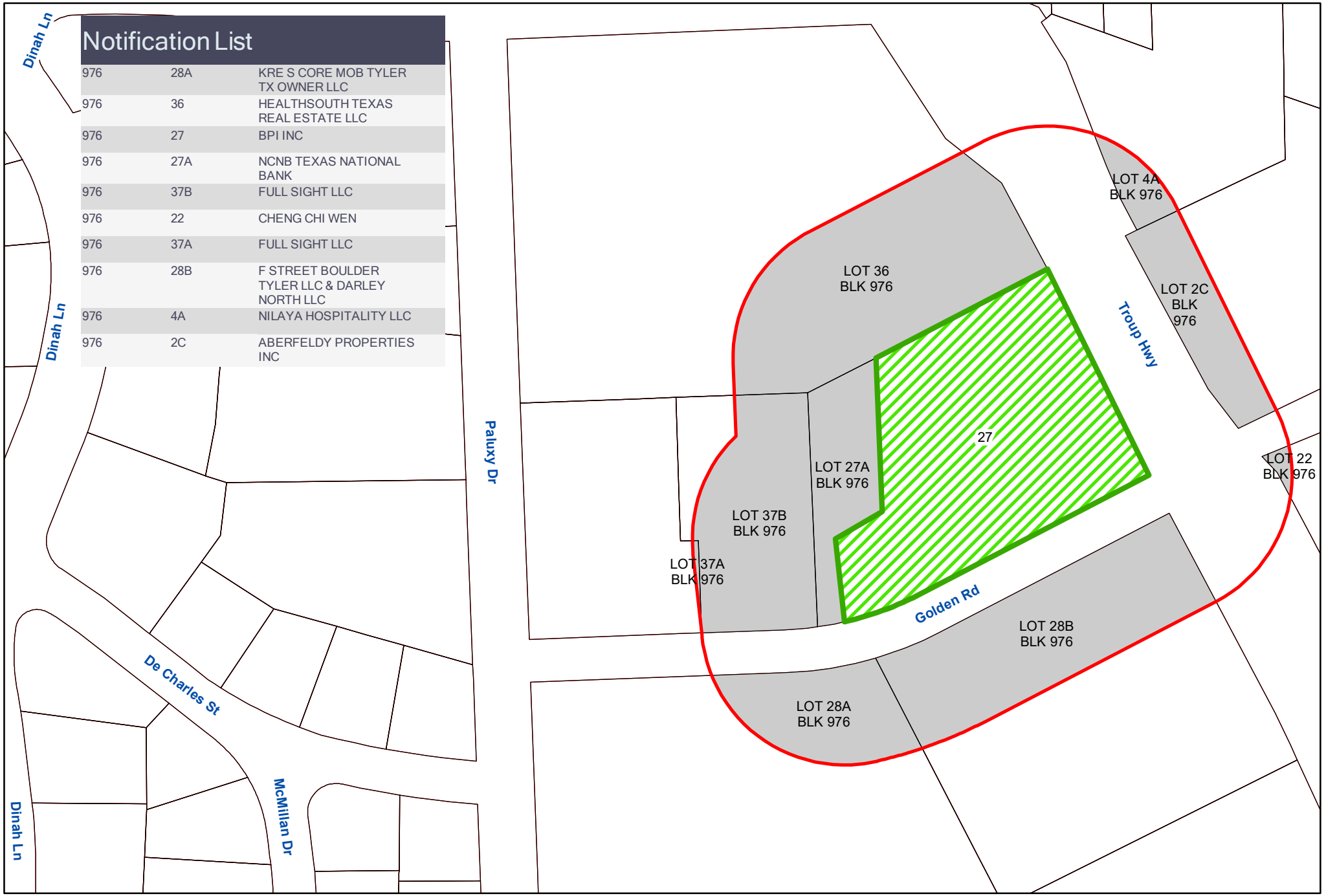
ZONING CASE
Zoning Case #: PD24-004
Current Zoning: PMXD-1 Proposed Zoning: PCD
BPI INC

Subject Property

Council District Boundary

N W E S

231



Notification List

976	28A	KRE S CORE MOB TYLER TX OWNER LLC
976	36	HEALTHSOUTH TEXAS REAL ESTATE LLC
976	27	BPI INC
976	27A	NCNB TEXAS NATIONAL BANK
976	37B	FULL SIGHT LLC
976	22	CHENG CHI WEN
976	37A	FULL SIGHT LLC
976	28B	F STREET BOULDER TYLER LLC & DARLEY NORTH LLC
976	4A	NILAYA HOSPITALITY LLC
976	2C	ABERFELDY PROPERTIES INC

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175 0 175 Feet

ZONING CASE
Zoning Case #: PD24-004
Current Zoning: PMXD-1 Proposed Zoning: PCD
BPI INC

Subject Property
200' Mailed Notification Area

N W E S

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-2

Date: March 27, 2024

Subject: S24-003 JARVIS HOLDINGS LLC (3509 AND 3607 SOUTH SOUTHWEST LOOP 323)
Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for an outdoor archery range.

Page: Page 1 of

Item Reference:

The applicant is requesting a Special Use Permit (SUP) to allow for an outdoor archery range on Tract LT 4 and Tract LT 7 of NCB 852-W, two lots totaling approximately 5.84 acres of land located south of the southwest intersection of South Southwest Loop 323 and Spur 364 (3509 and 3607 South Southwest Loop 323). The property is zoned "M-1", Light Industrial District.

Tyler City Code Chapter 10, Article IX., Division A., provides that the City Council may, by ordinance, grant a special permit for special uses, which are otherwise prohibited by this ordinance and may impose appropriate conditions and safeguards. Special Use Permits are approved for a specific period of time. A use is considered special by the Unified Development Code (UDC) when there is potential for it to have adverse impact on nearby property and because the actions needed to minimize or eliminate the adverse impacts vary from site to site.

The adjacent properties to the north, east, and south are zoned "M-1", Light Industrial District and are developed with commercial uses. The property to the west is located outside of the Tyler City Limits and is undeveloped.

The applicant proposes the Special Use Permit to allow for their tenant, Griffin Archery, to install an outdoor archery range. They plan to have six targets shooting towards the south which will be protected by a ten feet tall arrow backstop net. The applicant owns the property to the south which would be the direction of the arrows.

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. One of the commissioners had questions about the safety of the public. The applicant explained that the rules and training regulations focuses on shooting arrows to the target and not in different directions. She also pointed out that there will be a large high-performance arrow backstop net to catch any missed targets; this will be hung behind the targets close to the property line.

As of Friday, March 22, 2024, of the six notices, one notice was returned in favor and none in opposition to the request.

All other departments have reviewed the application and anticipate no significant impact on other related services by the proposed Special Use Permit request.

RECOMMENDATION:

The Planning and Zoning Commission by a 6-0 vote recommends approval of the Special Use Permit for three years.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Notification Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; APPROVING A SPECIAL USE PERMIT TO ALLOW FOR AN OUTDOOR ARCHERY RANGE ON TRACT LT 4 AND TRACT LT 7 OF NCB 852-W, TWO LOTS TOTALING APPROXIMATELY 5.84 ACRES OF LAND LOCATED SOUTH OF THE SOUTHWEST INTERSECTION OF SOUTH SOUTHWEST LOOP 323 AND SPUR 364 (3509 AND 3607 SOUTH SOUTHWEST LOOP 323); PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the special use should be made as set forth herein;

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

PART 1: That the following special use is hereby approved as follows:

I. APPLICATION S24-003

That the following described property, which is currently zoned "M-1", Light Industrial District, shall hereafter allow a Special Use Permit for an outdoor archery range for a period of three years, to wit:

> On Tract LT 4 and Tract LT 7 of NCB 852-W, two lots totaling approximately 5.84 acres of land located south of the southwest intersection of South Southwest Loop 323 and Spur 364 (3509 and 3607 South Southwest Loop 323).

PART 2: The Special Use Permit is subject to site plan shown in Exhibit "A" attached hereto and incorporated herein.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided

by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 29th, 2024.

PASSED AND APPROVED this the 27th day of March, A.D., 2024.

_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

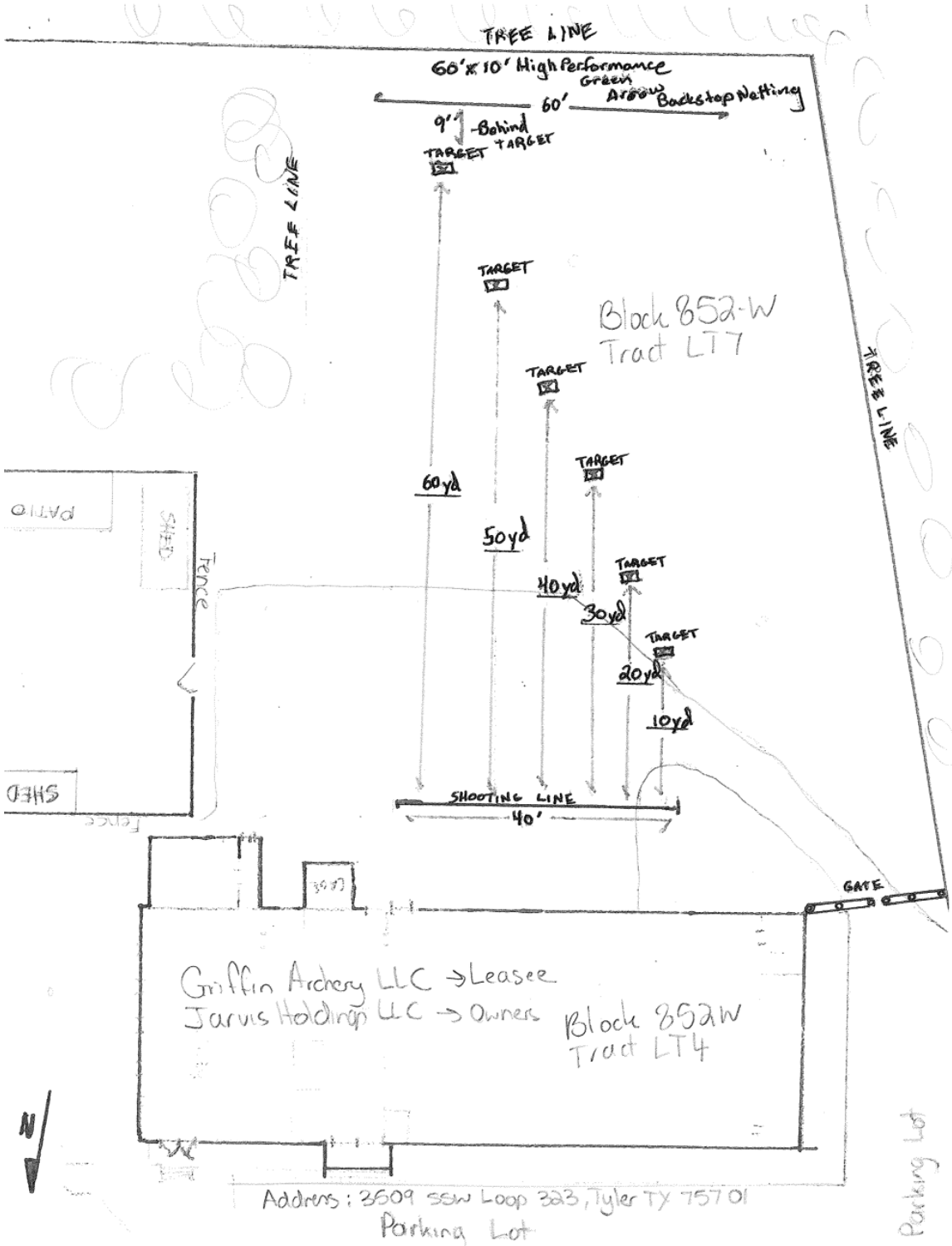
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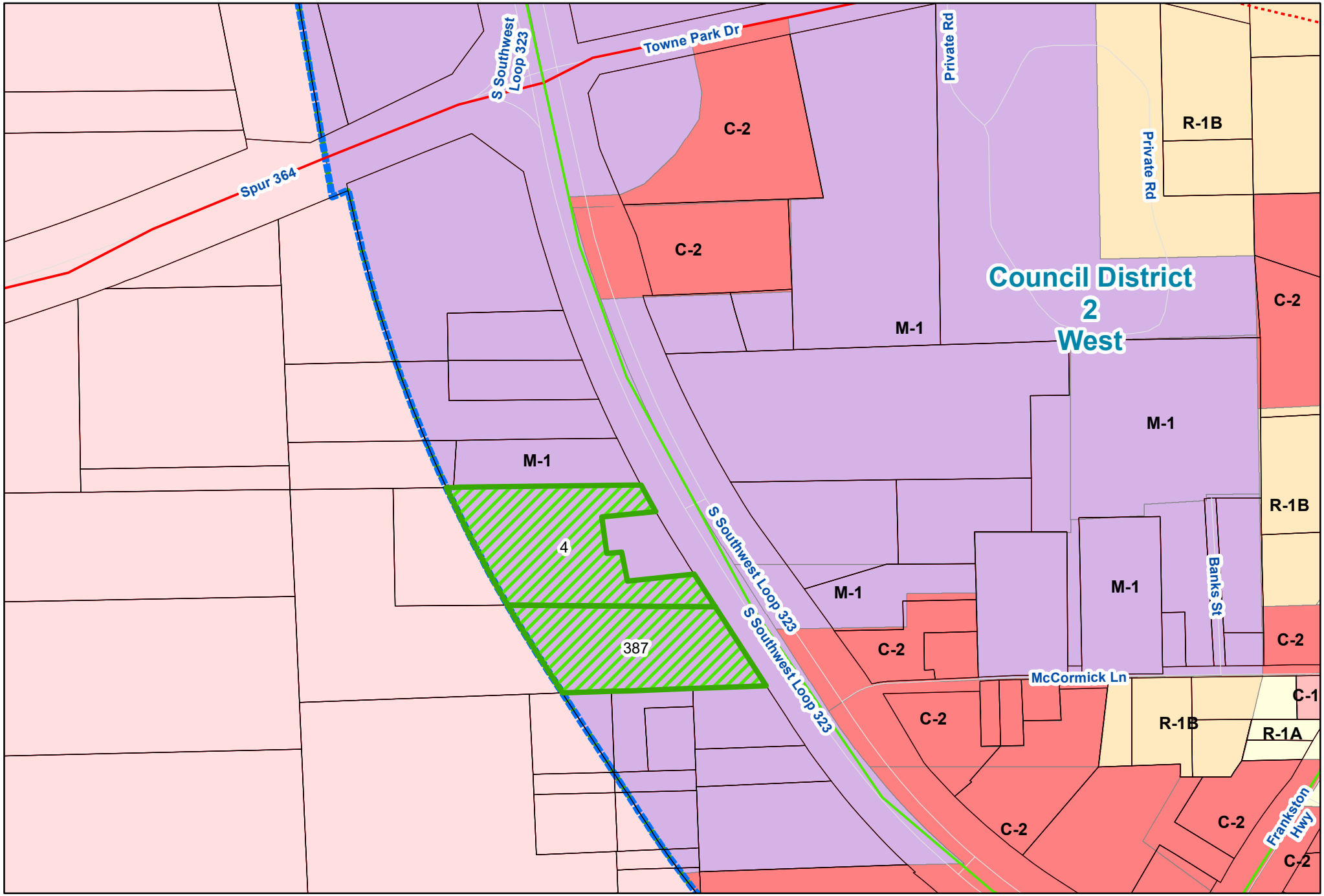
_____
CASSANDRA BRAGER, CITY CLERK

APPROVED:

_____
DEBORAH G. PULLUM,
CITY ATTORNEY

ORDINANCE NO. O-2024-
EXHIBIT "A"
SPECIAL USE PERMIT SITE PLAN





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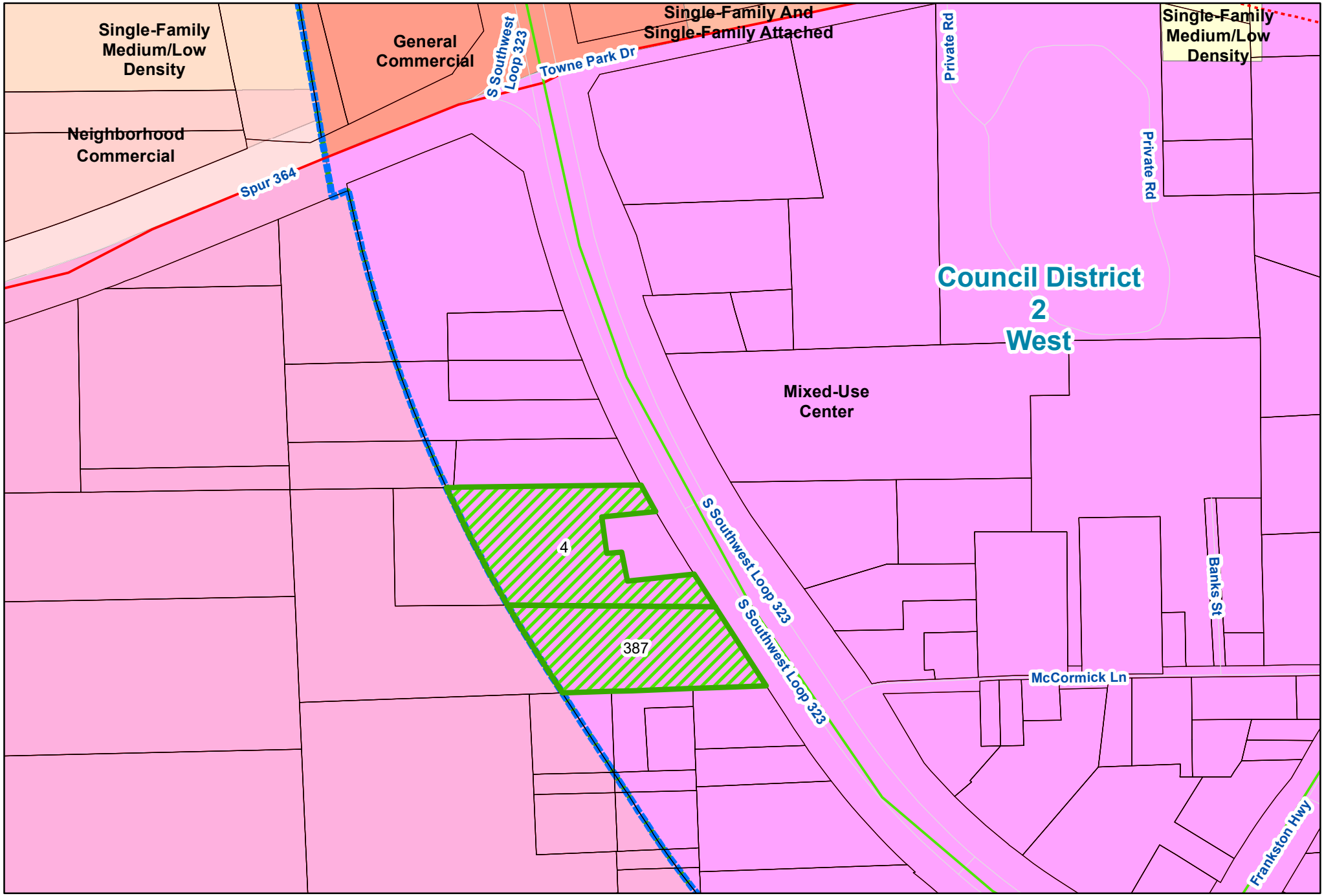
325 0 325 Feet

ZONING CASE
Zoning Case #: S24-003
Special Use Permit
Griffin Archery

Subject Property

City Limits

N W E S



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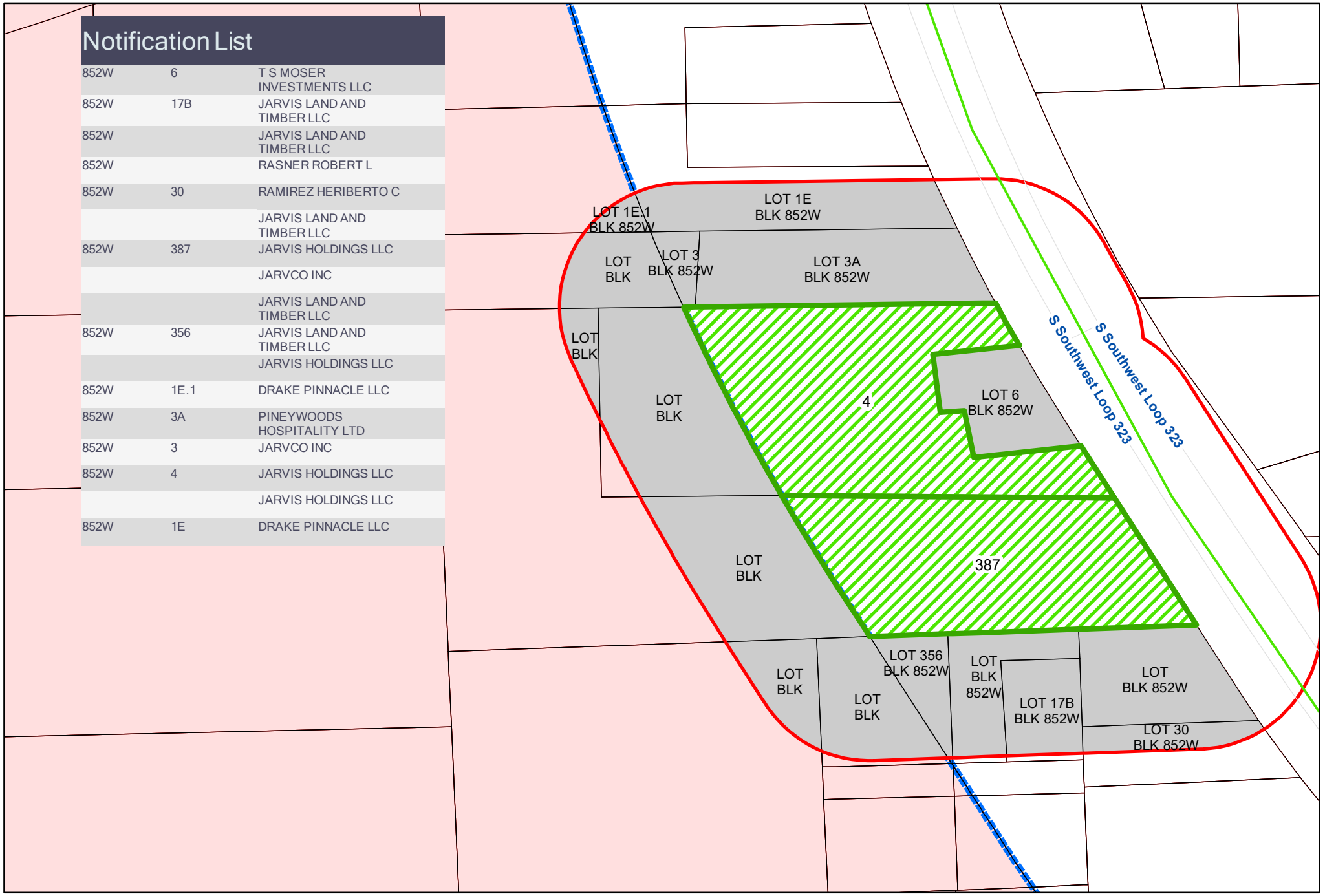
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ZONING CASE
Zoning Case #: S24-003
Special Use Permit
Griffin Archery

Subject Property

City Limits

N W E S



Notification List

852W	6	T S MOSER INVESTMENTS LLC
852W	17B	JARVIS LAND AND TIMBER LLC
852W		JARVIS LAND AND TIMBER LLC
852W		RASNER ROBERT L
852W	30	RAMIREZ HERIBERTO C
		JARVIS LAND AND TIMBER LLC
852W	387	JARVIS HOLDINGS LLC
		JARVCO INC
		JARVIS LAND AND TIMBER LLC
852W	356	JARVIS LAND AND TIMBER LLC
		JARVIS HOLDINGS LLC
852W	1E.1	DRAKE PINNACLE LLC
852W	3A	PINEYWOODS HOSPITALITY LTD
852W	3	JARVCO INC
852W	4	JARVIS HOLDINGS LLC
		JARVIS HOLDINGS LLC
852W	1E	DRAKE PINNACLE LLC

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200 0 200 Feet

ZONING CASE
Zoning Case #: S24-003
Special Use Permit
Griffin Archery

Subject Property
200' Mailed Notification Area
City Limits

N W E S

240

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-3

Date: March 27, 2024

Subject: S24-001 HOLLY TREE PROPERTIES (3035 FAIRLAWN DRIVE)
Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for an at-home day care with up to six children.

Page: Page 1 of

Item Reference:

The applicant is requesting a Special Use Permit (SUP) to allow for an at-home daycare on Lot 16 of NCB 1223, one lot totaling approximately 0.23 acres of land located west of the northwest intersection of Fairlawn Drive and Club Lake Drive (3035 Fairlawn Drive). The property is zoned "R-1A", Single-Family Residential District.

Tyler City Code Chapter 10, Article IX., Division A., provides that the City Council may, by ordinance, grant a special permit for special uses, which are otherwise prohibited by this ordinance and may impose appropriate conditions and safeguards. Special Use Permits are approved for a specific period of time. A use is considered special by the Unified Development Code (UDC) when there is potential for it to have adverse impact on nearby property and because the actions needed to minimize or eliminate the adverse impacts vary from site to site.

All adjacent properties to the north, east, west, and south are zoned "R-1A", Single-Family Residential District and are developed with single-family homes.

The applicant proposes the Special Use Permit to allow for their tenant, Latrice Muhammad, to operate an at-home daycare. The applicant plans to have up to six children in the home-daycare at a time. The applicant plans to be open for business from 6:00 am to 6:00 pm during the week. The proposed use is low-intensity and would provide a service to the neighborhood.

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. The applicant spoke in favor of the request and two of the neighbors spoke in opposition. Their concerns were about the potential noise and traffic that could be generated from a daycare.

As of Friday, March 22, 2024, of the 29 notices, two notices were returned in favor and six in opposition to the request with a protest calculation of 24.81 percent. As the written protest exceeds 20 percent, a favorable vote by a 3/4 majority of City Council will be required to approve this request. The opposition was generally opposed to the increase in traffic, noise, and potential safety concerns associated with the

addition of a daycare, although there may have been some misconceptions about the scale of the daycare. The staff has reached out to the applicant to see if they can speak to the neighbors and alleviate their concerns enough to withdraw their protest. One neighbor has withdrawn their protest, and another neighbor has expressed that they had initially thought it would be a large daycare center with more than a dozen school-aged children.

All other departments have reviewed the application and anticipate no significant impact on other related services by the proposed Special Use Permit request.

RECOMMENDATION:

The Planning and Zoning Commission by a 6-0 vote recommends approval of the Special Use Permit to allow for an at-home day care with up to six children for a one year period of time.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Protest Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; APPROVING A SPECIAL USE PERMIT TO ALLOW FOR AN AT-HOME DAY CARE ON LOT 16 OF NCB 1223, ONE LOT TOTALING APPROXIMATELY 0.23 ACRES OF LAND LOCATED WEST OF THE NORTHWEST INTERSECTION OF FAIRLAWN DRIVE AND CLUB LAKE DRIVE (3035 FAIRLAWN DRIVE); PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the special use should be made as set forth herein;

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

PART 1: That the following special use is hereby approved as follows:

I. APPLICATION S24-001

That the following described property, which is currently zoned "R-1A", Single-Family Residential District, shall hereafter allow a Special Use Permit for an at-home day care for a period of one year, to wit:

> On Lot 16 of NCB 1223, one lot totaling approximately 0.23 acres of land located west of the northwest intersection of Fairlawn Drive and Club Lake Drive (3035 Fairlawn Drive).

PART 2: The Special Use Permit is for an at-home day care with up to six children.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 29th, 2024.

PASSED AND APPROVED this the 27th day of March, A.D., 2024.

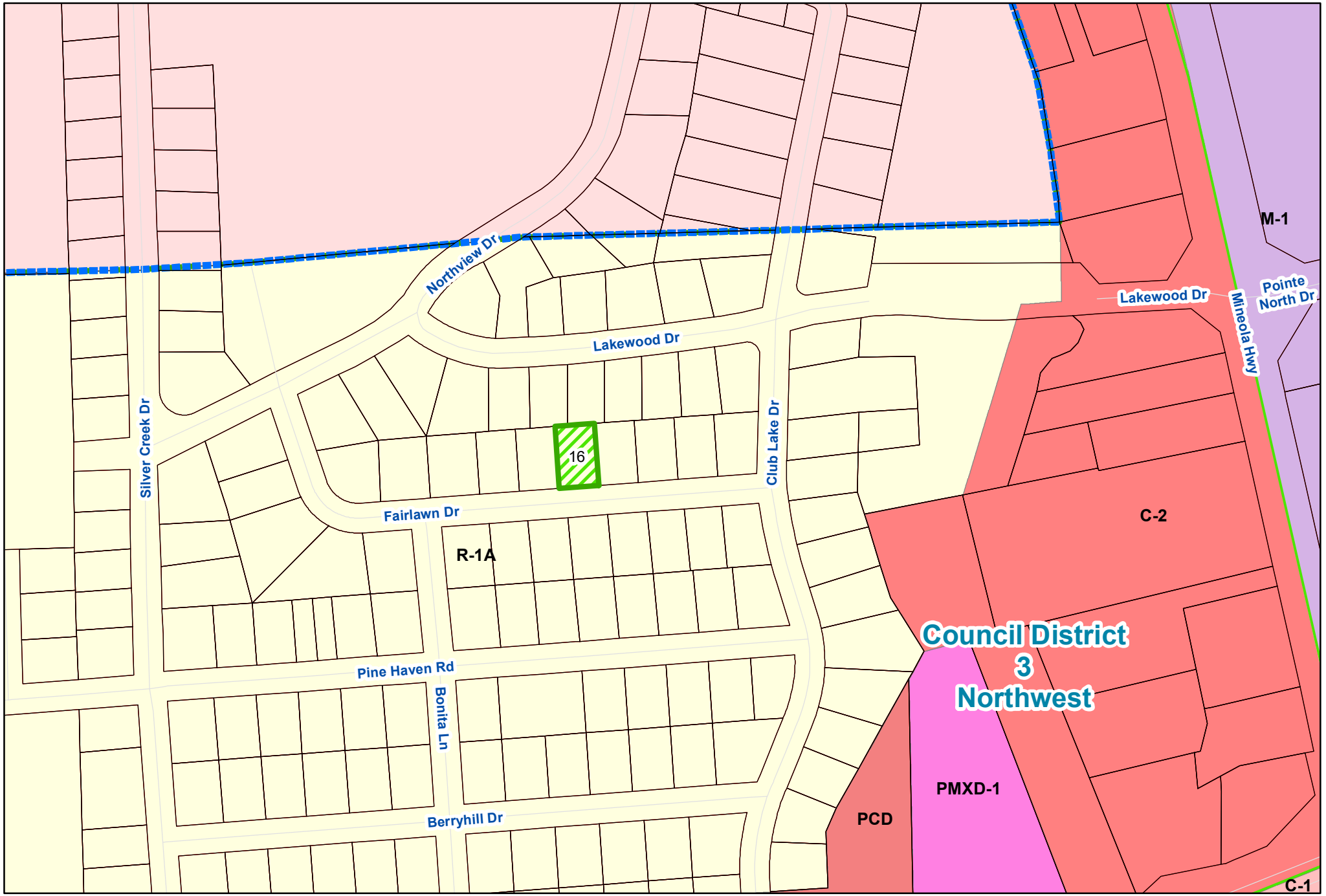
_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY



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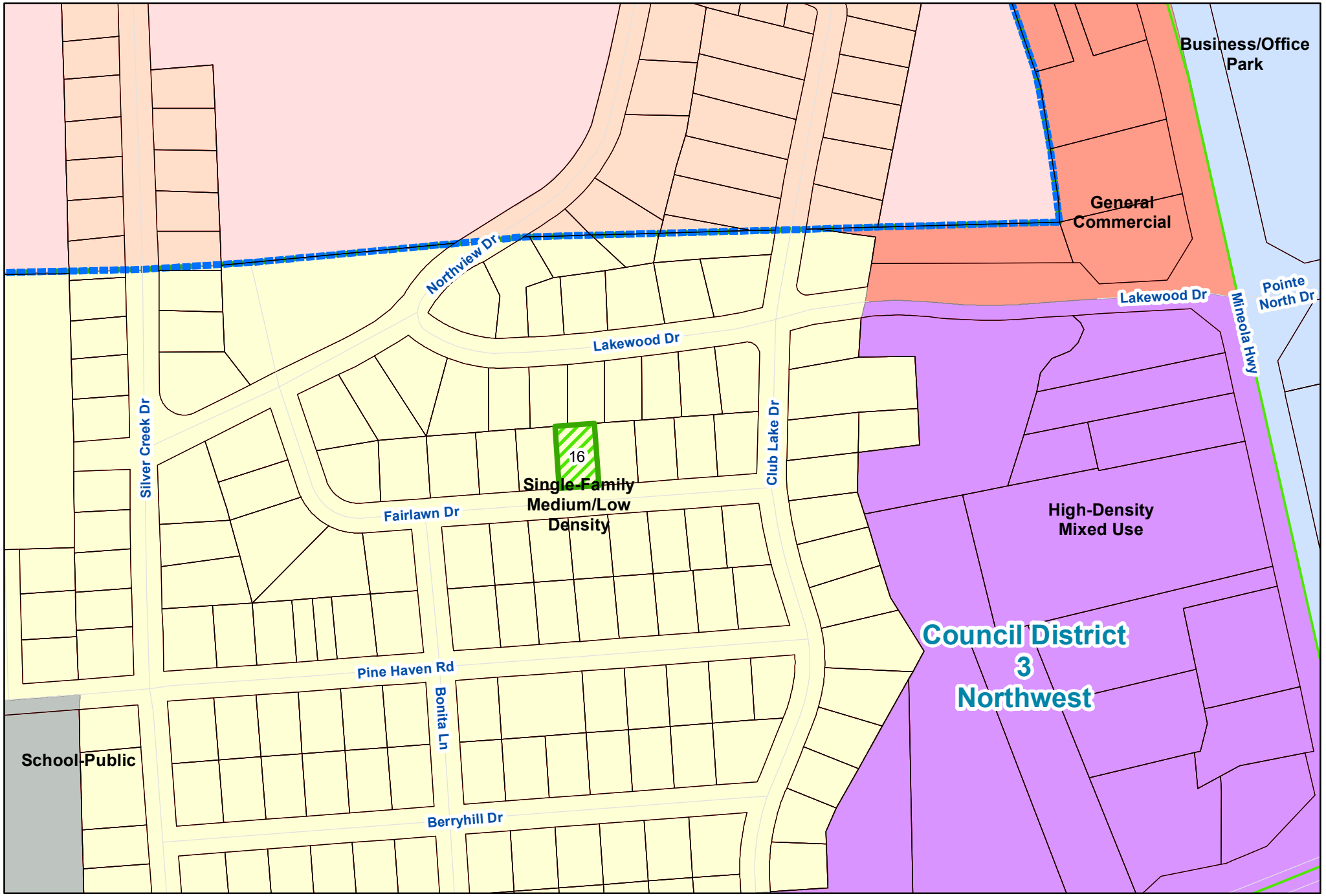
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ZONING CASE
Zoning Case #: S24-001
Special Use Permit
Latrice Muhammad

Subject Property

City Limits

N W E S



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250 0 250 Feet

ZONING CASE
Zoning Case #: S24-001
Special Use Permit
Latrice Muhammad

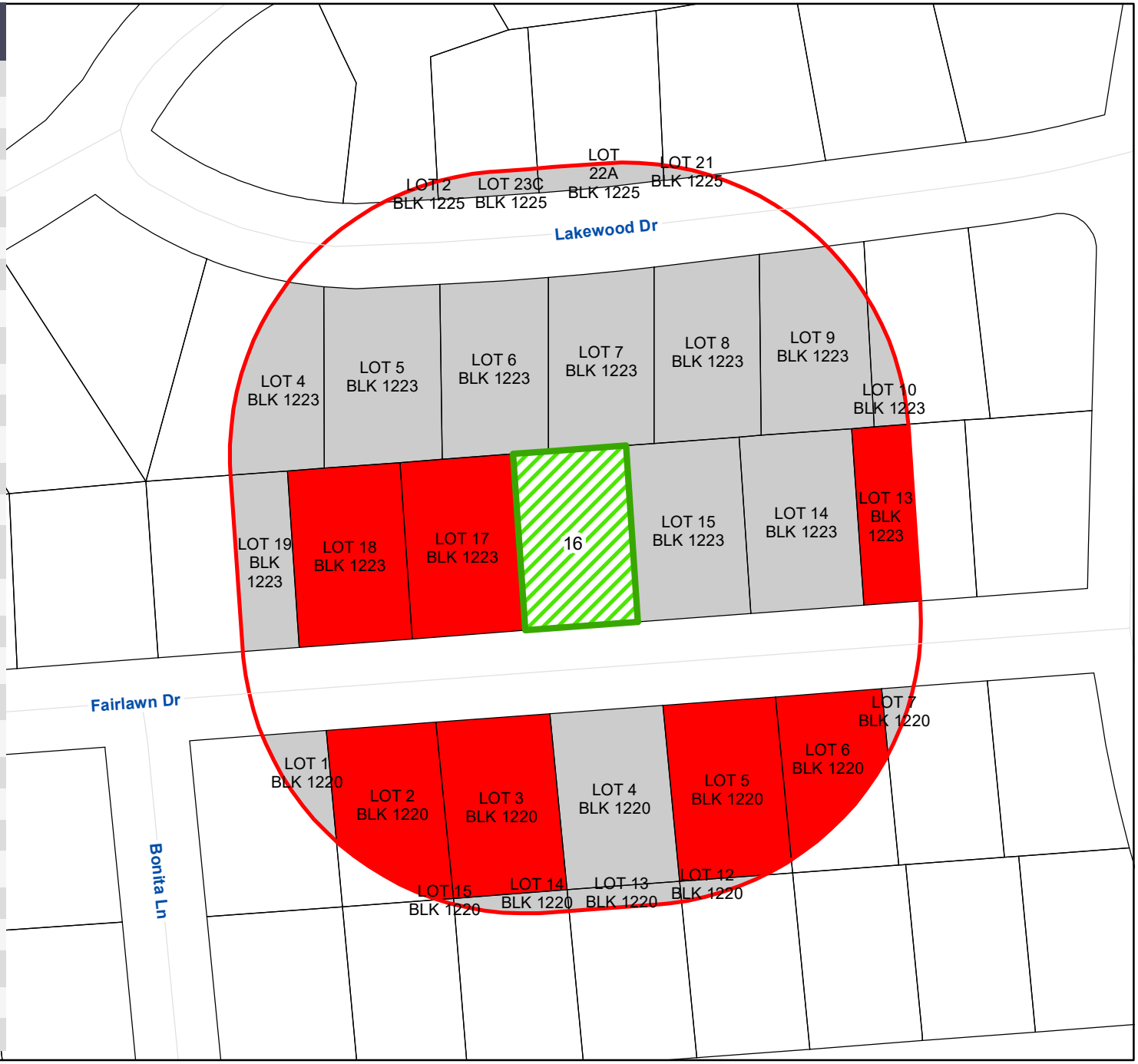
Subject Property

City Limits

N W E S

Notification List

1223	10	CASTLEBERRY MARQUIS R
1225	2	BARRERA JOSE V
1225	21	WICKWARE AMANDA C
1225	22A	MONSIVAIS JOSE A & CARLA M
1225	23C	WILLIAMS JESSIE
1223	9	JEFFERY JUNE WRIGHT
1223	8	ROWL ARLINE DANIELS
1223	4	JOHNSON MICHAEL M & IRENE D
1223	7	HARRIS KRISTION & LAKEJA
1223	6	GONZALEZ JESUS
1223	5	REESE EDWARD L &
1223	13	RYER-THOMAS ERNESTINE
1223	14	SOTO ANTOLIN & MARISA
1223	15	WELLS WILLIE JR & JULIA
1220	7	DORSEY DARREN C SR & RHONDA C REVOCABLE TRUST
1220	6	LIGGINS LEONARD WALTER & MERLENE
1220	5	WRIGHT ORA LEE
1220	4	RENFRO ROY & VONITA GIVENS
1220	1	PALACIOS MAXIMINO & ROSA M
1220	12	TILLEY PRENTICE & STEPHANIE
1220	13	JONES CHARLES M
1220	14	FORD BRANDON E
1220	15	MATA RAMIRO & MARIA
1223	16	HOLLY TREE PROPERTIES LLC
1223	17	MORROW TERREANCE T
1223	18	WILLIAMS MACK COY
1223	19	TARANGO CANDELARIO & MARIBEL
1220	3	WILLIAMS SHELIA D
1220	2	COLEMAN HERBERT



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100 0 100 Feet

ZONING CASE
Zoning Case #: S24-001
Special Use Permit
Latrice Muhammad

Subject Property
200' Mailed Notification Area
Protest Lots

N W E S

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-4

Date: March 27, 2024

Subject: Z24-002 WESLEY MARYION (1219 LOLLAR STREET)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-MF", Multi-Family Residential District to "R-1B", Single-Family Residential District.

Page: Page 1 of

Item Reference:

The applicant is requesting the zone change to allow for a single-family home on Lot 14 of NCB 347, one lot containing approximately 0.19 acres of land located at the northeast intersection of Lollar Street and North Confederate Avenue (1219 Lollar Street).

According to the Unified Development Code (UDC), the "R-1B", Single-Family Residential District is primarily intended to accommodate development of detached, single-family housing on smaller individual lots. In addition, the district allows churches, schools, and accessory buildings and uses. The maximum building height is 42 feet. Setback requirements are 25 feet in the front and rear, six feet on the interior side and 12 feet on the corner side. Minimum lot size is 6,000 square feet.

According to UDC Section 10-617, the City Council will consider the following approval criteria for zoning changes:

a. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action;
b. The zoning change is consistent with the Tyler 1st Comprehensive Plan;
c. The zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, and healthful development of the city;
d. The zoning change is compatible with the present zoning and/or conforming uses of nearby property and with the character of the neighborhood; and
e. The property to be rezoned is suitable for uses permitted by the District that would be applied by the proposed amendment.

According to UDC Section 10-587, the burden of proof or persuasion is on the applicant to show that an application complies with approval criteria.

All adjacent properties to the north, east, west, and south are zoned “R-MF”, Multi-Family Residential District and are developed with single-family homes or are undeveloped.

The request is consistent with the Tyler 1st Future Land Use Guide as it identifies this property as Single-Family Medium/Low Density.

The proposed zone change aligns with the Tyler 1st Comprehensive Plan's objectives for development in the North End. The applicant is requesting the zone change in order to develop the property with a single-family home. The area is primarily developed with single-family homes which were previously allowed to be built in the "R-MF" zoning. By changing the zoning, it would help the Tyler 1st goal of increasing housing in the North End.

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. There was no significant discussion.

As of Friday, March 22, 2024, of the 20 notices mailed, no notices were returned in favor or in opposition to the request.

All other departments have reviewed the application and anticipate a positive impact on services and facilities by the proposed rezoning request.

RECOMMENDATION:

The Planning and Zoning Commission by a 6-0 vote recommends approval of the zone change from "R-MF”, Multi-Family Residential District to “R-1B”, Single-Family Residential District.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Notification Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CHANGING THE ZONING FROM "R-MF", MULTI-FAMILY RESIDENTIAL DISTRICT TO "R-1B", SINGLE-FAMILY RESIDENTIAL DISTRICT ON LOT 14 OF NCB 347, ONE LOT CONTAINING APPROXIMATELY 0.19 ACRES OF LAND LOCATED AT THE NORTHEAST INTERSECTION OF LOLLAR STREET AND NORTH CONFEDERATE AVENUE (1219 LOLLAR STREET); DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z24-002

That the following described property, which has heretofore been zoned "R-MF", Multi-Family Residential District, shall hereafter bear the zoning classification of "R-1B", Single-Family Residential District, to wit:

> On Lot 14 of NCB 347, one lot containing approximately 0.19 acres of land located at the northeast intersection of Lollar Street and North Confederate Avenue (1219 Lollar Street).

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 27th day of March A.D., 2024.

_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY



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200 0 200 Feet

ZONING CASE
Zoning Case #: Z24-002
Current Zoning: R-MF Proposed Zoning: R-1B
Wesley Maryion

Subject Property

N W E S

252



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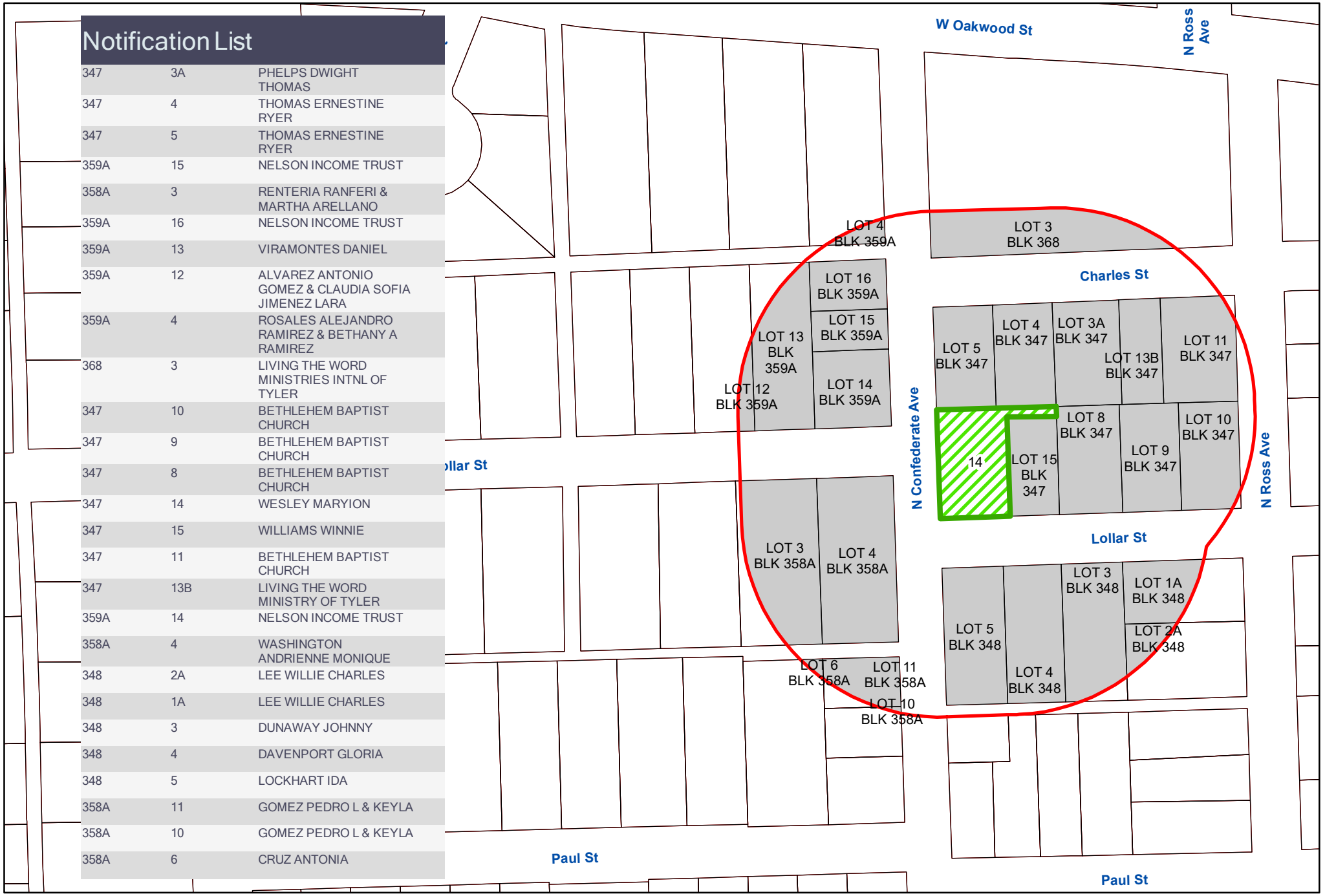
200 0 200 Feet

ZONING CASE
Zoning Case #: Z24-002
Current Zoning: R-MF Proposed Zoning: R-1B
Wesley Maryion

Subject Property

N W E S

253



Notification List

347	3A	PHELPS DWIGHT THOMAS
347	4	THOMAS ERNESTINE RYER
347	5	THOMAS ERNESTINE RYER
359A	15	NELSON INCOME TRUST
358A	3	RENTERIA RANFERI & MARTHA ARELLANO
359A	16	NELSON INCOME TRUST
359A	13	VIRAMONTES DANIEL
359A	12	ALVAREZ ANTONIO GOMEZ & CLAUDIA SOFIA JIMENEZ LARA
359A	4	ROSALES ALEJANDRO RAMIREZ & BETHANY A RAMIREZ
368	3	LIVING THE WORD MINISTRIES INTNL OF TYLER
347	10	BETHLEHEM BAPTIST CHURCH
347	9	BETHLEHEM BAPTIST CHURCH
347	8	BETHLEHEM BAPTIST CHURCH
347	14	WESLEY MARYION
347	15	WILLIAMS WINNIE
347	11	BETHLEHEM BAPTIST CHURCH
347	13B	LIVING THE WORD MINISTRY OF TYLER
359A	14	NELSON INCOME TRUST
358A	4	WASHINGTON ANDRIENNE MONIQUE
348	2A	LEE WILLIE CHARLES
348	1A	LEE WILLIE CHARLES
348	3	DUNAWAY JOHNNY
348	4	DAVENPORT GLORIA
348	5	LOCKHART IDA
358A	11	GOMEZ PEDRO L & KEYLA
358A	10	GOMEZ PEDRO L & KEYLA
358A	6	CRUZ ANTONIA

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125 0 125 Feet

ZONING CASE
Zoning Case #: Z24-002
Current Zoning: R-MF Proposed Zoning: R-1B
Wesley Maryion

Subject Property
200' Mailed Notification Area

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-5

Date: March 27, 2024

Subject: Z24-004 JOHN WALTZ (1822 FERDELL STREET)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-1B", Single-Family Residential District to "R-1D", Single-Family Detached and Attached Residential District.

Page: Page 1 of

Item Reference:

The applicant is requesting the zone change to allow for a garage apartment on Lot 70A of NCB 675A, one lot containing approximately 0.16 acres of land located at the northwest intersection of Ferdell Street and South Porter Avenue (1822 Ferdell Street).

According to the Unified Development Code (UDC), the "R-1D", Single-Family Detached and Attached Residential District is primarily intended to accommodate single-family detached and attached housing, such as townhouses and rowhouses on small individual lots. In addition, the district allows churches, schools, and accessory buildings and uses. The maximum building height is 42 feet. Setback requirements are 25 feet in the front, 15 feet in the rear, zero feet on the interior side and 12 feet on the corner side. Minimum lot size is 3,000 square feet.

According to UDC Section 10-617, the City Council will consider the following approval criteria for zoning changes:

a. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action;
b. The zoning change is consistent with the Tyler 1st Comprehensive Plan;
c. The zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, and healthful development of the city;
d. The zoning change is compatible with the present zoning and/or conforming uses of nearby property and with the character of the neighborhood; and
e. The property to be rezoned is suitable for uses permitted by the District that would be applied by the proposed amendment.

According to UDC Section 10-587, the burden of proof or persuasion is on the applicant to show that an application complies with approval criteria.

The adjacent properties to the north, west, and south are zoned "R-1B", Single-Family Residential District and are developed with single-family homes and an undeveloped lot. The adjacent property to the east is zoned "R-1A", Single-Family Residential District and is the location of a church.

The Tyler 1st Future Land Use Guide (FLUG) identifies this property as Single-Family Medium/Low Density. This request would amend the FLUG to Single-Family and Single-Family Attached Medium/High Density.

The subject property is currently developed with one single-family home. The zone change is requested to allow for a secondary dwelling unit since the current zoning does not allow it. "R-1D" zoning may be appropriate zoning this area due to the entire block to the north being identified as Multi-Family in the Tyler 1st Future Land Use Guide. There are also other properties zoned "R-2" and "R-1D" in this general area.

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. John Waltz, the applicant, spoke in favor of the request. No one spoke in opposition to the request.

As of Friday, March 22, 2024, of the 17 notices mailed, no notices were returned in favor or in opposition to the request.

All other departments have reviewed the application and anticipate no significant impact on services and facilities by the proposed rezoning request.

RECOMMENDATION:

The Planning and Zoning Commission by a 6-0 vote recommends approval of the zone change from "R-1B", Single-Family Residential District to "R-1D", Single-Family Detached and Attached Residential District.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Notification Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CHANGING THE ZONING FROM "R-1B", SINGLE-FAMILY RESIDENTIAL DISTRICT TO "R-1D", SINGLE-FAMILY DETACHED AND ATTACHED RESIDENTIAL DISTRICT ON LOT 70A OF NCB 675A, ONE LOT CONTAINING APPROXIMATELY 0.16 ACRES OF LAND LOCATED AT THE NORTHWEST INTERSECTION OF FERDELL STREET AND SOUTH PORTER AVENUE (1822 FERDELL STREET); DIRECTING THE AMENDMENT OF THE ZONING MAP; DIRECTING THE AMENDMENT OF THE FUTURE LAND USE GUIDE MAP; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z24-004

That the following described property, which has heretofore been zoned "R-1B", Single-Family Residential District, shall hereafter bear the zoning classification of "R-1D", Single-Family Detached and Attached Residential District, to wit:

> On Lot 70A of NCB 675A, one lot containing approximately 0.16 acres of land located at the northwest intersection of Ferdell Street and South Porter Avenue (1822 Ferdell Street).

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning and the Future Land Use Guide to reflect Single-Family and Single-Family Attached Medium/High Density.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 27th day of March A.D., 2024.

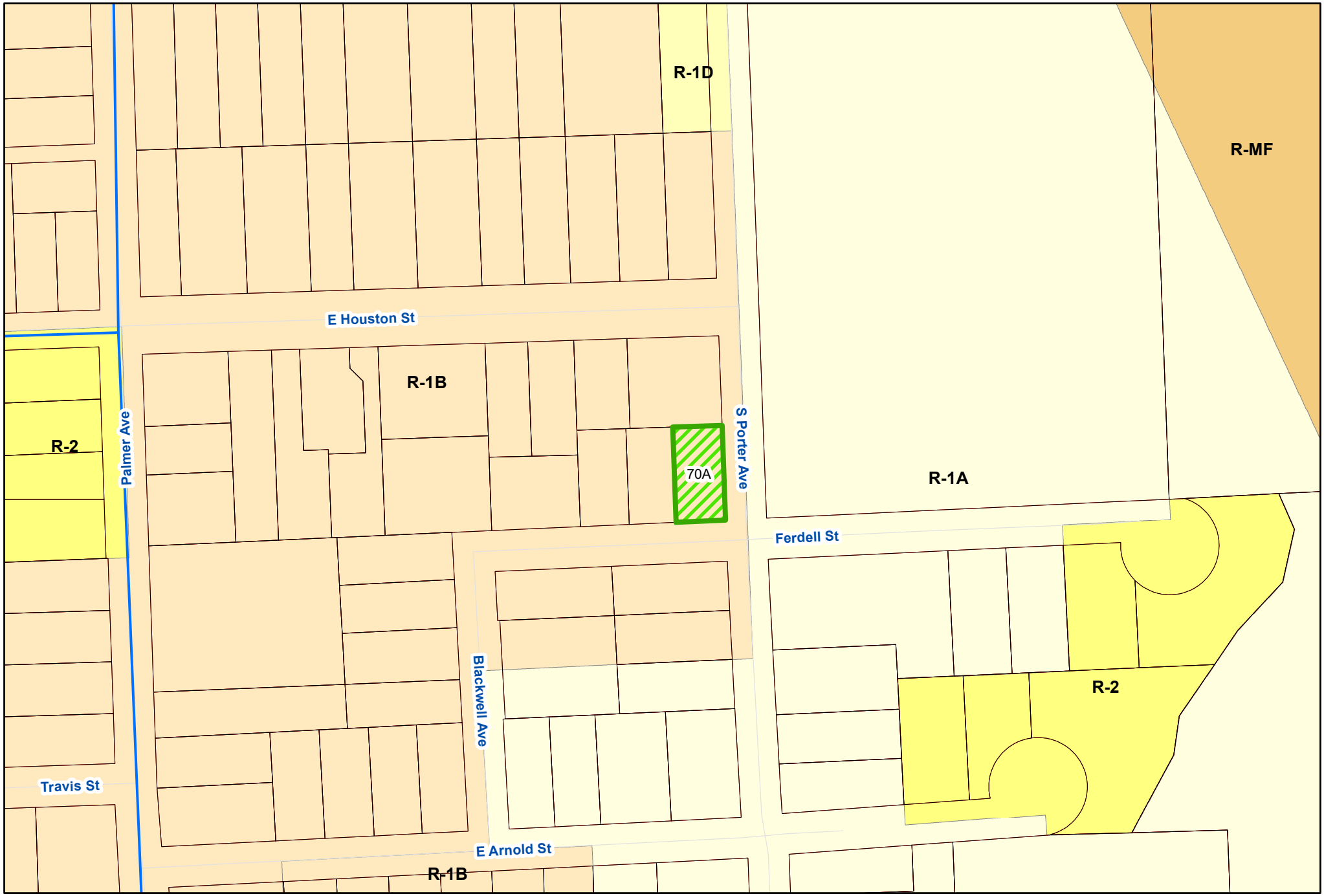
_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY



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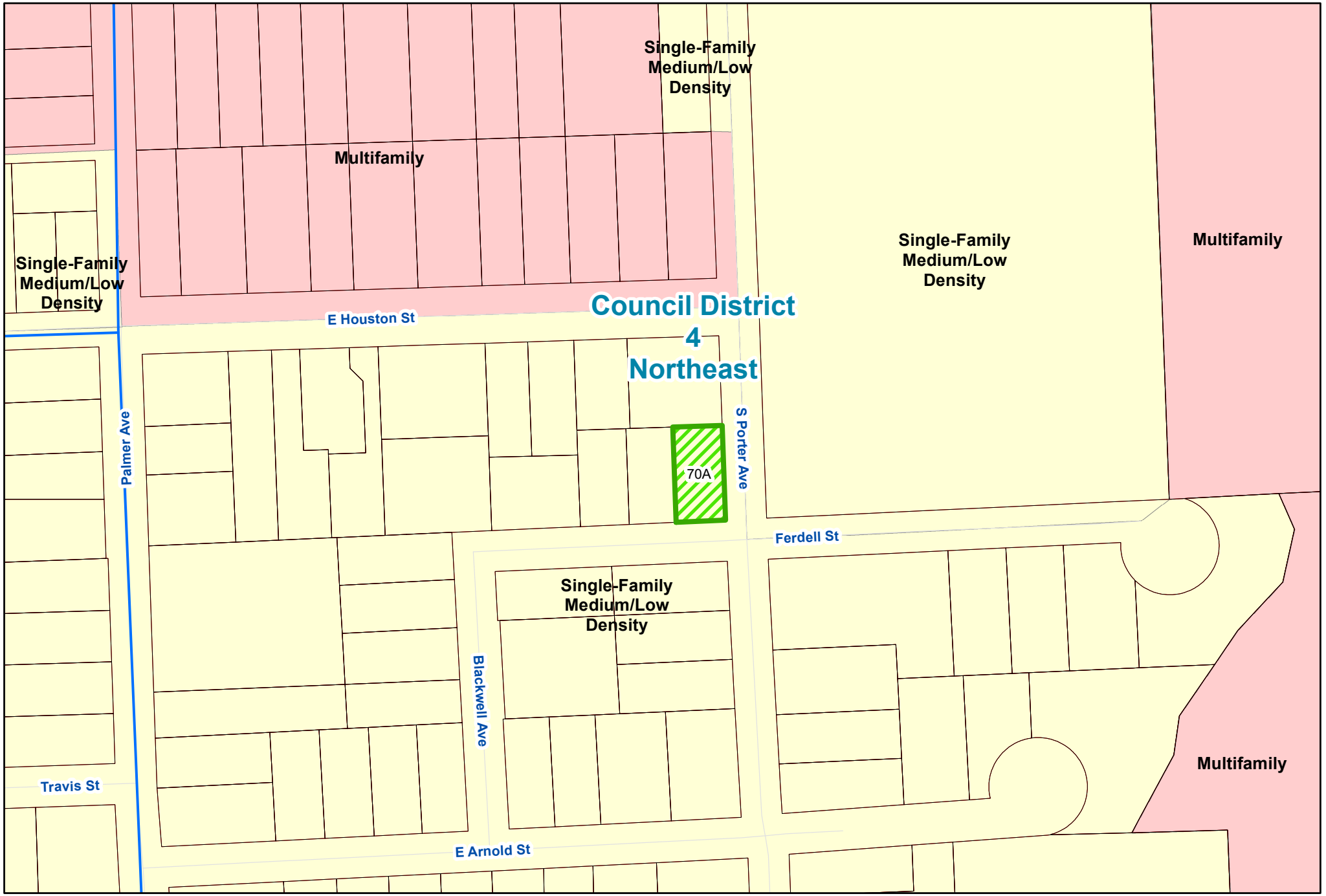
150 0 150 Feet

ZONING CASE
Zoning Case #: Z24-004
Current Zoning: R-1B Proposed Zoning: R-1D
Shorey Kevin & Emma

Subject Property

N W E S

259



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150 0 150 Feet

ZONING CASE
Zoning Case #: Z24-004
Current Zoning: R-1B Proposed Zoning: R-1D
Shorey Kevin & Emma

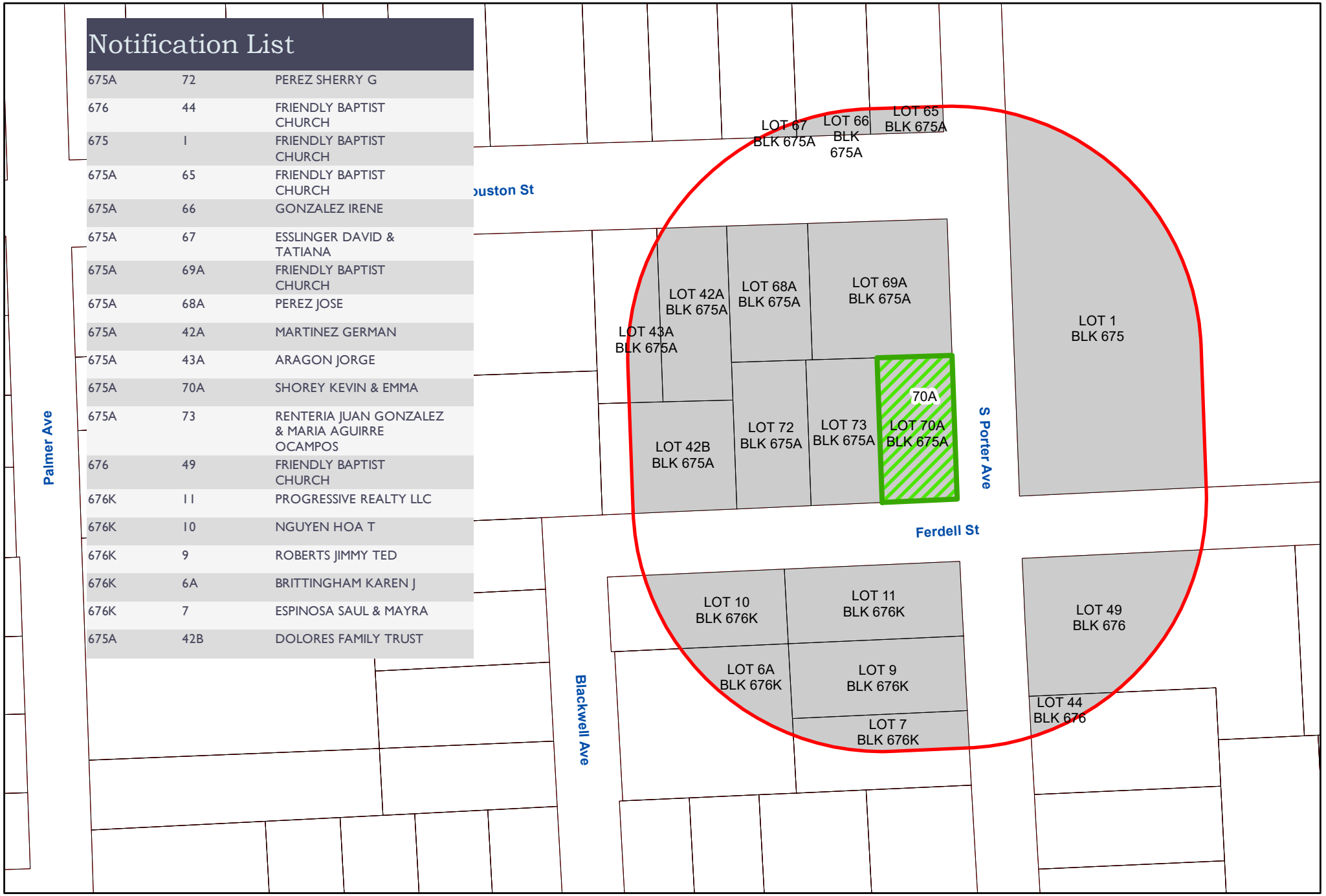
Subject Property

N W E S

260

Notification List

675A	72	PEREZ SHERRY G
676	44	FRIENDLY BAPTIST CHURCH
675	1	FRIENDLY BAPTIST CHURCH
675A	65	FRIENDLY BAPTIST CHURCH
675A	66	GONZALEZ IRENE
675A	67	ESSLINGER DAVID & TATIANA
675A	69A	FRIENDLY BAPTIST CHURCH
675A	68A	PEREZ JOSE
675A	42A	MARTINEZ GERMAN
675A	43A	ARAGON JORGE
675A	70A	SHOREY KEVIN & EMMA
675A	73	RENTERIA JUAN GONZALEZ & MARIA AGUIRRE OCAMPOS
676	49	FRIENDLY BAPTIST CHURCH
676K	11	PROGRESSIVE REALTY LLC
676K	10	NGUYEN HOA T
676K	9	ROBERTS JIMMY TED
676K	6A	BRITTINGHAM KAREN J
676K	7	ESPINOSA SAUL & MAYRA
675A	42B	DOLORES FAMILY TRUST



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100 0 100 Feet

ZONING CASE
Zoning Case #: Z24-004
Current Zoning: R-1B Proposed Zoning: R-1D
Shorey Kevin & Emma

Subject Property
200' Mailed Notification Area

N W E S

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-6

Date: March 27, 2024

Subject: PD23-026 RAINWATER DAVID (2268 AND 2278 SUNNYBROOK DRIVE AND 1210, 1212, AND 1214 WEST 10TH STREET)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-1A", Single-Family Residential District to "PUR", Planned Unit Residential District with a final site plan.

Page: Page 1 of

Item Reference:

The applicant is requesting the zone change to build attached housing on Lots 2, 3, 4, 5, and 6 of NCB 709-H, five lots containing approximately 1.30 acres of land located at the southwest intersection of Sunnybrook Drive and West 10th Street (2268 and 2278 Sunnybrook Drive and 1210, 1212, and 1214 West 10th Street).

According to the Unified Development Code (UDC), the "PUR" Planned Unit Residential District is primarily for the medium to high-density development of unique and innovative forms of detached single-family housing on individually platted lots. A PUR development uses the total space within a development by creating common open spaces, scenic and recreational areas and other spaces that will compensate for the reduction of land area dedicated for residential structures. It is the intent of the PUR to provide for residential developments that utilize private streets, owned and maintained by a Homeowner's Association. The PUR district is not intended as a convenience to circumvent regulations set forth in other residential districts, or as a tool for mass variance, without provisions of common areas. All developments created in a PUR district must be designed and developed in accordance with an approved site development plan and submitted for approval to the Planning Commission and City Council.

According to UDC Section 10-617, the City Council will consider the following approval criteria for zoning changes:

a. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action;
b. The zoning change is consistent with the Tyler 1st Comprehensive Plan;
c. The zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, and healthful development of the city;

d. The zoning change is compatible with the present zoning and/or conforming uses of nearby property and with the character of the neighborhood; and
e. The property to be rezoned is suitable for uses permitted by the District that would be applied by the proposed amendment.

In addition to the zoning change criteria above, the City Council will consider the following specific objectives and criteria for approving any type of planned district currently permitted in this code:

a. A variety of housing types, employment opportunities, or commercial services to achieve a balanced community;
b. An orderly and creative arrangement of all land uses with respect to each other and to the entire community;
c. A planned and integrated comprehensive transportation system providing for a separation of pedestrian and vehicular traffic, to include facilities such as roadways, bicycle ways and pedestrian walkways;
d. The provisions of cultural or recreational facilities for all segments of the community;
e. The location of general building envelopes to take maximum advantage of the natural and manmade environment; and
f. The staging of development in a manner which can be accommodated by the timely provision of public utilities, facilities, and services.

According to UDC Section 10-587, the burden of proof or persuasion is on the applicant to show that an application complies with approval criteria.

The adjacent properties to the north are zoned "C-1", Light Commercial District and are developed with a cell tower and commercial building. The adjacent properties to the east, south, and west are zoned "R-1A", Single-Family Residential District and are developed with single-family homes.

The Tyler 1st Future Land Use Guide (FLUG) identifies this property as Single-Family Medium/Low Density. This request would amend the FLUG to Single-Family and Single-Family Attached.

The applicant is proposing to develop the property with 15 attached single-story single-family homes with two private drives running through the property. The applicant is leaving the area along the south of the property undisturbed to act as a buffer to the residential properties to the south and to not disturb the creek. The applicant is also proposing to build a 6-foot-tall fence along the border of the property. The proposed zone change aligns with the Tyler 1st Comprehensive Plan's objectives for residential development in the North End. The adjacent properties to the north are zoned and developed with commercial uses with a commercial driveway immediately across from this proposed development. A higher density single-family development would act as a transition between these commercial uses and the low-density single-family detached residential uses to the south.

The request was tabled at the February 6, 2024, Planning and Zoning Commission meeting to allow the applicant additional time to address neighbor concerns and finalize an acceptable site plan with staff.

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. The applicant was present to address concerns. A neighbor was present to address concerns with the development, including the increase in traffic and density for that area.

As of Friday, March 22, 2024, of the 22 notices mailed, two notices were returned in favor and nine notices were returned in opposition to the request for a total protest calculation of 13.04 percent. Since the original Planning and Zoning Commission meeting where the item was originally tabled, one notice was returned in favor of the request and two in opposition. Additionally, after speaking with the applicant, two neighbors have withdrawn their letters of opposition. The opposition generally opposed increased traffic, noise, and potential drainage problems associated with developing the site.

All other departments have reviewed the application and anticipate no significant impact on services or facilities by the proposed rezoning request.

RECOMMENDATION:

The Planning and Zoning Commission by a 6-0 vote recommends approval of the zone change from "R-1A", Single-Family Residential District to "PUR", Planned Unit Residential District with a final site plan.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Protest Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CHANGING THE ZONING FROM "R-1A", SINGLE-FAMILY RESIDENTIAL DISTRICT TO "PUR", PLANNED UNIT RESIDENTIAL DISTRICT WITH A FINAL SITE PLAN ON LOTS 2, 3, 4, 5, AND 6 OF NCB 709-H, FIVE LOTS CONTAINING APPROXIMATELY 1.30 ACRES OF LAND LOCATED AT THE SOUTHWEST INTERSECTION OF SUNNYBROOK DRIVE AND WEST 10TH STREET (2268 AND 2278 SUNNYBROOK DRIVE AND 1210, 1212, AND 1214 WEST 10TH STREET); DIRECTING THE AMENDMENT OF THE ZONING MAP; DIRECTING THE AMENDMENT OF THE FUTURE LAND USE GUIDE MAP; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION PD23-026

That the following described property, which has heretofore been zoned "R-1A", Single-Family Residential District to "PUR", Planned Unit Residential District with a final site plan, to wit:

> On Lots 2, 3, 4, 5, and 6 of NCB 709-H, five lots containing approximately 1.30 acres of land located at the southwest intersection of Sunnybrook Drive and West 10th Street (2268 and 2278 Sunnybrook Drive and 1210, 1212, and 1214 West 10th Street) and in accordance with the Final Site Plan in Exhibit "A" attached hereto and incorporated herein.

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning and the Future Land Use Guide to reflect Single-Family and Single-Family Attached.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be March 29th, 2024.

PASSED AND APPROVED this the 27th day of March A.D., 2024.

_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

_____
CASSANDRA BRAGER, CITY CLERK

APPROVED:

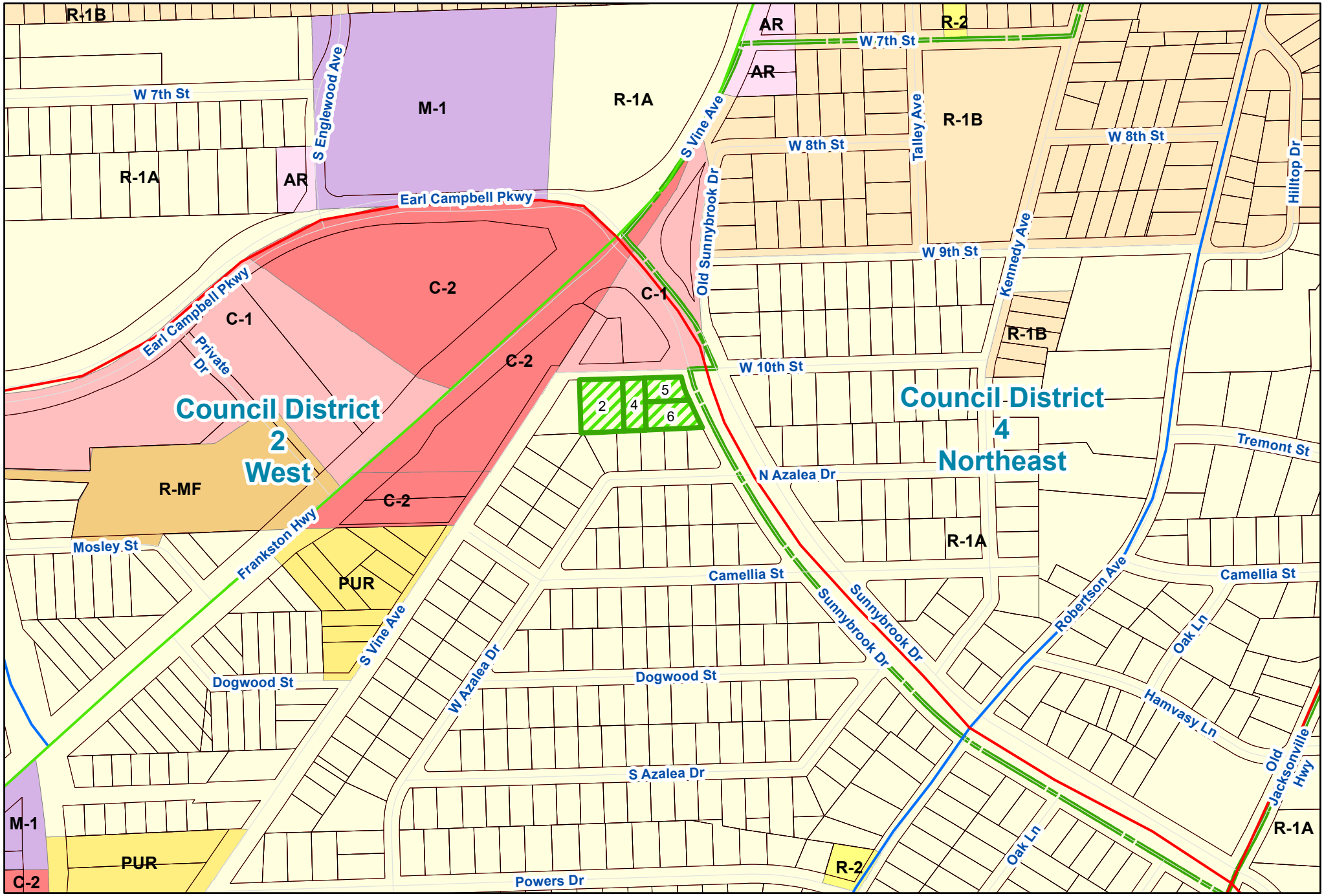
_____
DEBORAH G. PULLUM,
CITY ATTORNEY

ORDINANCE NO. O-2024-
EXHIBIT "A" (1/2)
FINAL SITE PLAN



EXHIBIT "A" (2/2)
SITE DEVELOPMENT STANDARDS

Current Zoning: "R-1A"
Proposed Zoning: "PUR"
Proposed Density: Approximately 11.2 Units/Acre
Setbacks:
Front (West 10th): 18'
Side Corner (Sunnybrook): 15'
Side: 20'
Rear: 40'
Height: Restricted to one story, less than 20'
Fencing: A 6' privacy fence will be installed on the rear and sides of the property
Common Area: The green space located along the rear and side corner of the property will serve as a common area for the development
All other standards to be per the Tyler UDC for "R-1A"



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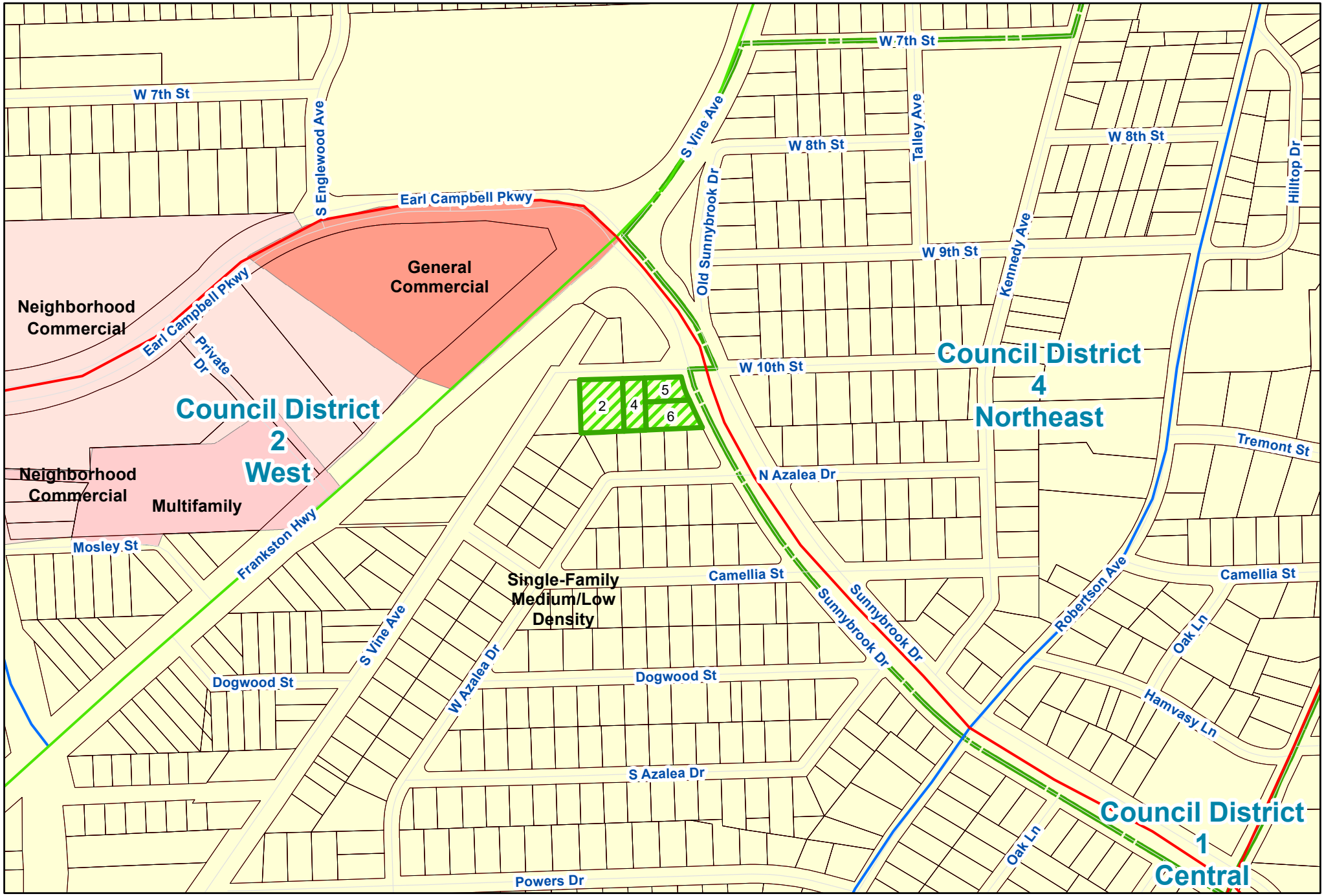
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ZONING CASE
Zoning Case #: PD23-026
Current Zoning: R-1A
Proposed Zoning: PUR
RAINWATER DAVID

Subject Property
Council District Boundary

N W E S

269



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400 0 400 Feet

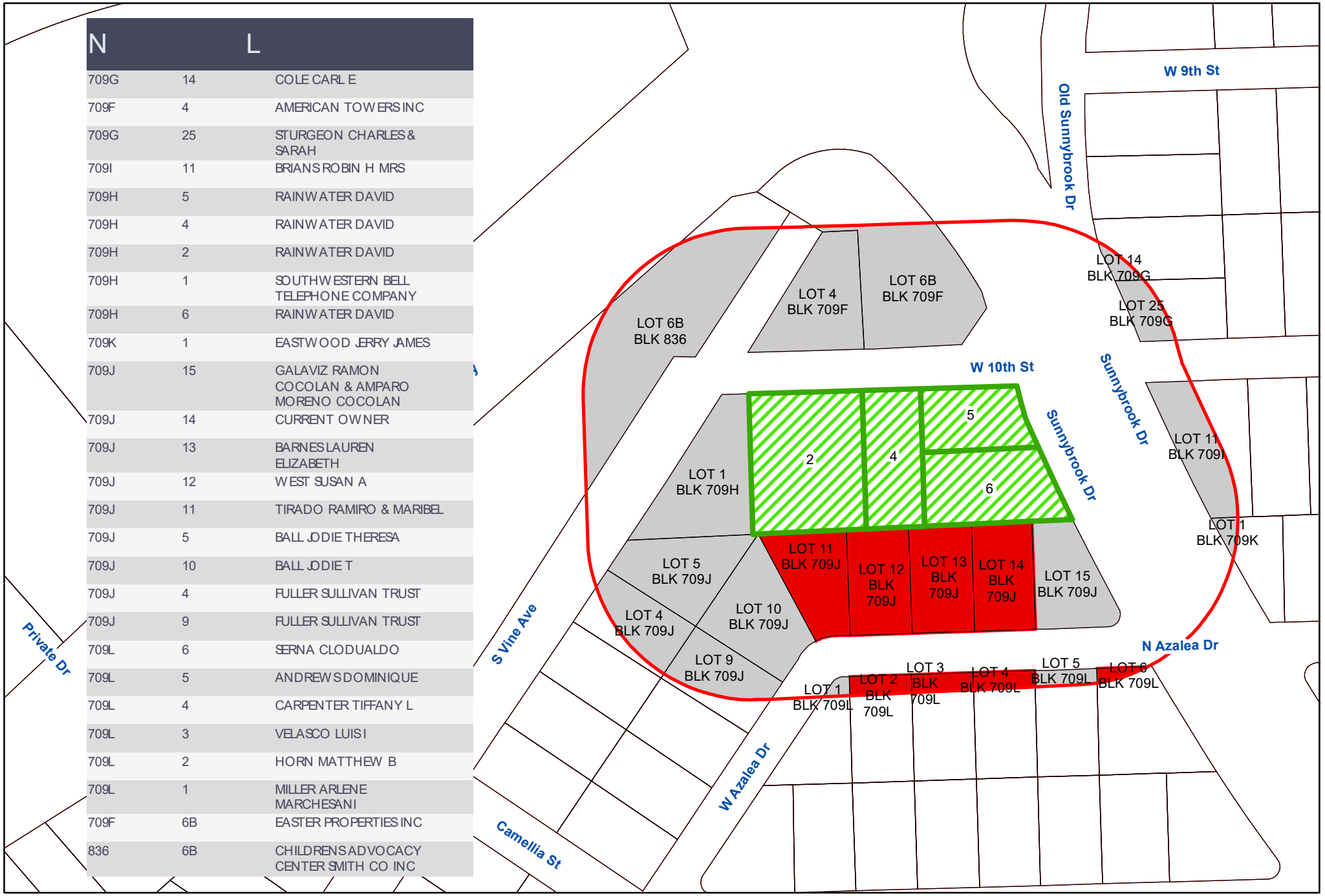
ZONING CASE
Zoning Case #: PD23-026
Current Zoning: R-1A
Proposed Zoning: PUR
RAINWATER DAVID

Subject Property
Council District Boundary

N W E S

270

N	L	
709G	14	COLE CARL E
709F	4	AMERICAN TOWERS INC
709G	25	STURGEON CHARLES & SARAH
709I	11	BRIANS ROBIN H MRS
709H	5	RAINWATER DAVID
709H	4	RAINWATER DAVID
709H	2	RAINWATER DAVID
709H	1	SOUTHWESTERN BELL TELEPHONE COMPANY
709H	6	RAINWATER DAVID
709K	1	EASTWOOD JERRY JAMES
709J	15	GALAVIZ RAMON COCOLAN & AMPARO MORENO COCOLAN
709J	14	CURRENT OWNER
709J	13	BARNES LAUREN ELIZABETH
709J	12	WEST SUSAN A
709J	11	TIRADO RAMIRO & MARIBEL
709J	5	BALL JODIE THERESA
709J	10	BALL JODIE T
709J	4	FULLER SULLIVAN TRUST
709J	9	FULLER SULLIVAN TRUST
709L	6	SERNA CLODUALDO
709L	5	ANDREWS DOMINIQUE
709L	4	CARPENTER TIFFANY L
709L	3	VELASCO LUIS I
709L	2	HORN MATTHEW B
709L	1	MILLER ARLENE MARCHESANI
709F	6B	EASTER PROPERTIES INC
836	6B	CHILDRENS ADVOCACY CENTER SMITH CO INC



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150 0 150 Feet

ZONING CASE
Zoning Case #: PD23-026
Current Zoning: R-1A
Proposed Zoning: PUR
RAINWATER DAVID

Subject Property
200' Mailed Notification Area
Protest Lots

N W E S

271

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-7

Date: March 27, 2024

Subject: Z24-005 SRPG TROUP LLC (0.36 ACRE PORTION OF 5012 TROUP HIGHWAY)
Request that the City Council consider adoption of an Ordinance approving a zone change from "R-1A", Single-Family Residential District to "C-2", General Commercial District.

Page: Page 1 of

Item Reference:

The applicant is requesting the zone change to develop the property with a tire sales and service center with outdoor storage on a 0.36 acre portion of Lot 1C of NCB 1536-H, one lot containing approximately 0.92 acres of land located north of the northeast intersection of Troup Highway and Shiloh Road (0.36 acre portion of 5012 Troup Highway).

According to the Unified Development Code (UDC), the "C-2", General Commercial District allows automobile garages and sales lots, hotels, restaurants, warehouses, offices, and retail establishments with outdoor display or storage of merchandise. The maximum building height allowed within the "C-2" District is three stories or 45 feet in height. The setback requirements are 10 feet in the front, 10 feet in the rear, zero feet on the interior side (10 feet if abuts a residential district) and 15 feet on the corner side. The minimum lot area is 14,000 square feet. Off-street parking for commercial-type uses is determined by the specific use proposed. Properties with a commercial designation are subject to UDC Development Standards such as landscaping and tree preservation, bufferyards, and sign regulations.

According to UDC Section 10-617, the City Council will consider the following approval criteria for zoning changes:

a. The application is complete and the information contained within the application is sufficient and correct enough to allow adequate review and final action;
b. The zoning change is consistent with the Tyler 1st Comprehensive Plan;
c. The zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, and healthful development of the city;
d. The zoning change is compatible with the present zoning and/or conforming uses of nearby property and with the character of the neighborhood; and
e. The property to be rezoned is suitable for uses permitted by the District that would be applied by the proposed amendment.

According to UDC Section 10-587, the burden of proof or persuasion is on the applicant to show that an application complies with approval criteria.

The adjacent properties to the north are zoned "R-1A", Single-Family Residential District and are developed with single-family homes. The adjacent properties to the east and south are zoned "C-2", General Commercial District and are developed with a Wal-Mart Supercenter and an undeveloped lot, respectively. The adjacent property to the west is zoned "R-MF", Multi-Family Residential District and is developed with an apartment complex.

The adopted Tyler 1st Future Land Use Guide (FLUG) identifies this property as Neighborhood Commercial. This request would amend the FLUG to General Commercial.

The applicant is requesting the re-zoning to develop it with tire sales and service center with outdoor storage. The subject property is currently split zoned "R-1A" and "C-2", the portion that is zoned "R-1A" does not allow for most commercial uses. The subject portion of the property was intended to be a part of a zone change in 1987 but was left out of the rezoning area to serve as a zoning buffer. This was a method to buffer residential and commercial prior to the adoption of required bufferyards which are now required.

A majority of the properties in this general are zoned for general commercial uses. The subject property is located along a major arterial road. The proposed zoning would not be out of character for the area.

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. The applicant spoke in favor of the request. No one spoke in opposition to the request.

As of Friday, March 22, 2024, of the 16 notices mailed, one notice was returned in favor and one in opposition to the request with a protest calculation of 4.21 percent. The notice stated concerns about the development being too close to residential. The applicant will be required to provide a Type B bufferyard that ranges from 10-20 feet of space at the northern portion of the property with various degrees of tree and shrub plantings.

All other departments have reviewed the application and anticipate no significant impact on services or facilities by the proposed rezoning request.

RECOMMENDATION:

The Planning and Zoning Commission by a 6-0 vote recommends approval of the zone change from "R-1A", Single-Family Residential District to "C-2", General Commercial District.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Protest Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CHANGING THE ZONING FROM "R-1A", SINGLE-FAMILY RESIDENTIAL DISTRICT TO "C-2", GENERAL COMMERCIAL DISTRICT ON A 0.36 ACRE PORTION OF LOT 1C OF NCB 1536-H, ONE LOT CONTAINING APPROXIMATELY 0.92 ACRES OF LAND LOCATED NORTH OF THE NORTHEAST INTERSECTION OF TROUP HIGHWAY AND SHILOH ROAD (0.36 ACRE PORTION OF 5012 TROUP HIGHWAY); DIRECTING THE AMENDMENT OF THE ZONING MAP; DIRECTING THE AMENDMENT OF THE FUTURE LAND USE GUIDE MAP; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z24-005

That the following described property, which has heretofore been zoned "R-1A", Single-Family Residential District, shall hereafter bear the zoning classification of "C-2", General Commercial District, to wit:

> On a 0.36 acre portion of Lot 1C of NCB 1536-H, one lot containing approximately 0.92 acres of land located north of the northeast intersection of Troup Highway and Shiloh Road (0.36 acre portion of 5012 Troup Highway).

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning and the Future Land Use Guide to reflect General Commercial.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 27th day of March A.D., 2024.

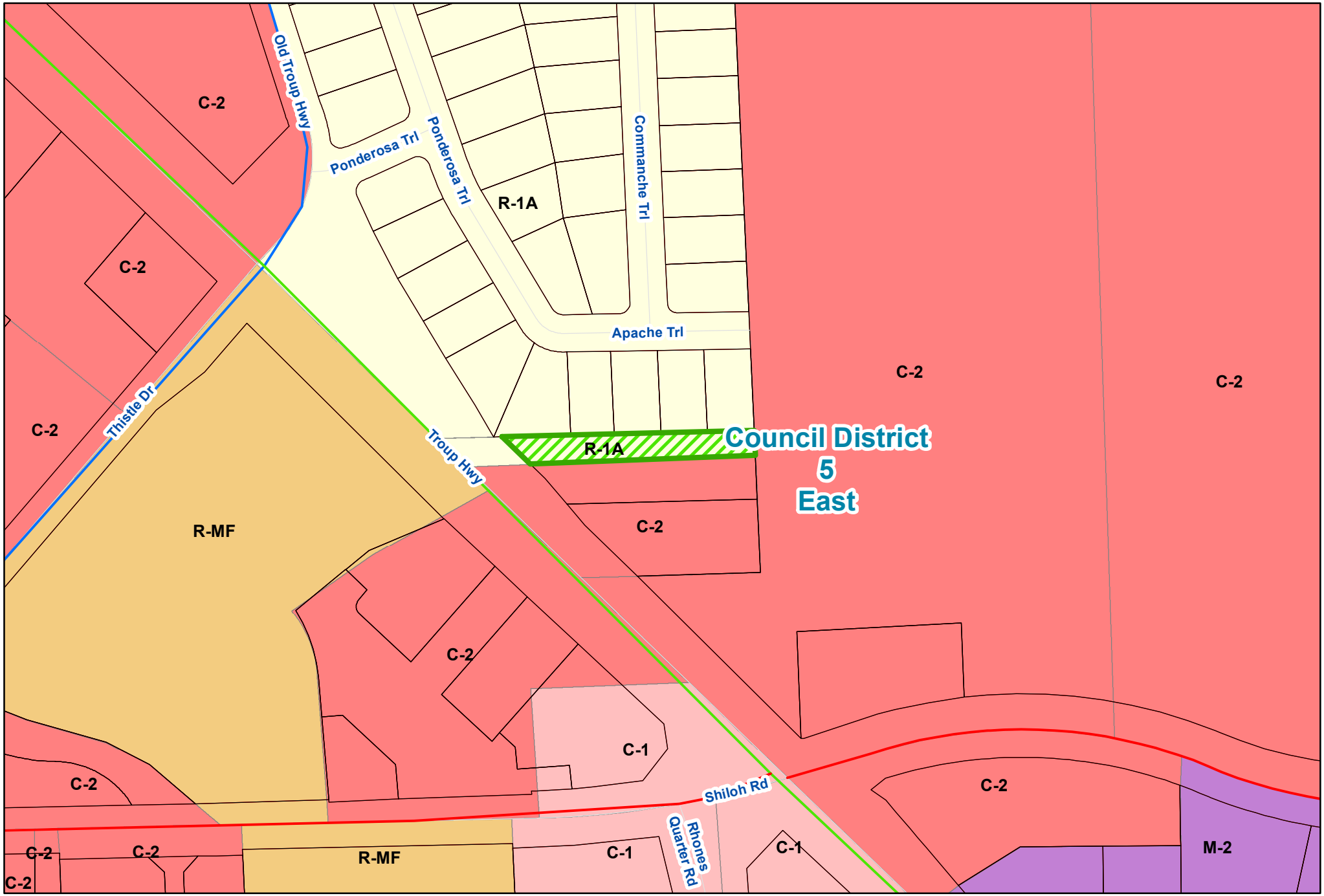
_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY



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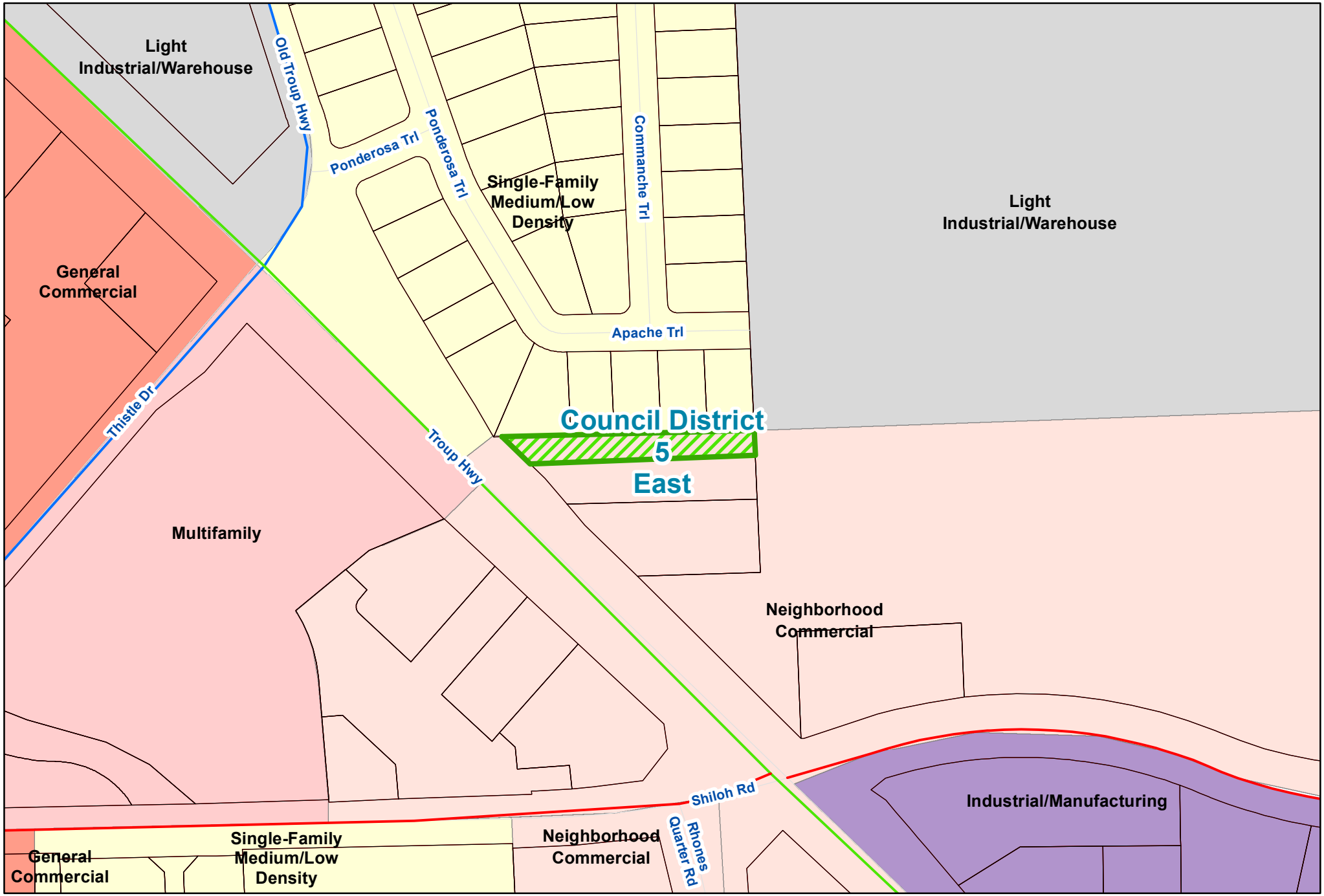
200 0 200 Feet

ZONING CASE
Zoning Case #: Z24-005
Current Zoning: R-1A Proposed Zoning: C-2
SPRG TROUP LLC

Subject Property

N W E S

277



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200 0 200 Feet

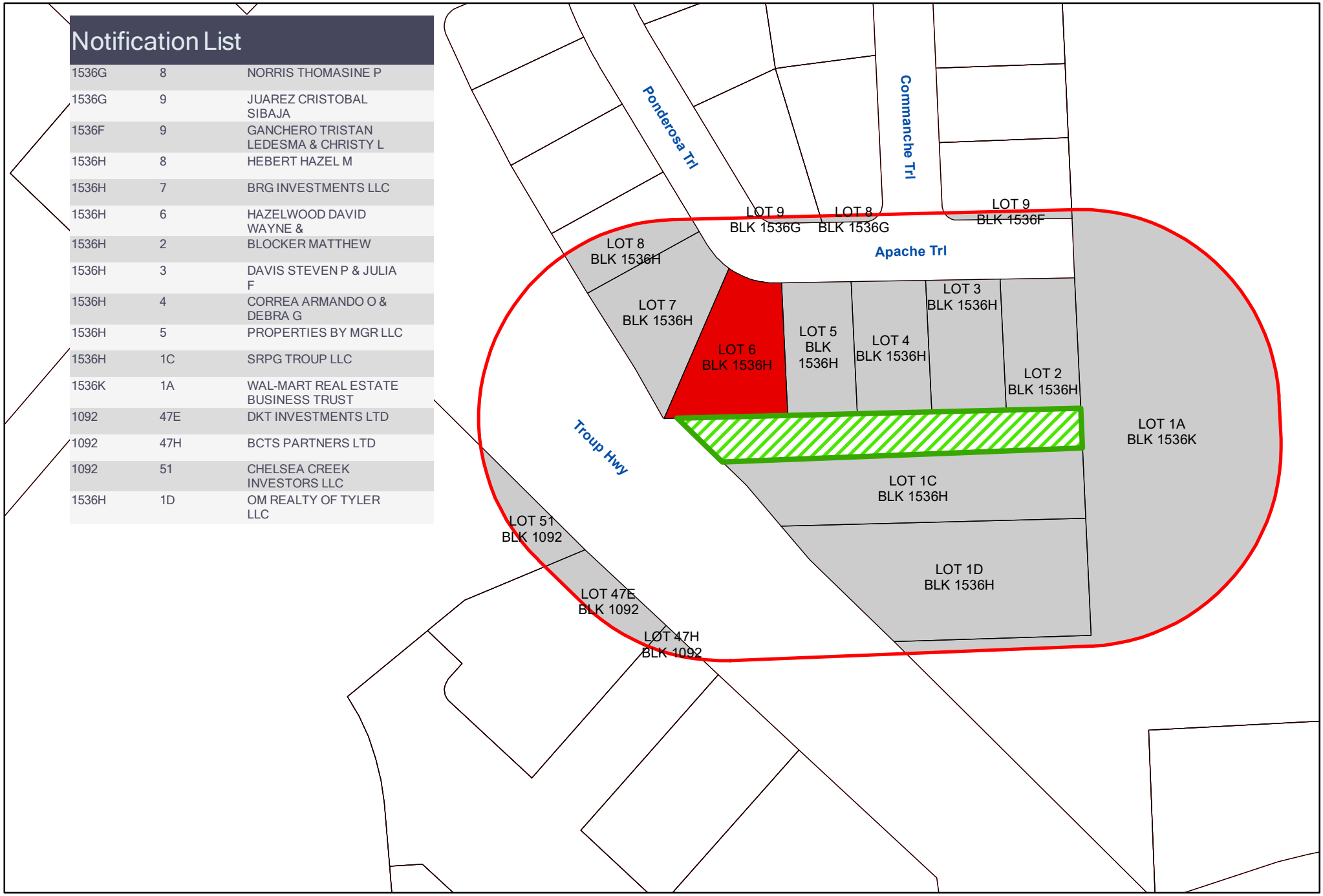
ZONING CASE
Zoning Case #: Z24-005
Current Zoning: R-1A Proposed Zoning: C-2
SPRG TROUP LLC

Subject Property

N W E S

Notification List

1536G	8	NORRIS THOMASINE P
1536G	9	JUAREZ CRISTOBAL SIBAJA
1536F	9	GANCHERO TRISTAN LEDESMA & CHRISTY L
1536H	8	HEBERT HAZEL M
1536H	7	BRG INVESTMENTS LLC
1536H	6	HAZELWOOD DAVID WAYNE &
1536H	2	BLOCKER MATTHEW
1536H	3	DAVIS STEVEN P & JULIA F
1536H	4	CORREA ARMANDO O & DEBRA G
1536H	5	PROPERTIES BY MGR LLC
1536H	1C	SRPG TROUP LLC
1536K	1A	WAL-MART REAL ESTATE BUSINESS TRUST
1092	47E	DKT INVESTMENTS LTD
1092	47H	BCTS PARTNERS LTD
1092	51	CHELSEA CREEK INVESTORS LLC
1536H	1D	OM REALTY OF TYLER LLC



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125 0 125 Feet

ZONING CASE
Zoning Case #: Z24-005
Current Zoning: R-1A Proposed Zoning: C-2
SPRG TROUP LLC

Subject Property
200' Mailed Notification Area
Protest Lots

N W E S

279

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: Z-8

Date: March 27, 2024

Subject: Z24-003 DRAKE EQUITY PARTNERS, LP (16.15 ACRES OF 2951 WEST GRANDE BOULEVARD)
Request that the City Council consider adoption of an Ordinance approving a zone change from "AG", Agricultural District to "C-2", General Commercial District.

Page: Page 1 of

Item Reference:

The applicant is requesting the zone change to allow for offices, warehouses, and outdoor storage on an approximately 16.15 acres tract of land in ABST A0624 M UNIVERSITY located at the southeast intersection of Old Noonday Road and Crow Road (16.15 acres of 2951 West Grande Boulevard).

According to the Unified Development Code (UDC), the "C-2", General Commercial District allows automobile garages and sales lots, hotels, restaurants, warehouses, offices, and retail establishments with outdoor display or storage of merchandise. The maximum building height allowed within the "C-2" District is three stories or 45 feet in height. The setback requirements are 10 feet in the front, 10 feet in the rear, zero feet on the interior side (10 feet if abuts a residential district) and 15 feet on the corner side. The minimum lot area is 14,000 square feet. Off-street parking for commercial-type uses is determined by the specific use proposed. Properties with a commercial designation are subject to UDC Development Standards such as landscaping and tree preservation, bufferyards, and sign regulations.

According to UDC Section 10-617, the City Council will consider the following approval criteria for zoning changes:

a. The application is complete, and the information contained within the application is sufficient and correct enough to allow adequate review and final action;

b. The zoning change is consistent with the Tyler 1st Comprehensive Plan;

c. The zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, and healthful development of the city;

d. The zoning change is compatible with the present zoning and/or conforming uses of nearby property and with the character of the neighborhood; and

e. The property to be rezoned is suitable for uses permitted by the District that would be applied by the proposed amendment.

According to UDC Section 10-587, the burden of proof or persuasion is on the applicant to show that an

application complies with approval criteria.

The adjacent properties to the south are zoned "AG", Agricultural District and "PMF", Planned Multi-Family Residential District are undeveloped. The adjacent property to the east is zoned "PMF", Planned Multi-Family Residential District and is undeveloped. The adjacent properties to the north and west are outside of city limits and are developed with a vehicle towing service and undeveloped, respectively.

The adopted Tyler 1st Future Land Use Guide (FLUG) identifies this property as Single-Family Medium/Low Density. This request would amend the FLUG to General Commercial.

The applicant is requesting the re-zoning to develop it with commercial, office, and warehouse uses. The subject property is currently zoned "AG", Agricultural District which does not allow for most commercial uses. A majority of the properties in this general are large and undeveloped but could be suitable for general commercial use. The subject property is located at the intersection of two collector roads. The proposed zoning would not be out of character for the area.

On March 5, 2024, the Planning and Zoning Commission held a public hearing for this request. Casey Hymer, a representative for the applicant, spoke in favor of the request. No one spoke in opposition to the request.

As of Friday, March 22, 2024, of the nine notices mailed, three notices were returned in favor and none in opposition to the request.

All other departments have reviewed the application and anticipate no significant impact on services and facilities by the proposed rezoning request.

RECOMMENDATION:

The Planning and Zoning Commission by a 6-0 vote recommends approval of the zone change from "AG", Agricultural District to "C-2", General Commercial District.

ATTACHMENTS:

Ordinance
Location Map
Future Land Use Guide Map
Notification Map

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM, Planning Director

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CHANGING THE ZONING FROM "AG", AGRICULTURAL DISTRICT TO "C-2", GENERAL COMMERCIAL DISTRICT ON AN APPROXIMATELY 16.15 ACRES TRACT OF LAND IN ABST A0624 M UNIVERSITY LOCATED AT THE SOUTHEAST INTERSECTION OF OLD NOONDAY ROAD AND CROW ROAD (16.15 ACRES OF 2951 WEST GRANDE BOULEVARD); DIRECTING THE AMENDMENT OF THE ZONING MAP; DIRECTING THE AMENDMENT OF THE FUTURE LAND USE GUIDE MAP; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

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

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z24-003

That the following described property, which has heretofore been zoned "AG", Agricultural District, shall hereafter bear the zoning classification of "C-2", General Commercial District, to wit:

> On an approximately 16.15 acres tract of land in ABST A0624 M UNIVERSITY located at the southeast intersection of Old Noonday Road and Crow Road (16.15 acres of 2951 West Grande Boulevard).

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning and the Future Land Use Guide to reflect General Commercial.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 27th day of March A.D., 2024.

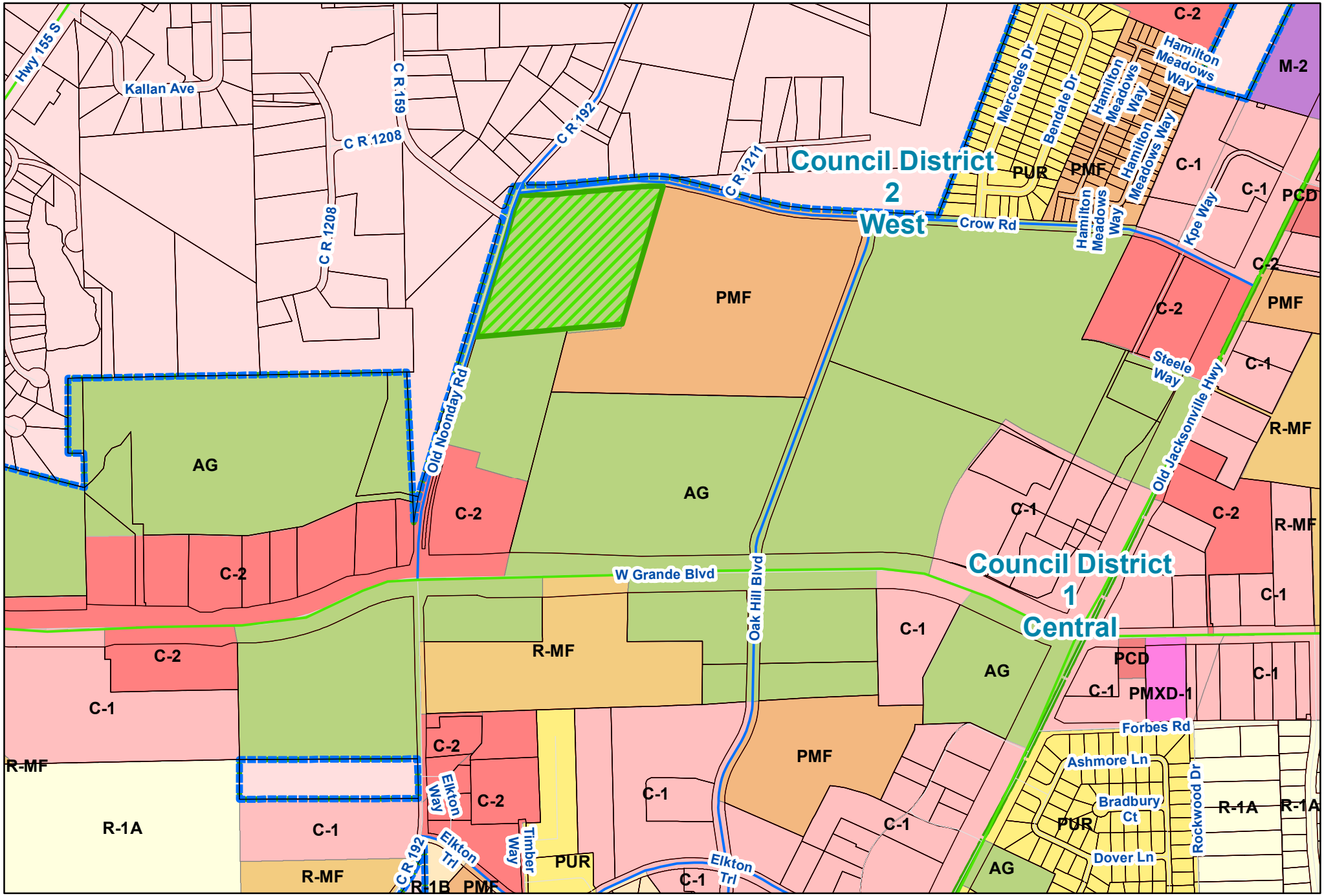
_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY



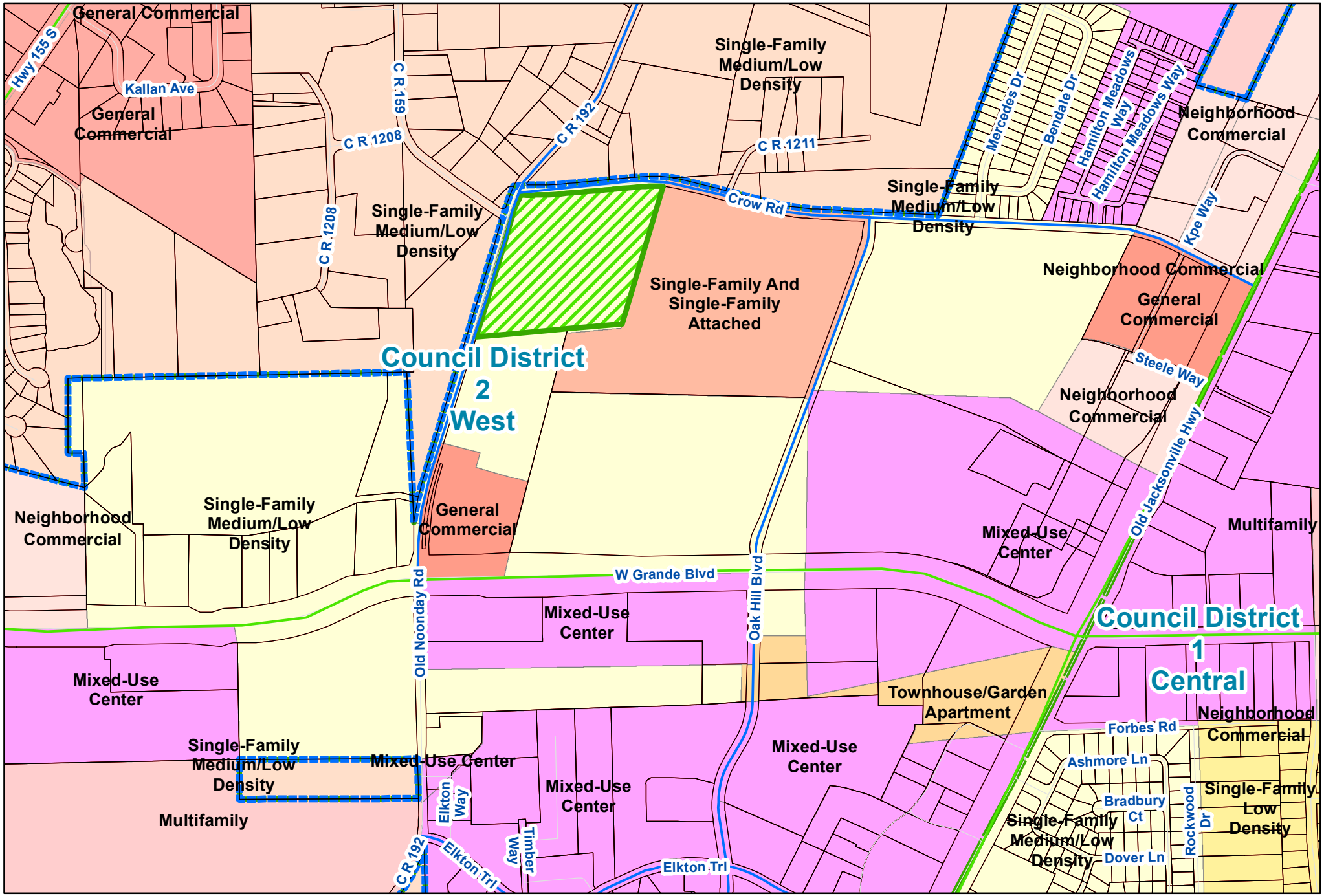
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700 0 700 Feet

ZONING CASE
Zoning Case #: Z24-003
Current Zoning: AG Proposed Zoning: C-2
Drake Equity Partners LP

Subject Property
Council District Boundary
City Limits

N W E S



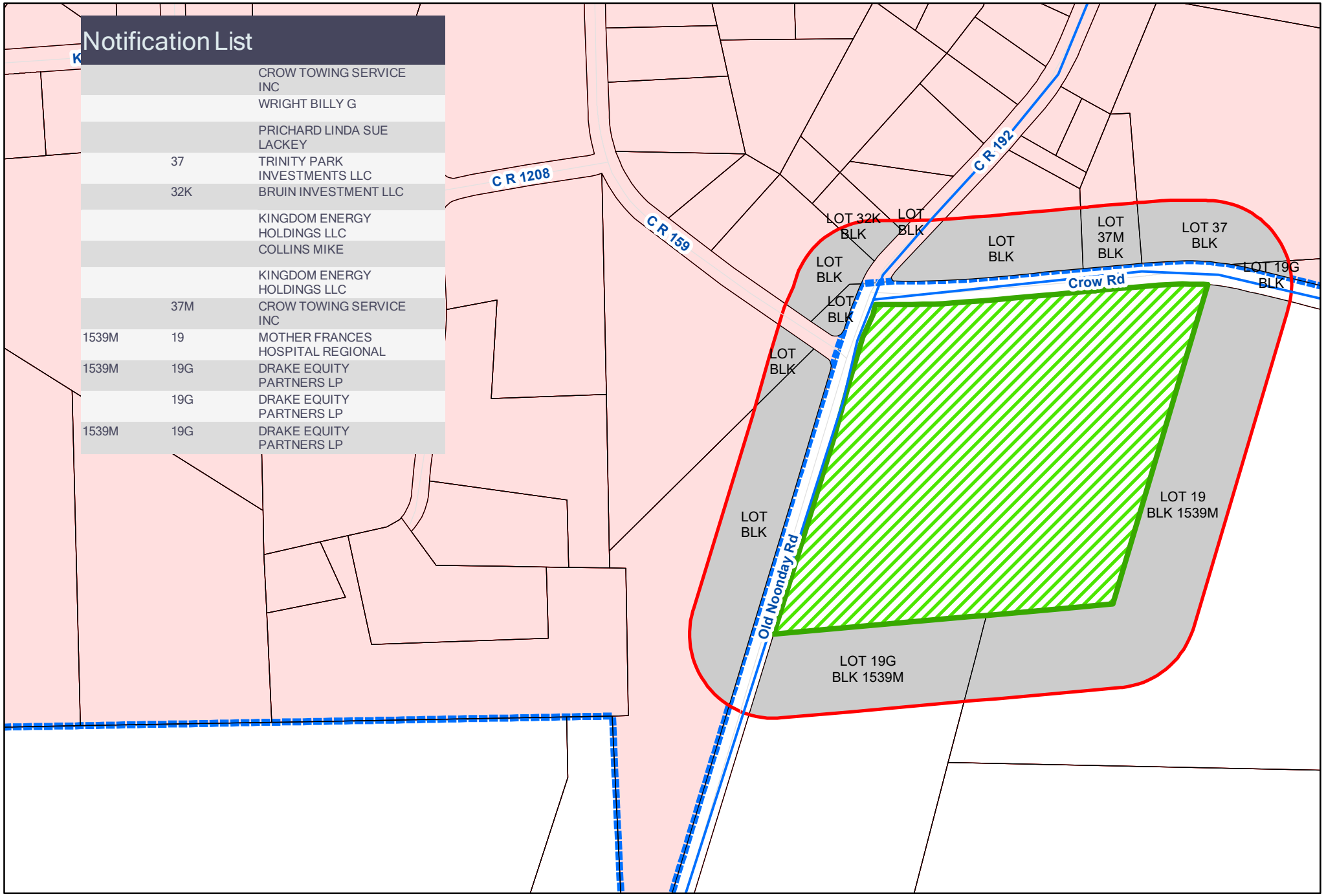
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700 0 700 Feet

ZONING CASE
Zoning Case #: Z24-003
Current Zoning: AG Proposed Zoning: C-2
Drake Equity Partners LP

Subject Property
Council District Boundary
City Limits

N W E S



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300 0 300 Feet

ZONING CASE
Zoning Case #: Z24-003
Current Zoning: AG Proposed Zoning: C-2
Drake Equity Partners LP

Subject Property
200' Mailed Notification Area
City Limits

N W E S

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: O-1

Date: March 27, 2024

Subject: Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 8 relating to Glass Recreation membership fees.

Page: Page 1 of

Item Reference: Tyler City Code Chapter 8

Membership fees were last changed in 2013, when the annual fee went from $15 to $30 for Residents and $50 for Non-Residents. It was amended in 2017 to reduce the Non-Resident fee to $40. Since then, membership fees have not been increased. On February 19, 2024, it was proposed to the Parks Board to increase the annual membership for Adult Resident and Non-Resident fee by $5 for the next five years. The Youth annual fee will increase by $5 for the next two years. The Day Pass fee will increase by $1 for the next four years. Parks Board considered and recommended through a unanimous vote. The goal is to keep the annual membership as low as possible because the Glass Recreation Center was created to provide affordable recreation opportunities to the local neighborhoods and citizens. On March 7, 2024, the Quality of Life Committee considered and recommended to proceed with the proposed amendment.

The proposed fee increase and structure will help assist in the continued improvement in programs, activities, equipment, and facility maintenance. The fee structure will allow us to continue to grow but not be a financial strain on members.

RECOMMENDATION:

Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 8 relating to Glass Recreation membership fees proposing the rate will increase beginning October 1, 2024.

ATTACHMENTS:

Sec. 8-80. Glass Recreation Center facilities charges 2024

Drafted/Recommended By:
Department Leader

Kandice Johnson/Leanne Robinette

Edited/Submitted By:

ORDINANCE NO. O-2022-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 8, "PARKS," ARTICLE V., "FEES," OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS BY AMENDING THE ATHLETIC FIELD MAINTENANCE FEES; ADDING A NEW PROVISION FOR THE IMPLEMENTATION OF RATES AND FEES FOR THE USE OF LIGHTING AT CITY OPERATED ATHLETIC FIELDS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to promote the economic development, growth, and quality of life; and

WHEREAS, the Quality of Life Board has considered and recommends the implementation of the below-described rates and charges for membership fees at the Glass Recreation Center; and

WHEREAS, park fees can only be changed by City ordinance; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of local self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City may regulate and control, for whatever purposes, public places; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, the City Council finds, it is necessary to revise and adopt certain City of Tyler recreational fees and procedures to allow fair and equitable access to, and utilization of, the recreational facilities; and

WHEREAS, the City Council finds, it is necessary that "Membership Fees" be increased for continued improvement of recreational facilities, programs, and activities for all citizens; and

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

PART 1. That the findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

PART 2. That Chapter 8 of the Code of Ordinances of the City of Tyler, Texas, "Parks", is hereby amended by amending Article V, Sec. 8-80 "Glass Recreation Center facilities charges," to increase "Glass Recreation Center facilities charges," to read as follows:

Article V. Fees

Sec. 8-80. Glass Recreation Center facilities charges.

The rates and charges for the use of the Glass Recreation Center facilities are as provided in this section. All such rates and charges shall be paid in advance. The rates shall be determined in accordance with the following:

Proposed Park Facility Rental Rates for Glass Recreation Center:					
Room	**Current Rate**				
Multi-Purpose Room					
Half Room-Up to 100 people	$40/hr; 2hr min; $25 each add. hour				
Full Room-Up to 200 people	$60/hr; 2hr min; $35 each add. hour				
Gym					
Full Court	$60/hr; 2hr min minimum				
Half Court	$35/hr: 2hr min minimum				
Arts & Crafts	$30/hr; 2 hr min minimum				

Equipment Damage Deposit	$50				
After Hours Rate	Any rentals after 10 p.m. will be charged $10 for each additional hour				
TV/DVD	$35/Event				
PA System/Podium	$35/Event				
Ice Machine	$25/Event				
Damage Deposit	$150 to $500				
Catering Fee	$50/Event				
Pavilion	$50 per day				
	$50 Special use permit (Ord. No. 0-2013-90; 9/25/13) (Ord.No.0-2023-85;9/13/23)				
Damage Deposit	$100 (Ord. No. 0-2023-85;9/13/23)				
Amphitheater	$50 per day (Ord.No. 0-2023-85;9/13/23)				
Special use permit (Ord. No. 0-2023-90;9/25/13)	$50				
Damage Deposit	$100 (Ord. No. 0-2023-85;9/13/23)				
Outside Basketball Court	$50/Day/Court				
Full Court	$60/hr: 2hr minimum				
Half Court	$35/hr: 2hr minimum				
Special use permit (Ord. No. 0-2013-90;9/25/13)	$50 (Ord. No. 0-2023-85; 9/13/23)				
Damage Deposit	$100 (Ord. No. 0-2023-85; 9/13/23)				
Membership Fees	October 1, 2024	October 1, 2025	October 1, 2026	October 1, 2027	October 1, 2028

Adult	$35.00/person per year	$40.00/person per year	$45.00/person per year	$50.00/person per year	$55.00/person per year
Adult (Non-Resident)	$45.00/person per year	$50.00/person per year	$55.00/person per year	$60.00/person per year	$65.00/person per year
Youth	$15.00/person	$20.00/person	$20.00/person	$20.00/person	
Day pass	$7.00/person	$8.00/person	$9.00/person	$10.00/person	
Recreation Classes	In order to take recreation classes at the Glass Center, a citizen must be a member of the Glass Recreation Center or purchase a day pass				
After School Program	$20 per child per month				
Summer Day Camp at the Glass	$200 per child per summer				

(Ord. 0-2005-78, 9/28/05) (Ord. No. 0-2013-90; 9/25/13) (Ord. No. 0-2017-__; 9/13/17) (Ord. No. 0-2019-80; 9/25/19)(Ord. No. 0-2023-85; 9/13/23

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: O-2

Date: March 27, 2024

Subject: Request that the City Council consider the adoption of an Ordinance amending Tyler City Code Chapter 8 relating to the "Field Light Usage" fee schedule.

Page: Page 1 of

Item Reference: Tyler City Code Chapter 8

At the December 14, 2022, City Council meeting, the Council voted to amend Tyler City Code Chapter 8, by implementing a fee for athletic field light usage. The original fee structure was intended to gradually allow local leagues, individuals and other groups time to budget accordingly. In year one, the fee per hour, per field would be $5; year two would be $10; year three would be $15; and finally, year four would be $20 per hour, per field. $20 per hour, per field, is a median range for field lighting usage based on similarly sized municipalities and would provide some cost recovery, while still remaining affordable.

After many discussions and meetings between the local leagues, the Parks staff, and City officials, the leagues were asked to provide their own proposal. The City never received a proposal, so a compromise was presented by the Director of Parks and Recreation. The proposed amendment is that in year two, the fee per hour per field would be $10 but remain at $10 until 2026. In 2026, the fee per hour per field would be $15, and $20 per hour per field in 2027.

This proposal was taken to the Parks Board on February 19, 2024. It was recommended by the Parks Board in a unanimous vote. On March 7, it was taken to the Quality of Life and Space Committee where they recommended to proceed with the proposed amendment.

RECOMMENDATION:

Request that the City Council consider adopting an Ordinance amending the Tyler City Code Chapter 8 relating to the "Field Light Usage" fee schedule.

ATTACHMENTS:

03.06.24_legaledits_Athletic Field lighting Fees Ordinance 03.27.24_ab_sk

Drafted/Recommended By:
Department Leader

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 8, "PARKS," ARTICLE V., "FEES," OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY UPDATING PROVISIONS RELATED TO THE RATES FOR FIELD LIGHT USAGE AT CITY-OPERATED ATHLETIC FIELDS, PROVIDING A SEVERABILITY CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to promote the public welfare; and

WHEREAS, it is the intent of the City Council to promote the economic development, growth, and quality of life; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of local self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City may regulate and control, for whatever purposes, public places; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, the City of Tyler currently provides year-round opportunities for the public to participate in a variety of organized sports on City-owned athletic fields; and

WHEREAS, the City has adopted ordinances regulating Parks to allow fair and equitable access to and utilization of athletic fields in City Code Chapter 8; and

WHEREAS, the City Council has adopted City Code Section 8-78 related to the athletic maintenance fees and field lighting fees; and

WHEREAS, it is necessary that "Field Lighting Fees" be assessed to users for actual usage of field lights by leagues and individuals; and

WHEREAS, City Code Sec. 8-4.b. provides that the Parks Board acts in an advisory capacity with regard to the operation and maintenance of all public parks; and

WHEREAS, City Code Sec. 8-4.b. states that the Parks Board shall make recommendations to the City Manager and City Council with reference to the operation, improvement, regulation and maintenance of public parks, adequate funding for parks and recreation areas, entertainment and recreation in public parks and for extension of park areas and acquisition of new park sites; and

WHEREAS, the Tyler Parks Board on February 19, 2024 and the Quality of Life and Space Committee on March 7, 2024, have considered and recommended the implementation of the below-described effective dates for the City of Tyler field lighting usage rates; and

WHEREAS, field lighting fees can only be changed by City ordinance; and

WHEREAS, it is necessary to update and revise the effective dates of the Rates for Field Light Usage.

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

PART 1. That Tyler City Code Chapter 8, "Parks", Article V. "Fees", is hereby amended by amending subsection e. of Section 8-78 to read as follows, with no changes to subsections a., b., c., and d.:

Sec. 8-78. Athletic field maintenance fees.

a. A maintenance fee of one-thousand dollars ($1,000) per field per season shall be charged for Junior Football League games.

b. A maintenance fee of seven-hundred dollars ($700) per field per season shall be charged for youth sports organizations for soccer games at Lindsey Park or any other City owned facility. This rate will increase to one thousand dollars ($1,000) per field per season beginning with the Fall 2018 season. A maintenance fee of one-thousand dollars ($1,000) per field per season shall be charged for adult sports organizations for soccer games at Lindsey Park or any other City owned facility. (Ord. No. 0-2017-77; 9/13/17)

c. Season rental fees for baseball and softball games. A season rental fee of one thousand dollars ($1,000) per field per season shall be charged to youth sports organizations for baseball and softball games at Golden Road Park, Fun Forest Park, and Faulkner Park, or any other City owned facility. (Ord. No. 0-2017-77; 9/13/17)

d. Season rental fees for Adult City-Sponsored Recreation Softball Leagues. A season rental fee of one-thousand dollars ($1,000) per field per season shall be charged. . (Ord. 0-2009-103, 9/23/09) (Ord. No. 0-2017-77; 9/13/17)

e. Field Lighting Fees

To allow fair and equitable access to, and utilization of, the athletic field lighting at City of Tyler operated athletic fields, "Field Lighting Fees" are assessed to users. The following fee schedule applies to actual usage of field lights by leagues and individuals. (Ord. No. 0-2022-108)

Rates for Field Light Usage:

$5.00 per hour per field – Year One – beginning June 1, 2023

$10.00 per hour per field – Year Two – Beginning June 1, 2024

$15.00 per hour per field – Year Three – Beginning June 1, ~~2025~~ 2026

$20.00 per hour per field – Year Four – Beginning June 1, ~~2026~~ 2027
(Ord. No. 0-2022-108) (Ord. No. _____; 03/27/24)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: This ordinance shall become effective upon approval.

PASSED AND APPROVED THIS the 27th day of March, A. D., 2024.

_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: O-3

Date: March 27, 2024

Subject: Request that the City Council consider the adoption of an Ordinance amending the Fiscal Year 2023-2024 Budget to provide funding to complete the Keep Tyler Beautiful Lindsey Park Improvement Project.

Page: Page 1 of

Item Reference: CC 2125-2020, CC 1916-2020, CC 1676-2020

During the Fiscal Year (FY) 2022-2023, the Lindsey Park Entrance Improvement project initiated but was not completed as projected before the fiscal year-end. The monies available to fund these items became part of the ending working capital or fund balance of the various funds as of September 30, 2023. The FY 2023-2024 beginning budget is being amended to carry forward the necessary funding to complete this project. the items in progress.

In 2020, Keep Tyler Beautiful was awarded the Governor's Community Achievement Award (GCAA) presented by Keep Texas Beautiful. The GCAA program is one of the most prestigious annual environmental awards in Texas. Ten winning Keep Texas Beautiful (KTB) affiliate communities share funding provided by AFA in landscape awards through the Texas Department of Transportation (TXDoT) for their outstanding overall efforts to keep their communities beautiful. Conditions on the $290,000 in funding require that the project be completed on a TXDoT right-of-way.

The Awards recognize achievement in 7 areas:

- Community Leadership and Coordination
- Public Awareness and Outreach
- Environmental Education
- Beautification and Community Improvement
- Litter Prevention and Cleanup
- Solid Waste Management
- Litter Law and Illegal Dumping Enforcement

All these areas are a part of achieving Gold Star Status in the KTB annual report and affiliates can only be eligible to receive the award every 5 years. KTyB has previously won this award in 2008 and been a Gold Star affiliate for 17 consecutive years.

Due to COVID-19, the planning process for the award was delayed, but KTyB was able to restart the project in 2022. Lindsey Park is used every year by thousands of visitors and residents alike enjoying soccer, softball, disc golf, trails, the Fourth of July Festival and more. To create a grander entrance, construction at Lindsey Park will consist of the addition of two archways over both park entrances off

Spur 364. One leading into the soccer side and the other leading into the softball side of the park. Each archway will also have new lighting, irrigation, and landscaping to improve the curb appeal and overall aesthetics of the park. Future plans include adding archways to the other park entrances to match along with the development of an overall master plan for other park improvements.
On Tuesday, April 4, 2023, the City of Tyler opened bids to furnish all necessary materials, equipment, superintendence, and labor for the Lindsey Park GCAA Improvements project. The bid was advertised on March 8, March 15 and March 22 as per TXDoT standards. A mandatory pre-bid meeting was held on Wednesday. March 29, at 10 a.m. which was attended by four bidders: Boab Construction, Paragon Construction, Smith Builders & Developers, and Tight Line Construction. There were two bidders that submitted bids: Paragon Construction & Associates and Tight Line Construction. Paragon was the lowest bidder at $356,549.00.

This contract had to be terminated due to some discrepancies and was put back out to bid.

The second bid was published on August 9, August 16 and August 22, 2023 and resulted in two bidders. Smith Builders & Developers bid $337,261.65 while Paragon Construction & Associates bid $351,317.00 on the base and $33,750.00 on the alternate for a total of $317,567.00.

RECOMMENDATION:

It is recommended that the City Council consider the adoption of an Ordinance amending the Fiscal Year 2023-2024 Budget to provide funding to complete the Keep Tyler Beautiful Lindsey Park Entrance Improvement Project.

ATTACHMENTS:

FY24 Grant_Budget_Amendment_Ordinance - Lindsey Park GCAA Project

Drafted/Recommended By:
Department Leader

Erin Garner/Leanne Robinette

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2024-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE BUDGET FOR FISCAL YEAR 2023-2024; AUTHORIZING THE APPROPRIATION OF FUNDS FOR PROJECTS AND PURCHASES; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to the laws of the State of Texas and the Charter and City Code of the City of Tyler, the City Manager of Tyler prepared a budget covering proposed expenditures for the next fiscal year and caused the same to be published as required by law; and

WHEREAS, the City Council affirms the budget and financial policies that have been approved by ordinances and administrative actions;

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

PART 1: That the following line-item accounts as approved in the budget for fiscal year 2023-2024 shall be amended to read as follows:

Item	Request	Fund	Account Number	Account	Budget	Requested Roll Amount	Amended Budget
1	Transfer to cover Lindsey GCAA	Capital Outlay	206-0000-371.60-89	TXDoT Lindsey Park Grant	0.00	290,000.00	290,000.00
2	Transfer to cover GCAA Funds	Donations	206-0000-371.57-18	KTyB Donations	0.00	27,567.00	27,567.00
3	Transfer to cover GCAA Funds	CDBG Fund	206-0450-451.26-47	Capital Outlay/Lindsey Park	0.00	317,567.00	317,567.00

PART 2: That the City Clerk is hereby directed to file a copy of this budget amendment as required by state law.

PART 3: That any ordinance, resolution, policy or any provision or section of the Code of the City of Tyler, Texas, as amended, and in conflict herewith, be and the same is hereby repealed to the extent of any conflict.

PART 4: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 5: That this ordinance shall take effect upon approval.

PASSED AND APPROVED this the 27th day of March 2024.

_____

DONALD P. WARREN, MAYOR OF THE
CITY OF TYLER, TEXAS

ATTEST:

_____
CASSANDRA BRAGER, CITY CLERK

APPROVED:

_____
DEBORAH G. PULLUM, CITY ATTORNEY

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: M-1

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to award Bid No. 24-008 for the Lella Memorial to Smith Builders & Developers to furnish all necessary materials, equipment, superintendence, and labor in an amount not to exceed $74,900.

Page: Page 1 of

Item Reference: Tyler-2271-2020

On Wednesday, February 28 and Wednesday, March 6, the City of Tyler accepted bids to furnish all necessary materials, equipment, superintendence, and labor for the Lella Memorial Pavilion. One bidder submitted bids: Smith Builders & Developers at $74,900.

The Lella family recently donated $67,000 to erect the memorial pavilion, in a similar design style to the existing cancer bell located at the north end of the Rose Rudman Trail System, in honor of a beloved family member who passed away from heart disease. Their donation will cover the cost of construction and all elements to complete the structure and site amenities, including benches, bell, and plaque. If the project exceeds this amount, they have committed to donating the additional funding as well. The new memorial heart bell pavilion would be located on the south end of the Rose Rudman/South Tyler Trail System.

RECOMMENDATION:

It is recommended that the City Council consider authorizing the City Manager to award Bid No. 24-008 for the Lella Memorial to Smith Builders and Developers to furnish all necessary materials, equipment, superintendence, and labor in an amount not to exceed $74,900.

ATTACHMENTS:

Form 3-38 Notice to Bidders Lella Memorial Pavilion
Lella Memorial Pavilion - Bid No. 24-008 As Read Results

Drafted/Recommended By:
Department Leader

Leanne Robinette, Director of Parks and Recreation

Edited/Submitted By:
City Manager

NOTICE TO BIDDERS AND/OR PROPOSERS

PROJECTS, SERVICES & SUPPLIES

The City of Tyler will accept bids and/or proposals for the following projects, services, and/or supplies in the City Council Chambers, 212 North Bonner, Tyler, Texas 75702, ATTN: Sherry Pettit until 2:00 p.m. on March 12, 2024 for the items shown below, at which time they will be publicly opened. All interested persons may attend.

Bid/Proposal

Lella Memorial Pavilion Bid Number 24-008

Plans, specifications and/or proposal forms must be obtained from the Parks and Recreation Department* during regular business hours Monday through Friday, 8:00 a.m. until 4:30 p.m. or you can call (903) 531-1370 to obtain an electronic version. The City reserves the right to accept, reject, cancel or modify any bid or proposal, waive all formalities, and to award the bid most advantageous to the City.

In accordance with House Bill 1295, for certain contracts entered into on or after January 1, 2016, the successful bidder must submit a *Certificate of Interested Parties* (Form 1295) at the time the signed contract is submitted to the CITY. The law applies (with a few exceptions) only to a City contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the City Council before the contract may be signed or (2) has a value of at least $1 million.

Tyler Morning Telegraph
1st Publication: February 28, 2024
2nd Publication: March 6, 2024

*** Specifications may be obtained from the Parks and Recreation Department, 1718 W. Houston Street. If City offices are closed, you must obtain your copies from online or in the mail, telephone (903) 531-1370.**

City of Tyler, Texas
Edward Broussard
City Manager

Purchasing Department
Bid "As Read Results"

City of Tyler Bid No. / Description: 24-008 Labor for Lella Memorial Pavilion Parks / K. Nipp

Date Opened: March 12, 2024

	Vendor	Vendor	Vendor	Vendor	Vendor
	~~Lella~~ Smith Builder and Developers				
Unit Cost					
Total					
Bid Bond	✓				
Addenda	–				
Base Bid	74,900.00				
Alternate 1					
Alternate 2					
Alternate 3					
Base Bid + Alternates					

Purchasing Personnel in attendance:

Sherry Pettit, Purchasing Manager

Signature: Sherry Pettit

Gary Durham or Gina Elzea, Purchasing Agent

Signature: G

Form #	Work Instruction # Form #	Originating Date	Revision Date	Revision #
PURF003	PURWI001	6/1/2012		

Smith Builders & Developers
PO Box 198
Golden, TX 75444

12:20pm
RECEIVED
MAR 12 2024
CITY OF TYLER
FINANCE DEPT.

Lelia Memorial Pavilion
Bid 24-008
304 N Border Ave
Tyler, TX 75702
ATTN Sherry Pettit

Section 6 BID BOND

Check Here if this Section is NOT Used ☐

THE STATE OF TEXAS §
§ **BID BOND**
COUNTY OF SMITH §

THAT, Smith Builders & Developers, LLC [*contractor*], as **PRINCIPAL**, and Merchants National Bonding, Inc. [*surety*], as **SURETY**, acknowledge their indebtedness and are held and firmly bound unto the City of Tyler (**CITY**), Texas in Smith County, as **OBLIGEE**, in the amount of Five Percent of Amount of Bid [*insert figure using written words*], ($ 5% of Amount of Bid) [*insert numerical figure*] payable to the City of Tyler, Texas for the payment of which, the said **PRINCIPAL** (Contractor) and **SURETY** bind themselves, and their heirs, administrators, executors, successors, legal representatives, and assigns, jointly and severally, firmly by these presents.

PRINCIPAL (Contractor) is about to submit to **OBLIGEE** (City) a bid or proposal for:

City of Tyler Bid Number	Bid # 23-053
Project Name	Lella Memorial Pavilion

in accordance with plans and specifications filed in **OBLIGEE'S** (City's) office and under the Request for Quotation (RFQ) / Request for Proposal (RFP) / Invitation to Bid therefor.

NOW THEREFORE:
THE CONDITION OF THIS OBLIGATION IS THAT IF:

1) the bid or proposal is rejected, or
2) the bid or proposal of **PRINCIPAL** (Contractor) is accepted; and
   a. the contract for the work is awarded to **PRINCIPAL** (Contractor) by **OBLIGEE** (City),
   b. **PRINCIPAL** (Contractor) enters into a written contract in the form of contract provided in these contract documents (properly completed in accordance with the bid),
   c. **PRINCIPAL** (Contractor) furnishes a ***Performance and Maintenance Bond*** for the performance of the work as required by law and/or the AGREEMENT,
   d. **PRINCIPAL** (Contractor) furnishes a ***Payment Bond*** for the payment of all persons performing labor or furnishing materials in connection therewith as required by law and/or the AGREEMENT, and
   e. **PRINCIPAL** (Contractor) in all other respects performs the agreement created by the acceptance of the bid,

then this obligation will be null and void; otherwise, subject to the following limitation, it will remain in full force and effect.

The limitation referred to above is that surety, in any event, will not be liable for a greater amount than the difference between the amount of principal's bid or proposal and the lowest amount in excess of that bid or proposal for which **CITY** may be able to award the contract within a reasonable time.
The **SURETY**, for value received, hereby stipulates and agrees that the obligations of said

SURETY and its Bond shall be in no way impaired or affected by any extension of the time within which the **OBLIGEE** (City) may accept such bid; and said **SURETY** does hereby waive notice of any such extension.

I (WE) CERTIFY that the **SURETY** is registered by the State Board of Insurance to conduct business in the State of Texas, and acceptable according to the latest list of companies holding Certificates of Authority from the Secretary of the Treasury of the United States, shown on the Treasury List.

I (WE) CERTIFY that the **SURETY** has reviewed the financial condition of the **PRINCIPAL** and the **PRINCIPAL'S** qualification to perform the work required by this project.

IN WITNESS WHEREOF the **PRINCIPAL** (Contractor) and **SURETY** have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers, the day and year set forth below.

Signed this 12th day of March, 20 24.

BOND NUMBER: N/A

PRINCIPAL (Contractor)	**SURETY**
Smith Builders & Developers, LLC	Merchants National Bonding, Inc.
Printed Name of Principal	Printed Name of Surety
434 County Road 2360	6700 Westown Parkway
Mineola, TX 75773	West Des Moines, IA 50266
Physical Address	Physical Address
P.O. Box 188	P.O. Box 14498
Golden, TX 75444	Des Moines, IA 50306-3498
Mailing Address	Mailing Address
903-850-2992	515-243-8171
Telephone Number	Telephone Number
By:	By:
Signature	Signature
Clay Smith, President	Judy Schoggen, Attorney-in-Fact
Title	Title

SURETY'S SEAL:



***** NOTE *****

If signed by an Attorney-in-Fact a copy of the Power of Attorney shall be attached, or

If signed by an officer of the Surety Company a certified extract from the by-laws showing that this person has authority to sign obligation shall be attached.

MERCHANTS BONDING COMPANY

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Daniel C McMillen, Heather Hicks, John A Davie, Judy Schoggen, Lee W Jackson, Matthew K Cashion Jr, Michael G Dornblaser

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and aut hority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 3rd day of February , 2024 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 3rd day of February 2024 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

Penni Miller
Commission Number 787952
My Commission Expires
January 20, 2027

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 12th day of March , 2024 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

MERCHANTS NATIONAL BONDING, INC. INCORPORATED 2003

[*Insert bidder's name here*] certifies that the unit prices shown on this complete computer print-out for all the bid items and alternates contained in this proposal are the unit prices intended and that its bid will be tabulated using these unit prices and no other information from this print-out. [*Insert bidder's name here*] acknowledges and agrees that the total bid amount shown will be read as its total bid and further agrees that the official total bid amount will be determined by multiplying the unit bid prices shown in this print-out by the respective estimated quantities shown in the City of Tyler issued proposal and totaling all of the extended amounts.

Typed Name: Clay Smith
Title: President
Signature: [signature]
Date: 03/12/2024

3.14 SIGNATURE REQUIREMENTS OF PROPOSAL

1. If a proposal is submitted by an **individual**, the proposal must be signed by the individual or the individual's duly authorized agent.
2. If the proposal is submitted by a **firm, association, partnership or company**, the name and address of each member must be given and the proposal signed by a member of the firm, association, partnership, company or person duly authorized.
3. If the proposal is submitted by a **corporation**, the company or corporate name and address must be given and the proposal signed by an official or duly authorized agent and sealed with the corporate seal. Powers of attorney authorizing agents or others to sign proposals must be properly certified and must be in writing and submitted with the proposal.

3.15 FILING OF BID PACKAGES

No bid package will be considered unless it is received in the Water Utilities Administrative Office, Tyler, Texas within the time limit for receiving bid packages as stated in the advertisement. Each bid package must be in a sealed envelope, plainly marked with the word "proposal", and the project name and time and date the bid package is to be opened as designated in the ***Notice to Bidders***.

The bid package must consist of the following items to be considered complete:

1. Acknowledgment of all addenda
2. ***Proposal***
3. ***Bid Bond***

Any bid package received without each of the required items may be rejected and may not be read at the bid opening.

CONTRACTORS building public streets and drainage, water and/or sewer facilities (not including specialty work such as pipeline camera inspection, interior lining of pipes, etc.) shall have a fully executed ***Contractor's Qualification Statement*** on file with the **CITY** prior to bid opening or include it as part of the **CONTRACTOR'S** bid package. Forms are available for download at https://www.cityoftyler.org/government/departments/engineering-services/engineering-and-construction-standards. **CONTRACTORS** performing any other type of work (i.e., not public streets, drainage or utilities) are not required to have a ***Contractor's Qualification***

Bid Proposal

Client: City of Tyler
Project: Lella Memorial Pavilion
Sht. GN-1 to CD-2

The following bid items to include all labor, tools, equipment, superintendence, materials and any other requisite necessary to perform the work stated in accordance with the plans & specifications, complete and in place.

Item #	Quantity/Unit	Item Description & Written Price	Unit Price	Total
1	LS	Mobilize for the Project, including but not limited to project start-up and delivery of equipment _____ Dollars _____ Cents	2,500	$2,500.00
2	LS	Site preparation, including but not limited to silt fencing, tree protection, and trail closure barricades and signage _____ Dollars _____ Cents	3,000.00	$3,000.00
3	LS	Storm Water Pollution Prevention Plan and Erosion Control Elements, including but not limited to inlet protection construction fencing, construction entrance and erosion control blanketing _____ Dollars _____ Cents	2,500.00	$2,500.00
4	LS	Demolition items, including but not limited to the removal and disposal of existing sidewalk _____ Dollars _____ Cents	7,000.00	$7,000.00
5	LS	Rough Site Grading, including but not limited to excavation and backfill _____ Dollars _____ Cents	7,000.00	$7,000.00
6	LS	Finish Site Grading, including but not limited to final grading for paving, concrete slabs, and other misc. areas _____ Dollars _____ Cents	3,000.00	$3,000.00

74900

Item #	Quantity/Unit	Item Description & Written Price	Unit Price	Total
7	646 SF	5" Concrete Pavement, including but not limited to excavation, subgrade preparation, reinforcing steel, concrete, saw joints, longitudinal butt joints, and expansion joints _____ Dollars _____ Cents	9,000.00	$9,000.00
8	LS	Purchase and install of Kraftsman pavilion, per plans and specifications _____ Dollars _____ Cents	32,500.00	$32,500.00
9	1,464 SF	Sodding of disturbed areas with Common Bermuda sod, per plans and specifications _____ Dollars _____ Cents	2,000.00	$2,000.00
10	3 EA	15-Gal Eastern Redbud, including but not limited to, bed preparation, planting and warranty _____ Dollars _____ Cents	300.00	$900.00
11	LS	Installation of purchased site furniture included but not limited to chiar, bench, and bell _____ Dollars _____ Cents	1,500.00	$1,500.00
12	LS	Provide and install cast bronze plaque signage, complete and in place _____ Dollars _____ Cents	1,500.00	$1,500.00
13	AL	Materials Testing and Contingency Allowance $2,500.00 Dollars _____ Cents	$2,500.00	$2,500.00
Total Base Bid		$ 74,900.00 Dollars _____ Cents		

√ No Addendum CA Dtl 03/12/24

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: M-2

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute a professional services contract in the amount of $10,939,680.00, with Garver, for the Westside Wastewater Treatment Plant Rehabilitation Project, which will include a Preliminary Design Report for all design phases and final design, bidding, and construction oversight for both Phase 1 improvements and an expedited sludge lagoon rehabilitation, and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

Page: Page 1 of

Item Reference:

In August 2023, Garver prepared the City of Tyler Wastewater Treatment Plants Master Plan that identified the near-term needs of the city's two wastewater treatment plants (WWTPs), Westside and Southside, and planned for the needs of the facilities over the next 30 years. The Master Plan documented the Capital Improvement Plan (CIP) for each WWTP that addresses the current condition concerns and capacity improvements for future growth of the city. The improvements to the Westside WWTP were phased based on prioritization and overall impact to the WWTP during construction. A summary of the phased CIP projects for Westside WWTP includes the following:

Phase 1 will replace the existing headworks facility and influent pump station, convert the existing anaerobic digesters into aerated sludge holding tanks, and rehabilitate the existing sludge lagoon. Phase 1 Opinion of Probable Construction Cost (OPCC) from the August 2023 Tyler WWTP Master Plan was $79,000,000.

Phase 2 will rehabilitate the secondary clarifiers, raise the walls of the chlorine contact basin, and construct the new effluent flow measurement channel. Phase 2 OPCC from the August 2023 Tyler WWTP Master Plan was $19,263,000.

Phase 3 will demolish the remaining second stage trickling filter to make room for two new 120-ft diameters primary clarifiers and the installation of peak flow pumps, a mechanical screen, and a grit vortex unit. Phase 3 OPCC from the August 2023 Tyler WWTP Master Plan was $17,728,000.

Phase 4 includes improvements to the dewatering facility. Phase 4 OPCC from the August 2023 Tyler WWTP Master Plan was $10,896,000.

The scope of services will provide preliminary engineering services for all four phases and final design, advertisement, bidding, construction administration, construction observation, and construction materials testing for both Phase 1 and the expedited sludge lagoon rehabilitation. It is intended that Garver, and its design team will provide final design, advertisement, bidding, construction administration, construction observation, and construction materials testing services for Phases 2, 3, and 4 through future supplemental agreements.

The preliminary design engineering for all phases is expected to be eight months long and be completed by the end of November 2024. The final design of Phase 1 is expected to be ten months long and be completed by the end of September 2025. Phase 1 is expected to be a two-year construction contract that will begin in November 2025 and last until November 2027. The fast-tracked sludge lagoon rehabilitation is expected to be a six-month construction contract that will start in November 2024 and be completed by May 2025. The total construction of all four phases is anticipated to be completed by March 2032.

This project will be bond funded.

RECOMMENDATION:

It is recommended that the City Council consider authorizing the City Manager to execute a professional services contract in the amount of $10,939,680.00, with Garver, for the Westside Wastewater Treatment Plant Rehabilitation Project, which will include a Preliminary Design Report for all design phases and final design, bidding, and construction oversight for both Phase 1 improvements and an expedited sludge lagoon rehabilitation, and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

ATTACHMENTS:

Professional Services Contract
Westside WWTP Rehabilitation Phase 1 Resolution

Drafted/Recommended By:
Department Leader

Nikki Ingram, P.E., Project Engineer/Kate Dietz, P.E., Director of Utilities

Edited/Submitted By:
City Manager

STATE OF TEXAS §

STANDARD FORM OF AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

COUNTY OF SMITH §

This AGREEMENT is entered into, with an Effective Date of _____ [*insert date of last party's signature*], by and between the **CITY OF TYLER**, in Smith County, Texas (OWNER), acting therein by and through its duly authorized City Manager, and Garver, LLC (ENGINEER or ARCHITECT), hereinafter referred to as "E/A," for the purpose of acquiring all professional engineering and/or architectural services required for the project known as **"City of Tyler Westside WWTP Phase I Improvements"** (hereinafter called the Project).

OWNER and E/A in consideration of their mutual covenants herein agree in respect of the performance of professional engineering and/or architectural services by E/A and the payment for those services by OWNER as set forth below.

SECTION 1—BASIC SERVICES OF ENGINEER OR ARCHITECT

1.1. General.

1.1.1. E/A shall provide for OWNER professional consulting services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional E/A representative for the project, providing professional engineering and/or architectural consultation and advice and furnishing customary civil services incidental thereto. Notwithstanding anything to the contrary herein, al services provided by E/A under this Agreement shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

1.1.2. **If the Project is a "civil works" project, as defined by Sec. 2269.351 of Tex. Gov. Code Ann., then Exhibit "F" does NOT apply.** "**Civil works"** projects are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

1.1.3. **If the Project is related to "public works" projects or construction contract affecting City-owned buildings, then this contract IS SUBJECT TO ADDITIONAL PROVISIONS FOUND IN EXHIBIT "F", which is attached and incorporated for all purposes herein. "Public Works"** is‑defined by Tex. Gov. Code Ann., Sec. 2269.001 (6) as a contract for constructing, altering, or repairing a public building or carrying out any public work. If Exhibit "F" is applicable and there is aconflict between this Agreement and Exhibit "F", provisions in Exhibit "F" shall control.

1.2. Study and Report Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.2.1. Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data orservices of the types described in paragraph 3.4, and assist OWNER in obtaining such data and services.

1.2.3. Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

1.2.4. Provide analysis of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

1.2.5. Provide a general economic analysis ofOWNER's requirements applicable to variousalternatives.

1.2.6. Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutionsavailable to OWNER and setting forth E/A's findingsand recommendations. This Report will be accompanied by E/A's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance forE/A costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all consultants, for thecost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided byothers for OWNER pursuant to paragraphs 3.7 through 3.11, inclusive. The total of all such costs, allowances, etc. are hereinafter called "Total Project Costs".

1.2.7. Furnish multiple copies of the Study and Report documents (not to exceed six (6) copies) and review them in person with OWNER.

1.3. Preliminary Design Phase.

After written authorization to proceed and as requiredby the specific services set forth in Exhibit "A", E/A shall:

1.3.1. In consultation with OWNER and on the basisof the accepted Study and Report documents, determine the general scope, extent and character of the Project.

1.3.2. Prepare Preliminary Design documentsconsisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.

1.3.3. Advise OWNER if additional data or services of the types described in paragraph 3.4 are necessary and assist OWNER in obtaining such data and services.

1.3.4. Based on the information contained in the preliminary design documents, submit a revised opinion of probable Total Project Costs.

1.3.5. Furnish multiple copies of the above Preliminary Design documents and present and review them in person with OWNER, not to exceed six (6) copies.

1.3.6. Derive right-of-way (ROW) data and easement documents as needed for the OWNER to begin land acquisition.

1.4. Final Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.4.1. On the basis of the accepted Preliminary Design documents and the revised opinion ofprobable Total Project Costs prepare forincorporation in the Contract Documents final drawings to show the general scope, extent and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") andSpecifications.

1.4.2. Provide technical criteria, written descriptions and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project, and assist OWNER in consultations with appropriate authorities.

1.4.3. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.

1.4.4. Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders.

1.4.5. Furnish multiple copies of the above documents and of the Drawings and Specifications and present and review them in person with OWNER,not to exceed six (6) copies.

1.5. Bidding or Negotiating Phase.

After written authorization to proceed and as requiredby the specific services set forth in Exhibit "A", E/A shall:

1.5.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for each separate prime contract for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bidconferences and receive and process deposits for Bidding Documents.

1.5.2. Assist OWNER in issuing addenda as appropriate to interpret, clarify or expand the BiddingDocuments.

1.5.3. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

1.5.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowedby the Bidding Documents.

1.5.5. Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

1.6. Construction Phase.

After written authorization to proceed and as requiredby the specific services set forth in Exhibit "A", E/A shall:

1.6.1. *Preconstruction Conference.* Coordinate, schedule and attend a preconstruction conference with the OWNER, other utility owners, contractors and other interested parties to determine and coordinate construction scheduling and responsibilities.

1.6.2. *Visits to Site and Observation of Construction.*In connection with observations of the work of Contractor(s) while it is in progress:

1.6.2.1. E/A shall make visits to the site at intervals appropriate to the various stages of construction as

necessary in order to observe as an experienced and qualified design professional the progress andquality of the various aspects of Contractor(s)' work. Based on information obtained during such visits and on such observations, E/A shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and E/A shall keep OWNER informedof the progress of the work.

1.6.2.2. The purpose of E/A's visits to the site will be to enable E/A to better carry out the duties and responsibilities assigned to and undertaken by E/A during the Construction Phase, and in addition, by exercise of E/A's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conformgenerally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, E/A shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall E/A have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction elected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, E/A can neither guarantee theperformance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

1.6.3. *Interpretations and Clarifications.* E/A shall issue necessary interpretations and clarifications of the Contract Documents as requested by the OWNER.

1.6.4. *Subsurface Exploration.* Coordinate core borings, probing or subsurface explorations, issue orders for necessary laboratory tests and inspect samples or materials submitted for laboratory testing.

1.6.5. *Shop Drawings.* E/A shall review and approve (or take other appropriate action in respect of) samples, catalog data, shop drawings other data which Contractor(s) is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

1.6.6. *Substitutes.* E/A shall evaluate the acceptability of substitute materials and equipment proposed by Contractor(s) and make recommendations to OWNER, subject to the provisions of paragraph 2.2.2.

1.6.7. *Tests.* E/A shall verify that tests, including equipment and start-up, which are required by the specifications and contract documents, are conductedand that the Contractor maintains adequate records thereof and shall observe, record and report to the OWNER appropriate details relative to the test procedures and start-ups.

1.6.8. *Applications for Payment.* Based on his on-site observations as an experienced and qualified design professional and on his review of the Contractors' applications for payment, determine the amount owing to the Contractor(s) and recommend in writingpayment to the Contractor(s) in such amounts; such recommendations of payment to constitute a representation to the OWNER, based on suchapplications, that the work has progressed to the pointindicated and that, to the best of his knowledge, workis in accordance with the plans, specifications and contract documents, subject to the specifications and contract documents and any qualifications stated in his approval.

1.6.9. *Final Observation.* Conduct, in company with the OWNER'S representative, a final observation of the Project for conformance with the design concept of the Project and compliance with the plans, specifications and contract documents, and recommend in writing final payment to the Contractor.

1.6.10. *Disputes between OWNER and Contractor.* E/A shall act as initial interpreter of the requirementsof the Contract Documents and judge of the acceptability of the work performed thereunder. E/A shall also make recommendations to OWNER on all claims of Contractor(s) relating to the acceptability ofthe work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. OWNER has the finaldecision with regard to such disputes.

1.6.11. *Limitation of Responsibilities.* E/A shall not be responsible to OWNER for the acts or omissions of any Contractor, or of any subcontractor or supplier,or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except E/A's own employees and agents) whether atthe site or otherwise furnishing or performing any ofthe Contractor(s)' work;

however, nothing contained in paragraphs 1.6.1. through 1.6.11 inclusive, shall beconstrued to release E/A from liability for failure to properly perform duties and responsibilities assumed by E/A in the Contract Documents.

1.7. Operational Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.7.1. In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

1.7.2. Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to E/A and furnish one (1) set of the revised reproducible drawings and one set of drawings in PDF format to the Owner.

SECTION 2—ADDITIONAL SERVICES OF E/A

2.1. Services Requiring Authorization in Advance.

If authorized in writing by OWNER, E/A shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1. through 2.1.13. inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in this Agreement; these will be paid for by OWNER as indicated in Section 5.

2.1.1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the project. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.2. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to changes in size, complexity, OWNER's schedule, character ofconstruction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reportsor documents, or are due to any other cause beyond E/A's control.

2.1.3. Providing renderings or models for OWNER'suse.

2.1.4. Preparing documents for alternate bids requested by OWNER for Contractor(s)' work whichis not executed or documents for out-of-sequencework.

2.1.5. Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing;detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.6. Furnishing services of independent professional associates and consultants for other thanBasic Services (which include, but are not limited to, customary civil, structural, mechanical, and electrical engineering and customary architectural design incidental thereto); and providing data or services of the types described in paragraph 3.4 when OWNER employs E/A to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.7. Services during out-of-town travel required of E/A other than visits to the site or OWNER's office asrequired by Section 1. Assistance in connection with bid protest, rebidding, or renegotiating contracts for construction, materials, equipment or services when E/A did not create or contribute to the event or situation requiring said assistance, rebidding, renegotiating, materials, equipment, or services.

2.1.8. Providing any type of property surveys or related engineering or architectural services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveysand staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.9. Preparation of operating, maintenance and staffing manuals to supplement Basic Services under paragraph 1.7.

2.1.10. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project unless E/A created or contributed to the cause of the litigation.

2.1.11. Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Section 3, and services not otherwise provided for in this Agreement.

2.2. Required Additional Services.

When required by the Contract Documents in circumstances beyond E/A's control, E/A shallfurnish or obtain from others, as circumstances require during construction and with specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive. These services are not included as part of Basic Services. E/A shall advise OWNER promptly before starting any of the following additional services which will be paid for by OWNER as indicated in Section 5.

2.2.1. Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.2.2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.2.4. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any Contractor.

2.2.5. Services (other than Basic Services during the Operations Phase) in connection with any partial utilization of any part of the Project by OWNER priorto Substantial Completion.

2.2.6. Evaluating an unreasonable or extensivenumber of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3—OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner soas not to delay the services of E/A:

3.1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to E/A's services for the Project.

3.2. Provide all criteria and full information as to OWNER's requirements for the Project, includingdesign objectives and constraints, space, capacity and performance requirements, flexibility andexpandability, and any budgetary limitations; andfurnish copies of all design and construction standards which OWNER will require to be includedin the Drawings and Specifications.

3.3. Assist E/A by placing at E/A's disposal all available information pertinent to the Project including previous reports and any other data relativeto design or construction of the Project. Furnish to E/A, as required for performance of E/A's Basic Services (except to the extent provided otherwise in this Agreement) the following:

3.3.1. data prepared by or resulting from the services of others, including without limitationborings, probings and subsurface explorations, hydrographic surveys, laboratory tests andinspections of samples, materials and equipment;

3.3.2. appropriate professional interpretations of all of the foregoing;

3.3.3. environmental assessment and impact statements;

3.3.4. property, boundary, easement, right-of-way, topographic and utility surveys, to the extent required by E/A, and only if not required to be performed by E/A as set out in E/A's Proposal;

3.3.5. property descriptions;

3.3.6. zoning, deed and other land use restrictions;

all of which E/A may use and rely upon in performing services under this Agreement.

3.4. Provide engineering surveys to establish reference points for construction (unless required to be performed by E/A as Basic Services under E/A's Proposal) to enable Contractor(s) to proceed with the layout of the work.

3.5. Arrange for access to and make all provisions for E/A to enter upon public and private property as required for E/A to perform services under this Agreement.

3.6. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by E/A, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examinationand render in writing decisions pertaining theretowithin a reasonable time so as not to delay the services of E/A.

3.7. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, unless required to be performed by E/A as Basic Services under this Agreement. Provide such accounting, independent cost estimating and insurance counseling services as may, in the judgement of the OWNER, be required for theProject, such legal services as OWNER may require or E/A may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable totheir furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not E/A or E/A's agent or employee, the duties, responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities of E/A and the Resident Project Representative (and any assistants) will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11. If more than one prime contract is to be awardedfor construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12. Furnish to E/A data or estimated figures as to OWNER's anticipated costs for services to beprovided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive) sothat E/A may make the necessary findings to support opinions of probable Total Project Costs.

3.13. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.

3.14. Give prompt written notice to E/A whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of E/A's services, or any defect or non-conformance in the work of any Contractor.

3.15. Furnish, or direct E/A to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required. E/A shall not be obligated to bear any of the costs of compliance with this Section 3.

SECTION 4—PERIODS OF SERVICE

4.1. The services provided by the E/A and the variousrates of compensation for E/A's services provided forelsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress ofthe Project through completion of the Operational Phase. E/A's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction and initial operation of the Project including extra work and required extensions thereto.If in Section 8 of this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed areprovided and if such dates are exceeded through no fault of E/A, all rates, measures and amounts of compensation provided herein may be subject to equitable adjustment.

4.2. A schedule for completion of each phase of the project is provided in Exhibit "B". If the E/A determines or reasonably anticipates that the project,(or any of its phases), cannot be completed before the specified completion date, the E/A shall submit a revised schedule to the OWNER for approval.

SECTION 5—PAYMENTS TO ENGINEER AND/OR ARCHITECT CONSULTANT

5.1. Methods of Payment for Services and Expenses of E/A.

For design, construction plan preparation, construction document preparation (including bid proposal, specifications, construction contract), and all other services to be rendered by E/A hereunder, as the same are set out in the attached Exhibit "A", and as further set out in these contractual documents, save and except for specified special and additional services, OWNER shall pay to E/A the following fee in accordance with the fee summary and schedule of hourly rates set forth in attached Exhibit "C":

Base Fee, Not-to-Exceed	$7,778,849.00
Hourly/Reimbursable Expenses	$3,160,831.00
Total Contract Price	**$10,939,680.00**

For additional services authorized by OWNER in accordance with Section 2 of this Agreement, OWNER shall pay in accordance with the schedule of hourly rates set forth in attached Exhibit "C".

5.2. Times of Payment.

E/A shall submit clear and detailed monthly statements for the services rendered and for the expenses and hourly costs incurred. The statements shall show the percent of work completed and amount billed to date, broken down by activity or task. All monthly statements shall be in a form as specified by and acceptable to OWNER. OWNER shall pay E/A all undisputed amounts within thirty (30) days after receipt of an invoice. OWNER shall provide notice in writing of any portion of an invoice that is disputed in good faith within fifteen (15) days of receipt of an invoice. E/A shall promptly work to resolve any and all items identified by OWNER relating to the disputed invoice. All disputed portions shall be paid promptly upon resolution of the underlying dispute

SECTION 6—CONSTRUCTION COST AND OPINIONS OF COST

6.1. Construction Cost.

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by E/A, but it will not include E/A's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Section 3, as applicable. [Construction Cost is one of the items comprising Total Project Costs which is defined in paragraph 1.2.6.]

6.2. Opinions of Cost.

It is understood by the Parties that E/A has no controlover the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or overcompetitive bidding or market conditions. Therefore, E/A's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of E/A's experience and qualifications and represent E/A's judgment as an experienced and qualified professional E/A, familiar with the construction industry; but E/A cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by E/A. If prior to the Biddingor Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.9.

SECTION 7—GENERAL CONSIDERATIONS

7.1. Termination.

7.1.1. During the construction phase of the Project, and except as provided under **Exhibit F-Procedure for Correcting Construction Defects** which is applicable when the construction is to a City-owned building or other public work, this Agreement may beterminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work andlabor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for allwork completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER upto the date of termination.

7.1.2 The termination requirements in Sec. 7.1.1 shallbe applicable to civil works construction projects butshall not be applicable to construction contracts related to City-owned buildings and other public works unless and until *after* the procedures are followed as outlined in Exhibit

"F" to identify and correct construction defects.

7.1.3 During the design phase of the Project, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.2. Reuse of Documents.

The E/A's Instruments of Service (including but not limited to plans, field surveys, maps, cross sections, drawings, specifications, calculations and other data related to the Project) are and shall remain the property of the E/A until payment of the E/A in full. Upon payment of the E/A in full, said E/A's Instruments of Service shall pass to and become the property of the OWNER without restriction as to their subsequent uses; provided however, any and all underlying intellectual property, if any (unless provided by OWNER), shall remain the property of E/A such that E/A may continue to perform its business in the normal course. Upon payment in full, E/A shall grant OWNER an irrevocable, non-exclusive, royalty-free license to use the same for the purposes contemplated under this Agreement. E/A acknowledges that OWNER is a governmental entity and that all Instruments ofService in respect of the Project, upon completion of the Project, shall thereafter be subject to the Texas Public Information Act (Texas Government CodeChapter 552) and any other applicable laws requiringpublic disclosure of the information contained in saiddocuments. In the event that a valid Public Information Request is received prior to completion of the Project and payment of the E/A in full, OWNER shall work with the E/A to protect any information deemed to be confidential by seeking an Opinion from the Texas Attorney General as allowed by State law. Use of E/A's Instruments of Service or underlying intellectual property for modification, extension, or expansion of this Project or on any other project, unless under the direction of A/E, shall be without liability to A/E and A/E's subconsultants.

7.3. Insurance.

7.3.1. The E/A agrees, at its sole expense, to maintain on a primary basis during the life of this Contract andthe performance of Work hereunder, insurance coverage, limits, and endorsements required herein, unless otherwise noted. Insurance required by this contract for the OWNER as additional insured shall be primary insurance and not contributing with any other insurance available to OWNER.

7.3.2 The E/A agrees to provide evidence of thefollowing coverage's at execution of contract:

• **Commercial General Liability:** E/A agrees to maintain Commercial General Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence, two million dollars ($2,000,000) General Aggregate per project. E/A agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Products - Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage (X = Explosion Hazard; C = Collapse Hazard; U = Underground Damage), Contractual Liability or Cross Liability. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

• **Business Automobile Liability:** E/A agrees to maintain Business Automobile Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence. Coverage shall include bodily injury and property damage liability arising out of the operation, maintenance and use of Any Auto, or All Owned Autos, and Hired Autos, and Non-Owned automobiles. In the event E/A does not own automobiles, E/A agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

• **Professional Errors and Omissions Liability:** E/A agrees to maintain Professional Errors and Omissions Liability at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate. The E/A agrees the policy shall includea minimum three (3) year Discovery (tail) reporting period, and a Retroactive Date that equals or precedes the effective date of the Agreement, or the performance of services hereunder. This coverage may be providedon a Per-Project Basis.

• **Pollution Liability Insurance** (if required by a City Operational Department): If a City Operational Department requires Pollution Liability coverage, the E/A agrees to maintainPollution Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual

Aggregate.

• **Commercial Umbrella / Excess Liability:** E/A agrees to maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than five million dollars ($5,000,000) Each Occurrence, five million dollars ($5,000,000) General Aggregate. The E/A agrees to endorse, consistent with E/A's indemnification obligation herein, theOWNER as an "Additional Insured" on the Commercial Umbrella/Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the OWNER is automatically defined as an Additional Protected Person. The E/A agrees any Self- Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

• **Worker's Compensation and Employer's Liability**: The E/A agrees to maintain its own Workers' Compensation Insurance pursuant to statutory limits. See TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401; TEX. ADMIN CODE, Title 28, Part 2. (NOTE: Elective exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).

The E/A agrees to maintain its own Employer's Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Bodily Injury by Accident, one million dollars ($1,000,000) Bodily Injury by Disease Each Occurrence, one million dollars ($1,000,000) Bodily Injury by Disease Aggregate Limit.

See Exhibit "D" Certificate(s) of Insurance and Endorsements for a chart and checklist providing a summary and overview of the insurance requirements.

7.3.3 In the event the E/A performs any site work, then all the insurance required herein will need to be evidenced prior to commencement of said site work.

7.3.4. The E/A agrees the insurance requirements herein as well as OWNER'S review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the E/A under this Agreement.

7.4. Additional Insured Endorsements.

7.4.1 The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial General Liability consistent with E/A's indemnification obligation herein. E/A shall choose one of the three Endorsement Options stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.

The form of the endorsement(s) shall be on the following forms or their equivalent:

Option 1:

CG 20 10 10 01
Additional Insured - Owners, Lessees, orContractor – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 2:

CG 20 10 07 04
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 3:

GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work

AND, the additional endorsement of

GA 233 02 07
Contractors' Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract

E/A shall attach actual copies of theendorsements.

7.4.2 Additionally, E/A agrees to endorse theOWNER as an "Additional Insured" under the Commercial

Umbrella / Excess Liability and the Pollution Liability Insurance, if required, as also provided herein, consistent with E/A's indemnification obligations herein.

7.4.3 The name of the organization endorsed as Additional Insured for all endorsements shall read "City of Tyler."

7.5. Deductibles, Coinsurance Penalties and Self-Insured Retention.

E/A agrees to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or limitation.

7.6. Waiver of Subrogation.

E/A agrees by entering into this written Agreement to a Waiver of Subrogation in favor of the OWNER for each required policy providing coverage during the life of this Agreement. E/A agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement and provide such endorsement to OWNER. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement, or voids coverage should the E/A enter into such an agreement on a pre-loss basis.

7.7. Subconsultants' Insurance.

In the event any work is sublet, the E/A shall require its subconsultants to similarly provide the same coverage as the E/A, and shall acquire evidence of such coverage on behalf of the OWNER.

7.8. Insurance Effective Until Completion.

Insurance coverage, limits, and endorsements required herein shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.9. Right to Revise or Reject Insurance.

7.9.1 E/A agrees the OWNER reserves the right, but not the obligation, to review or revise any insurance requirement, subject to the revision requested being commercially available, not limited to limits, coverage and endorsements based on insurance market conditions affecting the availability or affordability of coverage;or changes in the scope of work / specifications affecting the applicability of coverage.

7.9.2 Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do businessin the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office in the OWNER'S Legal Department for their adequacy as to form, content, form of protection, andproviding company. Additionally, the OWNER reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due of its poor financial condition or failureto operate legally in the State of Texas. In such events, OWNER shall provide E/A written notice of such revisions or rejections.

7.10. Certificate of Insurance.

7.10.1 Before commencement of any work, the E/A agrees to provide OWNER with **Certificate(s) of Insurance and Endorsements** that clearly evidence that E/A's insurance contains the minimumcoverages, limits, and endorsement requirements set forth herein, and which shall be attached as Exhibit "D" of this Agreement. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewalof coverage shall be identified on each Certificate(s) of Insurance. In the event the OWNER is notified thata required insurance coverage will cancel or expire during the period of this Agreement, the E/A agrees to furnish OWNER prior to the expiration of such insurance, a new Certificate of Insurance evidencing replacement coverage. When notified by OWNER, the E/A agrees to not continue Work pursuant to this Agreement, unless all required insurance remains in effect.

7.10.2 The OWNER shall have the right, but not the obligation, of prohibiting E/A from entering the Worksite until a new Certificate of Insurance is provided to the OWNER evidencing the replacement coverage. The E/A agrees the OWNER reserves the right to withhold payment to E/A until evidence of reinstatedor replacement coverage is provided to the OWNER.If the E/A fails to maintain the insurance as set forth herein, the E/A agrees the OWNER shall have the right, but not the obligation, to purchase replacementinsurance, which the E/A agrees to reimburse any premiums or expenses incurred by the OWNER.

7.10.3 Such insurance shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.11. Insurance - No Limit on Obligation to Pay.

Nothing contained in the insurance requirements shall be construed as limiting the extent of the E/A's responsibility for payment of damages resulting from his operations.

7.12. Non-compliance; Breach.

The E/A's failure to comply with any of the provisions of paragraphs 7.3 through 7.11, inclusive, is a breach of contract by the E/A which entitles the OWNER to declare the contract void if the E/A does not remedy the breach within ten days after receipt of notice of breach from the OWNER.

7.13. Indemnity.

E/A AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER, OWNER'S OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST LIABILITY FOR THIRD PARTY LIENS, DEMANDS, AND DAMAGES FOR BODILY INJURIES TO PERSONS INCLUDING DEATH, TANGIBLE PROPERTY DAMAGE, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES IN PROPORTION TO E/A'S LIABILITY, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONAL TORTIOUS ACTS OR OMISSIONS OF E/A, E/A'S SUBCONSULTANTS, AGENTS, OR ANYONE FOR WHOSE ACTS THE E/A OR SUBCONSULTANT MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIMS OR DAMAGES OCCURRED ON PROPERTY BELONGING TO THE OWNER. THE E/A'S INDEMNIFICATION OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

7.14. Certificate of Interested Parties.

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval. If required, the Certificate of Interested Parties (Form 1295) shall be attached as Exhibit "E".

7.15. Controlling Law.

This Agreement is to be governed by the law of the state of Texas. Venue for any action arising hereundershall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for actions in federal court. This provision shall supersede any other references inthe Agreement.

If this Project includes construction activities to City-owned buildings or other public works, Exhibit "F" provisions shall be applicable.

7.16. Successors and Assigns.

7.16.1. OWNER and E/A each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and E/A (and to the extent permitted by paragraph 7.16.2 the assigns of OWNER and E/A) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party,in respect of all covenants, agreements and obligations of this Agreement.

7.16.2. Neither OWNER nor E/A shall assign, subletor transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated bylaw or the effect of this limitation may be restricted by law. 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 this Agreement. Nothing contained in this paragraph shall prevent E/A from employing such independent professional associates and consultants as E/A may deem appropriate to assistin the performance of services hereunder, provided such independent associates or consultants are approved in writing in advance by OWNER and are paid by E/A.

7.16.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and E/A, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and E/A and not for thebenefit of any other party.

SECTION 8—SPECIAL PROVISIONS, SCHEDULES, AND EXHIBITS

8.1. Special Provisions.

Any other provisions of this Agreement or other documents included by reference herein to the contrary

notwithstanding, the following provisions shall apply to this Agreement and the respective duties and responsibilities of OWNER and E/A affected thereby:

8.1.1. As to the contractual relationship between E/A and OWNER, E/A is and shall be considered in all things an independent contractor.

8.1.2. OWNER reserves the right, with E/A's agreement, to consolidate any and all phases of performance set out in the standard form contractual documents. The consolidation of said services shall not in any way affect the E/A's responsibilities to perform the services set out therein.

8.1.3. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER OWNER, E/A, NOR THEIR RESPECTIVE PERSONNEL SHALL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES, OR DAMAGES ARISING FROM OR IN CONNECTION WITH LOSS OF USE, LOSS OF REVENUE OR PROFIT (ACTUAL OR ANTICIPATED), LOSS BY REASON OF SHUTDOWN OR NON-OPERATION, INCREASED COST OF CONSTRUCTION, COST OF CAPITAL, COST OF REPLACEMENT POWER OR CUSTOMER CLAIMS, AND OWNER HEREBY RELEASES E/A, AND E/A RELEASES OWNER, FROM ANY SUCH LIABILITY.

8.2. Exhibits.

The following exhibits are attached to and made a part of this Agreement:

- *Exhibit A - E/A's Scope of Service,*
- *Exhibit B - E/A's Project Schedule,*
- *Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees,*
- *Exhibit D - Certificate of Insurance and Endorsements,*
- *Exhibit E - Certificate of Interested Parties (Form 1295) (if required),*
- *Exhibit F - Procedure for Correcting Construction Defects (Applicable only to construction contracts affecting City-owned buildings and other public works)*

Provided, however, that where the terms and provisions of the above-referenced exhibit(s) shall conflict with the terms and provisions of this standard contract, this standard contract shall control. **However, if Exhibit "F" is applicable, provisions therein shall control over any other conflicting provisions.**

8.3. Entire Agreement.

8.3.1 This Agreement, together with the exhibits and schedules identified above, constitute the entire Agreement between OWNER and E/A and supersedeall prior or oral understandings.

8.3.2 This Agreement and said exhibits and schedulesmay only be amended, supplemented, modified or canceled by a duly executed written instrument.

8.4. Effective Date.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

8.5. Severability.

The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

8.6. Waiver.

The waiver of any breach of a term or condition of this Agreement does not waive any other breach of that term or condition or any breach of any other termor condition of this Agreement.

8.7. Notices.

Any notices provided under this Agreement shalloccur in writing, by certified or registered mail delivery, receipt requested. For purposes of such notice, the addresses of the parties, until changed by written notice, shall be:

E/A:
Garver, LLC
Attn: Lance Klement, PE
3010 Gaylord Parkway, Suite 190
Frisco, Texas 75034

OWNER:
City of Tyler
Attn: Tiffany Currie, PE
P.O. Box 2039 Tyler, TX 75710

8.8. Venue.

Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state

court and in the Eastern District of Texas, Tyler Division, for action in federal court. This provision shall supersede any other references in the Agreement.

(The remainder of this page was left blank intentionally.)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

FOR THE CITY OF TYLER, TEXAS:

ATTEST:

By: _____

City Manager Date

Edward Broussard

Printed Name

By: _____

City Clerk

Cassandra Brager

Printed Name

APPROVED:

By: _____

City Attorney's Office Date

Printed Name

RECOMMENDED:

By: _____

Department Leader Date

Printed Name

CITY COUNCIL APPROVAL:

AGENDA ITEM NUMBER: _____

DATE APPROVED: _____

FOR THE E/A:

By: _____

Water Business Team Leader — Date

Lance P. Klement

Printed Name

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared_____, who is known to me, or who was proved to me through _____to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the_____day of_____, 20_____.

_____

Notary Public In and For The State of Texas

My Commission Expires: _____

_____

Notary's Printed Name

INDEX OF EXHIBITS

Exhibit A - E/A's Scope of Service

Exhibit B - E/A's Project Schedule

Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

Exhibit D - Certificates of Insurance and Endorsements

Return to Index of Exhibits

Exhibit A - E/A's Scope of Service

EXHIBIT A
(SCOPE OF SERVICES)

GENERAL

In August 2023 Garver prepared the City of Tyler Wastewater Treatment Plants Master Plan that identified the near-term needs of the city's two wastewater treatment plants (WWTPs), Westside and Southside, and planned for the needs of the facilities over the next 30 years. The Master Plan documented the Capital Improvement Plan (CIP) for each WWTP that addresses the current condition concerns and capacity improvements for future growth of the city. The improvements were phased based on prioritization and overall impact to the WWTP during construction. A summary of the phased CIP projects for Westside WWTP includes the following:

Phase I

1) New Headworks Facility
2) New Influent Pump Station
3) New Odor Control Facility
4) New Aeration Basins
5) Anaerobic Digester Improvements
6) Sludge Lagoon Rehabilitation (Fast-Tracked Design)

Phase I OPCC from August 2023 Tyler WWTP Master Plan was $79,000,000.

Phase II

1) Secondary Clarifier Rehabilitation
2) Chlorine Contact Basin Improvements
3) New RAS/WAS Pump Station

Phase II OPCC from August 2023 Tyler WWTP Master Plan was $19,263,000.

Phase III

1) New Primary Clarifiers
2) Primary Clarifier Conversion to EQ Basins

Phase III OPCC from August 2023 Tyler WWTP Master Plan was $17,728,000.

Phase IV

1) Dewatering Facility Improvements

Phase IV OPCC from August 2023 Tyler WWTP Master Plan was $10,896,000.

The scope of services documented herein are associated with the preliminary engineering services for all four phases and final design, advertisement, bidding, construction administration, construction observation, and construction materials testing for Phase I. It is intended that Gaver, and its design team will provide final design, advertisement, bidding, construction administration, construction observation, and construction materials testing services for Phases II, III, and IV through future supplemental agreements.

- Agreement I – Phase I-IV Preliminary Engineering, Funding Assistance, Permit Renewal Application, and Phase I Final Design, Advertisement, Bidding, Construction Administration, Construction Observation, and Materials Testing.
    - Topographic Survey and Subsurface Utility Engineering
    - Geotechnical Engineering

- Hazardous Materials Assessment
- Environmental and Floodplain Coordination
- Fast-Tracked Sludge Lagoon Final Design
- Preliminary Treatment Design Information Memorandum (DIM)
  - New Headworks Facility
  - New Odor Control Facility
- Pumping DIM
  - New Influent Pump Station
  - New RAS/WAS Pump Station
- Primary Treatment DIM
  - New Primary Clarifiers
  - Primary Clarifier Conversion to EQ Basins
- Secondary Treatment DIM
  - New Aeration Basins
  - Secondary Clarifier Rehabilitation
- Tertiary Treatment DIM
  - Chlorine Contact Basin Improvements
- Sludge Treatment DIM
  - Anaerobic Digester Improvements
  - Dewatering Facility Improvements
- Electrical DIM
  - Electrical Distribution System and Emergency Power Improvements
  - SCADA, Controls, and Site Security Improvements
  - New Electrical Building
- Funding DIM
- Phase I-IV Preliminary Design Report (PDR)
- Permit Renewal and Minor Amendment Application
- Phase I Final Design
- Phase I Advertisement and Bidding
- Phase I Construction Administration
- Phase I Construction Observation
- Phase I Construction Materials Testing
- Fast-Tracked Sludge Lagoon Advertisement and Bidding
- Fast-Tracked Sludge Lagoon Construction Administration
- Fast-Tracked Sludge Lagoon Construction Observation
- Fast-Tracked Sludge Lagoon Construction Materials Testing

1. PROJECT INITIATION AND DESIGN MANAGEMENT

Garver will provide the following project management services to support the project.

1.1. Project Management Plan and Monthly Invoicing – Garver will develop a Project Management Plan (PMP) that documents communication protocol, project objectives, key stakeholders, quality management procedures and protocols, change procedures and protocols, document control, interface management between all internal and external project stakeholders, and other critical factors to successfully executing the engineering services. Garver will also develop monthly invoices. The invoices will be submitted electronically and will include a project status report for the period, anticipated work for the next period, decision needs, updated project schedule, and impacts to other ongoing capital projects.

1.2. Quality Assurance and Quality Control (QA/QC) – During the development of draft and final deliverables, a Principal or Senior Engineer for each design discipline will conduct a thorough review of the design. The QA/QC review will follow the guidelines and procedures that have been established in the PMP. Comments will be responded to and incorporated prior to the submission of deliverables.

1.3. Project Kickoff Meeting and Site Visit – up to one (1) in-person kickoff meeting and site visit will be conducted to confirm the goals, schedule, and deliverables for the project. In-person Garver attendees will include the Project Manager, Design Phase Manager, and up to four (4) discipline leads. Meeting minutes including action items and a decisions log will be prepared and distributed.

1.4. Biweekly Design Meetings and Workshops – Garver will schedule biweekly, recurring project meetings over the course of preliminary and final design development to proactively communicate updates and review key deliverables. Up to forty (40) in-person and/or virtual meetings are anticipated. A Microsoft Teams link will be included with each meeting for those who are unable to attend in-person. Meeting minutes including action items and a decisions log will be prepared and distributed. Required attendees will vary for each of these meetings based on the topics being discussed. Garver will provide a tentative schedule and primary topics to be discussed at each meeting for planning purposes. In addition to the Project Kickoff The following meetings/workshops are anticipated to be conducted in parallel with the Biweekly Design Meetings:

- Two (2) Staff Interviews – Garver will conduct interviews with plant staff to confirm critical success factors, current standard operating procedures (SOPs) and primary operational and maintenance risks and goals.

- One (1) Data Summary and Review Meeting – Garver will conduct a data review meeting to understand the key design criteria, SOPs, and other potential coordination items.

- Seven (7) DIM Workshops – Garver will conduct workshops to present progress and/or draft versions of the DIMs. The goal of these meetings will be to determine and document key decision points for conceptual designs.

- Two (2) PDR Review Workshops – Garver will provide the PDR along with 30% design drawings prior to the PDR Review Workshop. The goal of these workshops is to review drawings, answer questions, and document comments and feedback. The preliminary designs will include three dimensional BIM models that provide greater detail and information regarding the designs.

- Seven (7) Design Review Workshops – Garver will provide the 30%, 60%, 90%, and Issue for Bid design drawings prior to the Design Review Workshop. The goal of these workshops is to review drawings, answer questions, and document comments and feedback. The preliminary designs will include three dimensional BIM models that provide greater detail and information regarding the designs.

- Three (3) Executive Briefings – Garver will conduct executive briefings to Mayor and Council and/or Boards and Commissions to summarize final recommendations included in the PDR.

- Internal Design Team Coordination and Progress Meetings – Garver will lead coordination efforts and interface with each internal stakeholder. This will include recurring biweekly design coordination calls, internal workshops, and progress meetings.

1.5. Data Request Memorandum – Garver will develop and submit a Data Request Memorandum that summarizes the data required to complete the DIMs and PDR. This is anticipated to include: record drawings of existing facilities, equipment operations and maintenance (O&M) manuals, SOPs, system GIS information, planned capital improvement projects that could impact design/construction, and other relevant studies and reports.

Task 1 Deliverables

- Project Management Plan as a searchable and bookmarked PDF.
- Biweekly Design Meeting schedule including topics and deliverables to be discussed as a searchable and bookmarked PDF.
- Meeting presentations and handouts as a searchable and bookmarked PDF.
- Meeting minutes including action items and a decisions log for each meeting as a searchable and bookmarked PDF.
- Data Request Memorandum as a searchable and bookmarked PDF.
- Monthly invoices and project status report as a searchable and bookmarked PDF.

2. TOPOGRAPHIC SURVEY AND SUBSURFACE UTILITY ENGINEERING

Garver, and its design team will provide the following topographic survey and Subsurface utility Engineering (SUE) services to support the project.

2.1. Garver will contract with a registered professional land surveyor (RPLS) to conduct a land survey at the proposed site. The survey will base horizontal and vertical control on the identified benchmark coordinates and datum. Survey measurements will be based on state plane coordinates. The survey will be completed utilizing RTK GPS and Robotic Scanning Stations and/or an Unmanned Aerial Vehicle (Drone) and will produce a topographical survey of project area to map utilities and existing structures. The survey will include contours shown at one-foot intervals, plotted locations of structures, paving, visible improvements, and utility information based on surface evidence.

2.2. Garver will contract with a firm specializing in SUE to provide Quality Level “B” Field Designating and Quality Level “A” Locating. It will include the excavation of up to thirty (30) test holes for the scope of work. Quality Level B will be performed in advance of proposed test holes as means to lay out horizontal position of existing facilities. The proposed test holes will be surveyed using project control point data. The scope includes non-destructive vacuum excavation equipment to excavate test holes at the proposed locations. The utility type, size, material, depth to top, and general direction will be documented in a summary report.

Task 2 Deliverables

- Deliverables from this task will be incorporated into subsequent design deliverables.

3. GEOTECHNICAL ENGINEERING

Garver, and its design team will provide the following geotechnical engineering services to support the project.

3.1. Garver will contract with a licensed geotechnical engineer to perform a geotechnical evaluation for this project to drill up to ten (10) borings to 40 feet and six (6) borings to 60 feet at the site. Samples will be collected intermittently using continuous flight augers and either split-spoon or tube samplers. For deeper borings, shale may be sampled using an NX-size core barrel or tested in-situ using a Texas Department of Transportation Cone Penetration Test, as appropriate for the material. At completion, the boreholes will be backfilled with auger cuttings to the ground service.

3.2. Garver will contract with a licensed geotechnical engineer to select samples for laboratory testing, assign tests, deliver samples to a laboratory, and review test results. Testing is expected to include classification tests (liquid and plastic limits and percent passing a #200 sieve or gradation), moisture content, one-dimensional swell, and unconfined compression strength tests.

3.3. Garver will contract with a licensed geotechnical engineer to prepare a Technical Memorandum (TM) of the geotechnical investigation to include: an appendix with boring locations, boring logs, laboratory test results, and a key to the symbols used; discussion of subsurface conditions and soil properties indicated by the field and laboratory work, and the implications for design; foundation and site preparation recommendations for the project. The intent is for the proposed foundations to be compatible with the existing conditions; discuss expected construction related issues, if appropriate based upon materials encountered by the borings; and recommend earthwork related methods for use during development of the drawings and specifications.

Task 3 Deliverables

- Deliverables from this task will be incorporated into subsequent design deliverables.

4. HAZARDOUS MATERIALS ASSESSMENT

Garver, and its design team will provide the following hazardous materials assessment services to support the project.

4.1. Garver will contract with a licensed hazardous materials inspector to collect samples at impacted structures, i.e. structures/equipment that will be demolished and/or structures/equipment that will be modified which could result in friable material conditions.

4.2. Garver will contract with a licensed hazardous materials inspector to assign tests, deliver samples to a laboratory, and review test results. Testing is expected to include identification and concentration of asbestos containing materials and paint with Lead.

4.3. Garver will contract with a licensed hazardous materials inspector to prepare a Technical Memorandum (TM) of the hazardous materials assessment to include: an appendix with sample locations, laboratory test results, and a key to the symbols used; discussion of recommendations for handling and disposal during construction and quantify of abatement required.

Task 4 Deliverables

- Deliverables from this task will be incorporated into subsequent design deliverables.

5. ENVIRONMENTAL AND FLOODPLAIN COORDINATION

Garver will provide a floodplain study to support the project.

5.1. Garver will perform a floodplain study on the reach of Black Fork Creek adjacent to the Westside WWTP. The study reach will be limited to a sufficient distance upstream and downstream of Westside WWTP to tie into effective FEMA Flood Insurance Study (FIS) data. According to the effective FEMA FIS report for Smith County, Texas (revised April 16, 2014), the entire reach of Black Fork Creek was newly studied or revised by detailed methods for the April 16, 2014 countywide FIS revision. The purpose of the floodplain study is to evaluate impacts of proposed WWTP improvements on the effective FEMA floodplain and floodway of Black Fork Creek and to perform hydraulic design as required to comply with applicable floodplain regulations. Garver will request all applicable effective FEMA hydrologic and hydraulic data, modeling, and mapping for Black Fork Creek. The effective FEMA FIS HEC-RAS hydraulic model and/or data published in the FIS report will be used as the basis for the development of an existing conditions HEC-RAS hydraulic model. The effective FEMA FIS HEC-RAS hydraulic model will be modified based on site survey, as-built plans, field observations, publicly available lidar and aerial photographs, and other available information to represent existing hydraulic conditions.

5.2. The existing Westside WWTP facility lies partially within the FEMA regulatory floodway of Black Fork Creek, and proposed WWTP improvements are anticipated to be placed within the floodway. Work within the floodway will require either a no-rise analysis or a FEMA-approved Conditional Letter of Map Revision (CLOMR) to comply with Smith County Flood Damage Prevention Regulations. Garver will seek a no-rise hydraulic design to offset impacts of proposed WWTP improvements, which may include modifications to the Black Fork Creek channel or overbank areas. Garver will modify the existing conditions hydraulic model to represent the proposed WWTP improvements and to use as a basis for floodplain hydraulic design. Garver will iterate up to three (3) proposed floodplain hydraulic designs to seek a no-rise hydraulic design. If a no-rise floodplain hydraulic design is infeasible, Garver will develop a floodplain hydraulic design that does not increase base flood elevations (BFEs) at existing upstream structures (i.e., buildings). Garver will prepare and submit a Smith County Floodplain Development Permit. Garver will prepare and submit an application for a CLOMR to FEMA, if required.

5.3. Following construction, Garver will modify the final proposed conditions hydraulic model of Black Fork Creek to represent as-built conditions based on as-built construction plans and as-built survey data. Garver will prepare and submit an application for a Letter of Map Revision (LOMR) to FEMA to officially revise the Black Fork Creek floodplain mapping to represent final as-built conditions.

5.4. Garver will conduct a wetland delineation to determine the limits of jurisdictional waters of the United States (U.S.), including streams, within the project limits (approximately 50 acres with approximately 0.7 miles of known stream). Each potentially jurisdictional feature will be mapped with a sub-meter GPS, which will be used to create shapefiles for use in determining avoidance and minimization of impacts. The delineation will utilize methodologies outlined in the U.S. Army Corps of Engineers (USACE) Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Atlantic and Gulf Coastal Plain Version 2.0. Garver will accomplish the following as part of the wetland delineation:

- Review pertinent resources related to the project site's hydrology and soils, and review of historical topographic maps and aerial photographs.
- Field survey of wetlands and streams within the previously identified project boundary.
- Create shapefiles from field collected data to be utilized in wetland report exhibits and for quantification of wetland acreages and stream lengths within the project.
- Complete a wetland delineation report of findings that includes necessary documentation for submittal to the USACE to obtain a Preliminary Jurisdictional Determination (PJD).

5.5. Garver will initiate USACE coordination to determine permitting and/or mitigation requirements. Garver will develop necessary documentation to provide a Pre-Construction Notification (PCN) to the USACE. PCN documentation will include design details, exhibits, photographs, impact length and acreage, delineation report, and threatened and endangered species information including U.S. Fish and Wildlife Service (USFWS) IPaC list.

If required, a supplemental work authorization will be required to complete an archeological survey and conduct Texas Historical Commission (THC) coordination.

Task 5 Assumptions

- Westside WWTP is located in the City of Tyler Extraterritorial Jurisdiction (ETJ) and the Westside WWTP property is owned by the City of Tyler, so Garver assumes that City of Tyler Floodplain Regulations apply to development of the site. Coordination with other jurisdictions is excluded from this Scope of Work.
- Garver assumes that a digital copy of a georeferenced one-dimensional (1D) HEC-RAS hydraulic model of Black Fork Creek is available from FEMA and will be provided to Garver through a FEMA FIS backup data request for use in the floodplain study. Garver will use the Black Fork Creek peak discharge data included in the FIS report and/or in the HEC-RAS model for the floodplain study. Additional hydrologic study of the Black Fork Creek watershed is excluded from this Scope of Work. Garver will use the FEMA FIS HEC-RAS model as the basis of the hydraulic study of Black Fork Creek.
- Garver assumes the scope does not include an individual permit, cultural resources investigation, coordination with the THC, or survey.
- Any USFWS consultation outside of the IPaC would require a supplemental agreement.

Task 5 Deliverables

- Deliverables from this task will be incorporated into subsequent design deliverables.
- Wetland Delineation Report as a searchable and bookmarked PDF.
- Shapefiles of the identified waters of the U.S.
- PCN as a searchable and bookmarked PDF.

6. FAST-TRACKED SLUDGE LAGOON FINAL DESIGN

Garver will develop a Condition Assessment TM, 60%, 90%, TCEQ Construction Permit Application, and Issue for Bid Drawings, Details, Specifications, and OPCC to support design of the improvements included in the Fast-Tracked Sludge Lagoon Improvements Project. The improvements are limited to the regulatory improvements identified in Task 6.1, up to and including the return flow headwall and piping to behind the embankment slope. Continuation of the return flow piping and associated return flow pump station will be included in Task 9.

6.1. Garver will develop a Condition Assessment TM summarizing our visual observations of the physical condition of the facility and review the asset to the 30 Texas Administrative Code (TAC) §217 Subchapter H regulatory requirements to define scope of the improvements. The evaluation criteria will be limited to:

- Minimum Freeboard (30 TAC §217.203)
- Minimum Embankment Slope (30 TAC §217.203)
- Maximum Embankment Slope (30 TAC §217.203)
- Top of Embankment Minimum Width (30 TAC §217.203)

6.2. Garver will develop 60% Drawings (1":40' scale), Details, Technical Specifications, and an Association for the Advancement of Cost Engineering (AACE) Class 3 OPCC for the recommendations provided in Task 6.1. These plans will be to a 60% level and will include proposed process location, civil and mechanical layouts, and general structural design. The 60% plans will be developed in accordance with applicable and appropriate code requirements.

6.3. Garver will develop 90% Drawings (1":40' scale), Details, Front-End and Technical Specifications, and an AACE Class 3 OPCC for the recommendations provided in Task 6.1. These plans will be to a 90% level and will include proposed process location, civil and mechanical layouts, and general structural design. The 90% plans will be developed in accordance with applicable and appropriate code requirements.

6.4. Garver will develop TCEQ Construction Permit Application Submittal for the recommendations provided in Task 6.1. These plans will be to a 90% level and will be signed and sealed per TCEQ application requirements.

6.5. Garver will develop Issued for Bid Drawings (1":40' scale), Details, Front-End and Technical Specifications, and an AACE Class 3 OPCC for the recommendations provided in Task 6.1. These plans will be to a 100% level and will include proposed process location, civil and mechanical layouts, and general structural design. The Issued for Bid plans will be developed in accordance with applicable and appropriate code requirements.

Task 6 Deliverables

- Condition Assessment TM as a searchable and bookmarked PDF.
- 60% Drawings, Details, Technical Specifications, and AACE Class 3 OPCC as a searchable and bookmarked PDF.
- 90% Drawings, Details, Front-End and Technical Specifications, and AACE Class 3 OPCC as a searchable and bookmarked PDF.
- TCEQ Construction Permit Application with Signed and Sealed Drawings and Specifications as a searchable and bookmarked PDF and one (1) half-size hard copy.
- Issued for Bid Drawings, Details, Front-End and Technical Specifications, and AACE Class 3 OPCC as a searchable and bookmarked PDF.

7. PHASE I-IV PRELIMINARY ENGINEERING

Garver will develop DIMs, PDR summarizing the findings, 30% plan drawings, and OPCC to support the project.

7.1. Garver will develop DIMs to document basic design criteria and conformance with Texas Commission on Environmental Quality (TCEQ) regulations for the following process areas.

- Preliminary Treatment DIM
  - New Headworks Facility
  - New Odor Control Facility
- Pumping DIM
  - New Influent Pump Station
  - New RAS/WAS Pump Station
- Primary Treatment DIM
  - New Primary Clarifiers
  - Primary Clarifier Conversion to EQ Basins
- Secondary Treatment DIM
  - New Aeration Basins
  - Secondary Clarifier Rehabilitation
- Tertiary Treatment DIM
  - Chlorine Contact Basin Improvements
- Sludge Treatment DIM
  - Anaerobic Digester Improvements
  - Dewatering Facility Improvements
- Electrical DIM
  - Electrical Distribution System and Emergency Power Improvements
  - SCADA, Controls, and Site Security Improvements
  - New Electrical Building

7.2. Garver will develop a PDR summarizing the findings in Task 7.1, including a recommendation for the final design path forward and phasing plan.

7.3. Garver will develop 30% plan drawings (1":40' scale) and an AACE Class 3 OPCC for the recommendations provided in Task 7.2. These plans will be to a 30% level and will include proposed process location, process flow diagrams, instrumentation and control diagrams, site electrical concepts, mechanical layouts, and general structural design. The 30% plans will be developed in accordance with applicable and appropriate code requirements. The design will include the following elements:

- New Headworks Facility:
  - Demolish existing First Stage Trickling Filter No. 1.
  - Construct new headworks facility with two (2) mechanical screens, one (1) manual bar screen and two (2) mechanical vortex grit removal units sized for the projected future peak flow of 47.2 MGD. Space will be allocated for one (1) additional mechanical screen and one (1) additional vortex grit removal unit.
  - Demolish existing Headworks Facility

- New Influent Pump Station:
  - Construct new influent pump station with four (4) 12 MGD design flow pumps. Space will be allocated for two (2) future peak flow pumps.
  - Demolish existing Raw Water Pump Station.

- New Odor Control Facility:
  - Construct new biotrickling filter odor control facility to treat odorous gases from the new Headworks Facility and Influent Pump Station.

- New Aeration Basins:
  - Demolish existing Second Stage Trickling Filter No. 2.
  - Construct three (3) new aeration basin channels utilizing diffused aeration and new blower facility with four (4) new blowers.
  - Demolish existing Nitrification Basin.

- Anaerobic Digester Improvements:
  - Remove existing anaerobic digester covers and perform necessary structural repairs.
  - Relocate existing floating surface aerators from the Nitrification Basin for aeration and mixing with three (3) new blowers.

- Secondary Clarifier Rehabilitation:
  - Remove and replace clarifier mechanisms, walkways, and handrailing.

- Chlorine Contact Basin Improvements:
  - Raise the outer walls to prevent the facility from flooding during peak rain events.
  - Construct new effluent flow measure channel with Parshall flume.

- New RAS/WAS Pump Station:
  - Construct new RAS/WAS pump station with four (4) RAS pumps and two (2) WAS pumps.
  - Demolish existing RAS Pump Station.

- New Primary Clarifiers:
  - Demolish existing Second Stage Trickling Filter No. 1.
  - Construct two (2) new 100-ft diameter primary clarifiers at higher elevation to eliminate the need for intermediate pumping.
  - Demolish exiting Filter Pump Station.

- Primary Clarifier Conversion to EQ Basins:
  - Remove clarifier mechanisms in existing Primary Clarifier 1 and 2 and convert into EQ Basins to buffer peak flows.
  - Install two (2) peak flow pumps in the Influent Pump Station.

- Dewatering Facility Improvements:
  - Expand existing Dewatering Facility to accommodate two (2) additional 2-meter Belt Filter Presses (BFP).

- Electrical Distribution System Improvements:
  - Remove and replace electrical distribution equipment and infrastructure that is beyond its intended life and add emergency backup power.
  - Remove and replace SCADA, controls, and site security equipment and infrastructure that is beyond its intended life.
  - Construct new Electrical Building.

Task 7 Deliverables

- Preliminary Treatment DIM as a searchable and bookmarked PDF.
- Pumping DIM as a searchable and bookmarked PDF.
- Primary Treatment DIM as a searchable and bookmarked PDF.
- Secondary Treatment DIM as a searchable and bookmarked PDF.
- Tertiary Treatment DIM as a searchable and bookmarked PDF.
- Sludge Treatment DIM as a searchable and bookmarked PDF.
- Electrical DIM as a searchable and bookmarked PDF.
- PDR as a searchable and bookmarked PDF.
- 30% plan drawings as a searchable and bookmarked PDF.
- AACE Class 3 OPCC as a searchable and bookmarked PDF.

8. PERMIT RENEWAL AND MINOR AMENDMENT APPLICATION

The existing TPDES Permit No. WQ0010653001 will expire on February 21, 2025, and needs a permit renewal application submitted to the Texas Commission on Environmental Quality (TCEQ) by August 25, 2024 (180 days prior to permit expiration). Garver will coordinate with the Owner's staff and prepare the required permit renewal application form (TCEQ-10053 Municipal Wastewater Application Administrative Report). On the same application, Garver will include a minor amendment to the "Other Requirements" section under Item 4, specifically the storage of un-digested sludge in aerated sludge holding tanks and sludge lagoons.

8.1. Garver will provide a list of any effluent sample analyses that are necessary for the permit renewal and minor amendment application. Garver will review the information available from previous permit renewal applications for the WWTP. If additional information is needed to complete the permit renewal application, Garver will request this information.

8.2. Garver will complete the permit renewal application, assemble the necessary worksheets, and prepare appropriate attachments. The permit renewal application is anticipated to include:

- Administrative Report 1.0
- Supplemental Permit Information Form (SPIF)
- Core Data Form
- Domestic Technical Report 1.0
- Worksheet 2.0: Receiving Waters
- Worksheet 4.0: Pollutant Analysis Requirements
- Worksheet 5.0: Toxicity Testing Requirements
- Worksheet 6.0: Industrial Waste Contribution
- Original USGS Map
- Flow Diagram
- Site Drawing

8.3. Garver will review up to two (2) TCEQ response drafts for revisions and will assist the Owner with information to support the request for permit renewal application.

Task 8 Deliverables

- Data needs request as a searchable and bookmarked PDF
- Draft permit renewal application form as a searchable and bookmarked PDF
- Following receipt of review comments, Garver will incorporate the review comments and submit four hard copies (one original and three copies) of the permit renewal application to the TCEQ via certified mail and e-mail a PDF electronic copy.

9. FUNDING ASSISTANCE

Garver will assist with pursuit of funding through two (2) sources, the Texas Water Development Board's (TWDB's) Clean Water State Revolving Fund (CWSRF) and the United States Environmental Protection Agency's (EPA's) Water Infrastructure Finance and Innovation Act (WIFIA) Program. Garver cannot guarantee that the funding for this project will be available or that the Owner will be successful in qualifying for such. Garver will perform the following tasks:

9.1. Coordinate with TWDB and EPA to discuss funding options available for the project as needed.

9.2. Develop a DIM documenting eligibility, selection criteria, program requirements, and application schedules.

9.3. Attend one (1) executive briefing to Mayor and Council and/or Boards and Commissions to present funding options.

9.4. Complete one (1) Project Information Form (PIF) for the CWSRF and/or one (1) Letter of interest (LOI) for WIFIA based on the founding source(s) selected by the Owner. Garver will coordinate with the Owner as needed to obtain required financial and legal information for these documents.

9.5. Upon acceptance of the PIF or LOI, Garver will assist the Owner with completing a maximum of two (2) loan applications, either CWSRF or WIFIA.

9.6. Coordinate bid documents with TWDB and/or EPA to maintain program compliance.

Task 9 Deliverables

- Project Funding DIM as a searchable and bookmarked PDF.
- CWSRF PIF and/or WIFIA LOI as a searchable and bookmarked PDF.
- A maximum of two (2) loan applications as a searchable and bookmarked PDF, as determined by the Owner's finding decision.

10. PHASE I FINAL DESIGN

Garver will develop 60%, 90%, TCEQ Construction Permit Application, and Issue for Bid Drawings, Details, Specifications, and OPCC to support design of the improvements included in the Phase I Improvements Project. The improvements are limited to the improvements identified in Task 7.2 and the return flow piping and associated return flow pump station excluded from Task 6.

10.1. Garver will develop 60% Drawings (1":40' scale), Details, Technical Specifications, and an AACE Class 3 OPCC for the recommendations provided in Task 6.1. These plans will be to a 60% level and will include proposed process location, civil and mechanical layouts, and general structural design. The 60% plans will be developed in accordance with applicable and appropriate code requirements.

10.2. Garver will develop 90% Drawings (1":40' scale), Details, Front-End and Technical Specifications, and an AACE Class 3 OPCC for the recommendations provided in Task 6.1. These plans will be to a 90% level and will include proposed process location, civil and mechanical layouts, and general structural design. The 90% plans will be developed in accordance with applicable and appropriate code requirements.

10.3. Garver will develop TCEQ Construction Permit Application Submittal for the recommendations provided in Task 6.1. These plans will be to a 90% level and will be signed and sealed per TCEQ application requirements.

10.4. Garver will develop Issued for Bid Drawings (1":40' scale), Details, Front-End and Technical Specifications, and an AACE Class 3 OPCC for the recommendations provided in Task 6.1. These plans will be to a 100% level and will include proposed process location, civil and mechanical layouts, and general structural design. The Issued for Bid plans will be developed in accordance with applicable and appropriate code requirements.

Task 10 Deliverables

- 60% Drawings, Details, Technical Specifications, and AACE Class 3 OPCC as a searchable and bookmarked PDF.
- 90% Drawings, Details, Front-End and Technical Specifications, and AACE Class 3 OPCC as a searchable and bookmarked PDF.
- TCEQ Construction Permit Application with Signed and Sealed Drawings and Specifications as a searchable and bookmarked PDF and one (1) half-size hard copy.
- Issued for Bid Drawings, Details, Front-End and Technical Specifications, and AACE Class 3 OPCC as a searchable and bookmarked PDF.

11. PHASE I ADVERTISEMENT AND BIDDING

Garver will administer a 45-day duration bidding period for prospective bidders of the Phase I Construction Package. Garver will:

11.1. Prepare and submit the Advertisement for Bid, Issued for Bid Documents, and any associated information to CivCast for download by prospective bidders. Owner will coordinate advertisement in local newspaper(s) as determined by the Owner.

11.2. Support the Issued for Bid Documents by responding to up to one-hundred (100) questions and preparing up to four (4) addenda as appropriate and posting on CivCast.

11.3. Participate in one pre-bid meeting, including preparing a pre-bid meeting agenda, and participate and chair a construction site tour following the pre-bid meeting by interested pre-bid meeting attendees and other interested parties.

11.4. Host, attend, and manage the bid opening process, prepare a bid tabulation, and recommendation of award.

11.5. Prepare Notification of Award.

Task 11 Deliverables

- Advertisement for Bid as a searchable and bookmarked PDF.
- Up to four (4) addenda as a searchable and bookmarked PDF.
- Pre-bid meeting agenda and presentation slide deck as a searchable and bookmarked PDF.
- Bid tabulation and recommendation of award as a searchable and bookmarked PDF.

12. PHASE I CONSTRUCTION ADMINISTRATION

During the construction phase of work, Garver will accomplish the following:

12.1. Issue a Notice to Proceed letter to the Contractor and attend preconstruction meeting.

12.2. Attend up to twenty-four (24) progress/coordination meetings with the Owner/Contractor.

12.3. Evaluate and respond up to four-hundred (400) construction material submittals and shop drawings. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Garver's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Garver shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

12.4. Issue instructions to the Contractor on behalf of the Owner and issue necessary clarifications (respond to Request for Information (RFIs)) regarding the construction contract documents. Garver will respond to up to two-hundred (200) RFIs.

12.5. Review the up to twenty-four (24) Contractor's progress payment requests based on the actual quantities of contract items completed and will make a recommendation to the Owner regarding making a monthly partial payment. Garver's recommendation for payment shall not be a representation that Garver has made exhaustive or continuous inspections to (1) check the quality or exact quantities of the Work; (2) to review billings from Subcontractors and material suppliers to substantiate the Contractor's right to payment; or (3) to ascertain how the Contractor has used money previously paid to the Contractor.

12.6. When authorized by the Owner, Garver will prepare up to ten (10) change orders for approved changes in the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents due to Owner-requested modifications, the Owner will pay Garver an additional fee to be agreed upon by the Owner and Garver.

12.7. Prepare and furnish record drawings.

12.8. Participate in final project inspection, prepare punch list, review final project closing documents, and submit final pay request.

Task 12 Deliverables

- Contractor Notice to Proceed as a searchable and bookmarked PDF.
- Up to four-hundred (400) submittal response forms as a searchable and bookmarked PDF.
- Up to two-hundred (200) RFI response forms as a searchable and bookmarked PDF.
- Record Drawings based on the as-built markups provided by the Contractor as a searchable and bookmarked PDF.
- Final inspection punchlist as a searchable and bookmarked PDF.

13. PHASE I CONSTRUCTION OBSERVATION

Resident construction observation services will be provided by Garver's Resident Project Representative(s) (RPR) for the twenty-four (24) months (730 calendar days) construction contract performance time. The proposed fee is based on one (1) full-time RPR working approximately fifty (50) hours per week, on average, for the entire twenty-four (24) months of construction.

Construction observation services will include:

13.1. Review and approve the progress schedule updates and the schedule of Shop Drawing submittals prepared by Contractor. Consult with respective Design EOR concerning acceptability.

13.2. Attend meetings with Contractor, such as progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

13.3. Serve as the liaison with Contractor, working principally through Contractor's superintendent. Report to the Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.

13.4. Serve as Owner's liaison with Contractor when Contractor's operation affects Owner's on-site operations. Obtain from Owner additional details or information when required for proper execution of the work.

13.5. Video digital photography of the project corridor before start of construction and after completion to document pre- and post-project conditions.

13.6. Advise Contractor he may not commence any Work requiring a Shop Drawing or sample if the submittal has not been approved.

13.7. Conduct on-site observations of the Work in progress. Advise Engineer if the Work is, in general, proceeding in accordance with the Contract Documents.

13.8. Notify Engineer whenever Work is believed to be unsatisfactory, faulty, defective, not in conformance with the Contract Documents, damaged, or not meeting the requirements of any inspection, test or approval required to be made; and advise the Contractor of Work that Engineer believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval. Proper documentation of Non-Conformance Reports (NCR) will be distributed to all related parties and saved within the construction management software. A log of NCR’s shall be maintained to illustrate the legacy of the initiation of the issue to proper completion.

13.9. Verify that test, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and the Contractor maintains adequate records thereof; and observe, record and report to the Engineer appropriate details relative to the test procedures and start-ups.

13.10. Schedule field compliance tests and retests, confirm that these tests are conducted in the presence of the appropriate personnel; observe, record and report the appropriate test results. Maintain records of failed tests.

13.11. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, and record the results of these inspections and report to Engineer.

13.12. Ensure Wage Rates are posted on site. Ensure all payrolls from prime and subcontractors are submitted with each monthly pay request as a condition precedent to approval and perform quality assurance reviews, as well as periodic interviews of various contractor employees on site. QA consists of performance of a representative number of checks of each prime and subcontractor payroll against the wage scale. Highlight the employee rates checked before turning over reports with payrolls each month. RPR will perform one wage rate interview per contractor on site for each quarter during the twenty-four (24) months of construction.

13.13. Ensure NPDES Permit and SW3P is posted at site and followed by Contractor. Ensure Notice of Termination is included with the close-out package.

13.14. Consider and evaluate Contractor's suggestions for modifications to drawings or specifications and transmit recommendations to Engineer. Notify Contractor of the decision.

13.15. Maintain for use at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, Contract Documents including all Addenda, Work Directive Changes, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents. All documentation shall reside at the field office. If a field office is not provided, documentation will be at our local Office at 100 E Ferguson St., Suite 814, TX 75702. Inspect Contractor's record drawings adequately reflect the work including Addenda, Work Directive Changes, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarifications and interpretations of the Contract Documents.

13.16. Keep a daily log recording Contractor's hours on the job site, weather conditions, equipment on site where applicable, data relative to questions about Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail, as in the case of the observing test procedures.

13.17. Record names, addresses and telephone numbers of all Contractor, subcontractors and major suppliers of materials and equipment.

13.18. Prepare monthly reports of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawings and sample submittals. Submit reports with invoices and payrolls on a monthly basis.

13.19. Notify Owner in advance of scheduled major tests, inspections, or start of important phases of the Work. Coordinate with Owner's operations staff.

13.20. Obtain backup material from Contractor and prepare proposed Work Directive Changes, Change Orders, and Field Orders and forward to Office Engineer for negotiation.

13.21. Notify Owner immediately upon the observation or notification of any accident.

13.22. Review and recommend approval of payment requests by:

- Reviewing and approving the Contractor's estimate of the amount of work completed to date.
- Reviewing the Contractor's estimate of stored materials delivered to the job site but not incorporated in the Work completed to date. Ensure invoice for materials is attached.
- Ensure receipt in next month's pay application of paid invoice for stored materials approved in previous month's application for payment.
- Ensure the Contractor and Subcontractor payrolls accompany each request. Check for compliance with Wage Rate Schedule, perform periodic Employee Site Interviews using attached Record of Employee Interview form, Exhibit D. Turn in to Owner bi-monthly.

13.23. During the course of the Work, review certificates, maintenance and operation manuals and other data required to be assembled and furnished by the Contractor that are applicable to the items actually installed and are in accordance with the Contract Documents. Forward this material to Engineer prior to issuance of Certificate of Substantial Completion to the Contractor.

13.24. Recommend issuance of Certificate of Substantial Completion. Attach a list of observed items (punch list) requiring completion or correction.

13.25. Attend final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed or corrected.

13.26. Ensure that all items on final list have been completed or corrected and make recommendations to the Engineer to issue the Certificate of Final Completion for Owner's signature.

In performing construction observation services, Garver will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the Owner immediately, so that appropriate action under the Owner's contract with the Contractor can be taken.

The proposed fee for construction services is based on a 730-calendar-day construction contract performance time. If the construction time to substantial completion extends beyond the time established in this agreement, and the Owner wants Garver to continue the applicable Construction Phase Services, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.

14. PHASE I CONSTRUCTION MATERIALS TESTING

Garver will coordinate with the Contractor and RPR to conduct construction materials testing to observe, sample, and test the following construction related activities to confirm compliance with the Contract Documents.

14.1. Earthwork observations and testing.

14.2. Drilled concrete pier observations and testing.

14.3. Concrete testing.

14.4. Masonry grout and mortar testing.

14.5. Structural steel observations.

In performing materials testing services Garver will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during

construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the Owner immediately, so that appropriate action under the Owner's contract with the Contractor can be taken.

15. FAST-TRACK SLUDGE LAGOON ADVERTISEMENT AND BIDDING

Garver will administer a 45-day duration bidding period for prospective bidders of the Fast-Track Sludge Lagoon Construction Package. Garver will:

15.1. Prepare and submit the Advertisement for Bid, Issued for Bid Documents, and any associated information to CivCast for download by prospective bidders. Owner will coordinate advertisement in local newspaper(s) as determined by the Owner.

15.2. Support the Issued for Bid Documents by responding to up to twenty (20) questions and preparing up to two (2) addenda as appropriate and posting on CivCast.

15.3. Participate in one pre-bid meeting, including preparing a pre-bid meeting agenda, and participate and chair a construction site tour following the pre-bid meeting by interested pre-bid meeting attendees and other interested parties.

15.4. Host, attend, and manage the bid opening process, prepare a bid tabulation, and recommendation of award.

15.5. Prepare Notification of Award.

Task 15 Deliverables

- Advertisement for Bid as a searchable and bookmarked PDF.
- Up to two (2) addenda as a searchable and bookmarked PDF.
- Pre-bid meeting agenda and presentation slide deck as a searchable and bookmarked PDF.
- Bid tabulation and recommendation of award as a searchable and bookmarked PDF.

16. FAST-TRACK SLUDGE LAGOON CONSTRUCTION ADMINISTRATION

During the construction phase of work, Garver will accomplish the following:

16.1. Issue a Notice to Proceed letter to the Contractor and attend preconstruction meeting.

16.2. Attend up to six (6) progress/coordination meetings with the Owner/Contractor.

16.3. Evaluate and respond up to fifty (50) construction material submittals and shop drawings. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Garver's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Garver shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

16.4. Issue instructions to the Contractor on behalf of the Owner and issue necessary clarifications (respond to RFIs) regarding the construction contract documents. Garver will respond to up to twenty (20) RFIs.

16.5. Review the up to six (6) Contractor's progress payment requests based on the actual quantities of contract items completed and will make a recommendation to the Owner regarding making a monthly partial payment. Garver's recommendation for payment shall not be a representation that Garver has made exhaustive or continuous inspections to (1) check the quality or exact quantities of the Work; (2) to review billings from Subcontractors and material suppliers to substantiate the Contractor's right to payment; or (3) to ascertain how the Contractor has used money previously paid to the Contractor.

16.6. When authorized by the Owner, Garver will prepare up to two (2) change orders for approved changes in the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents due to Owner-requested modifications, the Owner will pay Garver an additional fee to be agreed upon by the Owner and Garver.

16.7. Prepare and furnish record drawings.

16.8. Participate in final project inspection, prepare punch list, review final project closing documents, and submit final pay request.

Task 16 Deliverables

- Contractor Notice to Proceed as a searchable and bookmarked PDF.
- Up to fifty (50) submittal response forms as a searchable and bookmarked PDF.
- Up to twenty (20) RFI response forms as a searchable and bookmarked PDF.
- Record Drawings based on the as-built markups provided by the Contractor as a searchable and bookmarked PDF.
- Final inspection punchlist as a searchable and bookmarked PDF.

17. FAST-TRACK SLUDGE LAGOON CONSTRUCTION OBSERVATION

Resident construction observation services will be provided by Garver's Resident Project Representative(s) (RPR) for the six (6) months (180 calendar days) construction contract performance time. The proposed fee is based on one (1) full-time RPR working approximately fifty (50) hours per week, on average, for the entire six (6) months of construction.

Construction observation services will include:

17.1. Review and approve the progress schedule updates and the schedule of Shop Drawing submittals prepared by Contractor. Consult with respective Design EOR concerning acceptability.

17.2. Attend meetings with Contractor, such as progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

17.3. Serve as the liaison with Contractor, working principally through Contractor's superintendent. Report to the Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.

17.4. Serve as Owner's liaison with Contractor when Contractor's operation affects Owner's on-site operations. Obtain from Owner additional details or information when required for proper execution of the work.

17.5. Video digital photography of the project corridor before start of construction and after completion to document pre- and post-project conditions.

17.6. Advise Contractor he may not commence any Work requiring a Shop Drawing or sample if the submittal has not been approved.

17.7. Conduct on-site observations of the Work in progress. Advise Engineer if the Work is, in general, proceeding in accordance with the Contract Documents.

17.8. Notify Engineer whenever Work is believed to be unsatisfactory, faulty, defective, not in conformance with the Contract Documents, damaged, or not meeting the requirements of any inspection, test or approval required to be made; and advise the Contractor of Work that Engineer believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval. Proper documentation of Non-Conformance Reports (NCR) will be distributed to all related parties and saved within the construction management software. A log of NCR's shall be maintained to illustrate the legacy of the initiation of the issue to proper completion.

17.9. Verify that test, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and the Contractor maintains adequate records thereof; and observe, record and report to the Engineer appropriate details relative to the test procedures and start-ups.

17.10. Schedule field compliance tests and retests, confirm that these tests are conducted in the presence of the appropriate personnel; observe, record and report the appropriate test results. Maintain records of failed tests.

17.11. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, and record the results of these inspections and report to Engineer.

17.12. Ensure Wage Rates are posted on site. Ensure all payrolls from prime and subcontractors are submitted with each monthly pay request as a condition precedent to approval and perform quality assurance reviews, as well as periodic interviews of various contractor employees on site. QA consists of performance of a representative number of checks of each prime and subcontractor payroll against the wage scale. Highlight the employee rates checked before turning over reports with payrolls each month. RPR will perform one wage rate interview per contractor on site for each quarter during the twenty-four (24) months of construction.

17.13. Ensure NPDES Permit and SW3P is posted at site and followed by Contractor. Ensure Notice of Termination is included with the close-out package.

17.14. Consider and evaluate Contractor's suggestions for modifications to drawings or specifications and transmit recommendations to Engineer. Notify Contractor of the decision.

17.15. Maintain for use at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, Contract Documents including all Addenda, Work Directive Changes, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents. All documentation shall reside at the field office. If a field office is not provided, documentation will be at our local Office at 100 E Ferguson St., Suite 814, TX 75702. Inspect Contractor’s record drawings adequately reflect the work including Addenda, Work Directive Changes, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarifications and interpretations of the Contract Documents.

17.16. Keep a daily log recording Contractor's hours on the job site, weather conditions, equipment on site where applicable, data relative to questions about Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail, as in the case of the observing test procedures.

17.17. Record names, addresses and telephone numbers of all Contractor, subcontractors and major suppliers of materials and equipment.

17.18. Prepare monthly reports of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawings and sample submittals. Submit reports with invoices and payrolls on a monthly basis.

17.19. Notify Owner in advance of scheduled major tests, inspections, or start of important phases of the Work. Coordinate with Owner’s operations staff.

17.20. Obtain backup material from Contractor and prepare proposed Work Directive Changes, Change Orders, and Field Orders and forward to Office Engineer for negotiation.

17.21. Notify Owner immediately upon the observation or notification of any accident.

17.22. Review and recommend approval of payment requests by:

- Reviewing and approving the Contractor's estimate of the amount of work completed to date.
- Reviewing the Contractor's estimate of stored materials delivered to the job site but not incorporated in the Work completed to date. Ensure invoice for materials is attached.
- Ensure receipt in next month's pay application of paid invoice for stored materials approved in previous month's application for payment.
- Ensure the Contractor and Subcontractor payrolls accompany each request. Check for compliance with Wage Rate Schedule, perform periodic Employee Site Interviews using attached Record of Employee Interview form, Exhibit D. Turn in to Owner bi-monthly.

17.23. During the course of the Work, review certificates, maintenance and operation manuals and other data required to be assembled and furnished by the Contractor that are applicable to the items actually installed and are in accordanc10e with the Contract Documents. Forward this material to Engineer prior to issuance of Certificate of Substantial Completion to the Contractor.

17.24. Recommend issuance of Certificate of Substantial Completion. Attach a list of observed items (punch list) requiring completion or correction.

17.25. Attend final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed or corrected.

17.26. Ensure that all items on final list have been completed or corrected and make recommendations to the Engineer to issue the Certificate of Final Completion for Owner’s signature.

In performing construction observation services, Garver will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction Garver observes that the Contractor’s work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the Owner immediately, so that appropriate action under the Owner’s contract with the Contractor can be taken.

The proposed fee for construction services is based on a 730-calendar-day construction contract performance time. If the construction time to substantial completion extends beyond the time established in this agreement, and the Owner wants Garver to continue the applicable Construction Phase Services, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.

18. FAST-TRACK SLUDGE LAGOON CONSTRUCTION MATERIALS TESTING

Garver will coordinate with the Contractor and RPR to conduct construction materials testing to observe, sample, and test the following construction related activities to confirm compliance with the Contract Documents.

18.1. Earthwork observations and testing.

18.2. Concrete testing.

18.3. Structural steel observations.

In performing materials testing services Garver will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the Owner immediately, so that appropriate action under the Owner's contract with the Contractor can be taken.

EXTRA WORK

The following items are not included under this agreement but will be considered as extra work:

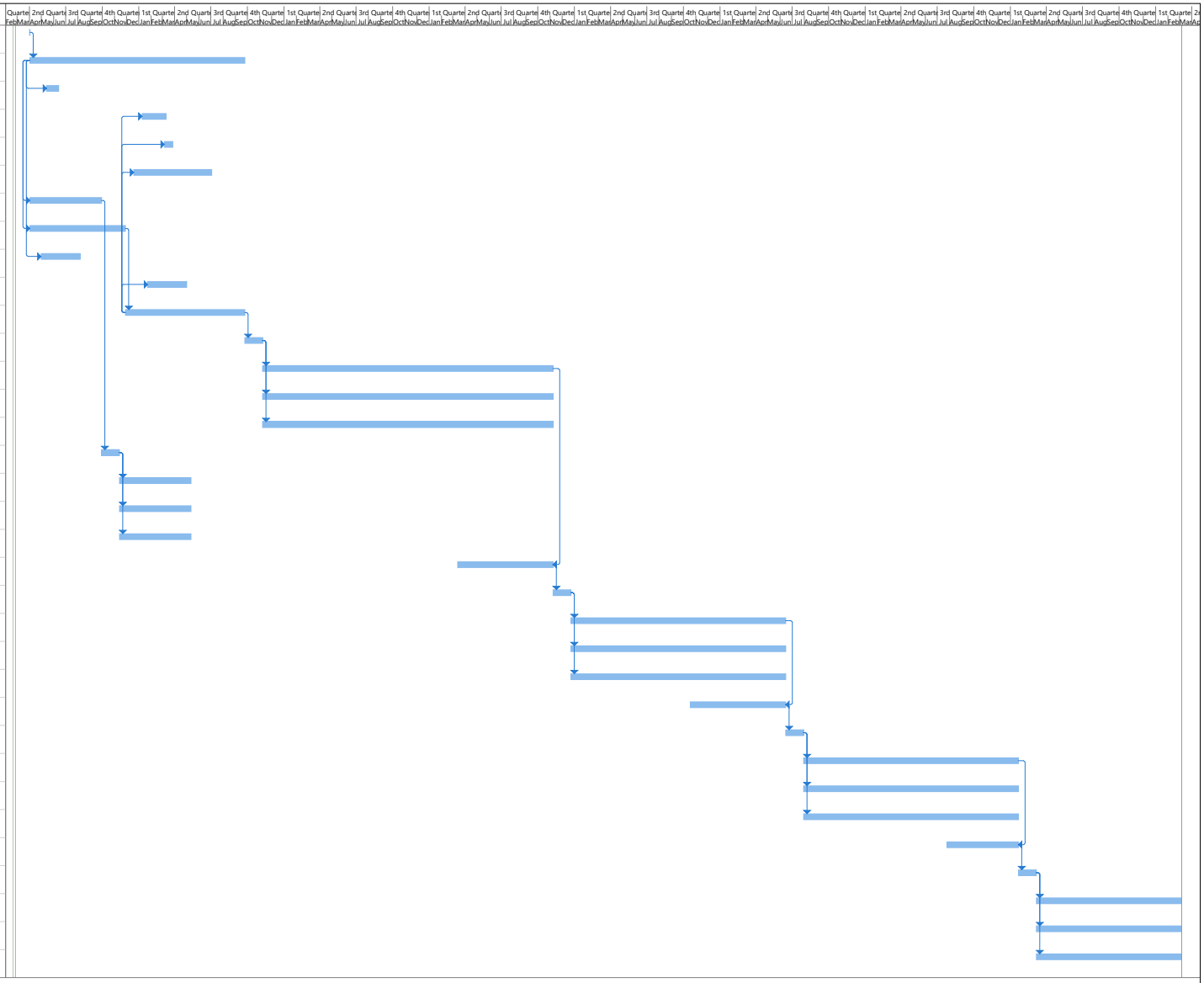
A. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
B. Submittals or deliverables in addition to those listed herein.
C. Pavement Design beyond that furnished in the Geotechnical Report.
D. Technically Based Local Limits (TBLL) reassessments for the permit renewal application.
E. Engineering report for nuisance odor prevention for the permit renewal application.
F. Conforming bid documents.
G. Phase II Final Design, Advertisement, Bidding, Construction Administration, Construction Observation, and Materials Testing.
H. Phase III Final Design, Advertisement, Bidding, Construction Administration, Construction Observation, and Materials Testing.
I. Phase IV Final Design, Advertisement, Bidding, Construction Administration, Construction Observation, and Materials Testing.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and Garver.

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Exhibit B - E/A's Project Schedule

ID	Task Name	Duration	Start
1	Notice to Proceed	1 day	Mon 4/1/24
2	Task 1 Project Initiation and Design Management	540 days	Tue 4/2/24
3	Task 2 Topographic Survey and SUE	30 days	Tue 5/14/24
4	Task 3 Geotechnical Engineering	60 days	Thu 1/9/25
5	Task 4 Hazardous Materials Assessment	21 days	Thu 3/6/25
6	Task 5 Environmental and Floodplain Coordination	196 days	Thu 12/19/24
7	Task 6 Fast-Tracked Sludge Storage Lagoon Final Design	180 days	Tue 4/2/24
8	Task 7 Phase I-IV Preliminary Engineering	240 days	Tue 4/2/24
9	Task 8 Permit Renewal and Minor Amendment Application	98 days	Tue 4/30/24
10	Task 9 Funding Assistance	98 days	Thu 1/23/25
11	Task 10 Phase I Final Design	300 days	Thu 11/28/24
12	Task 11 Phase I Advertisement and Bidding	45 days	Wed 9/24/25
13	Task 12 Phase I Construction Adminstration	730 days	Sat 11/8/25
14	Task 13 Phase I Construction Observation	730 days	Sat 11/8/25
15	Task 14 Phase I Construction Materials Testing	730 days	Sat 11/8/25
16	Task 15 Fast-Tracked Sludge Lagoon Advertisement and Bidding	45 days	Sun 9/29/24
17	Task 16 Fast-Tracked Sludge Lagoon Construction Adminstration	180 days	Wed 11/13/24
18	Task 17 Fast-Tracked Sludge Lagoon Construction Observation	180 days	Wed 11/13/24
19	Task 18 Fast-Tracked Sludge Lagoon Construction Materials Testing	180 days	Wed 11/13/24
20	Phase II Final Design	240 days	Sat 3/13/27
21	Phase II Advertisement and Bidding	45 days	Mon 11/8/27
22	Phase II Construction Adminstration	540 days	Thu 12/23/27
23	Phase II Construction Observation	540 days	Thu 12/23/27
24	Phase II Construction Materials Testing	540 days	Thu 12/23/27
25	Phase III Final Design	240 days	Wed 10/18/28
26	Phase III Advertisement and Bidding	45 days	Fri 6/15/29
27	Phase III Construction Adminstration	540 days	Mon 7/30/29
28	Phase III Construction Observation	540 days	Mon 7/30/29
29	Phase III Construction Materials Testing	540 days	Mon 7/30/29
30	Phase IV Final Design	180 days	Thu 7/25/30
31	Phase IV Advertisement and Bidding	45 days	Tue 1/21/31
32	Phase IV Construction Adminstration	365 days	Fri 3/7/31
33	Phase IV Construction Observation	365 days	Fri 3/7/31
34	Phase IV Construction Materials Testing	365 days	Fri 3/7/31



Garver shall begin work under this Agreement within ten (10) calendar days of a Notice to Proceed and shall complete the work in accordance this schedule. Schedule and durations for Phases II, III, and IV are included for planning purposes only. Actual schedules and durations for these phases will be confirmed in subsequent agreements and will be based on the completion dates of the preceding phases and the scope of the improvements.

Project: Tyler Westside WWTP I
Date: Mon 2/26/24

Task, Split, Milestone, Summary, Project Summary, Inactive Task, Inactive Milestone, Inactive Summary, Manual Task, Duration-only, Manual Summary Rollup, Manual Summary, Start-only, Finish-only, External Tasks, External Milestone, Deadline, Progress, Manual Progress

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Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

Exhibit C

City of Tyler
Westside WWTP Phase I Improvements

FEE SUMMARY

Basic Services Section	Estimated Fees
Task I - Project Initiation and Design Management	$ 671,708.00
Task II - Topographic Survey and SUE	$ 180,655.00
Task III - Geotechnical Engineering	$ 85,993.00
Task IV - Hazardous Materials Assessment	$ 45,497.00
Task V - Environmental and Floodplain Coordination	$ 214,078.00
TASK VI - Fast-Track Sludge Lagoon Final Design	$ 252,306.00
TASK VII - Phase I-IV Preliminary Engineering	$ 2,605,308.00
Task VIII - Permit Renewal and Minor Amendment Application	$ 88,672.00
TASK IX - Funding Assistance	$ 69,598.00
TASK X - Phase I Final Design	$ 3,508,596.00
TASK XI - Phase I Advertisement and Bidding	$ 39,941.00
TASK XV - Fast-Track Sludge Lagoon Advertisement and Bidding	$ 16,497.00
Subtotal for Basic Services Section	**$ 7,778,849.00**

Additional Services Section	Estimated Fees
TASK XII - Phase I Construction Administration	$ 1,146,443.00
TASK XIII - Phase I Construction Observation	$ 1,315,690.00
TASK XIV - Phase I Construction Materials Testing	$ 302,500.00
TASK XVI - Fast-Track Sludge Lagoon Construction Administration	$ 136,038.00
TASK XVII - Fast-Track Sludge Lagoon Construction Observation	$ 230,460.00
TASK XVIII - Fast-Track Sludge Lagoon Construction Materials Testing	$ 29,700.00
Subtotal for Additional Services Section	**$ 3,160,831.00**

Total All Services	**$ 10,939,680.00**

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Exhibit D - Certificates of Insurance and Endorsements

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/23/2024

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
Stephens Insurance, LLC
111 Center Street, Suite 100
Little Rock, AR 72201

www.stephensinsurance.com

CONTACT NAME: Kathy Jones
PHONE (A/C, No, Ext): 501-377-8502 **FAX (A/C, No):**
E-MAIL ADDRESS: kathy.jones@stephens.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Phoenix Insurance Company (A++XV)	25623
INSURER B : Charter Oak Fire Insurance Company (A++XV)	25615
INSURER C : Farmington Casualty Company (A++XV)	41483
INSURER D : Travelers Property Casualty Co of Amer (A++ XV)	25674
INSURER E : Starr Surplus Lines Insurance Company (A XV)	13604
INSURER F : Tokio Marine Specialty Insurance Company (A++XV)	23850

INSURED
Garver LLC
3000 Internet Blvd, Suite 400
Frisco TX 75034

COVERAGES **CERTIFICATE NUMBER:** 78327032 **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: -0- Deductible	✓		P-630-1G052988-PHX-23	7/1/2023	7/1/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 4,000,000 $ 4,000,000
B	**AUTOMOBILE LIABILITY** ✓ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ✓ HIRED AUTOS ONLY ✓ NON-OWNED AUTOS ONLY			810-1N886537-23-43-G	7/1/2023	7/1/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
D	✓ **UMBRELLA LIAB** ✓ OCCUR ✓ **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ✓ RETENTION $ 10000			CUP-6J09853A-22-43	7/1/2023	7/1/2024	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		UB-7K425966-22-43-G	7/1/2023	7/1/2024	✓ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
E F	Professional Liability- Claims Made Contractor's Pollution Liability Maritime Employer's Liability * Underwriter at Lloyds NAIC AA-1122000			1000634123231 PPK2572628 PSR083745	7/1/2023 7/1/2023 7/1/2023	7/1/2024 7/1/2024 7/1/2024	Each Claim & Aggregate Occurrence & Aggregate Combined Single Limit	$2,000,000 $2,000,000 $1,000,000

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

See Attached
RE: Garver Project: 2300946

Full Prior Acts applies under the Starr Professional Liability policy shown above.

CERTIFICATE HOLDER

Garver Project: 2300946

City of Tyler
P.O. Box 2039
Tyler TX 75710

CANCELLATION

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
Ted Grace

© 1988-2015 ACORD CORPORATION. All rights reserved.

AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Stephens Insurance, LLC	Garver LLC 3000 Internet Blvd, Suite 400 Frisco TX 75034
POLICY NUMBER	
P-630-1G052988-PHX-23	
CARRIER / **NAIC CODE**	
Phoenix Insurance Company (A++XV) / 25623	**EFFECTIVE DATE:** 7/1/2023

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability (03/16)

HOLDER: City of Tyler

ADDRESS: P.O. Box 2039 Tyler TX 75710

The following policy endorsements apply to the Certificate Holder and other named person or organization if you have agreed in written contract:

Certificate Holder is an Additional Insured on the General Liability if required by written contract per Blanket Endorsement CGD414 & CGD246 on a Primary & Non-contributory basis and includes Completed Operations.

Certificate Holder is an Additional Insured on a Primary & Non-contributory basis per Blanket Auto Endorsement CAT474.

Certificate Holder is an Additional Insured under the Umbrella policy on a Primary & Non-contributory basis per the follow form wording.

Waiver of Subrogation applies in favor of the Certificate Holder under the General Liability by Blanket Endorsement CGD379.

Waiver of Subrogation applies in favor of the Certificate Holder under the Automobile by Blanket Endorsement CAT353.

Waiver of Subrogation applies under the Umbrella per follow form wording if required by written contract.

Waiver of Subrogation applies in favor of the Certificate Holder under the Worker's Compensation by Blanket Endorsement WC000313. Form WC420304 Texas. Form WC9903J9 Kansas. WC430305 Utah.

Waiver of Subrogation applies in favor of the Certificate Holder under the Professional Liability. This is provided within the Starr Professional Liability policy form.

30 day notice will be provided to the Certificate Holder in the event of Cancellation, Non-renewal, Material Change per Blanket Endorsement ILT804-General Liability & ILT354 (03/98) on the Automobile.
Notice of Cancel, Non-renewal, Material Change will be sent per WC Blanket Endorsement WC9906R5.
Notice of Cancel, Non-renewal and Reduction of Limits will be provided by the Professional Liability Carrier per Blanket Endorsement.
Notice of Cancel for non-payment of premium is provided if Certificate Holder is specifically endorsed to the Professional Liability policy (Endt to be attached with this certificate if applicable).

***(Notice of Cancel for non-payment of premium will not be provided to the Certificate Holder by Travelers Ins. Co. (applies to the General Liability, Automobile Liability and Umbrella policies).

Valuable Papers is provided under policy P-630-1G052988-COF-22 shown above with a limit of $500,000.

General Liability policy form CGT001 includes Severability (Separation) of Interest (Insured's)Clause and includes Work within railroad by endorsement CG D3 79.

Worker's Compensation Policy includes coverage for USL&H exposures without endorsement to the policy per endorsement WC000106.

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
Stephens Insurance, LLC		Garver LLC 3000 Internet Blvd, Suite 400 Frisco TX 75034
POLICY NUMBER		
P-630-1G052988-PHX-23		
CARRIER	NAIC CODE	
Phoenix Insurance Company (A++XV)	25623	EFFECTIVE DATE: 7/1/2023

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability (03/16)

HOLDER: City of Tyler

ADDRESS: P.O. Box 2039 Tyler TX 75710

Cyber Policy W35352230101 with Syndicate 2623/623 at Lloyds, eff. 7/1/23-7/1/24 Limits $5,000,000 Data & Network Liability.

List of WC Carriers by State:

Sub Carrier NAIC# AM Best State(s)
Farmington Casualty Company 41483 A++ XV AL, AR, KS, MO
The Travelers Indemnity Company of Connecticut 25682 A++ XV AZ, GA, KY, NE, WI
Travelers Property Casualty Company of America 25674 A++ XV CA, CO, FL, IN, MN, OH, OR, UT, WA
Travelers Casualty and Surety Company 19038 A++ XV CT, NY, TN, VA
The Travelers Indemnity Company of America 25666 A++ XV IL, MI
The Phoenix Insurance Company 25623 A++ XV LA
The Charter Oak Fire Insurance Company 25615 A++ XV MD, PA
The Travelers Indemnity Company 25658 A++ XV MS, NM, NC, SC
The Standard Fire Insurance Company 19070 A++ XV OK, TX

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RESOLUTION NO. R-2024-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE ENGINEERING, DESIGN AND CONSTRUCTION OF THE WESTSIDE WASTEWATER TREATMENT PLANT REHABILITATION PHASE 1; AND ESTABLISHING AN EFFECTIVE DATE.

STATE OF TEXAS	§
	§
COUNTY OF SMITH	§
	§
CITY OF TYLER	§

WHEREAS, the City of Tyler, Texas (the "Issuer") reserves the right to issue debt for the engineering, design, and construction of the Westside Wastewater Treatment Plant Rehabilitation Phase 1 project (the "Project") and further intends to make certain capital expenditures with respect to the Project and currently reserves the right to reimburse the capital expenditures with proceeds of such debt; and

WHEREAS, under 26 CFR § 1.150-2 (the "Regulation"), to fund such reimbursement with proceeds of tax-exempt obligations, the Issuer must declare its expectation to make such reimbursement; and

WHEREAS, the Issuer desires to preserve its ability to reimburse the capital expenditures with proceeds of tax-exempt obligations,

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

Part 1: That the City of Tyler reasonably expects to reserve the right to reimburse capital expenditures with respect to the Project with proceeds of future potential debt hereafter which may be incurred by the issuer, and that this Resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Project is $10,939,680.00.

Part 2: That this Resolution shall be effective immediately upon adoption.

PASSED AND APPROVED, this the 27th day of March, 2024.

_____
DONALD P. WARREN, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST: APPROVED:

_____	_____
CASSANDRA BRAGER, CITY CLERK	DEBORAH G. PULLUM, CITY ATTORNEY

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: M-3

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute a professional services contract in the amount of $120,000.00, with HDR, Inc., for the Lake Palestine Water Treatment Plant Taste and Odor Study project.

Page: Page 1 of

Item Reference:

The Tyler Water Utilities Department (TWU) is the water provider for the City of Tyler and its residents. In addition, TWU is a wholesale provider to the City of Whitehouse, Walnut Grove Water Supply Corporation, and Community Water Company. TWU owns and operates two water treatment plants, Golden Road Water Treatment Plant (WTP) and Lake Palestine Water Treatment Plant which have capacities of 28 MGD and 30 MGD, respectively. The source water for the Lake Palestine WTP is Lake Palestine which is part of the Neches River system. The lake experiences seasonal algal blooms that cause increases in taste and odor causing compounds, geosmin and MIB (methylisoborneol). Currently, TWU feeds powdered activated carbon (PAC) at the Lake Palestine WTP, downstream of ozone application, to address taste and odor. However, during significant geosmin and MIB seasonal spikes in the source water, the existing treatment process is not capable of removing these compounds below the taste and odor threshold (approximately 8 ng/L), and TWU receives customer complaints. To improve aesthetic water quality and evaluate additional water quality / treatment challenges, TWU has selected HDR Engineering, Inc. (ENGINEER) to conduct a taste and odor / water quality study. The study will include a desktop assessment, bench-scale testing, and pilot-scale testing to identify recommendations for enhancing taste and odor compound removal while enumerating potential improvements to enhance process performance / finished water quality.

The purpose of the study is to identify treatment process improvement alternatives to address taste and odor / water quality challenges.

The project will be delivered in two phases. The first phase (delineated herein) includes a treatment process performance / regulatory assessment, understanding of target water quality parameters (relative to finished water quality goals), and the development of the bench-scale / pilot-scale testing plan. The second phase (to be delineated in a future amendment) includes execution of the testing plan, analysis of test results, and developing recommendations for proposed improvements. This first phase is estimated to be complete within three (3) months of notice to proceed or receipt of requested data (whichever is the latter).

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to execute a professional services contract in the amount of $120,000.00, with HDR, Inc., for the Lake Palestine Water Treatment Plant Taste and Odor Study project.

ATTACHMENTS:

Professional Services Contract

Drafted/Recommended By:
Department Leader

Nikki Ingram, P.E., Project Engineer/Kate Dietz, P.E., Director of Utilties

Edited/Submitted By:
City Manager

STATE OF TEXAS §

COUNTY OF SMITH §

STANDARD FORM OF AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This AGREEMENT is entered into, with an Effective Date of _____ _____, _____ [*insert date of last party's signature*], by and between the **CITY OF TYLER**, in Smith County, Texas (OWNER), acting therein by and through its duly authorized City Manager, and HDR Engineering, Inc. (ENGINEER or ARCHITECT), hereinafter referred to as "E/A," for the purpose of acquiring all professional engineering and/or architectural services required for the project known as **"**Lake Palestine Water Treatment Plant Taste and Odor Study**"** (hereinafter called the Project).

OWNER and E/A in consideration of their mutual covenants herein agree in respect of the performance of professional engineering and/or architectural services by E/A and the payment for those services by OWNER as set forth below.

SECTION 1—BASIC SERVICES OF ENGINEER OR ARCHITECT

1.1. General.

1.1.1. E/A shall provide for OWNER professional consulting services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional E/A representative for the project, providing professional engineering and/or architectural consultation and advice and furnishing customary civil services incidental thereto.

1.1.2. **If the Project is a "civil works" project, as defined by Sec. 2269.351 of Tex. Gov. Code Ann., then Exhibit "F" does NOT apply.** "**Civil works"** projects are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

1.1.3. **If the Project is related to "public works" projects or construction contract affecting City-owned buildings, then this contract IS SUBJECT TO ADDITIONAL PROVISIONS FOUND IN EXHIBIT "F", which is attached and incorporated for all purposes herein. "Public Works"** is defined by Tex. Gov. Code Ann., Sec. 2269.001 (6) as a contract for constructing, altering, or repairing a public building or carrying out any public work.

1.1.4. If Exhibit "F" is applicable and there is a conflict between this Agreement and Exhibit "F", provisions in Exhibit "F" shall control.

1.2. Study and Report Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.2.1. Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in paragraph 3.4, and assist OWNER in obtaining such data and services.

1.2.3. Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

1.2.4. Provide analysis of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

1.2.5. Provide a general economic analysis of OWNER's requirements applicable to various alternatives.

1.2.6. Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the

considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth E/A's findings and recommendations. This Report will be accompanied by E/A's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance for E/A costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others for OWNER pursuant to paragraphs 3.7 through 3.11, inclusive. The total of all such costs, allowances, etc. are hereinafter called "Total Project Costs".

1.2.7. Furnish multiple copies of the Study and Report documents (not to exceed six (6) copies) and review them in person with OWNER.

1.3. Preliminary Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.3.1. In consultation with OWNER and on the basis of the accepted Study and Report documents, determine the general scope, extent and character of the Project.

1.3.2. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.

1.3.3. Advise OWNER if additional data or services of the types described in paragraph 3.4 are necessary and assist OWNER in obtaining such data and services.

1.3.4. Based on the information contained in the preliminary design documents, submit a revised opinion of probable Total Project Costs.

1.3.5. Furnish multiple copies of the above Preliminary Design documents and present and review them in person with OWNER, not to exceed six (6) copies.

1.3.6. Derive right-of-way (ROW) data and easement documents as needed for the OWNER to begin land acquisition.

1.4. Final Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.4.1. On the basis of the accepted Preliminary Design documents and the revised opinion of probable Total Project Costs prepare for incorporation in the Contract Documents final drawings to show the general scope, extent and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and Specifications.

1.4.2. Provide technical criteria, written descriptions and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project and assist OWNER in consultations with appropriate authorities.

1.4.3. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.

1.4.4. Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders.

1.4.5. Furnish multiple copies of the above documents and of the Drawings and Specifications and present and review them in person with OWNER, not to exceed six (6) copies.

1.5. Bidding or Negotiating Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.5.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for each

separate prime contract for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences and receive and process deposits for Bidding Documents.

1.5.2. Assist OWNER in issuing addenda as appropriate to interpret, clarify or expand the Bidding Documents.

1.5.3. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

1.5.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

1.5.5. Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

1.6. Construction Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.6.1. *Preconstruction Conference.* Coordinate, schedule and attend a preconstruction conference with the OWNER, other utility owners, contractors and other interested parties to determine and coordinate construction scheduling and responsibilities.

1.6.2. *Visits to Site and Observation of Construction.* In connection with observations of the work of Contractor(s) while it is in progress:

1.6.2.1. E/A shall make visits to the site at intervals appropriate to the various stages of construction as necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. Based on information obtained during such visits and on such observations, E/A shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and E/A shall keep OWNER informed of the progress of the work.

1.6.2.2. The purpose of E/A's visits to the site will be to enable E/A to better carry out the duties and responsibilities assigned to and undertaken by E/A during the Construction Phase, and in addition, by exercise of E/A's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, E/A shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall E/A have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction elected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, E/A can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

1.6.3. *Interpretations and Clarifications.* E/A shall issue necessary interpretations and clarifications of the Contract Documents as requested by the OWNER.

1.6.4. *Subsurface Exploration.* Coordinate core borings, probing or subsurface explorations, issue orders for necessary laboratory tests and inspect samples or materials submitted for laboratory testing.

1.6.5. *Shop Drawings.* E/A shall review and approve (or take other appropriate action in respect of) samples, catalog data, shop drawings other data which Contractor(s) is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident

thereto.

1.6.6. *Substitutes.* E/A shall evaluate the acceptability of substitute materials and equipment proposed by Contractor(s) and make recommendations to OWNER, subject to the provisions of paragraph 2.2.2.

1.6.7. *Tests.* E/A shall verify that tests, including equipment and start-up, which are required by the specifications and contract documents, are conducted and that the Contractor maintains adequate records thereof and shall observe, record and report to the OWNER appropriate details relative to the test procedures and start-ups.

1.6.8. *Applications for Payment.* Based on his on-site observations as an experienced and qualified design professional and on his review of the Contractors' applications for payment, determine the amount owing to the Contractor(s) and recommend in writing payment to the Contractor(s) in such amounts; such recommendations of payment to constitute a representation to the OWNER, based on such applications, that the work has progressed to the point indicated and that, to the best of his knowledge, work is in accordance with the plans, specifications and contract documents, subject to the specifications and contract documents and any qualifications stated in his approval.

1.6.9. *Final Inspection.* Conduct, in company with the OWNER'S representative, a final inspection of the Project for conformance with the design concept of the Project and compliance with the plans, specifications and contract documents, and recommend in writing final payment to the Contractor.

1.6.10. *Disputes between OWNER and Contractor.* E/A shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work performed thereunder. E/A shall also make recommendations to OWNER on all claims of Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. OWNER has the final decision with regard to such disputes.

1.6.11. *Limitation of Responsibilities.* E/A shall not be responsible to OWNER for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except E/A's own employees and agents) whether at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.6.1. through 1.6.11 inclusive, shall be construed to release E/A from liability for failure to properly perform duties and responsibilities assumed by E/A in the Contract Documents.

1.7. Operational Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.7.1. In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

1.7.2. Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to E/A and furnish one (1) set of the revised reproducible drawings and one set of drawings in PDF format to the Owner.

SECTION 2—ADDITIONAL SERVICES OF E/A

2.1. Services Requiring Authorization in Advance.

If authorized in writing by OWNER, E/A shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1. through 2.1.13. inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in this Agreement; these will be paid for by OWNER as indicated in Section 5.

2.1.1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the project.

2.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other cause beyond E/A's control.

2.1.4. Providing renderings or models for OWNER's use.

2.1.5. Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6. Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7. Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical, and electrical engineering and customary architectural design incidental thereto); and providing data or services of the types described in paragraph 3.4 when OWNER employs E/A to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8. Services during out-of-town travel required of E/A other than visits to the site or OWNER's office as required by Section 1.

2.1.9. Assistance in connection with bid protest, rebidding, or renegotiating contracts for construction, materials, equipment or services when E/A did not create or contribute to the event or situation requiring said assistance, rebidding, renegotiating, materials, equipment, or services.

2.1.10. Providing any type of property surveys or related engineering or architectural services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.11. Preparation of operating, maintenance and staffing manuals to supplement Basic Services under paragraph 1.7.

2.1.12. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project unless E/A created or contributed to the cause of the litigation.

2.1.13. Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Section 3, and services not otherwise provided for in this Agreement.

2.2. Required Additional Services.

When required by the Contract Documents in circumstances beyond E/A's control, E/A shall furnish or obtain from others, as circumstances require during construction and with specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive. These services are not included as part of Basic Services. E/A shall advise OWNER promptly before starting any of the following additional services which will be paid for by OWNER as indicated in Section 5.

2.2.1. Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.2.2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services

after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.2.4. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any Contractor.

2.2.5. Services (other than Basic Services during the Operations Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6. Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3—OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of E/A:

3.1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to E/A's services for the Project.

3.2. Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

3.3. Assist E/A by placing at E/A's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4. Furnish to E/A, as required for performance of E/A's Basic Services (except to the extent provided otherwise in this Agreement) the following:

3.4.1. data prepared by or resulting from the services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2. appropriate professional interpretations of all of the foregoing;

3.4.3. environmental assessment and impact statements;

3.4.4. property, boundary, easement, right-of-way, topographic and utility surveys, to the extent required by E/A, and only if not required to be performed by E/A as set out in E/A's Proposal;

3.4.5. property descriptions;

3.4.6. zoning, deed and other land use restrictions;

all of which E/A may use and rely upon in performing services under this Agreement.

3.5. Provide engineering surveys to establish reference points for construction (unless required to be performed by E/A as Basic Services under E/A’s Proposal) to enable Contractor(s) to proceed with the layout of the work.

3.6. Arrange for access to and make all provisions for E/A to enter upon public and private property as required for E/A to perform services under this Agreement.

3.7. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by E/A, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of E/A.

3.8. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, unless required to be performed by E/A as Basic Services under this Agreement.

3.9. Provide such accounting, independent cost estimating and insurance counseling services as may, in the judgement of the OWNER, be required for the Project, such legal services as OWNER may require or E/A may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not E/A or E/A's agent or employee, the duties, responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities of E/A and the Resident Project Representative (and any assistants) will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11. If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12. Furnish to E/A data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive) so that E/A may make the necessary findings to support opinions of probable Total Project Costs.

3.13. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.

3.14. Give prompt written notice to E/A whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of E/A's services, or any defect or non-conformance in the work of any Contractor.

3.15. Furnish, or direct E/A to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.

3.16. E/A shall not be obligated to bear any of the costs of compliance with this Section 3.

SECTION 4—PERIODS OF SERVICE

4.1. The services provided by the E/A and the various rates of compensation for E/A's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Operational Phase. E/A's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction and initial operation of the Project including extra work and required extensions thereto. If in Section 8 of this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided and if such dates are exceeded through no fault of E/A, all rates, measures and amounts of compensation provided herein may be subject to equitable adjustment.

4.2. A schedule for completion of each phase of the project is provided in the attached sample Work Order. If the E/A determines or reasonably anticipates that the project, (or any of its phases), cannot be completed before the specified completion date, the E/A shall submit a revised schedule to the OWNER for approval.

SECTION 5—PAYMENTS TO ENGINEER AND/OR ARCHITECT CONSULTANT

5.1. Methods of Payment for Services and Expenses of E/A.

For design, construction plan preparation, construction document preparation (including bid proposal, specifications, construction contract), and all other services to be rendered by E/A hereunder, as the same are set out in the attached sample Work Order, “Exhibit “A”,

5.2. Times of Payment.

E/A shall submit clear and detailed monthly statements for the services rendered and for the expenses and hourly costs incurred. The statements shall show the percent of work completed and amount billed to date, broken down by activity or task. All monthly statements shall be in a form as specified by and acceptable to OWNER.

SECTION 6—CONSTRUCTION COST AND OPINIONS OF COST

6.1. Construction Cost.

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by E/A, but it will not include E/A's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Section 3, as applicable. [Construction Cost is one of the items comprising Total Project Costs which is defined in paragraph 1.2.6.]

6.2. Opinions of Cost.

It is understood by the Parties that E/A has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. Therefore, E/A's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of E/A's experience and qualifications and represent E/A's best judgment as an experienced and qualified professional E/A, familiar with the construction industry; but E/A cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by E/A. If prior to the Bidding or Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.9.

SECTION 7—GENERAL CONSIDERATIONS

7.1. Termination.

7.1.1. During the construction phase of the Project, and except as provided under **Exhibit F-Procedure for Correcting Construction Defects** which is applicable when the construction is to a City-owned building or other public work, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.1.2 The termination requirements in Sec. 7.1.1 shall be applicable to civil works construction projects but shall not be applicable to construction contracts related to City-owned buildings and other public works unless and until *after* the procedures are followed as outlined in Exhibit “F” to identify and correct construction defects.

7.1.3 During the design phase of the Project, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.2. Reuse of Documents.

The E/A’s Instruments of Service (including but not limited to plans, field surveys, maps, cross sections, drawings, specifications, calculations and other data related to the Project) are and shall remain the property of the E/A until payment of the E/A in full. Upon payment of the E/A in full, said E/A’s Instruments of Service shall pass to and become the property of the OWNER without restriction as to their subsequent uses. E/A acknowledges that OWNER is a governmental entity and that all Instruments of Service in respect of the Project, upon completion of the Project, shall thereafter be subject to the Texas Public Information Act (Texas Government Code Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents. In the event that a valid Public Information Request is received prior to completion of the Project and payment of the E/A in full, OWNER shall work with the E/A to protect any

information deemed to be confidential by seeking an Opinion from the Texas Attorney General as allowed by State law. Any reuse of Instruments of Service by OWNER or others on projects not contemplated under this Agreement shall be at the reuser's sole risk, without legal liability to E/A.

7.3. Insurance.

7.3.1. The E/A agrees, at its sole expense, to maintain on a primary basis during the life of this Contract and the performance of Work hereunder, insurance coverage, limits, and endorsements required herein, unless otherwise noted. Insurance required by this contract for the OWNER as additional insured shall be primary insurance and not contributing with any other insurance available to OWNER.

7.3.2 The E/A agrees to provide evidence of the following coverage's at execution of contract:

- **Commercial General Liability:** E/A agrees to maintain Commercial General Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence, two million dollars ($2,000,000) General Aggregate per project. E/A agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Products - Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage (X = Explosion Hazard; C = Collapse Hazard; U = Underground Damage), Contractual Liability or Cross Liability. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Business Automobile Liability:** E/A agrees to maintain Business Automobile Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence. Coverage shall include bodily injury and property damage liability arising out of the operation, maintenance and use of Any Auto, or All Owned Autos, and Hired Autos, and Non-Owned automobiles. In the event E/A does not own automobiles, E/A agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

- **Professional Errors and Omissions Liability:** E/A agrees to maintain Professional Errors and Omissions Liability at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate. The E/A agrees to maintain the policy for three (3) years after the completion of the Work or shall include a minimum three (3) year Discovery (tail) reporting period, and a Retroactive Date that equals or precedes the effective date of the Agreement, or the performance of services hereunder. The E/A agrees the Self-Insured-Retention shall not exceed twenty-five thousand dollars ($25,000). This coverage may be provided on a Per-Project Basis.

- **Pollution Liability Insurance** (if required by a City Operational Department): If a City Operational Department requires Pollution Liability coverage, the E/A agrees to maintain Pollution Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate.

- **Commercial Umbrella / Excess Liability:** E/A agrees to maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than five million dollars ($5,000,000) Each Occurrence, five million dollars ($5,000,000) General Aggregate. The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial Umbrella/Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the OWNER is automatically defined as an Additional Protected Person. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Worker's Compensation and Employer's Liability**: The E/A agrees to maintain its own Workers' Compensation Insurance pursuant to statutory limits. See TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401; TEX. ADMIN CODE, Title 28, Part 2. (NOTE: Elective exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).

  The E/A agrees to maintain its own Employer's Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Bodily Injury by Accident, one million dollars ($1,000,000) Bodily Injury by Disease Each Occurrence, one million dollars ($1,000,000) Bodily Injury by Disease Aggregate Limit.

See Exhibit "D" Certificate(s) of Insurance and Endorsements for a chart and checklist providing a summary and overview of the insurance requirements.

7.3.3 In the event the E/A performs any site work, then all the insurance required herein will need to be evidenced prior to commencement of said site work.

7.3.4. The E/A agrees the insurance requirements herein as well as OWNER'S review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the E/A under this Agreement.

7.4. Additional Insured Endorsements.

7.4.1 The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial General Liability. E/A shall choose one of the three Endorsement Options stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.

The form of the endorsement(s) shall be:

Option 1:

CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractor – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 2:

CG 20 10 07 04
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 3:

GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work

AND, the additional endorsement of

GA 233 02 07
Contractors' Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract

E/A shall attach actual copies of the endorsements.

7.4.2 Additionally, E/A agrees to endorse the OWNER as an "Additional Insured" under the Commercial Umbrella / Excess Liability and the Pollution Liability Insurance, if required, as also provided herein.

7.4.3 The name of the organization endorsed as Additional Insured for all endorsements shall read "City of Tyler."

7.5. Deductibles, Coinsurance Penalties and Self-Insured Retention.

E/A agrees to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or limitation. For deductible amounts that exceed the amounts stated herein that are acceptable to OWNER, the E/A agrees, when requested by OWNER, to maintain a Commercial Surety Bond in an amount equal to said deductible amount.

7.6. Waiver of Subrogation.

E/A agrees by entering into this written Agreement to a Waiver of Subrogation in favor of the OWNER for each required policy providing coverage during the

life of this Agreement. E/A agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement and provide such endorsement to OWNER. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement, or voids coverage should the E/A enter into such an agreement on a pre-loss basis.

7.7. Subconsultants' Insurance.

In the event any work is sublet, the E/A shall require its subconsultants to similarly provide the same coverage as the E/A, and shall acquire evidence of such coverage on behalf of the OWNER.

7.8. Insurance Effective Until Completion.

Insurance coverage, limits, and endorsements required herein shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.9. Right to Revise or Reject Insurance.

7.9.1 E/A agrees the OWNER reserves the right, but not the obligation, to review or revise any insurance requirement, not limited to limits, coverage and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage.

7.9.2 Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office in the OWNER'S Legal Department for their adequacy as to form, content, form of protection, and providing company. Additionally, the OWNER reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due of its poor financial condition or failure to operate legally in the State of Texas. In such events, OWNER shall provide E/A written notice of such revisions or rejections.

7.10. Certificate of Insurance.

7.10.1 Before commencement of any work, the E/A agrees to provide OWNER with **Certificate(s) of Insurance and Endorsements** that clearly evidence that E/A's insurance contains the minimum coverages, limits, and endorsement requirements set forth herein, and which shall be attached as Exhibit "D" of this Agreement. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on each Certificate(s) of Insurance. In the event the OWNER is notified that a required insurance coverage will cancel or expire during the period of this Agreement, the E/A agrees to furnish OWNER prior to the expiration of such insurance, a new Certificate of Insurance evidencing replacement coverage. When notified by OWNER, the E/A agrees to not continue Work pursuant to this Agreement, unless all required insurance remains in effect.

7.10.2 The OWNER shall have the right, but not the obligation, of prohibiting E/A from entering the Work site until a new Certificate of Insurance is provided to the OWNER evidencing the replacement coverage. The E/A agrees the OWNER reserves the right to withhold payment to E/A until evidence of reinstated or replacement coverage is provided to the OWNER. If the E/A fails to maintain the insurance as set forth herein, the E/A agrees the OWNER shall have the right, but not the obligation, to purchase replacement insurance, which the E/A agrees to reimburse any premiums or expenses incurred by the OWNER.

7.10.3 Such insurance shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.11. Insurance - No Limit on Obligation to Pay.

Nothing contained in the insurance requirements shall be construed as limiting the extent of the E/A's responsibility for payment of damages resulting from his operations.

7.12. Non-compliance; Breach.

The E/A's failure to comply with any of the provisions of paragraphs 7.3 through 7.11, inclusive, is a breach of contract by the E/A which entitles the OWNER to declare the contract void if the E/A does not remedy the breach within ten days after receipt of notice of breach from the OWNER.

7.13. Indemnity.

E/A AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER, OWNER'S OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST LIABILITY FOR LIENS, DEMANDS, AND DAMAGES FOR INJURIES TO PERSONS INCLUDING DEATH, PROPERTY DAMAGE INCLUDING LOSS OF USE, AND EXPENSES, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES IN PROPORTION TO E/A'S LIABILITY, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONAL TORTIOUS ACTS OR OMISSIONS OF E/A, E/A'S SUBCONSULTANTS, AGENTS, OR ANYONE FOR WHOSE ACTS THE E/A OR SUBCONSULTANT MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIMS OR DAMAGES OCCURRED ON PROPERTY BELONGING TO THE OWNER. THE E/A'S INDEMNIFICATION OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

7.14. Certificate of Interested Parties.

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval. If required, the Certificate of Interested Parties (Form 1295) shall be attached as Exhibit "E".

7.15. Controlling Law.

This Agreement is to be governed by the law of the state of Texas. Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for actions in federal court. This provision shall supersede any other references in the Agreement.

If this Project includes construction activities to City-owned buildings or other public works, Exhibit "F" provisions shall be applicable.

7.16. Successors and Assigns.

7.16.1. OWNER and E/A each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and E/A (and to the extent permitted by paragraph 7.16.2 the assigns of OWNER and E/A) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.16.2. Neither OWNER nor E/A shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. 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 this Agreement. Nothing contained in this paragraph shall prevent E/A from employing such independent professional associates and consultants as E/A may deem appropriate to assist in the performance of services hereunder, provided such independent associates or consultants are approved in writing in advance by OWNER and are paid by E/A.

7.16.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and E/A, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and E/A and not for the benefit of any other party.

SECTION 8—SPECIAL PROVISIONS, SCHEDULES, AND EXHIBITS

8.1. Special Provisions.

Any other provisions of this Agreement or other documents included by reference herein to the contrary notwithstanding, the following provisions shall apply to this Agreement and the respective duties and responsibilities of OWNER and E/A affected thereby:

8.1.1. As to the contractual relationship between E/A and OWNER, E/A is and shall be considered in all things an independent contractor.

8.1.2. OWNER reserves the right, with E/A's agreement, to consolidate any and all phases of performance set out in the standard form contractual documents. The consolidation of said services shall not in any way affect the E/A's responsibilities to perform the services set out therein.

8.2. Exhibits.

The following exhibits are attached to and made a part of this Agreement:

- *Exhibit A - E/A's Work Order,*
- *Exhibit B - Certificate of Insurance and Endorsements,*
- *Exhibit C - Certificate of Interested Parties (Form 1295) (if required),*
- *Exhibit D - Procedure for Correcting Construction Defects (Applicable only to construction contracts affecting City-owned buildings and other public works)*

Provided, however, that where the terms and provisions of the above-referenced exhibit(s) shall conflict with the terms and provisions of this standard contract, this standard contract shall control. **However, if Exhibit "F" is applicable, provisions therein shall control over any other conflicting provisions.**

8.3. Entire Agreement.

8.3.1 This Agreement, together with the exhibits and schedules identified above, constitute the entire Agreement between OWNER and E/A and supersede all prior or oral understandings.

8.3.2 This Agreement and said exhibits and schedules may only be amended, supplemented, modified or canceled by a duly executed written instrument.

8.4. Effective Date.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

8.5. Severability.

The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

8.6. Waiver.

The waiver of any breach of a term or condition of this Agreement does not waive any other breach of that term or condition or any breach of any other term or condition of this Agreement.

8.7. Notices.

Any notices provided under this Agreement shall occur in writing, by certified or registered mail delivery, receipt requested. For purposes of such notice, the addresses of the parties, until changed by written notice, shall be:

E/A:
HDR Engineering, Inc.
Attn: Katie Livas, P.E.
17111 Preston Road, Suite 300
Dallas, Texas 75248

OWNER:
City of Tyler
Attn: Kate Dietz, P.E.
P.O. Box 2039
Tyler, TX 75710

8.8. Venue.

Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for action in federal court. This provision shall supersede any other references in the Agreement.

(The remainder of this page was left blank intentionally.)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

FOR THE CITY OF TYLER, TEXAS:

ATTEST:

By: _____
City Manager Date

Edward Broussard
Printed Name

By: _____
City Clerk

Cassandra Brager
Printed Name

APPROVED:

By: _____
City Attorney's Office Date

_____
Printed Name

RECOMMENDED:

By: _____
Department Leader Date

_____
Printed Name

CITY COUNCIL APPROVAL:

AGENDA ITEM NUMBER: Item No.
DATE APPROVED: Enter approval date

FOR THE E/A:

By: _____

Vice President Date

Luke Bathurst, P.E.

Printed Name

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who is known to me, or who was proved to me through _____ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____

Notary Public In and For The State of Texas

My Commission Expires: _____ Notary's Printed Name

INDEX OF EXHIBITS

Exhibit A - E/A's Work Order / Scope of Services

Exhibit B – E/A's Project Schedule

Exhibit C – E/A's Fee Schedule and Hourly Fees

Exhibit D - Certificates of Insurance and Endorsements

Exhibit E - Certificate of Interested Parties (Form 1295) (If Required)

Exhibit F – Procedure for Correcting Construction Defects
(Applicable only to construction contracts affecting City-owned buildings and other public works)

Exhibit A - E/A's Work Order / Scope of Services

CITY OF TYLER
TYLER WATER UTILITIES DEPARTMENT
LAKE PALESTINE WATER TREATMENT PLANT TASTE AND ODOR STUDY

SCOPE OF WORK
CONTRACT NO. []

OVERVIEW:

The Tyler Water Utilities Department (TWU) is the water provider for the City of Tyler and its residents. In addition, TWU is a wholesale provider to the City of Whitehouse, Walnut Grove Water Supply Corporation, and Community Water Company. TWU owns and operates two water treatment plants, Golden Road Water Treatment Plant (WTP) and Lake Palestine Water Treatment Plant which have capacities of 28 mgd and 30 mgd, respectively. The source water for the Lake Palestine WTP is Lake Palestine which is part of the Neches River system. The lake experiences seasonal algal blooms that cause increases in taste and odor causing compounds, geosmin and MIB (methylisoborneol). Currently, TWU feeds powdered activated carbon (PAC) at the Lake Palestine WTP, downstream of ozone application, to address taste and odor. However, during significant geosmin and MIB seasonal spikes in the source water, the existing treatment process is not capable of removing these compounds below the taste and odor threshold (approximately 8 ng/L), and TWU receives customer complaints. To improve aesthetic water quality and evaluate additional water quality / treatment challenges, TWU has selected HDR Engineering, Inc. (ENGINEER) to conduct a taste and odor / water quality study. The study will include a desktop assessment, bench-scale testing, and pilot-scale testing to identify recommendations for enhancing taste and odor compound removal while enumerating potential improvements to enhance process performance / finished water quality.

The purpose of the study is to identify treatment process improvement alternatives to address taste and odor / water quality challenges.

The project will be delivered into two phases. The first phase (delineated herein) includes a treatment process performance / regulatory assessment, understanding of target water quality parameters (relative to finished water quality goals), and the development of the bench-scale / pilot-scale testing plan. The second phase (to be delineated in a future amendment) includes execution of the testing plan, analysis of test results, and developing recommendations for proposed improvements. This first phase is estimated to be complete within three (3) months of notice to proceed or receipt of requested data (whichever is the latter).

PROJECT REQUIREMENTS:

The Scope of Work for this project provides engineering services as described in the following sections:

- Task 100 – Project Administration General Requirements – Administrative Guidelines for the Project (Included in this scope)
- Task 200 – Regulatory/ Process Assessment (Included in this scope)
- Task 300 – Develop Testing Plan (Included in this scope)
- Task 400 – Equipment Procurement, Mobilization (Set-up), and De-mobilization (Not included in this scope)
- Task 500 – Pilot Start-up (Not included in this scope)
- Task 600 – Bench and Pilot-Scale Testing (Not included in this scope)

- Task 700 – Process Study Report (Not included in this scope)
- Task 800 – Schematic Level Design of Proposed Improvements (Not included in this scope)
- Task 900 – Operations (Not included in this scope)

The following tasks delineate the scope of basic services.

I. Task 100 – Project Administration and General Requirements

Task 101 – Project Management and Administration

ENGINEER will complete the following activities / develop the following items as part of project planning and set-up activities:

- Set-up (i.e., project budget / financials and work plan)
- Invoicing and activity report templates
- Project Management and Quality Plan (PMP / QMP) with baseline schedule
- Health & Safety Plan (H&SP) (for ENGINEER's staff only)
- Communication tools for ENGINEER's internal use (i.e., meeting / workshop scheduling and tracking, decision log, change log, and action item tracking)

The PMP/QMP will outline the project goals and objectives, scope of work, baseline schedule, support tools, communications protocols, and quality review plan. The quality review plan will incorporate the approach for pointedly engaging technical advisors and specialty expertise in the early phases of the preliminary engineering and development.

Project Meeting #1 (Project Kick-off Meeting) will be held with TWU to confirm key elements of the PMP/QMP, project scope objectives, and the baseline schedule.

Throughout project execution, ENGINEER will conduct monitoring and control activities to track project progress and develop monthly invoices with project activity reports for submittal to TWU. Activity reports will document activities completed during the previous period, planned activities for the following month, key decisions made, needed decisions, and decision-related / critical path action items. For this task, up to three (3) months is assumed for project management and administration.

Deliverables:

- **Workshop #1 – Project Kick-off Meeting**
- Meeting agenda and summary (.pdf format)
- Monthly Invoices with Activity Report (including updated project schedule)

Task 102 - Information / Data Collection and Review

TWU will provide the ENGINEER with supplemental information and data for the Lake Palestine WTP and source water. ENGINEER will review the provided information and data to identify any gaps and develop and submit a data needs summary to document information and data received and to obtain initial information and data for review. The initial transfer of information and data will be completed prior to Workshop #1 to facilitate a discussion of available information and to confirm previous work completed as part of the City of Tyler Water Facilities Master Plan (by others). The level of effort for this task assumes TWU will collect and assemble data for delivery to the ENGINEER in electronic format. The previous four years of data for the following water quality parameters if available will be requested as part of this task:

- Raw Water and Filtered Water Temperature
- Raw Water and Filtered Water Total Alkalinity
- Raw Water and Filtered Water pH
- Raw Water and Filtered Water Hardness
- Raw Water, Filtered Water (including individual filter effluent and combined filter effluent), Settled Water, and Finished Water Turbidity
- Raw Water, Ozonated Water (if available), and Filtered Water Geosmin and MIB
- Raw Water and Filtered Water Total and Dissolved Manganese
- Raw Water, Ozonated Water, and Filtered Water Assimilable Organic Carbon (AOC) (if available)
- Raw Water and Filtered Water Dissolved Oxygen
- Final Chlorine Residual

Deliverables:

- Data needs summary (i.e., confirmation of data and information received with gap analysis)

II. Task 200 – Regulatory / Process Performance Assessment

Task 201 – Regulatory Assessment

Drinking water regulations are continuously evolving based on new information on the occurrence of contaminants and their associated health effects. TWU's customers are increasingly aware of water quality issues and their health effects. The U.S. Environmental Protection Agency (USEPA) has been issuing health advisories on emerging contaminants such as cyanotoxins and per- and poly-fluoroalkyl substances (PFAS). As part of this task, ENGINEER will review current and potential future regulations and identify source water quality "parameters of interest" that impact operation of the Lake Palestine WTP. ENGINEER will summarize recent plant performance relative to current and potential future regulations and identify strategies that TWU can adopt at the lake intake and / or treatment plant to meet potential future regulations and address identified "parameters of interest." Results of the regulatory assessment will be detailed a technical memorandum (TM) and submitted to TWU for review. Key findings will be reviewed with ENGINEER's water quality and treatment experts (expert panel)

Deliverables:

- **Draft Regulatory Assessment TM**

Task 202 – Process Performance Assessment

ENGINEER will conduct an in-depth analysis of treatment process performance relative to current issues and challenges noted with treatment of geosmin and MIB. The analysis will assess each unit treatment process in terms of its ability to consistently meet established TWU key performance indicators and finished water quality goals at the intended treatment capacities. This task will identify opportunities for process enhancement to incorporate in the test plan.

The results of the Regulatory Assessment (Task 201) and the Process Assessment will be presented to TWU in a workshop to review and receive comments on each deliverable.

Assumptions:

- ENGINEER's national expert panel will participate in an internal review discussion regarding key findings
- A 4-hour workshop is assumed to review key findings and discuss how they may be incorporated in the test
- ENGINEER's Project Manager and key members (up to three (3)) will attend

Deliverables:

- **Process Assessment TM**
- TM will include
    - Plant-specific process and residual flow balance schematics
    - Tables and figures summarizing plant performance as it relates to key performance indicators
    - List of treatment performance needs and potential solutions
    - Tabular summary of water quality parameters of interest
    - Tabular summary of established finished water quality goals

III. Task 300 – Develop Testing Plan (Bench-Scale and Pilot-Scale)

Task 301 – Test Plan Development

Based on the results of the regulatory and process assessment performed as part of Task 200, a bench-scale and pilot-scale testing plan will be developed to address water quality / process performance challenges and needs. The testing plan is intended to provide TWU with a summary of requirements for bench testing and pilot testing. The testing plan will focus on identified process train alternatives that can address enumerated water quality targets. The plan will define details of testing and analytical needs including on-site and off-site laboratory testing, ENGINEER field support during testing, etc. The effort includes initial outreach to pilot vendors to document and coordinate procurement of piloting equipment relative to cost and schedule. The testing plan will be submitted to TWU for review.

Deliverables:

- **Draft Test Plan**

Task 302 – Bench-Scale / Pilot-Scale Test Plan Review

HDR will conduct an additional workshop to review the proposed bench-scale and pilot-scale testing plan and receive comments on the deliverable. The comments will be addressed in the TM and a finalized version will be submitted to TWU after the workshop.

Assumptions:

- A 4-hour workshop is assumed
- ENGINEER's Project Manager and key members (up to three (3)) will attend

Deliverables:

- Meeting agenda and summary (.pdf format)
- **Final Test Plan**

Exhibit B - E/A's Project Schedule

Exhibit B - E/A's Project Schedule

CITY OF TYLER
TYLER WATER UTILITIES DEPARTMENT
LAKE PALESTINE WATER TREATMENT PLANT TASTE AND ODOR STUDY

ID	Task Name
1	
2	**Task 100 - Project Initiation**
3	**101 Project Management and Administration**
4	Notice to Proceed
5	Project Management and Administration
6	***Kickoff Meeting***
7	102 Information/Data Collection and Review
8	**Task 200 - Regulatory / Process Assessment**
9	**201 Regulatory Assessment**
10	201 Regulatory Assessment
11	Draft Regulatory Assessment TM
12	Final Regulatory Assessment TM
13	**202 Process Performance Assessment**
14	Process Assessment TM
15	***Regulatory / Process Perf. Assessment Workshop***
16	Final Process Assessment TM
17	**Task 300 Develop Testing Plan (Bench and Pilot-Scale)**
18	**301 Test Plan Development**
19	Test Plan Development
20	Draft Test Plan
21	***Test Plan Review Workshop***
22	Final Test Plan
23	Develop Scope for Tasks 400 -900

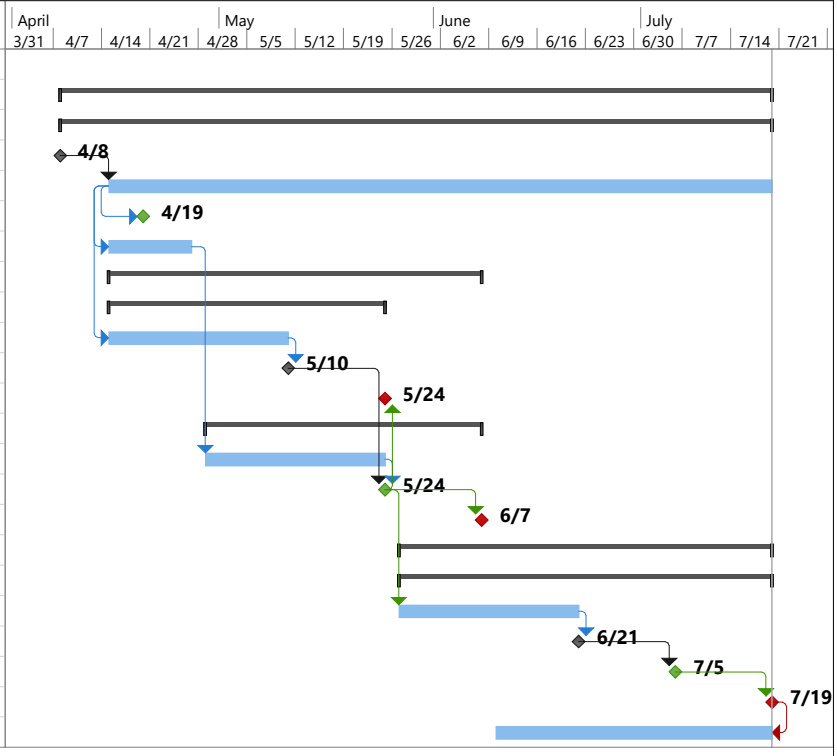


Exhibit C - E/A's Rate Schedule and Hourly Fees

Exhibit C - E/A's Rate Schedule and Hourly Fees
Tyler Water Utilities
Lake Palestine WTP - Taste and Odor Study

3/7/2024

Task Description	HDR											Subs (None)	GRAND TOTAL
	Labor									Expenses	HDR Total		
	Principal	Project Manager	Admin Support	Project Engineer	EIT	QC	Admin Support/ Billing	Total Hours	Labor Cost				
	Hoffman	*Livas*	*Rayshell*	*Phung/Smith*	*Kedia/ Macmanus*	*Lauderdale / Townsend*	*TBD*						
Billing Rate 2024	$ 389.51	$ 304.13	$ 172.94	$ 181.66	$ 142.42	$ 363.32	$ 102.39						
Task 100 Project Initiation													
101 Project Management and Administration	6	24	8			2	15	55	$ 13,282	$ 292	$ 13,574	$ -	$ 13,574
Kickoff Meeting	6	6		16	6			34	$ 7,923	$ 393	$ 8,316	$ -	$ 8,316
102 Information/Data Collection and Review	2	4	2	12	24			44	$ 7,939	$ 175	$ 8,114	$ -	$ 8,114
Task 1 Subtotal	**14**	**34**	**10**	**28**	**30**	**2**	**15**	**133**	**$ 29,144**	**$ 860**	**$ 30,004**	**$ -**	**$ 30,004**
Task 200 Regulatory/ Process Assessment													
201 Regulatory Assessment	2	8	2	24	48	2		86	$ 15,481	$ 341	$ 15,822	$ -	$ 15,822
202 Process Performance Assessment	8	8	2	40	80	4		142	$ 26,008	$ 572	$ 26,580	$ -	$ 26,580
Regulatory / Process Perf. Assessment Workshop	6	6		6	12			30	$ 6,961	$ 372	$ 7,333	$ -	$ 7,333
Task 2 Subtotal	**16**	**22**	**4**	**70**	**140**	**6**	**-**	**258**	**$ 48,450**	**$ 1,285**	**$ 49,735**	**$ -**	**$ 49,735**
Task 300 Develop Testing Plan (Bench and Pilot-Scale)													
301 Test Plan Development	4	24	2	60	80	2		172	$ 32,223	$ 709	$ 32,932	$ -	$ 32,932
Test Plan Review Workshop	6	6		6	12			30	$ 6,961	$ 368	$ 7,329		$ 7,329
Task 3 Subtotal	**10**	**30**	**2**	**66**	**92**	**2**	**-**	**202**	**39,184**	**1,077**	**40,261**	**-**	**$ 40,261**
TOTAL	**40**	**86**	**16**	**164**	**262**	**10**	**15**	**593**	**116,778**	**3,222**	**120,000**	**$ -**	**$ 120,000**

Exhibit C - E/A's Rate Schedule

Lake Palestine Water Treatment Plant Taste and Odor Study
Labor Rates

Project Principal	$390.00
Project Manager	$305.00
Administrative Support	$175.00
Project Engineer	$180.00
Project EIT	$140.00
Technical Advisor	$365.00
Accountant	$100.00
Direct Expenses	Cost + 10%
Mileage	Current Rate

Exhibit D - Certificates of Insurance and Endorsements

(See following pages for a summary and checklist of Insurance and Endorsement requirements)

CERTIFICATE(S) OF INSURANCE

[Certificate of Liability Insurance Shall Be Inserted Here]

INSURANCE COVERAGE REQUIRED * Endorsement Required	
TYPE	**AMOUNT**
1) COMMERCIAL GENERAL LIABILITY * Policy shall include (but not limited to) the following: a) Products - Completed Operations b) Independent Contractors c) Broad Form Property Damage d) X-C-U Coverage X = Explosion Hazard C = Collapse Hazard U = Underground Damage e) Contractual Liability or Cross Liability	Not Less than: **$1,000,000** (1 million) Each Occurrence **$2,000,000** (2 million) General Aggregate **Per Project** Any Self-Insured-Retention or Deductible shall not exceed $25,000.
2) BUSINESS AUTOMOBILE LIABILITY Policy shall include (but not limited to) bodily injury and property damage liability for the following: a) Any Auto; OR b) All Owned Autos, and c) Hired Autos, and d) Non-Owned Autos.	Not Less than: **$1,000,000** (1 million) Each Occurrence
3) PROFESSIONAL ERRORS & OMISSIONS LIABILITY Policy shall include (but not limited to) the following: a) A Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder.	Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
4) ♦ POLLUTION LIABILITY INSURANCE *	♦ ☐ Check Here If Coverage is Required by a City Operational Department Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate
5) COMMERCIAL UMBRELLA / EXCESS LIABILITY *	Not Less than: **$5,000,000** (5 million) Each Occurrence **$5,000,000** (5 million) General Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
6) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY	**Statutory Limits for Workers' Compensation** TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401 TEX. ADMIN. CODE, Title 28, Part 2 **Employer's Liability Limits** **$1,000,000 (1 million)** Bodily Injury by Accident **$1,000,000 (1 million)** Bodily Injury by Disease Each Occurrence **$1,000,000 (1 million)** Bodily Injury by Disease Aggregate Limit

Checklist: Certificate(s) of Insurance

*** Provided only as a courtesy ***

[See generally Section 7.3 Insurance for contract insurance requirements]

1.	All pages of the *Certificate of Liability Insurance* shall be attached. *See* lower right corner of certificate for *ex toto* pagination. E.g. Page 1 of 2
2.	Policy Effective and Expiration Dates (for each type of coverage) Policy **effective date** is ON or BEFORE Contract date, and Policy **expiration date** should extend at least 6 months into the future OR for the estimated project length, whichever is greater.
3.	Commercial General Liability [*See* Section 7.3.2] ☒ **Occurrence** Box is Checked ☒ **Per Project** Box is Checked for General Aggregate Limit.
4.	Business Automobile Liability [*See* Section 7.3.2] At a minimum each of the following boxes should be checked: ☒ Any Auto OR ☒ All Owned Autos, and ☒ Hired Autos, and ☒ Non-Owned Autos.
5.	Professional Errors and Omissions Liability [*See* Section 7.3.2]
6.	Commercial Umbrella / Excess Liability [*See* Section 7.3.2] ☒ Occurrence Box is Checked
7.	Workers Compensation and Employers Liability [*See* Section 7.3.2] ☒ WC Statutory Limits Box is Checked
	Look at the "Description of Operations . . . Special Provisions" Box. [*See* Section 7.4] [*See also* Section 7.6] Clearly indicate the **CITY** has been endorsed by using this language: "The City of Tyler (i.e. Certificate Holder) shall be named as Additional Insured as respects to Commercial General Liability, Commercial Umbrella / Excess Liability and Pollution Liability Insurance, if required, and shall have a Waiver of Subrogation as respects to Commercial General Liability, Business Automobile Liability, Professional Errors and Omissions Liability, Commercial Umbrella / Excess Liability and Workers' Compensation all as required by written contract subject to policy terms, conditions and exclusions. Coverage is primary, non-contributory as respects to General Liability and Auto as required by written contract."
8.	Clearly identify each policy's limits, flat & percentage deductibles, sub-limits, or self-insured retentions, which exceed the amounts or percentages set forth herein.
9.	Certificate Holder: [*See generally* Section 7.4] City of Tyler P.O. Box 2039 Tyler, TX 75710

ENDORSEMENTS

[Endorsements Shall Be Inserted Here]

<table>
<tr><td colspan="3">* ENDORSEMENT(S) REQUIRED</td></tr>
<tr><td colspan="2">Name of Additional Insured Person(s)
or Organization(s):
City of Tyler
P.O. Box 2039
Tyler, TX 75710</td><td>Location(s) of Covered Operations:

Project [insert project name],
Dated [insert month and year of contract].</td></tr>
<tr><td colspan="3">E/A shall choose one of the three Endorsement Option stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.</td></tr>
<tr><td colspan="3">COMMERCIAL GENERAL LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” on the Commercial General Liability with: [Select Option 1, Option 2 or option 3 below] [See Section 7.3.2 and 7.4]</td></tr>
<tr><td>Option
1</td><td colspan="2">FORM: CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
2</td><td colspan="2">FORM: CG 20 10 07 04
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
3</td><td colspan="2">FORM: GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work

AND
FORM: GA 233 02 07
Contractors’ Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract</td></tr>
<tr><td colspan="3">COMMERCIAL UMBRELLA / EXCESS LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” under the Commercial Umbrella / Excess Liability as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
<tr><td colspan="3">POLLUTION LIABILITY INSURANCE

♦ If applicable E/A agrees to endorse the CITY as an “Additional Insured” under the Pollution Liability Insurance as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
</table>

Exhibit E- Certificate of Interested Parties (Form 1295)

(If Required)

Check Here if this Section is NOT Used ☐

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval.

Exhibit F - Procedure for Correcting Construction Defects

Check Here if this Section IS Applicable to This Contract ☐

****ONLY APPLICABLE FOR CONSTRUCTION ACTIVITIES AFFECTING CITY-OWNED BUILDINGS AND OTHER PUBLIC WORKS PROJECTS AS DEFINED IN TEX. GOV. CODE ANN., SEC. 2269.001 (6)****

EXHIBIT F is not applicable to "civil works" projects as defined in Tex. Gov. Code Ann., Sec. 2269.351

I. DEFINITIONS

A. **"Public Works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.001 (6), are those related to constructing, altering, or repairing a public building or carrying out any public work.

B. **"Civil works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.351 are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

II. NOTIFICATION OF DEFECT

A. **ENGINEER/ARCHITECT SHALL NOTIFY OWNER IN WRITING OF ANY CONSTRUCTION DEFECT** of which the ENGINEER/ARCHITECT is aware, and which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning or supervision of the construction that is a result of:

i. The use of defective materials, products, or components in the construction;
ii. A violation of a building code applicable by law to the construction;
iii. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or
iv. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

B. The E/A's writing shall identify the specific construction defect, describe the present physical condition of the affected structure; and describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

III. PROCEDURE TO CORRECT CONSTRUCTION DEFECTS

A. Before bringing an action asserting a claim for a construction defect under this Agreement, the OWNER must provide a written report to each party with whom the OWNER has a contract for the design, construction or construction oversight of an affected structure by certified mail, return receipt requested.

i. The report shall clearly identify the specific construction defect(s) on which the claim is based, which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning, or supervision of the construction that is a result of:
   a. The use of defective materials, products, or components in the construction;
   b. A violation of a building code applicable by law to the construction;

c. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or

d. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

iii. The report shall clearly:

a. Identify the specific construction defect on which the claim is based;

b. Describe the present physical condition of the affected structure; and

c. Describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

B. OWNER shall allow each party with whom the OWNER has a contract for the design or construction of an affected structure and who is subject to the claim, and any known subcontractor or supplier who is subject to the claim a reasonable opportunity to inspect any construction defect or related condition identified in the report for a period of 30 days after receiving the report.

C. OWNER shall allow at least 120 days after the inspection to:

i. Correct any construction defect or related condition identified in the report; or

ii. Enter into a separate agreement with the governmental entity to correct any construction defect or related condition identified in the report.

D. OWNER is not required to allow a party to make a correction or repair under Subsection II.A. if:

i. the party:

a. Is a contractor and cannot provide payment and performance bonds to cover the corrective work;

b. Cannot provide liability insurance or workers' compensation insurance;

c. Has been previously terminated for cause by OWNER; or

d. Has been convicted of a felony; or

ii. OWNER previously complied with the process required by Subsection II.A. regarding a construction defect or related condition identified in the report and:

a. The defect or condition was not corrected as required by Subsection II.C.i. or by an agreement under Subsection II.C.ii.; or

b. The attempt to correct the construction defect or related condition identified in the report resulted in a new construction defect or related condition.

E. Recovery of Report Costs. If the report described in Subsection II.A. identifies a construction defect that is corrected or for which the OWNER recovers damages, the party responsible for that construction defect shall pay the reasonable amounts incurred by OWNER to obtain the report with respect to identification of that construction defect.

F. These provisions do not prohibit or limit the OWNER from making emergency repairs to the property as necessary to protect the health, safety, and welfare of the public or a building occupant.

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: M-4

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute an Engineering Services Contract, in an amount not to exceed $535,000, with KSA Engineers, Inc. for the Consent Decree Capacity Work Group 3 Alignment Analysis.

Page: Page 1 of

Item Reference: LegalDesk

In 2017, the City of Tyler entered into a Consent Decree with the Environmental Protection Agency (EPA) to address the City's aging wastewater collection system and resulting discharges. The Consent Decree became effective on April 10, 2017.

The City of Tyler contracted Pipeline Analysis, LLC in association with LNV, LLC to develop a wastewater hydraulic model to analyze the City's Wastewater Collection and Transmission System, identify confirmed capacity constraints and develop remedial measures to mitigate each. The objectives of this work were 1) reduce sanitary sewer overflows and 2) comply with EPA consent decree hydraulic modeling and capacity assessment requirements and timelines. This resulting capacity assessment and remedial measures plan was completed in October 2020.

Construction of Group 1 of the Capacity projects is complete and Group 2 of the Capacity projects are in final Design.

The scope of engineering services with KSA Engineers, Inc. for the Consent Decree Capacity Work Group 3 Alignment Analysis includes: analysis of existing site alignments for possible alternative routing of gravity sewer mains, development of gravity sewer main alignment alternatives, and preliminary topographic survey.

Attached for review is a summary of the scope of work and proposed fee.

RECOMMENDATION:

It is recommended the City Council consider authorizing the City Manager to execute an Engineering Services Contract, in an amount not to exceed $535,000, with KSA Engineers, Inc. for the Consent Decree Capacity Work Group 3 Alignment Analysis.

ATTACHMENTS:

Exhibit A.
Exhibit B
Exhibit C

Drafted/Recommended By:
Department Leader

Tiffany Currie, P.E. / Project Engineer; Kate Dietz, P.E. / Director of Utilities

Edited/Submitted By:
City Manager

Exhibit A
ENGINEER'S Scope of Service
Consent Decree Capacity Work Group 3 Alignment Analysis
KSA Contract No. 102946

This Agreement constitutes authorization by the City of Tyler (OWNER) for KSA Engineers, Inc. (ENGINEER) to provide engineering services for the Consent Decree Capacity Work Group 3 Alignment Analysis (hereinafter called the Project).

PROJECT DESCRIPTION

Alignment analysis of Group 3 Capacity Sites 14b1, 14b2, 14b3, 14b4, 14b5, 14c1, 14c2, 17a1, 17a2, 17a3, 19a1, 19a2, 19b1, 19c1 and 19d1 as identified in Appendix J of the October 10, 2020 *Capacity Assessment and Remedial Measures Plan* shown below and illustrated in the attached exhibits.

The scope of services includes:

- Analysis of existing site alignments for possible alternative routing of gravity sewer mains
- Development of gravity sewer main alignment alternatives
- Performance of preliminary topographic field surveys to confirm alignment alternatives
- Coordinate with City's consultant to re-evaluate hydraulic capacities of existing lines based on developed alignment alternatives
- Conduct and attend monthly meetings with City staff to discuss in progress alternative development
- Prepare alignment alternative summaries, exhibits and opinions of probable project cost

SCOPE OF SERVICES

The scope of services for this part of the work is as follows:

1 Basic Services of ENGINEER: The ENGINEER is hereby authorized to perform the following basic services:

1.2 Study and Report Phase: Provide services as stated in Section 1.2 of the Agreement excluding report preparation

1.3 Preliminary Design Phase: Not used

1.4 Final Design Phase: Not used

1.5 Bidding or Negotiating Phase: Not used

1.6 Construction Phase: Not used

1.7 Operational Phase: Not used

2 Additional Services of ENGINEER: The ENGINEER is hereby authorized to perform the following additional services:

A. Reimbursable Expenses
B. Preliminary Topographic Surveying
C. Coordination with City's consultant for hydraulic capacity evaluations

3 ENGINEER's Exclusions:

A. Summary report preparation

B. Subsurface utility engineering and utility potholing
C. Historical & archeological investigation and report;
D. Wetland investigations, archeological investigations, environmental investigations, categorical exclusions, nationwide permits;
E. Coordination, application, or permitting with any and all local, State, and/or Federal agencies other than the Texas Department of Transportation
F. Stormwater pollution plans, applications, and/or permits;
G. The relocation of utilities;
H. Traffic control plans
I. Hydrologic studies;
J. Hydraulic studies.

4 OWNER's Responsibilities: The OWNER's responsibilities shall be as described in SECTION 3 of the ENGINEERING CONTRACT in addition to the following responsibilities: Consultant authorization and associated payments to consultant for hydraulic capacity evaluations

Exhibit B
Project Schedule
Consent Decree Capacity Work Group 3 Alignment Analysis
KSA Contract No. 102946

PROJECT SCHEDULE

Engineer shall complete its services with the following time specific time period upon OWNER's notice to proceed.

Alignment Analysis: *(Estimated Project Start March 2024*)

1. Complete Draft Analysis: 180 calendar days
2. Complete Final Analysis: 60 calendar days following receipt of OWNER's comments on submitted draft analysis.

Exhibit C
Fee Summary
Consent Decree Capacity Work Group 3 Alignment Analysis
KSA Contract No. 102946

FEE SUMMARY

Engineering Fees: The fees for the scope of services described above is as follows:

Alignment Analysis:

Alignment Analysis	$300,000	Not-to-Exceed
Reimbursable Expenses	$10,000	Reimbursable
Preliminary Topographic/Boundary Surveying	$225,000	Hourly and Reimbursable[1]
Total	$535,000	

Notes:

1. Compensation shall be billed monthly for Engineer's services based on time charged by each category at the hourly rates or subconsultant charges (if any) Hourly rates paid to the Engineer shall be adjusted annually to match the Engineer's Schedule of Hourly Fees effective at the time the work is provided.

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: M-5

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute an Engineering Services Contract Addendum 2, in an amount not to exceed $60,700 with KSA Engineers, Inc. for the Consent Decree Group 5 Remedial Measures Implementation Addendum 2.

Page: Page 1 of

Item Reference: Council Meeting 7-13-22 Item M-3;

In 2017, the City of Tyler entered into a Consent Decree with the Environmental Protection Agency (EPA) to address the City's aging wastewater collection system and resulting discharges. The Consent Decree became effective on April 10, 2017.

As a part of this Consent Decree, condition assessments are being performed on the sanitary sewer collection system. The assessments began in 2017, are spread out over an eight (8) year period and are being performed by Pipeline Analysis. The first assessment (Group 1) was of manholes on lines 10-inch and larger throughout the system, and gravity lines in Basins 8 and 15; remedial construction is almost complete.

The second assessment (Group 2) was for the manholes on lines smaller than 10-inch in Basins 8 and 15, and the gravity lines in Basin 13. The resulting recommended remedial activities are have been designed and are beginning construction.

The third assessment (Group 3) included gravity mains in basins 4, 10, 11, and 12 as well as all large-diameter (12-inch diameter and larger) mains across all basins. Group 3 included assessment of 3,318 manholes in basins 2, 4, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19.

The fourth assessment (Group 4) included recommended remediation for 35,821 linear feet of gravity main and 1,364 manholes across the City of Tyler.

The fifth assessment (Group 5) included recommended remediation for 59,000 linear feet of gravity main, 640 point repairs and 428 manholes across the City of Tyler.

This additional services scope of work with KSA Engineers, Inc provides for design services for 200 LF of reroute sanitary sewer line and approximately 800 LF of line replacement including two (2) creek

crossing repairs. These repairs are for sanitary sewer infrastructure identified as needing repair and includes surveying, preliminary and final design services of Group 5 activities. Scope of services are attached for review.

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to execute an Additional Engineering Services Contract, in an amount not to exceed $60,700 with KSA Engineers, Inc. for the Consent Decree Group 5 Remedial Measures Implementation Addendum 2.

ATTACHMENTS:

100963 Draft Engineering Contract (AM2 Exhibit A & B)

Drafted/Recommended By:
Department Leader

Tiffany Currie, P.E., Tyler Water Utilities Engineer, Kate Dietz, P.E. Director of Utilities

Edited/Submitted By:
City Manager

Exhibit A
Scope of Service
Consent Decree Group 5 Remedial Measures Implementation
KSA Contract No. 100963

This Agreement constitutes authorization by the City of Tyler (OWNER) for KSA Engineers, Inc. (ENGINEER) to provide engineering services for the **Consent Decree Group 5 Remedial Measures Implementation** (hereinafter called the Project).

PROJECT DESCRIPTION

- Construction, improvements, and/or other remedial measures of approximately 49,000 linear feet of sanitary sewer piping identified in "Poor" to "Very Poor" Condition, and approximately 640 pipeline point repairs identified by Pipeline Analysis' July 1, 2022 Group 5 Annual Condition Remedial Measures Plan. (Original Project)

  Amendment 2 includes the construction of sanitary sewer gravity main reroutes or repairs of the following segments in creek crossing areas:

  SS.GM.T0013366 SS.GM.T0001749 SS.GM.T0006731

SCOPE OF SERVICES

The scope of services for this part of the work is as follows:

Basic Services of ENGINEER: The ENGINEER is hereby authorized to perform the following basic services:

A. Study and Report Phase: Not Used.
B. Preliminary Design Phase: Provide services as stated in Section 1.3 of the Agreement.
C. Final Design Phase: Provide services as stated in Section 1.4 of the Agreement.
D. Bidding or Negotiating Phase: Not Used.
E. Construction Phase: Not Used.
F. Operational Phase: Not Used.

Additional Services of ENGINEER: The ENGINEER is hereby authorized to perform the following additional services:

A. Surveying (Design/Easement)

ENGINEER's Exclusions:

A. Right-of-Way Agent
B. Property Owner Coordination
C. Full Time Project Representative (one 12-month period)
D. Union Pacific Railroad/Franchise Utility Coordination
E. Construction Control Surveying
F. Geotechnical Investigation
G. Construction Material Testing
H. Historical, Wetland, and Archeological investigations, environmental investigations, categorical exclusions, nationwide permits;
I. Coordination, application, or permitting with any and all local, State, and/or Federal agencies other than the Texas Department of Transportation;
J. Stormwater pollution plans, applications, and/or permits;

K. Traffic control plans
L. Legal services;
M. The relocation of gas, electric, communications, or other utilities;
N. Hydrologic studies;
O. Hydraulic studies.

OWNER's Responsibilities: The OWNER's responsibilities shall be as described in SECTION 3 of the ENGINEERING CONTRACT in addition to the following responsibilities: Sampling and testing as required

Exhibit B
Project Schedule
Consent Decree Group 5 Remedial Measures Implementation
KSA Contract No. 100963

PROJECT SCHEDULE

Engineer shall complete its services with the following time specific time period upon OWNER's notice to proceed.

Remedial Measures Sanitary Sewer Reroute Construction Contract (D100963):

1. Complete Preliminary Design: 75 calendar days
2. Complete Final Design: 45 calendar days following receipt of OWNER's comments on submitted preliminary design documents.

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: M-6

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of $1,811,346.00 with Halff for the design and construction phase services for the Upper Pressure Plane Elevated Storage Tank and Transmission Main project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

Page: Page 1 of

Item Reference:

The City of Tyler recently engaged with Halff to develop a distribution system Master Plan and Water Model in order to assist in determining the locations in the water system that require attention. In the Master Plan, the option of delineating 3 separate pressure planes was proposed as Halff's recommendation. City staff has been working closely with Halff to determine that a modified approach is more advantageous to the current budgets allocated for distribution system improvements.

It has been determined that the general area of the new Elevated Storage Tank (EST) will be located on Highway 155, or Frankston Highway, between Walton Rd and Earl Campbell Parkway, with the exact location to be decided during the preliminary design of the project. The new EST will primarily serve the Upper Pressure Plane and be a 1-2 MG Composite Style Tank; which will have a concrete column with a steel bowl. The new EST will help to reduce stress on the system and treatment plants during peak demand, and bring us closer to regulatory compliance regarding elevated storage.

This project will be broken into two packages and advertised and bid as such. The first one will be specific to the EST and the second will be for the associated transmission mains to feed and distribute.

With several variables yet to be nailed down such as the exact location and size, the construction cost of this project is estimated to be between $10-13 million with the EST in operation and online in the fall of 2027.

RECOMMENDATION:

Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of $1,811,346.00 with Halff for the design and construction phase services for the Upper Pressure Plane Elevated Storage Tank and Transmission Main project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

ATTACHMENTS:

03.12.2024 - Upper Pressure Plane Elevated Storage Tank (EST) and Transmission Main (Standard Agreement)(Draft)
Upper Pressure_Future Debt_Resolution Form (3.12.2024)_legaledits_ab_03.19.24

Drafted/Recommended By:
Department Leader

Jacob Yanker, Utilities Project Engineer/ Kate Dietz, PE, Director of Utilities

Edited/Submitted By:
City Manager

STATE OF TEXAS §

STANDARD FORM OF AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

COUNTY OF SMITH §

This AGREEMENT is entered into, with an Effective Date of _____ [*insert date of last party's signature*], by and between the **CITY OF TYLER**, in Smith County, Texas (OWNER), acting therein by and through its duly authorized City Manager, and **Halff Associates, Inc.** (ENGINEER or ARCHITECT), hereinafter referred to as "E/A," for the purpose of acquiring all professional engineering and/or architectural services required for the project known as **"Upper Pressure Plane Elevated Storage Tank (EST) and Transmission Main Design"** (hereinafter called the Project).

OWNER and E/A in consideration of their mutual covenants herein agree in respect of the performance of professional engineering and/or architectural services by E/A and the payment for those services by OWNER as set forth below.

SECTION 1—BASIC SERVICES OF ENGINEER OR ARCHITECT

1.1. General.

1.1.1. E/A shall provide for OWNER professional consulting services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional E/A representative for the project, providing professional engineering and/or architectural consultation and advice and furnishing customary civil services incidental thereto.

1.1.2. **If the Project is a "civil works" project, as defined by Sec. 2269.351 of Tex. Gov. Code Ann., then Exhibit "F" does NOT apply.** "**Civil works"** projects are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

1.1.3. **If the Project is related to "public works" projects or construction contract affecting City-owned buildings, then this contract IS SUBJECT TO ADDITIONAL PROVISIONS FOUND IN EXHIBIT "F", which is attached and incorporated for all purposes herein. "Public Works"** is defined by Tex. Gov. Code Ann., Sec. 2269.001 (6) as a contract for constructing, altering, or repairing a public building or carrying out any public work.

1.1.4. If Exhibit "F" is applicable and there is a conflict between this Agreement and Exhibit "F", provisions in Exhibit "F" shall control.

1.2. Study and Report Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.2.1. Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in paragraph 3.4, and assist OWNER in obtaining such data and services.

1.2.3. Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

1.2.4. Provide analysis of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

1.2.5. Provide a general economic analysis of OWNER's requirements applicable to various alternatives.

1.2.6. Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the

considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth E/A's findings and recommendations. This Report will be accompanied by E/A's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance for E/A costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others for OWNER pursuant to paragraphs 3.7 through 3.11, inclusive. The total of all such costs, allowances, etc. are hereinafter called "Total Project Costs".

1.2.7. Furnish multiple copies of the Study and Report documents (not to exceed six (6) copies) and review them in person with OWNER.

1.3. Preliminary Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.3.1. In consultation with OWNER and on the basis of the accepted Study and Report documents, determine the general scope, extent and character of the Project.

1.3.2. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.

1.3.3. Advise OWNER if additional data or services of the types described in paragraph 3.4 are necessary and assist OWNER in obtaining such data and services.

1.3.4. Based on the information contained in the preliminary design documents, submit a revised opinion of probable Total Project Costs.

1.3.5. Furnish multiple copies of the above Preliminary Design documents and present and review them in person with OWNER, not to exceed six (6) copies.

1.3.6. Derive right-of-way (ROW) data and easement documents as needed for the OWNER to begin land acquisition.

1.4. Final Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.4.1. On the basis of the accepted Preliminary Design documents and the revised opinion of probable Total Project Costs prepare for incorporation in the Contract Documents final drawings to show the general scope, extent and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and Specifications.

1.4.2. Provide technical criteria, written descriptions and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project, and assist OWNER in consultations with appropriate authorities.

1.4.3. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.

1.4.4. Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders.

1.4.5. Furnish multiple copies of the above documents and of the Drawings and Specifications and present and review them in person with OWNER, not to exceed six (6) copies.

1.5. Bidding or Negotiating Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.5.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for each

separate prime contract for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences and receive and process deposits for Bidding Documents.

1.5.2. Assist OWNER in issuing addenda as appropriate to interpret, clarify or expand the Bidding Documents.

1.5.3. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

1.5.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

1.5.5. Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

1.6. Construction Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.6.1. *Preconstruction Conference.* Coordinate, schedule and attend a preconstruction conference with the OWNER, other utility owners, contractors and other interested parties to determine and coordinate construction scheduling and responsibilities.

1.6.2. *Visits to Site and Observation of Construction.* In connection with observations of the work of Contractor(s) while it is in progress:

1.6.2.1. E/A shall make visits to the site at intervals appropriate to the various stages of construction as necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. Based on information obtained during such visits and on such observations, E/A shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and E/A shall keep OWNER informed of the progress of the work.

1.6.2.2. The purpose of E/A's visits to the site will be to enable E/A to better carry out the duties and responsibilities assigned to and undertaken by E/A during the Construction Phase, and in addition, by exercise of E/A's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, E/A shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall E/A have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction elected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, E/A can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

1.6.3. *Interpretations and Clarifications.* E/A shall issue necessary interpretations and clarifications of the Contract Documents as requested by the OWNER.

1.6.4. *Subsurface Exploration.* Coordinate core borings, probing or subsurface explorations, issue orders for necessary laboratory tests and inspect samples or materials submitted for laboratory testing.

1.6.5. *Shop Drawings.* E/A shall review and approve (or take other appropriate action in respect of) samples, catalog data, shop drawings other data which Contractor(s) is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident

thereto.

1.6.6. *Substitutes.* E/A shall evaluate the acceptability of substitute materials and equipment proposed by Contractor(s) and make recommendations to OWNER, subject to the provisions of paragraph 2.2.2.

1.6.7. *Tests.* E/A shall verify that tests, including equipment and start-up, which are required by the specifications and contract documents, are conducted and that the Contractor maintains adequate records thereof and shall observe, record and report to the OWNER appropriate details relative to the test procedures and start-ups.

1.6.8. *Applications for Payment.* Based on his on-site observations as an experienced and qualified design professional and on his review of the Contractors' applications for payment, determine the amount owing to the Contractor(s) and recommend in writing payment to the Contractor(s) in such amounts; such recommendations of payment to constitute a representation to the OWNER, based on such applications, that the work has progressed to the point indicated and that, to the best of his knowledge, work is in accordance with the plans, specifications and contract documents, subject to the specifications and contract documents and any qualifications stated in his approval.

1.6.9. *Final Inspection.* Conduct, in company with the OWNER'S representative, a final inspection of the Project for conformance with the design concept of the Project and compliance with the plans, specifications and contract documents, and recommend in writing final payment to the Contractor.

1.6.10. *Disputes between OWNER and Contractor.* E/A shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work performed thereunder. E/A shall also make recommendations to OWNER on all claims of Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. OWNER has the final decision with regard to such disputes.

1.6.11. *Limitation of Responsibilities.* E/A shall not be responsible to OWNER for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except E/A's own employees and agents) whether at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.6.1. through 1.6.11 inclusive, shall be construed to release E/A from liability for failure to properly perform duties and responsibilities assumed by E/A in the Contract Documents.

1.7. Operational Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.7.1. In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

1.7.2. Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to E/A and furnish one (1) set of the revised reproducible drawings and one set of drawings in PDF format to the Owner.

SECTION 2—ADDITIONAL SERVICES OF E/A

2.1. Services Requiring Authorization in Advance.

If authorized in writing by OWNER, E/A shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1. through 2.1.13. inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in this Agreement; these will be paid for by OWNER as indicated in Section 5.

2.1.1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the project.

2.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other cause beyond E/A's control.

2.1.4. Providing renderings or models for OWNER's use.

2.1.5. Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6. Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7. Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical, and electrical engineering and customary architectural design incidental thereto); and providing data or services of the types described in paragraph 3.4 when OWNER employs E/A to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8. Services during out-of-town travel required of E/A other than visits to the site or OWNER's office as required by Section 1.

2.1.9. Assistance in connection with bid protest, rebidding, or renegotiating contracts for construction, materials, equipment or services when E/A did not create or contribute to the event or situation requiring said assistance, rebidding, renegotiating, materials, equipment, or services.

2.1.10. Providing any type of property surveys or related engineering or architectural services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.11. Preparation of operating, maintenance and staffing manuals to supplement Basic Services under paragraph 1.7.

2.1.12. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project unless E/A created or contributed to the cause of the litigation.

2.1.13. Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Section 3, and services not otherwise provided for in this Agreement.

2.2. Required Additional Services.

When required by the Contract Documents in circumstances beyond E/A's control, E/A shall furnish or obtain from others, as circumstances require during construction and with specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive. These services are not included as part of Basic Services. E/A shall advise OWNER promptly before starting any of the following additional services which will be paid for by OWNER as indicated in Section 5.

2.2.1. Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.2.2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services

after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.2.4. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any Contractor.

2.2.5. Services (other than Basic Services during the Operations Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6. Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3—OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of E/A:

3.1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to E/A's services for the Project.

3.2. Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

3.3. Assist E/A by placing at E/A's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4. Furnish to E/A, as required for performance of E/A's Basic Services (except to the extent provided otherwise in this Agreement) the following:

3.4.1. data prepared by or resulting from the services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2. appropriate professional interpretations of all of the foregoing;

3.4.3. environmental assessment and impact statements;

3.4.4. property, boundary, easement, right-of-way, topographic and utility surveys, to the extent required by E/A, and only if not required to be performed by E/A as set out in E/A's Proposal;

3.4.5. property descriptions;

3.4.6. zoning, deed and other land use restrictions;

all of which E/A may use and rely upon in performing services under this Agreement.

3.5. Provide engineering surveys to establish reference points for construction (unless required to be performed by E/A as Basic Services under E/A’s Proposal) to enable Contractor(s) to proceed with the layout of the work.

3.6. Arrange for access to and make all provisions for E/A to enter upon public and private property as required for E/A to perform services under this Agreement.

3.7. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by E/A, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of E/A.

3.8. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, unless required to be performed by E/A as Basic Services under this Agreement.

3.9. Provide such accounting, independent cost estimating and insurance counseling services as may, in the judgement of the OWNER, be required for the Project, such legal services as OWNER may require or E/A may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not E/A or E/A's agent or employee, the duties, responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities of E/A and the Resident Project Representative (and any assistants) will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11. If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12. Furnish to E/A data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive) so that E/A may make the necessary findings to support opinions of probable Total Project Costs.

3.13. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.

3.14. Give prompt written notice to E/A whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of E/A's services, or any defect or non-conformance in the work of any Contractor.

3.15. Furnish, or direct E/A to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.

3.16. E/A shall not be obligated to bear any of the costs of compliance with this Section 3.

SECTION 4—PERIODS OF SERVICE

4.1. The services provided by the E/A and the various rates of compensation for E/A's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Operational Phase. E/A's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction and initial operation of the Project including extra work and required extensions thereto. If in Section 8 of this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided and if such dates are exceeded through no fault of E/A, all rates, measures and amounts of compensation provided herein may be subject to equitable adjustment.

4.2. A schedule for completion of each phase of the project is provided in Exhibit "B". If the E/A determines or reasonably anticipates that the project, (or any of its phases), cannot be completed before the specified completion date, the E/A shall submit a revised schedule to the OWNER for approval.

SECTION 5—PAYMENTS TO ENGINEER AND/OR ARCHITECT CONSULTANT

5.1. Methods of Payment for Services and Expenses of E/A.

For design, construction plan preparation, construction document preparation (including bid proposal, specifications, construction contract), and all other services to be rendered by E/A hereunder, as the same are set out in the attached Exhibit “A”, and as further set out in these contractual documents, save and except for specified special and additional services, OWNER shall pay to E/A the following fee in accordance with the fee summary and schedule of hourly rates set forth in attached Exhibit "C":

- Base Fee, Not-to-Exceed = $ 1,317,491.00
- Hourly/Reimbursable Expenses = $ 493,855.00
- **Total Contract Price** = **$1,811,346.00**

For additional services authorized by OWNER in accordance with Section 2 of this Agreement, OWNER shall pay in accordance with the schedule of hourly rates set forth in attached Exhibit "C".

5.2. Times of Payment.

E/A shall submit clear and detailed monthly statements for the services rendered and for the expenses and hourly costs incurred. The statements shall show the percent of work completed and amount billed to date, broken down by activity or task. All monthly statements shall be in a form as specified by and acceptable to OWNER.

SECTION 6—CONSTRUCTION COST AND OPINIONS OF COST

6.1. Construction Cost.

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by E/A, but it will not include E/A's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Section 3, as applicable. [Construction Cost is one of the items comprising Total Project Costs which is defined in paragraph 1.2.6.]

6.2. Opinions of Cost.

It is understood by the Parties that E/A has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. Therefore, E/A's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of E/A's experience and qualifications and represent E/A's best judgment as an experienced and qualified professional E/A, familiar with the construction industry; but E/A cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by E/A. If prior to the Bidding or Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.9.

SECTION 7—GENERAL CONSIDERATIONS

7.1. Termination.

7.1.1. During the construction phase of the Project, and except as provided under **Exhibit F-Procedure for Correcting Construction Defects** which is applicable when the construction is to a City-owned building or other public work, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.1.2 The termination requirements in Sec. 7.1.1 shall be applicable to civil works construction projects but shall not be applicable to construction contracts related to City-owned buildings and other public works unless and until *after* the procedures are followed as outlined in Exhibit "F" to identify and correct construction defects.

7.1.3 During the design phase of the Project, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.2. Reuse of Documents.

The E/A's Instruments of Service (including but not limited to plans, field surveys, maps, cross sections, drawings, specifications, calculations and other data related to the Project) are and shall remain the

property of the E/A until payment of the E/A in full. Upon payment of the E/A in full, said E/A's Instruments of Service shall pass to and become the property of the OWNER without restriction as to their subsequent uses. E/A acknowledges that OWNER is a governmental entity and that all Instruments of Service in respect of the Project, upon completion of the Project, shall thereafter be subject to the Texas Public Information Act (Texas Government Code Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents. In the event that a valid Public Information Request is received prior to completion of the Project and payment of the E/A in full, OWNER shall work with the E/A to protect any information deemed to be confidential by seeking an Opinion from the Texas Attorney General as allowed by State law.

7.3. Insurance.

7.3.1. The E/A agrees, at its sole expense, to maintain on a primary basis during the life of this Contract and the performance of Work hereunder, insurance coverage, limits, and endorsements required herein, unless otherwise noted. Insurance required by this contract for the OWNER as additional insured shall be primary insurance and not contributing with any other insurance available to OWNER.

7.3.2 The E/A agrees to provide evidence of the following coverage's at execution of contract:

- **Commercial General Liability:** E/A agrees to maintain Commercial General Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence, two million dollars ($2,000,000) General Aggregate per project. E/A agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Products - Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage (X = Explosion Hazard; C = Collapse Hazard; U = Underground Damage), Contractual Liability or Cross Liability. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Business Automobile Liability:** E/A agrees to maintain Business Automobile Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence. Coverage shall include bodily injury and property damage liability arising out of the operation, maintenance and use of Any Auto, or All Owned Autos, and Hired Autos, and Non-Owned automobiles. In the event E/A does not own automobiles, E/A agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

- **Professional Errors and Omissions Liability:** E/A agrees to maintain Professional Errors and Omissions Liability at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate. The E/A agrees the policy shall include a minimum three (3) year Discovery (tail) reporting period, and a Retroactive Date that equals or precedes the effective date of the Agreement, or the performance of services hereunder. The E/A agrees the Self-Insured-Retention shall not exceed twenty-five thousand dollars ($25,000). This coverage may be provided on a Per-Project Basis.

- **Pollution Liability Insurance** (if required by a City Operational Department): If a City Operational Department requires Pollution Liability coverage, the E/A agrees to maintain Pollution Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate.

- **Commercial Umbrella / Excess Liability:** E/A agrees to maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than five million dollars ($5,000,000) Each Occurrence, five million dollars ($5,000,000) General Aggregate. The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial Umbrella/Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the OWNER is automatically defined as an Additional Protected Person. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Worker's Compensation and Employer's Liability**: The E/A agrees to maintain its own Workers' Compensation Insurance pursuant to statutory limits. See TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401; TEX. ADMIN CODE, Title 28, Part 2. (NOTE: Elective

exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).

The E/A agrees to maintain its own Employer's Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Bodily Injury by Accident, one million dollars ($1,000,000) Bodily Injury by Disease Each Occurrence, one million dollars ($1,000,000) Bodily Injury by Disease Aggregate Limit.

See Exhibit "D" Certificate(s) of Insurance and Endorsements for a chart and checklist providing a summary and overview of the insurance requirements.

7.3.3 In the event the E/A performs any site work, then all the insurance required herein will need to be evidenced prior to commencement of said site work.

7.3.4. The E/A agrees the insurance requirements herein as well as OWNER'S review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the E/A under this Agreement.

7.4. Additional Insured Endorsements.

7.4.1 The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial General Liability. E/A shall choose one of the three Endorsement Options stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.

The form of the endorsement(s) shall be:

Option 1:

CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractor – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 2:

CG 20 10 07 04
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 3:

GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work

AND, the additional endorsement of

GA 233 02 07
Contractors' Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract

E/A shall attach actual copies of the endorsements.

7.4.2 Additionally, E/A agrees to endorse the OWNER as an "Additional Insured" under the Commercial Umbrella / Excess Liability and the Pollution Liability Insurance, if required, as also provided herein.

7.4.3 The name of the organization endorsed as Additional Insured for all endorsements shall read "City of Tyler."

7.5. Deductibles, Coinsurance Penalties and Self-Insured Retention.

E/A agrees to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or

limitation. For deductible amounts that exceed the amounts stated herein that are acceptable to OWNER, the E/A agrees, when requested by OWNER, to maintain a Commercial Surety Bond in an amount equal to said deductible amount.

7.6. Waiver of Subrogation.

E/A agrees by entering into this written Agreement to a Waiver of Subrogation in favor of the OWNER for each required policy providing coverage during the life of this Agreement. E/A agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement and provide such endorsement to OWNER. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement, or voids coverage should the E/A enter into such an agreement on a pre-loss basis.

7.7. Subconsultants' Insurance.

In the event any work is sublet, the E/A shall require its subconsultants to similarly provide the same coverage as the E/A, and shall acquire evidence of such coverage on behalf of the OWNER.

7.8. Insurance Effective Until Completion.

Insurance coverage, limits, and endorsements required herein shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.9. Right to Revise or Reject Insurance.

7.9.1 E/A agrees the OWNER reserves the right, but not the obligation, to review or revise any insurance requirement, not limited to limits, coverage and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage.

7.9.2 Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office in the OWNER'S Legal Department for their adequacy as to form, content, form of protection, and providing company. Additionally, the OWNER reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due of its poor financial condition or failure to operate legally in the State of Texas. In such events, OWNER shall provide E/A written notice of such revisions or rejections.

7.10. Certificate of Insurance.

7.10.1 Before commencement of any work, the E/A agrees to provide OWNER with **Certificate(s) of Insurance and Endorsements** that clearly evidence that E/A's insurance contains the minimum coverages, limits, and endorsement requirements set forth herein, and which shall be attached as Exhibit "D" of this Agreement. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on each Certificate(s) of Insurance. In the event the OWNER is notified that a required insurance coverage will cancel or expire during the period of this Agreement, the E/A agrees to furnish OWNER prior to the expiration of such insurance, a new Certificate of Insurance evidencing replacement coverage. When notified by OWNER, the E/A agrees to not continue Work pursuant to this Agreement, unless all required insurance remains in effect.

7.10.2 The OWNER shall have the right, but not the obligation, of prohibiting E/A from entering the Work site until a new Certificate of Insurance is provided to the OWNER evidencing the replacement coverage. The E/A agrees the OWNER reserves the right to withhold payment to E/A until evidence of reinstated or replacement coverage is provided to the OWNER. If the E/A fails to maintain the insurance as set forth herein, the E/A agrees the OWNER shall have the right, but not the obligation, to purchase replacement insurance, which the E/A agrees to reimburse any premiums or expenses incurred by the OWNER.

7.10.3 Such insurance shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.11. Insurance - No Limit on Obligation to Pay.

Nothing contained in the insurance requirements shall be construed as limiting the extent of the E/A's

responsibility for payment of damages resulting from his operations.

7.12. Non-compliance; Breach.

The E/A's failure to comply with any of the provisions of paragraphs 7.3 through 7.11, inclusive, is a breach of contract by the E/A which entitles the OWNER to declare the contract void if the E/A does not remedy the breach within ten days after receipt of notice of breach from the OWNER.

7.13. Indemnity.

E/A AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER, OWNER'S OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST LIABILITY FOR LIENS, DEMANDS, AND DAMAGES FOR INJURIES TO PERSONS INCLUDING DEATH, PROPERTY DAMAGE INCLUDING LOSS OF USE, AND EXPENSES, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES IN PROPORTION TO E/A'S LIABILITY, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONAL TORTIOUS ACTS OR OMISSIONS OF E/A, E/A'S SUBCONSULTANTS, AGENTS, OR ANYONE FOR WHOSE ACTS THE E/A OR SUBCONSULTANT MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIMS OR DAMAGES OCCURRED ON PROPERTY BELONGING TO THE OWNER. THE E/A'S INDEMNIFICATION OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

7.14. Certificate of Interested Parties.

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval. If required, the Certificate of Interested Parties (Form 1295) shall be attached as Exhibit "E".

7.15. Controlling Law.

This Agreement is to be governed by the law of the state of Texas. Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for actions in federal court. This provision shall supersede any other references in the Agreement.

If this Project includes construction activities to City-owned buildings or other public works, Exhibit "F" provisions shall be applicable.

7.16. Successors and Assigns.

7.16.1. OWNER and E/A each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and E/A (and to the extent permitted by paragraph 7.16.2 the assigns of OWNER and E/A) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.16.2. Neither OWNER nor E/A shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. 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 this Agreement. Nothing contained in this paragraph shall prevent E/A from employing such independent professional associates and consultants as E/A may deem appropriate to assist in the performance of services hereunder, provided such independent associates or consultants are approved in writing in advance by OWNER and are paid by E/A.

7.16.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and E/A, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and E/A and not for the benefit of any other party.

SECTION 8—SPECIAL PROVISIONS, SCHEDULES, AND EXHIBITS

8.1. Special Provisions.

Any other provisions of this Agreement or other documents included by reference herein to the contrary notwithstanding, the following provisions shall apply to this Agreement and the respective duties and responsibilities of OWNER and E/A affected thereby:

8.1.1. As to the contractual relationship between E/A and OWNER, E/A is and shall be considered in all things an independent contractor.

8.1.2. OWNER reserves the right, with E/A's agreement, to consolidate any and all phases of performance set out in the standard form contractual documents. The consolidation of said services shall not in any way affect the E/A's responsibilities to perform the services set out therein.

8.2. Exhibits.

The following exhibits are attached to and made a part of this Agreement:

- *Exhibit A - E/A's Scope of Service,*
- *Exhibit B - E/A's Project Schedule,*
- *Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees,*
- *Exhibit D - Certificate of Insurance and Endorsements,*
- *Exhibit E - Certificate of Interested Parties (Form 1295) (if required),*
- *Exhibit F - Procedure for Correcting Construction Defects (Applicable only to construction contracts affecting City-owned buildings and other public works)*

Provided, however, that where the terms and provisions of the above-referenced exhibit(s) shall conflict with the terms and provisions of this standard contract, this standard contract shall control. **However, if Exhibit "F" is applicable, provisions therein shall control over any other conflicting provisions.**

8.3. Entire Agreement.

8.3.1 This Agreement, together with the exhibits and schedules identified above, constitute the entire Agreement between OWNER and E/A and supersede all prior or oral understandings.

8.3.2 This Agreement and said exhibits and schedules may only be amended, supplemented, modified or canceled by a duly executed written instrument.

8.4. Effective Date.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

8.5. Severability.

The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

8.6. Waiver.

The waiver of any breach of a term or condition of this Agreement does not waive any other breach of that term or condition or any breach of any other term or condition of this Agreement.

8.7. Notices.

Any notices provided under this Agreement shall occur in writing, by certified or registered mail delivery, receipt requested. For purposes of such notice, the addresses of the parties, until changed by written notice, shall be:

E/A:
Halff Associates, Inc.
Attn: Michael Medford, PE
Suite 117

OWNER:
City of Tyler
Attn: Kate Dietz, PE
P.O. Box 2039
Tyler, TX 75710

8.8. Venue.

Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for action in federal court. This provision shall supersede any other references in the Agreement.

(The remainder of this page was left blank intentionally.)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

FOR THE CITY OF TYLER, TEXAS:

ATTEST:

By: _____
City Manager Date

Edward Broussard
Printed Name

By: _____
City Clerk

Cassandra Brager
Printed Name

APPROVED:

By: _____
City Attorney's Office Date

_____
Printed Name

RECOMMENDED:

By: _____
Department Leader Date

_____
Printed Name

CITY COUNCIL APPROVAL:

AGENDA ITEM NUMBER: _____
DATE APPROVED: _____

FOR THE E/A:

By: _____

Enter title of signer Date

Enter printed name

Printed Name

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who is known to me, or who was proved to me through _____ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____

Notary Public In and For The State of Texas

My Commission Expires: _____

_____

Notary's Printed Name

INDEX OF EXHIBITS

Exhibit A - E/A's Scope of Service

Exhibit B - E/A's Project Schedule

Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

Exhibit D - Certificates of Insurance and Endorsements

Exhibit E - Certificate of Interested Parties (Form 1295) (If Required)

Exhibit F – Procedure for Correcting Construction Defects
(Applicable only to construction contracts affecting City-owned buildings and other public works)

Exhibit A - E/A's Scope of Service

EXHIBIT A
SCOPE OF SERVIC

I think we need a new name for this project: Upper Pressure Plane Elevated Storage Tank (EST) and Transmission Main Design?

CITY OF TYLER
Pressure Plane Planning and Elevated Storage Tank (EST) and Transmission Main Design
March 8, 2024

Project Introduction and Understanding

Following an initial meeting with the design team and the City of Tyler on Wednesday, January 31, 2024, Halff has developed a scope of work for the proposed planning and improvements associated with this project.

This project will be divided into three parts: an initial analysis/conceptual design phase, a design and construction documents preparation and site identification phase, and a bid assistance, construction administration, and construction inspection phase. All these tasks are included in the scope of work described below.

This project is a somewhat modified component of the Capital Improvement Projects Program outlined in the recently-completed City of Tyler Water Model and Master Plan. Halff will use the analyses of the existing City of Tyler water system and other newly-completed projects to identify a location for the proposed elevated storage tank (EST) and transmission main(s). The objective will be to assist the City of Tyler in selecting the option for the establishment of a new pressure plane and location of a new EST, accounting for how the present planning and design will affect the City's ability to develop future pressure planes and implement related infrastructure. Following the evaluation of the analyses conducted during the initial tasks of this project, Halff and the City of Tyler will determine which design option meets the City of Tyler objectives.

The construction documents will be produced in two sets: one will pertain to the design for the proposed EST and the other will account for transmission lines and other related water distribution infrastructure. Halff will provide bid assistance services as well as construction administration and construction services for the duration of construction for each bid set.

Work to be Performed

- Task 1: Project Meetings
- Task 2: Project Management
- Task 3: Site Identification and Analysis
- Task 4: Preliminary Design and Analysis
- Task 5: Elevated Storage Tank Design
- Task 6: Transmission Main/Infrastructure/Appurtenances Design
- Task 7: Structural Engineering
- Task 8: Electrical and Information Communication Technology (ICT) Engineering
- Task 9: Field Survey Services
- Task 10: Subsurface Utility Engineering (SUE) Services
- Task 11: Geotechnical Engineering Services
- Task 12: Environmental Services

- Task 13: Corrosion Protection Services (EST yard piping)
- Task 14: Corrosion Protection Services (Transmission Mains)
- Task 15: Bid Administration Services
- Task 16: Construction Administration Services
- Task 17: Construction Inspection Services (Excluding EST)
- Task 18: Tank Construction Inspection and Materials Testing Services (EST)

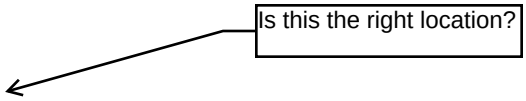
SCOPE OF WORK

TASK 1: Project Meetings

1. Meetings - This task includes regular meetings with the design team and the City of Tyler for project design collaboration and troubleshooting, status updates, and project management decision making. Design coordination with the City of Tyler along with collection of requisite information pertinent to the design of the proposed improvements are also included in this task. These meetings may take place in person or virtually through Microsoft Teams.

2. For the purposes of this scope of work, Halff will assume one (1) project kickoff meeting and bi-weekly status update meetings ending with the award of the project(s) and commencement of construction. These meetings will be included in a lump sum fee. Meetings held in addition to those described above that are associated with this task will be billed on an hourly basis, as the total number and length of meetings may vary greatly and is not possible to determine.

TASK 2: Project Management



1. Field Visits – This item includes visits to Downtown Tyler to photograph and measure existing elements and optically verify record drawings and location data supplied by the City of Tyler.

2. Progress Reports and Invoicing – This task includes review and preparation of monthly progress reports and invoices.

3. Project Schedule Preparation – This task includes the preparation of an overall project design schedule for review by the City of Tyler. The proposed project schedule may be found in **Exhibit B.**

4. TCEQ Permitting Coordination – This task incorporates coordination/collaboration with the Texas Commission on Environmental Quality (TCEQ) to obtain requisite permits for this project.

5. Miscellaneous Project Management/Coordination – This item includes all phone calls, conference calls, email correspondence, internal team coordination, project scheduling and updates, and online meetings necessary for the completion of the project with the City of Tyler and/or other stakeholders or authorities having jurisdiction.

TASK 3: Site Identification and Analysis

At the City of Tyler's request, Halff will engage in public relations and coordination with property owners related to EST site selection and transmission main. This task will be performed on a time and materials basis.

We may want to replace all refrences to the "Frankston EST" with New EST Location. We do not know if we will call this the Frankston EST or not.

TASK 4: Preliminary Design and Analysis

1. The purpose of the preliminary design will be threefold. First, the refurbishment and recommissioning of the Shiloh Road EST necessitates an update to the proposed Upper Pressure Plane (UPP) as envisioned by the recent Water Distribution Master Plan. As part of the UPP revision, 3 possible EST sites for the Frankston EST location will be identified. The second major task of the preliminary design will be to evaluate those potential EST locations. In conjunction with CITY staff, a prioritized list of those 3 potential sites will be prepared for land acquisition (by others). The final step, once a revised plan to create an Upper Pressure Plane 1 (UPP1 – based upon the Shiloh Road EST at an overflow elevation of 756 feet) and Upper Pressure Plane 2 (UPP2 – based upon the Franklin EST at an overflow elevation of 770 feet) are finalized and approved, will be to develop a Preliminary Engineering Technical Memorandum that will set the direction for the surveying, geotechnical investigations, final design, and construction phases for the Frankston EST and associated transmission main project. The specifics of the Frankston EST height and volume, and transmission main alignment and length cannot be fully known or confirmed until the pressure plane plan can be updated, and an exact location for the EST finalized. This scope assumes a 1.0 MG capacity. Given the time necessary for EST property acquisition, the EST height and volume will be estimated based upon the the preferred location. In addition to the items within this Task, the results of the subsequent Tasks below will also inform the direction of the remainder of the project, subject to a later finalization based upon the actual EST site location acquired. The Consultant shall perform preliminary design to determine, assess, and evaluate options and alternatives for the Frankston EST and its appurtenant improvements, present these options and alternatives to the CITY, and provide a recommended final design solution based on concurrence from the CITY. Preliminary design shall include, but not be limited to, the following:

a. Conduct up to three (3) workshops with CITY staff to discuss the following items, in addition to other items as indicated by the CITY:
    i. Hydraulic model results
    ii. Proposed revisions to the Upper Pressure Plane into the UPP1 and UPP2
    iii. Frankston EST height and volume confirmation
    iv. Alignment alternatives of the proposed transmission main
    v. Three EST sites
    vi. Site plan development
    vii. Water system connectivity and hydraulics
    viii. Existing and proposed operation and controls
    ix. EST features and appurtenances selection
    x. Electrical/SCADA/Instrumentation
    xi. Site access and on-site civil improvements
    xii. Site security
    xiii. Drainage and detention requirements
    xiv. Agency and permitting requirements

xv. Risk identification and mitigation
xvi. Operational start up timing/plan

b. Utilize the CITY's existing water system hydraulic model to finalize the proposed elevated storage tank's height, volume, and system integration. Also utilize the existing model to conduct a high-level evaluation of the proposed tank's effect on water age that could lead to elevated levels of disinfection byproducts. Halff will assess tank mixing and on-site disinfection boosting equipment as a part of this scope of work, but treatment methods beyond those are outside of this project are not included in this scope of work.
    i. Master Plan Update
        1. Collect and review plans, as-builts, etc. for the recent Shiloh Road EST refurbishment project from the CITY, plus any other newly-completed projects that would impact the UPP area.
        2. Utilize CITY forces to conduct an investigation to determine and confirm the valves that are currently maintaining the boundary of the existing Troup Pressure Plane and provide the results of that investigation for inclusion in the model. This investigation will be schedule-critical and will be needed prior to conducting the preliminary engineering modeling.
        3. Utilize CITY's existing calibrated water model including existing and future demand scenarios. No changes or calibration efforts are to be made to the model files – they will be used as is, other than to update the model related to the most recent data regarding the Shiloh Road EST, other newly-completed projects in the UPP area, and the results of the Troup Pressure Plane valve investigation. Development of any additional model demand scenarios beyond those provided, or calibration of the model would be an additional service.
        4. Utilize the existing and future system models to redefine and redelineate the Upper Pressure Plane into UPP1 and UPP2.
        5. Run the existing and future system models and document the results for key hydraulic performance standards across all demand scenarios. This step establishes the benchmarks to evaluate tank sizing options.
        6. Use the model to determine preferred settings for controlling the Troup Booster Pump Station off of Frankston EST water levels.
        7. The hydraulic model will be used to determine an appropriate volume and operating levels to meet the intended purpose of the proposed EST (i.e. regulatory capacity requirements, peak hour and fireflow needs) and improve system hydraulic performance.
            a. It is assumed that the required volume for the Frankston EST is 0.6 to 1.0 MG, but will be confirmed by this task. Additionally the Project will evaluate the possibility of "oversizing" the Frankston EST. The City has expressed concern about meeting peak hour demands. This oversizing evaluation will include the following components:

i. Model runs to assess the impact of peak hour demands on the UPP2
ii. Determine the impact of a oversized tank volume in mitigating issues in meeting peak hour demand.
iii. Analyze the impact of an oversized tank of water age.
iv. Determine and document pros and cons of oversizing.
v. Determine the difference in construction cost for a larger tank. Only one larger size alternative will be considered.

8. Using the updated model, evaluate the new pressure plane configuration to determine if water age will be an issue. This will be accomplished by running a water age model scenario which simulates the possibility of low disinfection levels in the pressure plane system. Adjust system components, such as tank size, pressure plane size, and pipeline size/length, if needed to reduce water age.
9. Identify 3 alternatives for the Frankston EST location.
10. With support of the revised plan model, determine an operational plan to stepwise start up the new UPP2 plane and its associated EST and BPS. Note that the operational start up plan may recommend the closing of valves at key locations. Some of those locations may not currently have valves, or existing valves may be found to be inoperable. Design of up to 3 valve insertions is included in these basic services.
11. Based upon the new Upper Pressure Plane plan devised as part of this task, HALFF will revise and update the CIP project listing and timing based upon the new plan. Some projects listed in the Master Plan CIP will no longer be needed, and some may need modification. Generally, this update will be limited to the need and timing of projects – the existing cost estimates for these projects included in the Master Plan will NOT be updated, unless the size of the project changes. New projects now needed that were not previously included in the Master Plan will include a cost estimate developed here, using unit costs from the recent master plan update.
12. This analysis, results, and recommendations will be documented in a Master Plan Update Technical Memorandum. A draft version will be provided to CITY staff for review. Staff comments will be addressed and a final version produced.

i. Identify Potential Frankston EST Locations
    1. Preliminary Site Plan - Generic
        a. Halff will prepare a generic site plan for the proposed improvements based upon the Master Plan Update task

above. The site plan will comply with applicable area ordinances.

b. The site plan will be CAD-drafted and will graphically depict:
    i. Location of existing and/or required buffers and setbacks;
    ii. Location and layout of access drive(s) and parking;
    iii. Location of all required buildings;
    iv. Location of the elevated storage tank
c. Inclusion of the design and location of (3) new valves or PRVs in the event that existing valves or PRVs are absent or inoperable.
d. Evaluation criteria for the possible sites will be identified and will be finalized with input from the City. Criteria will likely include land cost factors, lot size, access, power availability, site work need, existing easements and utilities, existing structures or improvements, floodplain boundaries, drainage impacts, FAA clearance, among others. Then information about these criteria for each possible sites will be collected. Sources will include the local appraisal district, staff knowledge, local Halff knowledge, land acquisition expert knowledge, and other sources. Based upon this, up to 3 possible sites will be determined for further consideration. The 3 possible sites will be further evaluated and prioritized. A workshop will be held to determine the 3 sites in order. For the three finalist sites, shadow studies will be conducted to determine potential negative impacts related to the tank's shadow. For the final selected site, 3D renderings of up to 3 perspective views of the tank on the site will be provided to the City for use in various meetings.

"required site work"

Are there geotec considerations to be accounted for at this point? Possible cost savings if one site requires significantly less geotec improvements? Is this

2. A Technical Memorandum documenting the site selection process will be prepared. The three candidate sites will be conveyed to the City's Land Acquisition team to begin the process of acquiring a site for the EST.

i. Preliminary Engineering Technical Memorandum
    1. For the proposed EST, the following will be documented:
        a. Tank volume required
        b. O/F elevation required
        c. Estimated tank height range, as determined from the range in elevation of the three candidate sites.
        d. Required site improvements
        e. Estimated construction cost
    2. For the proposed transmission mains, the following will be documented:
        a. Pipe diameter
        b. Recommended pipe material(s) and pressure ratings

c. Recommended alignment CAD file and map. The following transmission mains are including in this project, as devised by the Master Plan as necessary to establish the UPP2 and to connect the Frankston EST to the system
    i. Frankston EST area:
        1. A3-UP-1 (16") – 350 LF.
        2. Piping to connect Frankston EST to existing 16" main near Old Noonday Road - preliminarily aligned to all three EST locations, then finalized once final EST location known. Preliminary design will confirm diameter, and alignment/length to be finalized once EST location determine. Assumed to be 12" and a maximum length of 2,000 LF.
        3. To increase elevated storage capacity in Primary PP: B1-UP-1.1a (8"). 830 LF.
        4. To increase elevated storage capacity in Primary PP: B1-UP-1.2b (8"). 490 LF.
        5. A3-UP-5 (8"). 1,170 LF.

Easement acquisition for transmission? or is the intent to be located in the ROW?

d. Recommended locations of isolation valves, air release valves, and other appurtenances.
e. Estimated construction cost

3. Prepare a technical memorandum documenting the known and estimated parameters noted above. Deliver one electronic PDF file and up to 3 hard copies of the memo. Model files will also be delivered.
4. Once the actual EST site is known, certain documented attributes in this TM will be updated during the design phase, including the final tank height and the transmission main alignment from the EST site to the edge of the target area, and the estimated construction costs for both.

Task 4: Preliminary Design and Analysis Deliverables

- Master Plan Update Technical Memorandum
- Map of Targeted Area for the EST site, showing the three preferred locations.
- Revised hydraulic model files
- Potential Frankston EST Site Locations Technical Memorandum
- Preliminary Engineering Technical Memorandum

Task 4: Preliminary Design and Analysis Assumptions

- Task 4 is limited to what can be analyzed with the target area for the proposed EST. Once the actual site is known/acquired, then the Design tasks alone will revise and complete the preliminary design.

- Results from Task 4 will be used to begin the City's land acquisition process with the top three recommended site alternatives.
- The boundaries and transmission mains associated with the eastern portion of the Upper Pressure Plan (that associated with the Shiloh Road EST, described here as UPP 1), will be further studied and designed by others.
- This scope does NOT include the services of utilizing technology inserting in pipelines to determine the Troup service boundaries or any other pipeline inspection. Services of that type would be an Additional Service.

Task 5: Elevated Storage Tank Design

EST Conceptual Level Design (30% Design Documents)

The 30% Design Documents will be submitted to the City of Tyler for review and comment according to the Project Schedule (**Exhibit B**). The Conceptual Design will include the following items:

- Site-specific planning and design
  - Update the generic site plan developed in Task 4 based upon the specifics of the acquired EST site. Schematic site plan with EST location, related yard piping and appurtenances, and site features (i.e. fencing, paving limits, concept-level grading and drainage, etc.).
- Develop specific EST design
  - Confirm proper elevation(s) for EST (based upon analysis from **Task 4**), and update the tank height based upon the specifics of the acquired tank site.
  - Confer with City on tank operations, tank sizing, construction requirements, operations of the facility, SCADA/instrumentation/communication needs for integrating this tank into the system, facility needs, and plans and requirements for winterization of the facility.
- Preliminary Technical Specifications Outline
  - Piping, valves, fittings, restraints
  - Elevated storage tank and appurtenances
  - Site work, paving, grading
- Preparation and Submission of FAA Documents for Approval
  - Prepare and submit FAA Form 7460-1 with schematics, profiles, and elevation data.
  - Coordinate reviews and approvals with FAA.

Preparation of updated opinion of probable construction cost.

Conceptual Level Design (30% Design Documents) Assumptions

- Halff will begin 60% Design Documents when the City's review and comments from the 30% submittal have been reviewed and addressed.
- Conceptual design will not commence until the specific single site for the development of an EST has been conclusively selected.

EST 60% Design Documents

The 60% phase will serve to further develop the design documents by adding elements and City comments to the plan set. A 60% milestone quantities takeoff and opinion of probable construction costs (OPCC) will be prepared as a part of this task. The following summary outlines the tasks included in this phase:

- Cover Sheet

- Project Control Sheet, showing all Control Points, used or set while gathering data. Generally on a scale of not less than 1:400. The following information shall be indicated for each Control Point: Identified (existing City Monument #8901, PK Nail, 5/8" Iron Rod); X, Y and Z Coordinates, in an identified coordinate system, and a referred bearing base. Z coordinate on City Datum only; descriptive location (i.e. set in the centerline of the inlet in the South curb line of North Side Drive at the East end of radius at the Southeast corner of North Side Drive and North Main Street).
- Overall project easement layout sheet(s) with property owner information.

- Overall project water and/or sanitary sewer layout sheets. The water layout sheet shall identify the proposed elevated storage tank improvements and all water appurtenances along with pressure plane boundaries, water tanks, valves, and fire hydrants.

- Bearings - given on all proposed centerlines, or baselines.

- Station equations - when appropriate.

- Plan and profile sheets which show the following: proposed elevated storage tank site plan and improvements, yard piping plan/profile and recommended pipe size, fire hydrants, gate valves, isolation valves, existing utilities and utility easements, and all pertinent information needed to construct the project.

- Site and Dimensional Control Plan

    - Prepare updated detailed Site Plan. Site plan to include verifications for fire truck access, fire hydrant locations, typical maintenance vehicle access, and parking.
    - Illustrate alignment and locations of yard piping and valves, limits of paving, security fencing.
    - Prepare dimensional control plan with control points, benchmarks for construction, providing detailed coordination for key construction components including pipe fittings, valves, paving, borings, electrical components including conduits, and security fencing.
    - Provide specific coordinates on all P.C.'s, P.T.'s, P.I.'s, valves, vaults, mainline fittings, etc., in the same coordinate system as the Control Points.
    - Minimum of two benchmarks for the elevated tank site, and a minimum of one benchmark per 1,000 ft of temporary access route (if needed).

- Erosion Control Plans and Stormwater Protection Plan

- Site Utility Plans - Prepare detailed utility plan for onsite piping, dry and wet utilities as noted below:

- Water System – identify locations, alignments and sizing of yard piping, valves, connections to off-site transmission mains, disinfection connections, restraint lengths, details, construction notes.
- Electrical System – Illustrate locations and alignments of electrical components, including transformers, conduits, control boxes, etc. Coordinate with Halff's Electrical/SCADA consultant to show all components on civil plans, general notes and related details.
- Corrosion and Cathodic Protection – Coordinate with the Halff's subconsultant for their final report on the soil characteristics and design of the corrosion protection systems for the yard piping. A cathodic protection system for the tank itself is not anticipated, and corrosion protection of the tank will be accomplished by coatings and materials selections.

- Site Grading and Paving Plans for Elevated Storage Tank Site
  - Prepare detailed grading plan, estimating cut and fills, spot elevations for site work, edges of paving structures, curbing, grading, drainage patterns, detention pond (if required), and outfall.
  - Prepare site drainage study, detention pond design (if required), and report.
  - Provide support calculations for design of detention pond for review and approval by the City.
  - Prepare site paving plan reflecting types and thickness of pavement, locations of curbs, drainage inlets and catch basins, elevated tank overflow basin, and outfall.
  - Prepare layout of security fencing, access drive, and security gate.
  - Identify areas of erosion matting materials.
  - Illustrate limits of clearing of vegetation, tree protection plans.
  - Prepare limits and types of re-vegetation of disturbed areas.
  - Provide construction details of paving, curbing, grading, access road, tree protection, re-vegetation, fencing and access gate.

- Detailed Construction Plans for Elevated Storage Tank
  - Prepare schematic design of elevated storage tank to accommodate bidding by multiple tank manufacturers.
  - Prepare elevated tank details for construction to include the following. Details will be performance-based, with the selected tank manufacturer providing final detailed design of the tank and appurtenances.
    - Vertical tank profiles reflecting overall heights, bowl dimensions, interior piping
    - Altitude control valve with fittings, isolation valves, sensors, pressure gauges, sample ports, conduit locations, with details for installation and operations
    - Details for upper tube access, roof construction items including access hatches, security railing, aviation lights, conduits, special coatings for personnel access
    - General construction notes required TCEQ construction notes, construction standards, logo details and dimension as appropriate.

Is this consistent with other locations? is natural gas available in the area for power conversion technology?

- Electrical Distribution and Control
  - Coordination with the Power Company for new service
  - No standby generator
  - Lighting for tank exterior, interior, and FAA obstruction
  - Lightning protection (a performance spec)
  - Power to cathodic protection impressed current rectifier (if applicable for the yard piping;cathodic protection design

- Instrumentation and Controls
  - Instrumentation
    - Level, flow, and pressure analog instruments
    - Intrusion alarms
  - Motorized butterfly valves
  - Altitude valve
  - PLC cabinet
  - Remote communications

- Security
  - Motorized gate
  - Access card readers
  - Security cameras and DVR
- Technical Specifications
  - Prepare technical specifications for yard piping, valves, elevated storage tank (performance specification), interior piping, altitude valves, control valve(s), internal valves, civil controls, paving, curbs, sidewalks, pavement marking, security fencing, gates, access, erosion protection and SWPPP requirements, concrete, grading, trench excavation and compaction, and tree removals and protection.
  - Prepare Special Conditions to the contract for review by the City.
  - Prepare bid proposal form.
  - Prepare updated Opinion of Probable Construction Cost for review.
  - Prepare updated project schedule for review and comment.

EST 60% Design Documents Assumptions

- Halff will begin 90% Design Documents when the City's review and comments from the 60% submittal have been reviewed and addressed.
- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

EST Final Design Documents (90%) and Final Construction Documents (100%)

This phase will serve to finalize development of the design documents by adding elements and City comments to the plan set, with the objective being the issue of a final set of construction documents for bidding and construction. A final quantities takeoff and opinion of probable construction costs (OPCC) will be prepared as a part of this task and will be used to develop bid documents. The following summary outlines the tasks included in this phase:

- For projects that disturb an area greater than one (1) acre, the Contractor will be responsible for preparing and submitting the Storm Water Pollution Prevention Plan (SWPPP) with appropriate regulatory agencies.
- Draft Final plans (90%) and specifications shall be submitted to City per the approved Project Schedule.
- Following a 90% construction plan review meeting with the City, Halff shall submit Construction Documents (100%) to the City per the approved Project Schedule (**Exhibit XX**). Each plan sheet shall be stamped, dated, and signed by Halff licensed in State of Texas.
- Halff shall submit a final design estimate of probable construction cost and quantities takeoff with both the 90% and 100% design packages.
- 90% Design Submittal to TCEQ

Submit a sealed copy of the 90 percent design set that includes the updated Engineering Report, drawings, and technical specifications. Provide prompt responses to TCEQ comments to secure TCEQ approval for construction documents.

EST Final Design Documents (90%) and Final Construction Documents (100%) Assumptions

- Halff will begin 90% Design Documents when the City's review and comments from the 60% submittal have been reviewed and addressed.
- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Task 6: Transmission Main/Infrastructure/Appurtenances Design

Transmission Main Conceptual Level Design (30% Design Documents)

The 30% Design Documents will be submitted to the City of Tyler for review and comment according to the Project Schedule (**Exhibit XX**). The Conceptual Design will include the following items:

- The following transmission mains are to be designed:
  - Frankston EST area:
    - A3-UP-1 (16") – 350 LF.
    - Piping to connect Frankston EST to existing 16" main near Old Noonday Road - preliminarily aligned to all three EST locations, then finalized once final EST location known. Preliminary design will confirm diameter, and alignment/length to be finalized once EST location determine. Assumed to be 12" and a maximum length of 2,000 LF.
    - To increase elevated storage capacity in Primary PP: B1-UP-1.1a (8"). 830 LF.
    - To increase elevated storage capacity in Primary PP: B1-UP-1.2b (8"). 490 LF.
    - A3-UP-5 (8"). 1,170 LF.
- Upon conclusive selection of the tank site the design of the piping to connect the Frankston EST will proceed. One bid set will be prepared for the entirety of the transmission mains.
- Schematic drawings showing proposed transmission main alignments, right-of-way lines, streets and highways, public and franchise infrastructure, driveways, and existing topography
- Preliminary Technical Specifications Outline
  - Piping, valves, fittings, restraints
  - Trenching and bedding of large diameter pipes
  - Paving and pavement repair

Do we want to put new lines in ROW or Easements? Are there any plans to widen COT or TxDOT roads?

Transmission Main Conceptual Level Design (30% Design Documents) Assumptions

- Halff will begin 60% Design Documents when the City's review and comments from the 30% submittal have been reviewed and addressed.
- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Transmission Main 60% Design Documents

The 60% phase will serve to further develop the design documents by adding elements and City comments to the plan set. A 60% milestone quantities takeoff and opinion of probable construction costs (OPCC) will be prepared as a part of this task. The following summary outlines the tasks included in this phase:

- Project Control Sheet - showing all Control Points, used or set while gathering data. The following information shall be indicated for each Control Point: Identified (existing City Monument #8901, PK Nail, 5/8" Iron Rod); X, Y and Z Coordinates, in an identified coordinate system, and a referred bearing base. Z coordinate on City Datum only; descriptive location (i.e. set in the centerline of the inlet in the South curb line of North Side Drive at the East end of radius at the Southeast corner of North Side Drive and North Main Street).
- Overall project easement layout sheet(s) with property owner information.
- Overall project water and/or sanitary sewer layout sheets. The water layout sheet shall identify the proposed water main improvement/ existing water mains in the vicinity and all water appurtenances along with pressure plane boundaries, water tanks, pump stations, valves, and fire hydrants. Potential sanitary sewer conflicts will be identified and necessary relocations/adjustments noted.
- Coordinates on all P.C.'s, P.T.'s, P.I.'s, manholes, valves, mainline fittings, etc., in the same coordinate system as the Control Points.
- Benchmarks – one benchmark per 1,000 ft of plan/profile sheet.
- Bearings given on all proposed centerlines, or baselines.
- Station equations relating utilities to paving, when appropriate.
- Plan and profile sheets which show the following: proposed water and/or sanitary sewer plan/profile and recommended pipe size, fire hydrants, water service lines and meter boxes, gate valves, isolation valves, manholes, existing meter numbers and sizes that are to be replaced, existing sample locations, existing fire line locations, existing utilities and utility easements, and all pertinent information needed to construct the project. Legal description (Lot Nos., Block Nos., and Addition Names) along with property ownership shall be provided on the plan view.
- Halff will prepare standard and special detail sheets for water line installation and sewer rehabilitation or replacement that are not already included in the City's standard details. These may include connection details between various parts of the project, tunneling details, boring and jacking details, waterline relocations, sanitary sewer relocations, details unique to the construction of the project, trenchless details, valve vault details and thrust blocking details.

Transmission Main 60% Design Documents Assumptions

- Halff will begin 90% Design Documents when the City's review and comments from the 60% submittal have been reviewed and addressed.
- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Transmission Main Final Design Documents (90%) and Final Construction Documents (100%)

This phase will serve to further develop the design documents by adding elements and City comments to the plan set, with the objective being the issue of a final set of construction documents for bidding and construction. A final quantities takeoff and opinion of probable construction costs (OPCC) will be prepared as a part of this task and will be used to develop bid documents and serve as useful information to the City. The following summary outlines the tasks included in this phase:

- For projects that disturb an area greater than one (1) acre, the Contractor will be responsible for preparing and submitting the Storm Water Pollution Prevention Plan (SWPPP) with appropriate regulatory agencies.
- Draft Final plans (90%) and specifications shall be submitted to City per the approved Project Schedule.
- Following a 90% construction plan review meeting with the City, Halff shall submit Construction Documents (100%) to the City per the approved Project Schedule. Each plan sheet shall be stamped, dated, and signed by an engineer licensed in State of Texas.
- Halff shall submit a final design estimate of probable construction cost and quantities takeoff with both the 90% and 100% design packages.

Task 6: Transmission Main/Infrastructure/Appurtenances Design Deliverables

- One (1) .pdf copy of the Draft (90%) and Final (100%) design documents drawing package.
- Paper copies of these documents will be provided upon request
- Draft (90%) and Final (100%) design document quantities takeoff and OPCC
- Draft (90%) and Final (100%) Project Manual

Need to generate materials and compaction needs for transmission mains. What do other owners do to ensure proper compaction on long stretches of pipe?

6: Transmission Main/Infrastructure/Appurtenances Design Assumptions

- Contractor will be required to prepare, submit, and implement the SWPPP for this project.
- Any submittals beyond the Draft (90%) and Final (100%) Design Documents are not included in this scope of work and would be performed under an additional services agreement.

Task 7: Structural Engineering

Included in Halff's scope of work for this project is the structural design for up to three (3) valve vaults associated with the proposed transmission mains serving the proposed EST and connecting into the existing water distribution system. Vault dimensions will be determined through the use of interior dimensions developed as a part of the design of the transmission mains (**Task 6**). Geotechnical recommendations (by others) will also guide the structural design elements of this project. The Structural Engineering scope of work for this project is as follows:

- Prepare up to three (3) valve vault design plans, elevations, and structural details.
- Prepare splash pad plans and sections.
- Prepare general construction notes.

- Prepare an estimate of probable construction costs for the above items.
- Construction administration services will include: shop drawing review, responses to requests for information (RFIs), and the review up to four (4) submittals from the EST manufacturer and email/telephone correspondence.

Task 8: Electrical and Information Communication Technology (ICT) Engineering

Halff will provide electrical and ICT engineering as a part of this scope of work. The services include in this task are described in greater detail below.

Electrical Engineering Services

- Preliminary Engineering
  - Electrical Site Plan Coordination – site plan will consist of electrical service entrance requirements, area lighting, grounding, pull boxes, and underground conduit/wiring requirements.
  - Coordination with electrical utility company for required power to new structure.
  - Identify existing City of Tyler SCADA and instrumentation standards.
  - Identify existing City of Tyler site electronic security standards.
- Intermediate Electrical Design
  - Intermediate design of interior lighting. Photometrics will be performed based on the IESNA recommended values for this type of facility. Design of lighting control systems will be provided.
  - Intermediate design of electrical power distribution systems. Coordination of electrical panel schedules.
  - Intermediate design of electrical circuitry for lighting, instrumentation, and general purpose receptacles will be provided.
  - Intermediate design of electrical one-line diagram.
  - Intermediate coordination of elevated storage tank electrical elevation details.
  - Voltage drop calculations.
  - Intermediate design of SCADA power, tank instrumentation, and controls.
  - Preparation of electrical drawings for a 60% submittal.
- Final Electrical Design
  - Final design of interior lighting and lighting control systems will be provided.
  - Final design of electrical power distribution systems. Final electrical panel schedules with short circuit KAIC capacities will be provided.
  - Final design of electrical circuitry for lighting, instrumentation, surveillance systems, and general purpose receptacles will be provided.
  - Final elevated storage tank electrical elevation details.
  - Final design of grounding and bonding system.
  - Final lightning protection performance specification.
  - Final one line diagram.
  - Inclusion of typical electrical details.
  - Inclusion of final electrical specifications.
  - Final electrical power plans for SCADA panel, tank instrumentation, and controls design.
  - Preparation of electrical drawings for a 100% (bid set) submittal.

Instrumentation and Controls Engineering Services

- Preliminary Engineering
  - Coordination with Owner and Owner's preferred SCADA vendor for SCADA hardware and software preferences.
- Final Engineering
  - Develop instrumentation technology requirements to be used in the project such as level, flow, chlorination, and pressure analog instruments. This task also includes SCADA remote terminal unit intrusion alarms.
  - Develop a P&ID and loop diagrams.
  - Develop PLC cabinet power and controls cable schedule.

*Note: Items above will require information from the City of Tyler, SCADA vendor, and/or civil engineer to coordinate equipment required. Coordination with City's preferred SCADA vendor will also be required.

Information Communication Technology (ICT) Engineering Services

- Preliminary Engineering
  - Coordination with City of Tyler on preferred location of surveillance cameras, quantities, and types.
- Final Engineering
  - Develop an electronic security floor plan with surveillance camera locations, model numbers, security cabinet and installation requirement details.
  - Develop an access control floor plan with site access card reader locations, model numbers, and cabling requirements.

Bid Phase Services

- Halff will provide support to the City of Tyler for bidder questions during advertisement, bid addenda, and supporting documentation.

Construction Administration Support

- This construction administration services scope of work accounts for the project construction duration being approximately 12 months in length, requiring one (1) electrical site visit.
- Review electrical submittals and shop drawings for general conformance review with construction drawings.
- Review of RFIs.
- Conduct a punchlist walkthrough with the City of Tyler and general contractor for substantial completion acceptance. A punchlist report will be provided upon completion of this walkthrough.
- Review construction change orders and requests for information and provide recommendations.

Task 8: Electrical & Information Communication Technology (ICT) Engineering Deliverables

- 90% Construction Documents – this deliverable will include detailed electrical drawings for the City of Tyler's review and comment. This package will include edited specifications.

We have seen significant lead times for electrical equipment. Is this a concern regarding overall project schedule? Thoughts on ordering equipment early?

The City of Tyler's written approval will be required to proceed to the next deliverable milestone.

- 100% Construction Documents – this deliverable will include full electrical construction documents for advertisement of bids and construction.

Task 8: Electrical & Information Communication Technology (ICT) Engineering Assumptions

- Design of a backup generator system is excluded from this scope of work, but can be added upon the City of Tyler's request.
- A centrally-located SCADA system exists at one of the City of Tyler's facilities. The new EST remote terminal unit is to communicate with said SCADA system.
- It is assumed that the cellular signal at the site is adequate for the SCADA cellular communications design.
- Instrumentation equipment locations, types, and model numbers will be supplied by the City of Tyler.
- SCADA control panel design is excluded, or will be supplied by others.

Task 9: Survey Services

As a part of this scope of work, Halff will provide field survey services necessary for the successful completion of the design tasks described in this scope of work. A complete topographic field survey will be prepared for areas within the project limits and along the proposed alignments of water transmission mains (refer to **Exhibit X**). ALTA survey(s) and easement preparations may be necessary for any property acquisitions required for the construction of the proposed EST and/or transmission mains. Site platting and tasks related to filing plat(s) will also be included in this task. The scope of work for these services is more specifically described in **Exhibit Y**.

Task 10: Subsurface Utility Engineering (SUE) Services

This task is included should the needs for SUE services arise, due to unforeseen circumstances or incomplete or unavailable record drawings and data that would be critical to producing an accurate design. This task will not be billed if these services are not necessary for this project. SUE services are anticipated to include SUE Levels A and B.

The City of Tyler mentioned to Halff the possibility of using SUE to confirm Troup Pressure Plane boundaries and assist in locating valves and their dispositions. This particular task is currently included in the scope of work for this project, but can be extracted and considered a separate project, as directed by the City of Tyler.

Task 11: Geotechnical Engineering Services

Halff will contract a geotechnical engineer to provide field services and analyses for this project. The geotechnical engineer will perform soil investigations, field and laboratory tests, borings, related engineering analysis, and recommendations for determining soil conditions. In to the above investigations, boring and appropriate field analysis will be made at reasonable intervals along the transmission main alignment(s) for the contractor's use in determining soil conditions for preparing bids and the development of a trench safety plan.

Task 11: Geotechnical Engineering Services Assumptions

It is assumed that the geotechnical engineer will provide the following bore package for this project (covering both the EST site and borings along the transmission main alignment).

*It is assumed that the number of bores shown below correlate to a transmission main up to 2.5 miles long.

- (4) borings at an average bore depth of up to 75 feet per each bore
- (12) borings at an average bore depth of up to 25 feet per each bore
- (6) borings at an average bore depth of up to 10 feet per each bore

Will soil samples that could be used to develop proctors also be gathered at this point? This could help with density testing during construction if so.

TASK 12: Environmental Services

Halff will perform a Section 404 of the Clean Water Act Assessment (Section 404). An on-the-ground jurisdictional determination will be performed to identify the limits of waters of the United States, including wetlands along each alternative alignment. The jurisdictional determination will employ the use of GPS surveying techniques to map the edge of jurisdictional areas. Halff will complete necessary wetland data forms and take on-site photography for representative sites. A jurisdictional determination report consistent with the USACE "Procedures for Jurisdictional Determinations" (dated March 24, 2003) in addition to the "Interim Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Great Plains Region (Version 2.0)" will be prepared describing the methodology and results of the investigation. This study will determine potential project impacts and permitting responsibilities pursuant to Section 404.

The study will also include a literature review as it pertains to the potential presence of threatened and endangered species, and the presence of potential historic resources within the project site and transmission main corridor(s). These assessments are also necessary to fully identify potential permitting responsibilities under Section 404.

Task 13: Corrosion Protection Services (EST yard piping)

Halff will contract a corrosion protection consultant to provide designs and specifications related to corrosion protection on EST yard piping.

Task 14: Corrosion Protection Services (Transmission Mains)

Halff will contract a corrosion protection consultant to provide designs and specifications related to corrosion protection on proposed transmission mains.

TASK 15: Bid Administration Services

Halff will include the following tasks as a part of bid phase services for this project:

1. Assist the City in advertising for bids as required by law. The City of Tyler will place bid advertisements. Halff will distribute the contract/bid documents and construction plans to bidders.
2. Halff will respond to bidders' questions during the bidding process and keep a log of all inquiries.
3. Halff will issue addenda as needed during the bidding process and maintain a log of all addenda. These addenda will be incorporated into all affected project documents and released to bidders.

We typically have the engineer post the plans and specs on CIVCAST and respond to questions here and post needed addenda. City will post NTP in the paper.

Pre bid meeting to be conducted by Halff (y'all will have all the answers to the questions.)

Include a letter of recommendation and assist City in reviewing low bidders qualifications and experience on similar projects.

4. Halff will attend (1) pre-bid meeting, which will be arranged and conducted by the City of Tyler (this meeting is not included in the meetings described in **Task 1**).
5. Halff will attend the bid opening for this project and tabulate bids. The bid tabulation will be submitted to the City of Tyler for review and approval.
6. This scope of work accounts for two (2) bid packages. **The preparation of more than two (2) bid package will be considered an additional service and is not included in this scope of work.** An additional services agreement for this work would be required to prepare additional bid packages and would be issued to the City of Tyler for execution at the time of the additional services request.

TASK 16: Construction Administration Services

Halff will include the following tasks as a part of construction administration services for this project:

1. Assist the City in conducting a pre-construction meeting with the selected bidder during which the parties in attendance will discuss the project in detail prior to the commencement of construction.
2. During construction, Halff will perform the following tasks:
   - Coordination and correspondence with the contractor.
   - Review and approval of submittals from the contractor.
   - Respond to requests for information (RFIs).
   - Process pay applications received from the contractor.
   - Conduct site visits on an as-needed basis during the project's construction (minimum of one (1) visit per month by engineer of record).

We may need to develop start up language and involvement for having the tank go online.

Note: Meetings and site visits included in this task are not included in **Tasks 1 or 2.** These activities included in this task will be considered separate from those in earlier tasks.

TASK 17: Construction Inspection Services

Halff will include the following tasks as a part of construction inspection services for this project:

1. Halff will provide inspection services for this project on an **hourly, not-to-exceed basis**.
2. Halff will provide these services as they relate to the EST sitework, utilities, and appurtenances and construction related to the transmission main(s). Inspection of the EST itself is excluded from this task and will be delegated to a subconsultant that specializes in EST inspections (**see Task 18**).
3. Halff will conduct inspections with the frequency dictated by the City of Tyler. These inspections will be conducted in accordance with City of Tyler standards and requirements. Inspection services will include coordination of requisite laboratory and field testing and reporting. Inspection reports following each visit will be prepared and distributed to the City of Tyler and the contractor.
4. This scope of work assumes that inspections will occur an average of five (5) times per week, for an average duration of four (4) hours per inspection. In addition, inspections will take place as needed for project-specific construction activities, such as concrete pours, street base inspections, etc. This task also includes periodic inspection and documentation of the Traffic Control Plan (TCP) developed and implemented by the contractor. These inspections are anticipated to occur throughout the course of the

construction phase of this project (excluding the EST), which is assumed to be approximately two hundred forty (240) calendar days (8 months). Should additional inspection work be needed exceeding the not-to-exceed limit of the fee associated with this task, the City of Tyler will be consulted to discuss extending the limit on a time and materials basis.

5. Halff will coordinate construction materials testing for site work, utilities and appurtenances, and construction related to the transmission main(s). It is assumed that the construction contractor will be responsible for hiring and paying for the materials testing lab, who's selection will be subject to the City's approval.
6. This task includes project construction record keeping for the duration of construction.

Will there be a separate bid item for materials testing in the bid tab? We may want to discuss running this service through Halff in order to have more control.

TASK 18: Tank Construction Inspection & Materials Testing Services (EST)

Halff will contract Dunham Engineering as a subconsultant to provide construction inspectio the EST itself, along with specialized materials testing unique to ESTs. Their scope of se is described in greater detail below:

1. Provide periodic QA inspections during the construction period to ensure contract compliance.
2. Provide concrete materials testing, foundation nuclear density testing, and welding radiograph services, as required.
3. Provide written construction progress reports with photographs for each inspection.
4. Conduct a final inspection of the project once the project has been completed.

- Anticipated inspection effort includes attendance by the inspector at the pre-construction meeting and monthly progress meetings during construction. All quality assurance (QA) inspections will be performed by NACE-certified coating inspectors. Approximately one hundred (100) foundation, pedestal, surface preparation, coating, welding, appurtenance, and material testing inspections are anticipated to be performed, and are expected to be allocated as follows:
    - Foundation inspections 5
    - Pedestal inspections 25
    - Welding and Steel Erection Inspections 25
    - Coating Inspections 35
    - Appurtenances/Meetings/Materials Testing/Closeout 10
- Approximately twenty-five (25) welding quality assurance (QA) radiographs are expected to be performed in accordance with the plans and specifications as well as AWWA D107.
- Approximately thirty-six (36) quality assurance (QA) concrete testing samples will be taken. A nuclear density test will be performed on the matt-style foundation. All sampling and reporting will adhere to the requirements of the plans and specifications, TxDOT requirements, and ACI 318. Sampling is expected to be allocated as follows:
    - Test Panel 1
    - Foundation 4
    - Pedestal 23
    - Dome 2

- Dome Ring 1
- Pedestal interior flooring 1
- Drive and walkway 4

Written inspection reports with photographs will be provided to the City of Tyler. All photographs will be time-stamped and geo-tagged to ensure accurate reporting.

EXHIBIT A.1
EXCLUSIONS

CITY OF TYLER
Pressure Plane Planning and Elevated Storage Tank (EST) Design
March 8, 2024

The following services are not included in the scope of work for this phase of the project:

- Construction staking
- Quality control and materials testing services (other than listed as part of EST)
- Architectural design
- Preparation and filing of plats
- Request for a Conditional Letter of Map Revision (CLOMR) based on the conceptual hydraulic mitigation concept
- FEMA permitting (i.e., Letter of Map Revision (LOMR), etc.)
- Right of way acquisition services
- Preparation of right of way and/or easement documents
- Traffic Impact Analysis or any related traffic study
- Storm water detention design and plans
- Design of franchise utility relocations
- Special investigations involving detailed consideration of operations, maintenance, and overhead expenses; preparation of rate schedules, earning, and expense statements; special feasibility studies; appraisals, valuations; and material audits or inventories required for certification of force account construction performed by the Owner is excluded.
- Addressing client or agency comments beyond those identified in this scope.
- Assisting the City of Tyler in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
- Performing detailed investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
- Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the City of Tyler.
- Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.
- Detailed Traffic Control Plans
- Any submittals beyond what is described in **Exhibit A**
- Bidding the projects more than one (1) time.
- Separating the project into more than one (1) bid set.
- Any major changes after 60% design deliverable dates for the EST and the Transmission Mains

Revisit per previous comment.

Remove per Task 9

Remove per Task 9

Sheet 10 Site Grading and Paving Plans

2 bid sets?

EXHIBIT A.2
PROJECT MANAGEMENT PLAN

CITY OF TYLER
Pressure Plane Planning and Elevated Storage Tank (EST) Design
March 8, 2024

Halff Project Management Introduction

Halff is pleased to submit this Project Management Plan as a part of the scope of work draft documents to outline and highlight our firm's management approach and philosophy as it applies to this project, especially given its complex nature.

Halff is focused on the City of Tyler's ultimate objectives and desired outcome for this project and will strive to ensure a high-quality product which meets the City's purposes and fulfills each individual objective set forth in the project's scope. This is a project critical to progressively upgrading and expanding the City's water system and we are dedicated to assisting the City in successfully progressing through the stages of design and construction smoothly. We believe that a carefully developed project management plan and approach are critical in successfully managing a project of this magnitude and importance and have set forth the general outline of this plan in the paragraphs below.

General Project Overview (Project Management Approach & Philosophy)

Halff's approach to the management of our projects accounts for the tasks described in the project's scope of work based upon specific task descriptions, task durations, milestones, project team personnel and resources, and expenses. These items are integral parts of an overarching schedule of activities, which will be the guiding document utilized for the management of this project. This schedule will be maintained and updated during monthly project progress meetings to gauge actual project progress versus the projections found in the schedule.

- **Progress Reports**
  Project progress reports will be compiled and issued to the City of Tyler's project manager each month in conjunction with the regular project meetings, which will allow the City of Tyler to easily assess the project's status. These progress reports will provide descriptions of the tasks currently in progress and the work associated with those tasks that was completed during that period. Also included will be action items to be completed by each entity involved with the project, as well as projected upcoming tasks for the coming month.

- **Bi-Weekly Design Team/City of Tyler Meetings**
  During this project, Halff believes that it will be crucial to conduct bi-weekly progress meetings (as mentioned in **Exhibit A's** scope of work) to ensure that the project is satisfying the City of Tyler's objectives, as well as to better track project progress and efficiency. The nature of this project necessitates regular meetings and correspondence, as it will be crucial throughout the design process. These meetings may take place in person (if warranted) or via Microsoft Teams. If it is not necessary to conduct a meeting (based upon the work in progress), a project status memorandum will be prepared and

Is by weekly necessary or do we want to do monthly? I believe both are referenced throughout the scope.

distributed to the project team in lieu of an in-person/virtual meeting. Conversely, project conditions may make it necessary to meet more frequently than once per month at certain stages of the project. Halff will remain flexible and communicative to ensure that project team meetings take place at appropriate intervals. Meeting frequency will be at the discretion of the City of Tyler staff members involved in the project.

- **Monthly Invoices**
  Invoices will be drafted and sent to the City of Tyler each month and will be categorized into phases and tasks, as outlined in the project's scope of work (Exhibit "A" in the design contract documents).

- **Project Team Organization**
  Halff's project team will primarily consist of personnel employed in the firm's Tyler and Ft. Worth offices. These offices will be responsible for project management and the preparation of construction design plans, specifications, and estimates (PS&E). Environmental and Subsurface Utility Engineering (SUE) support will be provided by Halff's Richardson office.

  The table below contains list key project personnel, each person's role, and their contact information.

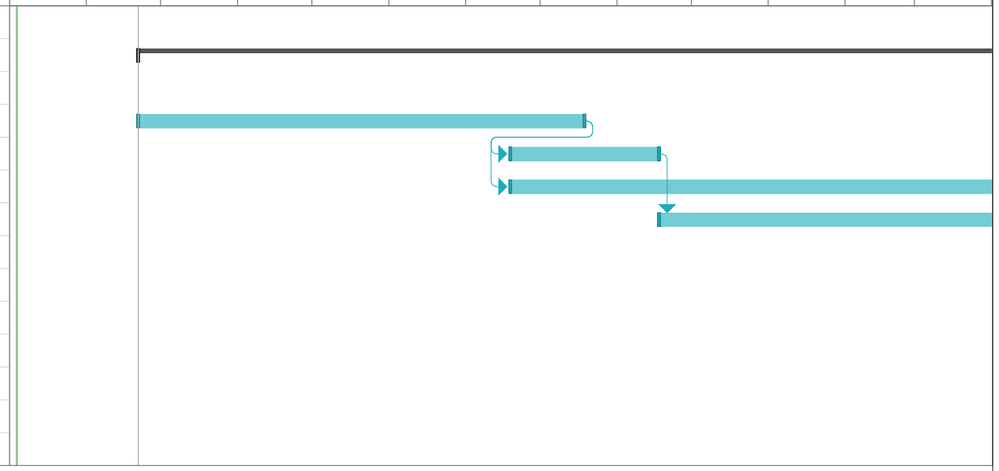
City of Tyler			
Kate Dietz	Director of Water Utilities	kdietz@tylertexas.com	903-531-1234
Jacob Yanker	Project Manager	jcyanker@tylertexas.com	903-533-2095
Nikki Ingram	Project Engineer	ningram@tylertexas.com	903-533-2084
Shane Wheeler	Water Utility Systems Manager	swheeler@tylertexas.com	903-939-8716

Halff			
Michael Medford	Principal-in-Charge	mmedford@halff.com	903-617-5361
Ron King	Project Manager	rking@halff.com	817-813-5715
Emily Wright	Deputy Project Manager	ewright@halff.com	817-565-8035
Preston Dillard	EST and Transmission Main Design Lead	pdillard@halff.com	817-764-7504
Mark Priestner	PR/Site Identification Consulting	mpriestner@halff.com	903-617-5372
Jeffery Harmon	Construction Advisor	jharmon@halff.com	903-617-5375

- **Quality Assurance/Quality Control**
  Halff's QA/QC program is designed to achieve accurate, high-quality deliverables that meet the client's expectations, as well as our own professional standards. A QA/QC review will take place prior to each submittal to the City of Tyler. Milestones for submittals are described in greater detail in the scope of work that has been developed for this project.

Exhibit B - E/A's Project Schedule

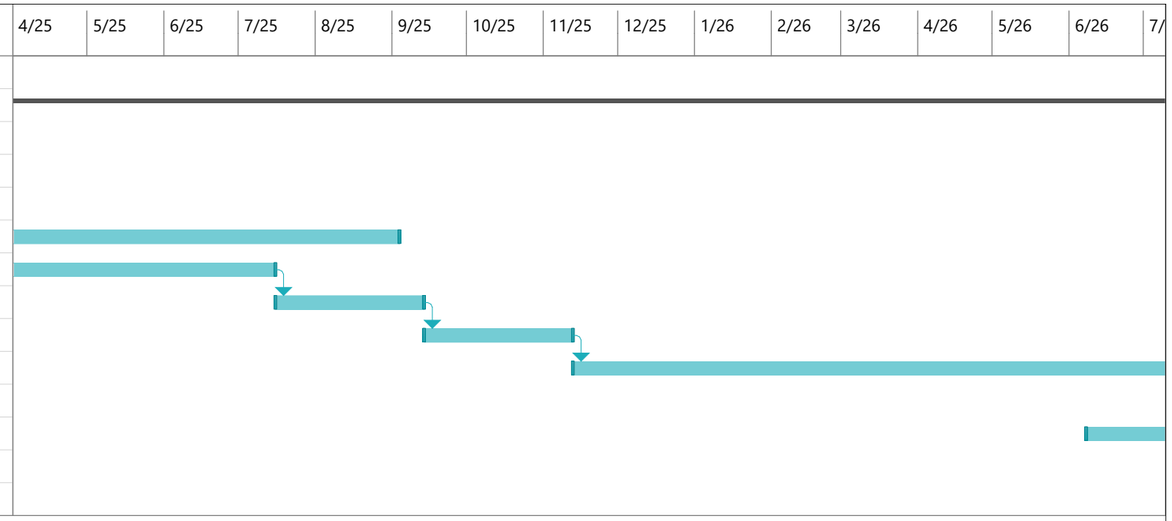
ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
1						
2		**FRANKSTON ELEVATED STORAGE TANK PROJECT**	**1135 days**	**Mon 4/22/24**	**Fri 8/13/27**	
3						
4		Planning and Site Selection	180 days	Mon 4/22/24	Fri 10/18/24	
5		Land Agent Discussions with Land Owners	60 days	Thu 9/19/24	Sun 11/17/24	4FS-30 days
6		Easement and Land Acquisition	350 days	Thu 9/19/24	Wed 9/3/25	4FS-30 days
7		Design	240 days	Mon 11/18/24	Tue 7/15/25	5
8		TCEQ Permitting	60 days	Wed 7/16/25	Sat 9/13/25	7
9		EST Adverstise/Bid/Award/NTP	60 days	Sun 9/14/25	Wed 11/12/25	8
10		EST Construction to Substantial Completion	500 days	Thu 11/13/25	Fri 5/14/27	9
11		EST Construction to Final Completion	65 days	Mon 5/17/27	Fri 8/13/27	10
12		Water Mains Adverstise/Bid/Award/NTP	60 days	Mon 6/8/26	Thu 8/6/26	
13		Water Mains Construction to Substantial Completion	160 days	Fri 8/7/26	Tue 2/2/27	12
14		Water Mains Construction to Final Completion	40 days	Wed 2/3/27	Tue 3/30/27	13



Project: 56597 Tyler Frankston E
Date: Mon 3/4/24

Task
Split
Milestone
Summary
Project Summary
Inactive Task
Inactive Milestone
Inactive Summary
Manual Task
Duration-only
Manual Summary Rollup
Manual Summary
Start-only
Finish-only
External Tasks
External Milestone
Deadline
Progress
Manual Progress

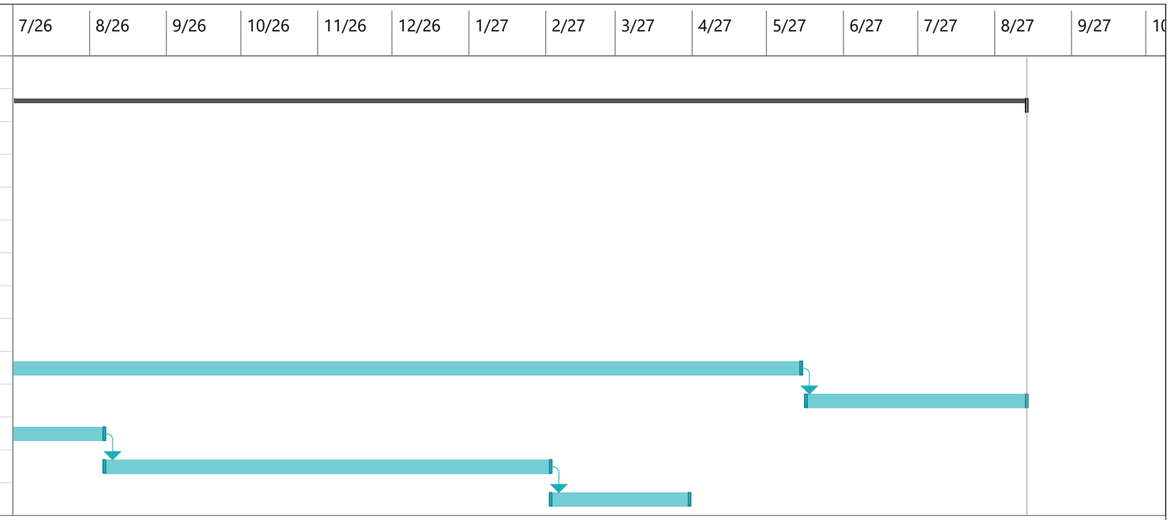
ID	Task Mode	Task Name	Duration	Start	Finish
1					
2		**FRANKSTON ELEVATED STORAGE TANK PROJECT**	**1135 days**	**Mon 4/22/24**	**Fri 8/13/27**
3					
4		Planning and Site Selection	180 days	Mon 4/22/24	Fri 10/18/24
5		Land Agent Discussions with Land Owners	60 days	Thu 9/19/24	Sun 11/17/24
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7		Design	240 days	Mon 11/18/24	Tue 7/15/25
8		TCEQ Permitting	60 days	Wed 7/16/25	Sat 9/13/25
9		EST Adverstise/Bid/Award/NTP	60 days	Sun 9/14/25	Wed 11/12/25
10		EST Construction to Substantial Completion	500 days	Thu 11/13/25	Fri 5/14/27
11		EST Construction to Final Completion	65 days	Mon 5/17/27	Fri 8/13/27
12		Water Mains Adverstise/Bid/Award/NTP	60 days	Mon 6/8/26	Thu 8/6/26
13		Water Mains Construction to Substantial Completion	160 days	Fri 8/7/26	Tue 2/2/27
14		Water Mains Construction to Final Completion	40 days	Wed 2/3/27	Tue 3/30/27



Project: 56597 Tyler Frankston E
Date: Mon 3/4/24

Task	Project Summary	Manual Task	Start-only	Deadline
Split	Inactive Task	Duration-only	Finish-only	Progress
Milestone	Inactive Milestone	Manual Summary Rollup	External Tasks	Manual Progress
Summary	Inactive Summary	Manual Summary	External Milestone	

ID	Task Mode	Task Name	Duration	Start	Finish
1					
2		**FRANKSTON ELEVATED STORAGE TANK PROJECT**	**1135 days**	**Mon 4/22/24**	**Fri 8/13/27**
3					
4		Planning and Site Selection	180 days	Mon 4/22/24	Fri 10/18/24
5		Land Agent Discussions with Land Owners	60 days	Thu 9/19/24	Sun 11/17/24
6		Easement and Land Acquisition	350 days	Thu 9/19/24	Wed 9/3/25
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12		Water Mains Adverstise/Bid/Award/NTP	60 days	Mon 6/8/26	Thu 8/6/26
13		Water Mains Construction to Substantial Completion	160 days	Fri 8/7/26	Tue 2/2/27
14		Water Mains Construction to Final Completion	40 days	Wed 2/3/27	Tue 3/30/27



Project: 56597 Tyler Frankston E
Date: Mon 3/4/24

Task | Project Summary | Manual Task | Start-only | Deadline
Split | Inactive Task | Duration-only | Finish-only | Progress
Milestone | Inactive Milestone | Manual Summary Rollup | External Tasks | Manual Progress
Summary | Inactive Summary | Manual Summary | External Milestone

Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

EXHIBIT C
PROJECT FEE SUMMARY

CITY OF TYLER
Pressure Plane Planning and Elevated Storage Tank (EST) Design

March 8, 2024

Fee Breakdown by Task

TASK 1: PROJECT MEETINGS[1]	$80,000.00
TASK 2: PROJECT MANAGEMENT	$75,000.00
TASK 3: SITE IDENTIFICATION AND ANALYSIS	$15,000.00
TASK 4: PRELIMINARY DESIGN AND ANALYSIS	$98,906.00
TASK 5: ELEVATED STORAGE TANK DESIGN	$250,000.00
TASK 6: TRANSMISSION MAIN/APPURTENANCES DESIGN	$180,000.00
TASK 7: STRUCTURAL ENGINEERING	$53,075.00
TASK 8: ELECTRICAL & ICT ENGINEERING	$73,350.00
TASK 9: FIELD SURVEY SERVICES[2]	$97,500.00
TASK 10: SUBSURFACE UTILITIES ENGINEERING (SUE) SERVICES[3]	$100,000.00
TASK 11: GEOTECHNICAL ENGINEERING SERVICES[2]	$55,000.00
TASK 12: ENVIRONMENTAL SERVICES	$40,000.00
TASK 13: CORROSION PROTECTION SERVICES (EST YARD PIPING)	$14,930.00
TASK 14: CORROSION PROTECTION SERVICES (TRANSMISSION MAINS)	$11,330.00
TASK 15: BID ADMINISTRATION SERVICES	$63,400.00
TASK 16: CONSTRUCTION ADMINISTRATION SERVICES	$110,000.00
TASK 17: CONSTRUCTION INSPECTION SERVICES (EXCLUDING EST)[4]	$160,000.00
TASK 18: TANK CONSTRUCTION INSPECTION & MATERIALS TESTING (EST)	$268,855.00
DESIGN CONTINGENCY[5]	$50,000.00
DIRECT EXPENSES[6]: (as needed and authorized by City)	$15,000.00
Project Total	**$1,811,346.00**

Client agrees to pay monthly invoices or their undisputed portions within 30 days of receipt. Payment later than 30 days shall include interest at 1 ½ percent per month or lesser maximum enforceable interest rate, from the date the Client received the invoice until the date the Engineer receives payment. Such interest is due and payable when the overdue payment is made. Tasks are lump sum unless otherwise noted.

Direct expenses, subcontracted services, and direct costs will be billed at actual cost plus a service charge of 10 percent.

Mileage for team members traveling from outside of Tyler will be charged at the current IRS mileage rate.

Do we want to move to monthly?

[1] Based upon conversations with City of Tyler staff, this item accounts for bi-weekly project team meetings for the duration of project design (ending at award of bid(s)) and an initial project kickoff meeting.

[2] As the alignment and length of the transmission mains and the precise location of the proposed EST have not yet been established, Halff cannot include a specific scope of work and fee for this work. These figures are approximations. The City of Tyler will be notified once these subconsultants have been engaged following site selection and their respective fees submitted to the City.

[3] This figure accounts for incidental SUE work directly connected to the EST and transmission main projects, as well as the confirmation of the Troup Pressure Plane, which is non-descript at this point. Pressure plane confirmation services may be removed from this scope of work and completed as a separate project, at the City of Tyler's discretion.

[4] Based upon conversations with City of Tyler staff, this item accounts for construction site inspections to take place for the duration of construction (anticipated 8 months; excludes EST itself) for five (5) days per week, four (4) hours per day. Also included in this task is extensive project record keeping, which will be vital to the effective documentation of the project's progress and for reference purposes. All records will be submitted to the City of Tyler. **This task will be billed on an hourly, not-to-exceed basis.**

[5] Design contingency will not be used without agreement and written authorization from the City of Tyler.

[6] Direct expenses will be billed on a time and materials basis.

Exhibit D - Certificates of Insurance and Endorsements

(See following pages for a summary and checklist of Insurance and Endorsement requirements)

CERTIFICATE(S) OF INSURANCE

[Certificate of Liability Insurance Shall Be Inserted Here]

INSURANCE COVERAGE REQUIRED * Endorsement Required	
TYPE	**AMOUNT**
1) COMMERCIAL GENERAL LIABILITY * Policy shall include (but not limited to) the following: a) Products - Completed Operations b) Independent Contractors c) Broad Form Property Damage d) X-C-U Coverage X = Explosion Hazard C = Collapse Hazard U = Underground Damage e) Contractual Liability or Cross Liability	Not Less than: **$1,000,000** (1 million) Each Occurrence **$2,000,000** (2 million) General Aggregate **Per Project** Any Self-Insured-Retention or Deductible shall not exceed $25,000.
2) BUSINESS AUTOMOBILE LIABILITY Policy shall include (but not limited to) bodily injury and property damage liability for the following: a) Any Auto; OR b) All Owned Autos, and c) Hired Autos, and d) Non-Owned Autos.	Not Less than: **$1,000,000** (1 million) Each Occurrence
3) PROFESSIONAL ERRORS & OMISSIONS LIABILITY Policy shall include (but not limited to) the following: a) A minimum three (3) year Discovery (tail) Reporting period, and b) A Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder.	Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
4) ♦ POLLUTION LIABILITY INSURANCE *	♦ ☐ Check Here If Coverage is Required by a City Operational Department Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate
5) COMMERCIAL UMBRELLA / EXCESS LIABILITY *	Not Less than: **$5,000,000** (5 million) Each Occurrence **$5,000,000** (5 million) General Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
6) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY	**Statutory Limits for Workers' Compensation** TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401 TEX. ADMIN. CODE, Title 28, Part 2 **Employer's Liability Limits** **$1,000,000 (1 million)** Bodily Injury by Accident **$1,000,000 (1 million)** Bodily Injury by Disease Each Occurrence **$1,000,000 (1 million)** Bodily Injury by Disease Aggregate Limit

Checklist: Certificate(s) of Insurance

*** Provided only as a courtesy ***

[See generally Section 7.3 Insurance for contract insurance requirements]

1.	All pages of the *Certificate of Liability Insurance* shall be attached. *See* lower right corner of certificate for *ex toto* pagination. E.g. Page 1 of 2
2.	Policy Effective and Expiration Dates (for each type of coverage) Policy **effective date** is ON or BEFORE Contract date, and Policy **expiration date** should extend at least 6 months into the future OR for the estimated project length, whichever is greater.
3.	Commercial General Liability [*See* Section 7.3.2] ☒ **Occurrence** Box is Checked ☒ **Per Project** Box is Checked for General Aggregate Limit.
4.	Business Automobile Liability [*See* Section 7.3.2] At a minimum each of the following boxes should be checked: ☒ Any Auto OR ☒ All Owned Autos, and ☒ Hired Autos, and ☒ Non-Owned Autos.
5.	Professional Errors and Omissions Liability [*See* Section 7.3.2]
6.	Commercial Umbrella / Excess Liability [*See* Section 7.3.2] ☒ Occurrence Box is Checked
7.	Workers Compensation and Employers Liability [*See* Section 7.3.2] ☒ WC Statutory Limits Box is Checked
	Look at the "Description of Operations . . . Special Provisions" Box. [*See* Section 7.4] [*See also* Section 7.6] Clearly indicate the **CITY** has been endorsed by using this language: "The City of Tyler (i.e. Certificate Holder) shall be named as Additional Insured as respects to Commercial General Liability, Commercial Umbrella / Excess Liability and Pollution Liability Insurance, if required, and shall have a Waiver of Subrogation as respects to Commercial General Liability, Business Automobile Liability, Professional Errors and Omissions Liability, Commercial Umbrella / Excess Liability and Workers' Compensation all as required by written contract subject to policy terms, conditions and exclusions. Coverage is primary, non-contributory as respects to General Liability and Auto as required by written contract."
8.	Clearly identify each policy's limits, flat & percentage deductibles, sub-limits, or self-insured retentions, which exceed the amounts or percentages set forth herein.
9.	Certificate Holder: [*See generally* Section 7.4] City of Tyler P.O. Box 2039 Tyler, TX 75710

ENDORSEMENTS

[Endorsements Shall Be Inserted Here]

<table>
<tr><td colspan="3">* ENDORSEMENT(S) REQUIRED</td></tr>
<tr><td colspan="2">Name of Additional Insured Person(s)
or Organization(s):
City of Tyler
P.O. Box 2039
Tyler, TX 75710</td><td>Location(s) of Covered Operations:

Project [insert project name],
Dated [insert month and year of contract].</td></tr>
<tr><td colspan="3">E/A shall choose one of the three Endorsement Option stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.</td></tr>
<tr><td colspan="3">COMMERCIAL GENERAL LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” on the Commercial General Liability with: [Select Option 1, Option 2 or option 3 below] [See Section 7.3.2 and 7.4]</td></tr>
<tr><td>Option
1</td><td colspan="2">FORM: CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
2</td><td colspan="2">FORM: CG 20 10 07 04
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
3</td><td colspan="2">FORM: GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work
AND
FORM: GA 233 02 07
Contractors’ Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract</td></tr>
<tr><td colspan="3">COMMERCIAL UMBRELLA / EXCESS LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” under the Commercial Umbrella / Excess Liability as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
<tr><td colspan="3">POLLUTION LIABILITY INSURANCE

♦ If applicable E/A agrees to endorse the CITY as an “Additional Insured” under the Pollution Liability Insurance as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
</table>

Exhibit E - Certificate of Interested Parties (Form 1295)

(If Required)

Check Here if this Section is NOT Used ☐

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval.

Exhibit F - Procedure for Correcting Construction Defects

Check Here if this Section IS Applicable to This Contract ☐

****ONLY APPLICABLE FOR CONSTRUCTION ACTIVITIES AFFECTING CITY-OWNED BUILDINGS AND OTHER PUBLIC WORKS PROJECTS AS DEFINED IN TEX. GOV. CODE ANN., SEC. 2269.001 (6)****

EXHIBIT F is not applicable to "civil works" projects as defined in Tex. Gov. Code Ann., Sec. 2269.351

I. DEFINITIONS

A. **"Public Works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.001 (6), are those related to constructing, altering, or repairing a public building or carrying out any public work.

B. **"Civil works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.351 are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

II. NOTIFICATION OF DEFECT

A. **ENGINEER/ARCHITECT SHALL NOTIFY OWNER IN WRITING OF ANY CONSTRUCTION DEFECT** of which the ENGINEER/ARCHITECT is aware, and which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning or supervision of the construction that is a result of:

i. The use of defective materials, products, or components in the construction;
ii. A violation of a building code applicable by law to the construction;
iii. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or
iv. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

B. The E/A's writing shall identify the specific construction defect, describe the present physical condition of the affected structure; and describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

III. PROCEDURE TO CORRECT CONSTRUCTION DEFECTS

A. Before bringing an action asserting a claim for a construction defect under this Agreement, the OWNER must provide a written report to each party with whom the OWNER has a contract for the design, construction or construction oversight of an affected structure by certified mail, return receipt requested.

i. The report shall clearly identify the specific construction defect(s) on which the claim is based, which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning, or supervision of the construction that is a result of:
   a. The use of defective materials, products, or components in the construction;
   b. A violation of a building code applicable by law to the construction;

c. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or

d. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

iii. The report shall clearly:

a. Identify the specific construction defect on which the claim is based;

b. Describe the present physical condition of the affected structure; and

c. Describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

B. OWNER shall allow each party with whom the OWNER has a contract for the design or construction of an affected structure and who is subject to the claim, and any known subcontractor or supplier who is subject to the claim a reasonable opportunity to inspect any construction defect or related condition identified in the report for a period of 30 days after receiving the report.

C. OWNER shall allow at least 120 days after the inspection to:

i. Correct any construction defect or related condition identified in the report; or

ii. Enter into a separate agreement with the governmental entity to correct any construction defect or related condition identified in the report.

D. OWNER is not required to allow a party to make a correction or repair under Subsection II.A. if:

i. the party:

a. Is a contractor and cannot provide payment and performance bonds to cover the corrective work;

b. Cannot provide liability insurance or workers' compensation insurance;

c. Has been previously terminated for cause by OWNER; or

d. Has been convicted of a felony; or

ii. OWNER previously complied with the process required by Subsection II.A. regarding a construction defect or related condition identified in the report and:

a. The defect or condition was not corrected as required by Subsection II.C.i. or by an agreement under Subsection II.C.ii.; or

b. The attempt to correct the construction defect or related condition identified in the report resulted in a new construction defect or related condition.

E. Recovery of Report Costs. If the report described in Subsection II.A. identifies a construction defect that is corrected or for which the OWNER recovers damages, the party responsible for that construction defect shall pay the reasonable amounts incurred by OWNER to obtain the report with respect to identification of that construction defect.

F. These provisions do not prohibit or limit the OWNER from making emergency repairs to the property as necessary to protect the health, safety, and welfare of the public or a building occupant.

RESOLUTION NO. R-2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR COSTS ASSOCIATED WITH THE UPPER PRESSURE PLANE ELEVATED STORAGE TANK AND TRANSMISSION MAIN PROJECT; AND PROVIDING AN EFFECTIVE DATE.

STATE OF TEXAS	§
	§
COUNTY OF SMITH	§
	§
CITY OF TYLER	§

WHEREAS, the City of Tyler, Texas reserves the right to issue debt for the engineering, design, and construction of the Upper Pressure Plane Elevated Storage Tank and Transmission Main project (the "Project") and further intends to make certain capital expenditures with respect to the Project and currently reserves the right to reimburse the capital expenditures with proceeds of such debt; and

WHEREAS, under 26 CFR § 1.150-2 (the "Regulation"), to fund such reimbursement with proceeds of tax-exempt obligations, the Issuer must declare its expectation to make such reimbursement; and

WHEREAS, the Issuer desires to preserve its ability to reimburse the capital expenditures with proceeds of tax-exempt obligations,

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

Part 1: That the City of Tyler reasonably expects to reserve the right to reimburse capital expenditures with respect to the Project with proceeds of future potential debt hereafter which may be incurred by the issuer, and that this Resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Project is $1,811,346.00.

Part 2: That this Resolution shall be effective immediately upon adoption.

PASSED AND APPROVED, this the 27th day of March, 2024.

_____
DONALD P. WARREN, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

_____

APPROVED:

_____

CASSANDRA BRAGER, CITY CLERK

DEBORAH G. PULLUM,
CITY ATTORNEY

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: M-7

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of $285,000 with Elledge Engineering for the design and construction phase services for the 2024 Water Main Improvements (2-Inch Replacement) project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

Page: Page 1 of

Item Reference:

The City of Tyler water distribution system has a large number of two-inch water mains that are in need of replacement and to be upsized. Historically, two-inch water mains have a high failure rate and call for emergency repairs from the Service Center. Due to the high failure rate, Tyler Water Utility coordinates with the Engineering Department to ensure that streets with two-inch water mains are not overlayed in the annual overlay program to avoid street cuts in a freshly overlayed street.
With this in mind, we have identified areas to replace the existing two-inch main with a six-inch main so that the annual overlay program may be able to rehabilitate these roads when the utility work is complete. A map of the lines to be replaced has been attached below (2-inch Replacement Site Map). The estimated schedule for design is approximately six months, and construction is anticipated to be 9 months, with pre-engineering construction cost estimated to be $2,508,515.00.

RECOMMENDATION:

Request that the City Council consider authorizing the City Manager to execute an engineering agreement in the amount of $285,000 with Elledge Engineering for the design and construction phase services for the 2024 Water Main Improvements (2-Inch Replacement) project and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

ATTACHMENTS:

2024 Water Main Improvements - 2 inch) OPC
2 Inch Replacement Site Map
02.23.2024 - Standard Agreement (Draft) Water Main Improvements (2-Inch) - Elledge Engineering
2-inch_Replacement_Future_Debt_Resolution_Form_legaledits_ab_03.19.24

Drafted/Recommended By:
Department Leader

Jacob Yanker, Utilities Project Engineer/ Kate Dietz, PE, Director of Utilities

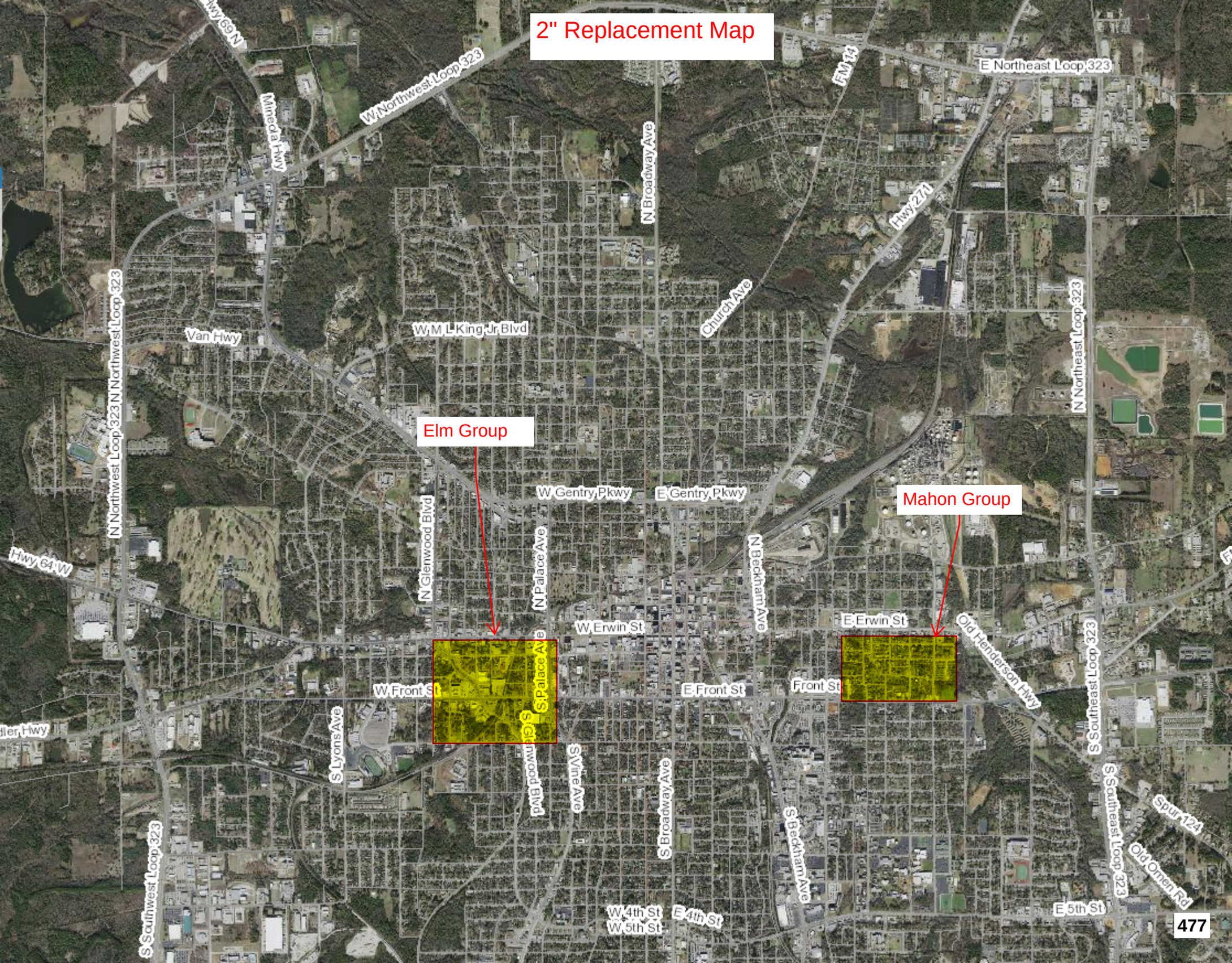
Edited/Submitted By:
City Manager

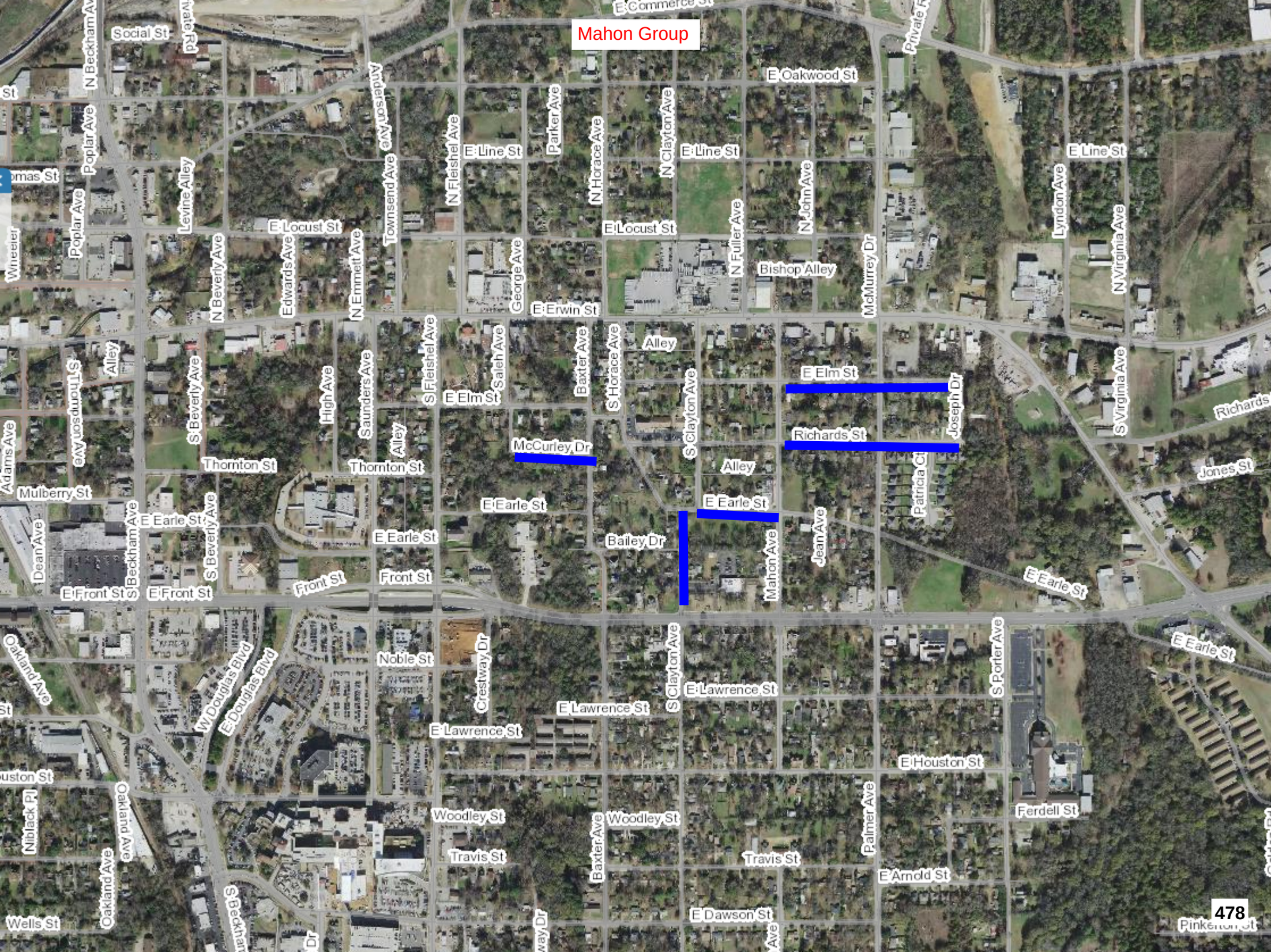
CITY OF TYLER
2" WATER LINE REPLACEMENT PROGRAM
3/13/2024

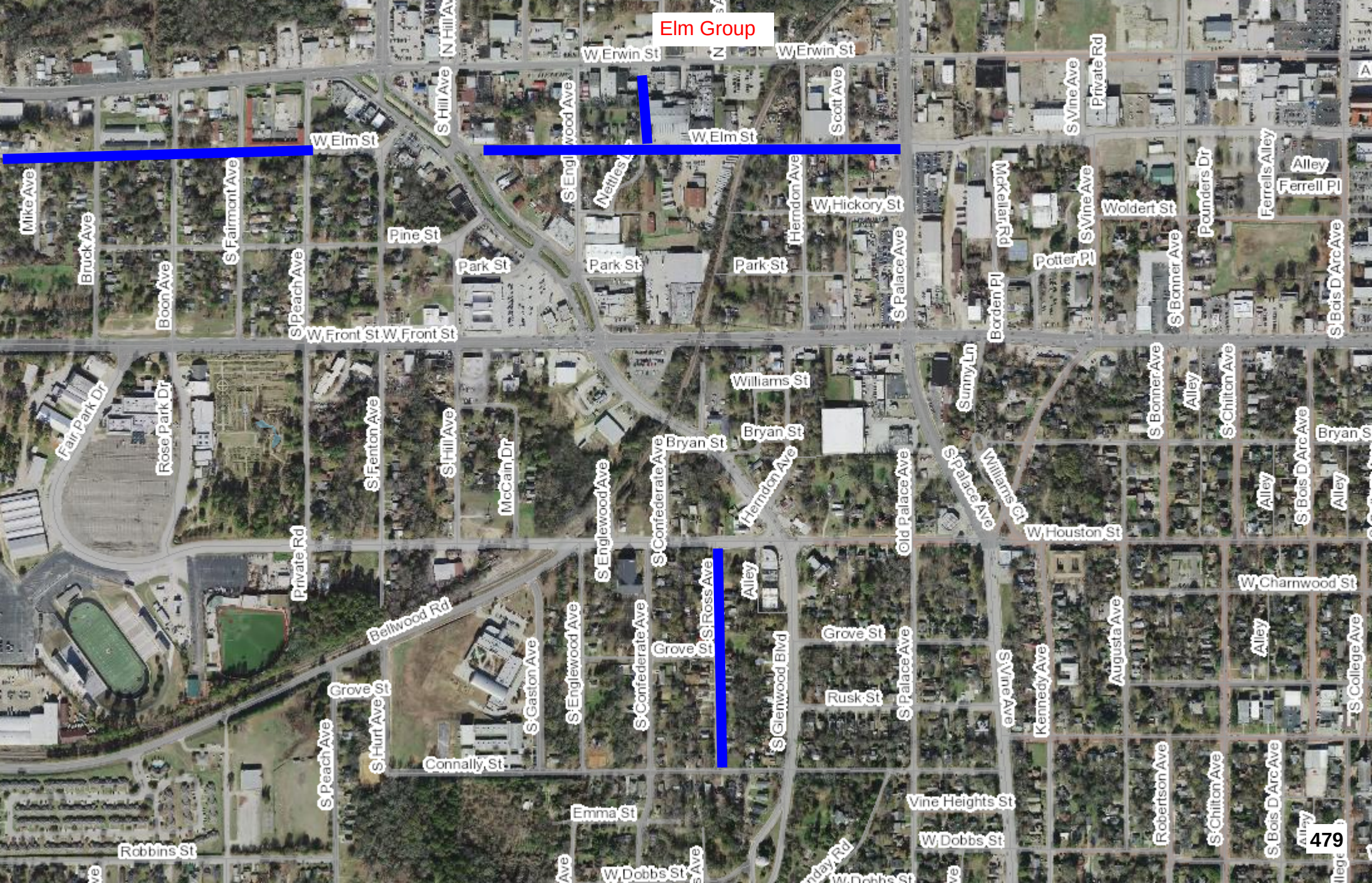
Opinion of Probable Cost

Item No.	Base Bid Schedule	Unit	Totals	Unit Price	Total Cost
	PROPOSED WATER IMPROVEMENTS				
1	6" PVC, C900, DR18 Water Line	LF	11345	$ 65.00	$ 737,425.00
2	Reconnect Water Services**	EA	139	$ 2,000.00	$ 278,000.00
3	Remove and Replace Fire Hydrant Assemblies	EA	3	$ 9,000.00	$ 27,000.00
4	Fire Hydrant Assemblies	EA	20	$ 7,500.00	$ 150,000.00
5	6" Gate Valve	EA	27	$ 2,500.00	$ 67,500.00
6	12" Dry Bore with Steel Encasement Pipe	LF	100	$ 500.00	$ 50,000.00
7	Ductile Iron Fittings	LB	10000	$ 10.00	$ 100,000.00
8	6" T.S. & V	EA	31	$ 4,000.00	$ 124,000.00
9	12" X 6" T.S. & V	EA	1	$ 8,000.00	$ 8,000.00
10	Connect existing Water Mains	EA	31	$ 1,500.00	$ 46,500.00
11	Trench Safety (Water)	LF	11345	$ 2.00	$ 22,690.00
12	Concrete Curb Remove and Repair	LF	200	$ 35.00	$ 7,000.00
13	Concrete Valley Gutter Remove and Repair	SY	40	$ 90.00	$ 3,600.00
14	Concrete Sidewalk Remove and Repair	SY	40	$ 90.00	$ 3,600.00
15	Cut, Cap & Abandon Existing Water Lines	EA	45	$ 1,500.00	$ 67,500.00
16	Cut & Restore Asphalt Pavement	SY	4200	$ 125.00	$ 525,000.00
17	Temporary Sediment Control Fencing (Water)	LF	240	$ 5.00	$ 1,200.00
18	Gravel Bedding	CY	535	$ 100.00	$ 53,500.00
19	Reestablish Vegetation	SY	4500	$ 5.00	$ 22,500.00
	MISCELLANEOUS ITEMS				
20	SW3P Maintenance	LS	1	$ 3,500.00	$ 3,500.00
21	Traffic Control	MO	9	$ 5,000.00	$ 45,000.00
22	Mobilization and Bonds	LS	1	$ 65,000.00	$ 65,000.00
23	Allowance for Additional Work	LS	1	$ 100,000.00	$ 100,000.00
	Construction Subtotal				**$ 2,508,515.00**
	Surveying, Design				**$ 25,000.00**
	Engineering, Basic Services				**$ 180,000.00**
	Engineering, Permitting				**$ 10,000.00**
	Construction Observation, Part-time				**$ 70,000.00**
	Total Project Cost				**$ 2,793,515.00**

****Counted 186 potential connections due to empty lots.**


2" Replacement Map
Elm Group
Mahon Group
W Northwest Loop 323
E Northeast Loop 323
N Broadway Ave
FM 14
Hwy 271
Church Ave
N Northeast Loop 323
Mineola Hwy
Van Hwy
W M L King Jr Blvd
N Northwest Loop 323
Hwy 64 W
N Glenwood Blvd
N Palace Ave
W Gentry Pkwy
E Gentry Pkwy
N Beckham Ave
W Erwin St
E Erwin St
Old Henderson Hwy
S Southeast Loop 323
W Front St
E Front St
Front St
S Palace Ave
S Glenwood Blvd
S Lyons Ave
S Vine Ave
S Broadway Ave
S Beckham Ave
Spur 124
Old Omen Rd
S Southwest Loop 323
W 4th St
W 5th St
E 4th St
E 5th St
477


Mahon Group
E Commerce St
Social St
N Beckham Ave
Nate Rd
Private Rd
E Oakwood St
Poplar Ave
Levine Alley
Anderson Ave
Townsend Ave
N Fleishel Ave
E Line St
Parker Ave
N Horace Ave
N Clayton Ave
E Line St
N John Ave
N Fuller Ave
Lyndon Ave
E Line St
N Virginia Ave
E Locust St
E Locust St
N Beverly Ave
Edwards Ave
N Emmett Ave
George Ave
E Erwin St
Bishop Alley
McMurrey Dr
S Thompson Ave
Alley
S Beverly Ave
High Ave
Saunders Ave
S Fleishel Ave
E Elm St
Saleh Ave
Baxter Ave
S Horace Ave
Alley
S Clayton Ave
E Elm St
Joseph Dr
S Virginia Ave
Richards
Richards St
McCurley Dr
Thornton St
Thornton St
Alley
Alley
Jones St
Adams Ave
Mulberry St
E Earle St
E Earle St
E Earle St
Patricia Ct
Dean Ave
S Beckham Ave
S Beverly Ave
E Earle St
Bailey Dr
Mahon Ave
Jean Ave
E Earle St
E Front St
E Front St
Front St
Front St
Oakland Ave
W Douglas Blvd
E Douglas Blvd
Noble St
Crestway Dr
S Clayton Ave
E Lawrence St
S Porter Ave
E Earle St
E Lawrence St
E Lawrence St
E Houston St
Niblack Pl
Oakland Ave
Woodley St
Woodley St
Palmer Ave
Ferdell St
Travis St
Travis St
Baxter Ave
E Arnold St
Oakland Ave
Wells St
E Dawson St
Pinkerton St
478


Elm Group
W Erwin St
W Erwin St
W Elm St
W Elm St
S Hill Ave
Scott Ave
S Vine Ave
Private Rd
Mike Ave
Bruck Ave
Boon Ave
S Fairmont Ave
S Peach Ave
Pine St
Park St
Park St
Park St
Herndon Ave
W Hickory St
S Palace Ave
McKellah Rd
Borden Pl
Potter Pl
S Vine Ave
Woldert St
S Bonner Ave
Pounders Dr
Ferrells Alley
Alley
Ferrell Pl
S Bois D Arc Ave
W Front St
W Front St
Fair Park Dr
Rose Park Dr
S Fenton Ave
S Hill Ave
McCain Dr
Williams St
Bryan St
Bryan St
Herndon Ave
S Englewood Ave
S Confederate Ave
Old Palace Ave
Sunny Ln
S Palace Ave
Williams Ct
W Houston St
S Bonner Ave
Alley
S Chilton Ave
S Bois D Arc Ave
Alley
Alley
Bryan St
Private Rd
Bellwood Rd
S Caston Ave
S Englewood Ave
S Confederate Ave
S Ross Ave
Alley
S Glenwood Blvd
Grove St
Grove St
Rusk St
S Palace Ave
S Vine Ave
Kennedy Ave
Augusta Ave
W Charnwood St
Alley
S College Ave
Grove St
S Hunt Ave
S Peach Ave
Connally St
Emma St
Vine Heights St
W Dobbs St
Robbins St
W Dobbs St
Robertson Ave
S Chilton Ave
S Bois D Arc Ave
Alley
479

STATE OF TEXAS §

COUNTY OF SMITH §

STANDARD FORM OF AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This AGREEMENT is entered into, with an Effective Date of _____ [*insert date of last party's signature*], by and between the **CITY OF TYLER**, in Smith County, Texas (OWNER), acting therein by and through its duly authorized City Manager, and **Elledge Engineering Corp** (ENGINEER or ARCHITECT), hereinafter referred to as "E/A," for the purpose of acquiring all professional engineering and/or architectural services required for the project known as **"2024 Water Main Improvements (2-Inch)"** (hereinafter called the Project).

OWNER and E/A in consideration of their mutual covenants herein agree in respect of the performance of professional engineering and/or architectural services by E/A and the payment for those services by OWNER as set forth below.

SECTION 1—BASIC SERVICES OF ENGINEER OR ARCHITECT

1.1. General.

1.1.1. E/A shall provide for OWNER professional consulting services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional E/A representative for the project, providing professional engineering and/or architectural consultation and advice and furnishing customary civil services incidental thereto.

1.1.2. **If the Project is a "civil works" project, as defined by Sec. 2269.351 of Tex. Gov. Code Ann., then Exhibit "F" does NOT apply.** "**Civil works"** projects are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

1.1.3. **If the Project is related to "public works" projects or construction contract affecting City-owned buildings, then this contract IS SUBJECT TO ADDITIONAL PROVISIONS FOUND IN EXHIBIT "F", which is attached and incorporated for all purposes herein. "Public Works"** is defined by Tex. Gov. Code Ann., Sec. 2269.001 (6) as a contract for constructing, altering, or repairing a public building or carrying out any public work.

1.1.4. If Exhibit "F" is applicable and there is a conflict between this Agreement and Exhibit "F", provisions in Exhibit "F" shall control.

1.2. Study and Report Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.2.1. Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in paragraph 3.4, and assist OWNER in obtaining such data and services.

1.2.3. Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

1.2.4. Provide analysis of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

1.2.5. Provide a general economic analysis of OWNER's requirements applicable to various alternatives.

1.2.6. Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the

considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth E/A's findings and recommendations. This Report will be accompanied by E/A's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance for E/A costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others for OWNER pursuant to paragraphs 3.7 through 3.11, inclusive. The total of all such costs, allowances, etc. are hereinafter called "Total Project Costs".

1.2.7. Furnish multiple copies of the Study and Report documents (not to exceed six (6) copies) and review them in person with OWNER.

1.3. Preliminary Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.3.1. In consultation with OWNER and on the basis of the accepted Study and Report documents, determine the general scope, extent and character of the Project.

1.3.2. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.

1.3.3. Advise OWNER if additional data or services of the types described in paragraph 3.4 are necessary and assist OWNER in obtaining such data and services.

1.3.4. Based on the information contained in the preliminary design documents, submit a revised opinion of probable Total Project Costs.

1.3.5. Furnish multiple copies of the above Preliminary Design documents and present and review them in person with OWNER, not to exceed six (6) copies.

1.3.6. Derive right-of-way (ROW) data and easement documents as needed for the OWNER to begin land acquisition.

1.4. Final Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.4.1. On the basis of the accepted Preliminary Design documents and the revised opinion of probable Total Project Costs prepare for incorporation in the Contract Documents final drawings to show the general scope, extent and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and Specifications.

1.4.2. Provide technical criteria, written descriptions and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project, and assist OWNER in consultations with appropriate authorities.

1.4.3. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.

1.4.4. Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders.

1.4.5. Furnish multiple copies of the above documents and of the Drawings and Specifications and present and review them in person with OWNER, not to exceed six (6) copies.

1.5. Bidding or Negotiating Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.5.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for each

separate prime contract for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences and receive and process deposits for Bidding Documents.

1.5.2. Assist OWNER in issuing addenda as appropriate to interpret, clarify or expand the Bidding Documents.

1.5.3. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

1.5.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

1.5.5. Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

1.6. Construction Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.6.1. *Preconstruction Conference.* Coordinate, schedule and attend a preconstruction conference with the OWNER, other utility owners, contractors and other interested parties to determine and coordinate construction scheduling and responsibilities.

1.6.2. *Visits to Site and Observation of Construction.* In connection with observations of the work of Contractor(s) while it is in progress:

1.6.2.1. E/A shall make visits to the site at intervals appropriate to the various stages of construction as necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. Based on information obtained during such visits and on such observations, E/A shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and E/A shall keep OWNER informed of the progress of the work.

1.6.2.2. The purpose of E/A's visits to the site will be to enable E/A to better carry out the duties and responsibilities assigned to and undertaken by E/A during the Construction Phase, and in addition, by exercise of E/A's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, E/A shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall E/A have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction elected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, E/A can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

1.6.3. *Interpretations and Clarifications.* E/A shall issue necessary interpretations and clarifications of the Contract Documents as requested by the OWNER.

1.6.4. *Subsurface Exploration.* Coordinate core borings, probing or subsurface explorations, issue orders for necessary laboratory tests and inspect samples or materials submitted for laboratory testing.

1.6.5. *Shop Drawings.* E/A shall review and approve (or take other appropriate action in respect of) samples, catalog data, shop drawings other data which Contractor(s) is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident

thereto.

1.6.6. *Substitutes.* E/A shall evaluate the acceptability of substitute materials and equipment proposed by Contractor(s) and make recommendations to OWNER, subject to the provisions of paragraph 2.2.2.

1.6.7. *Tests.* E/A shall verify that tests, including equipment and start-up, which are required by the specifications and contract documents, are conducted and that the Contractor maintains adequate records thereof and shall observe, record and report to the OWNER appropriate details relative to the test procedures and start-ups.

1.6.8. *Applications for Payment.* Based on his on-site observations as an experienced and qualified design professional and on his review of the Contractors' applications for payment, determine the amount owing to the Contractor(s) and recommend in writing payment to the Contractor(s) in such amounts; such recommendations of payment to constitute a representation to the OWNER, based on such applications, that the work has progressed to the point indicated and that, to the best of his knowledge, work is in accordance with the plans, specifications and contract documents, subject to the specifications and contract documents and any qualifications stated in his approval.

1.6.9. *Final Inspection.* Conduct, in company with the OWNER'S representative, a final inspection of the Project for conformance with the design concept of the Project and compliance with the plans, specifications and contract documents, and recommend in writing final payment to the Contractor.

1.6.10. *Disputes between OWNER and Contractor.* E/A shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work performed thereunder. E/A shall also make recommendations to OWNER on all claims of Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. OWNER has the final decision with regard to such disputes.

1.6.11. *Limitation of Responsibilities.* E/A shall not be responsible to OWNER for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except E/A's own employees and agents) whether at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.6.1. through 1.6.11 inclusive, shall be construed to release E/A from liability for failure to properly perform duties and responsibilities assumed by E/A in the Contract Documents.

1.7. Operational Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.7.1. In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

1.7.2. Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to E/A and furnish one (1) set of the revised reproducible drawings and one set of drawings in PDF format to the Owner.

SECTION 2—ADDITIONAL SERVICES OF E/A

2.1. Services Requiring Authorization in Advance.

If authorized in writing by OWNER, E/A shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1. through 2.1.13. inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in this Agreement; these will be paid for by OWNER as indicated in Section 5.

2.1.1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the project.

2.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other cause beyond E/A's control.

2.1.4. Providing renderings or models for OWNER's use.

2.1.5. Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6. Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7. Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical, and electrical engineering and customary architectural design incidental thereto); and providing data or services of the types described in paragraph 3.4 when OWNER employs E/A to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8. Services during out-of-town travel required of E/A other than visits to the site or OWNER's office as required by Section 1.

2.1.9. Assistance in connection with bid protest, rebidding, or renegotiating contracts for construction, materials, equipment or services when E/A did not create or contribute to the event or situation requiring said assistance, rebidding, renegotiating, materials, equipment, or services.

2.1.10. Providing any type of property surveys or related engineering or architectural services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.11. Preparation of operating, maintenance and staffing manuals to supplement Basic Services under paragraph 1.7.

2.1.12. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project unless E/A created or contributed to the cause of the litigation.

2.1.13. Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Section 3, and services not otherwise provided for in this Agreement.

2.2. Required Additional Services.

When required by the Contract Documents in circumstances beyond E/A's control, E/A shall furnish or obtain from others, as circumstances require during construction and with specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive. These services are not included as part of Basic Services. E/A shall advise OWNER promptly before starting any of the following additional services which will be paid for by OWNER as indicated in Section 5.

2.2.1. Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.2.2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services

after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.2.4. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any Contractor.

2.2.5. Services (other than Basic Services during the Operations Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6. Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3—OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of E/A:

3.1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to E/A's services for the Project.

3.2. Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

3.3. Assist E/A by placing at E/A's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4. Furnish to E/A, as required for performance of E/A's Basic Services (except to the extent provided otherwise in this Agreement) the following:

3.4.1. data prepared by or resulting from the services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2. appropriate professional interpretations of all of the foregoing;

3.4.3. environmental assessment and impact statements;

3.4.4. property, boundary, easement, right-of-way, topographic and utility surveys, to the extent required by E/A, and only if not required to be performed by E/A as set out in E/A's Proposal;

3.4.5. property descriptions;

3.4.6. zoning, deed and other land use restrictions;

all of which E/A may use and rely upon in performing services under this Agreement.

3.5. Provide engineering surveys to establish reference points for construction (unless required to be performed by E/A as Basic Services under E/A’s Proposal) to enable Contractor(s) to proceed with the layout of the work.

3.6. Arrange for access to and make all provisions for E/A to enter upon public and private property as required for E/A to perform services under this Agreement.

3.7. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by E/A, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of E/A.

3.8. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, unless required to be performed by E/A as Basic Services under this Agreement.

3.9. Provide such accounting, independent cost estimating and insurance counseling services as may, in the judgement of the OWNER, be required for the Project, such legal services as OWNER may require or E/A may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not E/A or E/A's agent or employee, the duties, responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities of E/A and the Resident Project Representative (and any assistants) will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11. If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12. Furnish to E/A data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive) so that E/A may make the necessary findings to support opinions of probable Total Project Costs.

3.13. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.

3.14. Give prompt written notice to E/A whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of E/A's services, or any defect or non-conformance in the work of any Contractor.

3.15. Furnish, or direct E/A to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.

3.16. E/A shall not be obligated to bear any of the costs of compliance with this Section 3.

SECTION 4—PERIODS OF SERVICE

4.1. The services provided by the E/A and the various rates of compensation for E/A's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Operational Phase. E/A's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction and initial operation of the Project including extra work and required extensions thereto. If in Section 8 of this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided and if such dates are exceeded through no fault of E/A, all rates, measures and amounts of compensation provided herein may be subject to equitable adjustment.

4.2. A schedule for completion of each phase of the project is provided in Exhibit "B". If the E/A determines or reasonably anticipates that the project, (or any of its phases), cannot be completed before the specified completion date, the E/A shall submit a revised schedule to the OWNER for approval.

SECTION 5—PAYMENTS TO ENGINEER AND/OR ARCHITECT CONSULTANT

5.1. Methods of Payment for Services and Expenses of E/A.

For design, construction plan preparation, construction document preparation (including bid proposal, specifications, construction contract), and all other services to be rendered by E/A hereunder, as the same are set out in the attached Exhibit “A”, and as further set out in these contractual documents, save and except for specified special and additional services, OWNER shall pay to E/A the following fee in accordance with the fee summary and schedule of hourly rates set forth in attached Exhibit "C":

- Base Fee, Not-to-Exceed = $205,000
- Hourly/Reimbursable Expenses = $80,000
- **Total Contract Price** = **$285,000**

For additional services authorized by OWNER in accordance with Section 2 of this Agreement, OWNER shall pay in accordance with the schedule of hourly rates set forth in attached Exhibit "C".

5.2. Times of Payment.

E/A shall submit clear and detailed monthly statements for the services rendered and for the expenses and hourly costs incurred. The statements shall show the percent of work completed and amount billed to date, broken down by activity or task. All monthly statements shall be in a form as specified by and acceptable to OWNER.

SECTION 6—CONSTRUCTION COST AND OPINIONS OF COST

6.1. Construction Cost.

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by E/A, but it will not include E/A's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Section 3, as applicable. [Construction Cost is one of the items comprising Total Project Costs which is defined in paragraph 1.2.6.]

6.2. Opinions of Cost.

It is understood by the Parties that E/A has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. Therefore, E/A's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of E/A's experience and qualifications and represent E/A's best judgment as an experienced and qualified professional E/A, familiar with the construction industry; but E/A cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by E/A. If prior to the Bidding or Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.9.

SECTION 7—GENERAL CONSIDERATIONS

7.1. Termination.

7.1.1. During the construction phase of the Project, and except as provided under **Exhibit F-Procedure for Correcting Construction Defects** which is applicable when the construction is to a City-owned building or other public work, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.1.2 The termination requirements in Sec. 7.1.1 shall be applicable to civil works construction projects but shall not be applicable to construction contracts related to City-owned buildings and other public works unless and until *after* the procedures are followed as outlined in Exhibit "F" to identify and correct construction defects.

7.1.3 During the design phase of the Project, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.2. Reuse of Documents.

The E/A's Instruments of Service (including but not limited to plans, field surveys, maps, cross sections, drawings, specifications, calculations and other data related to the Project) are and shall remain the

property of the E/A until payment of the E/A in full. Upon payment of the E/A in full, said E/A's Instruments of Service shall pass to and become the property of the OWNER without restriction as to their subsequent uses. E/A acknowledges that OWNER is a governmental entity and that all Instruments of Service in respect of the Project, upon completion of the Project, shall thereafter be subject to the Texas Public Information Act (Texas Government Code Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents. In the event that a valid Public Information Request is received prior to completion of the Project and payment of the E/A in full, OWNER shall work with the E/A to protect any information deemed to be confidential by seeking an Opinion from the Texas Attorney General as allowed by State law.

7.3. Insurance.

7.3.1. The E/A agrees, at its sole expense, to maintain on a primary basis during the life of this Contract and the performance of Work hereunder, insurance coverage, limits, and endorsements required herein, unless otherwise noted. Insurance required by this contract for the OWNER as additional insured shall be primary insurance and not contributing with any other insurance available to OWNER.

7.3.2 The E/A agrees to provide evidence of the following coverage's at execution of contract:

- **Commercial General Liability:** E/A agrees to maintain Commercial General Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence, two million dollars ($2,000,000) General Aggregate per project. E/A agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Products - Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage (X = Explosion Hazard; C = Collapse Hazard; U = Underground Damage), Contractual Liability or Cross Liability. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Business Automobile Liability:** E/A agrees to maintain Business Automobile Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence. Coverage shall include bodily injury and property damage liability arising out of the operation, maintenance and use of Any Auto, or All Owned Autos, and Hired Autos, and Non-Owned automobiles. In the event E/A does not own automobiles, E/A agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

- **Professional Errors and Omissions Liability:** E/A agrees to maintain Professional Errors and Omissions Liability at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate. The E/A agrees the policy shall include a minimum three (3) year Discovery (tail) reporting period, and a Retroactive Date that equals or precedes the effective date of the Agreement, or the performance of services hereunder. The E/A agrees the Self-Insured-Retention shall not exceed twenty-five thousand dollars ($25,000). This coverage may be provided on a Per-Project Basis.

- **Pollution Liability Insurance** (if required by a City Operational Department): If a City Operational Department requires Pollution Liability coverage, the E/A agrees to maintain Pollution Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate.

- **Commercial Umbrella / Excess Liability:** E/A agrees to maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than five million dollars ($5,000,000) Each Occurrence, five million dollars ($5,000,000) General Aggregate. The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial Umbrella/Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the OWNER is automatically defined as an Additional Protected Person. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Worker's Compensation and Employer's Liability**: The E/A agrees to maintain its own Workers' Compensation Insurance pursuant to statutory limits. See TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401; TEX. ADMIN CODE, Title 28, Part 2. (NOTE: Elective

exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).

The E/A agrees to maintain its own Employer's Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Bodily Injury by Accident, one million dollars ($1,000,000) Bodily Injury by Disease Each Occurrence, one million dollars ($1,000,000) Bodily Injury by Disease Aggregate Limit.

See Exhibit "D" Certificate(s) of Insurance and Endorsements for a chart and checklist providing a summary and overview of the insurance requirements.

7.3.3 In the event the E/A performs any site work, then all the insurance required herein will need to be evidenced prior to commencement of said site work.

7.3.4. The E/A agrees the insurance requirements herein as well as OWNER'S review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the E/A under this Agreement.

7.4. Additional Insured Endorsements.

7.4.1 The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial General Liability. E/A shall choose one of the three Endorsement Options stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.

The form of the endorsement(s) shall be:

Option 1:

CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractor – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 2:

CG 20 10 07 04
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 3:

GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work

AND, the additional endorsement of

GA 233 02 07
Contractors' Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract

E/A shall attach actual copies of the endorsements.

7.4.2 Additionally, E/A agrees to endorse the OWNER as an "Additional Insured" under the Commercial Umbrella / Excess Liability and the Pollution Liability Insurance, if required, as also provided herein.

7.4.3 The name of the organization endorsed as Additional Insured for all endorsements shall read "City of Tyler."

7.5. Deductibles, Coinsurance Penalties and Self-Insured Retention.

E/A agrees to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or

limitation. For deductible amounts that exceed the amounts stated herein that are acceptable to OWNER, the E/A agrees, when requested by OWNER, to maintain a Commercial Surety Bond in an amount equal to said deductible amount.

7.6. Waiver of Subrogation.

E/A agrees by entering into this written Agreement to a Waiver of Subrogation in favor of the OWNER for each required policy providing coverage during the life of this Agreement. E/A agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement and provide such endorsement to OWNER. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement, or voids coverage should the E/A enter into such an agreement on a pre-loss basis.

7.7. Subconsultants' Insurance.

In the event any work is sublet, the E/A shall require its subconsultants to similarly provide the same coverage as the E/A, and shall acquire evidence of such coverage on behalf of the OWNER.

7.8. Insurance Effective Until Completion.

Insurance coverage, limits, and endorsements required herein shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.9. Right to Revise or Reject Insurance.

7.9.1 E/A agrees the OWNER reserves the right, but not the obligation, to review or revise any insurance requirement, not limited to limits, coverage and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage.

7.9.2 Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office in the OWNER'S Legal Department for their adequacy as to form, content, form of protection, and providing company. Additionally, the OWNER reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due of its poor financial condition or failure to operate legally in the State of Texas. In such events, OWNER shall provide E/A written notice of such revisions or rejections.

7.10. Certificate of Insurance.

7.10.1 Before commencement of any work, the E/A agrees to provide OWNER with **Certificate(s) of Insurance and Endorsements** that clearly evidence that E/A's insurance contains the minimum coverages, limits, and endorsement requirements set forth herein, and which shall be attached as Exhibit "D" of this Agreement. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on each Certificate(s) of Insurance. In the event the OWNER is notified that a required insurance coverage will cancel or expire during the period of this Agreement, the E/A agrees to furnish OWNER prior to the expiration of such insurance, a new Certificate of Insurance evidencing replacement coverage. When notified by OWNER, the E/A agrees to not continue Work pursuant to this Agreement, unless all required insurance remains in effect.

7.10.2 The OWNER shall have the right, but not the obligation, of prohibiting E/A from entering the Work site until a new Certificate of Insurance is provided to the OWNER evidencing the replacement coverage. The E/A agrees the OWNER reserves the right to withhold payment to E/A until evidence of reinstated or replacement coverage is provided to the OWNER. If the E/A fails to maintain the insurance as set forth herein, the E/A agrees the OWNER shall have the right, but not the obligation, to purchase replacement insurance, which the E/A agrees to reimburse any premiums or expenses incurred by the OWNER.

7.10.3 Such insurance shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.11. Insurance - No Limit on Obligation to Pay.

Nothing contained in the insurance requirements shall be construed as limiting the extent of the E/A's

responsibility for payment of damages resulting from his operations.

7.12. Non-compliance; Breach.

The E/A's failure to comply with any of the provisions of paragraphs 7.3 through 7.11, inclusive, is a breach of contract by the E/A which entitles the OWNER to declare the contract void if the E/A does not remedy the breach within ten days after receipt of notice of breach from the OWNER.

7.13. Indemnity.

E/A AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER, OWNER'S OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST LIABILITY FOR LIENS, DEMANDS, AND DAMAGES FOR INJURIES TO PERSONS INCLUDING DEATH, PROPERTY DAMAGE INCLUDING LOSS OF USE, AND EXPENSES, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES IN PROPORTION TO E/A'S LIABILITY, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONAL TORTIOUS ACTS OR OMISSIONS OF E/A, E/A'S SUBCONSULTANTS, AGENTS, OR ANYONE FOR WHOSE ACTS THE E/A OR SUBCONSULTANT MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIMS OR DAMAGES OCCURRED ON PROPERTY BELONGING TO THE OWNER. THE E/A'S INDEMNIFICATION OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

7.14. Certificate of Interested Parties.

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval. If required, the Certificate of Interested Parties (Form 1295) shall be attached as Exhibit "E".

7.15. Controlling Law.

This Agreement is to be governed by the law of the state of Texas. Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for actions in federal court. This provision shall supersede any other references in the Agreement.

If this Project includes construction activities to City-owned buildings or other public works, Exhibit "F" provisions shall be applicable.

7.16. Successors and Assigns.

7.16.1. OWNER and E/A each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and E/A (and to the extent permitted by paragraph 7.16.2 the assigns of OWNER and E/A) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.16.2. Neither OWNER nor E/A shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. 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 this Agreement. Nothing contained in this paragraph shall prevent E/A from employing such independent professional associates and consultants as E/A may deem appropriate to assist in the performance of services hereunder, provided such independent associates or consultants are approved in writing in advance by OWNER and are paid by E/A.

7.16.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and E/A, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and E/A and not for the benefit of any other party.

SECTION 8—SPECIAL PROVISIONS, SCHEDULES, AND EXHIBITS

8.1. Special Provisions.

Any other provisions of this Agreement or other documents included by reference herein to the contrary notwithstanding, the following provisions shall apply to this Agreement and the respective duties and responsibilities of OWNER and E/A affected thereby:

8.1.1. As to the contractual relationship between E/A and OWNER, E/A is and shall be considered in all things an independent contractor.

8.1.2. OWNER reserves the right, with E/A's agreement, to consolidate any and all phases of performance set out in the standard form contractual documents. The consolidation of said services shall not in any way affect the E/A's responsibilities to perform the services set out therein.

8.2. Exhibits.

The following exhibits are attached to and made a part of this Agreement:

- *Exhibit A - E/A's Scope of Service,*
- *Exhibit B - E/A's Project Schedule,*
- *Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees,*
- *Exhibit D - Certificate of Insurance and Endorsements,*
- *Exhibit E - Certificate of Interested Parties (Form 1295) (if required),*
- *Exhibit F - Procedure for Correcting Construction Defects (Applicable only to construction contracts affecting City-owned buildings and other public works)*

Provided, however, that where the terms and provisions of the above-referenced exhibit(s) shall conflict with the terms and provisions of this standard contract, this standard contract shall control. **However, if Exhibit "F" is applicable, provisions therein shall control over any other conflicting provisions.**

8.3. Entire Agreement.

8.3.1 This Agreement, together with the exhibits and schedules identified above, constitute the entire Agreement between OWNER and E/A and supersede all prior or oral understandings.

8.3.2 This Agreement and said exhibits and schedules may only be amended, supplemented, modified or canceled by a duly executed written instrument.

8.4. Effective Date.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

8.5. Severability.

The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

8.6. Waiver.

The waiver of any breach of a term or condition of this Agreement does not waive any other breach of that term or condition or any breach of any other term or condition of this Agreement.

8.7. Notices.

Any notices provided under this Agreement shall occur in writing, by certified or registered mail delivery, receipt requested. For purposes of such notice, the addresses of the parties, until changed by written notice, shall be:

E/A:
Elledge Engineering Corporation
Attn: Phil Elledge, P.E.
P.O. Box 7110
Tyler, Texas 75711

OWNER:
City of Tyler
Attn: Kate Dietz, P.E.
P.O. Box 2039
Tyler, TX 75710

8.8. Venue.

Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for action in federal court. This provision shall supersede any other references in the Agreement.

(The remainder of this page was left blank intentionally.)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

FOR THE CITY OF TYLER, TEXAS:

ATTEST:

By: _____
City Manager Date

Edward Broussard
Printed Name

By: _____
City Clerk

Cassandra Brager
Printed Name

APPROVED:

By: _____
City Attorney's Office Date

_____
Printed Name

RECOMMENDED:

By: _____
Department Leader Date

_____
Printed Name

CITY COUNCIL APPROVAL:

AGENDA ITEM NUMBER: _____
DATE APPROVED: _____

FOR THE E/A:

By: _____

Enter title of signer Date

_____

Printed Name

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who is known to me, or who was proved to me through _____ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 20_____.

_____

Notary Public In and For The State of Texas

My Commission Expires: _____ _____

Notary's Printed Name

INDEX OF EXHIBITS

Exhibit A - E/A's Scope of Service

Exhibit B - E/A's Project Schedule

Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

Exhibit D - Certificates of Insurance and Endorsements

Exhibit E - Certificate of Interested Parties (Form 1295) (If Required)

Exhibit F – Procedure for Correcting Construction Defects
(Applicable only to construction contracts affecting City-owned buildings and other public works)

Exhibit A - E/A's Scope of Service

City of Tyler

Exhibit A
Scope of Services

2024 Water Main Improvements (2-inch)

2/23/2024

Scope of Work	
Study Phase	
>	Consult with Owner to determine requirements of the Project.
>	Prepare sketches of proposed improvements to determine estimated quantities
>	Prepare preliminary Opinion of Probable Cost
>	Review preliminary sketches and OPC with Owner
>	Make adjustments to project requested by Owner
>	Update the preliminary Opinion of Probable Cost
>	Submit updated OPC to Owner for review
Preliminary Design Phase	
>	Meet with TxDOT and other Utility providers as required.
>	Coordinate the topographic survey.
>	Prepare preliminary plans for the 2" water line replacements.
>	Prepare the estimated quantities based on the preliminary design.
>	Prepare an updated Preliminary Opinion of Probable Cost
>	Review the preliminary plans and updated OPC with Owner.
Final Design Phase	
>	Make adjusments to the preliminary plans requested by the Owner.
>	Meet with TxDOT and other Utility providers as required.
>	Prepare the final design plans for project construction
>	Prepare an Opinion of Probable Cost based upon the final quantities.
>	Advise the Owner of any adjustment in the opinion of probable cost for the project caused by changes in scope, design requirements, sketch and furnish an updated opinion of probable cost based on the completed design package.
>	Prepare proposal forms, notice to bidders and contract documents for submission by the Owner to their attorney
>	Furnish to the Owner five complete sets of contract documents for execution
>	Meet with Owner monthly to review status of Plans

City of Tyler

2024 Water Main Improvements (2-inch)

2/23/2024

Scope of Work	
Bid and Construction Phase	
>	Schedule and attend an optional pre-bid meeting for contractors prior to bid openings
>	Assist owner in securing bids including notification of perspective bidders and plan rooms
>	Assist Owner in opening, tabulation and analysis of bids and furnish information gathered from references to aid in the award of the contract.
>	Assist in the preparation of formal contract documents for award of contract.
>	Schedule and attend a preconstruction conference with the Owner, other utility owners, contractors and other interested parties to determine and coordinate construction scheduling and responsibilities, if required.
>	Make periodic site visits to observe the general progress and quality of work to determine if the work is proceeding in accordance with the Contract Documents
>	Check submittals for compliance with the contract plans and specifications.
>	Consult and advise with the Owner and act as the Owner's representative at the Project Site; issue instructions of the Owner to the contractor that do not conflict with good engineering practices.
>	Review monthly and final estimates from contractor for payment and determine if the work progress justifies the pay request
>	Prepare Contract Change Order, as required.
>	Conduct a final inspection of the completed work and issue a punch list of items that require correction. Re-inspect as required.
>	Revise the Contract Drawings to reflect "as-built" conditions of the project and furnish one set of the revised drawing to the owner on paper and as a pdf file.
Additional Services	
>	Preparation of Design Surveys
>	Preparation of Railroad Crossing Permit Documentation
>	Construction Observation (Part Time)

Exhibit B - E/A's Project Schedule

City of Tyler

2024 Water Main Improvements
(2-inch)

2/23/2024

TASK	EST. COMPLETION DATE*
Surveying, Design	4/30/2024
Study Phase	5/15/2024
Preliminary Phase	7/1/2024
Final Design Phase	8/15/2024
Bid Phase	9/10/2024
Construction Start	10/1/2024
Construction Phase	6/27/2025
Construction Observation	6/27/2025

* Estimated completion dates are based on receiving the Notice to Proceed on or before March 13, 2024

Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

City of Tyler

Exhibit C
Fee Summary
Schedule of Hourly Fees

2024 Water Main Improvements
(2-inch)

2/23/2024

ENGINEERING FEE ESTIMATE	
Basic Services	**Contract Amount**
Study Phase	$ 9,000.00
Preliminary Design Phase	$ 90,000.00
Final Design Phase	$ 27,000.00
Bid Phase	$ 9,000.00
Construction Phase	$ 45,000.00
Additional Services	
Engineering, Permitting	$ 10,000.00
Surveying, Design	$ 25,000.00
Construction Observation (20 hours/week)*	$ 70,000.00

2024 Rate Schedule	
Staff Classification	**Rate / hr.**
Principal/President	$200
Project Manager	$175
Sr. Design Engineer	$150
Design Draftsman, Engineering Technician	$100
Project Inspector	$95
Secretary	$75

CERTIFICATE(S) OF INSURANCE

[Certificate of Liability Insurance Shall Be Inserted Here]

INSURANCE COVERAGE REQUIRED * Endorsement Required	
TYPE	**AMOUNT**
1) COMMERCIAL GENERAL LIABILITY * Policy shall include (but not limited to) the following: a) Products - Completed Operations b) Independent Contractors c) Broad Form Property Damage d) X-C-U Coverage X = Explosion Hazard C = Collapse Hazard U = Underground Damage e) Contractual Liability or Cross Liability	Not Less than: **$1,000,000** (1 million) Each Occurrence **$2,000,000** (2 million) General Aggregate **Per Project** Any Self-Insured-Retention or Deductible shall not exceed $25,000.
2) BUSINESS AUTOMOBILE LIABILITY Policy shall include (but not limited to) bodily injury and property damage liability for the following: a) Any Auto; OR b) All Owned Autos, and c) Hired Autos, and d) Non-Owned Autos.	Not Less than: **$1,000,000** (1 million) Each Occurrence
3) PROFESSIONAL ERRORS & OMISSIONS LIABILITY Policy shall include (but not limited to) the following: a) A minimum three (3) year Discovery (tail) Reporting period, and b) A Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder.	Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
4) ♦ POLLUTION LIABILITY INSURANCE *	♦ ☐ Check Here If Coverage is Required by a City Operational Department Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate
5) COMMERCIAL UMBRELLA / EXCESS LIABILITY *	Not Less than: **$5,000,000** (5 million) Each Occurrence **$5,000,000** (5 million) General Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
6) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY	**Statutory Limits for Workers' Compensation** TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401 TEX. ADMIN. CODE, Title 28, Part 2 **Employer's Liability Limits** **$1,000,000 (1 million)** Bodily Injury by Accident **$1,000,000 (1 million)** Bodily Injury by Disease Each Occurrence **$1,000,000 (1 million)** Bodily Injury by Disease Aggregate Limit

Checklist: Certificate(s) of Insurance

*** Provided only as a courtesy ***

[See generally Section 7.3 Insurance for contract insurance requirements]

1.	All pages of the *Certificate of Liability Insurance* shall be attached. *See* lower right corner of certificate for *ex toto* pagination. E.g. Page 1 of 2
2.	Policy Effective and Expiration Dates (for each type of coverage) Policy **effective date** is ON or BEFORE Contract date, and Policy **expiration date** should extend at least 6 months into the future OR for the estimated project length, whichever is greater.
3.	Commercial General Liability [*See* Section 7.3.2] ☒ **Occurrence** Box is Checked ☒ **Per Project** Box is Checked for General Aggregate Limit.
4.	Business Automobile Liability [*See* Section 7.3.2] At a minimum each of the following boxes should be checked: ☒ Any Auto OR ☒ All Owned Autos, and ☒ Hired Autos, and ☒ Non-Owned Autos.
5.	Professional Errors and Omissions Liability [*See* Section 7.3.2]
6.	Commercial Umbrella / Excess Liability [*See* Section 7.3.2] ☒ Occurrence Box is Checked
7.	Workers Compensation and Employers Liability [*See* Section 7.3.2] ☒ WC Statutory Limits Box is Checked
	Look at the "Description of Operations . . . Special Provisions" Box. [*See* Section 7.4] [*See also* Section 7.6] Clearly indicate the **CITY** has been endorsed by using this language: "The City of Tyler (i.e. Certificate Holder) shall be named as Additional Insured as respects to Commercial General Liability, Commercial Umbrella / Excess Liability and Pollution Liability Insurance, if required, and shall have a Waiver of Subrogation as respects to Commercial General Liability, Business Automobile Liability, Professional Errors and Omissions Liability, Commercial Umbrella / Excess Liability and Workers' Compensation all as required by written contract subject to policy terms, conditions and exclusions. Coverage is primary, non-contributory as respects to General Liability and Auto as required by written contract."
8.	Clearly identify each policy's limits, flat & percentage deductibles, sub-limits, or self-insured retentions, which exceed the amounts or percentages set forth herein.
9.	Certificate Holder: [*See generally* Section 7.4] City of Tyler P.O. Box 2039 Tyler, TX 75710

ELLEENG-01 BDANSBY

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/8/2023

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 INSURICA TX Insurance Services, Inc. 4802 Kinsey Drive Tyler, TX 75703	CONTACT NAME: Becky Dansby, ACSR PHONE (A/C, No, Ext): (903) 939-6412 FAX (A/C, No): (903) 509-8818 E-MAIL ADDRESS: Becky.Dansby@INSURICA.com
INSURED Elledge Engineering Corporation P.O. Box 7110 Tyler, TX 75711	INSURER A : Sentinel Insurance Company, Ltd. 11000 INSURER B : Hartford Accident and Indemnity Co. 22357 INSURER C : Hartford Fire Insurance Company 19682 INSURER D : Beazley America Insurance Company, Inc. INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **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	X COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	X	X	46SBAUM5441	5/6/2023	5/6/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG EPLI	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 10,000
B	AUTOMOBILE LIABILITY X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	X	X	46UECKI4382	5/6/2023	5/6/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE [ ] DED X RETENTION $ 10,000	X	X	46SBAUM5441	5/6/2023	5/6/2024	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	46WBCAP2207	5/6/2023	5/6/2024	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
D	Professional Liabili	X	X	C1875F230901	5/6/2023	5/6/2024	see below	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
PROFESSIONAL LIABIITY: LIMITS $1,000,000 EACH CLAIM/$2,000,000 AGGREGATE

CERTIFICATE HOLDER

CITY OF TYLER
P.O. BOX 2039
Tyler, TX 75710

CANCELLATION

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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LOSS PAYEE: FORM SS 12 17
SEE FORM IH 12 00

Form Numbers of Forms and Endorsements that apply:

SS 00 01 03 14	SS 00 05 10 08	SS 00 07 07 05	SS 00 08 04 05
SS 00 60 09 15	SS 00 61 07 19	SS 00 64 09 16	SS 84 32 09 07
SS 10 11 10 15	SS 42 06 03 17	SS 04 15 07 05	SS 04 19 04 09
SS 04 22 07 05	SS 04 30 07 05	SS 04 33 04 05	SS 04 39 07 05
SS 04 41 03 18	SS 04 42 03 17	SS 04 44 07 05	SS 04 45 07 05
SS 04 46 09 14	SS 04 47 04 09	SS 04 78 12 17	SS 04 80 03 00
SS 04 86 03 00	SS 40 05 09 07	SS 40 18 07 05	SS 40 26 03 17
SS 40 93 07 05	SS 41 12 06 22	SS 41 51 10 09	SS 41 63 06 11
SS 05 06 03 14	SS 05 47 09 15	SS 41 75 03 14	SS 50 04 06 04
SS 51 11 03 17	IH 12 06 02 21	SS 09 01 12 14	SS 09 67 09 14
SS 09 70 12 14	SS 09 71 12 14	SS 09 82 12 14	SS 12 17 08 94
IH 99 40 04 09	IH 99 41 04 09	SX 80 01 06 97	SS 83 76 12 20
SS 89 93 07 16			

BUSINESS 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. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C**. - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G**. - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "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 "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or 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 **D.** - Liability And Medical Expenses 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, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

(1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph **1.** of Section **C.** – 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 "employee" 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.

(2) 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.

c. "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 **C.** – 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;

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(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.

d. 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".

e. Incidental Medical Malpractice

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

(2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. MEDICAL EXPENSES

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 three years 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.

3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

(1) All expenses we incur.

(2) Up to $1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

(4) 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 $500 a day because of time off from work.

(5) All costs taxed against the insured in the "suit".

(6) 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.

(7) 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.

Any amounts paid under **(1)** through **(7)** above will not reduce the limits of insurance.

b. 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:

(1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

(2) This insurance applies to such liability assumed by the insured;

(3) 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";

(4) 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 interest of the indemnitee;

(5) 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

(6) The indemnitee:

(a) Agrees in writing to:

(i) Cooperate with us in the investigation, settlement or defense of the "suit";

(ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(iii) Notify any other insurer whose coverage is available to the indemnitee; and

(iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(b) Provides us with written authorization to:

(i) Obtain records and other information related to the "suit"; and

(ii) 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 **1.b.(b)** of Section **B.** – Exclusions, 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:

(1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or

(2) The conditions set forth above, or the terms of the agreement described in Paragraph **(6)** above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

(1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or

(2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

(1) "Bodily injury" or "property damage"; or

(2) "Personal and advertising injury"

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 because of:

(a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

(b) "Bodily injury" or "property damage" 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 purpose of liability assumed in an "insured contract", reasonable attorneys' 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:

(i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and

(ii) Such attorneys' 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 **(1)** above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) 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", "property damage" or "personal and advertising injury" 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;

(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 operations 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"; or

(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 51 feet long; and

(b) Not being used to carry persons 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;

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

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 or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. War

"Bodily injury", "property damage" or "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.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

(1) Legal, accounting or advertising services;

(2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;

(3) Supervisory, inspection, architectural or engineering activities;

(4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;

(5) Any health or therapeutic service treatment, advice or instruction;

(6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting,demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs **(4)** and **(5)** of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph **1.e.** in Section **A.** - Coverages.

k. 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, organization 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 **D.** - 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)** and **(4)** of this exclusion do not apply to the use of elevators.

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. 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.

n. 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.

o. 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.

p. Personal And Advertising Injury

"Personal and advertising injury":

(1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;

(2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of a criminal act committed by or at the direction of the insured;

(4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";

(5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

(6) Arising out of the wrong description of the price of goods, products or services;

(7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

(a) Copyright;

(b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

(a) Advertising, broadcasting, publishing or telecasting;

(b) Designing or determining content of web sites for others; or

(c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

(9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;

(10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;

(11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

(a) An "advertisement" for others on your web site;

(b) Placing a link to a web site of others on your web site;

(c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or

(d) Computer code, software or programming used to enable:

(i) Your web site; or

(ii) The presentation or functionality of an "advertisement" or other content on your web site;

(13) Arising out of a violation of any anti-trust law;

(14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or

(15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

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".

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

s. Asbestos

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".

(2) Any damages, judgments, settlements, loss, costs or expenses that:

(a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

(b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

(c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "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;

(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.

Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion

Exclusions **c.** through **h.** and **k.** through **o.** do not apply to damage by fire, lightning or explosion to premises 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 **D.** - Liability And Medical Expenses Limits Of Insurance.

2. Applicable To Medical Expenses Coverage

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 with the "products-completed operations hazard".

g. Business Liability Exclusions

Excluded under Business Liability Coverage.

C. 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. Employees And Volunteer Workers

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), or to a co-"employee" while 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 that "volunteer worker" as a consequence of Paragraph **(1)(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 **(1)(a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph **(d)** does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such 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", "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. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

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. Legal Representative If You Die

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 insurance.

e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, 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 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

(1) "Bodily injury" or "property damage" that occurred; or

(2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs **a.** through **f.** below are additional insureds when you have agreed, in a written

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section **F.** – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor 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 that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs **a.** through **e**. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"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:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

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.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

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. Aggregate Limits

The most we will pay for:

a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.

b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or

b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph **3.** above.

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.

E. LIABILITY AND MEDICAL EXPENSES GENERAL 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. Notice Of Occurrence Or Offense

You or any additional insured 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. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

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, 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 that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

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.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

(1) You or any additional insured that is an individual;

(2) Any partner, if you or an additional insured is a partnership;

(3) Any manager, if you or an additional insured is a limited liability company;

(4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;

(5) Any trustee, if you or an additional insured is a trust; or

(6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This Paragraph **f.** applies separately to you and any additional insured.

3. Financial Responsibility Laws

a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.

b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

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 Form 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 insurance 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.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy 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 a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

(1) The statements in the Declarations are accurate and complete;

(2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

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;

(4) Aircraft, Auto Or Watercraft

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 **A.** – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part 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.

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:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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 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.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, 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. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph **6.** (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section **C.**, Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. **Additional Insured - Designated Person Or Organization**

   WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

   a. In the performance of your ongoing operations; or

   b. In connection with your premises owned by or rented to you.

2. **Additional Insured - Managers Or Lessors Of Premises**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

   b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

   This insurance does not apply to:

   (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

   (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. **Additional Insured - Grantor Of Franchise**

   WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. **Additional Insured - Lessor Of Leased Equipment**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

   b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. **Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

   b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

   This insurance does not apply to:

   (1) Any "occurrence" that takes place after you cease to lease that land; or

   (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. **Additional Insured - State Or Political Subdivision – Permits**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured – Vendors

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. The insurance afforded to the vendor is subject to the following additional exclusions:

(1) This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor 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 that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

a. Their financial control of you; or

b. Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. **Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

   (1) In the performance of your ongoing operations for the additional insured(s); or

   (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

   b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an 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 failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

   (2) Supervisory, inspection, architectural or engineering activities.

10. **Additional Insured – Co-Owner Of Insured Premises**

    WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

   a. (1) Radio;

   (2) Television;

   (3) Billboard;

   (4) Magazine;

   (5) Newspaper;

   b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

   c. Any other publication that is given widespread public distribution.

   However, "advertisement" does not include:

   a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

   b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

   a. Injury;

   b. Sickness; or

   c. Disease

   sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "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 included in **a.** above;

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 **a.** above;

(2) The activities of a person whose home is in the territory described in **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 the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

7. "Electronic data" means information, facts or programs:

a. Stored as or on;

b. Created or used on; or

c. 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.

8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "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:

a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

b. Your fulfilling the terms of the contract or agreement.

12. "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, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section **D.** – Liability and Medical Expenses Limits of Insurance.

b. A sidetrack agreement;

c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;

d. Any 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, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement 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.

However, Paragraph **f.** does not include that part of any contract or agreement:

(1) 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, designs 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

(2) 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 **(1)** above and supervisory, inspection, architectural or engineering activities.

13. "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".

14. "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".

15. "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, on which are 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 **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 **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, of at least 1,000 pounds gross vehicle weight, 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.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "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 the person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral, written or electronic publication of material that violates a person's right of privacy;

f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";

g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "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.

19. "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 to be 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.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

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; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "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 "occurrence" that caused it.

As used in this definition, "electronic data" is not tangible property.

21. "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.

22. "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.

23. "Volunteer worker" means a person who:

a. Is not your "employee";

b. Donates his or her work;

c. Acts at the direction of and within the scope of duties determined by you; and

d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "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.

25. "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.

COMMERCIAL AUTOMOBILE
COVERAGE PART - DECLARATIONS
BUSINESS AUTO COVERAGE FORM



POLICY NUMBER: 46 UEC KI4382

This COMMERCIAL AUTOMOBILE COVERAGE PART consists of:

A. This Declarations Form;
B. Business Auto Coverage Form; and
C. Any Endorsements issued to be a part of this Coverage Form and listed below.

ITEM ONE - NAMED INSURED AND ADDRESS

The Named Insured is stated on the Common Policy Declarations.

ADVANCE PREMIUM: $

AUDIT PERIOD:

Except in this Declarations, when we use the word "Declarations" in this Coverage Part, we mean this "Declarations" or the "Common Policy Declarations".

Form Numbers of Coverage Forms, Endorsements and Schedules that are part of this Coverage Part:

HA00040302	HA00120615T	CA00011120	HA21020614	CA22641013
CA21091013	CA01211013	CA01961120	CA02431113	CA05051120
CA99951013	HA99080614	HA99161221		

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

Paragraph .1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add the following:

d. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

(1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.

(2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:

(a) That is a partnership or joint venture,

(b) That is an "insured" under any other policy,

(c) That has exhausted its Limit of Insurance under any other policy, or

(d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

e. Employees as Insureds

(1). Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

f. Lessors as Insureds

(1). The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:

(a) The agreement requires you to provide direct primary insurance for the lessor and

(b) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

g. Additional Insured if Required by Contract

(1) When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

(a) During the policy period, and

(b) Subsequent to the execution of such written contract, and

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(c) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

(a) The limits of insurance specified in the written contract or written agreement; or

(b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM , SUIT OR LOSS – OF SECTION IV – BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

2. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in A.1.g. - Additional Insured If Required by Contract, the following provisions apply:

(1) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(2) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(1)** and **(2)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance 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.

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:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in SECTION IV- Business Auto Conditions, B. General Conditions, Other Insurance 5.d.

3. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The SECTION IV- Business Auto Conditions, B. General Conditions, 5. OTHER INSURANCE Condition is amended by adding the following:

e. If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

4. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

5. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

(1) $100,000;

(2) The actual cash value of the damaged or stolen property at the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of $1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

6. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of $50 per day and a maximum limit of $1,000.

7. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

8. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

9. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** 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:

(1) Permanently installed in or upon the covered "auto";

(2) Removable from a housing unit which is permanently installed in or upon the covered "auto";

(3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

(4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III, Physical Damage Coverage, Limit of Insurance, Paragraph C.2. is amended to add the following:

$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

(1) 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;

(2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or

(3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or $250, whichever deductible is less.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

11. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

12. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

(1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;

(2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

13. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership;

(3) A member, if you are a limited liability company; or

(4) An executive officer or insurance manager, if you are a corporation.

14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

15. HIRED AUTO - COVERAGE TERRITORY

SECTION IV, BUSINESS AUTO CONDITIONS, PARAGRAPH B. GENERAL CONDITIONS, 7. - POLICY PERIOD, COVERAGE TERRITORY - is added to include the following:

(6) For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought 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.

16. WAIVER OF SUBROGATION

Paragraph 5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS A. Loss Conditions is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

17. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS, C. is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

18. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

19. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of $2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,

b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is $10,000.

For the purposes of the coverage provision,

a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

20. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to $1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is $5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

POLICYHOLDER NOTICE

TEXAS MOTOR VEHICLE CRIME PREVENTION AUTHORITY FEE

NOTICE: Your payment includes a $4.00 fee per motor vehicle year. This fee goes to help fund: (1) auto burglary, theft, and fraud prevention, (2) criminal justice efforts, and (3) trauma care and emergency medical services for victims of accidents due to traffic offenses. By law, we send this fee to the Motor Vehicle Crime Prevention Authority (MVCPA).



IMPORTANT NOTICE

Need Information, Have a complaint, or need help?

If you need information, have a problem with a claim, or your premium, contact your agent who is listed on the Declarations/Information Page of your policy, or on your binder or certificate of insurance first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal with your agent or The Hartford. If you don't, you may lose your right to appeal.

To get information or file a complaint with The Hartford:

Call: **1-877-853-2582**
Online: https://www.thehartford.com
Email: agency.services@thehartford.com
Mail: The Hartford
Business Service Center
3600 Wiseman Blvd.
San Antonio, TX 78251

The Texas Department of Insurance
To get help with an insurance question or file a complaint with the state:

Call with a question: **1-800-252-3439**
File a complaint: www.tdi.texas.gov
Email: ConsumerProtection@tdi.texas.gov
Mail: MC 111-1A
P.O. Box 149091
Austin, TX 78714-9091

ATTACH THIS NOTICE TO YOUR POLICY:
This notice is for information only and does not become a part or condition of the insurance policy

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AVISO IMPORTANTE

¿Necesita información, Tiene una queja o necesita ayuda?

Si necesita información, tiene un problema con un reclamo o su prima de seguro, llame primero a su agente quien esta en la lista en la Página de Declaraciones/Información de su póliza, o en su carpeta de seguro o certificado de seguro. Si no puede resolver el problema, el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) puede ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja o apelación ante su agente o The Hartford. Si no lo hace, podría perder su derecho para apelar.

Para obtener información o para presentar una queja ante The Hartford:

Llame a: **1-877-853-2582**
En línea: https://www.thehartford.com
Correo electrónico: agency.services@thehartford.com
Dirección postal: The Hartford
Business Service Center
3600 Wiseman Blvd.
San Antonio, TX 78251

El Departamento de Seguros de Texas
Para obtener ayuda con una pregunta relacionada con los seguros, conocer sus derechos o para presentar una queja ante el estado:

1-800-252-3439 (LLame con sus preguntas)
Presente una queja en: www.tdi.texas.gov
Correo electrónico: ConsumerProtection@tdi.texas.gov
Dirección postal: MC 111-1A
P.O. Box 149091
Austin, TX 78714-9091

A**DJUNTE ESTE AVISO A SU PÓLIZA:**
Este aviso es solo para información y no se convierte en parte o condición de la póliza de seguro.



PRODUCER COMPENSATION NOTICE

You can review and obtain information on The Hartford's producer compensation practices at www.TheHartford.com or at 1-800-592-5717.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

Policy Number: 46 WBC AP2207 **Endorsement Number:**
Effective Date: 05/06/23 Effective hour is the same as stated on the Information Page of the policy.
Named Insured and Address: ELLEDGE ENGINEERING CORPORATION
PO BOX 7110
TYLER TX 75711

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1. ( ) Special Waiver
   Name of person or organization

   (X) Blanket Waiver
   Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:
   All Texas Operations

3. Premium:
   The premium charge for this endorsement shall be 2 percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium:

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AFB A&E MEDIA TECH® INSURANCE POLICY

ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY, ARCHITECTS, ENGINEERS AND CONTRACTORS POLLUTION LIABILITY, TECHNOLOGY BASED SERVICES, TECHNOLOGY PRODUCTS, COMPUTER NETWORK SECURITY, AND MULTIMEDIA AND ADVERTISING AND PRIVACY LIABILITY

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AFB A&E MEDIA TECH® INSURANCE POLICY

ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY, ARCHITECTS, ENGINEERS AND CONTRACTORS POLLUTION LIABILITY, TECHNOLOGY BASED SERVICES, TECHNOLOGY PRODUCTS, COMPUTER NETWORK SECURITY, AND MULTIMEDIA AND ADVERTISING AND PRIVACY LIABILITY

NOTICE: Coverage under Insuring Clause I.A. of this Policy is provided on a Claims Made and Reported Basis and applies only to **Claims** first made against the **Insured** during the **Policy Period** and reported in writing to the Underwriters pursuant to the terms of this Insurance Policy. The Limit of Liability available to pay **Damages** shall be reduced and may be completely exhausted by payment of **Claims Expenses**.

Insuring Clause I.B. of this Policy provides first party coverage on an incident discovered and reported basis and applies only to incidents first discovered by the **Insured** and reported to the Underwriters during the **Policy Period**.

Please review the coverage afforded under this Insurance Policy carefully and discuss the coverage hereunder with your insurance agent or broker.

In consideration of the payment of the premium and reliance upon the statements in the **Application** and subject to the Limit of Liability, deductible, exclusions, conditions and other terms of this Insurance (hereinafter referred to as the "Policy" or "Insurance", the Underwriters agree with the **Named Insured**:

I. INSURING CLAUSES

A. To pay on behalf of the **Insured Damages** and **Claims Expenses**, in excess of the **Deductible**, which the **Insured** shall become legally obligated to pay because of any **Claim** first made against the **Insured** during the **Policy Period** or **Optional Extension Period** (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause XI. of this Policy, arising out of one or more of the following acts or events committed or taking place on or after the Retroactive Date and before the end of the **Policy Period**:

1. **Architects and Engineers Professional Liability**

   any unintentional act, error or omission in the performance of **Professional Services** by the **Insured** or by any person, including an independent contractor, for whom the **Named Insured** is legally responsible; or

2. **Architects, Engineers and Contractors Pollution Liability**

   a **Pollution Condition** arising out of the performance of **Professional Services** or **Contracting Services** by the **Insured** or by any person, including an independent contractor, for whose **Pollution Condition** the **Named Insured** is legally responsible.

Insuring Clauses A.3., A.4., A.5., A.6. and B. only apply if Item 8. of the Declarations indicates that these Coverages have been purchased.

3. **Technology Based Services**

   any negligent act, error or omission, or any unintentional breach of contract, in rendering or failing to render **Technology Based Services** by the **Insured** or by any person, including an independent contractor, for whose negligent act, error or omission or unintentional breach of contract the **Named Insured** is legally responsible;

4. **Technology Products**

   any negligent act, error or omission, or any unintentional breach of contract, by the **Insured** that results in the failure of **Technology Products** to perform the function or serve the purpose intended;

5. **Computer Network Security and Privacy Liability**

   a. the failure to prevent **Unauthorized Access** to **Computer Systems** that results in:

      (1) the destruction, deletion or corruption of electronic data on **Computer Systems**;

      (2) denial of service attacks against Internet sites or computers;

      (3) the failure to prevent transmission of malicious code from **Computer Systems** to third party computers and systems; or

      (4) the inability of a third party, who is authorized to do so, to gain access to **Computer Systems** or your **Technology Based Services**;

   b. theft, loss or **Unauthorized Disclosure** of **Personally Identifiable Information** or **Third Party Information** that is in the care, custody or control of the **Named Insured**, or an independent contractor that is holding or processing such information on behalf of the **Named Insured**;

   c. the **Named Insured's** failure to timely disclose an incident described in I.A.5.A. or I.A.5.B. in violation of any **Breach Notice Law**;

   d. failure by the **Insured** to comply with that part of a **Privacy Policy** that specifically:

      (1) prevents or prohibits improper or intrusive collection of **Personally Identifiable Information** from a person;

(2) requires notice to a person of the **Named Insured's** collection or use of, or the nature of the collection or use of his or her **Personally Identifiable Information**;

(3) provides a person with the ability to assent to or withhold assent for (e.g. opt-in or opt-out) the **Named Insured's** collection or use his or her **Personally Identifiable Information**;

(4) prohibits or restricts the **Named Insured's** disclosure, sharing or selling of a person's **Personally Identifiable Information**;

(5) requires the **Named Insured** to provide access to **Personally Identifiable Information** or to correct incomplete or inaccurate **Personally Identifiable Information** after a request is made by a person; or

(6) mandates procedures and requirements to prevent the loss of **Personally Identifiable Information**;

provided the **Named Insured** must, at the time of such acts, errors or omissions have in force a **Privacy Policy** that directly addresses those subsections above that are relevant to such **Claim**.

6. **Multimedia and Advertising**

liability imposed by law or **Assumed Under Contract** arising out of:

a. defamation, libel, slander, product disparagement, trade libel, prima facie tort, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;

b. invasion of or interference with the right to privacy or of publicity;

c. misappropriation of any name or likeness for commercial advantage;

d. false arrest, detention or imprisonment or malicious prosecution;

e. invasion of or interference with any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;

f. plagiarism, piracy or misappropriation of ideas under implied contract;

g. infringement of copyright;

h. infringement of trade dress, domain name, title or slogan, or the dilution or infringement of trademark or service mark;

i. negligence regarding the content of any **Media Communication**, including harm caused through any reliance or failure to rely upon such content; or

j. misappropriation of trade secret

in the course of the **Named Insured's** performance of **Professional Services**, **Media Activities** or **Technology Based Services**;

B. **Privacy Breach Response Services**

To provide **Privacy Breach Response Services** to the **Named Insured** in excess of the **Deductible** because of an incident (or reasonably suspected incident) described in Insuring Clause A.5.A. and A.5.B. that first takes place on or after the Retroactive Date and before the end of the **Policy Period** and is discovered by the **Insured** and is reported to the Underwriters during the **Policy Period**.

Privacy Breach Response Services means the following:

1. Costs for a computer security expert to determine the existence and cause of an actual or suspected electronic data breach which may require the **Named Insured** to comply with a **Breach Notice Law** and to determine the extent to which such information was accessed by an unauthorized person or persons; and

2. fees charged by an attorney to determine the applicability of and action necessary by the **Named Insured** to comply with a **Breach Notice Law** due to an actual or reasonably suspected theft or misuse of **Personally Identifiable Information**.

3. **Notification Services** to provide notification to:

   (a) individuals who are required to be notified by the **Named Insured** under the applicable **Breach Notice Law**; and

   (b) in the Underwriters' discretion, to individuals affected by an incident in which their **Personally Identifiable Information** has been subject to theft or misuse in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to the individual;

4. **Call Center Services**;

5. **Breach Resolution and Mitigation Services**, provided all such costs payable under this subsection 6. must be for the purpose of

mitigating potential **Damages** resulting from the theft or misuse of **Personally Identifiable Information**.

Privacy Breach Response Services will be subject to the terms and conditions of this Policy and the conditions applicable thereto are set forth more fully in the Information Packet (which may be updated by the Underwriters from time to time) provided with this Policy, and will be subject to the applicable **Deductibles** and limits set forth in the Declarations, and shall not include any internal salary or overhead expenses of the **Named Insured**.

II. SUPPLEMENTARY PAYMENTS

All payments made under this Clause are not subject to the Each Claim Deductible.

1. Pre-Claims Assistance

   If the **Insured** reports a **Circumstance** during the **Policy Period**, in accordance with Clause XI.B., until such time a **Claim** is made, any costs or expenses the Underwriters incur as a result of investigating or monitoring such **Circumstance**, will be paid for by the Underwriters. The decision to incur any costs or expenses to monitor or investigate such **Circumstance** shall be at the sole discretion of the Underwriters.

2. Defendants Reimbursement

   Upon the Underwriters request, the **Insured** shall attend mediation meetings, arbitration proceedings, hearings, depositions and trials relative to the defense of a **Claim**. After the first three (3) days' attendance required for each **Claim**, the Underwriters shall reimburse the **Insured**, upon written request, for actual loss of earnings and reasonable expenses due to such attendance up to $500 for each day in the aggregate for all **Insureds** subject to a maximum amount of $15,000 for each **Claim**.

3. Disciplinary / Regulatory / Administrative Actions Reimbursement

   The Underwriters will reimburse the **Insured**, upon written request, for legal fees and expenses up to $30,000 in the aggregate for the **Policy Period**, incurred by the **Insured** with the prior written consent of the Underwriters, in responding to a disciplinary, regulatory or administrative action brought directly against the **Insured** during the **Policy Period** by a government agency provided that the disciplinary, regulatory or administrative action:

   a. arises out of **Professional Services**; and

   b. is reported pursuant to Section XI.A of this Policy.

4. Reputation Management Reimbursement

The Underwriters will reimburse the **Named Insured** fifty percent (50%) of the first $30,000 in Reputational Management Expenses incurred by the **Named Insured** for reputational management consulting services which are incurred in connection with a **Claim**, circumstance or incident covered under this Policy that the **Named Insured** reasonably believes will have a material adverse effect upon the **Named Insured's** reputation.

Reputational Management Expenses means reasonable fees, costs, and expenses incurred by the Named Insured for reputational management consulting services provided by a public relations firm to the **Named Insured**.

III. DEFINITIONS

Wherever used in this Policy in bold face type, the following definitions shall apply.

A. "**Advertising**" means material which promotes the product, service or business of the **Named Insured** or others.

B. "**Application"** means all signed applications, including all attachments and other materials submitted therewith or incorporated therein, and any other such documents submitted in connection with the underwriting of this Policy including any endorsement or other part thereof, or any other policy issued by the Underwriters, of which this Policy is a renewal, replacement or which it succeeds in time.

C. "**Assumed Under Contract**" means liability assumed by the **Named Insured** under a written hold harmless or indemnity agreement regarding the content of **Media Material** used in a **Media Communication**, but only as respects acts for which insurance is afforded under Insuring Clause A.6.

D. "**Bodily Injury**" means physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting therefrom.

E. "**Breach Notice Law**" means any state, federal or foreign statute or regulation that requires notice to persons whose **Personally Identifiable Information** was accessed or may reasonably have been accessed by an unauthorized person.

F. "**Breach Resolution and Mitigation Services**" means a credit monitoring, identity monitoring or other solution selected from the products listed in the Information Packet and offered to **Notified Individuals**. The product offered to **Notified Individuals** will be selected by the Underwriters in consultation with the **Insured** and in accordance with the guidance provided in the Breach Resolution and Mitigation section of the Information Packet.

G. "**Call Center Services**" means the provision of a call center to answer calls during standard business hours for a period of ninety (90) days following notification (or longer if required by applicable law or regulation) of an incident for which notice is provided pursuant to Insuring Clause I.B.3. (Notification Services) Such notification shall include a toll free telephone number that connects to the call center during standard business hours. Call center employees will answer questions about the incident from **Notified Individuals** and will provide information required by applicable law or regulation.

Call Center Services will include up to 10,000 calls per day and will be provided in accordance with the terms and conditions set forth in the Information Packet. **Call Center Services** will be provided by a service provider selected by the Underwriters in consultation with the **Named Insured** from the list of service providers in the Information Packet.

H. "**Circumstance**" means any fact, event or situation that could reasonably be the basis for a **Claim**.

I. "**Claim**" means a demand received by any **Insured** for money or services including the service of suit or institution of arbitration proceedings. "**Claim**" shall also mean a threat or initiation of a suit seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction).

Multiple **Claims** arising from the same or a series of related or repeated acts, errors, omissions or **Pollution Conditions** or from any continuing acts, errors, omissions or **Pollution Conditions** shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of Claimants or **Insureds** involved in the **Claim**. For all purposes, all such **Claims** shall be deemed to have been made at the time of the first such **Claim**, regardless of whether or not coverage was afforded by Underwriters when the first such **Claim** was made.

J. "**Claims Expenses**" means:

1. reasonable and necessary fees charged by an attorney designated or consented to by the Underwriters;

2. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **Claim**, suit or proceeding arising in connection therewith, if incurred by the Underwriters, or by the **Insured** with the prior written consent of the Underwriters; and

3. premiums for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required for a **Claim** against any **Insured** for a covered act, error or omission, provided, however, that the Underwriters shall have no obligation to appeal or to obtain such bonds.

Claims Expenses do not include any salary, overhead or other charges of or by the **Insured** for any time spent in cooperating in the defense and investigation of any **Claim** notified under this Insurance, or costs to remediate an act, error or omission without the prior written consent of the Underwriters.

K. "**Cleanup Costs**" means reasonable and necessary costs, charges and expenses incurred with the prior written consent of the Underwriters in the investigation, removal or neutralization of a **Pollution Condition**, provided that such costs, charges and expenses are caused by a **Pollution Condition** arising out of the rendering of or failure to render **Professional Services** or the performance of or failure to perform **Contracting Services** by or on behalf of the **Named Insured**.

L. "**Computer Systems**" means computers and associated input and output devices, data storage devices, networking equipment, and back up facilities:

1. operated by and either owned by or leased to the **Named Insured**; or

2. operated by a third party service provider and used for the purpose of providing hosted computer application services to the **Named Insured** or for processing, maintaining, hosting or storing the **Named Insured's** electronic data, pursuant to written contract with the **Named Insured** for such services.

M. "**Contracting Services**" means the performance of construction, drilling or remediation activities by or on behalf of the **Named Insured**.

N. "**Damages**" means a monetary judgment, award or settlement of compensatory damages, including any pre-judgment and/or post-judgment interest thereon.

The term **Damages** shall not include or mean:

1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of an **Insured** to comply with orders granting injunctive or equitable relief;

2. return or offset of fees, charges, or commissions for goods or services already provided or contracted to be provided;

3. costs incurred by the **Insured** to correct, re-perform or complete any **Media Activities** or **Technology Based Services**;

4. any damages which are a multiple of compensatory damages;

5. fines, taxes or loss of tax benefits, sanctions or penalties assessed against the **Insured**;

6. punitive or exemplary damages, unless insurable by law under the law under which this Policy is construed;

7. discounts, coupons, prizes, awards or other incentives offered to the **Insured's** customers or clients;

8. liquidated damages to the extent that such damages exceed the amount for which the **Insured** would have been liable in the absence of such liquidated damages agreement;

9. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**; or

10. matters deemed uninsurable under the law pursuant to which this Policy shall be construed.

O. "**Insured**" shall mean:

1. the **Named Insured**;

2. a director or officer of the **Named Insured**, but only with respect to the performance of his or her duties as such on behalf of the **Named Insured**;

3. an employee or **Temporary Employee** of the **Named Insured**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Named Insured's** business;

4. a principal if the **Named Insured** is a sole proprietorship, or a partner if the **Named Insured** is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Named Insured**;

5. any person who previously qualified as an **Insured** under 2, 3 or 4 above prior to the termination of the required relationship with the **Named Insured**, but only with respect to the performance of his or her duties as such on behalf of the **Named Insured**;

6. the estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Insurance;

7. the lawful spouse or Domestic Partners of any of the person set forth in 2., 3., 4., 5., or 6. above, but only for **Claims** arising out of an act, error or omission actually or allegedly committed by such **Insured** and only to the extent that such Insured would otherwise be provided coverage under this Insurance. The Company has no obligation to make any payment for **Damages** or **Claims**

Expenses in connection with any **Claim** made against a spouse or Domestic Partner of an **Insured** for any actual or alleged acts, errors or omissions committed by such spouse or Domestic Partner;

For the purposes of this provision, the terms "Domestic Partner" shall mean any natural person qualifying as a domestic partner under the provisions of any applicable Federal, State, or local law; or the provisions of any formal program established by the **Named Insured**;

8. the **Named Insured** with regard to its participation in a joint venture, but solely for the **Named Insured's** liability that arises out of an unintentional act, error or omission in the performance of **Professional Services** by the **Named Insured** or for a **Pollution Condition** that arises out of the performance of **Professional Services** or **Contracting Services** by the **Named Insured**; and

9. solely with respect to Insuring Clause I.A.2., the client for whom the **Named Insured** renders or rendered **Professional Services** or performs or performed **Contracting Services**, provided that a written contract or agreement is in effect between the **Named Insured** and the client requiring the client to be an additional insured under the **Named Insured's** architects, engineers and contractors pollution liability policy. However, such clients are covered under Insuring Clause I.A.2. of this Policy solely with respect to **Damages** and **Claims Expenses** arising from **Professional Services** rendered or **Contracting Services** performed by or on behalf of the **Named Insured** and are not covered for any **Damages** and **Claims Expenses** arising from the client's own acts, errors or omissions. Clients of the **Named Insured** are covered under Insuring Clause I.A.2. of this Policy, subject to Clause VIII., or the Limits of Liability required by the written contract or agreement, whichever is less.

P. "**Media Communication**" means the display, broadcast, dissemination, distribution or release of **Media Material** to the public by the **Named Insured.**

Q. "**Media Material**" means information in the form of words, sounds, numbers, images, or graphics in electronic, print or broadcast form, including **Advertising**, but does not mean computer software.

R. "**Media Activities**" means **Media Communication** and/or the gathering, collection or recording of **Media Material** for inclusion in any **Media Communication** in the ordinary course of the **Named Insured's** business.

S. "**Mediation**" means a non-binding process by which a qualified professional mediator mutually agreed upon by the parties intercedes between the parties with the intention to reconcile them to resolve a

Claim. The term **Mediation** shall not include or mean other dispute resolution by litigation or arbitration.

T. "**Named Insured**" means only those persons, partnerships, corporations or entities specified in Item 1. of the Declarations.

The term **Named Insured** shall include any corporate entity while more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such entity's directors are owned by the **Named Insured** if such entity becomes so owned after the inception date of the Policy, subject to the terms and conditions of Clause XVII.A.

U. **Notification Services** means notification by first class mail or e-mail. E-mail notification will be provided in lieu of first class mail to the extent reasonable, practicable and where permitted under the applicable **Breach Notice Law**. **Notification Services** will be provided by a service provider selected by the Underwriters in consultation with the **Named Insured** from the list of service providers in the Information Packet and will be provided in accordance with the terms and conditions set forth in the Information Packet.

V. **Notified Individual**" means an individual person to whom notice is given or attempted to be given under Insuring Clause I.B.3. pursuant to a **Breach Notice Law**.

W. "**Optional Extension Period**" means the period of time after the end of the **Policy Period** for reporting **Claims** as provided in Clause XII. of this Policy.

X. **"Personally Identifiable Information**" means:

1. information concerning the individual that constitutes "non-public personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to the Act;

2. medical or heath care information concerning the individual, including "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to the Act;

3. information concerning the individual that is defined as private personal information under a **Breach Notice Law**; or

4. the individual's social security number, driver's license or state identification number, unpublished telephone number, and credit, debit or other financial account numbers and associated security codes, access codes, passwords or pins; if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual's financial account or medical record information.

Y. "**Policy Period**" means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this Insurance and specifically excludes any **Optional Extension Period** or any prior policy period or renewal period.

Z. "**Pollution Condition**" means the actual or alleged discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in **Bodily Injury**, **Property Damage** or **Cleanup Costs**.

AA. "**Privacy Policy**" means the **Named Insured's** public declaration of its policy for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to, **Personally Identifiable Information**.

BB. "**Professional Services**" means those services performed for others by or on behalf of the **Named Insured** in the capacity as an architect;, engineer; land surveyor; landscape architect; interior designer; construction manager; project manager; forensic consultant; environmental consultant; sustainability consultant; or design, construction or project consultant or planner.

CC. "**Property Damage**" means:

1. physical injury to or destruction of any tangible property, including the loss of use thereof; or

2. loss of use of tangible property that has not been physically injured or destroyed.

DD. "**Technology Based Services**" means computer and electronic technology services, including data processing, Internet services, data and application hosting, computer systems analysis, technology consulting and training, custom software programming for a specific client of the **Named Insured**, computer and software systems installation and integration, computer and software support, and network management services performed by the **Insured**, or by others acting under the **Named Insured's** trade name, for others for a fee, but shall not mean **Technology Products**.

EE. "**Technology Products**" means a computer or telecommunications hardware or software product, or related electronic product that is created, manufactured or developed by the **Named Insured** for others, or distributed, licensed, leased or sold by the **Named Insured** to others, for

compensation, including software updates, service packs and other maintenance releases provided for such products.

FF. "**Temporary Employee**" means a person furnished or leased to the **Named Insured** to meet short term or project specific workloads and for whom the **Named Insured** has the right to direct and control the means of performance.

GG. "**Third Party Information**" means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not insured under this Policy which is not available to the general public and is provided to the **Insured** subject to a mutually executed written confidentiality agreement or which the **Named Insured** is legally required to maintain in confidence; however, **Third Party Information** shall not include **Personally Identifiable Information**.

HH. "**Unauthorized Access**" means:

1. the gaining of access to or use of **Computer Systems** by an unauthorized person or persons; or

2. the use of **Computer Systems** in an unauthorized manner.

II. "**Unauthorized Disclosure**" means the disclosure of (including disclosure resulting from phishing) or access to information in a manner that is not authorized by the **Named Insured** and is without knowledge of, consent, or acquiescence of any director, officer, principal, partner, or any member of the risk management or legal department of the **Named Insured**.

IV. DEFENSE, SETTLEMENT, AND INVESTIGATION OF CLAIMS

A. The Underwriters shall have the right and duty to defend, subject to the Limit of Liability, exclusions and other terms and conditions of this Policy, any **Claim** against the **Insured** seeking **Damages** which are payable under the terms of this Policy, even if any of the allegations of the **Claim** are groundless, false or fraudulent.

B. The Underwriters shall have the right and duty to defend, subject to the Limit of Liability, exclusions, and other terms and conditions of this Policy, any **Claim** in the form of a civil suit against the **Insured** that seeks injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction) for one or more of the acts listed in Insuring Clause I.A.6.

C. When the Underwriters defend a **Claim**, it will pay **Claims Expenses** incurred with its prior written consent. The Limit of Liability available to pay **Damages** shall be reduced and may be completely exhausted by payment of **Claims Expenses**. **Damages** and **Claims Expenses** shall be applied against the Each **Claim** Deductible.

D. The Underwriters shall have the right to make any investigation it deems necessary, including, without limitation, any investigation with respect to the **Application** and statements made in the **Application** and with respect to coverage.

However, notwithstanding the above, the **Insured**'**s** rights under this Policy shall not be prejudiced by any refusal to disclose the identity of any confidential source of information, or to produce any documentation or information obtained in the course of **Media Activities** in respect of which the **Insured** has asserted a claim of reporter's privilege or any other privilege regarding the protection of news-gathering activities.

E. If the **Insured** shall refuse to consent to any settlement or compromise recommended by the Underwriters and acceptable to the Claimant and elects to contest the **Claim**, the Underwriters liability for any **Damages** and **Claims Expenses** shall not exceed:

1. the amount for which the **Claim** could have been settled, less the remaining Each **Claim** Deductible, plus the **Claims Expenses** incurred up to the time of such refusal, and

2. fifty percent (50%) of any **Claims Expenses** incurred after the date such settlement or compromise was recommended to the **Insured** with the remaining fifty percent (50%) of such **Claims Expenses** to be borne by the **Insured** at their own risk and uninsured;

or the applicable Limit of Liability, whichever is less. The portion of any proposed settlement or compromise that requires the **Insured** to cease, limit or refrain from actual or alleged infringing or otherwise injurious activity or is attributable to future royalties or other amounts that are not **Damages** shall not be considered in determining the amount for which a **Claim** could have been settled.

F. It is further provided that the Underwriters shall not be obligated to pay any **Damages** or **Claims Expenses**, or to undertake or continue defense of any suit or proceeding after the applicable Limit of Liability has been exhausted by payment of **Damages** and/or **Claims Expenses** or after deposit of the applicable Limit of Liability in a court of competent jurisdiction, and that upon such payment, the Underwriters shall have the right to withdraw from the further defense thereof by tendering control of said defense to the **Insured**.

G. To the extent that Underwriters pay any Damages, Claims Expenses or other sums that are not covered under this Policy, Underwriters are entitled to reimbursement from the named Insured and any Insured (or other party) on whose behalf such Damages, Claims Expenses, or sums are paid.

V. TERRITORY

This Policy applies to **Claims** made and acts, errors or omissions or **Pollution Conditions** committed or arising, or **Privacy Breach Response Services** occurring anywhere in the world.

VI. EXCLUSIONS APPLICABLE TO ALL COVERAGES UNDER THIS INSURANCE

The coverage under this Insurance does not apply to **Damages** or **Claims Expenses** in connection with or resulting from any **Claim**, or to any **Privacy Breach Response Services**:

A. **Criminal, Dishonest, Intentional, Fraudulent, Malicious, Willful or Knowing Acts**

arising out of or resulting from any criminal, dishonest, intentional, fraudulent, malicious, willful or knowing act, error or omission committed by any **Insured**; however, this Policy shall apply to **Claims Expenses** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against the **Insured**, or admission by the **Insured**, establishing such criminal, dishonest, intentional, fraudulent, malicious willful or knowing conduct, or a plea of *nolo contendere* or no contest regarding such conduct, at which time the **Named Insured** shall reimburse the Underwriters for all **Claims Expenses** incurred defending the **Claim** and the Underwriters shall have no further liability for **Claims Expenses**.

B. **Prior Knowledge, Prior Notice and Prior Acts**

1. arising out of or resulting from any actual or alleged act, error, omission, incident, or **Pollution Condition** committed or arising prior to the inception date of this Insurance:

   a. if on or before the Knowledge Date set forth in Item 7 of the Declarations any director, officer, principal, partner, insurance manager or any member of the risk management or legal department of the **Named Insured** knew or could have reasonably foreseen that such act, error or omission or **Pollution Condition** might be expected to be the basis of a **Claim**; or

   b. in respect of which any **Insured** has given notice of a **Circumstance** to the insurer of any other policy in force prior to the inception date of this Policy.

2. arising out of or resulting from related or continuing acts, errors or omissions or **Pollution Conditions** where the first such act, error

or omission or **Pollution Condition** was committed or arose prior to the Retroactive Date set forth in Item 6. of the Declarations.

C. **Insured versus Insured**

For, arising out of, or resulting from a **Claim** by or on behalf of any **Insured;** provided, that this exclusion shall not apply to:

1. a **Claim** by or on behalf of any client of the **Named Insured** who is an **Insured** by virtue of Clause III.O.9; or

2. an otherwise covered Claim under Insuring Clause I.A.5.A., I.A.5.B. or I.A.5.C. made by an employee of the **Named Insured**.

D. **Ownership Interest and Outside Positions**

1. arising out of or resulting from any **Insured's** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the **Named Insured**; or

2. made by any entity, arising out of **Professional Services**, **Contracting Services**, **Media Activities** or **Technology Based Services** performed for such entity, or **Technology Products** provided to such entity which:

   a. is operated, managed or controlled by an **Insured** or in which any **Insured** has an ownership interest which cumulatively exceeds twenty-five percent (25%), or in which any **Insured** is an officer or director; or

   b. operates, controls or manages the **Named Insured**, or has an ownership interest of more than fifteen percent (15%) in the **Named Insured**.

E. **Discrimination, Humiliation, Harassment and Misconduct**

for or arising out of or resulting from any actual or alleged discrimination, humiliation, harassment or misconduct because of age, color, race, sex, creed, national origin, marital status, sexual preference or orientation, religion, disability or pregnancy; provided, that this exclusion shall not apply to any **Claim** based upon the Americans with Disabilities Act of 1990 (ADA), as amended, or the Fair Housing Act (FHA), or any state or local versions of those acts, and arising out of the **Insured's** rendering or failure to render **Professional Services**.

F. **Contractual Assumption of Liability**

arising out of or resulting from liability assumed by the **Insured** under any contract or agreement either oral or written, including any hold harmless or indemnity agreements, except:

1. to the extent the **Insured** would have been liable in the absence of such contract or agreement; or

2. to the extent the **Insured** has contractually assumed an obligation to reimburse any person or entity for the reasonable costs of defense of an **Insured's** client pursuant to any hold harmless or indemnity agreement as long as such obligation is limited to the proportionate share of the **Insured's** liability for rendering **Professional Services**, and only upon a final adjudication in a legal proceeding of proportionate fault against the Insured. This exception shall not apply to any immediate duty to defend assumed by the **Insured**, and Underwriters shall have no obligation to defend the client or to pay any costs incurred by client on an ongoing or interim basis. Underwriters will, however, have the right, to be exercised in their sole discretion, to appoint counsel to defend both the **Insured** and the client should applicable ethical rules permit such representation. If the client elects to not accept a joint defense from Underwriters, then this exception shall not apply.

G. **Express Warranties, Representations, Guarantees and Promises**

arising out of or resulting from:

1. breach of any express warranty or representation except for an agreement to perform within a reasonable standard of care or skill consistent with applicable industry standards; or

2. a demand for satisfaction of or breach of guarantee or any promises including, without limitation, cost savings, cost of construction, maximum construction price, financing, profits, or return on investment.

H. **Faulty Workmanship**

under Insuring Clause I.A.1 arising out of the cost to repair or replace any faulty workmanship performed in whole or in part by any **Insured** on any construction, erection, fabrication, installation, assembly, manufacture or remediation, including any materials, parts, labor or equipment furnished in connection with such repair or replacement.

I. **Employers Liability and Workers Compensation**

for or arising out of or resulting from:

1. **Bodily Injury** to any employee of the **Named Insured** arising out of and in the course of employment by the **Named Insured**;

2. the **Named Insured's** employment obligations, decisions, practices or policies as an employer; or

3. any obligation which the **Insured** or any carrier as insurer may be liable under any workers compensation, unemployment compensation or disability benefits law or similar law.

J. **Property Liability**

arising out of or resulting from the **Insured's** ownership, rental, lease, maintenance, operation, use, repair, voluntary or involuntary sale, transfer, exchange, gift, abandonment or condemnation of any real or personal property including without limitation, automobiles, aircraft, watercraft and other kinds of conveyances.

K. **Products Liability**

arising out of or resulting from the design or manufacture of any goods or products for multiple sales or mass distribution which are sold or supplied by the **Insured** or by others under license from the **Insured**; provided, that this exclusion shall not apply to any **Claim** which is covered pursuant to Insuring Clause I.A.4 of this Policy.

L. **Transportation, Shipment or Delivery of Waste, Products or Materials**

under Insuring Clause I.A.2 arising out of or resulting from any waste or any products or materials transported, shipped or delivered via watercraft, aircraft, motor vehicle, mobile equipment or rolling stock to a location beyond the boundaries of a site at which **Professional Services** are being rendered or **Contracting Services** are being performed.

M. **Property Damage to Named Insured's Work and Products**

under Insuring Clause I.A.2 for any **Property Damage**:

1. to work performed by or on behalf of the **Named Insured** resulting from the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith; or

2. to any goods or products which are sold or supplied by the **Insured** or by others under license from the **Insured** resulting from such goods or products or any portion thereof.

VII. EXCLUSIONS APPLICABLE TO INSURING CLAUSES I.A.3., I.A.4., I.A.5., I.A.6. and I.B.

The coverage under Insuring Clauses I.A.3., I.A.4., I.A.5., I.A.6. and I.B. of this Policy does not apply to **Damages** or **Claims Expenses** in connection with or resulting from any **Claim** or to any **Privacy Breach Response Services**:

A. **Contractual Liability**

For, arising out of or resulting from any contractual liability or obligation, or arising out of or resulting from breach of contract or agreement either oral or written; provided, that this exclusion will not apply to:

1. an otherwise covered **Claim** under Insuring Clauses I.A.3 and I.A.4.;

2. only with respect to coverage provided under Insuring Clause I.A.5.B., to any obligation of the **Named Insured** to maintain the confidentiality or security of **Personally Identifiable Information** or of **Third Party Information;**

3. with respect to Insuring Clause I.A.6.:

   a. liability **Assumed Under Contract**; or

   b. misappropriation of ideas under an implied contract;

4. to computer expert services or legal services covered under Insuring Clause B.1. and B.2.; or

5. to the extent the Insured would have been liable in the absence of such contract or agreement.

B. **Business Risks**

for or arising out of or resulting from:

1. inaccurate, inadequate or incomplete description of the price of goods, products or services;

2. cost guarantees, cost representations, or contract price estimates of probable costs or cost estimates actually or allegedly being exceeded;

3. the failure of goods, products, or services to conform with any represented quality or performance contained in **Advertising**; or

4. any actual or alleged gambling, contest, lottery, promotional game or other game of chance.

C. **Licensing Fees and Royalty Payments**

arising out of or resulting from any actual or alleged obligation to make licensing fee or royalty payments, including but not limited to the amount or timeliness of such payments.

D. **Reprinting, Recall, Removal, Disposal, Withdrawal, Inspection, Repair, Replacement, Reproduction Costs and Expenses**

for or arising out of or resulting from any costs or expenses incurred or to be incurred by the **Insured** or others for:

1. the reprinting, recall, removal or disposal of any **Media Material**, including any media or products containing such **Media Material**; or

2. the withdrawal, recall, inspection, repair, replacement, reproduction, removal or disposal of:

   a. **Technology Products**, including any products or other property of others that incorporate **Technology Products**;

   b. work product resulting from or incorporating the results of **Technology Based Services**; or

   c. any products or other property on which **Technology Based Services** are performed;

provided, that this exclusion shall not apply to **Claims** for the resulting loss of use of such **Media Material** or **Technology Products**, or loss of use of the work product resulting from such **Technology Based Services**.

E. **Electrical and Telecommunications Failure and Malfunction and Force Majeure**

arising out of, resulting from or alleging:

1. any failure or malfunction of electrical or telecommunications infrastructure or services, unless under the **Named Insured's** operational control; or

2. fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical or force majeure event.

F. **Antitrust**

for or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, violation of the Sherman Antitrust Act, the Clayton Act, the Robinson-Patman Act, as amended, or any similar law or

legislation of any state, province or other jurisdiction, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive or misleading advertising.

G. **Federal Trade Commission and Federal Communications Commission**

brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission, or any similar governmental entity, in such entity's regulatory or official capacity.

H. **Intellectual Property**

for, arising out of or resulting from any actual or alleged:

1. infringement of copyright or misappropriation of trade secret arising out of or related to **Technology Products**; or

2. disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person prior to the date he or she became an employee, officer, director, principal or partner of the **Named Insured**.

I. Only with respect to Insuring Clauses I.A.5. and I.B., for, arising out of or resulting from:

1. the actual or alleged unlawful collection, acquisition or retention of **Personally Identifiable Information** or other personal information by, on behalf of, or with the consent or cooperation of the **Named Insured**; or the failure to comply with a legal requirement to provide individuals with the ability to assent to or withhold assent (e.g. opt-in or opt-out) from the collection, disclosure or use of **Personally Identifiable Information**.

VIII. LIMIT OF LIABILITY

A. The Limit of Liability stated in Item 3.(a) of the Declarations for each **Claim** is the aggregate limit of the Underwriters liability for all **Damages** and **Claims Expenses** arising out of each **Claim**.

B. The sublimit stated in Item 3.(b) of the Declarations is the aggregate sublimit of liability payable under Insuring Clause I.B. of this Policy and is part of, and not in addition to, the Policy Aggregate Limit of Liability stated in Item 3.(c).

C. The Aggregate for the **Policy Period** stated in Item 3.(c) of the Declarations is the Underwriters combined total Limit of Liability for all **Damages**, **Claims Expenses** and **Privacy Breach Response Services** arising out of all **Claims** which are covered under the terms and conditions of this Policy, and neither the inclusion of more than one

Insured under this Policy, nor the making of **Claims** by more than one person or entity shall increase the Limit of Liability.

D. The Underwriters' maximum aggregate Limit of Liability with respect to all **Claims** brought by or on behalf of or in the name or right of or involving the same claimant on a single project or related projects shall not exceed the Each **Claim** Limit of Liability stated in Item 3.(a) of the Declarations.

E. The Limit of Liability for the **Optional Extension Period** shall be part of and not in addition to the Limit of Liability of the Underwriters for the **Policy Period**.

F. The Underwriters shall not be obligated to provide **Privacy Breach Response Services** after the sublimit stated Item 3.(b) of the Declarations has been exhausted by payment of **Privacy Breach Response Services**.

G. Unless otherwise specific in this Policy, **Privacy Breach Response Services** will be provided by the services providers listed in the Information Packet. In the event a service provider is unable or does not provide the services set forth, the Underwriters will procure similar services from other sources.

IX. DEDUCTIBLE

A. The Each **Claim** Deductible stated in Item 4.(a) of the Declarations applies separately to each **Claim**. The Each **Claim** Deductible shall be satisfied by uninsured monetary payments by the **Named Insured** of **Damages** and **Claims Expenses** resulting from **Claims** first made during the **Policy Period** and the **Optional Extension Period** (if applicable) and reported to the Underwriters pursuant to the terms of this Policy. .

B. For all **Privacy Breach Response Services** the Deductible amount stated in Item 4.(b) of the Declarations applies separately to each incident, event or related incidents or events, giving rise to an obligation to provide **Privacy Breach Response Services** and shall be satisfied by monetary payments by the **Named Insured** for such services.

C. If the **Insured** and the Underwriters agree to use **Mediation** and the **Claim** is fully and finally resolved through the use of **Mediation**, the Insured's Deductible obligation shall be reduced by fifty percent (50%) of the Each **Claim** Deductible, up to $25,000 for such **Claim**.

D. If the **Insured** and the Underwriters agree to fully and finally resolve a **Claim** within six (6) months of when the **Claim** is first made against the **Insured,** the **Insured's** Deductible obligation shall be reduced by fifty percent (50%) of the Each **Claim** Deductible, up to $25,000 for such **Claim**. The total credit applied to the **Insured's** Each **Claim** Deductible under Clause IX.C. and IX.D. for any **Claim** shall not exceed fifty percent (50%) or $25,000.

E. Satisfaction of the applicable Deductible is a condition precedent to the payment by the Underwriters of any amounts or providing any services hereunder, and the Underwriters shall be liable only for the amounts in excess of such Deductible subject to the Underwriters' total liability not exceeding the Limits of Liability stated in Item 3. of the Declarations. The **Named Insured** shall make direct payments within the Each **Claim** Deductible to appropriate other parties designated by the Underwriters.

Any payments by the **Named Insured** in satisfaction of its deductible obligations under any other valid and collectible insurance shall not satisfy the Each **Claim** Deductible under this Policy.

X. INNOCENT INSURED

A. Whenever coverage under this Insurance would be excluded, suspended or lost because of Exclusion VI.A relating to criminal, dishonest, intentional, fraudulent, malicious, willful or knowing acts, errors or omissions by any **Insured**, and with respect to which any other **Insured** did not personally participate or personally acquiesce or remain passive after having personal knowledge thereof, then the Underwriters agree that such insurance as would otherwise be afforded under this Policy shall cover and be paid with respect to those **Insureds** who did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge of one or more of the acts, errors or omissions described in Exclusion VI.A.

This provision is inapplicable to any **Claim** or **Circumstance** against the **Named Insured** arising from acts, errors or omissions known to any present or former principal, partner, director or officer of the **Named Insured**.

B. With respect to this provision, the Underwriters obligation to pay in such event shall only be in excess of the full extent of any recoverable assets of any **Insured** to whom Exclusion VI.A. applies and shall be subject to the terms, conditions and limitations of this Policy.

XI. NOTICE OF CLAIM OR CIRCUMSTANCE

A. If any **Claim** is made against an **Insured**, the **Insured** shall forward as soon as practicable to the Underwriters through the persons named in Item 10.(a) of the Declarations written notice of such **Claim** in the form of a facsimile, email or express or certified mail together with every demand, notice, summons or other process received by the **Insured** or the **Insured's** representative, but in no event later than sixty (60) days after the expiration of the **Policy Period** or during the **Optional Extension Period**, if purchased.

B. If after the Knowledge Date set forth in Item 7 of the Declarations any director, officer, principal, partner, insurance manager or any member of the risk management or legal department of the **Named Insured** first becomes aware of any **Circumstance** and gives written notice to the

Insurer in the form of a facsimile, email or express or certified mail through persons named in Item 10.(a) of the Declarations as soon as practicable during the **Policy Period** of:

1. the specific details of the act, error or omission or **Pollution Condition** in the provision of **Professional Services**, **Contracting Services**, **Media Activities** or **Technology Based Services** or relating to **Technology Products** that gave rise to the **Circumstance**;

2. the injury or damage which may result or has resulted from the **Circumstance**; and

3. the facts by which such director, officer, principal, partner, insurance manager or any member of the risk management or legal department of the **Named Insured** first became aware of the act, error or omission or **Pollution Condition**

then any subsequent **Claim** made against the **Insured** arising directly out of such **Circumstance** which is the subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to the Underwriters.

C. A **Claim** shall be considered to be reported to the Underwriters when written notice is first received by the Underwriters in the form of a facsimile, email or express or certified mail through persons named in Item 10.(a) of the Declarations of the **Claim** or of a **Circumstance** if provided in compliance with Clause B. above.

D. With respect to Insuring Clause I.B., for a legal obligation to comply with a **Breach Notice Law** because of an incident (or reasonably suspected incident) described in Insuring Clauses I.A.5.B., such incident or reasonably suspected incident must be reported as soon as practicable during the **Policy Period** after discovery by the **Insured**.

XII. OPTIONAL EXTENSION PERIOD

A. If this Policy is cancelled or non-renewed by the Underwriters or by the **Named Insured**, then the **Named Insured** shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 9.(a) of the Declarations of the total premium for this Policy, to an extension of the coverage granted by this Policy with respect to any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the period of time set forth in Item 9.(b) of the Declarations after the end of the **Policy Period**, but only with respect to any act, error or omission or **Pollution Condition** committed or arising on or after the Retroactive Date and before the effective date of cancellation or non-renewal.

B. As a condition precedent to the right to purchase the **Optional Extension Period**, the total premium for this Policy must have been paid. The right

to purchase the **Optional Extension Period** shall terminate unless written notice together with full payment of the premium for the **Optional Extension Period** is given to the Underwriters within sixty (60) days after the effective date of cancellation or non-renewal. If such notice and premium payment is not so given to the Underwriters, there shall be no right to purchase the **Optional Extension Period**.

C. In the event of the purchase of the **Optional Extension Period**, the entire premium for the **Optional Extension Period** shall be deemed earned at its commencement.

D. The Limit of Liability for the **Optional Extension Period** shall be part of and not in addition to the Limit of Liability of the Underwriters for the **Policy Period**.

E. The offer of renewal terms, conditions or premiums different from those in effect prior to renewal shall not constitute a refusal to renew for purposes of this Clause XIII.

XIII. REPRESENTATIONS

By acceptance of this Policy, all **Insureds** agree that the statements contained in the **Application** are their agreements and representations, that they shall be deemed material to the risk assumed by the Underwriters, and that this Policy is issued in reliance upon the truth thereof.

XIV. OTHER INSURANCE

This Insurance shall apply in excess of:

A. any other valid and collectible insurance available to any **Insured**, including, but not limited to, any project specific professional liability and/or contractors pollution liability insurance; and

B. any self insured retention or deductible portion thereof

unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

XV. ASSIGNMENT

The interest hereunder of any **Insured** is not assignable. If an **Insured** shall die or be adjudged incompetent, such insurance shall cover that **Insured's** legal representative as the **Insured** as would be permitted by this Policy.

XVI. CANCELLATION AND NONRENEWAL

A. The **Named Insured** may cancel this Policy by surrender thereof to the Underwriters, or by mailing to the Underwriters written notice stating when thereafter such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in

the notice shall become the end of the **Policy Period**. Delivery of such written notice shall be equivalent to mailing.

B. The Underwriters may cancel this Policy by mailing or delivering to the **Named Insured** at the address shown in the Declarations written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. However, if the Underwriters cancel this Policy because the **Insured** has failed to pay a premium when due, this Policy may be cancelled by the Underwriters by mailing or delivering a written notice of cancellation to the **Named Insured** at the address shown in the Declarations stating when not less than ten (10) days thereafter such cancellation shall be effective. The notice of cancellation shall state the reason for cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice by the Underwriters shall be equivalent to mailing

C. If this Policy is cancelled pursuant to A. hereinabove, the Underwriters shall retain the customary short rate portion of the premium hereon. If this Policy is cancelled pursuant to B. hereinabove, the Underwriters shall retain the pro rata portion of the premium hereon. Payment or tender of any unearned premium by the Underwriters shall not be a condition precedent to the effectiveness of cancellation.

D. If the Underwriters decide not to renew this Policy, the Underwriters shall mail or deliver written notice to the **Named Insured** at the address shown in the Declarations at least sixty (60) days before the end of the **Policy Period**. The notice of nonrenewal shall state the reason for nonrenewal.

XVII. MERGERS AND ACQUISITIONS

A. If during the **Policy Period**, the **Named Insured** acquires another entity for whom more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such entity's directors are owned by the **Named Insured**, then no **Insured** shall have coverage under this Policy for any **Claim** that arises out of any act, error or omission or **Pollution Condition**, whether committed or arising either before or after such acquisition:

1. by the acquired entity or any person employed by the acquired entity; or

2. involving or relating to the assets, liabilities, or **Computer Systems** of the acquired entity.

The foregoing provision shall not apply if the **Named Insured** gives the Underwriters written notice within sixty (60) days after the effective date of the acquisition, obtains the written consent of the Underwriters to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by the Underwriters.

B. If during the **Policy Period** the **Named Insured** consolidates or merges with another entity such that the **Named Insured** is not the surviving entity, is acquired by another entity, or sells substantially all of its assets to any other entity, then coverage under this Policy shall not apply to acts, errors, omissions or other breach or **Pollution Conditions** committed or arising subsequent to such consolidation, merger or acquisition. The **Named Insured** shall provide written notice of such consolidation, merger or acquisition to the Underwriters as soon as practicable, together with such information as the Underwriters may require.

C. All notices and premium payments made under this section shall be directed to the Underwriters through the entity named in Item 9.(b) of the Declarations.

XVIII. ASSISTANCE AND COOPERATION OF THE INSURED

The **Insured** shall cooperate with the Underwriters in all investigations, including investigations regarding the **Application** for and coverage under this Policy. The **Insured** shall execute or cause to be executed all papers and render all assistance as is requested by the Underwriters. The **Insured** agrees not to take any action which in any way increases the Underwriters exposure under the Policy.

Upon the Underwriters request, the **Insured** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of acts, errors or omissions or **Pollution Conditions** with respect to which insurance is afforded under this Policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

The **Insured** shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any **Claim** without the written consent of the Underwriters.

Except as provided for in Clause II.B., expenses incurred by the **Insured** in assisting and cooperating with the Underwriters, as described above, do not constitute **Claims Expenses** and are not reimbursable under the Policy.

XIX. ACTION AGAINST THE UNDERWRITERS

No action shall lie against the Underwriters unless, as a condition precedent thereto, the **Insured** shall have fully complied with all of the terms of this Policy, nor until the amount of the **Insured's** obligation to pay shall have been fully and finally determined either by judgment against them or by written agreement between them, the claimant and the Underwriters. Nothing contained herein shall give any person or organization any right to join the Underwriters as a party to any **Claim** against the **Insured** to determine their liability, nor shall the Underwriters be impleaded by the **Insureds** or their legal representative in any **Claim**.

XX. SUBROGATION

In the event of any payment under this Insurance, the Underwriters shall be subrogated to all the **Insureds'** rights of recovery therefore against any person or organization, and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights. The Underwriters agrees to waive its rights of recovery against any client of the **Named Insured** for a **Claim** which is covered pursuant to Insuring Clause I.A.1. and/or I.A.2 of this Policy to the extent the **Named Insured** had, prior to such **Claim**, a written agreement to waive such rights. Any recoveries shall be applied first to subrogation expenses, second to **Damages**, **Claims Expenses** and **Privacy Breach Response Services** paid by the Underwriters, and third to the Each **Claim** Deductible or Each Incident Deductible (as applicable). Any additional amounts recovered shall be paid to the **Named Insured**.

XXI. ENTIRE AGREEMENT

By acceptance of this Policy, all **Insureds** agree that this Policy embodies all agreements existing between them and the Underwriters relating to this Insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop the Underwriters from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by written endorsement issued to form a part of this Policy, signed by the Underwriters.

XXII. VALUATION AND CURRENCY

All premiums, limits, deductibles, **Damages** and other amounts under this Policy are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **Damages** under this Policy is stated in a currency other than United States dollars or if **Claims Expenses** are paid in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or payment of the settlement or other element of **Damages** is due or the date such **Claims Expenses** are paid.

XXIII. BANKRUPTCY

Bankruptcy or insolvency of the **Insured** shall not relieve the Underwriters of their obligations nor deprive the Underwriters of its rights or defenses under this Policy.

XXIV. AUTHORIZATION

By acceptance of this Policy, the **Insureds** agree that the **Named Insured** will act on their behalf with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements.

XXV. HEADINGS

The descriptions in the headings and subheadings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

Effective date of this Endorsement: 06-May-2023
This Endorsement is attached to and forms a part of Policy Number: C1875F230901
Beazley America Insurance Company, Inc. referred to in this endorsement as either the "Insurer" or the "Underwriters"

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER

This endorsement modifies insurance provided under the following:

AFB A&E MEDIA TECH® POLICY

In consideration of the premium charged for the Policy, it is hereby understood and agreed that in addition to the provisions of Clause **XVI. CANCELLATION AND NONRENEWAL** B., if this Policy is cancelled by the Underwriters, the Underwriters will provide thirty (30) days written notice, but ten (10) days written notice in the event the **Insured** has failed to pay a premium when due, to the following persons and/or entity(ies):

City of Tyler
PO Box 2039
Tyler, TX 75710

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

Exhibit D - Certificates of Insurance and Endorsements

(See following pages for a summary and checklist of Insurance and Endorsement requirements)

ENDORSEMENTS

[Endorsements Shall Be Inserted Here]

<table>
<tr><td colspan="3">* ENDORSEMENT(S) REQUIRED</td></tr>
<tr><td colspan="2">Name of Additional Insured Person(s)
or Organization(s):
City of Tyler
P.O. Box 2039
Tyler, TX 75710</td><td>Location(s) of Covered Operations:

Project [insert project name],
Dated [insert month and year of contract].</td></tr>
<tr><td colspan="3">E/A shall choose one of the three Endorsement Option stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.</td></tr>
<tr><td colspan="3">COMMERCIAL GENERAL LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” on the Commercial General Liability with: [Select Option 1, Option 2 or option 3 below] [See Section 7.3.2 and 7.4]</td></tr>
<tr><td>Option
1</td><td colspan="2">FORM: CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
2</td><td colspan="2">FORM: CG 20 10 07 04
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
3</td><td colspan="2">FORM: GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work
AND
FORM: GA 233 02 07
Contractors’ Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract</td></tr>
<tr><td colspan="3">COMMERCIAL UMBRELLA / EXCESS LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” under the Commercial Umbrella / Excess Liability as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
<tr><td colspan="3">POLLUTION LIABILITY INSURANCE

♦ If applicable E/A agrees to endorse the CITY as an “Additional Insured” under the Pollution Liability Insurance as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
</table>

Exhibit E - Certificate of Interested Parties (Form 1295)

(If Required)

Check Here if this Section is NOT Used ☐

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

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:
2024-1127381

Date Filed:
02/23/2024

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Elledge Engineering Corporation
Tyler, TX 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 Tyler

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 Water Main Improvements
Preliminary, Design, Bid and Construction Phase Services

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Elledge, Phil	Tyler, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is **Phil Elledge**, and my date of birth is **05-01-1959**.

My address is **633 Whiteoak Lane** (street), **Tyler** (city), **Texas** (state), **75703** (zip code), **USA** (country).

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

Executed in **Smith** County, State of **Texas**, on the **23** day of **February** (month), 20**24** (year).

Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

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:
2024-1127381

Date Filed:
02/23/2024

Date Acknowledged:
02/23/2024

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

Elledge Engineering Corporation
Tyler, TX 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 Tyler

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 Water Main Improvements
Preliminary, Design, Bid and Construction Phase Services

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

Exhibit F - Procedure for Correcting Construction Defects

Check Here if this Section IS Applicable to This Contract ☐

****ONLY APPLICABLE FOR CONSTRUCTION ACTIVITIES AFFECTING CITY-OWNED BUILDINGS AND OTHER PUBLIC WORKS PROJECTS AS DEFINED IN TEX. GOV. CODE ANN., SEC. 2269.001 (6)****

EXHIBIT F is not applicable to "civil works" projects as defined in Tex. Gov. Code Ann., Sec. 2269.351

I. DEFINITIONS

A. **"Public Works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.001 (6), are those related to constructing, altering, or repairing a public building or carrying out any public work.

B. **"Civil works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.351 are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

II. NOTIFICATION OF DEFECT

A. **ENGINEER/ARCHITECT SHALL NOTIFY OWNER IN WRITING OF ANY CONSTRUCTION DEFECT** of which the ENGINEER/ARCHITECT is aware, and which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning or supervision of the construction that is a result of:

i. The use of defective materials, products, or components in the construction;
ii. A violation of a building code applicable by law to the construction;
iii. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or
iv. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

B. The E/A's writing shall identify the specific construction defect, describe the present physical condition of the affected structure; and describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

III. PROCEDURE TO CORRECT CONSTRUCTION DEFECTS

A. Before bringing an action asserting a claim for a construction defect under this Agreement, the OWNER must provide a written report to each party with whom the OWNER has a contract for the design, construction or construction oversight of an affected structure by certified mail, return receipt requested.

i. The report shall clearly identify the specific construction defect(s) on which the claim is based, which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning, or supervision of the construction that is a result of:
   a. The use of defective materials, products, or components in the construction;
   b. A violation of a building code applicable by law to the construction;

c. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or

d. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

iii. The report shall clearly:

a. Identify the specific construction defect on which the claim is based;

b. Describe the present physical condition of the affected structure; and

c. Describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

B. OWNER shall allow each party with whom the OWNER has a contract for the design or construction of an affected structure and who is subject to the claim, and any known subcontractor or supplier who is subject to the claim a reasonable opportunity to inspect any construction defect or related condition identified in the report for a period of 30 days after receiving the report.

C. OWNER shall allow at least 120 days after the inspection to:

i. Correct any construction defect or related condition identified in the report; or

ii. Enter into a separate agreement with the governmental entity to correct any construction defect or related condition identified in the report.

D. OWNER is not required to allow a party to make a correction or repair under Subsection II.A. if:

i. the party:

a. Is a contractor and cannot provide payment and performance bonds to cover the corrective work;

b. Cannot provide liability insurance or workers' compensation insurance;

c. Has been previously terminated for cause by OWNER; or

d. Has been convicted of a felony; or

ii. OWNER previously complied with the process required by Subsection II.A. regarding a construction defect or related condition identified in the report and:

a. The defect or condition was not corrected as required by Subsection II.C.i. or by an agreement under Subsection II.C.ii.; or

b. The attempt to correct the construction defect or related condition identified in the report resulted in a new construction defect or related condition.

E. Recovery of Report Costs. If the report described in Subsection II.A. identifies a construction defect that is corrected or for which the OWNER recovers damages, the party responsible for that construction defect shall pay the reasonable amounts incurred by OWNER to obtain the report with respect to identification of that construction defect.

F. These provisions do not prohibit or limit the OWNER from making emergency repairs to the property as necessary to protect the health, safety, and welfare of the public or a building occupant.

RESOLUTION NO. R-2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR COSTS ASSOCIATED WITH THE 2024 WATER MAIN IMPROVEMENTS (2-INCH REPLACEMENT) PROJECT; AND PROVIDING AN EFFECTIVE DATE.

STATE OF TEXAS §
§
COUNTY OF SMITH §
§
CITY OF TYLER §

WHEREAS, the City of Tyler, Texas reserves the right to issue debt for the engineering, design, and construction of the 2024 Water Main Improvements (2-Inch Replacement) project (the "Project") and further intends to make certain capital expenditures with respect to the Project and currently reserves the right to reimburse the capital expenditures with proceeds of such debt; and

WHEREAS, under 26 CFR § 1.150-2 (the "Regulation"), to fund such reimbursement with proceeds of tax-exempt obligations, the Issuer must declare its expectation to make such reimbursement; and

WHEREAS, the Issuer desires to preserve its ability to reimburse the capital expenditures with proceeds of tax-exempt obligations,

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

Part 1: That the City of Tyler reasonably expects to reserve the right to reimburse capital expenditures with respect to the Project with proceeds of future potential debt hereafter which may be incurred by the issuer, and that this Resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Project is $285,000.

Part 2: That this Resolution shall be effective immediately upon adoption.

PASSED AND APPROVED, this the 27th day of March, 2024.

_____
DONALD P. WARREN, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

_____
CASSANDRA BRAGER, CITY CLERK

APPROVED:

_____
DEBORAH G. PULLUM,
CITY ATTORNEY

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-1

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to abandon a sanitary sewer easement across the UT Health Medical Building, NCB 679-F.

Page: Page 1 of

Item Reference:

In June 1954, East Texas Hospital Foundation left the City of Tyler a ten-foot-wide sanitary sewer easement located in part of the tract described in Volume 772, page 425-426, Deed Records, Smith County, Texas. The sanitary sewer line has since been relocated (see attached plat). At this time, the current owner, Board of Regents of the University of Texas System, would like to abandon the current sewer line with plans to relocate it. This request has been reviewed by staff and it has been verified that this easement is no longer needed and can be released at this time.

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to abandon a sanitary sewer easement across the UT Health Medical Building, NCB 679-F.

ATTACHMENTS:

Easement Abandonment 1029.195
Easement Abandonment 772.425
UTILITY PLAN

Drafted/Recommended By:
Department Leader

Nikki Ingram, P.E., Project Engineer/Kate Dietz, P.E., Director of Utilities

Edited/Submitted By:
City Manager

PARTIAL RELEASE OF EASEMENT AND RIGHT-OF-WAY

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF SMITH §

WHEREAS, the document, recorded in VOL. 1029, PG. 195 of the deed records of Smith County reflects 10ft. wide sanitary sewer easement across New City Block, 679-F conveyed to the **CITY OF TYLER**; and

WHEREAS, the **CITY OF TYLER**, as the current owner of the easement and right-of-way, has been requested to release a portion of the aforementioned easement and right-of-way but only insofar as it covers the property described as follows:

BEGINNING at a point on the SW line of Lot 7 City Block 679-F, which is the NE line of Lot 7 of said Block 679-F, and 5 feet NW of the SE corner of said Lot 7 of the East Texas Hospital Foundation's Second Addition, plat of which is recorded in Vol. 2, Page 263, Plat Records of Smith County, Texas, said point being on the center line of the easement conveyed by the East Texas Hospital Foundation to the City of Tyler, Texas, dated June 20, 1954, recorded in Vol. 772, Pages 425-6, Deed Records of Smith County, Texas;

THENCE 5 28° 07' E. 13.8 feet from and parallel with the NE line of said Lot 7 that is SE from the SW corner of said Lot 7, Block 679-F to an angle point;

THENCE S. 65.5 feet, 9 feet from and parallel with the East line of said Lot 10 to an angle point;

THENCE S. 32° 30' W, crossing the West line of said Lot 10 and the East line of Lot 11 of said Block 679-F, a distance of 83.8 feet to an angle point on the South line of said Lot 11, 5 feet from the SE corner of said Lot 11, said angle point being on the center line of the said easement recorded in Vol. 772, Pages 425-6, Deed Records of Smith County, Texas.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, the **CITY OF TYLER**, does hereby **RELEASE**, **RELINQUISH, and SURRENDER** a portion of the easement and right-of-way set out above which was recorded in VOL. 1029, PG. 195 of the deed records of Smith County, but **ONLY INSOFAR** as said easement and right-of-way covers the property.

This release specifically releases the above-mentioned right-of-way and easement insofar as it covers the property described above and shown on _____, but has no effect whatsoever on the easement and right-of-way insofar as it covers other properties described in the original instrument.

EXECUTED this _____day of _____, 2024.

CITY OF TYLER

By:_____
City Manager

STATE OF TEXAS
COUNTY OF SMITH

This instrument was acknowledged before me on the _____ day of _____, 2024, by Edward Broussard, City Manager.

_____
Notary Public in and for the State of Texas

Return to:
City of Tyler, Texas
P. O. Box 2039
Tyler, Texas 75710

PARTIAL RELEASE OF EASEMENT AND RIGHT-OF-WAY

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF SMITH §

WHEREAS, the document, recorded in VOL. 772 , PG. 425 of the deed records of Smith County reflects 10ft. wide sanitary sewer easement across New City Block, 679-F conveyed to the **CITY OF TYLER**; and

WHEREAS, the **CITY OF TYLER**, as the current owner of the easement and right-of-way, has been requested to release a portion of the aforementioned easement and right-of-way but only insofar as it covers the property described as follows:

BEGINNING at a point on the NEL of Lot 7 City Block 679-F at 5 ft NW of the NE corner of said Lot 7 of the East Texas Hospital Foundation's Second Addition, plat of which recorded in Vol. 2 page 263, Plat Records of Smith County, Texas, said beginning point being on the SE line of Osler Drive as shown on said plat;

THENCE S. 32°30' W. 5 ft. W. of and parallel to the East of said Lot 7, 125 ft. to a point on the SL of said Lot 7 same being 59 ft. SE of the NW corner of Lot 10 Blk 679-F; continuing S. 32°30' W. 94.4 ft. across said Lot 10 to a point on the WL of Lot 10 and the EL of Lot 11, same being 59.5 ft. N. of the SW corner of said Lot 10 and 110.92 ft. S. 32°30' W. 9 ft. for a total distance of 228.4 ft. to an angle point on said Lot 11;

THENCE S. 0°17' W. 51.8 ft. to a point on the SL of Lot 11, same being 5 ft. W. of the SE corner of said Lot 11 and on the NBL of E. Lake st., as shown on plat.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, the **CITY OF TYLER**, does hereby **RELEASE**, **RELINQUISH, and SURRENDER** a portion of the easement and right-of-way set out above which was recorded in VOL. 772, PG. 425 of the deed records of Smith County, but **ONLY INSOFAR** as said easement and right-of-way covers the property.

This release specifically releases the above-mentioned right-of-way and easement insofar as it covers the property described above and shown on _____, but has no effect whatsoever on the easement and right-of-way insofar as it covers other properties described in the original instrument.

EXECUTED this _____day of _____, 2024.

CITY OF TYLER

By:_____
City Manager

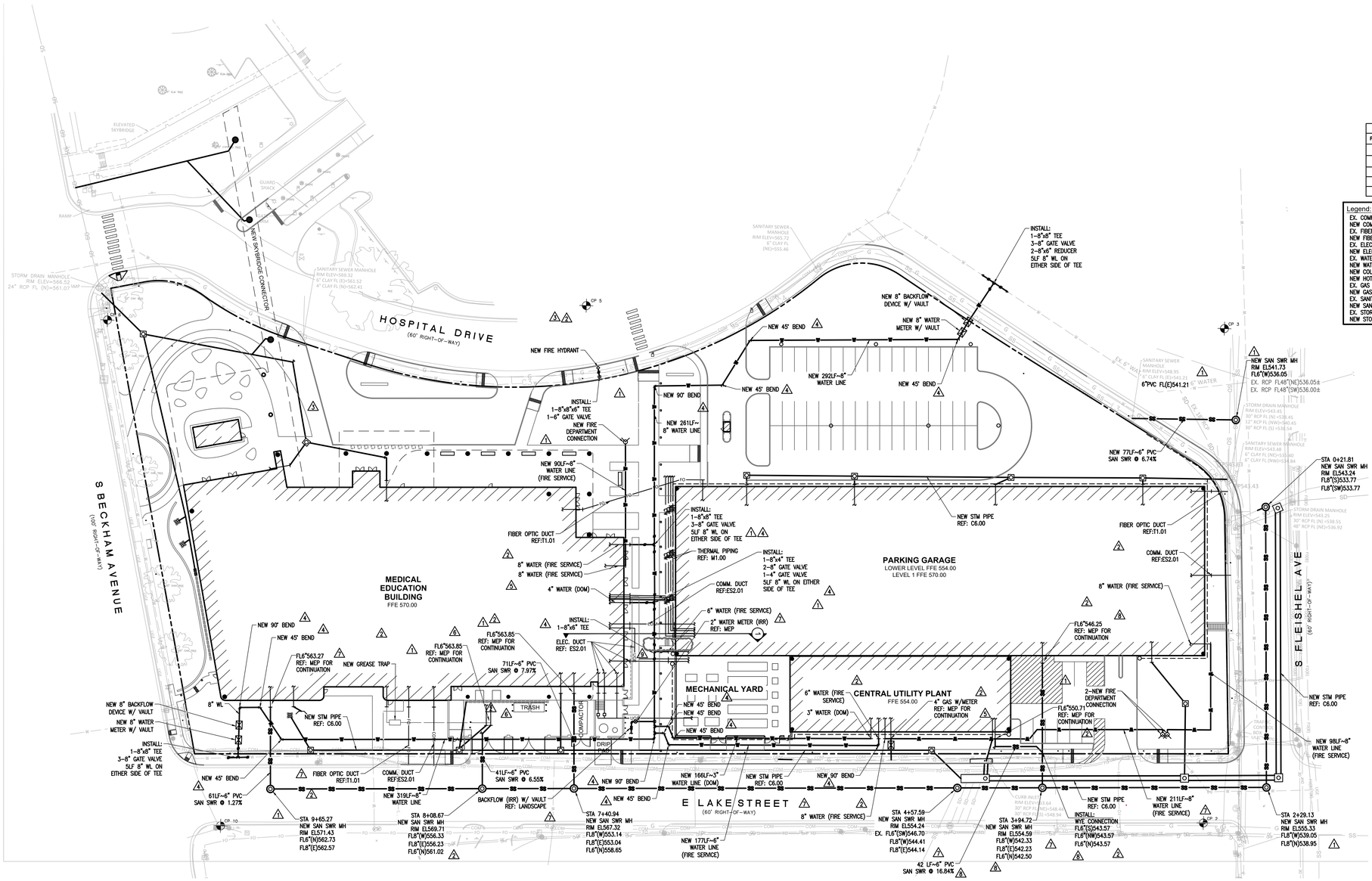
STATE OF TEXAS
COUNTY OF SMITH

This instrument was acknowledged before me on the _____ day of _____, 2024, by Edward Broussard, City Manager.

_____

Notary Public in and for the State of Texas

Return to:
City of Tyler, Texas
P. O. Box 2039
Tyler, Texas 75710



30 0 30 60

SCALE: 1"= 30'

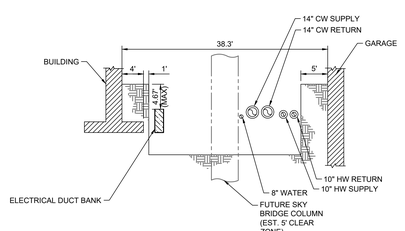
CONTROL POINT TABLE				
POINT #	DESCRIPTION	ELEVATION	NORTHING	EASTING
5	TRAV5/BSIRC	568.95	6821631.48	2960021.79
6	TRAV5/BSIRC	567.48	6821610.62	2959668.36
10	TRAVXCS	571.05	6821239.30	2959762.72
2	TRAVXCS	556.77	6821262.45	2960488.75
3	TRAVXCS	544.00	6821628.17	2960493.71

Legend:

EX. COMMUNICATION	COM
NEW COMMUNICATION	COM
EX. FIBER OPTIC	FO
NEW FIBER OPTIC	FO
EX. ELECTRIC LINE	UGE
NEW ELECTRIC LINE	UGE
EX. WATER LINE	W
NEW WATER LINE	W
NEW COLD WATER	CW
NEW HOT WATER	HW
EX. GAS	G
NEW GAS	G
EX. SANITARY SEWER	SS
NEW SANITARY SEWER	SS
EX. STORM SEWER	SD
NEW STORM SEWER	SD

CURVE TABLE					
CURVE	LENGTH	DELTA	RADIUS	C	BEARING
C1	10.84	041°23'35"	15.00	10.60	S75°51'21"E
C2	70.42	018°15'43"	220.94	70.12	S60°07'47"E
C3	295.53	047°39'56"	355.24	287.08	N82°44'28"E
C4	61.30	009°53'13"	355.24	61.22	N53°57'53"E
C5	94.85	074°18'58"	50.00	60.40	N68°10'45"E
C6	131.84	002°13'20"	3399.25	131.84	S58°40'09"E
C7	28.19	000°28'31"	3399.25	28.19	S60°01'04"E
C8	49.88	057°09'46"	50.00	47.84	S31°06'58"E

LINE TABLE		
LINE	LENGTH	BEARING
L1	83.47	S55° 09' 35.00"E
L2	58.33	S73° 25' 34.36"E
L3	96.33	S59° 35' 20.52"E
L4	174.27	S02° 32' 05.06"E
L5	124.00	S88° 21' 58.19"W
L6	640.04	S88° 19' 57.20"W
L7	397.26	N11° 51' 34.89"W



1 UTILITY CORRIDOR SECTION
SCALE: 1" = 10'

FITZPATRICK ARCHITECTS
100 N COLLEGE AVE
SUITE 100
TYLER, TEXAS 75702
903.592.0728
903.595.0369 FAX
info@fitzpatrickarchitects.com

Gensler
11 E MADISON ST
SUITE 300
CHICAGO, IL 60602
312.456.0123
312.456.0124 FAX

The Health Science Center at The University of Texas at Tyler
Medical Education Building 801-1346
Stage 2: Package A.1
Tyler, TX

UTTyler
THE UNIVERSITY OF TEXAS AT TYLER

02/28/2024
STATE OF TEXAS
JAMES D. DAVIS JR
91256
LICENSED
PROFESSIONAL ENGINEER

Walter P. Moore and Associates, Inc.
TBPE Firm Registration No. 1856

1" ACTUAL

IF THE ABOVE DIMENSION DOES NOT MEASURE ONE INCH (1") EXACTLY, THIS DRAWING HAS BEEN ENLARGED OR REDUCED, AFFECTING ALL LABELED SCALES.

SHEET REVISION HISTORY

3	ASI 03	05/23/2023
7	ASI 07	08/25/2023
8	ASI 08	09/01/2023
9	ASI 09	09/15/2023
11	ASI 11	10/13/2023
12	ASI 12	10/20/2023
16	ASI 16	12/01/2023
359	RFI 359	02/09/2024
407	RFI 407	02/26/2024

JOB NUMBER 21.048
DATE 01/25/23

SHEET NUMBER
C7.00
UTILITY PLAN

© 2022

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-2

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute Contract Amendment No. 2 with KSA Engineers, Inc. for additional construction services associated with the construction of improvements that exceed the construction contract time stipulated in the previous contract amendment for the Southside Wastewater Treatment Plant Chlorination/Dechlorination Improvements project in the amount of $49,000.00.

Page: Page 1 of

Item Reference: City Council Agenda M-5, 1/27/21; City Council Agenda C-A-6, 7/28/21; City Council Agenda M-1, 7/13/22

On January 27, 2021, Council awarded an engineering contract to KSA Engineers, Inc. to provide engineering services for the design, construction management, and construction inspection of the Southside Wastewater Treatment Plant Chlorination/Dechlorination Improvement projects. These improvements to the system consist of rehabilitation and improvements to the chlorination/dechlorination building, installation of a chlorine and sulfur dioxide scrubber, replacement/upgrades to the chlorination chemical and sulfur dioxide feed equipment, and replacement/upgrades to the electrical and control components of the chlorination/dechlorination systems.

A contract amendment was approved by Council on July 28, 2021, to do similar repairs to the Westside Wastewater Treatment Plant chlorination/dechlorination system along with the repairs at the Southside Wastewater Treatment Plant. These repairs included the replacement and upgrades to the chlorination and sulfur dioxide chemical feed equipment, as well as the electrical and control components of these systems. A construction contract was awarded on June 13, 2022 to Gracon Construction, Inc. The estimated completion date was November 2023.

The project has been extended because the equipment manufacturer, DeNora, sent disinfection cabinets that did not meet the required specified performance ranges set forth in the Contract. DeNora has agreed to modify the disinfection cabinets to the City's desired capacities at no additional cost. Due to the delay in the construction timeline, additional Resident Project Representative (RPR), is needed. The RPR will be covered under this contract amendment with KSA Engineers, Inc. The estimated completion date is now June 2024.

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to execute Contract Amendment No. 2 with KSA Engineers, Inc. for additional construction services associated with the construction of improvements that exceed the construction contract time stipulated in the previous contract amendment for the Southside Wastewater Treatment Plant Chlorination/Dechlorination Improvements project in the amount of $49,000.00.

ATTACHMENTS:

Amendment 2

Drafted/Recommended By:
Department Leader

Nikki Ingram, P.E., Project Engineer/Kate Dietz, P.E., Director of Utilities

Edited/Submitted By:
City Manager

STATE OF TEXAS §

COUNTY OF SMITH §

STANDARD FORM OF AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This AGREEMENT is entered into, with an Effective Date of _____ [*insert date of last party's signature*], by and between the **CITY OF TYLER**, in Smith County, Texas (OWNER), acting therein by and through its duly authorized City Manager, and **KSA Engineers, Inc.** (ENGINEER or ARCHITECT), hereinafter referred to as "E/A," for the purpose of acquiring all professional engineering and/or architectural services required for the project known as **"Wastewater Treatment Plant Chlorination/Dechlorination Improvements (Amendment No. 2)"** (hereinafter called the Project).

OWNER and E/A in consideration of their mutual covenants herein agree in respect of the performance of professional engineering and/or architectural services by E/A and the payment for those services by OWNER as set forth below.

SECTION 1—BASIC SERVICES OF ENGINEER OR ARCHITECT

1.1. General.

1.1.1. E/A shall provide for OWNER professional consulting services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional E/A representative for the project, providing professional engineering and/or architectural consultation and advice and furnishing customary civil services incidental thereto.

1.1.2. **If the Project is a "civil works" project, as defined by Sec. 2269.351 of Tex. Gov. Code Ann., then Exhibit "F" does NOT apply.** "**Civil works"** projects are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

1.1.3. **If the Project is related to "public works" projects or construction contract affecting City-owned buildings, then this contract IS SUBJECT TO ADDITIONAL PROVISIONS FOUND IN EXHIBIT "F", which is attached and incorporated for all purposes herein. "Public Works"** is defined by Tex. Gov. Code Ann., Sec. 2269.001 (6) as a contract for constructing, altering, or repairing a public building or carrying out any public work.

1.1.4. If Exhibit "F" is applicable and there is a conflict between this Agreement and Exhibit "F", provisions in Exhibit "F" shall control.

1.2. Study and Report Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.2.1. Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in paragraph 3.4, and assist OWNER in obtaining such data and services.

1.2.3. Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

1.2.4. Provide analysis of OWNER's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

1.2.5. Provide a general economic analysis of OWNER's requirements applicable to various alternatives.

1.2.6. Prepare a Report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the

considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth E/A's findings and recommendations. This Report will be accompanied by E/A's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance for E/A costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others for OWNER pursuant to paragraphs 3.7 through 3.11, inclusive. The total of all such costs, allowances, etc. are hereinafter called "Total Project Costs".

1.2.7. Furnish multiple copies of the Study and Report documents (not to exceed six (6) copies) and review them in person with OWNER.

1.3. Preliminary Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.3.1. In consultation with OWNER and on the basis of the accepted Study and Report documents, determine the general scope, extent and character of the Project.

1.3.2. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.

1.3.3. Advise OWNER if additional data or services of the types described in paragraph 3.4 are necessary and assist OWNER in obtaining such data and services.

1.3.4. Based on the information contained in the preliminary design documents, submit a revised opinion of probable Total Project Costs.

1.3.5. Furnish multiple copies of the above Preliminary Design documents and present and review them in person with OWNER, not to exceed six (6) copies.

1.3.6. Derive right-of-way (ROW) data and easement documents as needed for the OWNER to begin land acquisition.

1.4. Final Design Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.4.1. On the basis of the accepted Preliminary Design documents and the revised opinion of probable Total Project Costs prepare for incorporation in the Contract Documents final drawings to show the general scope, extent and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and Specifications.

1.4.2. Provide technical criteria, written descriptions and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project, and assist OWNER in consultations with appropriate authorities.

1.4.3. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.

1.4.4. Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders.

1.4.5. Furnish multiple copies of the above documents and of the Drawings and Specifications and present and review them in person with OWNER, not to exceed six (6) copies.

1.5. Bidding or Negotiating Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.5.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for each

separate prime contract for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences and receive and process deposits for Bidding Documents.

1.5.2. Assist OWNER in issuing addenda as appropriate to interpret, clarify or expand the Bidding Documents.

1.5.3. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

1.5.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

1.5.5. Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

1.6. Construction Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit “A”, E/A shall:

1.6.1. *Preconstruction Conference.* Coordinate, schedule and attend a preconstruction conference with the OWNER, other utility owners, contractors and other interested parties to determine and coordinate construction scheduling and responsibilities.

1.6.2. *Visits to Site and Observation of Construction.* In connection with observations of the work of Contractor(s) while it is in progress:

1.6.2.1. E/A shall make visits to the site at intervals appropriate to the various stages of construction as necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. Based on information obtained during such visits and on such observations, E/A shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and E/A shall keep OWNER informed of the progress of the work.

1.6.2.2. The purpose of E/A's visits to the site will be to enable E/A to better carry out the duties and responsibilities assigned to and undertaken by E/A during the Construction Phase, and in addition, by exercise of E/A's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, E/A shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall E/A have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction elected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, E/A can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

1.6.3. *Interpretations and Clarifications.* E/A shall issue necessary interpretations and clarifications of the Contract Documents as requested by the OWNER.

1.6.4. *Subsurface Exploration.* Coordinate core borings, probing or subsurface explorations, issue orders for necessary laboratory tests and inspect samples or materials submitted for laboratory testing.

1.6.5. *Shop Drawings.* E/A shall review and approve (or take other appropriate action in respect of) samples, catalog data, shop drawings other data which Contractor(s) is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident

thereto.

1.6.6. *Substitutes.* E/A shall evaluate the acceptability of substitute materials and equipment proposed by Contractor(s) and make recommendations to OWNER, subject to the provisions of paragraph 2.2.2.

1.6.7. *Tests.* E/A shall verify that tests, including equipment and start-up, which are required by the specifications and contract documents, are conducted and that the Contractor maintains adequate records thereof and shall observe, record and report to the OWNER appropriate details relative to the test procedures and start-ups.

1.6.8. *Applications for Payment.* Based on his on-site observations as an experienced and qualified design professional and on his review of the Contractors' applications for payment, determine the amount owing to the Contractor(s) and recommend in writing payment to the Contractor(s) in such amounts; such recommendations of payment to constitute a representation to the OWNER, based on such applications, that the work has progressed to the point indicated and that, to the best of his knowledge, work is in accordance with the plans, specifications and contract documents, subject to the specifications and contract documents and any qualifications stated in his approval.

1.6.9. *Final Inspection.* Conduct, in company with the OWNER'S representative, a final inspection of the Project for conformance with the design concept of the Project and compliance with the plans, specifications and contract documents, and recommend in writing final payment to the Contractor.

1.6.10. *Disputes between OWNER and Contractor.* E/A shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work performed thereunder. E/A shall also make recommendations to OWNER on all claims of Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. OWNER has the final decision with regard to such disputes.

1.6.11. *Limitation of Responsibilities.* E/A shall not be responsible to OWNER for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except E/A's own employees and agents) whether at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.6.1. through 1.6.11 inclusive, shall be construed to release E/A from liability for failure to properly perform duties and responsibilities assumed by E/A in the Contract Documents.

1.7. Operational Phase.

After written authorization to proceed and as required by the specific services set forth in Exhibit "A", E/A shall:

1.7.1. In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

1.7.2. Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to E/A and furnish one (1) set of the revised reproducible drawings and one set of drawings in PDF format to the Owner.

SECTION 2—ADDITIONAL SERVICES OF E/A

2.1. Services Requiring Authorization in Advance.

If authorized in writing by OWNER, E/A shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1. through 2.1.13. inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in this Agreement; these will be paid for by OWNER as indicated in Section 5.

2.1.1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the project.

2.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other cause beyond E/A's control.

2.1.4. Providing renderings or models for OWNER's use.

2.1.5. Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6. Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7. Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical, and electrical engineering and customary architectural design incidental thereto); and providing data or services of the types described in paragraph 3.4 when OWNER employs E/A to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8. Services during out-of-town travel required of E/A other than visits to the site or OWNER's office as required by Section 1.

2.1.9. Assistance in connection with bid protest, rebidding, or renegotiating contracts for construction, materials, equipment or services when E/A did not create or contribute to the event or situation requiring said assistance, rebidding, renegotiating, materials, equipment, or services.

2.1.10. Providing any type of property surveys or related engineering or architectural services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.11. Preparation of operating, maintenance and staffing manuals to supplement Basic Services under paragraph 1.7.

2.1.12. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project unless E/A created or contributed to the cause of the litigation.

2.1.13. Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Section 3, and services not otherwise provided for in this Agreement.

2.2. Required Additional Services.

When required by the Contract Documents in circumstances beyond E/A's control, E/A shall furnish or obtain from others, as circumstances require during construction and with specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive. These services are not included as part of Basic Services. E/A shall advise OWNER promptly before starting any of the following additional services which will be paid for by OWNER as indicated in Section 5.

2.2.1. Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.2.2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services

after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.2.4. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any Contractor.

2.2.5. Services (other than Basic Services during the Operations Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6. Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3—OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of E/A:

3.1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to E/A's services for the Project.

3.2. Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

3.3. Assist E/A by placing at E/A's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4. Furnish to E/A, as required for performance of E/A's Basic Services (except to the extent provided otherwise in this Agreement) the following:

3.4.1. data prepared by or resulting from the services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2. appropriate professional interpretations of all of the foregoing;

3.4.3. environmental assessment and impact statements;

3.4.4. property, boundary, easement, right-of-way, topographic and utility surveys, to the extent required by E/A, and only if not required to be performed by E/A as set out in E/A's Proposal;

3.4.5. property descriptions;

3.4.6. zoning, deed and other land use restrictions;

all of which E/A may use and rely upon in performing services under this Agreement.

3.5. Provide engineering surveys to establish reference points for construction (unless required to be performed by E/A as Basic Services under E/A’s Proposal) to enable Contractor(s) to proceed with the layout of the work.

3.6. Arrange for access to and make all provisions for E/A to enter upon public and private property as required for E/A to perform services under this Agreement.

3.7. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by E/A, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of E/A.

3.8. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, unless required to be performed by E/A as Basic Services under this Agreement.

3.9. Provide such accounting, independent cost estimating and insurance counseling services as may, in the judgement of the OWNER, be required for the Project, such legal services as OWNER may require or E/A may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not E/A or E/A's agent or employee, the duties, responsibilities and limitations of authority of such other person and the affect thereof on the duties and responsibilities of E/A and the Resident Project Representative (and any assistants) will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11. If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12. Furnish to E/A data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive) so that E/A may make the necessary findings to support opinions of probable Total Project Costs.

3.13. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.

3.14. Give prompt written notice to E/A whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of E/A's services, or any defect or non-conformance in the work of any Contractor.

3.15. Furnish, or direct E/A to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.

3.16. E/A shall not be obligated to bear any of the costs of compliance with this Section 3.

SECTION 4—PERIODS OF SERVICE

4.1. The services provided by the E/A and the various rates of compensation for E/A's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Operational Phase. E/A's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction and initial operation of the Project including extra work and required extensions thereto. If in Section 8 of this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided and if such dates are exceeded through no fault of E/A, all rates, measures and amounts of compensation provided herein may be subject to equitable adjustment.

4.2. A schedule for completion of each phase of the project is provided in Exhibit "B". If the E/A determines or reasonably anticipates that the project, (or any of its phases), cannot be completed before the specified completion date, the E/A shall submit a revised schedule to the OWNER for approval.

SECTION 5—PAYMENTS TO ENGINEER AND/OR ARCHITECT CONSULTANT

5.1. Methods of Payment for Services and Expenses of E/A.

For design, construction plan preparation, construction document preparation (including bid proposal, specifications, construction contract), and all other services to be rendered by E/A hereunder, as the same are set out in the attached Exhibit “A”, and as further set out in these contractual documents, save and except for specified special and additional services, OWNER shall pay to E/A the following fee in accordance with the fee summary and schedule of hourly rates set forth in attached Exhibit "C":

- Base Fee, Not-to-Exceed = $0.00
- Hourly/Reimbursable Expenses = $49,000.00
- **Total Contract Price = $49,000.00**

For additional services authorized by OWNER in accordance with Section 2 of this Agreement, OWNER shall pay in accordance with the schedule of hourly rates set forth in attached Exhibit "C".

5.2. Times of Payment.

E/A shall submit clear and detailed monthly statements for the services rendered and for the expenses and hourly costs incurred. The statements shall show the percent of work completed and amount billed to date, broken down by activity or task. All monthly statements shall be in a form as specified by and acceptable to OWNER.

SECTION 6—CONSTRUCTION COST AND OPINIONS OF COST

6.1. Construction Cost.

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by E/A, but it will not include E/A's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Section 3, as applicable. [Construction Cost is one of the items comprising Total Project Costs which is defined in paragraph 1.2.6.]

6.2. Opinions of Cost.

It is understood by the Parties that E/A has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. Therefore, E/A's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of E/A's experience and qualifications and represent E/A's best judgment as an experienced and qualified professional E/A, familiar with the construction industry; but E/A cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by E/A. If prior to the Bidding or Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.9.

SECTION 7—GENERAL CONSIDERATIONS

7.1. Termination.

7.1.1. During the construction phase of the Project, and except as provided under **Exhibit F-Procedure for Correcting Construction Defects** which is applicable when the construction is to a City-owned building or other public work, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.1.2 The termination requirements in Sec. 7.1.1 shall be applicable to civil works construction projects but shall not be applicable to construction contracts related to City-owned buildings and other public works unless and until *after* the procedures are followed as outlined in Exhibit "F" to identify and correct construction defects.

7.1.3 During the design phase of the Project, this Agreement may be terminated by either party hereto, with or without cause, upon a minimum of thirty (30) calendar days written notice thereof. It is understood that immediately upon receipt of said notice all work and labor being performed under this Agreement shall cease immediately. Before the end of the minimum thirty (30) calendar day period following receipt of said notice, the E/A shall invoice the OWNER for all work completed. The E/A shall be compensated in accordance with the terms of this Agreement for all work accomplished and approved by the OWNER up to the date of termination.

7.2. Reuse of Documents.

The E/A's Instruments of Service (including but not limited to plans, field surveys, maps, cross sections, drawings, specifications, calculations and other data related to the Project) are and shall remain the

property of the E/A until payment of the E/A in full. Upon payment of the E/A in full, said E/A's Instruments of Service shall pass to and become the property of the OWNER without restriction as to their subsequent uses. E/A acknowledges that OWNER is a governmental entity and that all Instruments of Service in respect of the Project, upon completion of the Project, shall thereafter be subject to the Texas Public Information Act (Texas Government Code Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents. In the event that a valid Public Information Request is received prior to completion of the Project and payment of the E/A in full, OWNER shall work with the E/A to protect any information deemed to be confidential by seeking an Opinion from the Texas Attorney General as allowed by State law.

7.3. Insurance.

7.3.1. The E/A agrees, at its sole expense, to maintain on a primary basis during the life of this Contract and the performance of Work hereunder, insurance coverage, limits, and endorsements required herein, unless otherwise noted. Insurance required by this contract for the OWNER as additional insured shall be primary insurance and not contributing with any other insurance available to OWNER.

7.3.2 The E/A agrees to provide evidence of the following coverage's at execution of contract:

- **Commercial General Liability:** E/A agrees to maintain Commercial General Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence, two million dollars ($2,000,000) General Aggregate per project. E/A agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Products - Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage (X = Explosion Hazard; C = Collapse Hazard; U = Underground Damage), Contractual Liability or Cross Liability. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Business Automobile Liability:** E/A agrees to maintain Business Automobile Liability at a limit of liability not less than one million dollars ($1,000,000) Each Occurrence. Coverage shall include bodily injury and property damage liability arising out of the operation, maintenance and use of Any Auto, or All Owned Autos, and Hired Autos, and Non-Owned automobiles. In the event E/A does not own automobiles, E/A agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

- **Professional Errors and Omissions Liability:** E/A agrees to maintain Professional Errors and Omissions Liability at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate. The E/A agrees the policy shall include a minimum three (3) year Discovery (tail) reporting period, and a Retroactive Date that equals or precedes the effective date of the Agreement, or the performance of services hereunder. The E/A agrees the Self-Insured-Retention shall not exceed twenty-five thousand dollars ($25,000). This coverage may be provided on a Per-Project Basis.

- **Pollution Liability Insurance** (if required by a City Operational Department): If a City Operational Department requires Pollution Liability coverage, the E/A agrees to maintain Pollution Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Each Claim, two million dollars ($2,000,000) Annual Aggregate.

- **Commercial Umbrella / Excess Liability:** E/A agrees to maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than five million dollars ($5,000,000) Each Occurrence, five million dollars ($5,000,000) General Aggregate. The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial Umbrella/Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the OWNER is automatically defined as an Additional Protected Person. The E/A agrees any Self-Insured-Retention or deductible shall not exceed twenty-five thousand dollars ($25,000).

- **Worker's Compensation and Employer's Liability**: The E/A agrees to maintain its own Workers' Compensation Insurance pursuant to statutory limits. See TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401; TEX. ADMIN CODE, Title 28, Part 2. (NOTE: Elective

exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).

The E/A agrees to maintain its own Employer's Liability Insurance at a limit of liability not less than one million dollars ($1,000,000) Bodily Injury by Accident, one million dollars ($1,000,000) Bodily Injury by Disease Each Occurrence, one million dollars ($1,000,000) Bodily Injury by Disease Aggregate Limit.

See Exhibit "D" Certificate(s) of Insurance and Endorsements for a chart and checklist providing a summary and overview of the insurance requirements.

7.3.3 In the event the E/A performs any site work, then all the insurance required herein will need to be evidenced prior to commencement of said site work.

7.3.4. The E/A agrees the insurance requirements herein as well as OWNER'S review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the E/A under this Agreement.

7.4. Additional Insured Endorsements.

7.4.1 The E/A agrees to endorse the OWNER as an "Additional Insured" on the Commercial General Liability. E/A shall choose one of the three Endorsement Options stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.

The form of the endorsement(s) shall be:

Option 1:

CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractor – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 2:

CG 20 10 07 04
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND, the additional endorsement of

CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations
shall be required to provide back coverage for the E/A's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Option 3:

GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work

AND, the additional endorsement of

GA 233 02 07
Contractors' Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract

E/A shall attach actual copies of the endorsements.

7.4.2 Additionally, E/A agrees to endorse the OWNER as an "Additional Insured" under the Commercial Umbrella / Excess Liability and the Pollution Liability Insurance, if required, as also provided herein.

7.4.3 The name of the organization endorsed as Additional Insured for all endorsements shall read "City of Tyler."

7.5. Deductibles, Coinsurance Penalties and Self-Insured Retention.

E/A agrees to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or

limitation. For deductible amounts that exceed the amounts stated herein that are acceptable to OWNER, the E/A agrees, when requested by OWNER, to maintain a Commercial Surety Bond in an amount equal to said deductible amount.

7.6. Waiver of Subrogation.

E/A agrees by entering into this written Agreement to a Waiver of Subrogation in favor of the OWNER for each required policy providing coverage during the life of this Agreement. E/A agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement and provide such endorsement to OWNER. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement, or voids coverage should the E/A enter into such an agreement on a pre-loss basis.

7.7. Subconsultants' Insurance.

In the event any work is sublet, the E/A shall require its subconsultants to similarly provide the same coverage as the E/A, and shall acquire evidence of such coverage on behalf of the OWNER.

7.8. Insurance Effective Until Completion.

Insurance coverage, limits, and endorsements required herein shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.9. Right to Revise or Reject Insurance.

7.9.1 E/A agrees the OWNER reserves the right, but not the obligation, to review or revise any insurance requirement, not limited to limits, coverage and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage.

7.9.2 Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office in the OWNER'S Legal Department for their adequacy as to form, content, form of protection, and providing company. Additionally, the OWNER reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due of its poor financial condition or failure to operate legally in the State of Texas. In such events, OWNER shall provide E/A written notice of such revisions or rejections.

7.10. Certificate of Insurance.

7.10.1 Before commencement of any work, the E/A agrees to provide OWNER with **Certificate(s) of Insurance and Endorsements** that clearly evidence that E/A's insurance contains the minimum coverages, limits, and endorsement requirements set forth herein, and which shall be attached as Exhibit "D" of this Agreement. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on each Certificate(s) of Insurance. In the event the OWNER is notified that a required insurance coverage will cancel or expire during the period of this Agreement, the E/A agrees to furnish OWNER prior to the expiration of such insurance, a new Certificate of Insurance evidencing replacement coverage. When notified by OWNER, the E/A agrees to not continue Work pursuant to this Agreement, unless all required insurance remains in effect.

7.10.2 The OWNER shall have the right, but not the obligation, of prohibiting E/A from entering the Work site until a new Certificate of Insurance is provided to the OWNER evidencing the replacement coverage. The E/A agrees the OWNER reserves the right to withhold payment to E/A until evidence of reinstated or replacement coverage is provided to the OWNER. If the E/A fails to maintain the insurance as set forth herein, the E/A agrees the OWNER shall have the right, but not the obligation, to purchase replacement insurance, which the E/A agrees to reimburse any premiums or expenses incurred by the OWNER.

7.10.3 Such insurance shall remain in full force and effect on all phases of the work, whether or not the work is occupied or utilized by the OWNER, until all work under the Agreement is completed and has been accepted by the OWNER.

7.11. Insurance - No Limit on Obligation to Pay.

Nothing contained in the insurance requirements shall be construed as limiting the extent of the E/A's

responsibility for payment of damages resulting from his operations.

7.12. Non-compliance; Breach.

The E/A's failure to comply with any of the provisions of paragraphs 7.3 through 7.11, inclusive, is a breach of contract by the E/A which entitles the OWNER to declare the contract void if the E/A does not remedy the breach within ten days after receipt of notice of breach from the OWNER.

7.13. Indemnity.

E/A AGREES TO INDEMNIFY AND HOLD HARMLESS THE OWNER, OWNER'S OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST LIABILITY FOR LIENS, DEMANDS, AND DAMAGES FOR INJURIES TO PERSONS INCLUDING DEATH, PROPERTY DAMAGE INCLUDING LOSS OF USE, AND EXPENSES, INCLUDING REIMBURSEMENT OF REASONABLE ATTORNEY'S FEES IN PROPORTION TO E/A'S LIABILITY, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONAL TORTIOUS ACTS OR OMISSIONS OF E/A, E/A'S SUBCONSULTANTS, AGENTS, OR ANYONE FOR WHOSE ACTS THE E/A OR SUBCONSULTANT MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIMS OR DAMAGES OCCURRED ON PROPERTY BELONGING TO THE OWNER. THE E/A'S INDEMNIFICATION OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

7.14. Certificate of Interested Parties.

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval. If required, the Certificate of Interested Parties (Form 1295) shall be attached as Exhibit "E".

7.15. Controlling Law.

This Agreement is to be governed by the law of the state of Texas. Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for actions in federal court. This provision shall supersede any other references in the Agreement.

If this Project includes construction activities to City-owned buildings or other public works, Exhibit "F" provisions shall be applicable.

7.16. Successors and Assigns.

7.16.1. OWNER and E/A each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and E/A (and to the extent permitted by paragraph 7.16.2 the assigns of OWNER and E/A) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.16.2. Neither OWNER nor E/A shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. 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 this Agreement. Nothing contained in this paragraph shall prevent E/A from employing such independent professional associates and consultants as E/A may deem appropriate to assist in the performance of services hereunder, provided such independent associates or consultants are approved in writing in advance by OWNER and are paid by E/A.

7.16.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and E/A, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and E/A and not for the benefit of any other party.

SECTION 8—SPECIAL PROVISIONS, SCHEDULES, AND EXHIBITS

8.1. Special Provisions.

Any other provisions of this Agreement or other documents included by reference herein to the contrary notwithstanding, the following provisions shall apply to this Agreement and the respective duties and responsibilities of OWNER and E/A affected thereby:

8.1.1. As to the contractual relationship between E/A and OWNER, E/A is and shall be considered in all things an independent contractor.

8.1.2. OWNER reserves the right, with E/A's agreement, to consolidate any and all phases of performance set out in the standard form contractual documents. The consolidation of said services shall not in any way affect the E/A's responsibilities to perform the services set out therein.

8.2. Exhibits.

The following exhibits are attached to and made a part of this Agreement:

- *Exhibit A - E/A's Scope of Service,*
- *Exhibit B - E/A's Project Schedule,*
- *Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees,*
- *Exhibit D - Certificate of Insurance and Endorsements,*
- *Exhibit E - Certificate of Interested Parties (Form 1295) (if required),*
- *Exhibit F - Procedure for Correcting Construction Defects (Applicable only to construction contracts affecting City-owned buildings and other public works)*

Provided, however, that where the terms and provisions of the above-referenced exhibit(s) shall conflict with the terms and provisions of this standard contract, this standard contract shall control. **However, if Exhibit "F" is applicable, provisions therein shall control over any other conflicting provisions.**

8.3. Entire Agreement.

8.3.1 This Agreement, together with the exhibits and schedules identified above, constitute the entire Agreement between OWNER and E/A and supersede all prior or oral understandings.

8.3.2 This Agreement and said exhibits and schedules may only be amended, supplemented, modified or canceled by a duly executed written instrument.

8.4. Effective Date.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

8.5. Severability.

The invalidity of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

8.6. Waiver.

The waiver of any breach of a term or condition of this Agreement does not waive any other breach of that term or condition or any breach of any other term or condition of this Agreement.

8.7. Notices.

Any notices provided under this Agreement shall occur in writing, by certified or registered mail delivery, receipt requested. For purposes of such notice, the addresses of the parties, until changed by written notice, shall be:

E/A:
KSA Engineers, Inc.
Attn: Christopher Aylor, P.E.
6781 Oak Hill Blvd
Tyler, Texas

OWNER:
City of Tyler
Attn: Kate Dietz, P.E.
P.O. Box 2039
Tyler, TX 75710

8.8. Venue.

Venue for any action arising hereunder shall lie exclusively in Smith County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for action in federal court. This provision shall supersede any other references in the Agreement.

(The remainder of this page was left blank intentionally.)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

FOR THE CITY OF TYLER, TEXAS:

ATTEST:

By: _____
City Manager Date

Edward Broussard
Printed Name

By: _____
City Clerk

Cassandra Brager
Printed Name

APPROVED:

By: _____
City Attorney's Office Date

_____
Printed Name

RECOMMENDED:

By: _____
Department Leader Date

_____
Printed Name

CITY COUNCIL APPROVAL:

AGENDA ITEM NUMBER: _____
DATE APPROVED: _____

FOR THE E/A:

By: _____ 2/15/2024
Director of Client Services Date

Joncie H. Young
Printed Name

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared JONCIE YOUNG, who is known to me, or who was proved to me through KSA ENGINEERS to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 16 day of FEBRUARY, 2024.

MARY-ELLEN FLORES
Notary Public, State of Texas
Comm. Expires 05-22-2025
Notary ID 126907533

_____
Notary Public In and For The State of Texas

My Commission Expires: 5/22/2025

MARY-ELLEN FLORES
Notary's Printed Name

INDEX OF EXHIBITS

Exhibit A - E/A's Scope of Service

Exhibit B - E/A's Project Schedule

Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

Exhibit D - Certificates of Insurance and Endorsements

Exhibit E - Certificate of Interested Parties (Form 1295) (If Required)

Exhibit F – Procedure for Correcting Construction Defects
(Applicable only to construction contracts affecting City-owned buildings and other public works)

Exhibit A - E/A's Scope of Service

Exhibit A
ENGINEER'S Scope of Service
Wastewater Treatment Plant Chlorination/Dechlorination Improvements
Amendment No. 2
KSA Contract No. TYL.397.2

This Agreement constitutes authorization by the City of Tyler (OWNER) for KSA Engineers, Inc. (ENGINEER) to provide engineering services for the **Wastewater Treatment Plant Chlorination/Dechlorination Improvements - Amendment No. 2** (hereinafter called the Project).

PROJECT DESCRIPTION

Original Engineering Agreement
Design and construction services associated with improvements to the Southside Wastewater Treatment Plant Chlorination/Dechlorination Systems consisting of:

- Rehabilitation and improvements to the chlorination/dechlorination building
- Installation of a chlorine and sulfur dioxide scrubber
- Replacement and upgrades to the chlorination chemical feed equipment
- Replacement and upgrades to the sulfur dioxide chemical feed equipment
- Site work, grading, and paving of asphalt drive and concrete sidewalk surrounding the chlorination/dechlorination building
- Replacement and upgrades to the electrical and control components of the chlorination/dechlorination systems

Amendment No. 1
Design and construction services associated with improvements to the Westside Wastewater Treatment Plant Chlorination/Dechlorination Systems shall consisting of:

- Replacement and upgrades to the chlorination chemical feed equipment
- Replacement and upgrades to the sulfur dioxide chemical feed equipment
- Replacement and upgrades to the electrical and control components of the chlorination/dechlorination systems

Amendment No. 2
Additional construction services associated with the construction of improvements that exceed the construction contract time stipulated in previous agreement/amendment.

SCOPE OF SERVICES

The scope of services for this part of the work is as follows:

1 Basic Services of ENGINEER: The ENGINEER is hereby authorized to perform the following basic services:

1.2 Study and Report Phase: Not Used.

1.3 Preliminary Design Phase: Not Used.

1.4 Final Design Phase: Not Used.

1.5 Bidding or Negotiating Phase: Not Used.

1.6 Construction Phase: Provide services as stated in Section 1.6 of the Agreement.

1.7 Operational Phase: Not Used.

2 Additional Services of ENGINEER: The ENGINEER is hereby authorized to perform the following additional services:

A. Resident Project Representative
B. Reimbursable Expenses (Printing, Postage, Mileage, etc.)

3 ENGINEER's Exclusions:

A. Design Survey;
B. Geotechnical Investigation;
C. Construction Surveying (Control & Verification);
D. Construction Material Testing;
E. Reroutes of existing sewer lines;
F. Historical & archeological investigation and report;
G. Wetland investigations, archeological investigations, environmental investigations, categorical exclusions, nationwide permits;
H. Application, or permitting with any and all local, State, and/or Federal agencies other than the Texas Department of Transportation;
I. Stormwater pollution plans, applications, and/or permits;
J. Right-of-way services, acquisition services, easement research, or legal services;
K. The relocation of gas, electric, communications, or other utilities;
L. Hydrologic studies;
M. Hydraulic studies.

4 OWNER's Responsibilities: The OWNER's responsibilities shall be as described in SECTION 3 of the ENGINEERING CONTRACT in addition to the following responsibilities: Consultant authorization and associated payments to consultant for hydraulic capacity evaluations

Exhibit B - E/A's Project Schedule

Exhibit B
Project Schedule
Wastewater Treatment Plant Chlorination/Dechlorination Improvements
Amendment No. 2
KSA Contract No. TYL.397.2

PROJECT SCHEDULE

Engineer shall complete its services with the following time specific time period upon OWNER's notice to proceed.

1. Complete Construction Phase: 330 calendar days following original construction services completion date (240 days).

Exhibit C - E/A's Fee Summary and Schedule of Hourly Fees

Exhibit C
Fee Summary
Wastewater Treatment Plant Chlorination/Dechlorination Improvements
Amendment No. 2
KSA Contract No. TYL.397.2

FEE SUMMARY

Engineering Fees: The Amendment's project scope and cost are in addition to, and do not replace, the original project scope and costs. All of the terms and conditions contained in the Agreement for the additional work, not specifically excluded in Exhibit A, are applicable to the work procured by the Agreement. The fees for the scope of services described above is as follows:

Construction Administration:	$ 40,000.00	Hourly and Reimbursable[1]
Part Time Resident Project Representative:	$ 9,000.00	Hourly and Reimbursable[1]
Total Budget:	$ 49,000.00	

Notes:

1. Compensation shall be billed monthly for Engineer's services based on time charged by each category at the hourly rates listed on the attached schedule.

Phase	Original Contract (TYL.397)	Previous Contract Amendment (TYL.397.1)	This Contract Amendment (TYL.397.2)	Total Project Contract
Preliminary Design	$79,700.00	$28,300.00	-	$108,000.00
Final Design	$53,100.00	$28,300.00	-	$81,400.00
Bidding	$10,000.00	-	-	$10,000.00
Construction Administration	$45,000.00	$15,000.00	$40,000.00	$100,000.00
Reimbursable Expenses	$5,000.00	$1,500.00	-	$6,500.00
Design Surveying	$5,000.00	-	-	$5,000.00
Construction Surveying (Control & Verification)	$2,500.00	-	-	$2,500.00
Part Time Resident Project Representative	$62,400.00	$20,800.00	$9,000.00	$92,200.00
TCEQ Coordination	$5,000.00	$1,500.00	-	$6,500.00
Total	**$267,700.00**	**$95,400.00**	**$49,000.00**	**$412,100.00**

Exhibit D - Certificates of Insurance and Endorsements

(See following pages for a summary and checklist of Insurance and Endorsement requirements)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/24/2023

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	CONTACT NAME:	Brian R Hadar	
Risk Strategies 12801 North Central Expy. Suite 1725 Dallas, TX 75243	PHONE (A/C, No, Ext):	(214) 323-4602	FAX (A/C, No):
	E-MAIL ADDRESS:	RSCcertrequest@risk-strategies.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Evanston Insurance Company	35378
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
KSA Engineers, Inc. and BLOC Design Build LLC
140 E. Tyler St.
Suite 600
Longview TX 75601

COVERAGES **CERTIFICATE NUMBER:** 75902588 **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	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Professional Liability		✓	MKLV7PL0005802	4/11/2023	4/11/2024	Per Claim/Annual Aggregate	$2,000,000

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

The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty (30) day notice of cancellation in favor of certificate holder on all policies.
Deductible $25,000
Retro Date: 1/1/1978

CERTIFICATE HOLDER

City of Tyler
P O Box 2039
Tyler TX 75710

CANCELLATION

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
Brian R. Hadar
Brian Hadar

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 06/01/2023

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	CONTACT NAME: Tracy Langford	
GANS & SMITH INSURANCE AGENCY INC P.O Box 2869 Longview TX 75606	PHONE (A/C, No, Ext): (903) 757-4601	FAX (A/C, No): (903) 753-0782
	E-MAIL ADDRESS: tlangford@gans-smith.com	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
KSA ENGINEERS INC 140 E TYLER ST STE 600 LONGVIEW TX 75601	INSURER A : Transportation Ins Co (CNA)	20494C
	INSURER B : Continental Casualty Co (CNA)	20443C
	INSURER C : Continental Insurance Company	35289C
	INSURER D : Texas Mutual Ins Co	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** CL2352609593 **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	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] Drone Liability: $1,000,000 GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			4015529054	05/29/2023	05/29/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Employee Benefits	$ 1,000,000 $ 100,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 1,000,000
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			4015529135	05/29/2023	05/29/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) PIP-Basic	$ 1,000,000 $ $ $ $ 2,500
C	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 10,000			4015529099	05/29/2023	05/29/2024	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000 $
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		0002047822	05/29/2023	05/29/2024	[X] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

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

Project: Southside Wastewater Treatment Plant Chlorination Dechlorination Improvements TYL397.The general liability, automobile, & workers compensation policies includes a blanket automatic additional insured endorsement provision that provides additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status .The general liability, automobiles policies & workers compensation includes 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, automobiles policies & workers compensation contains "Primary and noncontributory" wording. The general liability, automobiles policies & workers compensation have 30 days notice of cancellation. Umbrella is follow form.

CERTIFICATE HOLDER

City of Tyler
PO Box 2039
Tyler TX 75710

CANCELLATION

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

David McWhorter

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
City of Tyler	Southside Wastewater Treatment Plant Chlorination Dechlorination Improvements TYL397
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or

2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. 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.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "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.

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C. 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:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
City of Tyler	Southside Wastewater Treatment Plant Chlorination Dechlorination Improvements TYL397
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. 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.

B. 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:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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Additional Named Insureds

Other Named Insureds	
Bloc Design-Build LLC	Other, Insured Multiple Names
KSA Engineers, Inc.	Other, Insured Multiple Names
Legacy Bear Properties LLC	Limited Liability Company, Insured Multiple Names

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CERTIFICATE(S) OF INSURANCE

[Certificate of Liability Insurance Shall Be Inserted Here]

INSURANCE COVERAGE REQUIRED * Endorsement Required	
TYPE	**AMOUNT**
1) COMMERCIAL GENERAL LIABILITY * Policy shall include (but not limited to) the following: a) Products - Completed Operations b) Independent Contractors c) Broad Form Property Damage d) X-C-U Coverage X = Explosion Hazard C = Collapse Hazard U = Underground Damage e) Contractual Liability or Cross Liability	Not Less than: **$1,000,000** (1 million) Each Occurrence **$2,000,000** (2 million) General Aggregate **Per Project** Any Self-Insured-Retention or Deductible shall not exceed $25,000.
2) BUSINESS AUTOMOBILE LIABILITY Policy shall include (but not limited to) bodily injury and property damage liability for the following: a) Any Auto; OR b) All Owned Autos, and c) Hired Autos, and d) Non-Owned Autos.	Not Less than: **$1,000,000** (1 million) Each Occurrence
3) PROFESSIONAL ERRORS & OMISSIONS LIABILITY Policy shall include (but not limited to) the following: a) A minimum three (3) year Discovery (tail) Reporting period, and b) A Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder.	Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
4) ♦ POLLUTION LIABILITY INSURANCE *	♦ ☐ Check Here If Coverage is Required by a City Operational Department Not Less than: **$1,000,000** (1 million) Each Claim **$2,000,000** (2 million) Annual Aggregate
5) COMMERCIAL UMBRELLA / EXCESS LIABILITY *	Not Less than: **$5,000,000** (5 million) Each Occurrence **$5,000,000** (5 million) General Aggregate Any Self-Insured-Retention or Deductible shall not exceed $25,000.
6) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY	**Statutory Limits for Workers' Compensation** TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401 TEX. ADMIN. CODE, Title 28, Part 2 **Employer's Liability Limits** **$1,000,000 (1 million)** Bodily Injury by Accident **$1,000,000 (1 million)** Bodily Injury by Disease Each Occurrence **$1,000,000 (1 million)** Bodily Injury by Disease Aggregate Limit

Checklist: Certificate(s) of Insurance

*** Provided only as a courtesy ***

[See generally Section 7.3 Insurance for contract insurance requirements]

1.	All pages of the *Certificate of Liability Insurance* shall be attached. *See* lower right corner of certificate for *ex toto* pagination. E.g. Page 1 of 2
2.	Policy Effective and Expiration Dates (for each type of coverage) Policy **effective date** is ON or BEFORE Contract date, and Policy **expiration date** should extend at least 6 months into the future OR for the estimated project length, whichever is greater.
3.	Commercial General Liability [*See* Section 7.3.2] ☒ **Occurrence** Box is Checked ☒ **Per Project** Box is Checked for General Aggregate Limit.
4.	Business Automobile Liability [*See* Section 7.3.2] At a minimum each of the following boxes should be checked: ☒ Any Auto OR ☒ All Owned Autos, and ☒ Hired Autos, and ☒ Non-Owned Autos.
5.	Professional Errors and Omissions Liability [*See* Section 7.3.2]
6.	Commercial Umbrella / Excess Liability [*See* Section 7.3.2] ☒ Occurrence Box is Checked
7.	Workers Compensation and Employers Liability [*See* Section 7.3.2] ☒ WC Statutory Limits Box is Checked
	Look at the "Description of Operations . . . Special Provisions" Box. [*See* Section 7.4] [*See also* Section 7.6] Clearly indicate the **CITY** has been endorsed by using this language: "The City of Tyler (i.e. Certificate Holder) shall be named as Additional Insured as respects to Commercial General Liability, Commercial Umbrella / Excess Liability and Pollution Liability Insurance, if required, and shall have a Waiver of Subrogation as respects to Commercial General Liability, Business Automobile Liability, Professional Errors and Omissions Liability, Commercial Umbrella / Excess Liability and Workers' Compensation all as required by written contract subject to policy terms, conditions and exclusions. Coverage is primary, non-contributory as respects to General Liability and Auto as required by written contract."
8.	Clearly identify each policy's limits, flat & percentage deductibles, sub-limits, or self-insured retentions, which exceed the amounts or percentages set forth herein.
9.	Certificate Holder: [*See generally* Section 7.4] City of Tyler P.O. Box 2039 Tyler, TX 75710

ENDORSEMENTS

[Endorsements Shall Be Inserted Here]

<table>
<tr><td colspan="3">* ENDORSEMENT(S) REQUIRED</td></tr>
<tr><td colspan="2">Name of Additional Insured Person(s)
or Organization(s):
City of Tyler
P.O. Box 2039
Tyler, TX 75710</td><td>Location(s) of Covered Operations:

Project [insert project name],
Dated [insert month and year of contract].</td></tr>
<tr><td colspan="3">E/A shall choose one of the three Endorsement Option stated below. All Endorsements shall be in the form required. All pages of the Endorsement(s) shall be attached.</td></tr>
<tr><td colspan="3">COMMERCIAL GENERAL LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” on the Commercial General Liability with: [Select Option 1, Option 2 or option 3 below] [See Section 7.3.2 and 7.4]</td></tr>
<tr><td>Option
1</td><td colspan="2">FORM: CG 20 10 10 01
Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
2</td><td colspan="2">FORM: CG 20 10 07 04
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization

AND
FORM: CG 20 37 07 04
Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option
3</td><td colspan="2">FORM: GA 4113 11 99
Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work

AND
FORM: GA 233 02 07
Contractors’ Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract</td></tr>
<tr><td colspan="3">COMMERCIAL UMBRELLA / EXCESS LIABILITY

E/A agrees to endorse the CITY as an “Additional Insured” under the Commercial Umbrella / Excess Liability as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
<tr><td colspan="3">POLLUTION LIABILITY INSURANCE

♦ If applicable E/A agrees to endorse the CITY as an “Additional Insured” under the Pollution Liability Insurance as also provided herein. [See Section 7.3.2 and 7.4]</td></tr>
</table>

Exhibit E - Certificate of Interested Parties (Form 1295)

(If Required)

Check Here if this Section is NOT Used ☐

In accordance with Texas Gov't Code Sec. 2252.908, for certain contracts entered into on or after January 1, 2016, E/A must submit a Certificate of Interested Parties (Form 1295) at the time the E/A submits the signed contract to the OWNER. This applies only to contracts with a value greater than $25,000 or that otherwise require City Council approval.

Exhibit F - Procedure for Correcting Construction Defects

Check Here if this Section IS Applicable to This Contract ☐

****ONLY APPLICABLE FOR CONSTRUCTION ACTIVITIES AFFECTING CITY-OWNED BUILDINGS AND OTHER PUBLIC WORKS PROJECTS AS DEFINED IN TEX. GOV. CODE ANN., SEC. 2269.001 (6)****

EXHIBIT F is not applicable to "civil works" projects as defined in Tex. Gov. Code Ann., Sec. 2269.351

I. DEFINITIONS

A. **"Public Works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.001 (6), are those related to constructing, altering, or repairing a public building or carrying out any public work.

B. **"Civil works"** projects, as defined in Tex. Gov. Code Ann., Sec. 2269.351 are those related to roads, streets, bridges, utilities, water supply projects, water plants, waste water plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage, flood control projects and transit projects.

II. NOTIFICATION OF DEFECT

A. **ENGINEER/ARCHITECT SHALL NOTIFY OWNER IN WRITING OF ANY CONSTRUCTION DEFECT** of which the ENGINEER/ARCHITECT is aware, and which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning or supervision of the construction that is a result of:

i. The use of defective materials, products, or components in the construction;
ii. A violation of a building code applicable by law to the construction;
iii. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or
iv. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

B. The E/A's writing shall identify the specific construction defect, describe the present physical condition of the affected structure; and describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

III. PROCEDURE TO CORRECT CONSTRUCTION DEFECTS

A. Before bringing an action asserting a claim for a construction defect under this Agreement, the OWNER must provide a written report to each party with whom the OWNER has a contract for the design, construction or construction oversight of an affected structure by certified mail, return receipt requested.

i. The report shall clearly identify the specific construction defect(s) on which the claim is based, which shall include any deficiency in the construction of an improvement to real property, including a deficiency in or arising out of the design, specifications, surveying, planning, or supervision of the construction that is a result of:
   a. The use of defective materials, products, or components in the construction;
   b. A violation of a building code applicable by law to the construction;

c. A failure of the design of an improvement to real property to meet the professional standards of care applicable at the time of governmental approval of the design or as otherwise applicable if no governmental approval of the design was required or obtained; and/or

d. A failure to perform the construction in accordance with the accepted trade standards for good and workmanlike construction.

iii. The report shall clearly:

a. Identify the specific construction defect on which the claim is based;

b. Describe the present physical condition of the affected structure; and

c. Describe any modification, maintenance, or repairs to the affected structure made by the governmental entity or others since the affected structure was initially occupied or used.

B. OWNER shall allow each party with whom the OWNER has a contract for the design or construction of an affected structure and who is subject to the claim, and any known subcontractor or supplier who is subject to the claim a reasonable opportunity to inspect any construction defect or related condition identified in the report for a period of 30 days after receiving the report.

C. OWNER shall allow at least 120 days after the inspection to:

i. Correct any construction defect or related condition identified in the report; or

ii. Enter into a separate agreement with the governmental entity to correct any construction defect or related condition identified in the report.

D. OWNER is not required to allow a party to make a correction or repair under Subsection II.A. if:

i. the party:

a. Is a contractor and cannot provide payment and performance bonds to cover the corrective work;

b. Cannot provide liability insurance or workers' compensation insurance;

c. Has been previously terminated for cause by OWNER; or

d. Has been convicted of a felony; or

ii. OWNER previously complied with the process required by Subsection II.A. regarding a construction defect or related condition identified in the report and:

a. The defect or condition was not corrected as required by Subsection II.C.i. or by an agreement under Subsection II.C.ii.; or

b. The attempt to correct the construction defect or related condition identified in the report resulted in a new construction defect or related condition.

E. Recovery of Report Costs. If the report described in Subsection II.A. identifies a construction defect that is corrected or for which the OWNER recovers damages, the party responsible for that construction defect shall pay the reasonable amounts incurred by OWNER to obtain the report with respect to identification of that construction defect.

F. These provisions do not prohibit or limit the OWNER from making emergency repairs to the property as necessary to protect the health, safety, and welfare of the public or a building occupant.

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-3

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to declare the designated vehicles from Vehicle Services, Water Treatment, and Police Department as surplus and ready to be auctioned.

Page: Page 1 of

Item Reference:

The Vehicle Services Department has prepared a list of units to be declared surplus and ready for auction upon approval by the City Council.

See attached auction list.

Proceeds from the sale of these units will be deposited in Vehicle Services Account 640-0000-361.57-20.

RECOMMENDATION:

It is recommended that the City Council consider authorizing the City Manager to declare the designated vehicles from Vehicle Services, Water Treatment, and Police Department as surplus and ready to be auctioned.

ATTACHMENTS:

Auction List.xlsx april 2024

Drafted/Recommended By:
Department Leader

Stan Stoffregen Fleet Manager

Edited/Submitted By:
City Manager

Unit#	Description	Department	Miles/Hrs	Reason	Auction Notes
2233	2002 Ford F350 Crew Cab	Street	58,197	Bad brake lines	need towed
8240	2008 Forf F250 Utility bed reg cab	Traffic	64,150	Replaced	
9211	2009 Ford F150 with camper top	Water dist.	86,527	Replaced	
10105	2010 Ford Fusion Sedan	VES	77,962	Replaced	
12114	2012 Ford Escape	Water Treatment	71,451	Replaced	
14122	2014 Ford Fusion Sedan	Police	95,095	Replaced	
14123	2014 Ford Fusion Sedan	Police	109,760	Replaced	
14235	2015 Ford F250 utility bed super cab	Water dist.	142,159	Replaced	
15220	2015 Chevy 1500 reg cab	Water dist.	106,831	Oil Leak	Engine oil leak
16203	2016 Ford Fusion Sedan	Police	122,237	Replaced	
16824	2016 Ford Explorer PPV	Police	90,480	Oil Leak	Engine oil leak
16831	2017 Ford Explorer PPV	Police	81,482		
16832	2017 Ford Explorer PPV	Police	91,209		
17219	2017 Ford F650 Rodder	Waste Collection	4983 hours		
17834	2017 Ford Explorer PPV	Police	86,969		
17835	2017 Ford Explorer PPV	Police	109,521		
17837	2017 Ford Explorer PPV	Police	95,741		
17848	2018 Dodge Charger PPV	Police	81,902		
17849	2018 Dodge Charger PPV	Police	82,881		
17851	2018 Dodge Charger PPV	Police	86,685		
18203	2019 Freightliner Tymco Seeper	Waste Collection	6690 hours		
19209	2019 Ford F650 Rodder	Waste Collection	2968 hours		
19881	2019 Dodge Charger PPV	Police	70,462	bad engine	
19885	2019 Dodge Charger PPV	Police	86,342		

Police Forfeiture	Description	Miles/hours	Auction Notes

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-4

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to purchase a backhoe to replace unit 15402 for Street Department and 15459 for Waste Collection from Doggett through Sourcewell Contract 032119-JDC for a total purchase cost of $262,148.38.

Page: Page 1 of

Item Reference:

The fleet replacement program budgets for departments to replace their vehicles on a regular schedule, particularly those with mileage and/or maintenance cost expectations. After meeting with the Street and Waste Collection departments, it was determined that unit 15402 and 15459 need to be replaced due to excessive maintenance and damage. Vehicle Services reached out to 2 different Sourcewell Contract holders Holt Cat and Doggett. Doggett gave a Sourcewell quote of $131,074.19 and Holt Cat gave a Sourcewell quote of $148,500.00. Doggett will include a 48 month or 4,000-hour warranty and maintenance at 500-, 1000-, and 1500-hour intervals.

Funds for this purchase will come from the Vehicle Replacement Fund 640-0661-641-2604.

RECOMMENDATION:

It is recommended that the City Council consider authorizing the City Manager to purchase a backhoe to replace unit 15402 for Street Department and 15459 for Waste Collection from Doggett through Sourcewell Contract 032119-JDC for a total purchase cost of $262,148.38.

ATTACHMENTS:

Doggett quote
Holt quote

Drafted/Recommended By:
Department Leader

Stan Stoffregen Fleet Manager

Edited/Submitted By:
City Manager

SOURCEWELL QUOTE

DOGGETT

Salesperson: SCOTT HILL / 241
Cell: 903-2454-0679
E-mail: scott.hill@doggett.com

1126 N. NE LOOP 323
TYLER, TEXAS 75708
MAIN: 903-592-8900

Customer:	**CITY OF TYLER TEXAS**	**Manufacturer:**	**JOHN DEERE**
Contact:	**DEB SCHRECK**	**Model:**	**320-P**
Phone:		**Stock #:**	**TBD**
Fax:		**Serial #:**	**ORDER**
Date:	**02/01/2024**	**Expires:**	**03/02/24**

Year: 2024 — BACKHOE LOADER — Hours: NEW

Quantity	Code	Description	Sales Price
1	17C0T	320 P-tier Backhoe Loader	$169,068.00
	0202	United States	$0.00
	0351	Translated Text Labels	$0.00
	0259	English	$0.00
	1003	Cab	$14,253.00
	183E	JDLink™	$0.00
	3009	Autoshift - MFWD (4WD) w/Limited Slip Differential	$0.00
	4006	John Deere 4.5L - FT4/Stage IV	$0.00
	5241	Galaxy 16.9-28 12PR Rear & 12.5/80 10PR Front	$329.00
	6152	Single Battery with Disconnect and Jump Post	$0.00
	6752	Extendible Dipperstick	$9,003.00
	6576	1000 lb. (454 kg.) Front Counterweight	$1,515.00
	7001	Auxiliary Hydraulics with One Way Flow (Hammer)	$3,393.00
	7026	Mechanical Conrols, Two Lever, ISO (Deere)	$0.00
	7037	Two-Function Loader Hydraulics, Single Lever	$0.00
	7806	24 in. Heavy-Duty Bucket, 6.9 cu. ft.	$2,286.00
	7702	Deere Standard Quick Coupler - Less Thumb	$1,776.00
	7859	92 in. General Purpose Bucket, 1.39 cu. yd.	$5,484.00
	8182	Radio, Bosch Basic Package	$940.00
	8207	Seat, Cloth Air-Suspension	$541.00
	8142	LED Light Package	$1,133.00
	8226	Strobe Light with Magnetic Mount	$633.00
	8165	Auto Ride Control	$2,513.00
	LIST	TOTAL JOHN DEERE LIST PRICE	$212,867.00
	SOURCEWELL	SOURCEWELL DISCOUNT 43%	$91,532.81
	NET	NET FACTORY PRICE	$121,334.19
		ADDITIONAL OPTIONS:	
	FRT	FACTORY FREIGHT	$2,200.00
	PDI	DEALER/FACTORY PDI	$1,997.00
	EXT WARR	EXTENDED WARRANTY 48MO/4000HR COMPREHENSIVE	$4,443.00
	ACC	12V POWER INSTALLED INSIDE CAB	$1,100.00
	DELIVERY EST	ESTIMATED DELIVERY 75-90 DAYS FROM ORDER DATE FOR UP TO 5 UNITS	-
*	PMA PARTS	500HR, 1000HR, AND 1500HR PM PARTS (FILTERS & FLUIDS)	NO CHARGE
	PROGRAM	SOURCEWELL CONTRACT #:032119-JDC	-
		SUBTOTAL	$131,074.19
		RENTAL CREDIT APPLIED	$0.00
		PREVENTATIVE MAINTENANCE CONTRACT	$0.00

Street
15402
15459
Waste Collecto

TRADE INFORMATION			
TRADE #1		Machine Sale Price	$131,074.19
TRADE #2		*Rental Interest*	-
TRADE #3		*Down Payment*	-
		TRADE IN + PAYOFF (if applicable)	-
		DOC FEES (NON-JDF LENDER)	
Finance rates subject to credit approval.		*SUB TOTAL*	$131,074.19
I accept this quote with noted revisions.		*DOCUMENT FEES*	$0.00
Signature:		TOTAL Without Tax	$131,074.19
		Applicable Tax	$0.00
Warranty	48Mo/4000Hr Comprehensive Extended Warranty	Total	$131,074.19

DATE: Jan 30, 2024
QUOTE #:332650-01

CITY OF TYLER
DEB SCHRECK

Cunningham, Jeff
903.267.2766

Sourcewell contract 020223-CAT

410 W OAKWOOD ST
TYLER, TEXAS 75702-5649

One (1) New Caterpillar Inc Model: 420 Backhoe Loaders with all standard equipment in addition to the additional specifications listed below:

STANDARD EQUIPMENT

BOOMS, STICKS, AND LINKAGES

BACKHOE
- 14'4" Center pivot backhoe
4.3 Meters
- Boom and swing transport locks
- Pilot operated backhoe and
electro hydraulic stabilizer controls
- Street type stabilizer shoes
- Anti-drift hydraulics (boom, stick,
and E-stick)
- Cat Cushion Swing(tm) system

LOADER
- Single Tilt Loader
- Lift cylinder brace
- Self-leveling loader with single
lever control
- Return-to-dig
(automatic bucket positioner)
- Transmission neutralizer switch
- Bucket level indicator

POWERTRAIN

- Water separator
- Thermal starting aid system
- Dry type axial seal air cleaner with
integral precleaner
- Automatic dust ejection system
- Filter condition indicator
- Hydraulically boosted multi-plate
wet disk brake with dual pedals &
interlock
- Differential lock
- Torque converter
- Transmission-four speed manual shift
- Neutral safety switch
- Spin-on filters for
Fuel
Engine oil
Transmission oil
- Outboard Planetary Rear Axles
- Diesel particulate filter
- Hydrostatic power steering

HYDRAULICS

- Pilot hoe and mechanical loader
controls
- Load sensing, variable flow system
with 43 gpm (162 L/min) axial piston
pump
- Caterpillar XT-3 hose
- Hydraulic oil cooler
- Pilot control shutoff switch
- Flow-sharing hydraulic valves
- Hydraulic suction strainer

- 6 micron hydraulic filter

ELECTRICAL

- 12 volt electrical start
- Horn, front and rear
- Backup alarm
- Hazard flashers/turn signals
- Halogen head lights (2)
- Halogen rear flood lights (2)
- Stop and tail lights
- Audible system fault alarm
- Key start/stop system
- 850 CCA maintenance free battery
- Battery disconnect switch
- External Power Receptacle (12v)
- Diagnostic ports for engine and machine Electronic Control Modules

OPERATOR ENVIRONMENT

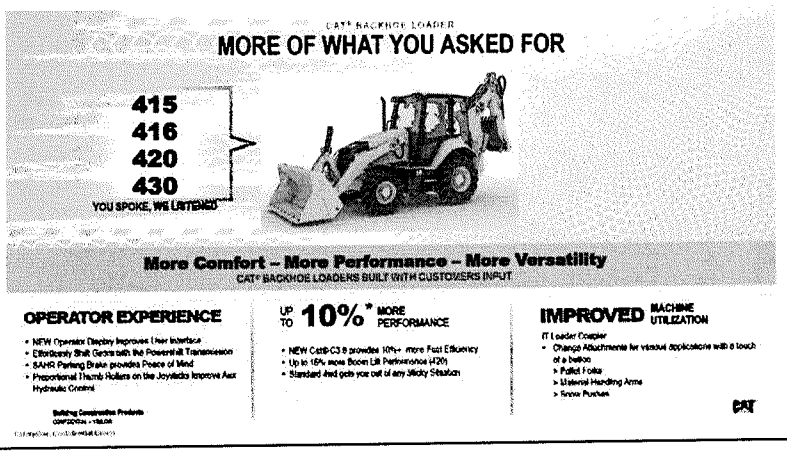
- Interior rearview mirror
- ROPS canopy, Rear Fenders
- 2-inch (50mm) retractable seat belt
- Tilt steering column
- Steering knob
- Hand and foot throttle
- Automatic Engine Speed Control
- One Touch Low Idle
- Floor mat and Coat Strap
- Lockable storage area
- Air suspension seat

FLUIDS

- Antifreeze - Extended Life Coolant -20F (-30C)

OTHER STANDARD EQUIPMENT

- Standard Storage Box
- Transport tie-down points
- Ground line fill fuel tank with 42.3 gal (160L) capacity & 5 gal (19L) diesel exhaust fluid
- Rubber impact strips on radiator guard
- CD-ROM Parts Manual
- Safety Manual
- Operations and Maintenance Manual
- Lockable hood
- Tire Valve Stem Protection



MACHINE SPECIFICATIONS

DESCRIPTION	REF.#
ST/QP28/C4EX/QC	542-7992
ENGINE, 82KW, C3.6 DITA, T4F	542-7780
BELT, SEAT, 2" SUSPENSION	206-1747
TIRES, 12.5 80/19.5L-24, GY	379-2161
STABILIZER PADS, FLIP-OVER	9R-6007
BUCKET-GP, 1.5 YD3, PO	337-7401
CUTTING EDGE, TWO PIECE,WIDE	9R-5320
BUCKET-HD, 24", 7.3 FT3, PL	247-1950
COUPLER, PIN LOCK, BL F	544-1901
INSTRUCTIONS, ANSI	559-0872
SERIALIZED TECHNICAL MEDIA KIT	421-8926
FAN	387-6682
DISPLAY, SECURITY, ENABLED	573-0397
PACK, DOMESTIC TRUCK	0P-0210
RUST PREVENTATIVE APPLICATOR	462-1033
LOADER BUCKET PINS	545-8548
SHIPPING/STORAGE PROTECTION	461-6839
STICK, EXTENDABLE, 14FT	543-4284
PT, 4WD/2WS, POWERSHIFT	544-1066
CAB, DELUXE	544-0883
LINES, COMBINED AUX, E-STICK	548-1231
HYDRAULICS, GP, 6FCN/8BNK, ST	542-7772
AIR CONDITIONER, T4F	542-7810
COUNTERWEIGHT, 1015 LBS	337-9696
GUARD, STABILIZER	353-1389
STANDARD RADIO (12V)	540-2298
SEAT, DELUXE FABRIC	611-0339

DESCRIPTION	REF.#
BEACON, MAGNETIC MOUNT, STROBE	433-0154
BATTERY, HEAVY DUTY	516-5913
AUTO-UP STABILIZERS	567-5090
PLATE GROUP - BOOM WEAR	423-7607
PRODUCT LINK, CELLULAR, PLE643	639-4880
LANE 2 ORDER	0P-9002
DISPLAY, STANDARD	545-5047
WORKLIGHTS (8) HALOGEN LAMPS	491-6734

SALE PRICE	$148,500.00
EXT WARRANTY	Included
CSA	Included
TOTAL PRICE	**$148,500.00**
SUB TOTAL	**$148,500.00**
TOTAL PURCHASE PRICE	**$148,500.00**

WARRANTY

Standard Warranty:	12 Month/Unlimited Hours Total Machine
Extended Warranty:	420-36 MO/4500 HR PREMIER
CSA	**CSA- 36 MO 4500 HOURS**

*** QUOTE GOOD FOR UP TO 8 BAKCHOES ***

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-5

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to ratify an expenditure in the amount of $77,005.87 to JWC Environmental Inc. for the repairs to the Westside Wastewater Treatment Plant influent fine screen.

Page: Page 1 of

Item Reference: FY 2023-24 Water Utilities Operating Budget

The Westside Wastewater Treatment Plant treats an average of nine million gallons of wastewater per day to meet State and Federal discharge standards for water quality. The first step in the treatment process is the removal of solids and debris that enter the plant through the sanitary sewer collection system. This is accomplished by utilizing a mechanical fine screen to remove those solids larger than 8mm.

The fine screen was installed in 2004 and operates almost 24-hours per day. It is primarily constructed of stainless steel and has many moving parts operating in untreated wastewater containing abrasive sand and grit. Over time this has caused many of those moving parts to fail and need replacing.

JWC Environmental is the manufacturer of the screen and is the single source vendor providing parts and service.

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to ratify an expenditure in the amount of $77,005.87 to JWC Environmental Inc. for the repairs to the Westside Wastewater Treatment Plant influent fine screen.

ATTACHMENTS:

Westside Fine Screen Repair PO and Photos

Drafted/Recommended By:
Department Leader

Michael Norris, Manager Wastewater Treatment Systems

Edited/Submitted By:

City Manager

CITY OF TYLER
PURCHASING DEPARTMENT
ATTN: SHERRY PETTIT
304 NORTH BORDER
TYLER, TEXAS 75702
903-531-1232

PURCHASE ORDER
285895

PAGE: 1
P.O. NO.: 285895
DATE: 03/05/24
CHANGE #:
DATE CHANGE:

ISSUED TO: JWC ENVIRONMENTAL INC.
2850 S. RED HILL AVE STE
SANTA ANA, CA 92705

SHIP TO: City of Tyler
TREATMENT PLANT
14939 CR 46
TYLER, TX 75704

VENDOR NO.
11114

DELIVER BY	SHIP VIA	F.O.B.	TERMS
02/29/24			NET

CONFIRM BY	CONFIRM TO	REQUISITIONED BY
	GARY DURHAM	MNORRIS

FREIGHT	CONTRACT NO	ACCOUNT NO	PROJECT	REQ. NO.	REQ DATE
		502-0746-746.08-22	WSWWTP	184017	02/29/24

LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION	UNIT COST	EXTENDED COST
1	1.0	EA	BRUSH BAR - RUBBER FLAP	1132.9500	1132.95
2	1.0	EA	BRUSH SEAL CLAMP PLATE	209.0000	209.00
3	1.0	EA	BRUSH BAR - SEAL	712.2800	712.28
4	10.0	EA	ROTATING BRUSH SEGMENT	234.7400	2347.40
5	2.0	EA	ROTATORY BRUSH LOCKING COLLAR, BZ	421.6000	843.20
6	1.0	EA	PLATE, LEFT ROTARY BRUSH ADJ, SS	1109.6500	1109.65
7	1.0	EA	ADJ PLATE, ROTARY BRUSH RIGHT SS	1109.6500	1109.65
8	2.0	EA	SEAL, LIP 1.688IN X 2.438IN BORE	22.3000	44.60
9	2.0	EA	BEARING BALL, 4 BOLT FLANGE 1-11/16 SC	367.8600	735.72
10	1.0	EA	TORQUE ARM, 70D BRUSH DRIVE, SS	554.0400	554.04
11	1.0	EA	GEARBOX, HELICAL-W NORD 1.438B 140TC	2270.0800	2270.08
12	2.0	EA	1-1/2HP TEFC 208-230/460 145TC 1.15SF	1098.6200	2197.24

SIGNED BY: Gary Durham

Important Instructions and Conditions on Reverse Side

GARY DURHAM, PURCHASING AGENT

CITY OF TYLER
PURCHASING DEPARTMENT
ATTN: SHERRY PETTIT
304 NORTH BORDER
TYLER, TEXAS 75702
903-531-1232

PURCHASE ORDER
285895

P.O. NO.: 285895
DATE: 03/05/24
CHANGE #:
DATE CHANGE:

ISSUED TO: JWC ENVIRONMENTAL INC.
2850 S. RED HILL AVE STE
SANTA ANA, CA 92705

SHIP TO: City of Tyler
TREATMENT PLANT
14939 CR 46
TYLER, TX 75704

VENDOR NO.
11114

DELIVER BY	SHIP VIA	F.O.B.	TERMS
02/29/24			--NET--*

CONFIRM BY	CONFIRM TO	REQUISITIONED BY
	GARY DURHAM	MNORRIS

FREIGHT	CONTRACT NO	ACCOUNT NO	PROJECT	REQ. NO.	REQ DATE
		502-0746-746.08-22	WSWWTP	184017	02/29/24

LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION	UNIT COST	EXTENDED COST
13	10.0	EA	CHAIN GUIDE, CURVED	264.0600	2640.60
14	2.0	EA	CHAIN GUIDE, LOWER, R/H	118.5800	237.16
15	1.0	EA	CHAIN GUIDE RADIUS, RIGHT 304SST	2790.4200	2790.42
16	1.0	EA	CHAIN GUIDE RADIUS, LEFT 304SST	2790.4200	2790.42
17	10.0	EA	HHCS M10-1.50 X 60MM 18-8SST F/T	2.6800	26.80
18	136.0	EA	SEAL SIDE	85.7700	11664.72
19	70.0	EA	FILL PLATE 3/16INSTK UHMW	36.7600	2573.20
20	1.0	EA	BRUSH DRIVE SHAFT, 12063 GEARBOX	2041.9600	2041.96
21	2.0	EA	DISPOSABLE GLOVES, LARGE	44.7200	89.44
22	1.0	EA	ANTISEIZE LUBRICANT, 1LB CAN	138.3300	138.33
23	2.0	EA	GASKET, BRUSH BEARING PLATE	69.6800	139.36
24	120.0	EA	ROLLER CHAIN STND LINK, 8IN PITCH MFS 10 STRANDS	116.4700	13976.40

SIGNED BY: Gary Durham

Important Instructions and Conditions on Reverse Side

GARY DURHAM, PURCHASING AGENT

CITY OF TYLER
PURCHASING DEPARTMENT
ATTN: SHERRY PETTIT
304 NORTH BORDER
TYLER, TEXAS 75702
903-531-1232

PURCHASE ORDER
285895

P.O. NO.: 285895
DATE: 03/05/24
CHANGE #:
DATE CHANGE:

ISSUED TO: JWC ENVIRONMENTAL INC.
2850 S. RED HILL AVE STE
SANTA ANA, CA 92705

SHIP TO: City of Tyler
TREATMENT PLANT
14939 CR 46
TYLER, TX 75704

VENDOR NO.
11114

DELIVER BY	SHIP VIA	F.O.B.	TERMS
02/29/24			--NET--*

CONFIRM BY	CONFIRM TO	REQUISITIONED BY
	GARY DURHAM	MNORRIS

FREIGHT	CONTRACT NO	ACCOUNT NO	PROJECT	REQ. NO.	REQ DATE
		502-0746-746.08-22	WSWWTP	184017	02/29/24

LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION	UNIT COST	EXTENDED COST
25	12.0	EA	ROLLER CHAIN CONNT LINK, 8IN PITCH MFS	71.9300	863.16
26	275.0	EA	NYLOCK HEX NUT M8-1.25 18-8SST	.9200	253.00
27	275.0	EA	FHCS M8-1.25 X 40MM 18-8SST F/T	2.0700	569.25
28	1.0	EA	OPERATOR INTERFACE TERM. 2X20 VFD CHAR.	1114.4900	1114.49
29	1.0	EA	SPRAY WASH ASY	4793.0000	4793.00
30	1.0	EA	GBOX, 159.94:1 180TC 90	8631.0000	8631.00
31	1.0	EA	ASSY, BRUSH AND SET SCREW	1051.0800	1051.08
32	3.0	EA	STARTER, FVR SZ.1 3-9A	1904.9100	5714.73
33	3.0	EA	OVERLOAD RELAY CONTACT BLOCK	119.2100	357.63
34	2.0	EA	BEARING BALL, WIDE SLOT 60MM	966.0000	1932.00
35	1.0	EA	DISCOUNT 15%	11648.0900	11648.09-
36	1.0	EA	S&H CHARGES	1000.0000	1000.00

SIGNED BY: Gary Durham
GARY DURHAM, PURCHASING AGENT

Important Instructions and Conditions on Reverse Side

CITY OF TYLER
PURCHASING DEPARTMENT
ATTN: SHERRY PETTIT
304 NORTH BORDER
TYLER, TEXAS 75702
903-531-1232

PURCHASE ORDER
285895

PAGE: 4
P.O. NO.: 285895
DATE: 03/05/24
CHANGE #:
DATE CHANGE:

ISSUED TO: JWC ENVIRONMENTAL INC.
2850 S. RED HILL AVE STE
SANTA ANA, CA 92705

SHIP TO: City of Tyler
TREATMENT PLANT
14939 CR 46
TYLER, TX 75704

VENDOR NO.
11114

DELIVER BY	SHIP VIA	F.O.B.	TERMS
02/29/24			--NET--*

CONFIRM BY	CONFIRM TO	REQUISITIONED BY
	GARY DURHAM	MNORRIS

FREIGHT	CONTRACT NO	ACCOUNT NO	PROJECT	REQ. NO.	REQ DATE
		502-0746-746.08-22	WSWWTP	184017	02/29/24

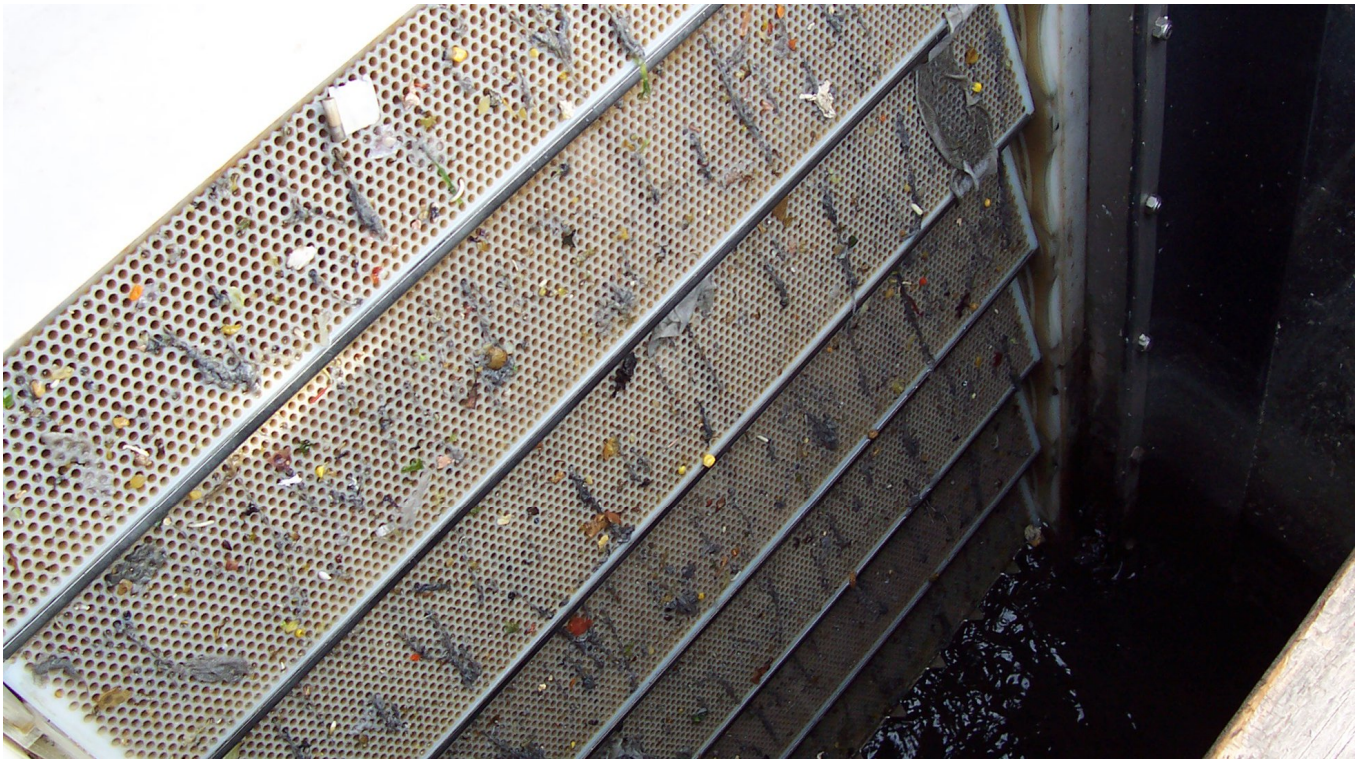
LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION	UNIT COST	EXTENDED COST
37	1.0	EA	REPAIR LABOR	10000.0000	10000.00

SUB-TOTAL	**77005.87**
TOTAL	**77005.87**

SIGNED BY: Gary Durham
GARY DURHAM, PURCHASING AGENT

Important Instructions and Conditions on Reverse Side


MUFFIN MONSTER



CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-6

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to ratify staff action for adoption of the Operations and Maintenance Plan and maintenance easement for the Rosewood Senior Villas detention pond located at 2929 Calloway Road.

Page: Page 1 of

Item Reference:

The Rosewood Senior Villas development at 2929 Calloway Road is partially located within the 100-year FEMA floodplain (Zone A). The project, which is now complete, included the construction of a driveway across what would be identified as the floodway. On April 15, 2021, a Conditional Letter of Map Revision from FEMA was granted to allow the construction across the floodplain. Water is permitted to flow under the driveway but in doing so, created a detention pond on site within the 100-year FEMA floodplain. The owner has filed for a Letter of Map Revision with FEMA now that the project has been complete. FEMA has responded that prior to their final approval, the City of Tyler must approve an Operations and Maintenance Plan for the southwest off-line detention pond that describes the nature of the maintenance activities, the frequency with which they will be performed, and the title of the local community official who will be responsible for ensuring that the maintenance activities are accomplished. The City is not required to perform maintenance but is responsible for ensuring that the private property owner performs the maintenance per the accepted Plan. The requirements for an Operations and Maintenance Plan, a maintenance easement and enforcement provisions are found in Unified Development Code Sections 10-544 and 10-545.

The Legal Department has reviewed the Operations and Maintenance Plan and maintenance easement and has been adopted by the City Manager. Staff is requesting that the adoption be ratified by City Council.

RECOMMENDATION:

It is recommended that the City Council consider authorizing the City Manager to ratifying staff action for acceptance of the Operations and Maintenance Plan and maintenance easement for the Rosewood Senior Villas detention pond located at 2929 Calloway Road.

ATTACHMENTS:

Access and Maintenance Easement
Rosewood Senior Villas Operations and Maintenance Plan

Drafted/Recommended By:
Department Leader

Kyle Kingma, AICP, CFM

Edited/Submitted By:
City Manager

ACCESS AND MAINTENANCE EASEMENT

THE STATE OF TEXAS §
§
COUNTY OF SMITH §

1. Grantor, **Rosewood Senior Villas 19, LP**, acting by and through its duly authorized officers and representatives, ("Grantor"), is the owner of the property located at 2929 Calloway Road, Tyler, Texas 75707 (address), and more particularly described in Exhibit "A" attached to this Easement ("Grantor's property").

2. Grantee, **City of Tyler**, acting by and through its duly authorized officers and representatives, ("Grantee"), is the municipal entity responsible for the management of the storm water facilities in the City of Tyler.

3. Grantor represents that the Grantor is the sole owner of Grantor's property and that there are no lienholders, mortgagees, or trustees that have an ownership interest in Grantor's property except those lienholders, mortgagees, or trustees that have signed this Easement evidencing their consent to the conveyance of this Easement and their consent to the terms and conditions of this Easement.

4. Grantor desires to convey an easement (Easement") on Grantor's property to Grantee for the purpose of access to and maintenance of the southwest detention pond on the property of Grantor should Grantor not adequately maintain the southwest detention pond in accordance with the **Operation and Maintenance Plan** agreed to by Grantor and Grantee as may be modified from time to time.

5. For and in consideration of the mutual covenants and conditions contained in this Easement, and for other good and valuable consideration, Grantor conveys to Grantee a perpetual, nonexclusive easement over and across a portion of Grantor's property for the purpose of performing repairs, and maintenance on the southwest detention pond which is on Grantor's property.

6. Scope. Grantee and Grantee's agents and contractors shall have an Easement in accordance with the metes and bounds as described on the attached Exhibit "B". Grantee's and Grantee's agents and contractors shall have the right to enter onto Grantor's property for the purpose of accessing this Easement. Grantee and Grantee's agents and contractors shall have access to the Easement at all reasonable times for the purposes described herein. Grantee recognizes and confirms that access to the southwest detention pond is through and over the Easement which traverses low lying areas on Grantor's property and from time to time may be inundated with water. Therefore, access to the southwest detention pond through the easement needs to be scheduled when the ground is sufficiently dry to support the vehicle utilizing the Easement.

7. Purpose. The use of the Easement shall include the performance of repairs and maintenance on Grantor's property of the southwest detention pond.

8. The Easement shall encumber Grantor's property and be a covenant running with the land, and shall be binding on all of Grantor's heirs, successors, agents, assignees, lessees, and other occupiers of Grantor's property, until the time that the Easement is released.

9. If a condition of this Easement is violated, abandoned, waived, or otherwise found to be invalid, the remaining terms and conditions of this Easement shall remain in full force and effect to the extent possible.

EXECUTED on January 30, 2024

By: Rosewood Senior Villas 19, LP, Grantor

By: KRS Rosewood GP, LLC, general partner

By: KRS Housing, LLC, managing member

By: Kent Hance

Kent R. Hance, Manger

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 1/30/2024, by Kent R. Hance.

Robyn Hadley

Seal Showing Name and Commission Expiration

Notary Public in and for the State of Texas

ROBYN HADLEY
Notary ID #130472255
My Commission Expires
December 17, 2027

EXECUTED on _____

City of Tyler, Grantee

By: _____

THE STATE OF TEXAS §
§
COUNTY OF SMITH §

This instrument was acknowledged before me on the _____, by _____.

_____
Seal Showing Name and
Commission Expiration

_____
Notary Public in and for the
State of Texas

EXECUTED on February 1, 2024

Zions Bancorporation, N.A. DBA Amegy Bank

By: _____
Ray Miller, Vice President

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the February 1, 2024, by _____.

Michael Infinger 4-23-2027
Seal Showing Name and
Commission Expiration

_____
Notary Public in and for the
State of Texas

MICHAEL INFINGER
Notary Public, State of Texas
Comm. Expires 04-23-2027
Notary ID 13199459-1

Exhibit "A"

LEGAL DESCRIPTION

BEING a tract of land situated in the William Keys Survey, Abstract Number 526, City of Tyler, Smith County, Texas and being all of Lot No. 2, New City Block 1539-0, the Woods, Unit No. 3, City of Tyler, Smith County, Texas, as recorded in Cabinet B, Slide 244-B, Plat Records, Smith County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found in the southerly right-of-way line of Calloway Road (a variable width public right-of-way) , said iron being the northwest corner of said Lot 2 and the northeast corner of Lot No. 3, Block No. 1539-0, the Woods, Unit No. 3, City of Tyler, Smith County, Texas, as recorded in Cabinet B, Slide 244-B, Plat Records, Smith County, Texas;

THENCE N 85°46'28"E, a distance of 264.27 feet (previously recorded on plat as N 88°12'59"E), along the common line of the north property line of said Lot 2 and the south right-of-way line of said Calloway Road to a 1/2 inch iron rod with cap stamped "Brannon 2131" found at the beginning of a curve to the left;

THENCE continuing along said common line and with said curve to the left, an arc distance of 425.10 feet, through a central angle of 12°18'48", having a radius of 1978.05 feet and a long chord that bears
N 79°37'04"E, 424.28 feet (previously recorded on plat as N 82°03'35"E), to a 5/8 inch iron rod with cap stamped "RPLS 6059" set;

THENCE continuing along said common line N 73°27'40"E, a distance of 65.28 feet (previously recorded on plat as N 75°54'11"E) to a 1/2 inch iron rod with cap stamped "Brannon 2131" found, being the northeast corner of said Lot 2;

THENCE S 02°59'31"E, (previously recorded on plat as S 00°33'00"E), at 5.14 feet pass the northwest corner of Lot No. 5, as shown on the Resubdivision Plat of the Woods Unit 2, Lot 1, Block 1539-0, as recorded in Cabinet B, Slide 330-B, Plat Records of Smith County, Texas, and then along the common line of the east line of said Lot 2 and the west line of said Resubdivision plat, at 330.89 feet pass the southwest corner of Lot No. 6, said Resubdivision Plat and the northwest corner of Lot 8A, of the Resubdivision Plat of the Woods Unit 2, Lots 8-13, New City Block 1539-0, as recorded in Cabinet C, Slide 12-D, Plat Records of Smith County, Texas, and then along the common line of the east line of said Lot 2 and the west line of said Resubdivision Plat of the Woods Unit 2, Lots 8-13, New City Block 1539-0, in all 793.95 feet to a point from which a 1/2 inch iron rod found bears N 67°49'56"W, 0.44 feet, said point being the southeast corner of said Lot 2 and the most southerly southwest corner of Lot 11A of said Resubdivision

Plat of the Woods Unit 2, Lots 8-13, New City Block 1539-0, and also being in the northeasterly right-of-way line of the Missouri Pacific Railroad an existing occupied 100' right-of-way and being the beginning of a non-tangent curve to the left;

THENCE along said northeasterly right-of-way line and with said non-tangent curve to the left a distance of 340.21 feet, through a central angle of 13°08'58", having a radius of 1482.39 feet and a long chord that bears N 80°14'12"W, a distance of 339.47 feet (previously recorded on plat as N 77°47'01"W) to a 1/2 inch iron rod found;

THENCE continuing along said northeasterly right-of-way line N 86°48'41"W, a distance of 419.78 feet (previously recorded on plat as N 84°22'10"W) to a 1/2 inch iron rod found, being the southwest corner of said Lot 2 and the southeast corner of the aforementioned Lot 3;

THENCE N 02°59'31"W, a distance of 598.25 feet (previously recorded on plat as N 00°33'00"W) along the common lot line of said Lots 2 and 3 to the POINT OF BEGINNING and containing 498,053 square feet or 11.434 acres of land, more or less.

ACCESS AND MAINTENANCE EASEMENT
EXHIBIT "B"

BEING a tract of land situated in the William Keys Survey, Abstract Number 526, City of Tyler, Smith County, Texas and being a portion of Lot No. 2, New City Block 1539-0, the Woods, Unit No. 3, City of Tyler, Smith County, Texas, as recorded in Cabinet B, Slide 244-B, Plat Records, Smith County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found in for the southwest corner of said Lot No. 2 and the southeast corner of Lot No. 1 said Woods, Unit No. 3;

THENCE N 02°59'31"W, a distance of 295.17 feet along the common line of said Lots Number 2 and 3 to a point from which the northwest corner of said Lot No. 2 and the northeast corner of said Lot No. 3 bears N 02°59'31"W, 303.08 feet;

THENCE N 87°00'29"E, a distance of 40.00 feet;

THENCE N 02°59'31"W, a distance of 25.00 feet;

THENCE N 88°14'53"E, a distance of 16.61 feet;

THENCE N 01°45'07"W, a distance of 221.85 feet;

THENCE N 77°12'51"E, a distance of 155.27 feet;

THENCE N 53°57'46"E, a distance of 66.09 feet to a point in a curve to the left in the north line of said Lot No. 2, from which a 1/2 inch iron rod with cap stamped "Brannon 2131" found bears S 85°41'36"W, 5.60 feet,

THENCE along the north lot line of said Lot No. 2 and with said curve to the left, an arc distance of 38.73 feet, through a central angle of 1°07'19", having a radius of 1978.05 feet and a long chord of which bears N 85°03'05"E, 38.73 feet;

THENCE S 53°57'46"W, a distance of 103.38 feet departing said north lot line;

THENCE S 77°12'41"W, a distance of 142.90 feet;

THENCE S 01°45'07"E, a distance of 222.98 feet;

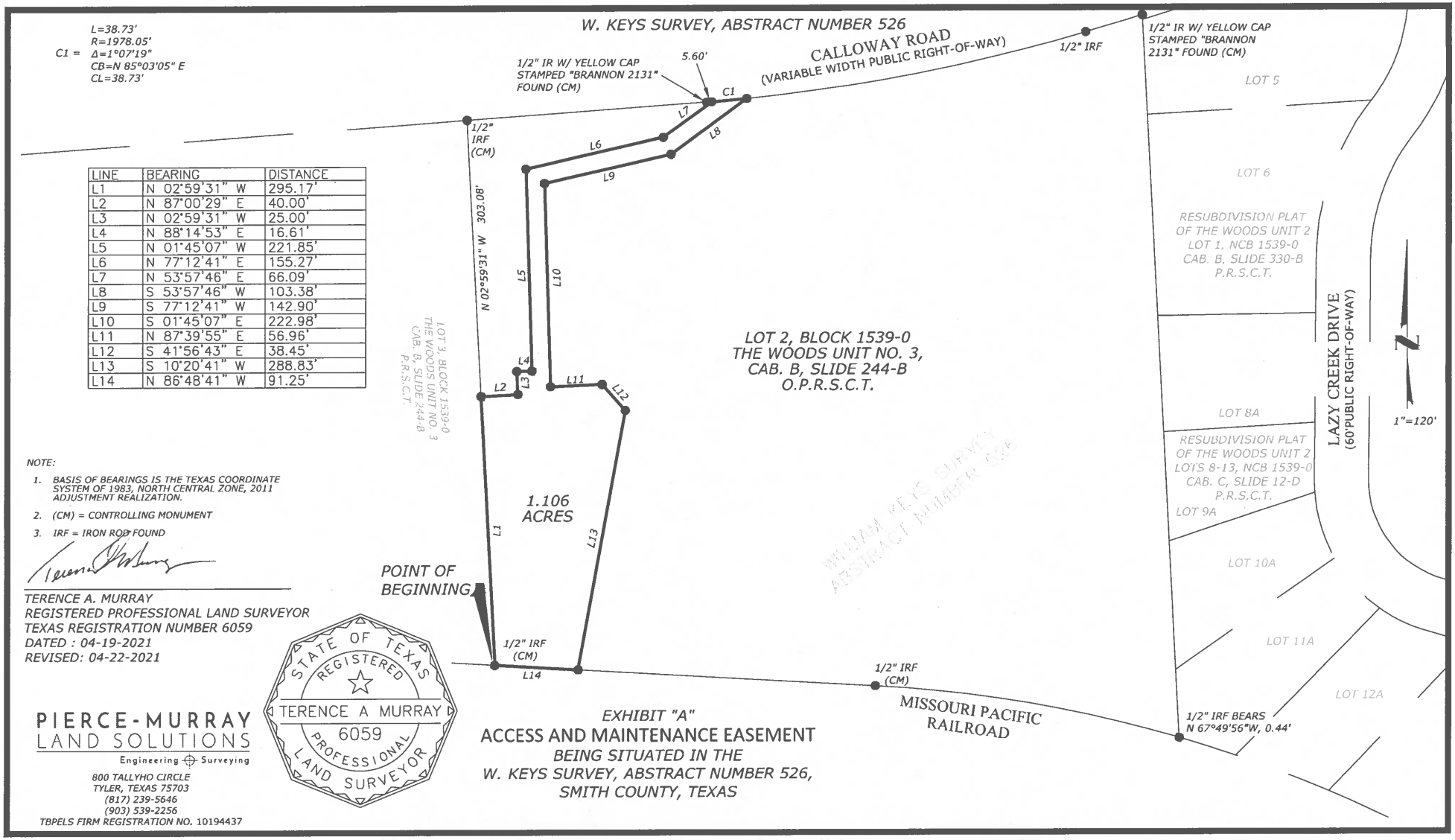
THENCE N 87°39'55"E, a distance of 56.96 feet;

THENCE S 41°56'43"E, a distance of 38.45 feet;

THENCE S 10°20'41"W, a distance of 288.83 feet to the south line of said Lot No. 2;

THENCE N 86°48'41"W, a distance of 91.25 feet along said south line returning to the Point of Beginning and containing 48,163 square feet or 1.106 acres of land, more or less.

1908-057 EA4 LEGAL.docx



LINE	BEARING	DISTANCE
L1	N 02°59'31" W	295.17'
L2	N 87°00'29" E	40.00'
L3	N 02°59'31" W	25.00'
L4	N 88°14'53" E	16.61'
L5	N 01°45'07" W	221.85'
L6	N 77°12'41" E	155.27'
L7	N 53°57'46" E	66.09'
L8	S 53°57'46" W	103.38'
L9	S 77°12'41" W	142.90'
L10	S 01°45'07" E	222.98'
L11	N 87°39'55" E	56.96'
L12	S 41°56'43" E	38.45'
L13	S 10°20'41" W	288.83'
L14	N 86°48'41" W	91.25'

NOTE:

1. BASIS OF BEARINGS IS THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE, 2011 ADJUSTMENT REALIZATION.
2. (CM) = CONTROLLING MONUMENT
3. IRF = IRON ROD FOUND

TERENCE A. MURRAY
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NUMBER 6059
DATED : 04-19-2021
REVISED: 04-22-2021

STATE OF TEXAS
REGISTERED
TERENCE A MURRAY
6059
PROFESSIONAL
LAND SURVEYOR

PIERCE-MURRAY
LAND SOLUTIONS
Engineering ⊕ Surveying
800 TALLYHO CIRCLE
TYLER, TEXAS 75703
(817) 239-5646
(903) 539-2256
TBPELS FIRM REGISTRATION NO. 10194437

EXHIBIT "A"
ACCESS AND MAINTENANCE EASEMENT
BEING SITUATED IN THE
W. KEYS SURVEY, ABSTRACT NUMBER 526,
SMITH COUNTY, TEXAS

DRAWN BY: TAM CHECKED BY: CDP DATE: 01-23-2024 JOB NO. 1908-057 TBPELS NO. 10194437 FILE: 1908-057 EA4

Operations and Maintenance Plan

for

Southwest Off-line Detention Pond

2929 Calloway Road

Between

City of Tyler, Texas, a municipal corporation

And

Rosewood Senior Villas 19, LP

WHEREAS, it is the intent of the City Council to protect and promote the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the powers granted to municipalities under Texas Local Government Code Chapter 211, Subchapter A., are for the purpose of promoting the public health, safety, morals, and general welfare, as well as preserving places and areas of historical, cultural or architectural importance and significance; and

WHEREAS, Texas Local Government Code Section 212.002 states that after a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and

WHEREAS, Texas Local Government Code Section 212.003(a) provides that the governing body of a municipality may by ordinance extend to the extraterritorial jurisdiction of the municipality the application of the municipal ordinance prescribing rules governing plats and subdivisions of land; and

WHEREAS, the City of Tyler has adopted ordinances based on authority of City Charter Sections 1, 2 and 6, as well as Texas Local Government Code Sections 51.001 and 51.072; and

WHEREAS, Texas Local Government Code Section 217.042(a) provides that a home rule municipality may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet thereof; and

WHEREAS, Texas Local Government Code Section 217.042(b) provides that a home-rule municipality may enforce all ordinances necessary to prevent and summarily abate and remove a nuisance; and

WHEREAS, the Tyler City Council has adopted a Unified Development Code in Tyler City Code Chapter 10 that governs zoning, subdivision, development and other land use regulations, which has been amended from time to time; and

WHEREAS, Rosewood Senior Villas 19, LP, has constructed an apartment development at 2929 Calloway Road, Tyler, Texas, and was previously approved to build a stormwater detention facility within the Federal Emergency Management Agency (FEMA) floodplain; and

WHEREAS, Rosewood Senior Villas 19, LP, has made an official request to FEMA to modify the Floodplain; and

WHEREAS, FEMA has responded that although the Rosewood Senior Villas Apartments development is on private property and is to be privately maintained, the location in the development in the Floodplain requires that there be an agreement between Rosewood Senior Villas 19, LP and the City of Tyler, Texas, for maintenance with the City for enforcement purposes; and

WHEREAS, Tyler City Code Chapter 10, Article VII., "Environmental Regulations", in Division F., contains regulations related to control of post construction stormwater run-off; and

WHEREAS, Tyler City Code Chapter 10, Article VII., "Environmental Regulations", in Division G., contains floodplain regulations; and

WHEREAS, Tyler City Code Section 10-8.a.1 states that one of the purposes of the Unified Development Code is to protect and promote the health, safety and general welfare of the people of Tyler; and

WHEREAS, Tyler City Code Section 10-8.a.5 states that one of the purposes of the Unified Development Code is to maintain orderly and compatible development patterns that promote an appropriate mix of land uses and protect property values; and

WHEREAS, Tyler City Code Section 10-8.a.15 states that one of the purposes of the Unified Development Code is to promote natural resource conservation and environmentally responsible development practices; and

WHEREAS, Tyler City Code Section 10-8.a.21 states that one of the purposes of the Unified Development Code is to accommodate orderly and beneficial development in accordance with established purposes; and

WHEREAS, Tyler City Code Section 10-552 states that some of the purposes of Chapter 10, Article VII, Division G., is to promote the public health, safety, and welfare and to minimize public and private losses due to flood conditions by provisions designed to protect human life and health; minimize negative impact to public streets, storm sewer systems and drainage ways; minimize damage to public facilities and utilities located in floodplains; and to help maintain a stable tax base by providing for the sound use and development of flood-prone areas so as to minimize future flood blight areas; and

WHEREAS, Rosewood Senior Villas 19, LP and the City of Tyler have also executed an Access and Maintenance Easement for the purposes set forth herein; and

WHEREAS, it is the intent of the City of Tyler to cooperate with both FEMA and Rosewood Senior Villas 19, LP, to accomplish the purposes set forth herein;

THIS AGREEMENT ("Agreement") is made and effective _____, 2024, between Rosewood Senior Villas 19, LP ("Rosewood Senior Villas"), and the City of Tyler, Texas ("City".

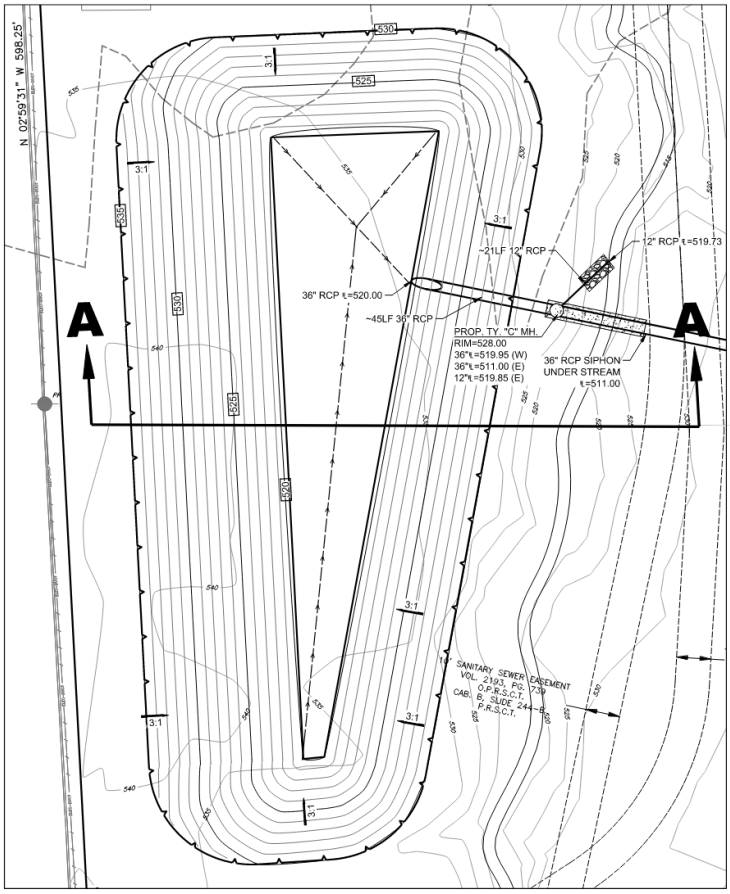
One of the purposes of this Access and Maintenance Agreement is to comply with the specific requirements of Tyler City Code Section 10-542. Section 10-542.b. provides that if used and required by the City, stormwater practices shall have an enforceable operation and maintenance agreement to ensure that the stormwater system functions as designed. Such maintenance agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. This Agreement shall be governed by all applicable Federal, State and Local Laws including, but not limited to, Tyler City Code Chapter 10, Article VII, Divisions F. and G, and in particular City Code Sections 10-542, 10-544 and 10-563. Under this Agreement, City shall have inspection authority, and in the event that the City determines that Rosewood Senior Villas has failed to act or otherwise meet Rosewood Senior Villas' responsibilities for operation, maintenance and/or repair of the detention pond, the City shall act in accordance with Tyler City Code Sec. 10-544 and other applicable authority.

In compliance with Division G, Section 10-563 – *Duties and Responsibilities of Floodplain Administrator* of the City of Tyler's adopted Code of Ordinances, the following operations and maintenance plan has been prepared for the off-line stormwater detention basin that serves the stormwater runoff from the development at 2929 Calloway Road.

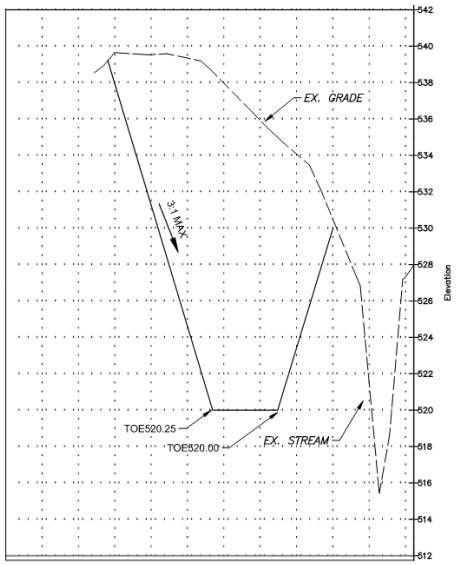
Section 10-563(g) of the City's Code of Ordinances states that the duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the assurance that the flood-carrying capacity within the altered or relocated portions of any watercourse is maintained. The City has entered into an agreement with the property owner specifying that maintenance of the facility will be provided by the property owner. The maintenance and enforcement of same shall follow the guidelines as established in Division F, Section 10-544 – *Maintenance and Repair of Stormwater Facilities* of the City of Tyler's adopted Code of Ordinances.

DETENTION POND INFORMATION:

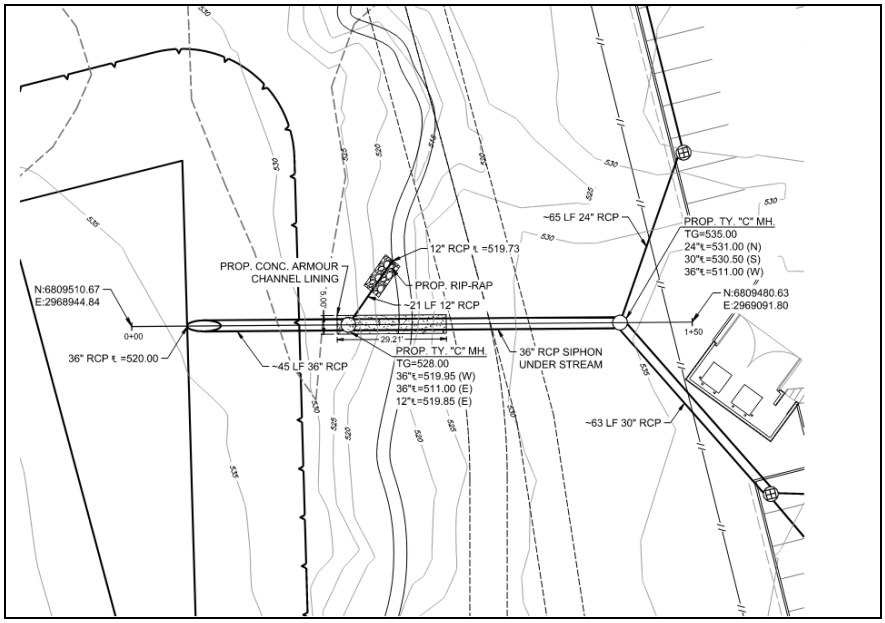
- Pond Type: Dry-bottom, grass lined
- Outfall Structure: 12" diameter RC

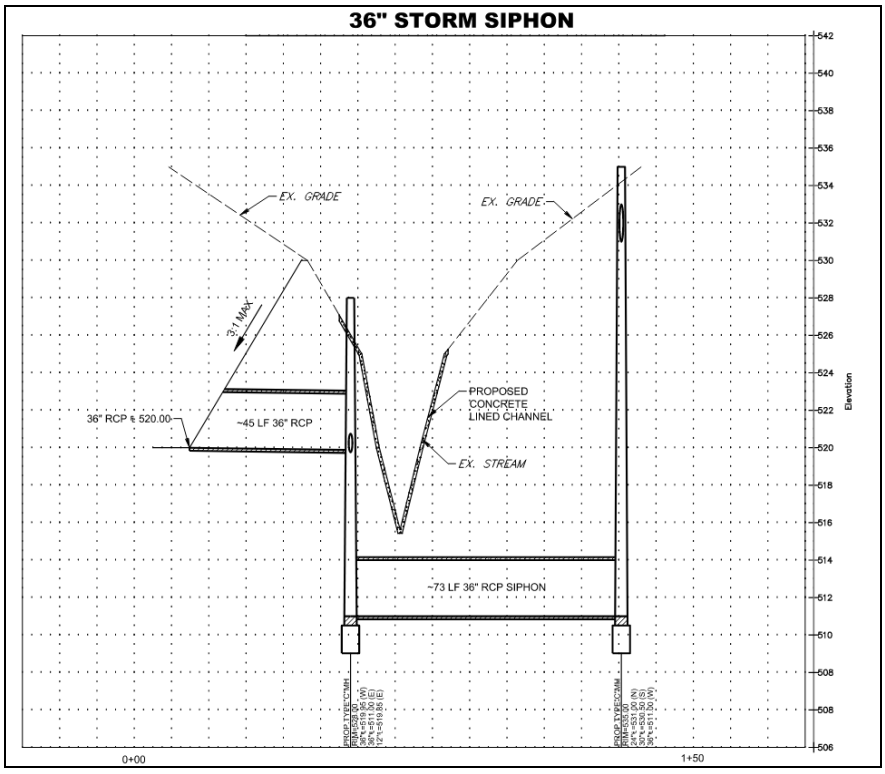


OFFLINE DETENTION POND



CROSS SECTION A-A
(N.T.S)





SITE LOCATION: 2929 Calloway Road, Tyler, Texas, southwest corner.

MAINTENANCE ACCESS: A maintenance easement has been prepared and recorded in the Smith County Clerk records. The easement encompasses the detention pond and allows for public access to the site to monitor the maintenance activities and conditions of the facility. The easement is binding on all subsequent owners of the land served by the detention pond.

MAINTENANCE COVENANT: A maintenance covenant has been established and recorded in the Smith County Clerk records. The covenant specifies the schedule for when and how often maintenance of the detention pond will occur, and identifies scenarios for periodic inspections to ensure proper performance between scheduled maintenance operations.

MAINTENANCE PLAN:

<u>Non-Structural Controls:</u>

1. **Litter Control:** Any litter that is visible within the pond area will be collected, disposed of in proper waste receptacles and removed from the site. Such activity will help prevent the litter from becoming floatables and having the potential to obstruct the discharge from the pond.
2. **Vegetation Growth Control:** The detention pond shall be mowed to help control vegetation growth. Unnecessary brush and plants will be removed from the detention pond upon inspection.

<u>Structural Controls:</u>

1. **Cleaning of Outfall Pipe:** Any obstructions that are viewed to be present at the outfall pipe will be cleared. The offending obstruction will be removed from the site and disposed of within proper receptacles.
2. **Sediment Removal:** Sediment will be removed from the detention pond when it is determined to adversely impact the overall design volume, but no less than when it is determined that the depth of silt exceeds $1/5^{th}$ of the total pond depth.
3. **Erosion and Slope Failures:** Once erosion along the side slopes of the detention pond is identified, plans will be prepared and action taken to correct the issue to prevent potential failures along the pond and to ensure continued access to and along the detention pond.
4. **Damages by Animals/Pests:** Structural damage caused by animals and/or pests will be identified and plans prepared with action taken to correct the damages.

INSPECTION PLAN:

Visual inspections of the non-structural and structural controls of the detention pond will be performed as warranted but no less than semi-annually. An inspection form will be completed by the person performing the inspection and filed on site at the main office. A blank inspection form is located in the following pages of this plan.

Annual Inspection Report:

Annual inspections of the detention pond will be performed and an inspection report prepared and filed on site. The report will be written to assess the effectiveness of all current maintenance tasks, non-structural and structural, and identify any changes that need to be made to ensure the detention pond performance is not diminished over time.

MAINTENANCE AND INSPECTION SCHEDULE:

The following maintenance inspection form is recommended to be used:

DETENTION POND MONTHLY MAINTENANCE INSPECTION

ITEM	DESCRIPTION	Yes/No /NA	Correction Action By	Corrected Date	Notes
1	**SEDIMENT REMOVAL**				
1.1	Design depth (feet):				
1.2	Sediment thickness:				
2	**ENBANKMENT**				
2.1	Evidence of subsidence				
2.2	Presence of erosion				
2.3	Presence of cracks				
2.4	Presence of tree growth				
2.5	Presence of burrowing animals				

2.6	Other, describe below:				
3	**OUTFALL**				
3.1	Outlet				
3.2	Other, describe below:				
4	**DEBRIS / LITTER REMOVAL**				
4.1	Date of last litter removal:				
4.2	Removal of litter is required				
5	**MOWING**				
5.1	Date of last mowing performed:				
5.2	Mowing Required				
6	**NUISANCE CONTROL**				
6.1	Presence of animals:				
6.2	Presence of weeds/shrubs:				
6.3	Other, describe below				
7	**STRUCTURAL REPAIRS / REPLACEMENT**				
	Describe any items needing structural repair and replacement below:				
8	OTHER ITEM				

	Describe item and condition (explain any problem below)				

Jurisdiction and Venue. This Agreement is made under and shall be governed by the laws of the State of Texas. All issues arising from this Agreement shall be resolved in the Smith County, Texas courts for state court and the Eastern District of Texas, Tyler Division, for federal court.

Other Provisions. This Agreement shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture between the parties. Neither party may assign any of its rights or interests nor delegate any of its duties or obligations without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Any purported or attempted assignment or delegation without such consent shall be void and of no force or effect. This Agreement may be modified or amended only in writing, signed by both parties.

Rosewood Senior Villas 19, LP

By: KRS Rosewood GP, LLC, a Texas limited liability company

By: KRS Housing, LLC, a Texas limited liability company, its managing member

By: _____ Date: _____
Kent R Hance, Manager

City of Tyler

By: _____ Date: _____
Edward Broussard
City Manager

Recommended:

_____
Kyle Kingma, AICP, CFM
Flood Plain Administrator

Approved:

_____
City Attorney's Office

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-7

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to declare certain City of Tyler TV 3 studio equipment as surplus and ready to be auctioned.

Page: Page 1 of

Item Reference:

The Communications Department has prepared a list of equipment to be declared surplus and ready for auction upon approval by the City Council.

See attached auction list.

Proceeds from the sale of these units will be deposited into the PEG Fund.

RECOMMENDATION:

It is recommended that the City Council declare the attached list of City of Tyler TV 3 studio equipment as surplus and that they are ready to be auctioned.

ATTACHMENTS:

TV 3 Studio Auction List

Drafted/Recommended By:
Department Leader

Payton Weidman, Public Information Officer

Edited/Submitted By:
City Manager

Make/Model	Serial Number	Purchase Cost	Est. Current Value
Sony FS7	25794	$10,999.00	$1,700
Panasonic AC90APJ	E6TGB0034	$2,200.00	$799
Ikan DH7	201512080025	$469.00	$300
iPad Air	DLXN40PBFK10	$365.00	$65
FreeFly Movi M10		$6,495.00	$450
FreeFly Movi Mimic		$495.00	$200
Tilta Max Armor Man		$2,300.00	$700
Porta Booth Pro		$543.00	$350
Yamaha C-115V		$399.00	$500
Yamaha C-115V		$399.00	$500
Soundcraft F16II		$748.00	$700
Rapco Horizon 16x4		$679.95	$300
Bescor MP-101		$108.95	$109
Bescor MP-101		$108.95	$109
Sony QD-G32A		$69.95	$70
Sony QD-G32A		$69.95	$70
Sony QD-G32A		$69.95	$70
Sony QD-G128A		$164.45	$164
Sony QD-G128A		$164.45	$164
Acoustic Research 900MGZ Stereo Speakers		$68.00	$68.00
Brahma Waterproof boots		$30.00	$30.00
PBL-3241 KIT		$100	$100
PBL-7 8113		$60	$60
Soundcraft F16II		$748	$700
Proformance		$29.95	$20
Proformance		$29.95	$20
Shure MVI Audio Interface	3TI17449331	$99	$89
Beringer Europort mpa200bt		$500	$50

DMX-Show designer		$200	$50
Panasonic AG-hpx250P	13TCC0018	1,000	$269
Panasonic AG-hpx250P	G3TCC0129	$1,000	$269
Panasonic AG-hpx250P	13TCC0016	$1,000	$269
E-Image AT-7902		$4,000	$1,000
E-Image AT-7902		$4,000	$1,000
E-Image AT-7902		$4,000	$1,000
RockDVX Verizoom		$250	$150
RockDVX Verizoom		$250	$150
RockDVX Verizoom		$250	$150
Verizoom Panasonic Focus Motor		$250	$150
Verizoom Panasonic Focus Motor		$250	$150
Verizoom Panasonic Focus Motor		$250	$150
DJI Zenmuse X3	06NDDA120B00JJ	$500	$150
DJI Zenmuse X3	06NDDA130B00UK	$500	$150
Klipsch Pro Media 2.1	1.0114E+14	$300	$150
Yamaha EMX 312sc	UCCMP01190	$600	$300
PeaveyS1 Tripod Speaker Stand		$100	$50
PeaveyS1 Tripod Speaker Stand		$100	$50
E-Image GHo6		$1,000	$350
DJI Osmo x5 Adapter	OS6658A0770	$200	$50
Panasonic AW-RP50 Camera Controller	J4TBB0206	$3,000	$1,500
Eiki LC-Wul100	H11A1293	$8,000	$1,000
Rode Video Micro Microphone	DC0583569	$100	$30
Panasonic AJ-P2M064AG	CAD0021983	$299	$299
Panasonic AJ-P2M064AG	CAD0021982	$299	$299
Panasonic AJ-P2M064AG	CAD0021984	$299	$299
Panasonic AJ-P2M064AG	CAD0020850	$299	$299
Panasonic AJ-P2AD1G	C6A0290PK	$189	$299
Panasonic AJ-P2AD1G	C6A0289PK	$189	$299
Panasonic AJ-P2AD1G	E3A0308JS	$189	$299

Panasonic AJ-P2AD1G	E3A0475JS	$189	$299
Panasonic AJ-P2AD1G	E3A0307JS	$189	$299
Panasonic AJ-P2AD1G	E3A0476JS	$189	$299
Panasonic AJ-P2AD1G	E3A0310JS	$189	$299
Panasonic AJ-P2AD1G	E3A0306JS	$189	$299
Panasonic AJ-P2M032AG		$199	$299
Panasonic AJ-P2M032AG		$199	$299
Panasonic AJ-P2M032AG		$199	$299
Panasonic AJ-P2M032AG		$199	$299
Panasonic AJ-P2M032AG		$199	$299
Panasonic AJ-P2M032AG		$199	$299
Unbranded Tripod Head		$500	$100
Canon 60D with accessories	412527345	$600	$300
Klien Tools mm5000	0313X-A1	$500	$250
Celluon Laserkey CL850	BAE08C00063	$100	$20
Shure PG1 Wireless Mic		$200	$100
Panasonic AG-DVX100B	K8TDA0534	$2,000	$500
Panasonic AG-DVX100B	E0TDA0022	$2,000	$500
Bescor LED -125		$200	$30
Nikon CoolpixS230	36114573	$250	$80
Tricaster 860		$6,000	$1,500
Panasonic DVC Tape set of 6		NA	$25
Canon ZR300		NA	$100
Tricaster Mobile Production Cabinet		$3,000	$2,000
Panasonic TH-58F11UK		$2,000	$500
Sony WCS-999 Wireless Mic		NA	$50
	4.5207E+11	NA	$100
Ultimate Jamstand support Set of 5		NA	$10
Osmo Microphone		NA	$10
Shure PG88 Wireless Reciever		$300	$100
Blackmagic SDI to Analog		NA	$60

Vivitar DVR 786HD		NA	$20
Spalding Stopwatch		NA	$40
Bravo Pro Disc Publisher		500	$250
Kramer VP-501	3090941327	NA	$100
Kramer VM-2C	1.15004E+12	NA	$20
Kramer FC-50	5.11108E+12	NA	$100
Kramer VP-31		$420	$100
KRAMER VP-2		NA	$30
KRAMER VP-2		NA	$30
London BLU-BIB	93072029	$299	$100
Kramer VP-31	4050582484	$420	$100
Contemporary Research IPTV Encoder	00-14-C8-08-00-04	NA	$2,500
Extron P/2 Da12 Series		NA	$150
Extron DVI DA plus Series		NA	$30
Extron MTP Series Delay Switch		NA	$15
Extron MTP Series Delay Switch		NA	$15
Extron MTP Series Delay Switch		NA	$16
Extron MTP T 15HD RS		NA	$10
Extron MTP T 15HD RS		NA	$10
Extron MTP T 15HD RS		NA	$10
Extron MTP T 15HD RS		NA	$10
Extron Ism 824	ABCE180 E25567	NA	$80
Shure MX400D Microphone		NA	$200
Panasonic AW-UE80 PTZ Camera		$5,500	$2,000
Panasonic AW-UE80 PTZ Camera		$5,500	$2,000
Panasonic AW-UE80 PTZ Camera		$5,500	$2,000
Panasonic AW-UE80 PTZ Camera		$5,500	$2,000
Datavideo ITC-100sl		$450	$200
Datavideo ITC-100sl		$450	$200
Datavideo ITC-100sl		$450	$200
Datavideo ITC-100sl		$450	$200

Datavideo ITC-100sl	$450	$200
Datavideo ITC-100sl	$450	$200
Datavideo ITC-100sl	$450	$200
Datavideo ITC-100sl	$450	$200
Rapco Horizon 16x4 Audio Snake	$679.95	$500
Logitech Z625 Speaker System with Subwoofer and Optical Input	NA	$183

CITY OF TYLER
CITY COUNCIL COMMUNICATION

Agenda Number: C-A-8

Date: March 27, 2024

Subject: Request that the City Council consider authorizing the City Manager to execute the replat of Lot 3-A in the Southpoint No. 1 Subdivision at Lake Tyler.

Page: Page 1 of

Item Reference: Tyler City Code Section 19-207

The lessees, Richard and Natalie Osbourne, of Lot 3-A in the Southpoint No. 1 Subdivision, have requested a replat to adjust their western property line so as to be consistent with the current 378 msl elevation. As a result, the property has increased in size from 2.006 acres to 2.260 acres. The lot will still meet all requirements for lot size and water frontage distance. The lessees have paid the $150 replat fee.

RECOMMENDATION:

It is recommended that the City Council consider authorizing the City Manager to execute the replat of Lot 3-A in the Southpoint No. 1 Subdivision at Lake Tyler.

ATTACHMENTS:

2024-03-27 REPLAT OF LOT 3A

Drafted/Recommended By:
Department Leader

Kate Dietz, Director of Utilities

Edited/Submitted By:
City Manager

NOTES:

1) "NOTICE – SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF CITY ORDINANCE AND STATE LAW AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS."

2) THIS PLAT AMENDS 1 LOT CONTAINING 2.260 ACRES, AMENDING LOT 3–A, RESUBDIVISION PLAT OF LOT 3, AS SHOWN ON PLAT RECORDED IN CABINET D, SLIDE 131–B OF THE PLAT RECORDS OF SMITH COUNTY, TEXAS.

3) BY GEOGRAPHIC PLOTTING ALL OF THE SUBJECT PROPERTY IS WITHIN SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD EVENT (ZONE A – NO BASE FLOOD ELEVATION DETERMINED) AS INDICATED BY FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD MAPS. SEE MAP NUMBER 48423C0510C, EFFECTIVE DATE SEPTEMBER 26, 2008.

4) BEARINGS ARE BASED UPON THE TEXAS COORDINATE SYSTEM, NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983 AS DETERMINED BY GPS OBSERVATIONS ON LEICA GNSS REFERENCE NETWORK.

5) THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THERE MAY BE EASEMENTS OR OTHER MATTERS NOT SHOWN THAT AFFECT THE PROPERTY.

6) THIS SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

7) IN PROVIDING THIS SURVEY NO ATTEMPT HAS BEEN MADE TO OBTAIN OR SHOW DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY OR LOCATION OF ANY UTILITY EXISTING ON THE SUBJECT PROPERTY WHETHER PRIVATE, MUNICIPAL OR PUBLIC OWNED. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT SURVEYED OR EXAMINED OR STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONDITIONS, CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY.

OWNER'S STATEMENTS:

WE, RICHARD OSBORNE AND NATALIE OSBORNE, THE OWNERS OF LOT 3–A SHOWN HEREON DO ACCEPT THIS PLAT AS A PLAN FOR THE RESUBDIVIDING INTO LOT AND BLOCK AS SHOWN. IT IS THE OWNER'S RESPONSIBILITY TO VERIFY EASEMENTS PRIOR TO CONSTRUCTING ANY IMPROVEMENTS.

AGREED TO AND ACCEPTED BY:

RICHARD OSBORNE

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, IN AND FOR THE STATE OF TEXAS, THIS THE 29 DAY OF February, 2024.

NOTARY PUBLIC, STATE OF TEXAS

BRADY ALLAN JOHNSON
Notary Public, State of Texas
Comm. Expires 07-19-2026
Notary ID 133864709

NATALIE OSBORNE

SUBSCRIBED AND SWORN BEFORE ME, A NOTARY PUBLIC, IN AND FOR THE STATE OF TEXAS, THIS THE 29 DAY OF February, 2024.

NOTARY PUBLIC, STATE OF TEXAS

BRADY ALLAN JOHNSON
Notary Public, State of Texas
Comm. Expires 07-19-2026
Notary ID 133864709

APPROVAL:

THIS PLAT APPROVED BY THE TYLER CITY COUNCIL, CITY OF TYLER, THIS THE _____ DAY OF _____, 2024.

CITY MANAGER

ATTEST

RECORDED IN CABINET _____ SLIDE _____ OF THE PLAT RECORDS OF SMITH COUNTY, TEXAS.

SURVEYOR'S CERTIFICATE:

KNOW ALL MEN BY THESE PRESENTS:

I, JAMES CRAWFORD, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5984, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION AND BEARINGS, DISTANCES, AREAS, AND MONUMENTS ARE AS SHOWN.

GIVEN UNDER MY HAND & SEAL, THIS THE 29TH DAY OF FEBRUARY, 2024.

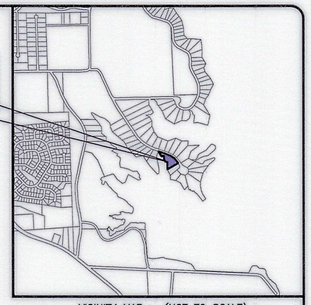
JAMES CRAWFORD
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5984

STATE OF TEXAS · REGISTERED · JAMES CRAWFORD · 5984 · PROFESSIONAL · LAND SURVEYOR

PREPARED BY:
HALO SURVEYING, LLC
9097 COUNTY ROAD 2193
WHITEHOUSE, TEXAS 75791
(903) 570-0857
TBPELS FIRM REGISTRATION NO. 10194259

JACOB HERRIN SURVEY, A-423

PROJECT LOCATION



VICINITY MAP – (NOT TO SCALE)

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	355.61'	509.50'	39°59'26"	S 50°29'16" E	348.44'

SOUTH POINT ROAD
80' R.O.W. (CAB. A, SLD. 242-C)

CALL: S 67°27'28" E 256.40'
ACT. S 70°30'46" E 256.52'

60D NAIL (FOUND)

CALL: 355.70'
C1

-LOT 2-

RESUBDIVISION PLAT OF LOT 1 AND 2
SOUTH POINT SUBDIVISION
CABINET D, SLIDE 84-D (P.R.)

N 19°11'26" E 5.34'

3/4" IRF "BENT"

N 60°39'28" W 33.27'

378.0' ELEVATION LINE

LOT LINE (CAB. D, SLD. 131-B)

S 19°11'26" W 145.15'

N 13°35'49" W 101.78'

1/2" IRF "RPLS 3683"

1/2" IRF

ORIGINAL LOT LINE - 3-A

378.0' ELEVATION LINE

1/2" IRF "2114"

N 55°36'06" W 71.52'

N 12°32'34" W 33.98'

"SURVEYED" LAKE LEVEL
ON FEB. 26, 2024

1/2" IRF "BENT"

N 31°40'48" W 116.74'

CONCRETE WALL

-3-A-
2.260 Acres
"SURVEYED"

1/2" IRF "RPLS 3683"

5/8" IRF "BENT"

N 00°24'26" W 53.99'

N 60°16'13" W 17.71'

N 27°26'27" W 44.44'

LAKE TYLER WEST

N 00°24'26" W 139.49'

1/2" IRF "RPLS 3683"

RESUBDIVISION PLAT OF LOT 3
SOUTH POINT SUBDIVISION NO. 1
CABINET D, SLIDE 131-B (P.R.)

POINT FOR CORNER
FR. WH. A 5/8" IRF BEARS
N 14°11'50" E 1.37'

LOT LINE BETWEEN 3-B & 4
ACT. S 59°30'44" W 342.24'
CALL: S 62°32'32" W 342.32

-4-

SOUTH POINT SUBDIVISION NO. 1
VOLUME 3, PAGE 143 (P.R.)
CABINET A, SLIDE 242-C (P.R.)

LEGEND

○ - DENOTES 1/2" IRON ROD (SET) WITH CAP MARKED "HALO 5984" UNLESS NOTED OTHERWISE.

LOT 3–A
SECOND AMENDMENT
REPLAT OF THE
RESUBDIVISION PLAT OF LOT 3
SOUTH POINT SUBDIVISION NO. 1
BEING A
PART OF THE JACOB HERRIN SURVEY, A–423
SMITH COUNTY, TEXAS

40 0 20 40 80 160
SCALE IN FEET

DRAWN BY: B.A.J. CHECKED BY: T.J.C. FILE: 23103952 FILE: OSBORNE–REPLAT DATE: 02/29/2024

1 OF 1