# CITY COUNCIL AGENDA

## Wednesday, July 23, 2025
## 9:00 am

CITY OF TYLER
*A Natural Beauty*

**CITY COUNCIL**
**Donald P. Warren, Mayor**
**Stuart Hene, District 1**
**Petra Hawkins, District 2**
**Shonda Marsh, 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, July 23, 2025**
**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, please fill out the information on the IPAD located outside the Council Chambers. 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 called meeting of the City Council of the City of Tyler, Texas, held on June 11, 2025.

**AWARDS**

**A-1** Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. They represent 100 years of service with the City of Tyler.

Luis Aparicio, Police Officer XI, 20 years of service
J.H. Burge, Police Sergeant IV, 20 years of service
Adam Parker, Police Sergeant III, 20 years of service
Jason Shields, Police Officer XI, 20 years of service
Bradley Smith, Police Officer XI, 20 years of service

**ZONING**

**Z-1** PD25-011 GENECOV WEST MUD CREEK, LLC (8751 PALUXY DRIVE)
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 final site plan.

**Z-2** S25-001 DRAKE CANDY PARK LLC (1210 BENNETT AVENUE)
Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for a wireless communications facility with a monopole communications tower up to 150 feet in height.

**Z-3** Z25-016 DRAKE EQUITY PARTNERS, LP (A PORTION OF 2571 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.

**Z-4** C25-002 SAMUEL BANKS (AN UNIMPROVED PORTION OF BUDDIE STREET)
Request that the City Council consider adoption of an Ordinance approving the closure of an unimproved portion of Buddie Street.

**RESOLUTION**

**R-1** Request that the City Council consider adopting a Resolution to suspend the original July 31, 2025 effective date of ONCOR Electric Company's requested rate change to permit the City time to study the request and establish reasonable rates.

**ORDINANCE**

**O-1** Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 2 to adopt amended guidelines and criteria for tax abatement.

**O-2** Request that the City Council consider adoption of an Ordinance amending Tyler City Code Chapter 1 by removing unnecessary wording relating to Code amendments, categorizing the Neighborhood Revitalization Board as a Regular Board, listing the Tax Reinvestment Zone Board Number 4 as a Periodic Board, updating the Review Process for City Board applications, amending the provision related to City Board Attendance/Status Reports, clarifying the adoption of Internal Board Operating Rules, updating the City Penalty Clause to include Airport Zoning and Height Hazard Regulations, updating the advisory group membership provisions in the Appeal Process to the City Manager or designee, and making other minor clean-up and formatting changes.

**MISCELLANEOUS**

**M-1** Request that the City Council consider authorizing the City Manager to execute an agreement providing for the transfer of a building and lot located at 2000 West Gentry Parkway Tyler, Texas and a one-time grant in the amount of Fifty Thousand Dollars ($50,000.00) to the Tyler Metropolitan Chamber of Commerce.

**M-2** Request that the City Council consider authorizing the City Manager to execute a construction contract for the Information Technology Infrastructure Relocation Project with Watson Commercial Construction, Ltd., for $3,050,000 (Bid No. 25-035), and approve an allowance of $430,000 for furniture, appliances, and server racks.

**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 purchase one (1) new SCL 1000 track loader for Storm Water from Lowe Tractor and Equipment Sourcewell Contract 112624-KBa for $34,053.55.

**C-A-2** Request that the City Council consider authorizing the City Manager to purchase one (1) new M4wd cab tractor to replace unit 16414, from Lowe Tractor Sourcewell contract 082923-kba for $53,001.11.

**C-A-3** Request that the City Council consider authorizing the City Manager to apply for and accept Smith County 9-1-1 District participation funding for various equipment upgrades for the Tyler Police Department, in the amount of $94,238.53.

**C-A-4** Request that the City Council consider ratifying a payment of $54,843.00 to Capps-Capco Construction, Inc., for the emergency repair of the street failure of Lake Forest Dr. at Lake Lee.

**C-A-5** Request that the City Council consider authorizing the City Manager to execute and add Addendum #1 to the Work Order #02 to the Master Services Agreement with The C.T. Brannon Corporation for the design and construction phase services, as they relate to the 2025 Structure Flooding Projects for $42,300.00.

**C-A-6** Request that the City Council consider authorizing the City Manager to approve a reconciliation change order that will decrease the final project cost by $65.30 and the release of retainage in the amount of $16,562.47 to A-10 Construction for the Lake Palestine Water Treatment Plant Erosion Control Project Bid No. 25-006.

**C-A-7** Request that the City Council consider authorizing the City Manager to execute a Capital Improvement Project (CIP) contract in the amount of $263,062.00 for the Private Service Relocation Bid No. 25-039 to Rub-A-Dub Plumbing and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

**C-A-8** Request that the City Council consider authorizing the City Manager to execute an Agreement for Access across City-owned property at Lake Tyler to Jimmy L. Green.

**C-A-9** Request that the City Council consider authorizing the City Manager to execute an Engineering Services Agreement with Pape Dawson Consulting Engineers, LLC for the Gilley Creek Lift Station Force Main Replacement in the amount of $732,600.00 and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

**C-A-10** Request that the City Council consider authorizing the City Manager to award the Private Lateral Group 3 Program Construction for Consent Decree Remediation Work in the amount of $997,024.00 to C&A Construction, LLC and to adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

**CITY MANAGER'S REPORT**

**ADJOURNMENT**

**MINUTES OF THE REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS**
**June 11, 2025**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, June 11, 2025 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: | Lloyd Nichols |
| Councilmembers: | Stuart Hene |
| | Petra Hawkins |
| | Shonda Marsh |
| | James Wynne |
| | Brad Curtis |
| City Manager: | Edward Broussard |
| Asst. City Manager: | Keidric Trimble |
| City Attorney: | Deborah G. Pullum |
| Deputy City Attorney: | Steve Kean |
| Director of Organizational Development: | Regina Y. Moss |
| Planning Director: | Kyle Kingma |
| City Fire Chief: | David Coble |
| Police Chief: | Jimmy Toler |
| City Engineer: | Darin Jennings |
| Traffic Engineer: | Cameron Williams |
| Transit Manager: | Russ Jackson |
| Senior Management Analyst: | Blake Cathey |
| City Clerk: | Cassandra Brager |

## INVOCATION

The Invocation was given by Councilmember Hene.

## MINUTES

Motion by Councilmember Wynne to approve the April 30, 2025, minutes; seconded by Councilmember Hawkins; motion carried 7 - 0 & approved as presented.

## RESOLUTION

**R-1** Request that the City Council consider adopting a Resolution of support authorizing and directing the City Manager or the City Manager's designees to participate with the Texas Department of Transportation (TxDOT) in the design of a safety project on State Highway 110 from north of Aberdeen Drive to County Road 2123. **(R-2025-36)**

Motion by Councilmember Curtis; seconded by Councilmember Hawkins; motion carried 7 - 0 & approved as presented.

**R-2** Request that the City Council consider supporting the Transportation Alternative Set - Aside (TA) grant application for the City of Tyler Midtown to Downtown Shared Use Path and committing the local matching funds. **(R-2025-37)**

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

**ORDINANCE**

**O-1** Request that the City Council consider adoption of an Ordinance amending the Fiscal Year 2024-2025 Budget for various projects relating to Tax Increment Reinvestment Zone (TIRZ 3, TIRZ 4), and the Rose Complex. **(O-2025-26)**

Motion by Councilmember Curtis; seconded by Councilmember Hawkins; motion carried 7 - 0 & approved as presented.

**O-2** Request that the City Council consider approving the sale of Tyler Water and Sewer System Revenue Bonds, New Series 2025. **(O-2025-27)**

**Paul Jason, Specialized Public Finance-** Gave a brief update on the Water and Sewer System Revenue Bonds, New Series 2025.

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

**Latonia Gaston-Bell, 12622 County Road, 1114 Tyler Texas, 75709** – Stated that she was here speaking on behalf of someone else. She received an email from Christy Jones, and she lives at 1027 Crosby. So, it says, “Dear City of Tyler's Water Company, I have no idea what's going on with y'all, but it's not okay. I am very disappointed. I am a very disappointed customer. You need to get things together. I paid my bill on the actual due date, May 27th, which should have put my balance at zero because I have not missed one payment. Your automated system said that I had a balance of 113. I called and spoke with a representative and I was told that there was not a generated bill for this month, which said that the bill ended up being sent out two weeks late. But y'all still want me to pay them on time. Here is what I just paid my bill on May 27th, and it said that I have another bill on June 29. That's insane. It is not okay. Our bills are already high, and then you turn around and make mistakes like this. You really need to do better.” So, this is not the first time she said that she's had this problem. So, I'm speaking on behalf of her because she was not able to come today.

**City Manager, Edward Broussard** – Stated that we can have Keidric reach out to her. What was her name again?

**Latonia Gaston Bell** - Stated that her name is Christy Williams. She lives at 1027 Crosby. She also stated that someone else had reached out to her as well, but he did not make a statement. His name is Adam Scott. He is also a business owner here in Tyler. It happened with his residence, as well as his shop.

**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 adopting the updated Title VI policy for the Tyler Transit System that will assist Tyler Transit in maintaining compliance with all Federal and Federal Transit Administration (FTA) standards and recommendations.

**C-A-2** Request that the City Council consider authorizing payment to the Texas Department of Transportation in the amount of $51,668.17 for the 2020 Highway Safety Improvement Project entitled W MLK Jr. Blvd Signal and Crosswalk Improvements.

**C-A-3** Request that the City Council consider authorizing the City Manager to approve the partial release of the water easement on the Bellwood Addition Unit 1 that has been verified as no longer needed after construction of a new line.

**C-A-4** Request that the City Council consider authorizing the City Manager to ratify the expenditure of $59,535.00 for the emergency replacement of two submersible lift station pumps located at the Lake Palestine Water Treatment Plant.

**C-A-5** Request that the City Council consider authorizing the City Manager to execute a Capital Improvement Project (CIP) contract with Striping Technology, LP for the Old Jacksonville Highway and Capital Drive Traffic Signal project, for $192,353.65.

**C-A-6** Request that the City Council consider authorizing the City Manager to approve a reconciliation change order that will reduce the contract amount by $90,074.36 and the release of final retainage payment in the amount of $9,198.50 to Reynolds & Kay, LTD for the 2021 Creek Crossing Reroutes & Repairs.

**C-A-7** Request that the City Council consider adopting a Resolution consenting to the addition of territory to the boundaries of the East Texas Municipal Utility District of Smith County. **(R-2025-38)**

**C-A-8** Request that the City Council consider adopting a Resolution consenting to the addition of territory to the boundaries of the East Texas Municipal Utility District of Smith County. **(R-2025-39)**

Motion by Councilmember Curtis to approve the entire consent agenda as written; seconded by Councilmember Hawkins; motion carried 7 - 0 & approved as presented.

**CITY MANAGER'S REPORT**

1. Our Tyler Fire Department is not somebody you want to mess with. They recently, back in May, they showcased their excellence at the Southwest Regional Firefighter Challenge

Classic in Baton Rouge. A team of eight dedicated Firefighters, ranging in impressive age from 19 to 59 years of age, competed in various categories over the three-day event. The open team comprising of Bryce Driver, Jeran Driver, Scott Dodgen, Patrick Mayo, and Joe Mojica displayed unwavering determination that they claimed First Place in the Southwest Region Fire Department showdown, and Second Place overall. The grit was evident as they also secured Second Place in the Fire Department relay. And there are several individual awards that were earned. Bryce Driver got Third Place overall, Division I under 40. Jeran Driver got first place overall, Division II under 40. Patrick Mayo, Second Place, Regional over 40. Jeremy Driver, Third Place, Regional over 40. Jeremy Driver also received a Lion's Den recognition for being over 40 and running the course in less than two minutes. And then everyone on the open team, including Tate Coomer and Terry Hawkins, received various medals for their tandem races. And so, Terry Hawkins, especially Terry, if you all have known Terry, he's been with our department for decades and has always participated in this. And the whole team did incredible work on this as far as representing Tyler at this contest.

2. So, it is summer, and it is one despite the rain, the sun does come out eventually, and we are also having ways that we kick off the summer throughout the City. The Library had officially kicked off summer for 2025. They put on a spectacular event, hosting over 1,200 people with 885 registrations completed, including 628 children and 257 adults. There were games, bouncy houses, art stations, and some trucks that were there. We're grateful for the hard work of the Library staff and their volunteers in making this such a fun event for our Library and getting people ready to read for this summer.
3. Also, we have on Saturday the grand opening of the Miracle League Field over at Faulkner Park. And so that will be something we, as a community, have been working hard on and are just excited about its grand opening. We're also then next week, we have the grand reopening of Debbie E. Winters Park, and that will be on June 17, and it's something we're very excited about for next Tuesday.
4. And then finally, we're excited to announce that Tyler has been named the Second-Best Place to Live in Texas, with the article recently. We were evaluated on affordability, access to nature, health care, education, and safety, and so we were between Houston and Austin. Actually, Austin's number one. Houston was number three. Obviously, Tyler should be number one based on who we're being compared to. But we're very excited about that. Just kind of Tyler continues to just kind of get its name out there throughout the State and the nation. We're very proud of that.

## ADJOURNMENT

Motion by Councilmember Curtis to adjourn the meeting at 9:26 am; seconded by Mayor Pro Tem Nichols; 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:** July 23, 2025

**Subject:** Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. They represent 100 years of service with the City of Tyler. Luis Aparicio, Police Officer XI, 20 years of service J.H. Burge, Police Sergeant IV, 20 years of service Adam Parker, Police Sergeant III, 20 years of service Jason Shields, Police Officer XI, 20 years of service Bradley Smith, Police Officer XI, 20 years of service

**Item Reference:**

Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. They represent 100 years of service with the City of Tyler.

Luis Aparicio, Police Officer XI, 20 years of service
J.H. Burge, Police Sergeant IV, 20 years of service
Adam Parker, Police Sergeant III, 20 years of service
Jason Shields, Police Officer XI, 20 years of service
Bradley Smith, Police Officer XI, 20 years of service

**RECOMMENDATION:**

**Request that the City Council consider recognizing the following employees for their years of service and commitment to the City of Tyler. They represent 100 years of service with the City of Tyler.**

**Attachments:**
July 2025 Service Award 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:** **July 23, 2025**

**Subject:** **Award for July 2025**

**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 **100** years of service with the City of Tyler.

## Service Awards

| Date of Hire | First Name | Last Name | Title | Department | Years of Service |
|---|---|---|---|---|---|
| 07/18/2005 | Luis | Aparicio | Police Officer XI | Police | 20 |
| 07/18/2005 | J. | Burge | Police Sergeant IV | Police | 20 |
| 07/18/2005 | Adam | Parker | Police Sergeant III | Police | 20 |
| 07/18/2005 | Jason | Shields | Police Officer XI | Police | 20 |
| 07/18/2005 | Bradley K. | Smith | Police Officer XI | Police | 20 |

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

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** Z-1

**Date:** July 23, 2025

**Subject:** PD25-011 GENECOV WEST MUD CREEK, LLC (8751 PALUXY DRIVE) 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 final site plan.

**Item Reference:**

The applicant is requesting the zone change to specifically and exclusively develop a gated single-family detached housing development, on a 28.79 acre portion of Tract 1 of ABST A0984 R Tombs, one tract of land containing approximately 107.53 acres of land located at the northwest intersection of Cumberland Road and Paluxy Drive (8751 Paluxy Drive).

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 to residential structures. It is the intent of the PUR to provide for residential developments that utilize private streets, owned and maintained by a homeowners â€™ 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 for 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 the 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, PMXD-1, Planned Mixed Use District, and PMF, Planned Multi-Family District, and are undeveloped. The adjacent properties to the east are zoned PMXD-1, Planned Mixed Use District, AG, Agricultural District, C-1, Light Commercial District and RPO, Restricted Professional Office District and are undeveloped. The adjacent properties to the south and west are zoned R-1A, Single-Family Residential District, and are developed with single-family homes or are undeveloped.

This request is consistent with the adopted Tyler 1st Future Land Use Guide, which identifies this property as Single-Family Medium/Low Density.

The applicant is requesting the zone change to develop detached single-family homes with private streets. The final site plan proposes 40 single-family homes at a density of 1.48. Construction of the subdivision will occur in one phase. The site plan shows two access points; one connecting to Wilder Trail and another connecting to a future street to the east. The proposed 40 lots and the existing 13 lots within the subdivision to the west only require one access point, given that there are fewer than 60 lots. The second access point to the east exceeds minimum requirements; however, it will allow for an alternative access for residents when it is added with future development. The proposed development would create a lower density than what would be allowed in R-1A zoning. All other development standards, including setbacks, density, height, landscaping, and parking, will comply with R-1A regulations. The site plan proposes a cul-de-sac, which exceeds 600 feet in length. The proposed private cul-de-sac will have a lower traffic volume as the lot sizes are larger and only 20 lots will front along it.

On July 1, 2025, the Planning and Zoning Commission held a public hearing for this request. Neighbors expressed concern with the potential for increased water runoff and traffic. They also expressed a preference for the development to have larger lots.

As of Friday, July 18, 2025, of the seven notices mailed, one notice was returned in favor, and three were returned in opposition to the request for a total protest calculation of 18.47 percent. The opposition stated concerns about privacy, traffic, and density.

All other departments have reviewed the application and anticipate no significant impact on services and facilities by the proposed site plan.

**RECOMMENDATION:**

**The Planning and Zoning Commission by a 5-2 vote recommends approval of the zone change from R-1A, Single-Family Residential District to PUR, Planned Unit Residential District with final site plan.**

**Attachments:**
Ordinance
Location Map
Future Land Use Map
Protest Map

**Drafted/Recommended By:**
**Department Leader** Kyle Kingma, AICP, CFM, Planning Director

**Edited/Submitted By:**
**City Manager**

**ORDINANCE NO. O-2025-**

**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 A 28.79 ACRE PORTION OF TRACT 1 OF ABST A0984 R TOMBS, ONE TRACT OF LAND CONTAINING APPROXIMATELY 107.53 ACRES OF LAND LOCATED AT THE NORTHWEST INTERSECTION OF CUMBERLAND ROAD AND PALUXY DRIVE (8751 PALUXY DRIVE); DIRECTING THE AMENDMENT OF THE ZONING MAP; 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 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 PD25-011

That the following described property, which has heretofore been zoned R-1A, Single-Family Residential District, shall hereafter bear the zoning classification of PUR, Planned Unit Residential District, to wit:

> On a 28.79 acre portion of Tract 1 of ABST A0984 R Tombs, one tract of land containing approximately 107.53 acres of land located at the northwest intersection of Cumberland Road and Paluxy Drive (8751 Paluxy Drive) 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 July 25th, 2025.

**PASSED AND APPROVED** this the 23rd day of July A.D., 2025.

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

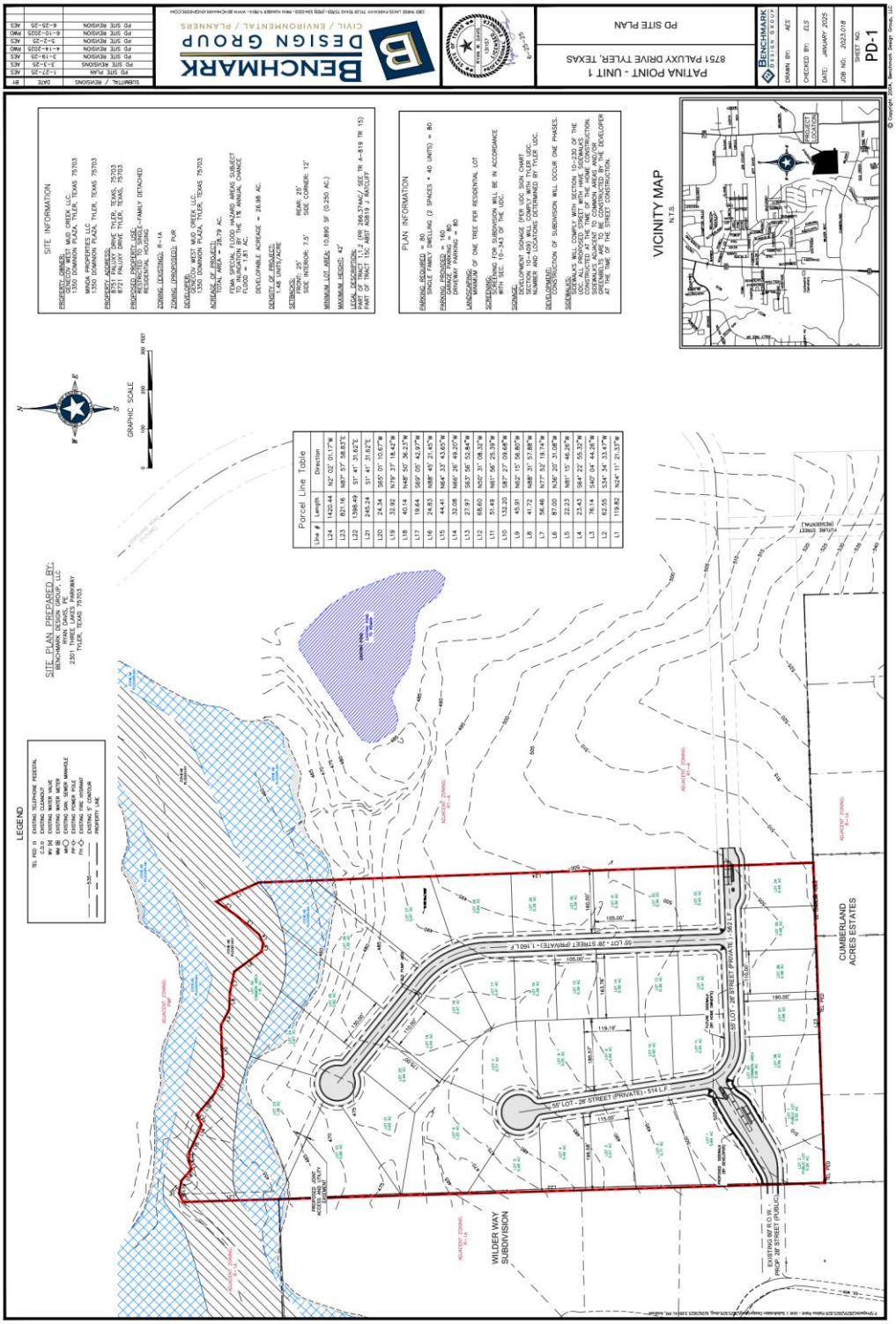
A T T E S T:

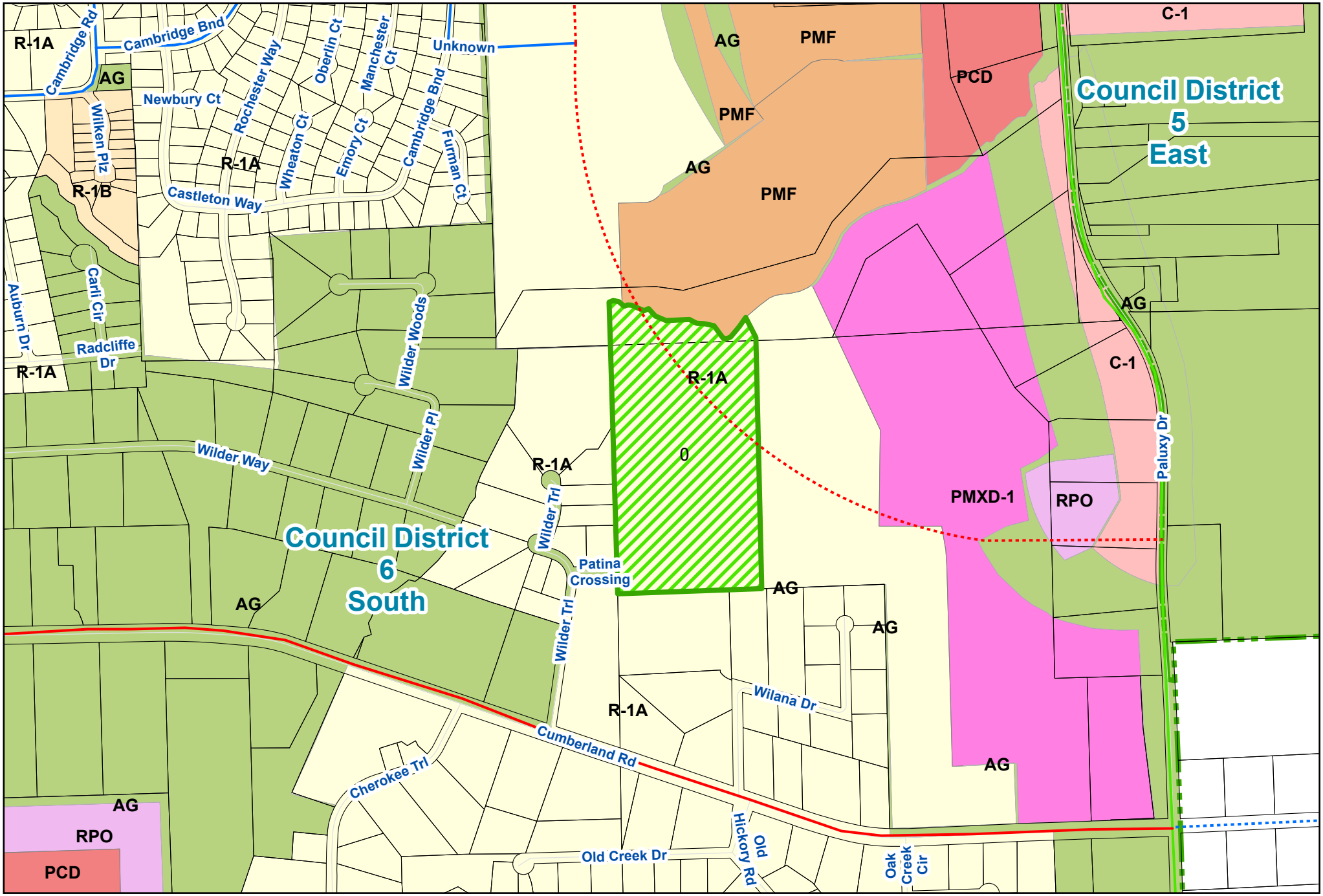
APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY

**ORDINANCE NO. O-2025-**
**EXHIBIT "A"**
**FINAL SITE PLAN**





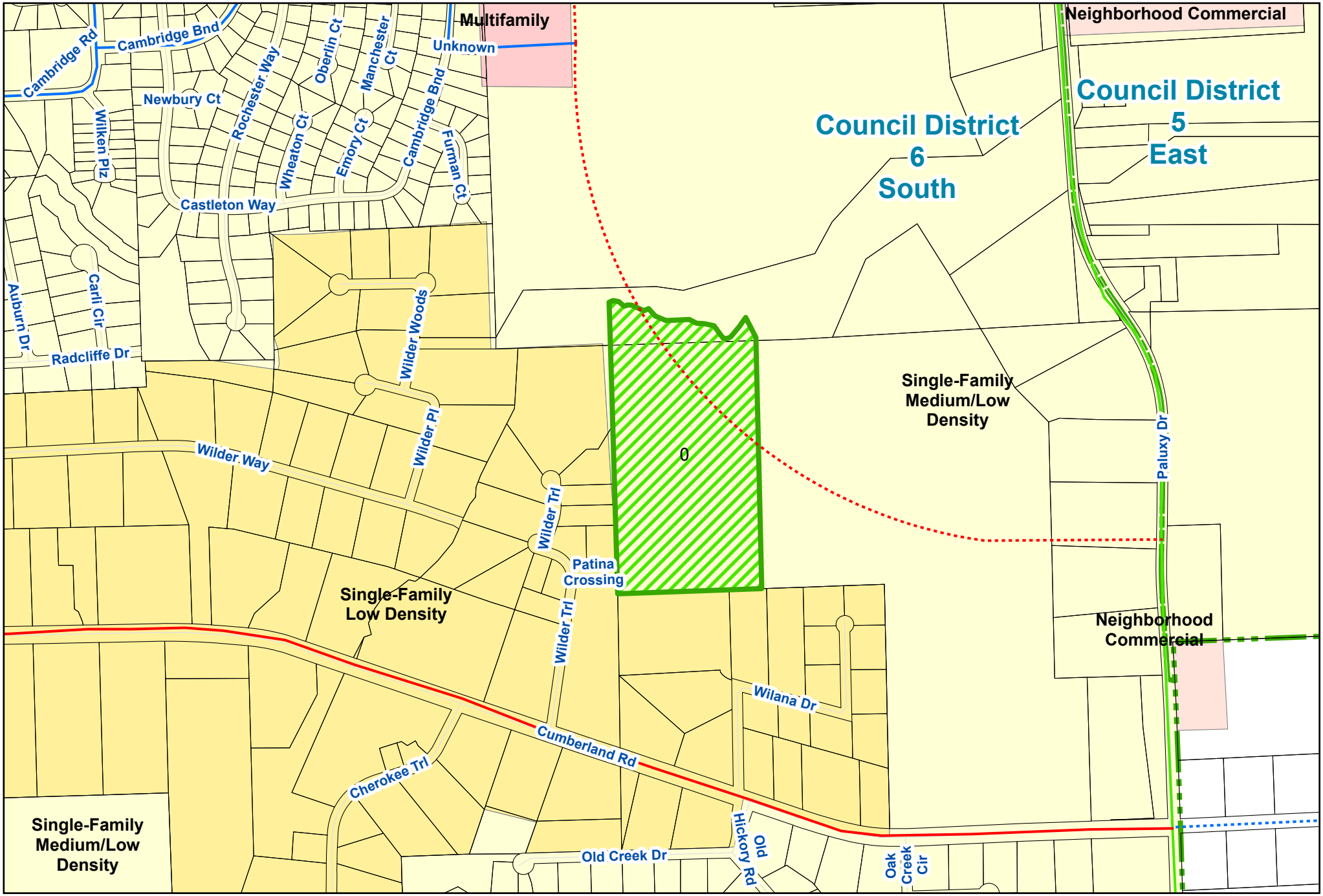

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

1 inch equals 700 feet

N

**ZONING CASE**
Zoning Case #: PD25-011
Current Zoning: R-1A
Proposed Zoning: PUR
GENECOV WEST MUD CREEK LLC

Subject Property



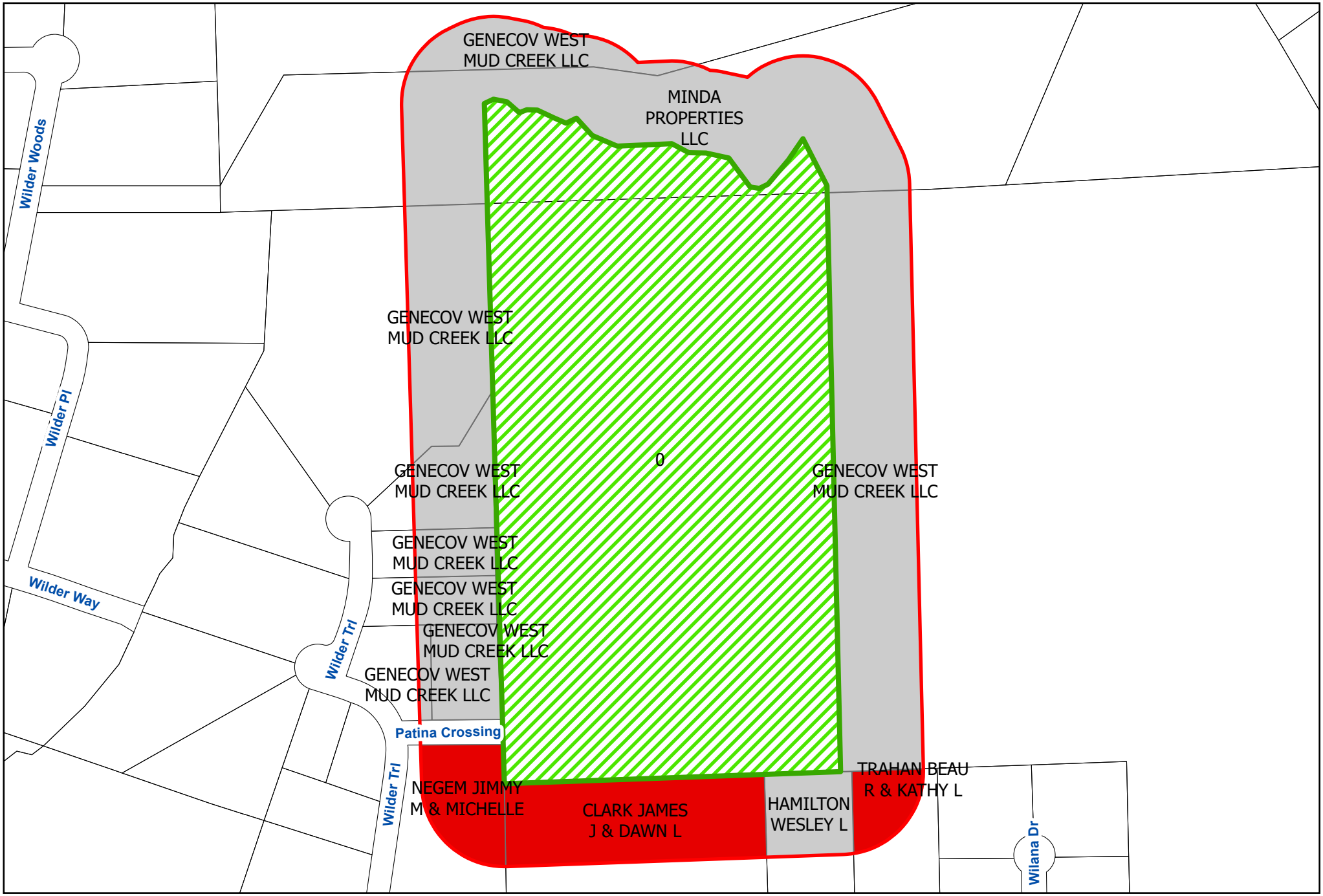

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1 inch equals 700 feet

N

**ZONING CASE**
Zoning Case #: PD25-011
Current Zoning: R-1A
Proposed Zoning: PUR
GENECOV WEST MUD CREEK LLC

Subject Property




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1 inch equals 300 feet

N

**ZONING CASE**
Zoning Case #: PD25-011
Current Zoning: R-1A
Proposed Zoning: PUR
GENECOV WEST MUD CREEK LLC

Subject Property
200' Mailed Notification Area
Protest Lots

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** Z-2

**Date:** July 23, 2025

**Subject:** S25-001 DRAKE CANDY PARK LLC (1210 BENNETT AVENUE) Request that the City Council consider adoption of an Ordinance approving a Special Use Permit to allow for a wireless communications facility with a monopole communications tower up to 150 feet in height.

**Item Reference:**

The applicant is requesting the Special Use Permit to allow for a wireless communications facility with a monopole communications tower up to 150 feet in height for AT&T Mobility, on Lot 20 F, G, and H of NCB 855-A, one lot totaling approximately 1.70 acres of land located north of the northeast intersection of Robertson Road and Bennett Avenue (1210 Bennett Avenue). The property is zoned M-1, Light Industrial District.

According to the Unified Development Code (UDC), "Special Use Permits" set standards, conditions, and procedures whereby special uses may be approved by City Council. A use is considered special by this development code when there is potential for it to have an adverse impact on nearby property and because the actions needed to minimize or eliminate the adverse impacts vary from site to site. No special use permit may be issued unless the governing body determines the proposed building, or use will not (a) substantially increase traffic hazards or congestion; (b) substantially increase fire hazards; (c) adversely affect the character of the neighborhood; (d) adversely affect the general welfare of the community; or (e) overtax public utilities. Approved special uses are subject to compliance with all other applicable provisions within the UDC, such as parking, landscaping, and setbacks.

All conditions required for an SUP must be met before any part of the use can be occupied. Violation of any term, condition, requirement, or duration of a SUP approved is unlawful and will constitute a violation subject the penalties set forth in the UDC. In addition, the SUP may be revoked or suspended by the city council due to such violation, following public hearings by both the Planning and Zoning Commission and the City Council.

The adjacent property to the east is zoned INT, Institutional District and it is developed with an Early College High School. The adjacent properties to the north, south, and west are zoned M-1, Light Industrial District and are developed with commercial and industrial uses.

SUPs are approved for specific periods of time. The terms and duration of an SUP rests with the City Council. Most first-time SUPs are issued for three years with renewals typically approved for longer time periods, usually five years. Some special uses, due to their nature and the cost associated with their

operation, may be approved indefinitely. The SUP's may be revoked by the City Council at any time.

Per the applicant's site plan, the applicant will be using the extra space to build two accessory equipment buildings for the telecommunications facility 10 feet from the property line. The applicant has received variance approval for an additional 15 feet to the rear yard setback of 25 feet. The applicant has provided the necessary information that on an existing tower collocation is not feasible.

On July 1, 2025, the Planning and Zoning Commission held a public hearing for the request. Neighbors expressed concern about radiation and the effects it could have on the local population. The applicant was present and claimed that there would be no effects of radiation from the facility. Radiofrequency (RF) emissions are regulated by the Federal Communications Commission and municipalities are preempted under law from making tower siting decisions based on RF emissions.

As of Friday, July 18, 2025, of the 11 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 or facilities by the proposed SUP request.

**RECOMMENDATION:**

**The Planning and Zoning Commission by a 7-0 vote recommends approval of the Special Use Permit for an indefinite period of time.**

**Attachments:**
Ordinance
Location Map
Future Land Use Map
Notification Map

**Drafted/Recommended By:**
**Department Leader** Kyle Kingma, AICP, CFM, Planning Director

**Edited/Submitted By:**
**City Manager**

**ORDINANCE NO. O-2025-**

**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 A WIRELESS COMMUNICATIONS FACILITY WITH A MONOPOLE COMMUNICATIONS TOWER UP TO 150 FEET IN HEIGHT FOR AT&T MOBILITY.ON LOT 20 F, G, AND H OF NCB -A, ONE LOT TOTALTING APPROXIMATELY 1.70 ACRES OF LAND LOCATED NORTH OF THE NORTHEAST INTERSECTION OF ROBERTSON ROAD AND BENNETT AVENUE (1210 BENNETT AVENUE). THE PROPERTY IS ZONED M-1, LIGHT INDUSTRIAL DISTRICT.**

**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 Special Use is hereby approved as follows:

## I. APPLICATION S25-001

That the following described property, which is currently zoned "M-1", Light Industrial District, shall hereafter allow a Special Use to allow for a wireless communications facility with a monopole communications tower up to 150 feet in height for AT&T Mobility.

on Lot 20 F, G, and H of NCB 855-A, one lot totaling approximately 1.70 acres of land located north of the northeast intersection of Robertson Road and Bennett Avenue (1210 Bennett Avenue). The property is zoned M-1, Light Industrial District.

**PART 2:** The Special Use Permit is for a wireless communications facility with a monopole communications tower up to 150 feet in height for AT&T Mobility

**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 July 25th, 2025.

**PASSED AND APPROVED** this the 23rd day of July A.D., 2025.

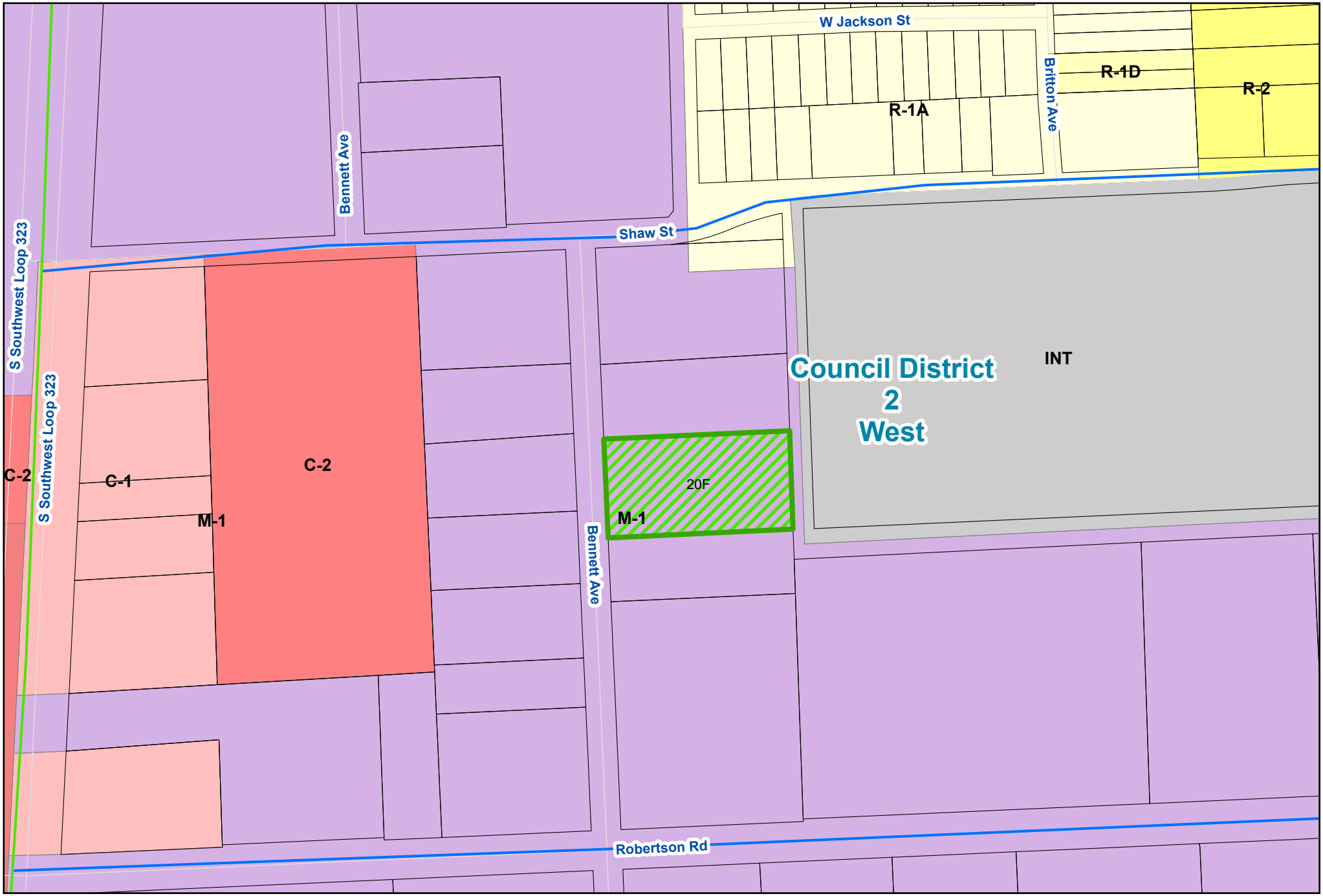
_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY




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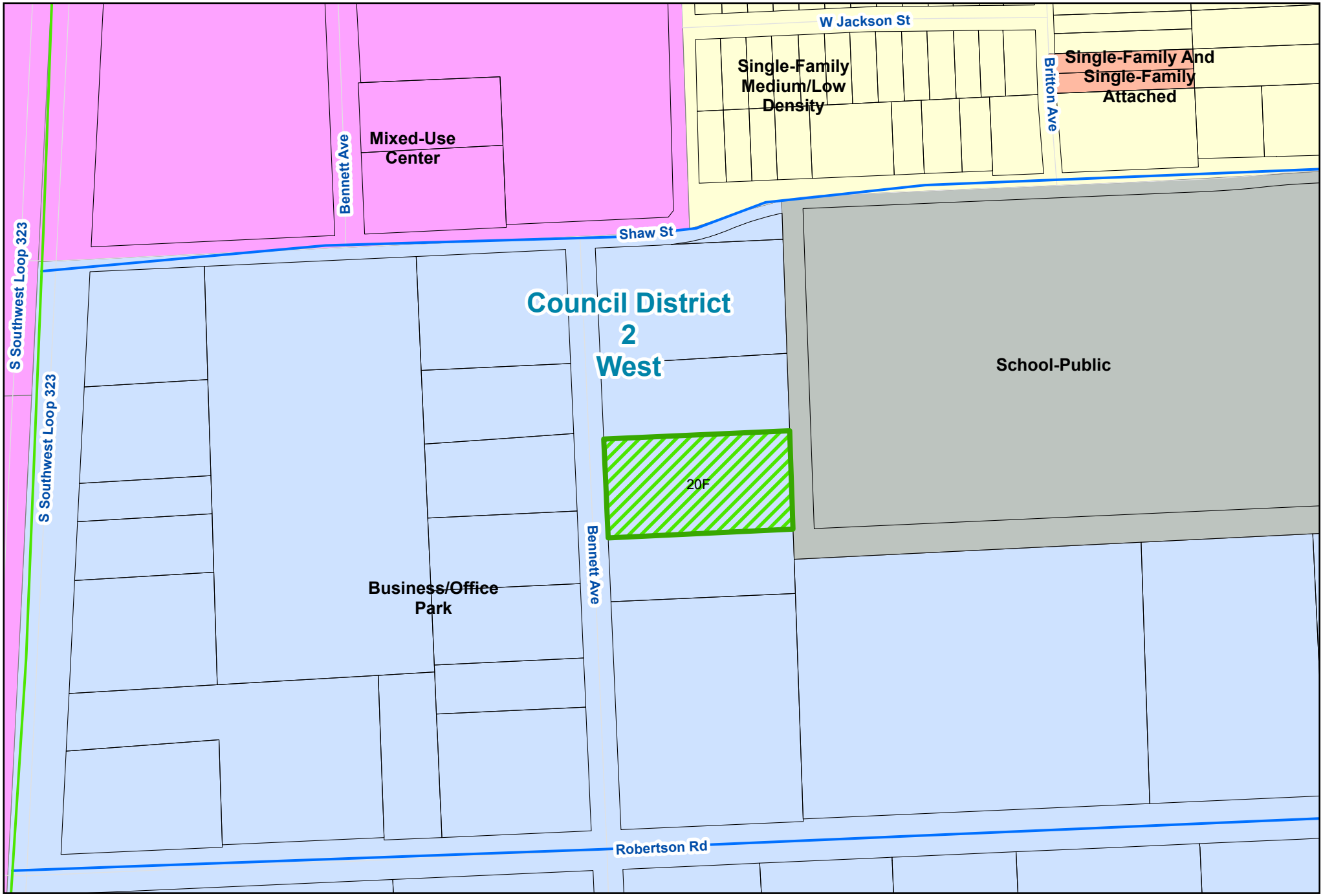
1 inch equals 250 feet

N

**ZONING CASE**

Zoning Case #: S25-001
Current Zoning: M-1
Proposed Use: Cell Tower
DRAKE CANDY PARK LLC

Subject Property




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1 inch equals 250 feet

N

**ZONING CASE**

Zoning Case #: S25-001
Current Zoning: M-1
Proposed Use: Cell Tower
DRAKE CANDY PARK LLC

Subject Property




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1 inch equals 100 feet

N

**ZONING CASE**
Zoning Case #: S25-001
Current Zoning: M-1
Proposed Use: Cell Tower
DRAKE CANDY PARK LLC

Subject Property

200' Mailed Notification Area

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** Z-3

**Date:** July 23, 2025

**Subject:** Z25-016 DRAKE EQUITY PARTNERS, LP (A PORTION OF 2571 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.

**Item Reference:**

The applicant is requesting the zone change for future commercial development, on a 20.77-acre portion of Tract 19A of ABST A0624 M University, one lot containing approximately 58.93 acres of land located at the northeast intersection of Oak Hill Boulevard and West Grande Boulevard (2571 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 property to the north is zoned AG, Agricultural District, and is undeveloped. The adjacent property to the east is zoned C-1, Light Commercial District, and is undeveloped. Properties to the south are zoned AG, Agricultural District and C-1, Light Commercial District and are undeveloped. To the west the properties are zoned AG, Agricultural District and PMF, Planned Multi-Family District and are undeveloped.

The Future Land Use Guide (FLUG) identifies this property as Mixed-Use Center. This request would amend the FLUG to General Commercial.

The applicant is requesting the zone change to develop the property in the future with commercial uses.

On July 1, 2025, the Planning and Zoning Commission held a public hearing for the request. There was no significant discussion.

As of Friday, July 18, 2025, of the four 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 or facilities by the proposed rezoning request.

**RECOMMENDATION:**

**The Planning and Zoning Commission by a 7-0 vote recommends approval of the zone change from AG, Agricultural District to C-2, General Commercial District.**

**Attachments:**
Ordinance
Location Map
Future Land use Map
Notification Map

**Drafted/Recommended By:**
**Department Leader** Kyle Kingma, AICP, CFM, Planning Director

**Edited/Submitted By:**
**City Manager**

**ORDINANCE NO. O-2025-**

**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 DISTRICTC TO C-2, GENERAL COMMERCIAL DISTRICT ON A 22.77 ACRE PORTION OF TRACT 19A OF ABST A0624 M UNIVERSITY, ONE LOT CONTAINING APPROXIMATELY 58.93 ACRES OF LAND LOCATED AT THE NORTHEAST INTERSECTION OF OAK HILL BOULEVARD AND WEST GRANDE BOULEVARD (2571 WEST GRANDE BOULEVARD); DIRECTING THE AMENDMENT OF THE ZONING MAP; DIRECTING THE AMENDMENT OF THE FUTURE LAND USE GUIDE MAP; PROVIDING A SEVERABILTY 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 Z25-016

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 a 20.77-acre portion of Tract 19A of ABST A0624 M University, one lot containing approximately 58.93 acres of land located at the northeast intersection of Oak Hill Boulevard and West Grande Boulevard (2571 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 23th day of July A.D., 2025.

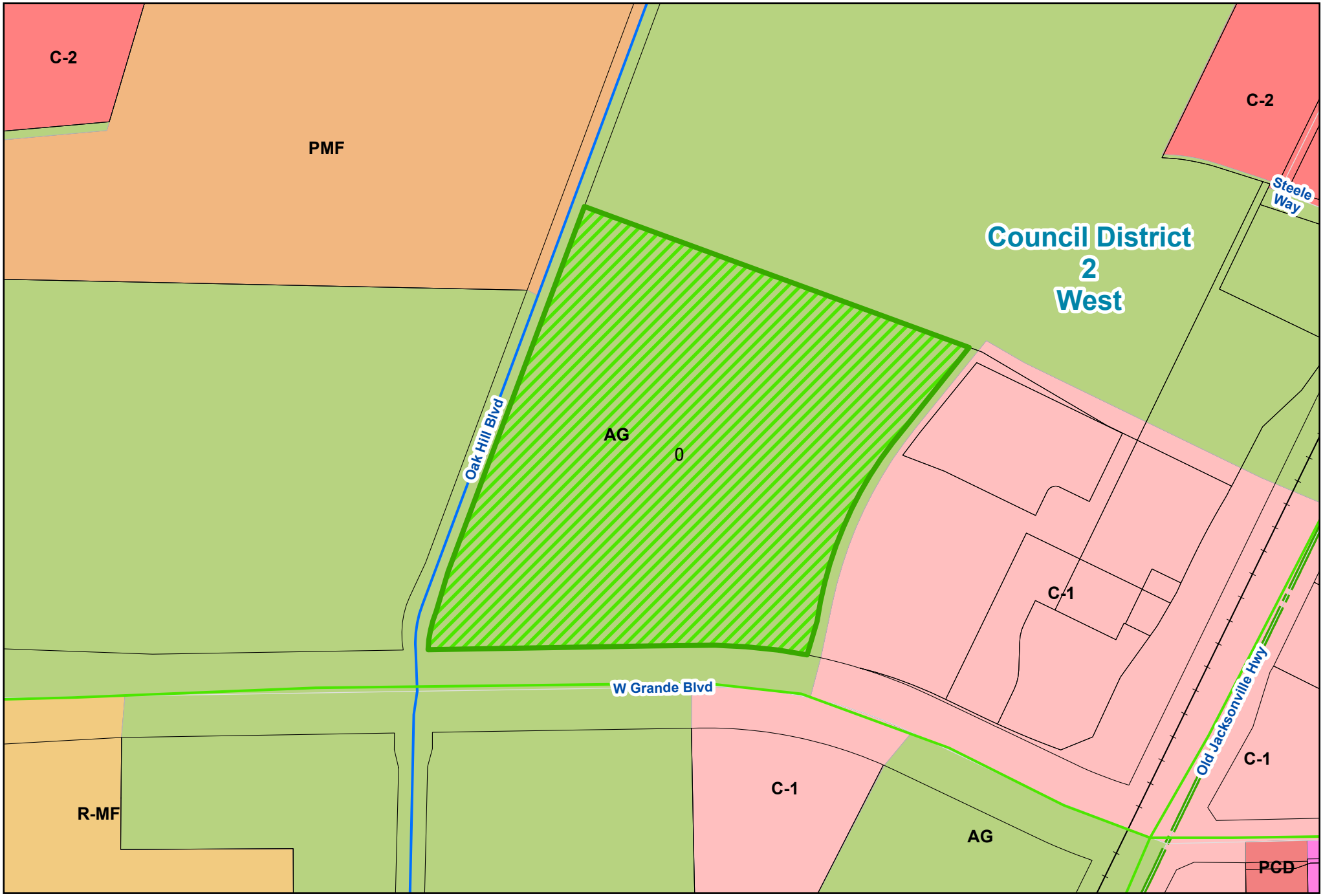
_____
DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY




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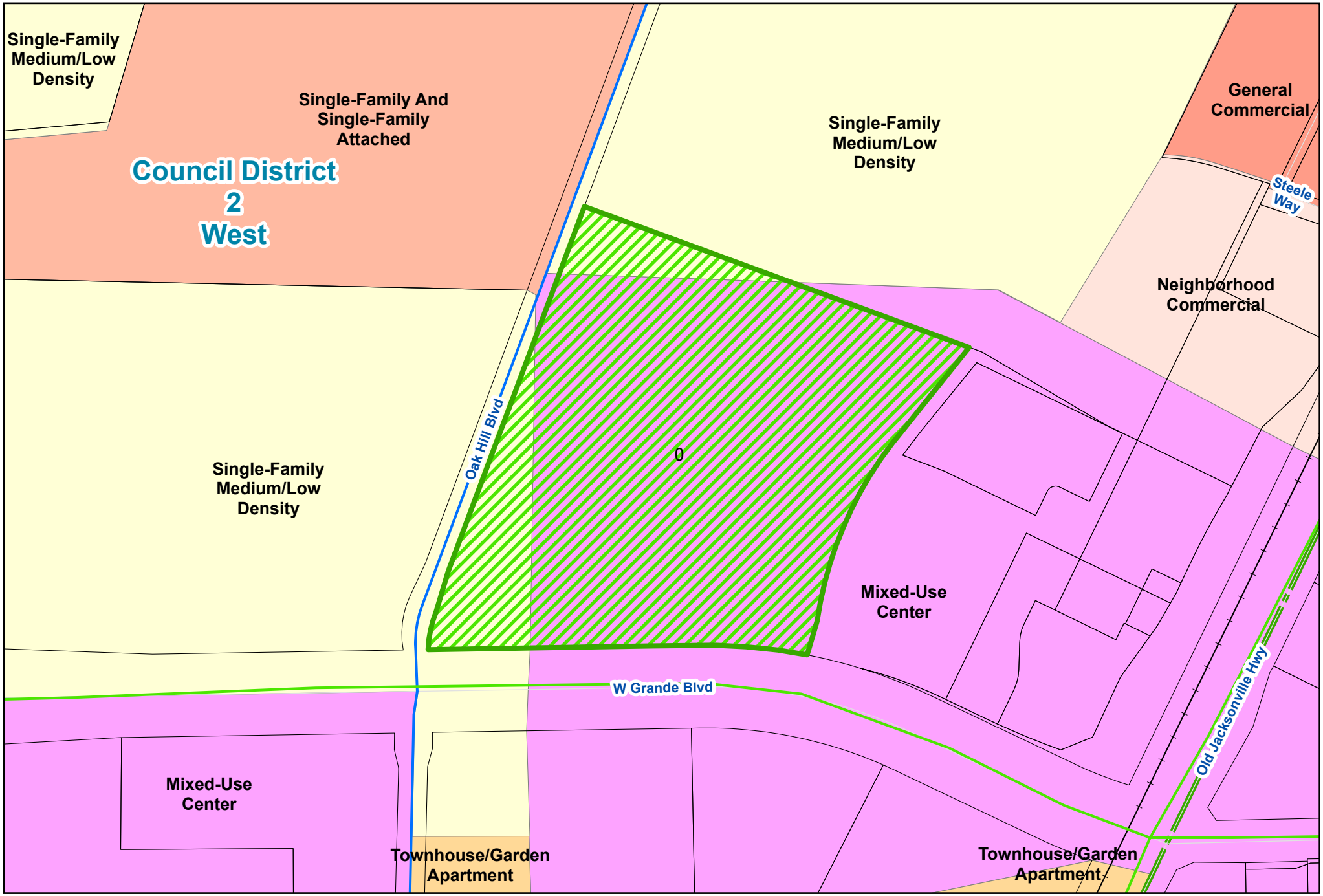
1 inch equals 300 feet

N

**ZONING CASE**

Zoning Case #: Z25-016
Current Zoning: AG
Proposed Zoning: C-2
DRAKE EQUITY PARTNERS, LP

Subject Property




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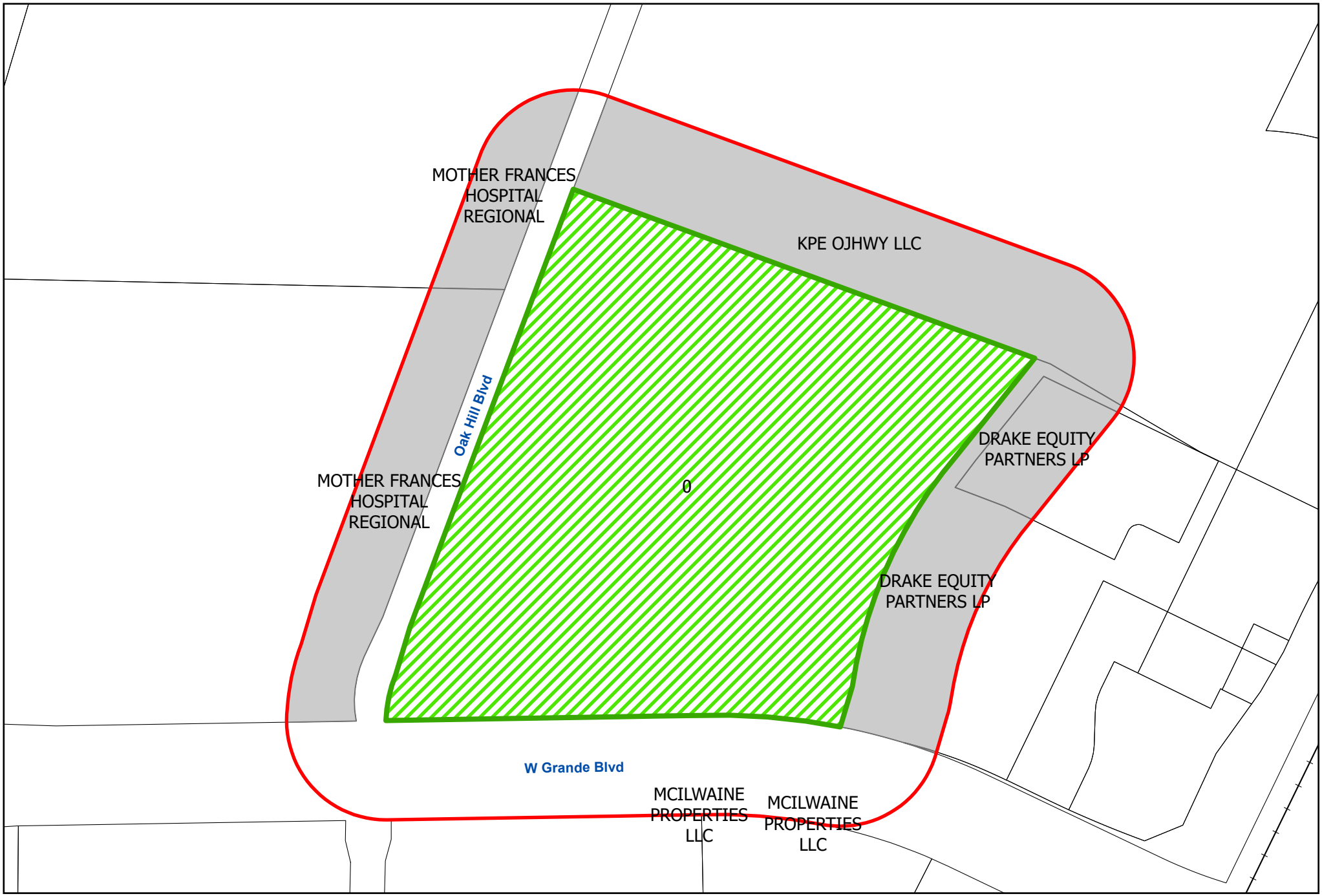
1 inch equals 300 feet

N

**ZONING CASE**

Zoning Case #: Z25-016
Current Zoning: AG
Proposed Zoning: C-2
DRAKE EQUITY PARTNERS, LP

Subject Property




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1 inch equals 250 feet

N

**ZONING CASE**
Zoning Case #: Z25-016
Current Zoning: AG
Proposed Zoning: C-2
DRAKE EQUITY PARTNERS, LP

Subject Property
200' Mailed Notification Area

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** Z-4

**Date:** July 23, 2025

**Subject:** C25-002 SAMUEL BANKS (AN UNIMPROVED PORTION OF BUDDIE STREET) Request that the City Council consider adoption of an Ordinance approving the closure of an unimproved portion of Buddie Street.

**Item Reference:** **Texas Transportation Code Sec. 311.007; Tyler City Code Chapter 10; Article V., Division F.**

The applicant is requesting the closure of an unimproved right-of-way. The north side of the right-of-way is adjacent to Walton Road. The east side of the right-of-way is adjacent to Lots 45 and 46. The south side of the right-of-way is adjacent to Patrick Street. The west side of the right-of-way is adjacent to Lot 5B of NCB 840-M.

The applicant is requesting the closure to replat the right-of-way into their adjacent property. The street that the applicant is requesting to close is unimproved and does not appear to have ever been utilized as a street. This will help facilitate the development of infill housing. The applicant will be required to dedicate utility easements, as necessary, for the existing utility lines located within the right-of-way.

On July 1, 2025, the Planning and Zoning Commission held a public hearing for this request. No one spoke in favor or in opposition to the request.

As of Friday, July 18, of the 11 notices mailed, no notices were returned in favor or in opposition to the requested closure.

All other departments have reviewed the application and anticipate a positive impact on services and facilities by the proposed closure request.

**RECOMMENDATION:**

**The Planning and Zoning Commission, by a 7-0 vote, recommends approval of the thoroughfare closure subject to the right-of-way being replatted within six months.**

**Attachments:**
Ordinance
Location Map
Notification Map

Aerial Map

**Drafted/Recommended By:**
**Department Leader** Kyle Kingma, AICP, CFM, Planning Director

**Edited/Submitted By:**
**City Manager**

**ORDINANCE NO. O-2025-**

**AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; BY CLOSING A PORTION OF AN UNIMPROVED STREET RIGHT-OF-WAY. THE NORTH SIDE OF THE RIGHT-OF-WAY IS ADJACENT TO WALTON ROAD. THE EAST SIDE OF THE RIGHT-OF-WAY IS ADJACENT TO LOTS 45 AND 46. THE SOUTH SIDE OF THE RIGHT-OF-WAY IS ADJACENT TO PATRICK STREET. THE WEST SIDE OF THE RIGHT-OF-WAY IS ADJACENT TO LOT 5B OF NCB 840-M. PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH CLOSURE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

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

**WHEREAS**, Tyler City Code Chapter 10, Article V., Division F. sets forth a process for right-of-way and thoroughfare closures; and

**WHEREAS,** the applicant is requesting the closure to replat right-of-way into adjacent property;

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

**PART 1:** That the following thoroughfare closure is hereby approved as follows:

## I. APPLICATION C25-002

That the public right-of-way described below, and the same are hereby abandoned, vacated and closed insofar as the right, or title of the public is concerned:

> Unimproved portion of street right-of-way. The north side of the right-of-way is adjacent to Walton Road. The east side of the right-of-way is adjacent to Lots 45 and 46. The south side of the right-of-way is adjacent to Patrick Street. The west side of the right-of-way is adjacent to Lot 5B of NCB 840-M. The right-of-way to be closed is further shown in Exhibit "A", which is attached hereto and incorporated herein.

**PART 2:** That closure is contingent upon and will not become effective until and unless the applicant replats the property within six (6) months and dedicates necessary easements.

**PART 3**: That said public right-of-way are not needed for public purposes and it is in the public interest of the City to abandon said described public right-of-way, other than the terms and conditions set out herein.

**PART 4:** That the abandonment provided for herein shall extend only to the public right, title and overlay with ingress/egress, public utility easements and to the tracts of land described in this ordinance, and shall be construed only to that interest that the governing body of the City of Tyler may legally and lawfully abandon.

**PART 5:** 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 6:** That this ordinance shall be effective on and after its date of passage and approval by the City Council.

**PASSED AND APPROVED** this the 23rd day of July A.D., 2025.

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

A T T E S T:

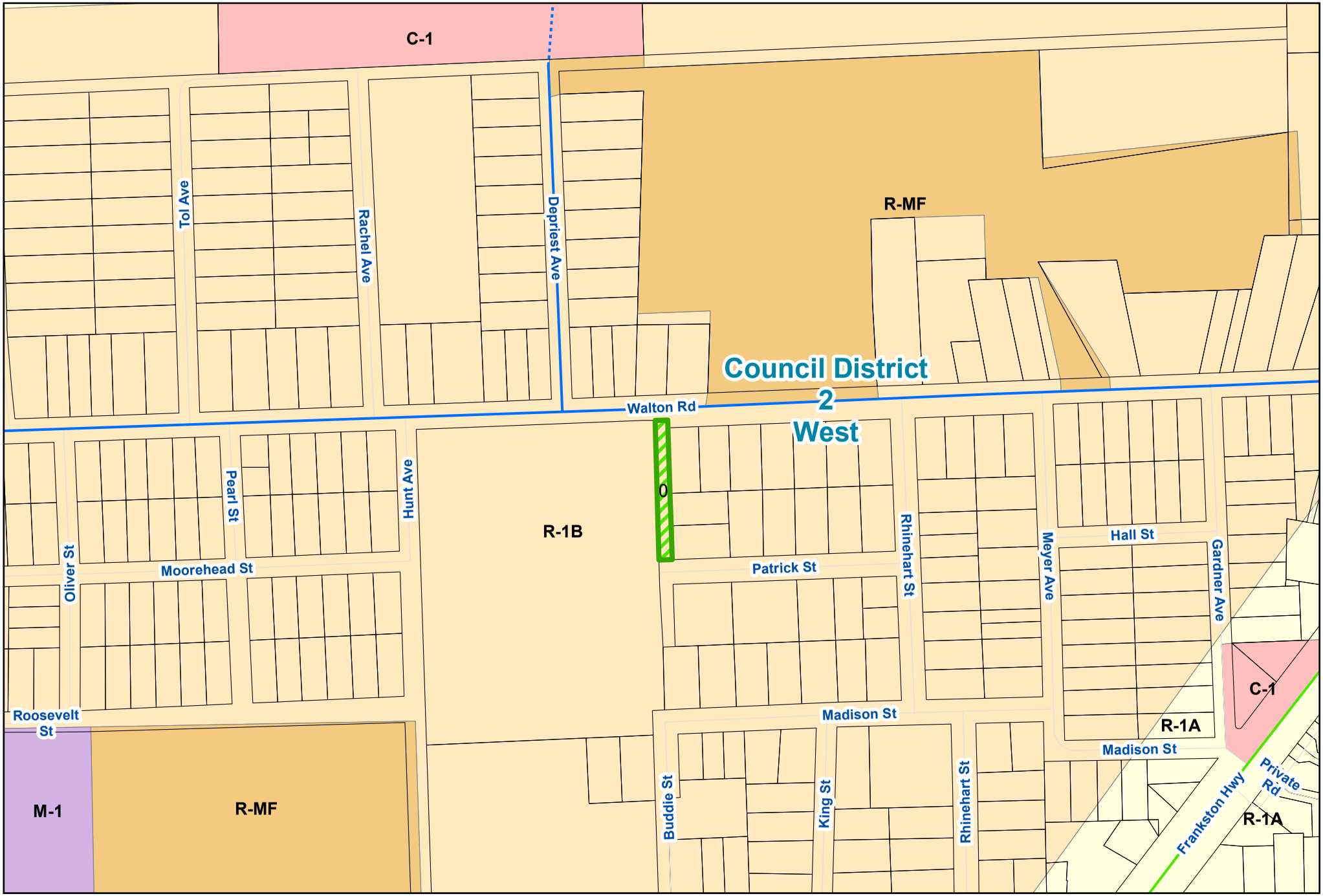
APPROVED:

_____
CASSANDRA BRAGER, CITY CLERK

_____
DEBORAH G. PULLUM,
CITY ATTORNEY

**ORDINANCE NO. O-2025-**
**EXHIBIT "A"**
**LOCATION MAP**






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1 inch equals 300 feet

N

**ZONING CASE**

Zoning Case #: C25-002
UNIMPROVED PORTION OF BUDDIE STREET
SAMUEL BANKS

Subject Property




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1 inch equals 150 feet

N

**ZONING CASE**
Zoning Case #: C25-002
UNIMPROVED PORTION OF BUDDIE STREET
SAMUEL BANKS

Subject Property
200' Mailed Notification Area




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1 inch equals 150 feet

N

**ZONING CASE**

Zoning Case #: C25-002
UNIMPROVED PORTION OF BUDDIE STREET
SAMUEL BANKS

Subject Property

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** R-1

**Date:** July 23, 2025

**Subject:** Request that the City Council consider adopting a Resolution to suspend the original July 31, 2025 effective date of ONCOR Electric Company's requested rate change to permit the City time to study the request and establish reasonable rates.

**Item Reference:** **R-1 on City Council Agenda dated 06/14/2022**

The City is an electric utility customer of Oncor Electric Delivery Company LLC (Oncor or Company). Steering Committee of Cities Served by Oncor (the "Steering Committee") is a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area in matters before the Public Utility Commission (PUC or Commission) and the courts.

Oncor Electric Delivery Company ("Oncor" or "the Company") filed an application on or about June 26, 2025 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by about $834 million or approximately 13% over present revenues. The Company asks the City to approve a 12.3% increase in residential rates and a 51.0% increase in street lighting rates. If approved, an average residential customer would see a bill increase of about $7.90 per month. The attached Resolution suspends the July 31, 2025 effective date of the Company's rate increase for the maximum period permitted by law to allow the City of Tyler, working in conjunction with the Steering Committee of Cities Served by Oncor, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.
The law provides that a rate request made by an electric utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to suspend the rate change for 90 days after the date that the rate change would otherwise be effective. If the City fails to take some action regarding the filing before the effective date, Oncor's rate request is deemed administratively approved.

Section 1. The City is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the Resolution refers to the suspension period as "the maximum period allowed by law" rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the City must take final action on Oncor's request to

raise rates by July 31, 2025.
Section 2. This provision authorizes the Steering Committee, consistent with the City's resolution approving membership in the Steering Committee, to act on behalf of the City at the local level in settlement discussions, in preparation of a rate ordinance, on appeal of the rate ordinance to the PUC, and on appeal to the Courts. Negotiating clout and efficiency are enhanced by the City of Tyler cooperating with the Steering Committee in a common review and common purpose. Additionally, rate case expenses are minimized when the Steering Committee hires one set of attorneys and experts who work under the guidance and control of the Executive Committee of the Steering Committee.
Section 3. The Company will reimburse the Steering Committee for its reasonable rate case expenses. Legal counsel and consultants approved by the Executive Committee of the Steering Committee will submit monthly invoices that will be forwarded to Oncor for reimbursement. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.
Section 4. This section merely recites that the Resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.
Section 5. This section provides that both Oncor and Steering Committee counsel will be notified of the City's action by sending a copy of the approved and signed Resolution to certain designated individuals.

**RECOMMENDATION:**

**Request that the City Council consider adopting a Resolution to suspend the original July 31, 2025 effective date of ONCOR Electric Company's requested rate change to permit the City time to study the request and establish reasonable rates and approving the Steering Committee to hire legal and consulting services, negotiate with the company, and direct any necessary litigation and appeals.**

**Attachments:**
R-2025- Oncor 2025 RC Suspension_LEGALREVIEW_AB.SK-APPROVED_7.10.25.

**Drafted/Recommended By:**
**Department Leader** Deborah G. Pullum, City Attorney

**Edited/Submitted By:**
**City Manager**

**RESOLUTION NO. R-2025-**

**A RESOLUTION OF THE CITY OF TYLER, TEXAS SUSPENDING THE JULY 31, 2025 EFFECTIVE DATE OF ONCOR ELECTRIC DELIVERY COMPANY'S REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, on or about June 26, 2025, Oncor Electric Delivery Company (Oncor), pursuant to PURA §§ 33.001 and 36.001 filed with the City of Tyler, Texas a Statement of Intent to increase electric transmission and distribution rates in all municipalities exercising original jurisdiction within its service area effective July 31, 2025; and

**WHEREAS**, the City of Tyler, Texas is a member of the Steering Committee of Cities Served by Oncor ("Steering Committee") and will cooperate with the 170 similarly situated city members and other city participants in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company prior to getting reasonable rates and direct any necessary litigation; and

**WHEREAS**, PURA § 36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

**WHEREAS**, PURA § 33.023 provides that costs incurred by Cities in ratemaking proceedings are to be reimbursed by the regulated utility.

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

**PART 1:** That the July 31, 2025 effective date of the rate request submitted by Oncor on or about June 26, 2025, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

**PART 2:** As indicated in the City's resolution approving membership in the Steering Committee, the Executive Committee of Steering Committee is authorized to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations regarding reasonable rates, and to intervene and direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Public Utility Commission.

**PART 3:** That the City's reasonable rate case expenses shall be reimbursed by Oncor.

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

**PART 5:** A copy of this Resolution shall be sent to Oncor Electric Delivery Company LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202 and to Thomas Brocato, Counsel to the Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

**PASSED AND APPROVED** on this 23rd day of July 2025.

_____
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.** O-1

**Date:** July 23, 2025

**Subject:** Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 2 to adopt amended guidelines and criteria for tax abatement.

**Item Reference:** **Texas Tax Code Chapter 312; City Code Chapter 2, Article III.**

State law, at Texas Property Tax Code Section 312.002(a), states that a taxing unit may not enter into a tax abatement agreement, and the governing body of a taxing unit may not designate an area as a reinvestment zone, unless the governing body of the taxing unit has established guidelines and criteria governing tax abatement agreements and a resolution stating that the taxing unit elects to participate in tax abatement. The City of Tyler's guidelines and criteria for tax abatement are located in City Code Chapter 2, Article III., "Tax Abatement Policy".

The Tyler Economic Development Council has reviewed the City of Tyler's Tax Abatement Policy and recommends approval with the following amendments:

a. Abatement is authorized, subject to approval of the City Council and execution of a lawful tax abatement agreement
b. Abatement is also authorized for property located within a municipal Reinvestment Zone when the municipality has entered into a tax abatement agreement with regard to a property located within the Zone. An agreement for such property must be in accordance with the
terms of Section 312.206 of the Texas Property Tax Code
c. Authorized Facilities: Tax abatement may be granted for new facilities and for the expansion or modernization of existing facilities. The economic life of the facility or improvements must exceed the life of the abatement agreement.
d. Eligible Property: Tax abatement may be granted for all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both, up to the maximum percent of abatement as approved in the tax abatement agreement between the parties. Tangible personal property expressly does not include mobile personal property, such as a motor vehicle, that is not fixed to property located within a municipal Reinvestment Zone.
e. Eligible Applicant: Tax abatement may be granted to the owner of taxable real property, the owner of tangible personal property or the owner of a leasehold interest in tax-exempt real property. In regard to a lessee of taxable real property, tax abatement may apply to all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on

the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property, up to the maximum percent of abatement as approved in the tax abatement agreement between the parties.
f. Value of Abatement: Authorized facilities may be granted abatement on all or a portion of the increased taxable value of eligible property over the base year value for a period to be determined by the City Council. This abatement, if granted as to real property, is not with regard to the entire value of the property, but only to the extent that the value of the real property exceeds the value for the year in which the abatement is granted (i.e., Base Year).

The aforementioned amendments to the policy clarify that tax abatement extends to primary employers for business expansion, revitalization, or modernization. A primary employer is one that forms the economic base of the community by generating a majority of sales outside of Smith County. In providing tax abatement to primary employers for business expansion, revitalization, or modernization, the City recognizes the need for a multi-faceted approach that retains existing local jobs and attracts new businesses to the community.

The amended guidelines remove the prescriptive examples of eligible facilities and allow more flexibility. The proposed amendments also conform to the Smith County Tax Abatement Policy approved on June 17, 2025.

Per Texas Property Tax Code Section 312.002(c), this ordinance must be approved by a three-fourths vote of the City Council to become effective.

**RECOMMENDATION:**

**It is recommended that the City Council adopt the attached Ordinance amending Tyler City Code Chapter 2 to adopt amended guidelines and criteria governing tax abatement in the City of Tyler.**

**Attachments:**
Ordinance

**Drafted/Recommended By:**
**Department Leader** Heather Nick, AICP, Assistant City Manager

**Edited/Submitted By:**
**City Manager**

**ORDINANCE NO. O-2025-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 2 "FINANCE AND TAXATION", ARTICLE III, "TAX ABATEMENT POLICY" OF THE CODE OF ORDINANCES, CITY OF TYLER, TEXAS, RELATING TO TAX ABATEMENT; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS,** State law, at Texas Property Tax Code Section 312.002(a), states that a taxing unit may not enter into a tax abatement agreement, and the governing body of a taxing unit may not designate an area as a reinvestment zone, unless the governing body of the taxing unit has established guidelines and criteria governing tax abatement; and

**WHEREAS** the City of Tyler's guidelines and criteria for tax abatement are located in City Code Chapter 2, Article III., "Tax Abatement Policy"; and

**WHEREAS** Texas Property Tax Code Section 312.002(c) provides that guidelines and criteria for tax abatement are effective for two (2) years; and

**WHEREAS,** in accordance with Texas Property Tax Code Section 312.002(c), the Tyler Economic Development Council reviewed, and the Tyler City Council adopted, Ordinance No. 0-2025-24 on May 28, 2025; and

**WHEREAS,** the Tyler Economic Development Council is recommending additional amendments to the Tax Abatement Policy and recommends approval.

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

**PART 1:** That Tyler City Code Chapter 2, "Finance and Taxation", Article III., "Tax Abatement Policy", is hereby adopted and amended to read as follows:

## ARTICLE III. TAX ABATEMENT POLICY

### Sec. 2-30. Tax Abatement Policy Principles.

a. A city, pursuant to State law, is authorized to offer abatement of City ad valorem taxes to industries and commercial enterprises within the City limits. The tax abatements are granted to real property owners who execute a tax abatement agreement with the City. The purpose of the tax abatement is to encourage the growth and establishment of industry and commercial enterprise in the City. Growth is measured both by increases in capital expenditure for buildings, machinery, and other capital goods and by the increase in the Tyler workforce. The City's priority for tax abatement is to extend tax abatement to

primary employers, as well as for business expansion, revitalization, and modernization. A primary employer is one that forms the economic base of the community by generating a majority of sales outside of Smith County. In providing tax abatement to primary employers for business expansion, revitalization, and modernization, the City recognizes the need for a multi-faceted approach that retains existing local jobs and attracts new businesses to the community. Surveys in Texas have shown that three-fourths of new jobs come from the expansion of existing local companies. Abatement is given to provide significant, long-term, positive economic impact to the community by using local contractors and the resident workforce to the maximum extent feasible and by developing, redeveloping, and improving real estate within the City limits. The City's goal in providing tax abatements is to create additional jobs within the City. Abatements, however, may be granted when the City is convinced that the abatement is needed to retain existing jobs which would otherwise be lost. Examples of uses eligible for abatements include manufacturing, distribution centers, corporate or regional office parks, and research facilities. Small companies have provided a significant source of new jobs within the City. Therefore, proposals by small entrepreneurs will be encouraged whenever the proposals comply with the policies of this chapter.

b. The City strives for efficiency in processing applications for tax abatement. It is understood that unduly long decision-making processes will discourage businesses that might otherwise be interested in moving to or expanding in Tyler. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-74, 9/27/00) (Ord. No. 0-2002-33, 8/28/2002) (Ord. No. 0-2004-63, 8/25/04) (Ord. No. 0-2006-87; 10/11/06) (Ord. No. 0-2008-148; 11/19/08) (Ord. No. 0-2011-6, 1/12/2011) (Ord. No. 0-2013-7, 1/9/2013) (Ord. No. 0-2015-53; 5/13/2015) (Ord. No. 0-2017-43; 5/24/17) (Ord. No. 0-2019-51; 6/26/19) (Ord. No. 0-2022-34; 4/13/2022) (Ord. No. 0-2025-24; 5/28/2025) (Ord. No. 0-2025- ; 7/23/2025)

**Sec. 2-31. Abatement Eligibility Criteria.**

~~a. Tax abatement will be considered for the following facilities if such development will create substantial capital improvements within the City limits or additional jobs:~~

~~1. Manufacturing facilities.~~

~~2. Distribution facilities.~~

~~3. Corporate offices.~~

~~4. Research parks.~~

~~5. Major tourist attractions.~~

~~b. Successful applicants must be located within a reinvestment zone prior to the inception of the project.~~

a. Abatement is authorized, subject to approval of the City Council and execution of a lawful tax abatement agreement.

b. Abatement is also authorized for property located within a municipal Reinvestment Zone when the municipality has entered into a tax abatement agreement with regard to a property located within the Zone. An agreement for such property must be in accordance with the terms of §312.206 of the Texas Property Tax Code.

c. Authorized Facilities: Tax abatement may be granted for new facilities and for the
expansion or modernization of existing facilities. The economic life of the facility or improvements must exceed the life of the abatement agreement.

d. Eligible Property: Tax abatement may be granted for all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both, up to the maximum percent of abatement as approved in the tax abatement agreement between the parties. Tangible personal property expressly does not include mobile personal property, such as a motor vehicle, that is not fixed to property located within a municipal Reinvestment Zone.

e. Eligible Applicant: Tax abatement may be granted to the owner of taxable real property, the owner of tangible personal property or the owner of a leasehold interest in tax-exempt real property. In regard to a lessee of taxable real property, tax abatement may apply to all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property, up to the
maximum percent of abatement as approved in the tax abatement agreement between the parties.

f. Value of Abatement: Authorized facilities may be granted abatement on all or a portion of the increased taxable value of eligible property over the base year value for a period to be determined by the Commissioners Court. This abatement, if granted as to real property, is not with regard to the entire value of the property, but only to the extent that the value of the real property exceeds the value for the year in which the abatement is granted (i.e., Base Year).

~~e~~.g. The project must provide for capital expenditures of at least one million dollars, or an annual payroll increase of four hundred thousand dollars or the creation of twenty-five new permanent full-time jobs.

~~d.~~h. When an investment improves existing property, the portion of the value of property eligible for abatement is:

1. For real property, the value of real property which has increased in market value because of the development, re-development or improvements specified in the abatement contract.

2. For personal property, the market value of the personal property at the location, other than inventory or supplies, purchased with new capital identified in the tax abatement contract. Personal property located at the site before the period covered by the agreement is not eligible for tax abatement.

3. If the investment meets the criteria set out in paragraph c., the property eligible for abatement may be personal, real, or mixed. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-74, 9/27/00) (Ord. No. 0-2002-33, 8/28/2002) (Ord. No. 0-2004-63, 8/25/04) (Ord. No. 0-2006-87; 10/11/06) (Ord. No. 0-2008-148; 11/19/08) (Ord. No. 0-2011-6, 1/12/2011) (Ord. No. 0-2013-7, 1/9/2013) (Ord. No. 0-2015-53; 5/13/2015) (Ord. No. 0-2017-43; 5/24/17) (Ord. No. 0-2019-51; 6/26/19) (Ord. No. 0-2022-34; 4/13/2022) (Ord. No. 0-2025-24; 5/28/2025) (Ord. No. 0-2025- ; 7/23/2025)

**Sec. 2-32. Abatement Review.**

a. The City Manager, in consultation with the Tyler Economic Development Council, will initially negotiate all tax abatement contract agreements. The proposed contracts will then be submitted to the Reinvestment Zone Committee for review. The Reinvestment Zone Committee's recommendation will be submitted to all participating local governments, including the City Council.

b. A Reinvestment Zone Committee is responsible for reviewing all applications for abatement, recommending action to be taken on the application by the City Council, and monitoring compliance with abatement contracts. Any deviations from the original abatement contract will be reported by the committee to the City Council along with recommendations from the committee. If recommended by the committee, an abatement contract may be terminated by action of the City Council if the property owner fails to comply with the agreement. Notification of such termination for cause shall be in writing and shall be delivered to the property owner at its address of record. An abatement contract may also be voluntarily terminated where all parties agree through the use of a termination agreement approved by the City Council. Committee members shall be appointed by the City Manager and will include representatives who are active in promoting the economic health of the City and the other affected taxing jurisdictions. The committee will include representatives from each of the taxing entities that will be asked to participate in a tax abatement contract. Members do not have to be City residents.

c. When considering abatement contracts, the City will consider any burdens that will be placed on existing infrastructure and basic services by the proposed project. The

City may reject applications that place inordinate demands on public services or require inordinately large expenditures to improve or maintain local government infrastructure.

d. Representatives of the taxing jurisdictions periodically review commitments made pursuant to this policy: this policy is reviewed every two years; all reinvestment zones are reviewed every five years; and tax abatement contracts are reviewed annually. This policy is separate from any policy concerned with enterprise zones and any obligations deriving from existing industrial development contracts. (Ord. No. 0-98- 21; 3/18/98) (Ord. No. 0-2000-23, 4/5/00) (Ord. No. 0-2000-74, 9/27/00) (Ord. No. 0-2002-33, 8/28/2002) (Ord. No. 0-2004-63, 8/25/04) (Ord. No. 0-2006-87; 10/11/06) (Ord. No. 0-2008-148; 11/19/08) (Ord. No. 0-2011-6, 1/12/2011) (Ord. No. 0-2013-7, 1/9/2013) (Ord. No. 0-2015-53; 5/13/2015) (Ord. No. 0-2017-43; 5/24/17) (Ord. No. 0-2019-51; 6/26/19) (Ord. No. 0-2022-34; 4/13/2022 (Ord. No. 0-2025-24; 5/28/2025) (Ord. No. 0-2025- ; 7/23/2025)

**Secs. 2-33 - 2-39 Reserved.**

**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 be effective on and after its date of passage and approval by the City Council.

**PASSED AND APPROVED** this 23rd day of July, A. D., 2025.

_____
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.** O-2

**Date:** July 23, 2025

**Subject:** Request that the City Council consider adoption of an Ordinance amending Tyler City Code Chapter 1 by removing unnecessary wording relating to Code amendments, categorizing the Neighborhood Revitalization Board as a Regular Board, listing the Tax Reinvestment Zone Board Number 4 as a Periodic Board, updating the Review Process for City Board applications, amending the provision related to City Board Attendance/Status Reports, clarifying the adoption of Internal Board Operating Rules, updating the City Penalty Clause to include Airport Zoning and Height Hazard Regulations, updating the advisory group membership provisions in the Appeal Process to the City Manager or designee, and making other minor clean-up and formatting changes.

**Item Reference:** **Tyler City Code Chapter 1; Articles I. and III.;**

This Ordinance is a result of an ongoing review and update of the City Code. The amendments are designed to update City Code provisions to conform with current State law or City Code provisions, to conform with current City practices, to remove outdated or unnecessary wording, to correct numbering and typos, to improve enforcement and to make other minor clean-up changes.

CITY CODE CHAPTER 1

Amendments or Additions to City Code. Tyler City Code Section 1-6 contains certain provisions related to making amendments and/or additions to City Ordinances. Section 1-6 currently contains specific wording for making updates, which is both unnecessary and which could also be interpreted as being in conflict with City Charter Section 84 on style of ordinances. It is therefore recommended that the specific wording in City Code Section 1-6 be removed and replaced with more general wording to avoid any conflicts with the Charter.

Neighborhood Revitalization Board. Pursuant to Texas Local Government Code Chapter 214, the City of Tyler has established a Neighborhood Revitalization Board to handle substandard structures. City Code Section 1-20.a.3 currently provides that the Neighborhood Revitalization Board is a "Periodic Board", and thus it meets quarterly, less often or as needed. The other type of City Board is a "Regular Board" that has regularly scheduled meetings. To increase efficiency, improve the administrative process and to better meet State law deadlines, the Code Enforcement Department recommends that the Neighborhood Revitalization Board conduct regular meetings and that it be changed to a "Regular Board" and listed as such in City Code Section 1-20.a.2.

Board of Directors for Tax Reinvestment Zone Number 4 (TIRZ No. 4). City Code Section 1-20.a.3 contains a list of "Periodic Boards", including the Boards of Directors for Tax Reinvestment Zones #1, #2 and #3. On September 28, 2016, the City Council reestablished Tax Increment Reinvestment Zone Number 4 (TIRZ No. 4) for the downtown area pursuant to State law. The attached Ordinance adds the Board of Directors for TIRZ No. 4 to the current list of Periodic Boards.

City Board Conflict of Interest Review Process. City Code Section 1-20 contains specific regulations governing the review of City Board applications and the appointment of Board members. At present, City Code Section 1-20.c. requires that the City Attorney's Office review all City Board applications for potential conflicts of interest. However, the City Ethics Ordinance does not apply to City Boards that are advisory only, and the State law regarding abstention would govern instead in such cases. Therefore, it is recommended that Section 1-20.c. be amended to state that the City Attorney's Office shall review all applications for "More than Advisory" Boards.

City Board Attendance/Status Reports. City Code Section 1-20.c. states that the City Clerk shall check each nominee's qualifications and include the completed applications in information sent to the City Council. The City Council will be provided an attendance report detailing the number of absences of each current member and a status report on vacancies. This provision is amended to state that such reports shall be provided to the City Council upon request,, in order to reflect current practice,

Adoption of Internal Operating Rules by City Boards. Per City Code Section 1-20.g., City Boards may adopt, subject to City Council approval, such rules as the Board considers appropriate. Due to the fact that the City Council does not normally conduct a review of each individual City Board's internal operating rules, it is recommended that the specific reference to City Council approval be removed, and replaced with a specific requirement that any City Board adopted rules must be consistent with both City ordinances and City policies.

Penalty; Airport Zoning and Height Hazard Regulations. On 5/28/25, the City Council adopted an Ordinance amending City Code Chapter 12 by adopting specific Airport Zoning and Height Hazard Regulations. Such provisions were adopted pursuant to authority of Texas Local Government Code Chapter 241.

The range for penalties for violations of City Ordinances is established by State law in Texas Government Code Section 29.003(a)(1)(A) and Texas Code of Criminal Procedure Article 4.14(a). Such penalty ranges are referenced in the City of Tyler's General Penalty Clause in City Code Section 1-4.

Per State law, the maximum fine for a Class C Misdemeanor is generally $500. However, the State statutes do allow for a maximum fine of $2,000 in cases arising under municipal ordinances governing fire safety, zoning, or public health and sanitation, and a maximum $4,000 fine in criminal cases arising under municipal ordinances governing dumping of refuse. It is now recommended that City Code Sec. 1-4 be amended to reflect a maximum penalty of up to $2,000 for violations of Airport Zoning and Height Hazard Regulations.

Administrative Appeals Process; Make-Up of Advisory Groups; Expanding the Definition of "Advisory Group" to include Non-City employees, if desired. The City has established an Administrative Appeals Process in City Code Chapter 1, Article IV. Generally speaking, a person may appeal a decision of a City employee regarding the granting or denial of any license, permit or privilege, or the administration of a City or Departmental policy that relates to the administration of a City ordinance, State or Federal law, a State Administrative Rule, and/or an Administrative Rule of a Federal Agency or Executive

Order. Such appeal is to the appropriate Department Leader or designee, and that decision is then appealable to the City Manager or designee, whose decision is final. These procedures provide basic due process and an opportunity to be heard to the public in such situations.

City Code Section 1-33 governs the appeal to the City Manager or designee, and currently provides that the City Manager or designee may seek the advice of a City Board or Advisory Group when considering an appeal. At present, the current wording of the Code states if the City Manager or designee appoints an "Advisory Group", it shall consist of City employees. The attached Ordinance is amended to provide that the appointed "Advisory Group" may include City employees, non-City employees, or a combination thereof. The City Manager or designee maintains discretion on who to appoint to an Advisory Group for the Appeals process, and this amendment would provide an additional opportunity for persons with expertise to assist in the consideration of an Appeal if determined to be needed. Consistent with other portions of City Code Section 1-33, the Code is also amended to include additional references to "designee".

The Ordinance also makes other minor clean-up and formatting changes.

**RECOMMENDATION:**

**It is recommended that the City Council adopt an Ordinance amending Tyler City Code Chapter 1, by removing unnecessary wording relating to Code amendments, categorizing the Neighborhood Revitalization Board as a Regular Board, listing the Tax Reinvestment Zone Board Number 4 as a Periodic Board, updating the Review Process for City Board applications, amending the provision related to City Board Attendance/Status Reports, clarifying the adoption of Internal Board Operating Rules, updating the City Penalty Clause to include Airport Zoning and Height Hazard Regulations, updating the advisory group membership provisions in the Appeal Process to the City Manager or designee, and making other minor clean-up and formatting changes.**

**Attachments:**
Draft Ordinance

**Drafted/Recommended By:**
**Department Leader** Steven M. Kean, Deputy City Attorney

**Edited/Submitted By:**
**City Manager**

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number:** **C-A-**

**Date:** **July 23, 2025**

**Subject:** **Request that the City Council consider adoption of an Ordinance amending Tyler City Code Chapter 1 by removing unnecessary wording relating to Code amendments, categorizing the Neighborhood Revitalization Board as a Regular Board, listing the Tax Reinvestment Zone Board Number 4 as a Periodic Board, updating the Review Process for City Board applications, amending the provision related to City Board Attendance/Status Reports, clarifying the adoption of Internal Board Operating Rules, updating the City Penalty Clause to include Airport Zoning and Height Hazard Regulations, updating the advisory group membership provisions in the Appeal Process to the City Manager or designee, and making other minor clean-up and formatting changes.**



**Item Reference:** **Tyler City Code Chapter 1; Articles I. and III.;**

This Ordinance is a result of an ongoing review and update of the City Code. The amendments are designed to update City Code provisions to conform with current State law or City Code provisions, to conform with current City practices, to remove outdated or unnecessary wording, to correct numbering and typos, to improve enforcement and to make other minor clean-up changes.

## CITY CODE CHAPTER 1

**Amendments or Additions to City Code.** Tyler City Code Section 1-6 contains certain provisions related to making amendments and/or additions to City Ordinances. Section 1-6 currently contains specific wording for making updates, which is both unnecessary and which could also be interpreted as being in conflict with City Charter Section 84 on style of ordinances. It is therefore recommended that the specific wording in City Code Section 1-6 be removed and replaced with more general wording to avoid any conflicts with the Charter.

**Neighborhood Revitalization Board**. Pursuant to Texas Local Government Code Chapter 214, the City of Tyler has established a Neighborhood Revitalization Board to handle substandard structures. City Code Section 1-20.a.3 currently provides that the Neighborhood Revitalization Board is a "Periodic Board", and thus it meets quarterly, less often or as needed. The other type of City Board is a "Regular Board" that has regularly scheduled meetings. To increase efficiency, improve the administrative process and to better meet State law deadlines, the Code

Enforcement Department recommends that the Neighborhood Revitalization Board conduct regular meetings and that it be changed to a "Regular Board" and listed as such in City Code Section 1-20.a.2.

**Board of Directors for Tax Reinvestment Zone Number 4 (TIRZ No. 4)**. City Code Section 1-20.a.3 contains a list of "Periodic Boards", including the Boards of Directors for Tax Reinvestment Zones #1, #2 and #3. On September 28, 2016, the City Council reestablished Tax Increment Reinvestment Zone Number 4 (TIRZ No. 4) for the downtown area pursuant to State law. The attached Ordinance adds the Board of Directors for TIRZ No. 4 to the current list of Periodic Boards.

**City Board Conflict of Interest Review Process.** City Code Section 1-20 contains specific regulations governing the review of City Board applications and the appointment of Board members. At present, City Code Section 1-20.c. requires that the City Attorney's Office review all City Board applications for potential conflicts of interest. However, the City Ethics Ordinance does not apply to City Boards that are advisory only, and the State law regarding abstention would govern instead in such cases. Therefore, it is recommended that Section 1-20.c. be amended to state that the City Attorney's Office shall review all applications for "More than Advisory" Boards.

**City Board Attendance/Status Reports**. City Code Section 1-20.c. states that the City Clerk shall check each nominee's qualifications and include the completed applications in information sent to the City Council. The City Council will be provided an attendance report detailing the number of absences of each current member and a status report on vacancies. This provision is amended to state that such reports shall be provided to the City Council ***upon request,, i*n order to reflect current practice,**

**Adoption of Internal Operating Rules by City Boards**. Per City Code Section 1-20.g., City Boards may adopt, subject to City Council approval, such rules as the Board considers appropriate. Due to the fact that the City Council does not normally conduct a review of each individual City Board's internal operating rules, it is recommended that the specific reference to City Council approval be removed, and replaced with a specific requirement that any City Board adopted rules must be consistent with both City ordinances and City policies.

**Penalty; Airport Zoning and Height Hazard Regulations**. On 5/28/25, the City Council adopted an Ordinance amending City Code Chapter 12 by adopting specific Airport Zoning and Height Hazard Regulations. Such provisions were adopted pursuant to authority of Texas Local Government Code Chapter 241.

The range for penalties for violations of City Ordinances is established by State law in Texas Government Code Section 29.003(a)(1)(A) and Texas Code of Criminal Procedure Article 4.14(a). Such penalty ranges are referenced in the City of Tyler's General Penalty Clause in City Code Section 1-4.

Per State law, the maximum fine for a Class C Misdemeanor is generally $500. However, the State statutes do allow for a maximum fine of $2,000 in cases arising under municipal ordinances governing fire safety, **zoning**, or public health and sanitation, and a maximum $4,000 fine in criminal cases arising under municipal ordinances governing dumping of refuse. It is now recommended that City Code Sec. 1-4 be amended to reflect a maximum penalty of up to $2,000 for violations of Airport Zoning and Height Hazard Regulations.

**Administrative Appeals Process; Make-Up of Advisory Groups; Expanding the Definition of "Advisory Group" to include Non-City employees, if desired**. The City has established an Administrative Appeals Process in City Code Chapter 1, Article IV. Generally speaking, a person may appeal a decision of a City employee regarding the granting or denial of any license, permit or privilege, or the administration of a City or Departmental policy that relates to the administration of a City ordinance, State or Federal law, a State Administrative Rule, and/or an Administrative Rule of a Federal Agency or Executive Order. Such appeal is to the appropriate Department Leader or designee, and that decision is then appealable to the City Manager or designee, whose decision is final. These procedures provide basic due process and an opportunity to be heard to the public in such situations.

City Code Section 1-33 governs the appeal to the City Manager or designee, and currently provides that the City Manager or designee may seek the advice of a City Board or **Advisory Group** when considering an appeal. At present, the current wording of the Code states if the City Manager or designee appoints an "Advisory Group", it shall consist of City employees. The attached Ordinance is amended to provide that the appointed "Advisory Group" may include City employees, non-City employees, or a combination thereof. **The City Manager or designee maintains discretion on who to appoint to an Advisory Group for the Appeals process, and this amendment would provide an additional opportunity for persons with expertise to assist in the consideration of an Appeal if determined to be needed.** Consistent with other portions of City Code Section 1-33, the Code is also amended to include additional references to "designee".

The Ordinance also makes other minor clean-up and formatting changes.

**RECOMMENDATON:**

It is recommended that the City Council adopt an Ordinance amending Tyler City Code Chapter 1, by removing unnecessary wording relating to Code amendments, categorizing the Neighborhood Revitalization Board as a Regular Board, listing the Tax Reinvestment Zone Board Number 4 as a Periodic Board, updating the Review Process for City Board applications, amending the provision related to City Board Attendance/Status Reports, clarifying the adoption of Internal Board Operating Rules, updating the City Penalty Clause to include Airport Zoning and Height Hazard Regulations, updating the advisory group membership provisions in the Appeal Process to the City Manager or designee, and making other minor clean-up and formatting changes.

**ATTACHMENT:**

Ordinance

**Drafted/Recommended By:**
**Department Leader**

Steven M. Kean

**Steven M. Kean, Deputy City Attorney**

**Edited/Submitted By:**
**City Manager**

**Edward Broussard, City Manager**

**ORDINANCE NO. O-2025-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 1, "GENERAL PROVISIONS", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY REMOVING UNNECESSARY WORDING RELATING TO CODE AMENDMENTS, CATEGORIZING THE NEIGHBORHOOD REVITALIZATION BOARD AS A REGULAR BOARD, LISTING THE TAX REINVESTMENT ZONE NUMBER FOUR BOARD AS A PERIODIC BOARD, UPDATING THE REVIEW PROCESS FOR CITY BOARD APPLICATIONS, AMENDING THE PROVISION RELATED TO CITY BOARD STATUS/ATTENDANCE REPORTS, CLARIFYING THE ADOPTION OF INTERNAL BOARD OPERATING RULES, UPDATING THE PENALTY CLAUSE TO INCLUDEAIRPORT ZONING AND HEIGHT HAZARD REGULATIONS, UPDATING THE ADVISORY GROUP MEMBERSHIP PROVISIONS IN THE APPEALS PROCESS TO THE CITY MANAGER OR DESIGNEE TO ALLOW FOR NON-CITY EMPLOYEES TO PROVIDE RECOMMENDATIONS IF CITY SO DESIRES; AND MAKING OTHER CLEAN-UP AND FORMATTNG CHANGES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to protect 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**, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of 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 self-government; and

**WHEREAS**, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

**WHEREAS,** Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; 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 provides that the City may license and regulate persons, corporations, and associations engaged in any business, occupation, profession or trade; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City; and

**WHEREAS,** Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

**WHEREAS**, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and resolutions of the City Council; 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 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**, due process traces its origins to the Magna Carta, first adopted in 1215; and

**WHEREAS**, during the reign of King Edward III., the British Parliament adopted six statutes to clarify the meaning and scope of the liberties that Magna Carta guarantees, including a law that first introduced the term "due process of law" to describe Magna Carta's procedural regulations; and

**WHEREAS**, Magna Carta significantly influenced procedural guidelines and the American Constitution by laying the groundwork for the concepts of individual rights, due process and the rule of law; and

**WHEREAS**, the Fifth and Fourteenth Amendments to the United States Constitution guarantee that no person may deprived of life, liberty or property without due process of law; and

**WHEREAS**, Article I., Section 19 of the Texas Constitution provides that no citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land; and

**WHEREAS**, Tyler City Code Chapter 1, Art. IV., establishes Administrative Appeals provisions that generally relate to a decision of a City employee regarding the granting or denial of any license, permit or privilege, or the administration of a City or Departmental policy that

relates to the administration of a City ordinance, State or Federal law, a State Administrative Rule, and/or an Administrative Rule of a Federal Agency or Executive Order; and

**WHEREAS**, the Administrative Appeals Process in City Code Chapter 1, Article IV., provides members of the public with basic due process and an opportunity to be heard in specified circumstances; and

**WHEREAS**, City Code Chapter 1 contains miscellaneous provisions related to City Boards, City Board application procedures, City Board status/attendance reports; City Board internal operating rules, and penalties for ordinance violations; and

**WHEREAS,** it is important to update certain provisions in City Code Chapter 1; and

**WHEREAS**, it is important to remove unnecessary wording from the Code amendment provisions; and

**WHEREAS**, it is necessary to make other clean-up and formatting changes;

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

**PART 1**: That Tyler City Code Chapter 1, "General Provisions", Article I., "General" is hereby amended by amending Section 1-4 to read as follows:

**Sec. 1-4. General penalties for violation of Code; continuing violations.**

a. The maximum penalties for violation of City ordinances are limited by State law.

b. The fine cannot exceed two thousand dollars ($2,000.00) if the case involves fire safety, zoning, or public health and sanitation.

These should include but not be limited to the following:

1. Chapter 4, sections 4-101 and 4-104, governing firearms within the City;

2. Chapter 6 governing buildings and structures, including any violation of the International Codes as adopted therein;

3. Chapter 7, Article III, governing and regulating minimum standards for occupancy of buildings and structures, including sanitary facilities and substandard buildings;

4. Chapter 8, Section 8-23 governing firearms in parks and recreation areas, and Section 8-50 governing the operation of concessions in parks or recreation areas;

5. Chapter 14, Article II, governing and regulating noxious odors or substances and fierce or dangerous conduct of animals.

6. Chapter 16, governing the proper collection, removal, handling, or transporting of garbage, trash, or other types of solid waste

7. Chapter 17, Article I governing and regulating the use of public rights-of-ways and Article VII, governing and regulating the operation of commercial vehicles in residential areas;

8. Chapter 18 governing littering, health and sanitation;

9 Chapter 10, Unified Development Code, governing and regulating the platting, subdivision and development of land, or governing zoning;

10. Chapter 12, Division B., governing and regulating Airport Zoning and Height Hazard Regulations. (Ord. No. 0-2025-__; 7/23/25)

~~10~~.11. Chapter 19, including:

(a) Article IV, disposal of industrial wastes,

(b) Article V, liquid waste transportation and disposal;

(c) Section 19-27 through 19-32, 19-36, 19-37, 19-39, and 19-40 which involve unauthorized tampering with the water system.

(d) Section 19-146, governing proper sanitation, garbage and sewage disposal on lake lots leased from the City;

(e) Section 19-190 discharge of weapons

(f) Section 19-233, declaring unlawful any discharge of wastewater or sewage from any vehicle, trailer, camper or house trailer within the Lake Bellwood Reservoir Area;

(g) Section 19-235, declaring unlawful any discharge of firearms within the Lake Bellwood Reservoir Area;

(h) Section 19-239, declaring unlawful the discharge of fireworks or explosives within the Lake Bellwood Reservoir.

(i) Article XI., governing illicit discharge and stormwater connection regulations. (Ord. No. 0-2010-93, 9/8/10)

(j) Article XII., governing private lateral sewer lines.

c The fine cannot exceed four thousand dollars ($4,000.00) if the case involves dumping of refuse

. d. In all other cases, the maximum fine is not more than five hundred dollars ($500.00), except where otherwise provided.

e. Each day or fractional part thereof that any violation of this Code or of any ordinance shall continue constitutes a separate offense. (Ord. No. O-98-45, 5/27/98) (Ord. No. O-2009-52, 4/22/09) (Ord. No. 0-2000-97, 12/20/2000) (Ord No. O-2016-1, 1/13/16) (Ord. No. 0-2019-15; 01/22/20) (Ord. No. O-2020-72; 08/12/2020) (Ord. No. 0-2025-__; 7/23/25)

**PART 2**: That Tyler City Code Chapter 1, "General Provisions", Article I., "General" is hereby amended by amending Section 1-6 to read as follows:

**Sec. 1-6. Amendments or additions to Code.**

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and

printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages.

Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the appropriate section number ~~of this Code in language similar to the following: "That section _____ of the City Code, is hereby amended to read as follows: . . . "~~.

In the event a new section not heretofore existing in the Code is to be added, ~~language similar to the following shall be used: "That the Tyler Code, is hereby amended by adding a section, to be numbered _____, which section shall read as follows: . . . "~~ ~~T~~the new section shall then be set out in full as desired. (Ord. No. O–98-45, 5/27/98) (Ord. 0-2010-26, 3/24/10) (Ord. No. 0-2025-__; 7/23/25)

**PART 3**: That Tyler City Code Chapter 1, "General Provisions", Article III., "Boards" is hereby amended by amending Section 1-20 to read as follows:

**Sec. 1-20. General Regulations**

a. Definitions.

1. Board: A group created by the City Council to serve a particular purpose and with a membership set by the City Council, sometimes referred to as a Commission or Committee.

2. Regular Board: Boards that have regularly scheduled monthly or bi-monthly meetings, including the following:
Airport Advisory Board
Keep Tyler Beautiful Board
Neighborhood Revitalization Board (Ord. No. 0-2025-__; 7/23/25)
One-Half Cent Sales Tax Corp, Inc. Board
Park Board
Planning and Zoning Commission
Traffic Safety Board
Tyler Historical Preservation Board
Tyler Public Library Board

3. Periodic Board: Boards that either meet quarterly, less often, or only "as needed," including the following:
Animal Care Advisory Board
Audit Firm Review Committee
Board of Directors of Tax Increment Reinvestment Zone No. 1 (TIRZ No. 1)
Board of Directors of Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2)
Board of Directors of Tax Increment Reinvestment Zone No. 3 (TIRZ No. 3)
Board of Directors of Tax Increment Reinvestment Zone No. 4 (TIRZ No. 4) (Ord. No. 0-2025-__; 7/23/25)
Civil Service Commission
Construction Board of Adjustment & Appeals
Disability Issues Review Board

Industrial Development Corporation of Tyler Board
Main Street Board
~~Neighborhood Revitalization Board~~
Reinvestment Zone Committee
Redevelopment Authority Board
Tyler Health Facilities Development Corporation Board
Zoning Board of Adjustment

4. Members: All appointees to a board who have voting authority.

5. Quorum: A majority of a board's members.

b. Eligibility. Except where otherwise authorized by ordinance, members of City Boards shall be City of Tyler residents. Except when otherwise authorized by ordinance, City employees may not serve as members of the City boards established in subsection a. above. (Ord. No. O-2020-44; 4/22/20) (Ord. No. O-2022-106; 11/9/22)

c. Appointment Process. The City Manager or designee will solicit applications from eligible citizens through the media and other means. Each appointee shall receive training regarding attendance and the duties and responsibilities of the position. Applications for appointment or re-appointment will be compiled and submitted to the Council. The City Clerk shall be responsible for the applications' completeness, and the City Attorney's Office shall conduct a review of applications for more than advisory boards for any potential conflicts of interest. The City Clerk shall check each nominee's qualifications and include the completed applications in information sent to the City Council. Upon request, t~~T~~he Council will be provided an attendance report detailing the number of absences of each current member and a status report on vacancies. All applicants will be considered at a City Council meeting in August or at any other time as designated by the City Council at its discretion, and the Council will jointly select the most qualified individuals for the available positions. (Ord. No. 0-2021-53; 6/9/21) (Ord. No. 0-2025-__; 7/23/25)

d. Orientation. The Board Liaison shall be responsible for ensuring that new members attend an orientation session to overview City government and the functions of the Board.

e. Vacancies. Vacancies occurring on the Board shall be filled for the unexpired term by appointment of the City Council from completed applications.

f. Terms of office; selection of presiding officer; other officers

1. The terms of office for all boards shall be for two (2) years staggered, and shall expire on the 31st day of August, unless otherwise provided. Members shall continue to serve until a replacement has been appointed and qualified.

2. The presiding officer of each board shall be appointed annually by the City Council from among the ranks of regular members of the board, unless otherwise provided. The Board shall select a vice-presiding officer annually to serve in the presiding officer's absence.

g. Boards may adopt~~, subject to City Council approval,~~ such rules for their own internal procedures as ~~the Board~~ considered appropriate, if consistent with State law, City ordinances and policies. (Ord. No. 0-2025-__ ; 7/23/25)

h. Maximum terms of office. No member of any Board shall be appointed to that same Board as a regular member for more than three (3) complete successive terms or six years, unless otherwise provided. This provision shall apply to all future appointments.

i. One membership. No member shall serve on more than one board at a time, except where the City Council determines otherwise that such dual membership is necessary or desirable.

j. Salary. All members, including ex officio members, shall serve without salary.

k. No financial liability. Neither any Board nor any member thereof shall incur any financial liability in the name of the City without proper authorization.

l. Attendance.

1. Active participation by all appointed members is necessary for proper functioning of boards. Once notice of a City Board meeting has been supplied, it shall be the responsibility of that member to either attend or, prior to the meeting, notify the City department originally providing the notice to the board member of his/her inability to attend.

2. For "Regular Boards" as defined herein, failure to attend at least two-thirds (2/3) of the meetings of the Board for which that person was appointed for any six-month period during which the appointee is a member of the board will be considered a voluntary resignation as shown below:

Regular Board
Required Attendance Chart

| If the Board Meets: | Required Attendance |
|---|---|
| One (1) time within a six month period* | 1* |
| Two (2) times within a six month period | 1* |
| Three (3) times within a six month period | 2* |
| Four (4) times within a six month period | 3* |
| Five (5) times within a six month period | 3* |
| Six (6) times within a six month period | 4* |

* however, consideration will be given for illness or extenuating circumstances.

3. For "Periodic Boards" failure to attend two (2) meetings within any six month period will be considered a voluntary resignation. However, consideration will be given for illness or extenuating circumstances.

4. If an appointee fails to attend as required herein and thus voluntarily resigns, the City Council shall appoint a person to the unexpired term. The City Manager or designee is designated to develop a program whereby minutes are taken and distributed timely, attendance taken, and appropriate and necessary action taken.

m. Use of position. Appointed members shall not use or refer to their position in writing letters or taking public positions unless approved by a majority of the Board and approved by the City Council.

n. Removal of members. The City Council, by majority vote, may remove any member of a Board from office whenever, in its sole discretion, the best interests of the City shall be served thereby.
(Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2004-33, 5/12/04) (0-2008-108, 8/27/08) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2013-113; 12/11/13) (Ord. No. 0-2017-32; 4/12/17) (Ord. No. 0-2019-61; 7/24/19) (Ord. No. 0-2020-16; 2/12/20) (Ord. No. 0-2020-44; 4/22/20) (Ord. No. 0-2021-53; 6/9/21) (Ord. No. 0-2022-106; 11/9/22) (Ord. No. 0-2025-__; 7/23/25)

NOTE: The residency requirement amendment to subsection b. above shall not affect the current term of any person that is presently serving on a City Board or Commission at the time of adoption of this ordinance.

**PART 4**: That Tyler City Code Chapter 1, "General Provisions", Article IV., "Administrative Procedures, is hereby amended by amending Section 1-33 to read as follows:

**Sec. 1-33. Procedure before City Manager or designee.**

a. Any person aggrieved by the decision of a Department Leader or designee may appeal such decision to the City Manager or designee. Such appeal must be filed with the City Manager or designee within thirty (30) business days after the decision of the Department Leader or designee, otherwise the decision of the Department Leader or designee is final. (Ord. No. 0-2025-__; _7/23/25)

b. Such appeal shall be in writing and shall succinctly state the problem or objection of the aggrieved party and the aggrieved party's understanding of the decision of the Department Leader or designee. An appeal stays all proceedings in furtherance of the action that is appealed, until a final decision is reached.~~.~~

c. The City Manager or designee shall not be the decision maker whose decision is being appealed. The City Manager (or acting City Manager in absence), or designee, shall render a written decision within ten (10) business days after receipt of the written appeal or the latest amended appeal. If, however, the City Manager or designee determines that there is not sufficient data upon which to base a decision, further written information may be requested from the aggrieved party, in which event the ten-business day time limit shall run from the date on which the completed information is received.

d. The City Manager or designee may refer the controversy to an appropriate advisory group or City board for recommendation, in which event the time limit of subpart c., above, shall not apply. For purposes of this section, the term "advisory group" shall mean a group of City employees, non-City employees, or a combination thereof, appointed by the City Manager or designee to provide advice regarding a specific appeal. No employee serving on the advisory group shall be the decision maker whose decision is being appealed. "~~a~~Appropriate City board" shall mean one of the specific City Boards established by the City Council in Section 1-20, and having objectives or functions associated with the specific City Department to which the appeal was made. The advisory group or City board to which the matter is referred shall consider

the matter within sixty (60) business days after the matter is referred to it, and shall provide a recommendation to the City Manager or designee. All considerations under this Article by a City board shall be in a public hearing. The City Manager or designee shall render a decision within ten (10) business days after the appropriate advisory group or City board gives its recommendation. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2016-44; 5/11/16) (Ord. No. 0-2025-__; 7/23/25)

e. At the conclusion of the review, the City Manager or designee shall either:

1. Sustain the decision of the Department Leader or designee, or

2. Render an appropriate decision.

f. The decision of the City Manager or designee regarding an appeal under this Article shall be final. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2012-71; 9/26/12) (Ord. No. 0-2020-45; 5/13/20) (Ord. No. 0-2025-__; 7/23/25)

**PART 5:** 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 6:** 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 Friday, July 25, 2025.

**PASSED AND APPROVED** this the 23rd day of July A.D., 2025.

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

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** M-1

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to execute an agreement providing for the transfer of a building and lot located at 2000 West Gentry Parkway Tyler, Texas and a one-time grant in the amount of Fifty Thousand Dollars ($50,000.00) to the Tyler Metropolitan Chamber of Commerce.

**Item Reference:**

Texas Local Government Code Section 253.011 authorizes cities to transfer real property to a nonprofit organization to promote a public purpose of the city.

Highlights of the agreement include:
- The City of Tyler will transfer the building and property as is to the Tyler Metropolitan Chamber of Commerce in perpetuity, provided the building is used to promote a public purpose. Should the organization cease to exist for a public purpose the building and property would revert back to the City of Tyler.
- Maintenance and upkeep of the building will be at the expense of the Tyler Metropolitan Chamber of Commerce. If at any time the organization fails to use the property in a manner that promotes a public purpose of the City of Tyler, then ownership of the Real Property automatically reverts to the City of Tyler.
- Tyler Metropolitan Chamber of Commerce is required to comply with all federal, state, and local regulations pertaining to the operation of the non-profit.
- The City of Tyler will provide a one-time grant in the amount of Fifty Thousand Dollars ($50,000.00) to the Tyler Metropolitan Chamber of Commerce. The sole purpose of this grant is to fund roof repairs for the building located at 2000 West Gentry Parkway, Tyler, Texas. The organization agrees to submit a final report within 60 days of project completion, including a summary of work completed, receipts or invoices, photographs, and any other documentation reasonably requested by the City of Tyler.

City Staff recommends the transfer of the described building and lot to the Tyler Metropolitan Chamber of Commerce for use as a facility that will benefit the public. The closing date is August 1, 2025. Under the provisions of the State law, if the organization ever fails to use the property in a manner to promote a public purpose, then ownership of the property automatically reverts to the City.

**RECOMMENDATION:**

**Request that the City Council consider authorizing the City Manager to execute an agreement providing for the transfer of a building and lot located at 2000 West Gentry Parkway Tyler,**

**Texas and a one-time grant in the amount of Fifty Thousand Dollars ($50,000.00) to the Tyler Metropolitan Chamber of Commerce.**

**Attachments:**
Tyler Metro Chamber_Supplemental Documents

**Drafted/Recommended By:**
**Department Leader** Leanne Robinette, Director of Parks and Recreation

**Edited/Submitted By:**
**City Manager**

| | | |
|---|---|---|
| **THE STATE OF TEXAS** | § | **CITY OF TYLER** |
| | § | |
| | § | |
| **CITY OF TYLER, TEXAS** | § | **AGREEMENT RE** |
| | § | |
| | § | |
| **COUNTY OF SMITH** | § | **2000 W. GENTRY PARKWAY, TYLER, TEXAS** |

THIS ***Agreement***, made and entered into this _____ day of _____, 2025, by and between the City of Tyler, Texas, of the County of Smith, a municipal corporation, hereinafter termed "**CITY**", acting through the City Manager, and Tyler Metro Chamber of Commerce, Inc. (a.k.a. Tyler Metropolitan Black Chamber of Commerce and/or Tyler Area Metro Chamber Foundation), a Texas nonprofit corporation, whose mailing address is 2000 W. Gentry Parkway, Tyler, Texas, 75702, hereinafter termed "**ORGANIZATION**".

**WHEREAS,** the **CITY** currently owns a building and surrounding lot, tract or parcel of land located in the City of Tyler and being described on Exhibit "A" attached hereto; also known as 2000 W. Gentry Parkway, Tyler, Texas (the "Real Property")[1]; and

**WHEREAS,** the **CITY** desires to transfer the Real Property to **ORGANIZATION**, a nonprofit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, as amended, pursuant to Texas Local Government Code, Title 8, Subtitle A, Chapter 253, § 253.011; and

**WHEREAS**, the **ORGANIZATION** was incorporated on February 15, 1990, File No. [redacted] filed in the Office of the Secretary of the State of Texas;[2] and

**WHEREAS**, the date of formation of the **ORGANIZATION** has been granted tax-exempt status by the Internal Revenue Service[3]; and

**WHEREAS,** the purpose of the **ORGANIZATION** is to engage in tax exempt charitable and benevolent activities, including assistance of citizens, particularly minorities, in the area of

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[1] *See* attached Exhibit A – Legal Description and Plat
[2] *See* attached Exhibit B – Articles of Incorporation
[3] *See* attached Exhibit C – I.R.S. 501(c) (3) status

Tyler, Texas by attracting new and minority businesses and encouraging the development and retention of new and minority businesses in the area of Tyler, Texas including, but not limited to, North Tyler, as provided in its Articles of Incorporation filed in the office of the Secretary of State of Texas; and

**WHEREAS,** the **ORGANIZATION** would be best able to maintain and use the Real Property for public purposes noted herein; and

**WHEREAS**, Texas Local Government Code, Title 8, Subtitle A, Chapter 253, § 253.011 authorizes **CITY** to enter into an ***Agreement*** to transfer the Real Property to a nonprofit **ORGANIZATION** whereby the nonprofit **ORGANIZATION** must use the property in a manner that primarily promotes a public purpose of the **CITY**; and

**WHEREAS,** pursuant to the said §253.011, if the nonprofit **ORGANIZATION** at any time fails to use the property in a manner that promotes a public purpose of the **CITY**, then ownership of the Real Property automatically reverts to the **CITY**.

**WHEREAS,** the **CITY** desires to support the preservation and continued use of community-serving facilities within its jurisdiction; and

**WHEREAS**, the roof of the building located on the Real Property is in need of critical repairs to ensure the continued safe use of the facility by the public;

**WHEREAS,** the **CITY** desires to provide a one-time grant in the amount of **Fifty Thousand Dollars ($50,000.00)** to the **ORGANIZATION**. The sole purpose of this grant is to fund roof repairs for the building located at 2000 W. Gentry Parkway, Tyler, Texas.

**NOW THEREFORE**, for and in consideration of the mutual promises and covenants herein made and the benefits flowing to the parties hereto described in this ***Agreement***, the **CITY** and **ORGANIZATION** do hereby contract and agree as follows:

*Intentionally Left blank*

## SECTION 1. BUILDING AND SURROUNDING LOT LOCATION

The City owns the Real Property[4] and desires to transfer title to the Real Property to the **ORGANIZATION** pursuant to the said §253.011, subject to the terms and conditions of this Agreement.

## SECTION 2. AUTHORIZATION TO TRANSFER REAL PROPERTY

Texas Local Government Code, Title 8, Subtitle A, Chapter 253, § 253.011 authorizes **CITY** to enter into an ***Agreement*** to transfer real property to a nonprofit **ORGANIZATION** whereby the nonprofit **ORGANIZATION** must use the property in a manner that primarily promotes a public purpose of the **CITY**.

## SECTION 3. GRANT FOR ROOF REPAIRS

The **CITY** shall provide a one-time grant to the **ORGANIZATION** in the amount of Fifty Thousand Dollars ($50,000.00) for the sole purpose of completing roof repairs for the building located at 2000 W. Gentry Parkway.

The **ORGANIZATION** shall use the funds exclusively for direct costs associated with the repair or replacement of the building's roof, including materials, labor, permitting, and necessary professional services. Any deviation from the specified use must receive prior written approval from the City.

The **CITY** shall disburse funds to the **ORGANIZATION** upon execution of this agreement and submission of required documentation, including but not limited to: a detailed project scope and cost estimate, as well as, proof of necessary permits or contractor agreements.

The **ORGANIZATION** agrees to submit a final report within 60 days of project completion, including a summary of work completed, receipts or invoices, photographs, and any other documentation reasonably requested by the City.

The **ORGANIZATION** agrees that any unused funds or funds expended for purposes not authorized under this Agreement shall be returned to the City within 30 days of notification.

---

[4] *See* attached Exhibit A – Legal Description and Plat

## SECTION 4. GOALS OF ORGANIZATION

**ORGANIZATION** was incorporated on February 15, 1990, under Texas Secretary of State Filing Number [redacted] as a nonprofit corporation to, among other nonprofit purposes, attract new and minority businesses and encouraging the development and retention of new and minority businesses in the area of Tyler, Texas including, but not limited to, North Tyler.

## SECTION 5. ORGANIZATION'S RESPONSIBILITIES

**ORGANIZATION HEREBY ACCEPTS THE REAL PROPERTY IN ITS CURRENT "AS IS" CONDITION, WITH NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES BY CITY WITH RESPECT TO THE CONDITION OF THE REAL PROPERTY,** and **ORGANIZATION** agrees to be solely responsible for the maintenance, appearance, preservation, restoration and care of the Real Property at **ORGANIZATION'S** expense. **ORGANIZATION** hereby represents and warrants to **CITY** that **ORGANIZATION** is, and will remain at all times, a nonprofit corporation exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the undersigned representative of **ORGANIZATION** represents and warrants to **CITY** that this Agreement has been duly approved by the Board of Directors of the **ORGANIZATION**. The **ORGANIZATION** shall use the Real Property in a manner that primarily promotes a public purpose of the **CITY**, including attracting new and minority businesses and encouraging the development and retention of new and minority businesses in the area of Tyler, Texas.

## SECTION 6. CITY'S RIGHT OF INSPECTION/RECOMMENDATION

The **CITY** shall reserve the right to periodically inspect the Real Property for the term of this ***Agreement*** and for purposes of making recommendations, including, but not limited to, maintenance, appearance, preservation, restoration and care of the Real Property, and to confirm that the Real Property is being used for public purposes as required in Section 5.

## SECTION 7. TERM OF AGREEMENT AND TERMINATION/REVERTER

The transfer of title to the Real Property unto **ORGANIZATION** shall be for as long as **ORGANIZATION** uses the Real Property in a manner that primarily promotes the public purpose of the **CITY,** provided that no temporary cessation of less than twelve (12) consecutive weeks shall be deemed a failure in that respect; and if the **ORGANIZATION,** without reasonable

explanation, ceases to provide and promote said public purposes at the Real Property, then this conveyance shall be null and void and the Real Property ownership shall absolutely and automatically **REVERT TO CITY** without any necessity for suit or reentry by the **CITY**, its successor or assigns; and no act or omission on the part of **CITY**, its successor or assigns, shall be a waiver of the operation or enforcement of this condition; unless however, there is a bona fide issue of fact about whether **ORGANIZATION** is continuing to use the Real Property in a manner that primarily promotes the public purpose of the **CITY**, and then in such event, both parties are entitled to appropriate due process. [5] The Real Property shall not be assignable or subsequently sold or transferred by **ORGANIZATION**, and any such attempted assignment or sale shall be null and void.

## SECTION 8. TRANSFER PRICE/CONSIDERATION

In consideration[6] of the mutual promises and covenants herein made and the benefits flowing to the parties described in this ***Agreement***, the sufficiency of which is hereby recognized and acknowledged, **CITY** shall grant, transfer, and convey unto the **ORGANIZATION** title to the Real Property.

## SECTION 9. TRANSFER BY DEED

The **CITY** shall transfer title to the Real Property by an appropriate instrument of transfer ("Deed") in form and substance satisfactory to **CITY**. The Deed shall include a provision that: (1) requires the **ORGANIZATION** to use the Real Property in a manner that primarily promotes a public purpose of the **CITY**; and (2) provides that ownership of the Real Property automatically reverts to the **CITY** if the nonprofit **ORGANIZATION** at any time fails to use the property in that manner.[7]

**EXECUTED** this the _____ day of _____, 2025.

**CITY AGENDA ITEM NUMBER:** _____

[5] *See* Tex. Loc. Gov't Code Ann. § 253.011.

[6] Consideration for the transfer of Real Property shall be in the form of an ***Agreement*** between the parties that requires the nonprofit organization to use the property in a manner that primarily promotes a public purpose of the municipality. If the nonprofit organization at any time fails to use the property in that manner, ownership of the property automatically reverts to the municipality. *See* Tex. Loc. Gov't § 253.011(d).

[7] *See* Tex. Loc. Gov't Code Ann. § 253.011(e).

**DATE CITY COUNCIL APPROVED:** _____

*(End of Page – Signature Page and Exhibits Follow)*

**CITY OF TYLER, TEXAS:**

BY: _____
Edward Broussard, City Manager

**ATTEST:**

BY: _____
Cassandra Brager, City Clerk

**APPROVED:**

BY: _____
City Attorney's Office

**RECOMMENDED:**

_____

**ORGANIZATION:**
**TYLER METROPOLITAN CHAMBER OF COMMERCE, INC.**

BY: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§ ORGANIZATION ACKNOWLEDGEMENT
COUNTY OF SMITH §

This instrument was signed acknowledged before me on this the ____day of_____, A.D., 2025, by_____, in the capacity stated.

_____
Notary Public In and For The State of Texas

_____
Notary's Printed Name

My Commission Expires: _____

# EXHIBIT "A"

## (2000 West Gentry Parkway)

**Being a 0.425 acre tract of land,** situated in the H. Fenton, Abstract No. 358, N.C.B. 699-N, City of Tyler, Smith County, Texas, and being all of a called 0.18448 acre tract described in a Deed from Milton R. Vanderpool, Ray L. Vanderpool and Joan Vanderpool Boring to City of Tyler, recorded in Volume 1584, Page 640 of the Deed Records of Smith County, Texas, also being all of the remainder of Lot 102 and the East one-half of Lot 103, N.C.B. 669-N of Forest Hills Addition as evidenced by a Final Plat thereof recorded in Volume 1, Page 212 of the Plat Records of Smith County, Texas, said 0.425 acre tract being more completely described as follows:

**Beginning** at 1/2" iron rod set with plastic cap stamped "KLK #4687" for the Northeast corner of said 0.18448 acre tract, same being the Northwest corner of a tract called the Easterly 126 feet of Lot 280, N.C.B. 669-N of Forest Hills Addition described in a Deed from Three Star Muffler to Three Star Muffler of Pine Bluff, Inc. recorded in Volume 1809, Page 405 of the Deed Records of Smith County, Texas, and being on the South right-of-way line of W. Gentry Parkway (156' wide right-of-way), from which a 1/2" iron rod found for the Northwest corner of said 0.18448 acre tract bears North 52 degrees 42 minutes 35 seconds West, a distance of 70.00 feet;

**Thence** South 37 degrees 17 minutes 40 seconds West, a distance of 114.80 feet to a 1/2" iron rod set with plastic cap stamped "KLK #4687" for the Southeast corner of said 0.18448 acre tract, same being the Southwest corner of said Three Star Muffler of Pine Bluff, Inc. tract, also being on the North boundary line of Lot 100, N.C.B. 669-N of said Forest Hills Addition.;

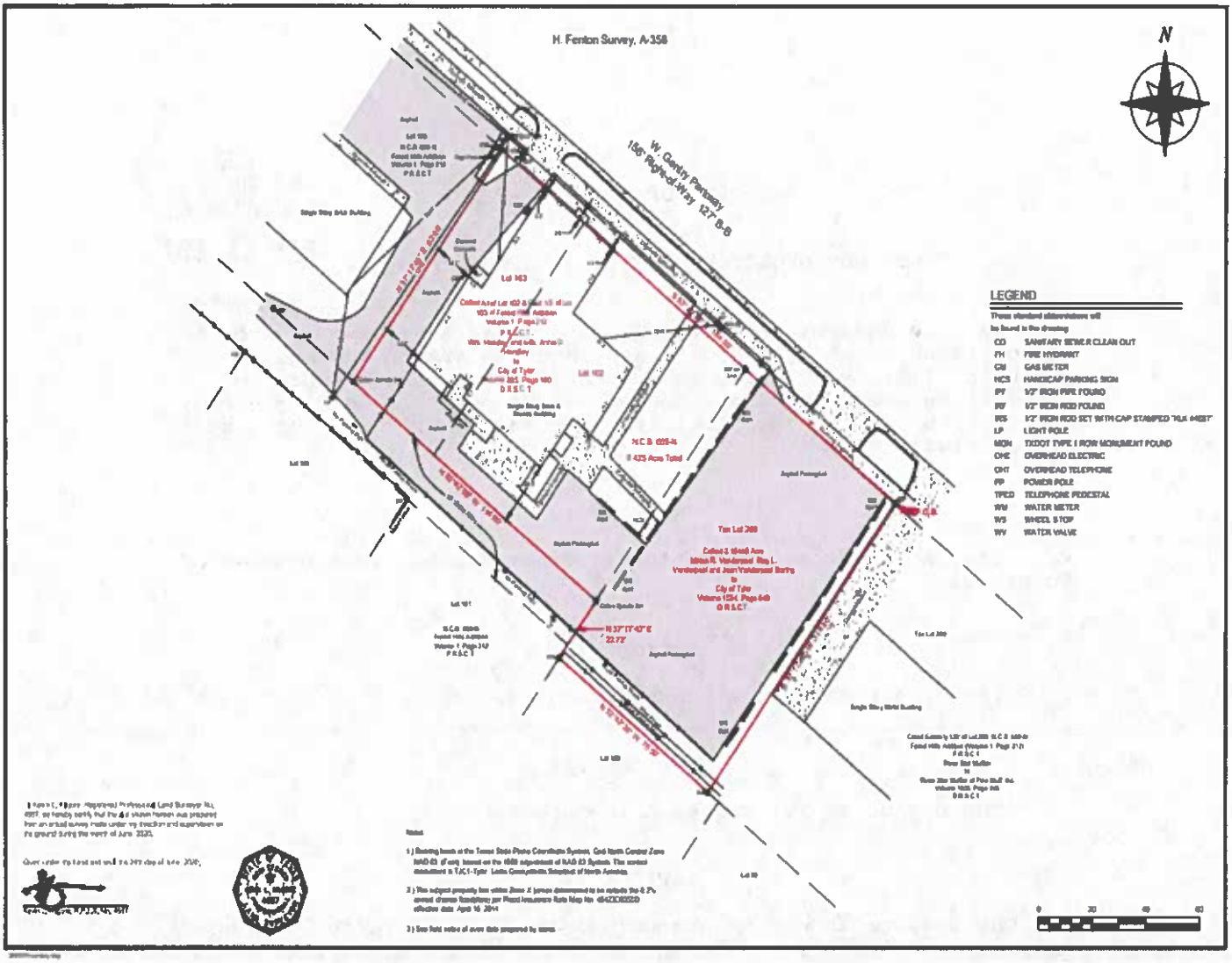
**Thence** North 52 degrees 42 minutes 35 seconds West, a distance of 70.00 feet with the South boundary line of said 0.18448 acre tract and the North boundary line of said Lot 100 to a 1/2" iron rod set with plastic cap stamped "KLK #4687" at the Southwest corner of said 0.18448 acre tract and being on the East boundary line of Lot 101, N.C.B. 669-N of said Forest Hills Addition;

**Thence** North 37 degrees 17 minutes 40 seconds East, a distance of 22.72 feet with the West boundary line of said 0.18448 acre tract and the East boundary line of said Lot 101 and the east boundary line of an 18 foot wide alley to a cotton spindle set in asphalt for the Southeast corner of said Lot 102;

**Thence** North 52 degrees 42 minutes 59 seconds West, a distance of 114.00 feet with the South boundary line of said Lots 102 and 103 and the North boundary line of said alley to a cotton spindle set in asphalt;

**Thence** North 37 degrees 17 minutes 40 seconds East, a distance of 92.09 feet across said Lot 103 to a 1/2" iron rod set with plastic cap stamped "KLK #4687" on the South right-of-way line of W. Gentry Parkway;

**Thence** South 52 degrees 42 minutes 35 seconds East, a distance of 184.00 feet with the North boundary line of said 0.18448 acre tract and the South right-of-way line of W. Gentry Parkway to the **place of beginning, containing 0.425 of an acre** of land more or less.




Plat of Survey
Showing
2000 W. Gentry Parkway
Forest Hills Addition
Tyler, Smith County, Texas

KLKilgore & Company, Inc.

DESIGNED BY:
DRAWN BY: R.T.K.
CHECKED BY: K.L.K.
DATE: June 25, 2020
SCALE: 1" = 20'

**Exhibit "B"**

1 1 3 4 9 0

FILED
In the Office of the
Secretary of State of Texas
FEB 15 1990
Corporations Section

ARTICLES OF INCORPORATION
OF

TYLER METROPOLITAN CHAMBER OF COMMERCE, INC.

We, the undersigned natural persons, at least two of whom are citizens of the State of Texas, and who are of the age of eighteen (18) years or more, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE I

The name of the corporation is Tyler Metropolitan Chamber of Commerce.

ARTICLE II

The corporation is a nonprofit corporation.

ARTICLE III

The period if its duration is perpetual.

ARTICLE IV

The corporation is organized and shall be operataed exclusively for charitable, religious, scientific, literary, or educational purposes either directly or by contributions to organizations that qualifty as exempt organizations under Section 501(c(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, including,but not limited to, assistance of citizens, particularly minorities, in the area of Tyler, Texas by attracting new and minority businesses and encouraging the development and retention of new and minority businesses in the area of Tyler, Texas including, but not limited to North Tyler.

ARTICLE V

It is intended that the corporation be exempt from federal tax under Internal Revenue Code Section 501 (c)(3). No part of the net earnings of the corporation shall inure to the benefit of any Director of the corporation, officer of the corporation, or any private individual ( except that reasonable compensation may

be paid for services rendered to or for the corporation affecting one or more of its purposes), and no Director or officer of the corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in ( including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

ARTICLE VI

The corporation is to have two classes of members, voting and non-voting, but is to be managed by a board of directors. There shall be no cumulative voting.

ARTICLE VII

The street address of the initial registered office of the corporation is 505 S. Bois D' Arc, Tyler, Texas and the name of its initial registered agent is Va Lita F. Waits.

ARTICLE VIII

The number of directors consituting the initial board of the corporation is three (3). The names and addresses of the persons who are to serve as the initial directors and incorporators are:

Michael R. Mast
401 Dayton
Tyler, Texas

Mia Rosa Richardson
2105 N. Palace
Tyler, Texas

Va Lita F. Waits
1329 West Lollar
Tyler, Texas

ARTICLE IX

The board of directors of the corporation shall serve for a period of one year or until their successors are elected. The number of directors for future years, the manner of selecting the board of directors in the future, and the terms for which they shall be elected shall be governed and controlled by the bylaws of the corporation.

ARTICLE X

The board of directors of the corporation shall manage the affairs of the corporation and shall have such powers as are conferred upon them by the bylaws of the corporation, as amended from time to time.

ARTICLE XI

The bylaws of the corporation may be amended from time to time by the board of directors.

ARTICLE XII

The corporation shall indemnify each director and officer of the corporation against any loss incurred by such person in connection with any claim asseted against such officer or director, by action in court or otherwise, by reason of said officer or directoy being or having been such an officer or director (including attorney's fess actually and necessarily incurred by such officer or director in connection with such claim) to the full extent that corporations ar permitted to do so under the laws of the State of Texas.

IN WITNESS WHEREOF, we have hereunto set our hands this 25th day of January 1990.

MICHAEL K. MAST

MIA ROSA RICHARDSON

VA LITA F. WAITS

STATE OF TEXAS *

COUNTY OF SMITH *

I, the undersigned, a Notary Public, do hereby certify that on this 25th day of January 1990, personally appeared before me MICHAEL K. MAST, MIA ROSA RICHARDSON and VA LITA F. WAITS, Incorporators, and who being by me first duly sworn, declared that they are the persons who signed the foregoing document as incor-

porators, and that the statements therein contained are true.




Janis D Sirianni
Notary Public, State of Texas

## Exhibit "C"

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

TYLER METRO CHAMBER FOUNDATION
C/O SANDRA BURNS
2000 WEST GENTRY PARKWAY
TYLER, TX 75702-3932

Date:
11/21/2024
Employer ID number:
99-4848661
Person to contact:
Name: T. Dugan
ID number: 0194356
Telephone: 877-829-5500
Accounting period ending:
December 31
Public charity status:
170(b)(1)(A)(vi)
Form 990 / 990-EZ / 990-N required:
Yes
Effective date of exemption:
September 16, 2024
Contribution deductibility:
Yes
Addendum applies:
No
DLN:
26053719301684

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Letter 947 (Rev. 2-2020)
Catalog Number 35152I

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

## SPECIAL WARRANTY DEED

**Effective Date**: _____, 2025

**Grantor**: **CITY OF TYLER, TEXAS**, a municipal corporation of the State of Texas

**Grantee**: **TYLER METROPOLITAN CHAMBER OF COMMERCE, INC.**, a Texas nonprofit corporation

**Grantee's Mailing Address**: 2000 W. Gentry Parkway, Tyler, Texas 72702

**Land:** See Exhibit "A" attached hereto and made a part hereto.

**Property**: Fee simple title to the Land, including any improvements to the Land.

**Reservations from Conveyance and Exceptions to Warranty**: This conveyance is made subject to the following reservations and exceptions:

1. All recorded rights of way and easements; all recorded conveyances, reservations and leases of oil, gas and other minerals; and all other encumbrances, conditions, exceptions, reservations, covenants and restrictions recorded in the Official Public Records of Smith County, Texas and affecting the Property, but only to the extent currently in force and effect.
2. Grantor reserves all rights and easements over, upon and across the Land for public street and public utility purposes.
3. All matters shown or referenced on plat of survey of the Land dated June 26, 2020, prepared by Kevin L. Kilgore, RPLS No. 4687.
4. Zoning and building ordinances and other restrictions, regulations and statutes applicable to the Property.
5. Grantor reserves all of Grantor's rights under the written agreement dated or about the Effective Date, by and between Grantor and Grantee regarding transfer of title to the Property to Grantee pursuant to Texas Local Government Code, Title 8, Subtitle A, Chapter 253, Section 253.011, which agreement contains covenants, restrictions and conditions pertaining to the ownership, use and maintenance of the Property; restrictions on transfer of title to the Property; and provisions for automatic reversion of title to Grantor if Grantee fails to use the Property in a manner that primarily promotes a public purpose of the City of Tyler (the "Agreement"). The Agreement is on file in the Office of the City Clerk of Tyler, Texas and constitutes an agreement running with the title to the Property.

6. The Property must be used by Grantee in a manner that primarily promotes a public purpose of the City of Tyler as provided in the Agreement and as contemplated in the said Section 253.011, and ownership of the Property shall automatically revert to Grantor if Grantee fails to use the Property in that manner.

**Conveyance and Warranty**: Subject to the Reservations from Conveyance and Exceptions to Warranty, Grantor hereby grants, transfers, and conveys to Grantee all of the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee. Subject to the Reservations from Conveyance and Exceptions to Warranty, Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property to Grantee against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise. **THE PROPERTY IS CONVEYED "AS IS" AS MORE FULLY PROVIDED IN THE AGREEMENT.**

This Deed is made effective as of the Effective Date.

**GRANTOR:**

**CITY OF TYLER, TEXAS**

**By:** _____
**Edward Broussard, City Manager**

STATE OF TEXAS

COUNTY OF SMITH

This instrument was signed and acknowledged before me on the ____ day of _____ 2020, by Edward Broussard, in the capacity stated.

_____
Notary Public, State of Texas

**AFTER RECORDING RETURN TO:**
**Grantee at Grantee's address set forth above.**

# EXHIBIT "A"

## (Land – 2000 West Gentry Parkway)

**Being a 0.425 acre tract of land,** situated in the H. Fenton, Abstract No. 358, N.C.B. 699-N, City of Tyler, Smith County, Texas, and being all of a called 0.18448 acre tract described in a Deed from Milton R. Vanderpool, Ray L. Vanderpool and Joan Vanderpool Boring to City of Tyler, recorded in Volume 1584, Page 640 of the Deed Records of Smith County, Texas, also being all of the remainder of Lot 102 and the East one-half of Lot 103, N.C.B. 669-N of Forest Hills Addition as evidenced by a Final Plat thereof recorded in Volume 1, Page 212 of the Plat Records of Smith County, Texas, said 0.425 acre tract being more completely described as follows:

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**Thence** South 37 degrees 17 minutes 40 seconds West, a distance of 114.80 feet to a 1/2" iron rod set with plastic cap stamped "KLK #4687" for the Southeast corner of said 0.18448 acre tract, same being the Southwest corner of said Three Star Muffler of Pine Bluff, Inc. tract, also being on the North boundary line of Lot 100, N.C.B. 669-N of said Forest Hills Addition.;

**Thence** North 52 degrees 42 minutes 35 seconds West, a distance of 70.00 feet with the South boundary line of said 0.18448 acre tract and the North boundary line of said Lot 100 to a 1/2" iron rod set with plastic cap stamped "KLK #4687" at the Southwest corner of said 0.18448 acre tract and being on the East boundary line of Lot 101, N.C.B. 669-N of said Forest Hills Addition;

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**Thence** North 52 degrees 42 minutes 59 seconds West, a distance of 114.00 feet with the South boundary line of said Lots 102 and 103 and the North boundary line of said alley to a cotton spindle set in asphalt;

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**Thence** South 52 degrees 42 minutes 35 seconds East, a distance of 184.00 feet with the North boundary line of said 0.18448 acre tract and the South right-of-way line of W. Gentry Parkway to **the place of beginning, containing 0.425 of an acre** of land more or less.

FILED
In the Office of the
Secretary of State of Texas
FEB 15 1990
Corporations Section

# ARTICLES OF INCORPORATION
# OF
# TYLER METROPOLITAN CHAMBER OF COMMERCE, INC.

We, the undersigned natural persons, at least two of whom are citizens of the State of Texas, and who are of the age of eighteen (18) years or more, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

## ARTICLE I

The name of the corporation is Tyler Metropolitan Chamber of Commerce.

## ARTICLE II

The corporation is a nonprofit corporation.

## ARTICLE III

The period if its duration is perpetual.

## ARTICLE IV

The corporation is organized and shall be operataed exclusively for charitable, religious, scientific, literary, or educational purposes either directly or by contributions to organizations that qualifty as exempt organizations under Section 501(c(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, including,but not limited to, assistance of citizens, particularly minorities, in the area of Tyler, Texas by attracting new and minority businesses and encouraging the development and retention of new and minority businesses in the area of Tyler, Texas including, but not limited to North Tyler.

## ARTICLE V

It is intended that the corporation be exempt from federal tax under Internal Revenue Code Section 501 (c)(3). No part of the net earnings of the corporation shall inure to the benefit of any Director of the corporation, officer of the corporation, or any private individual ( except that reasonable compensation may

be paid for services rendered to or for the corporation affecting one or more of its purposes), and no Director or officer of the corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in ( including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

ARTICLE VI

The corporation is to have two classes of members, voting and non-voting, but is to be managed by a board of directors. There shall be no cumulative voting.

ARTICLE VII

The street address of the initial registered office of the corporation is 505 S. Bois D' Arc, Tyler, Texas and the name of its initial registered agent is Va Lita F. Waits.

ARTICLE VIII

The number of directors consituting the initial board of the corporation is three (3). The names and addresses of the persons who are to serve as the initial directors and incorporators are:

Michael K. Mast
401 Dayton
Tyler, Texas

Mia Rosa Richardson
2105 N. Palace
Tyler, Texas

Va Lita F. Waits
1329 West Lollar
Tyler, Texas

ARTICLE IX

The board of directors of the corporation shall serve for a period of one year or until their successors are elected. The number of directors for future years, the manner of selecting the board of directors in the future, and the terms for which they shall be elected shall be governed and controlled by the bylaws of the corporation.

ARTICLE X

The board of directors of the corporation shall manage the affairs of the corporation and shall have such powers as are conferred upon them by the bylaws of the corporation, as amended from time to time.

ARTICLE XI

The bylaws of the corporation may be amended from time to time by the board of directors.

ARTICLE XII

The corporation shall indemnify each director and officer of the corporation against any loss incurred by such person in connection with any claim asseted against such officer or director, by action in court or otherwise, by reason of said officer or directoy being or having been such an officer or director (including attorney's fess actually and necessarily incurred by such officer or director in connection with such claim) to the full extent that corporations ar permitted to do so under the laws of the State of Texas.

IN WITNESS WHEREOF, we have hereunto set our hands this 25th day of January 1990.

MICHAEL K. MAST

MIA ROSA RICHARDSON

VA LITA F. WAITS

STATE OF TEXAS *

COUNTY OF SMITH *

I, the undersigned, a Notary Public, do hereby certify that on this 25th day of January 1990, personally appeared before me MICHAEL K. MAST, MIA ROSA RICHARDSON and VA LITA F. WAITS, Incorporators, and who being by me first duly sworn, declared that they are the persons who signed the foregoing document as incor-

porators, and that the statements therein contained are true.

JANIS D SIRIANNI
Notary Public
STATE OF TEXAS
My Comm. Exp. June 30, 1993

Janis D Sirianni
Notary Public, State of Texas

**BYLAWS OF**
**THE TYLER METROPOLITAN CHAMBER OF COMMERCE, INC.**

**A NONPROFIT CORPORATION**

2000 W. Gentry- Tyler, Texas 75702

OFFICES

Principal Offices

1.01 The principal office of the corporation in the State of Texas shall be located in the city of Tyler, County of Smith. The corporation may have such other offices, either within or without the State, as the Board of Directors may determine or as the affairs of the corporation may require from time to time.
Registered Office and Registered Agent
The corporation shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office, as required by the Texas Non-Profit Corporation Act. The register office may by, but need not be, identical with the principal office of the corporation in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors.

Registered Office and Registered Agent

1.02 The corporation shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office, as required by the Texas Non-Profit Corporation Act. The register office may by, but need not be, identical with the principal office of the corporation in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors.

**ARTICLE II**

BOARD OF DIRECTORS

GENERAL POWERS

2.01 The affairs of the corporation shall be managed by its Board of Directors. The Board of Directors shall have those management powers as are conferred upon directors of non-profit corporations by the laws of the State of Texas and by these By-Laws.

Number, Tenure, and Qualifications

2.02 The initial number of Directors shall not exceed sixteen (16).

2.0a The initial Directors shall serve two-year terms. At the end of the initial two-year, five (5) Directors shall be elected to serve a one-year term; six (6) directors shall be elected to serve a two-year term; and five (5) Directors shall be elected to serve a three-year term. Thereafter, five (5) Directors will be elected annually to serve two-year terms. A Director is not limited to the number of terms he or she may be elected. A Director who no longer wishes to serve on the Board shall submit a resignation letter to the President of the Board.

2.02b The Director/s must be in good financial standing with the Chamber. A good standing member is one who is an annual paid member of the Tyler Metro Chamber of Commerce. The Board of Directors may add an ex officio from time to time.

Regular Meetings

2.03 The Board of Directors meetings shall be held monthly. The Board of Directors shall provide by resolution the time and place, either within or without the State of Texas, for the holding of additional meeting of the Board without other notice than such resolution. The meetings may be changed by resolution.

Special Meetings

2.04 Special meetings of the Board of Directors may be called by or at the request of the President or any five (5) Directors. The person or persons authorized to call special meetings of the Board may fix any place, either within or without the State of Texas, as the place for holding any special meetings of the Board called by them.

Notice

2.05 Notice of any special meeting of the Board of Director shall be given at least two days prior to said meeting by written notice delivered personally or sent by mail or telegram to each Director at his or her address as shown by the records of the corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed delivered when the telegram is delivered to the telegram company. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular of special meeting of the Board need be specified in the notice or waiver of the notice of such meeting, unless specifically required by law or the these by-laws.

Quorum

2.06 A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the Directors are present as said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. A majority of the Directors consists of 50% + 1.

Manner of Acting

2.07 The act of a majority of the Directors present at the meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these by-laws.

Vaccines

2.08 Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of Directors shall be filled the President of the Board of Directors. A Director appointed to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.
The appointment shall be with the advice and consent of the members of the Board of Directors.
Ratification of the appointment shall be by simple majority.

Compensation

2.09 Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular of special meeting of the Board: but nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation thereof. Each Director shall annually sign the Conflict-of-Interest Policy.

Informal action by Directors

2.10 Any action required by law to be taken at a meeting of Directors or any action which may be taken at a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Directors.

Director's Action Without Meeting

2.11 A written resolution approved in writing by all of the Directors shall be valid and have the same force and effect as a resolution adopted by the Board of Directors at a regular meeting.

**ARTICLE III**

## OFFICERS

### Officers

3.01 The officers of the corporation shall be a President, one or more Vice-Presidents (the number thereof to be determined by the Board of Directors), Secretary, Treasurer, and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect of appoint such other officers, including one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time by the Board of Directors.
Any two or more offices may be held by the same person, except the offices of President and Secretary.

### Election and Term of Office

3.02 The officers of the Board of Directors shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. New offices may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified.

3.02a Balloting shall be by secret ballot.

### Removal

3.03 Any officer elected or appointed by the President of the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

3.03a A two-thirds majority vote of all members is required for removal of an officer.

### Vacancies

3.04 A vacancy in any office because of death, resignation, disqualification of otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

### President

3.05 The President shall be the principal executive officer of the corporation and shall in general supervise and control all of the business and affairs of the corporation. The President shall preside at all meetings of the members of the Board of Directors. He or She may sign, with the Secretary or any other proper officer of the corporation authorized by the Board of Directors, any deeds, mortgages, bond, contracts or other instruments which the Board of Directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these by-laws or by statue to some other officer or agent of the corporation; and in general he or she shall perform all other duties as may be prescribed by the Board of Directors from time to time. The President shall be the final arbiter on all matters.

### Vice President

3.06 In the absence of the President of in the event of the President's inability or refusal to act, the Vice-President (or in the event there be more than one Vice-President, the Vice-Presidents in order of their election) shall perform the duties of the President, and when so acting shall have all of the powers and be subject to all the restrictions upon the president. Any Vice-President shall perform such other duties as from time to time may be assigned to him by the President or Board of Directors.

### Treasurer

3.07 If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties, as the Board of Directors shall determine. He or she shall have charge

and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporations from any source whatsoever, and deposit all such moneys in the name of the corporations in such banks, trust companies, or other depositaries as shall be selected in accordance with provisions of Article V of these by-laws; and in general perform all the duties incident tot eh office of Treasurer and such other duties as from time to time may be assigned to him by the president of the Board of Directors

Secretary

3.08 The Secretary shall keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for the purpose; give all notices in accordance with the provisions of these by-laws or as required by law; be custodian of the corporate records and of the seal of the corporation, and affix the seal, if any, of the corporation to all documents, the execution of which on behalf of the corporation under its seal, if any, is dully authorized in accordance with the provisions of these by-laws; keep a register of the post-office address of each member which shall be furnished to the Secretary by each member; and, in general, perform all duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

Assistant Treasurers and Assistant Secretaries

3.09 If required by the Board of Directors, the Assistant Treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine.
The Assistant Treasurer or the Secretary or by the President or the Board of Directors.

## ARTICLE IV

COMMITTEES

Committees of Directors

4.01 The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, to the extent provided in said resolution Shall have and exercise the authority of the Board of Directors in the management of the coloration. However, no such committee shall have the authority of the Board of Directors in reference to amending, altering, or repealing the by-laws; electing or appointing, or removing any member of any such committee or any Director or officer of the corporation; amending the Articles of Incorporation or these by-laws authorizing the voluntary dissolution of the corporation or revoking proceedings thereof; adopting a plan for the distribution of the assets of the corporation; or amending, altering, or repealing any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered or repealed by such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Directors, of any responsibility imposed on it, him or her by laws.

Executive Committee

4.02 The President of the Corporation, with the approval of the Board of Directors, may appoint an Executive Committee, and such Executive Committee shall exercise the authority of the Board of Directors in the management of the coloration unless expressly limited by the board of Directors, and except as herein stated. The Executive Committee shall not, however, have the authority of the Board of Directors in reference to: amending, altering or repealing by-laws; electing, appointing, removing any member of the Executive Committee; or any director or officer or the corporation; amending the Articles of Incorporation; adopting a plan of merger or adopting a plan of sale, lease, exchange or mortgage of all substantially all of the property and assets of the corporation or revoking proceedings therefore; adopting a plan fro the amending, altering or repealing any resolution of the Board of Directors. All of the foregoing powers are exclusively reserved to the Board of Directors.

4.02a The President shall serve as Chairman of the Executive Committee.

4.02b The Executive Committee may provide by resolution the time and place for the holding of regular meetings, without notice other than the resolution. Special meetings of the Executive Committee may be called by the President or any member of the Executive Committee on four (4) hours notice given personally by telephone, personally, or by fax; or forty-eight (48) hour notice given by mail. The Executive Committee meeting shall be fixed by the President. Neither the business to be transacted at nor the purpose of any special meeting of the Executive Committee need by specified in the notice or waiver of notice of the meeting.

4.02c A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business as any meeting of the Executive Committee. The action of a majority of the members present at such meetings at which a quorum is present shall be the act of the Executive Committee.
Nominating Committee

4.03 Each year the President shall appoint a Nominating Committee of five (5) members of the Board of Directors and two (2) from the general membership. The Nominating Committee shall select a slate of officers from the Board of Directors. Additional nominations for officers to be elected may be made by any voting member of the annual meeting when officers are elected.

Standing Committees

4.04 The standing committees of the corporation shall be; Budget and Finance; Membership Recruitment and Services; Program Planning and Development; Economic Development; ~~Conventions and Tourism~~; Human Resource Development; ~~Leadership Development~~; and ~~Public Affairs and Legislative Activities~~; and Community Development.

Other Committees

4.05 Other committees not having and exercising the authority of the Board of Directors in the management of the corporation may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, member of such committees shall be members of the Board of Directors and other persons as appointed by the President. Any members thereof may be removed by the person or persons authorized to appoint such members whenever in their judgment the best interests of the corporation shall be served by such removal.

Term of Office

4.06 Each member of a committee shall continue as such until the next annual meeting of the members of the corporation and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Chairman

4.07 One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof. Such shall be members in good financial standing with the corporation.

Vacancies

4.08 Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Quorum

4.09 Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Rules

4.10 Each committee may adopt rules for its own government not inconsistent with these by-laws or with rules adopted by the Board of Directors.

## ARTICLE V

CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Contracts

5.01 The Board of Directors may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these by-laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation. Such authority may be general or confined to specific instances.

Checks and Drafts

5.02 All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation and in such a manner as shall from time to time be determined by resolution of the Treasurer or an Assistant Treasurer and countersigned by the President or Vice-President of the Corporation.

Deposits

5.03 All funds of the corporation shall be deposited from time to time to the credit of the corporation in such bank, trust companies or other depositories as the Board of Directors may select .

Gifts

5.04 The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the corporation.

**ARTICLE VI**

BOOKS AND RECORDS

6.01 The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceeding of its members and Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the members of the Board of Directors and any members of the organization, if any members are ever admitted into membership.

**ARTICLE VII**

FISCAL PROVISIONS

7.01 The fiscal year of the corporation shall begin on the first day of January and end on the last day in December in each year.

Non-Profit Corporation Disposition of Earnings

7.02 The corporation is public, non-profit corporation. No dividends shall ever by paid, and no part of the net earnings of the corporation shall be distributed to or inure to the benefit of its directors or officers or other private person, association or corporation. All of the assets of the corporation, including all profits of the coloration, if any, shall be used in the corporation as stated in the Articles of Incorporation and by these by-laws. In the event of a dissolution of the corporation's obligations and liabilities shall be distributed to any organization selected by the Board of Directors which at the time is qualifies as to Section 501 (c) (3) corporation under the Internal Revenue Code, and no assets of the corporation shall inure to any director of officer of the corporation or any other individual. In making such distributions, the directors shall give first priority to organizations whose proposes, goals and objectives are the same and /or similar to those of this corporation.

**ARTICLE VIII**

WAIVER OF NOTICE

8.01 Whenever any notice is required to be given under the provisions of the Texas Non-Profit Corporation Act or under the provisions of the articles of incorporation or the by-laws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**ARTICLE IX**

MEMBERSHIP

Classes of Members

9.01 The corporation shall have two classes of members: voting and non-voting (friend).

9.01a A voting member is a business or individual who meets the membership requirements of a voting member.

9.01b A non-voting member is a friend of a business or individual who meets the membership requirements of a voting member.

Qualifications and Rights of Members

9.02 The Board of Directors shall determine the qualifications and rights of each class of members. Upon said determination, the Board of Directors shall amend the Membership Section 9.02 accordingly.

Issuance of Membership Indicia

9.03 The corporation may issue certificated, or cards or other instruments evidencing membership rights and voting rights as may be authorized in the by-laws.

Meeting of Members

9.04 Meeting of member shall be held at such place, either within or without this state, as may be provided in the by-laws.

Special Meetings

9.05 Special meetings of the members may be called by the President, the Board of Directors, by voting members having not less than one-tenth (1/10) of the votes entitled to be cast at such meeting or such other officers or persons as may be provided in the by-laws. Notice of special meetings shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personal or by mail, by or at the direction of the President, the Secretary or the officers or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his or her address as it appears on the records of the corporation, with postage between thereon paid.

Quorum

9.06 Voting members holding one-tenth (1/10) of the votes entitled to be cast, represented in person or by proxy, shall constitute a quorum. The vote of the majority of the votes entitled to be cast by the members present, or represented by proxy at a meeting at which a quorum is present, shall be the act of the members meeting, unless the vote of a greater number is required by law of the by-laws.

Transfer of Membership

9.08 Membership is this Corporation is not transferable or assignable.

**ARTICLE X**

INDEMNIFICATION

10.01 The corporation shall indemnify each director and officer of the corporation against any loss incurred by such person in connection with any claim asserted against such officer or director by action in court or otherwise by reason of said officer of director (including attorney's fees actually and necessarily incurred by such officer or director in connection with such claim) to the full extent that corporations are permitted to do so under the laws of the State of Texas. The corporation shall also have the power to purchase and maintain insurance on behalf of any person who is or was an officer or director of the corporation against any liability asserted against such persons and incurred by such persons against the liability in question under the laws of this State.

**ARTICLE XI**

AMENDMENTS TO BY-LAWS

11.01 These by-laws may be altered, amended or repealed, and new by-laws may be adopted by a majority or the Directors present at any regular meeting or at any special meeting, if at least two (2) days written notice is given of an intention to alter, amend or repeal these by-laws or to adopt new by-laws at such meeting.

## RECOMMENDED AMENDMENTS TO BYLAWS

The following are recommended amendments to the Bylaws of The Tyler Metropolitan Chamber of Commerce, Inc.:

2.02a – A Director is not limited to the number of terms he or she may be elected. A Director who no longer wishes to serve on the Board shall submit a resignation letter to the President of the Board.

2.02b – The Director/s must be in good financial standing with the Chamber. A good standing member is one who is an annual paid member of the Tyler Metro Chamber of Commerce.

2.05 – Notice of any special meeting of the Board of Directors shall be given at least two days prior to said meeting.

2.09 – Directors as such shall not receive any stated salaries for their services. Each Director shall annually sign the Conflict-of-Interest Policy.

4.03 – Each year the President shall appoint a Nominating Committee. The Nominating Committee shall select a slate of officers from the Board of Directors. odd #

4.04 – The standing committees of the corporation shall be: Budget and Finance; Membership; Community and Economic Development; and Bylaws/Policy and Procedures.

5.03 – All funds of the corporation shall be deposited from time to time to the credit of the corporation in such bank, trust companies or other depositories as the Board of Directors may select. Receipts of all deposits shall be kept and maintained by the Treasurer and/or the Office Manager.

# 4.05

# Attendance and Removal Policy

Tyler Metro Chamber of Commerce Board Members shall attend the monthly Board meetings. If a Board Member is unable to attend a meeting, they shall give the President or Executive Director 24 hours advance notice of their absence unless circumstances prevent such notice. Four absences will result in the removal of the Board Member from his/her position on the Board.

Board members who move out of Smith County during their tenure as a Board member must resign from the Board or they will be removed. All Board Members must be paid members of the Tyler Metro Chamber of Commerce. Any Board member who does not maintain good financial standing while serving on the Board must resign from the Board or they will be removed.

A replacement Board Member may be appointed by the Board to fulfill the term of any Board Member who resigns or is removed from the Board.

A member removed from the Board shall not be reinstated to the Board before the expiration of 2 years since their removal.

Each principal officer and director shall annually sign a statement that affirms that such person:

a. has received a copy of the Attendance and Removal Policy,

b. has read and understands the policy, and

c. has agreed to comply with the policy.

Signature _____

Printed name _____

Dated _____

# Tyler Metro Chamber of Commerce Foundation, INC.

# Bylaws

## PREAMBLE

These Bylaws are subject to, and governed by, the Texas Non-Profit Corporation Act and the Articles of Incorporation of TYLER METRO CHAMBER OF COMMERCE FOUNDATION, INC. In the event of a direct conflict between the provisions of these Bylaws and the mandatory provisions of the Texas Non-Profit Corporation Act, the Texas Non-Profit Corporation Act will be controlling.

## ARTICLE I – PURPOSE

1.1 General. The purposes for which FOUNDATION is organized are:

1.1.1 FOUNDATION is organized and shall be operated exclusively for charitable, economic, and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") or the corresponding section of any future federal tax code. Specifically, FOUNDATION shall work to empower a united and thriving community through leadership, education and innovation.

1.1.2 To engage in any and all lawful activities incidental to the foregoing purposes, except as otherwise restricted herein.

1.2 Powers. FOUNDATION is a non-profit corporation and shall have all of the powers, duties, authorizations, and responsibilities as provided in the Texas Non-Profit Corporation Act; provided, however, FOUNDATION shall neither have nor exercise directly or indirectly in any activity, that would invalidate its status as a corporation that is exempt from federal income taxation as an Foundation described in Section 501(c)(3) of the Code.

## ARTICLE II – OFFICES

2.1 Principal Office. The principal office of FOUNDATION shall be located at 2000 W. Gentry Pkwy, Tyler TX 75702.

2.2 Other Offices. FOUNDATION may have such other offices as the Board of Directors may determine or as the affairs of FOUNDATION may require from time to time.

# Tyler Metro Chamber of Commerce Foundation, INC.

# Bylaws

## ARTICLE III – BOARD OF DIRECTORS

3.1 General Powers and Responsibilities. FOUNDATION shall be governed by a Board of Directors ("the Board"), which shall have all of the rights, powers, privileges and limitations of liability of MissionCapital.org directors of a nonprofit corporation organized under the Texas Non-Profit Corporation Act. The Board shall establish policies and directives governing business and programs of FOUNDATION and shall delegate to the Executive Director and FOUNDATION staff, subject to the provisions of these Bylaws, authority and responsibility to see that the policies and directives are appropriately followed.

3.2 Number and Qualifications.

3.2.1 The Board shall have up to 15, but no fewer than 5, members. The number of Board members may be increased beyond 15 members or decreased to less than 5 members by the affirmative vote of a majority of the then-serving Board of Directors. A Board member need not be a resident of the State of Texas.

3.2.2 In addition to the regular members of the Board, representatives of such other Foundations or individuals as the Board may deem advisable to elect shall be Ex-Officio Board Members, but shall not have voting power, shall not count as one of the regular Board members, and shall not be eligible for office.

3.3 Board Compensation. The Board shall receive no compensation other than reasonable expenses. However, provided the compensation structure complies with Sections 6.8 and 6.8.1 of these Bylaws, nothing in these Bylaws shall be construed to preclude any Board Member from serving the Foundation in any other capacity and receiving compensation for services rendered.

3.4 Board Elections. The Governance Committee shall present nominations for new and renewing Board members at the Board meeting immediately preceding the beginning of the next fiscal year. Recommendations from the Governance Committee shall be made known to the Board in writing before nominations are made and voted on. New and renewing Board members shall be approved by a majority of those Board members at a Board meeting at which a quorum is present.

3.5 Term of Board. All appointments to the Board shall be for two year terms. No person shall serve more than three consecutive terms unless a majority of the Board at a Board meeting at which a quorum is present votes to appoint a Board member to one additional year. No person shall serve more than seven consecutive years. After serving a total of

three terms or three terms and one year, as the case may be, a Board member may be eligible for reconsideration as a Board member after one year has passed since the conclusion of such Board member's service.

3.6 Vacancies. Vacancies on the Board may be filled by a majority vote of the Board at a Board meeting at which a quorum is present. A Board member elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

3.7 Resignation. Each Board member shall have the right to resign at any time upon written notice thereof to the Board President, Secretary of the Board, or the Executive Director. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof, and the acceptance of such resignation shall not be necessary to make it effective.

3.8 Removal. A Board member may be removed, with or without cause, at any duly constituted meeting of the Board, by the affirmative vote of a majority of then-serving Board members.

3.9 Meetings. The Board's regular meetings may be held at such time and place as shall be determined by the Board. The President or any four regular Board members may call a special meeting of the Board on three days' notice to each member of the Board. Notice shall be served to each Board member via hand delivery, US mail, e-mail, or fax. The person or persons authorized to call special meetings of the Board may fix any place, so long as it is reasonable, as the place for holding any special meeting of the Board called by them.

3.10 Meeting minutes. At meetings of the Board, business shall be transacted in such order as the Board may determine from time to time. In the event the Secretary is unavailable, the Board President shall appoint a person to act as Secretary at each meeting. The Secretary, or the person appointed to act as Secretary, shall prepare minutes of the meetings which shall be delivered to FOUNDATION to be placed in the minute books of FOUNDATION.

3.11 Action by Written Consent. Any action required by law to be taken at a meeting of the Board, or any action that may be taken at a meeting of the Board, may be taken without a meeting if consent in writing setting forth the action so taken shall be signed by all Board members. Such consent shall be placed in the minute book of FOUNDATION and shall have the same force and effect as a unanimous vote of the Board taken at an actual meeting. The Board members' written consent may be executed in multiple counterparts or copies, each of which shall be deemed an original for all purposes. In addition, facsimile

signatures and electronic signatures or other electronic "consent click" acknowledgments shall be effective as original signatures.

3.12 Quorum. At each meeting of the Board or Board Committees, the presence of more than half of the currently installed board members shall constitute a quorum for the transaction of business. If at any time the Board consists of an even number of members and a vote results in a tie, the vote of the President shall be the deciding vote. The act of the majority of the Board members serving on the Board or Board Committees and present at a meeting in which there is a quorum shall be the act of the Board or Board Committees, unless otherwise provided by the Articles of Incorporation, these Bylaws, or a law specifically requiring otherwise. If a quorum is not present at a meeting, the Board members present may adjourn the meeting from time to time without further notice until a quorum shall be present. However, a Board member shall be considered present at any meeting of the Board or Board Committee if during the meeting he or she is in video or telephone communication with the other Board members participating in the meeting.

3.13 Proxy. A Board member who is unable to attend a meeting of the Board or a Board Committee may vote by written proxy given to any other voting member of the Board or Committee or designated staff member who is in attendance at the meeting in question. However, a vote by proxy will not be counted toward the number of Board members needed to be present to constitute a quorum for the transaction of business. No proxy shall be valid after three months from the date of execution. Each proxy shall be revocable unless expressly stated therein to be irrevocable or unless made irrevocable by law.

3.14 Board Member Attendance. An elected Board member who is absent from three consecutive regular meetings of the Board during a fiscal year is encouraged to re-evaluate with the Board President his/her commitment to FOUNDATION. The Board may deem a Board member who has missed three consecutive meetings without such a re-evaluation with the President to have resigned from the Board.

## ARTICLE IV – OFFICERS

4.1 Officers and Duties. The Board shall elect officers of FOUNDATION which shall include a President, a Vice President, a Secretary, a Treasurer, and such assistants and other officers as the Board shall from time to time determine. The officers may also include a Past President for a term of one (1) year. One person may hold any two or more offices, except the President and Secretary.

# Tyler Metro Chamber of Commerce Foundation, INC.

## Bylaws

4.2 President. The President shall preside at meetings and have the power to call meetings. The President shall be responsible for leadership of the Board in discharging its powers and duties and shall, in general, supervise and control all of the business and affairs of FOUNDATION. The President may sign contracts and other instruments on the Foundation's behalf.

4.3: Vice President. The Vice President shall have all powers and duties of the President during the President's absence, disability, or disqualification, or during any vacancy in the position of President, and such other powers or duties assigned by the President, the Board, or the Bylaws.

4.4 Past President. The Past President, if any, shall assist in advancing the goals and objectives of FOUNDATION through the application of knowledge gained through past Board experiences. The Past President shall be responsible for specific tasks delegated by the Executive Committee.

4.5: Secretary. The Secretary shall (a) cause the minutes of all Board and Executive Committee meetings and proceedings to be recorded, (b) certify the accuracy of such minutes, (c) cause notice of all meetings to be given, (d) attest the signatures of FOUNDATION'S officers and Board members as required, (e) sign correspondence on behalf of the Board, and (f) have all other powers assigned by the Board, the President, or these Bylaws. MissionCapital.org

4.6 Treasurer. The Treasurer shall have access to records of all receipts, disbursements, assets, and liabilities of the Foundation and shall report to the Board on the condition of such records and financial condition of FOUNDATION from time to time and at least quarterly. Prior to the beginning of the fiscal year, the Treasurer shall cause a proposed operating and capital expenditure budget to be presented to the Board for approval. The Treasurer shall cause to be prepared and submitted to the Board a financial statement showing FOUNDATION's net worth at the close of the fiscal year and cause a firm of outside certified public accountants to audit the Foundation's books and records at the end of each fiscal year. The Treasurer shall cause all employees of the Foundation responsible for the handling of funds to be adequately bonded and shall report on the fidelity bonds of such employees to the Board annually.

4.7 Election and Term of Office. All officers shall be members of the Board during their terms of office. Officers shall be elected for a one year term. No officer shall be eligible to serve more than two consecutive terms in the same office. The officers of the Board shall

be elected annually by the Board at regular Board meetings as terms expire or vacancies otherwise arise. A vacancy occurring in any office due to death, resignation, removal, disqualification, or any other reason may be filled by the Board for the unexpired portion of the term of office left vacant.

4.8 Removal. Any officer or agent (e.g., Executive Director) elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the Board, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

## ARTICLE V – COMMITTIES

5.1 Committee Presidents. The President may designate and appoint committees of the Board as deemed necessary. Each Board committee shall be Presided or co-Presided by a Board member appointed by the President or, at the President's discretion, selected by the committee's members, subject to the approval of the Board. Non-Board members may be appointed to any Board committees at the discretion of the President.

5.2 Standing Committees. The Board shall maintain the following standing committees: Executive Committee, Finance Committee, Development Committee, Governance Committee, and Marketing Committee.

5.2.1 Executive Committee. The Executive Committee shall be composed of the officers of FOUNDATION, the Presidents of each of the Board committees and, at the President's discretion, two additional voting Board members. The Executive Committee shall be responsible for conducting Board affairs in the intervals between meetings, dealing with matters of urgency that may arise between Board meetings, and coordinating the annual performance review of the Executive Director. The Executive Committee shall meet at the discretion of the President.

5.2.2 Finance Committee. The Finance Committee shall be composed of three or more Board members, one of whom shall be the Treasurer. The Finance Committee shall oversee all financial operations of the Foundation, develop long-range fiscal plans, procure and review any and all external audits, and prepare and recommend an annual operating budget to the Board.

5.2.3 Development Committee. The Development Committee shall be composed of three or more Board members. The Development Committee shall be responsible for the

# Tyler Metro Chamber of Commerce Foundation, INC.

## Bylaws

Foundation's fundraising activities and shall coordinate its fundraising goals with the Finance Committee and Marketing Committee.

5.2.4 Governance Committee. The Governance Committee shall be composed of three or more Board members. This committee shall recommend candidates to fill Board and officer vacancies and shall present a slate of candidates for officer and Board member positions to the Board before the regular Board meeting at which approval of recommended candidates will be sought. The Governance Committee shall also be responsible for overseeing Board governance which shall include orientation of new Board members, overseeing Board development tactics and programs, and using best efforts to review and update these Bylaws every two years.

5.2.5 Marketing Committee. The Marketing Committee shall be composed of three or more Board members. This committee shall focus on raising overall awareness about FOUNDATION in the Central Texas community as well as supporting the FOUNDATION staff and the Development Committee in furtherance of visibility and development goals.

5.3 Special Committees. The President may appoint special committees composed of Board members and/or non-Board members for purposes deemed appropriate by the President (i.e, special fundraising events, etc.). The term of such committees shall not be more than one year.

5.4 Advisory Council. The Board may maintain an Advisory Council which shall not have nor exercise the authority, responsibility, or duties of the Board. Except as otherwise provided in such resolution, members of such Advisory Council need not be Board members. The Board President shall appoint the members thereof. Any member may be removed by the Board President whenever, in the Board President's judgment, the best interests of FOUNDATION shall be served by such removal.

5.5 Term of Office. Each member of a committee and the Advisory Council shall serve a term of one year, unless the committee is sooner terminated or unless a committee member is removed from such committee or Advisory Council.

5.6 Vacancies. Vacancies in the membership of any committee or Advisory Council may be filled by appointments made in the same manner as provided in the case of the original appointments.

5.7 Quorum; Manner of Acting. The act of the majority of the committee members present at a meeting at which a quorum is present shall be the act of the committee.

5.8 Rules. Each committee may adopt rules for its own government not inconsistent with these Bylaws or with rules adopted by the Board.

## ARTICLE VI – MISCELLANEOUS

6.1 Fiscal Year. The fiscal year of FOUNDATION shall be from January 1st to December 31st.

6.2 Annual Budget. The Board shall adopt an annual operating budget, which specifies major expenditures by type and amount.

6.3 Books and Records. FOUNDATION shall keep correct and complete books and accounting records and shall also keep minutes of the proceedings of its Board.

6.4 Contracts and Grants. The Board may authorize any officer(s) or agent(s) of FOUNDATION to enter into contracts, leases, and agreements with and accept grants and loans from the United States; its departments and agencies; the State of Texas; its agencies, counties, municipalities, and political subdivisions; and public or private corporations, Foundations, and persons; and may generally perform all acts necessary for a full exercise of the powers vested in it. The Executive Director shall have authority to enter into such contracts and expend such funds on behalf of the Foundation as the Board may specify.

6.5 Checks, Drafts, or Orders for Payment. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of FOUNDATION shall be signed by such officer(s) or agent(s) of FOUNDATION and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Executive Director and co-signed by the Treasurer.

6.6 Deposits. All funds of FOUNDATION shall be deposited from time to time to the credit of FOUNDATION in such banks, trust companies, or other depositories as the Board shall select.

6.7 Acceptance of Gifts. The Board may accept on behalf of FOUNDATION any cash contribution, gift, bequest, or devise for the general purposes, or for any special purpose,

of FOUNDATION. Prior to acceptance of a significant non-cash contribution, gift, bequest, or devise, the Board shall determine, by resolution thereof, that the acceptance of such non-cash contribution, gift, bequest, or devise by FOUNDATION would be consistent with and further the purposes of FOUNDATION.

6.8 Contracts Involving Board Members and/or Officers. Upon full disclosure of a direct or indirect interest in any contract relating to or incidental to the operations of FOUNDATION, members of the Board and officers of FOUNDATION may be permitted to maintain a direct or indirect interest in any such contract, notwithstanding that at such time they may also be acting as individuals, or MissionCapital.org trustees of trusts, or beneficiaries of trusts, members or associates, or as agents for other persons or corporations, or may be interested in the same matters as shareholders, trustees, or otherwise; provided, however, that any contract, transaction, or action taken on behalf of FOUNDATION involving a matter in which a trustee or officer is personally interested as a shareholder, trustee, or otherwise shall be at arm's length and not in violation of the proscriptions in the Articles of Incorporation or these Bylaws which prohibit FOUNDATION'S use or application of its funds for private benefit; and provided further that no contract, transaction, or act shall be taken on behalf of FOUNDATION if such contract, transaction, or act would result in denial of FOUNDATION'S exemption from federal income taxation under the Code and its regulations, as they now exist or as they may hereafter be amended. In no event, however, shall any person or entity dealing with the Board or officers of FOUNDATION be obligated to inquire into the authority of the Board and officers to enter into and consummate any contract, transaction or take other action. Any Board member who would directly or indirectly benefit from a contractual relationship as described above shall not participate in the decision on whether that Board member shall be permitted by the Board to maintain such an interest.

6.9 Investments. FOUNDATION shall have the right to retain all or any part of any property – real, personal, tangible, or intangible – acquired by it in whatever manner and pursuant to the direction and judgment of the Board, to invest and reinvest any funds held by it without being restricted to the class of investments available to trustees by law or any similar restriction.

6.10 Exempt Activities. Notwithstanding any other provision of these Bylaws, no Board member, officer, employee, or representative of FOUNDATION shall take any action or carry on any activity by or on behalf of FOUNDATION which is not permitted to be taken or carried on by an Foundation exempt from federal income taxation under sections 501(a)

and 501(c)(3) of the Code and its regulations as they now exist or as they may hereafter be amended, or by an Foundation contributions to which are deductible under section 170(a)(1) of the Code and its regulations as they now exist or as they may hereafter be amended, by virtue of being charitable contributions as defined in section 170(c)(2) of the Code and its regulations as they now exist or as they may hereafter be amended.

6.11 Captions. Captions (i.e., article and section headings) are inserted in these Bylaws for convenience only and in no way define, limit, or describe the scope or intent of these Bylaws, or any provision hereof, nor in nay way affect the interpretation of these Bylaws.

6.12 Severability of Clauses. If any provision of these Bylaws is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and the remainder of these Bylaws shall remain operative and binding.

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

Date:
11/21/2024
Employer ID number:
99-4848661
Person to contact:
Name: T. Dugan
ID number: 0194356
Telephone: 877-829-5500
Accounting period ending:
December 31
Public charity status:
170(b)(1)(A)(vi)
Form 990 / 990-EZ / 990-N required:
Yes
Effective date of exemption:
September 16, 2024
Contribution deductibility:
Yes
Addendum applies:
No
DLN:
26053719001684

TYLER METRO CHAMBER FOUNDATION
C/O SANDRA BURNS
2000 WEST GENTRY PARKWAY
TYLER, TX 75702-3932

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** M-2

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to execute a construction contract for the Information Technology Infrastructure Relocation Project with Watson Commercial Construction, Ltd., for $3,050,000 (Bid No. 25-035), and approve an allowance of $430,000 for furniture, appliances, and server racks.

**Item Reference:** **Executive Session Item 1 10-12-2022 Half Cent; FY 2022-2023 Half Cent Sales Tax Annual Work Plan**

Nearly three years ago, recognizing the need for a long-term solution, the City Council authorized the City Manager on October 12, 2022, to purchase the former Clay White & Shaver Law Office at 205 West Locust Street for use by the Information Technology Department staff, Server, and Network Infrastructure.

Harris Craig Architects, Inc. was hired to design the renovations by current building codes, including ADA and Fire Regulations, and to ensure that the project meets all current and future IT infrastructure needs.

The project was advertised for proposals on April 30, 2025, and May 7, 2025. Bid proposals were opened at 2 pm on May 20, 2025. Four proposals were received as follows:

KEA General Contractors: $3,381,500
SCI Construction: $3,345,000
Riley Harris Construction: $3,057,000
Watson Commercial Construction: $3,050,000

Three alternate bid items were received, but it was decided not to utilize them. A committee evaluated the proposals, and Watson Commercial Construction, Ltd. received the highest score.

Funding:
Half Cent Sales Tax: $2,100,000
General Fund (IT): $1,385,000

**RECOMMENDATION:**

**The City of Tyler Engineering Department recommends that the City Council authorize the City**

**Manager to execute a construction contract for the Information Technology Infrastructure Relocation Project with Watson Commercial Construction, Ltd., for $3,050,000 (Bid No. 25-035), and approve an allowance of $430,000 for furniture, appliances, and server racks.**

**Attachments:**
IT Building Renvation Project Location Map.pdf
CIP 25-035 IT DEPT RENO & RELOCATION-BID TAB.pdf

**Drafted/Recommended By:**
**Department Leader** Darin Jennings, PE, City Engineer

**Edited/Submitted By:**
**City Manager**




# LOCATION MAP

**SEALED BIDS**
**BID TABULATION**

**CITY OF TYLER BID NUMBER: 25-035**
**PROJECT: IT DEPARTMENT RENOVATION & RELOCATION**

**DATE: 5/20/2025**
**TIME: 2:00PM**
**LOCATION: Purchasing Office**
**304 North Border**
**Tyler, TX 75702**

**City of Tyler**
**Tyler, Texas**

| CONTRACTORS | WATSON | KEA | RILEY HARRIS | SCI | |
|---|---|---|---|---|---|
| | | | | | |
| **BID SECURITY** | YES | YES | YES | YES | |
| | | | | | |
| **BASE SEALED BID** | $3,050,000.00 | $3,381,500.00 | $3,057,000.00 | $3,345,000.00 | |
| | | - | - | - | - |
| | | | | | |
| **Time of Completion** | | | | | |
| | | | | | |
| **ADDENDA** | | | | | |
| **#1** | YES | YES | YES | YES | |
| **#2** | YES | YES | YES | YES | |
| | | | | | |
| **ALTERNATES** | | | | | |
| **#1 Equipment Screen** | $50,800.00 | $10,500.00 | $18,700.00 | $28,000.00 | |
| **#2 Free-Standing Canopy** | $163,200.00 | $107,200.00 | $29,150.00 | $129,500.00 | |
| **#3 Ornamental Fence** | $56,600.00 | $72,000.00 | $53,400.00 | $36,500.00 | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

HARRIS · CRAIG ARCHITECTS INC.
1530 E. Grande Bvd.
Tyler, Texas
Phone: (903) 534-0995
Web: www.hcarch.com

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-1

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to purchase one (1) new SCL 1000 track loader for Storm Water from Lowe Tractor and Equipment Sourcewell Contract 112624-KBa for $34,053.55.

**Item Reference:**

The fleet replacement program budgets for departments to add additional units to their fleet when needed. For fiscal year 2025, it was decided that the Storm Water Department needed to replace unit 15559. Local Vendor Lower Tractor has 1) new SCL 1000 track loader with a 42" bucket for a purchase price of $34,043.55 under Sourcewell Contract # 112624-KBa. Funds will be from the FY25 replacement account 640-0661-641.26-04.

**RECOMMENDATION:**

**It is recommended that the City Council consider authorizing the City Manager to purchase one (1) new SCL 1000 track loader for Storm Water from Lowe Tractor and Equipment Sourcewell Contract 112624-KBa for $34,053.55.**

**Attachments:**
track loader quotes

**Drafted/Recommended By:**
**Department Leader** Stan Stoffregen Fleet Manager

**Edited/Submitted By:**
**City Manager**

Sourcewell

Ground Maintenance, CE, Utility Tractors, Mowers, RTV's - 112824-KBA
Ag Tractors with Related Attachments - 082923-KBA
NJPA Arkansas 4600041718
Nebraska 14777 (OC)
Mississippi 8200057336

SCL1000 WEB QUOTE #2890507
Date: 7/2/2025 6:50:58 AM

– Customer Information –
Schreck, Deborah
33152
City of Tyler
dschreck@tylertexas.com
9035311323

Replace 13559

Quote Provided By
LOWE TRACTOR & EQUIPMENT, INC.
Lazaro Rodriguez
3250 NNE Loop 323
Tyler, TX 75708
email: junior@lowetractor.com
phone: 9035935337

– Standard Features –

– Custom Options –

Kubota

SC Series SCL1000

*** EQUIPMENT IN STANDARD MACHINE ***

FEATURES
4.3" LCD Color Monitor
Password Protected Keyless Start,
12 Volt Charging Port
Push Button Continous Flow Remotes
LED Front Working Light
CII Coupler (Standard)
Loader Arm Drop Valve
2 Lever Quick Coupler (Optional)
Walk Behind Mode
Auto-Engage Parking Break
Prompted Service Interval Reminders
Solid State Controller for Electrical System
Ergonomic T-Drive Steering Controls
Fully Welded Track Frame
Five Sealed Oil Bath Track Rollers
Dual Flange Front Idler
Bucket Cylinder Fitting Covers
Impact Resistent Hood
Vertical Lift Loader Arms
Hydraulic Pilot Operated Loader
Case Drain, LH loader arm (Standard)
Hose Guide Attachment (Standard)
24.8 HP Turbo Charged Engine
NO DPF
9.8" Wide Tracks (Standard)

BASIC UNITS
SCL1000, Stand-On Compact Loader

OPERATIONAL DIMENSIONS
Operating Weight* 3035 Lbs.
Rated Operating Capacity (35% of Tipping Load) 1,000 Lbs.
Tipping Load 2,857 Lbs.
Auxiliary Hydraulics Flow 15.0 gpm
Travel Speed (Forward / Reverse) 4.9 / 4.9 mph
Reach @ Maximum Height 26"
Height to Hinge Pin 84.7"
Ground Clearance 7.4"
Low Idling Speed 1,250 rpm
Ground Pressure 4.0 PSI
54.5° Max Dump Angle 1,250 rpm

* Includes operator's weight, 175 lbs.

ENGINE
Kubota Model D902-T, Tier 4 Diesel Engine
3 Cylinder, 4 Cycle, Turbo Charged
23.7 Gross HP @ 2800 rpm
54.8 cu in Displacement

DIMENSIONS
Machine Height 55.8"
Width Over Tracks 35.8"
Width with 36" Standard Bucket 36"
Length (without Bucket) 84.9"
Length with Standard Bucket 107.7"

| | |
|---|---|
| SCL1000 Base Price: | $41,879.00 |
| (1) 42" LOW PRFL SHORT FLR CII BKT W/TEETH<br>AP-CL142LT-42" LOW PRFL SHORT FLR CII BKT W/TEETH | $1,136.00 |
| Configured Price: | $43,015.00 |
| Sourcewell Discount: | ($10,323.60) |
| SUBTOTAL: | $32,691.40 |
| Dealer Assembly: | $0.00 |
| Freight Cost: | $493.75 |
| PDI: | $400.00 |
| Machine Prep and Implement Make Ready/Delivery | $425.00 |
| TX HE TAX | $43.40 |
| Total Unit Price: | $34,053.55 |
| Quantity Ordered: | 1 |
| Final Sales Price: | $34,053.55 |

Purchase Order Must Reflect Final Sales Price.

To order, place your Purchase Order directly with the quoting dealer

DRAFT

*All equipment specifications are as complete as possible as of the date on the quote. Additional attachments, options, or accessories may be added (or deleted) at the discounted price. All specifications and prices are subject to change. Taxes are not included. The PDI fees and freight for attachments and accessories quoted may have additional charges added by the delivering dealer. These charges will be billed separately. Prices for product quoted are good for 60 days from the date shown on the quote. All equipment as quoted is subject to availability.

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**DitchWitch**
CORPORATE ACCOUNTS

# Quotation

**The Charles Machine Works, Inc.**
**Ditch Witch Division**
**1959 West Fir Avenue**
**P.O.Box 66**
**Perry, OK 73077**
**Phone No : 1-800-654-6481**
**Fax No : 580 336 0617**
**Email : global@ditchwitch.com**

## Sold-to Party Address

CITY OF TYLER
MEMBER #33152
406 W. OAKWOOD ST.
TYLER TX 75702-5649

## Information

| | |
|---|---|
| **Quotation No.** | 20226241 |
| **Document Date** | 07/01/2025 |
| **Customer No.** | 516111 |
| **Dealership** | WITCH EQUIPMENT COMPANY, INC. TYLER |
| **PO** | _____ |
| **Created by** | Jon McLarty |

**Global Account Price Quote**
**Quote Valid until : 08/05/2025**

TAXES ARE AN ESTIMATE AT TIME OF QUOTATION-ACTUAL TAX WILL BE CALCULATED AT TIME OF INVOICING. IF TAXES ARE QUOTED AND THIS IS A TAX EXEMPT TRANSACTION, PLEASE PROVIDE TAX EXEMPT CERTIFICATE OR LEASING DETAILS WITH YOUR PURCHASE ORDER.

**FOR MODEL SPECIFICATIONS OR OTHER INFORMATION, VISIT OUR WEBSITE AT WWW.DITCHWITCH.COM**



## Quotation Details

| Qty | Material Description | Unit Price | Discount | Amount |
|---|---|---|---|---|
| | *SOURCEWELL CONTRACT*<br>*110421-CMW*<br>**********<br>*PER SOURCEWELL CONTRACT*<br>*PLEASE ISSUE PURCHASE ORDER TO:*<br>*CHARLES MACHINE WORKS*<br>*1959 W FIR AVENUE*<br>*PERRY, OK 73077*<br>********** | | | |
| 1EA | SK900 - SK900<br>With the following configuration:<br>Manuals English<br>Rubber Tracks Wide Tracks 42 In<br>Ground Drive Control 2 Lever<br>Hydraulic Oil Standard<br>Color Standard | | | 35,295.12 |
| 1EA | 300-5564 - BUCKET, 44" | | | 771.87 |

**Confidentiality Notice:**
This quote may contain confidential information. The information is intended only for the individual or entity named. If you are not the intended recipient, please immediately notify us at 1-800-654-6481 to arrange for return of the document.

Ditch Witch
CORPORATE ACCOUNTS

# Quotation

**The Charles Machine Works, Inc.**
**Ditch Witch Division**
**1959 West Fir Avenue**
**P.O.Box 66**
**Perry, OK 73077**
**Phone No : 1-800-654-6481**
**Fax No : 580 336 0617**

## Sold-to Party Address

CITY OF TYLER
MEMBER #33152
406 W. OAKWOOD ST.
TYLER TX 75702-5649

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| **PO** | _____ |
| **Created by** | Jon McLarty |

**Global Account Price Quote**
**Quote Valid until : 08/05/2025**

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**FOR MODEL SPECIFICATIONS OR OTHER INFORMATION, VISIT OUR WEBSITE AT WWW.DITCHWITCH.COM**



## Quotation Details

| Qty | Material Description | Unit Price | Discount | Amount |
|---|---|---|---|---|
| | | Corporate Account Price | | 36,066.99 |
| | | Materials Surcharge | | 721.34 |
| | | Total Freight | | 650.00 |
| | | **Total Amount** | | $ 37,438.33 |

**Confidentiality Notice:**
This quote may contain confidential information. The information is intended only for the individual or entity named. If you are not the intended recipient, please immediately notify us at 1-800-654-6481 to arrange for return of the document.

*Sourcewell Quote* **ASSOCIATED SUPPLY COMPANY, INC.**

| | | | |
|---|---|---|---|
| **Sourcewell Vendor:** | Associated Supply Company, Inc.<br>2602 E Front St Tyler, Texas 75702 | **Prepared By:** | Travis Slick |
| **Phone:** | 903-593-0201 | **Mobile:** | 903.312.7224 |
| **Fax:** | 817-283-7836 | **Email:** | tslick@ascoeq.com |
| | | **Date Prepared:** | 5/21/2025 |
| **Government Agency:** | **City of Tyler SW# 33152** | | |
| **Ship To:** | **City of Tyler**<br>2300 W NW Loop 323<br>Tyler, TX 75702 | **Bill To:** | **City of Tyler**<br>PO Box 2039<br>Tyler, Texas 75710 |
| **Contacts' Name:** | Deb Schreck | **Phone:** | 903-316-1412 |
| **Email:** | dschreck@tylertexas.com | **Fax:** | |
| **Product Description:** | Case TL 100 Wide Track | **Sourcewell Contract:** | **11723** |
| **I. Price List Dated:** | 1/12/2024 | **Base Price:** | 47,492.00 |

**II: Base Bid Options (Itemized Below)**

| | | | | |
|---|---|---|---|---|
| Deluxe Wide | | Included | | |
| Standard Hydraulic Oil | | Included | | |
| Operator Manual - English | | Included | | |
| 42" Bolt on Cutting Edge & Bucket | | $ 310.00 | | |
| Wide Counterweight | | Included | | |
| Front Electric & Drain | | $ 517.00 | | |
| WideTrack 36" | | Included | | |
| Auto Engine Shutoff | | Included | | |
| 24 Month or 2,000 Hour Warranty | | Included | | |
| 5 Year SiteWatch | | Included | | |
| | **SUB-TOTAL:** | $ 827.00 | **SUB-TOTAL:** | $ - |
| | | | **Options List Price Total:** | $ 827.00 |
| **III. SUB-TOTAL OF I & II** | | | | $ 48,319.00 |
| **IV. Sourcewell Discount:** | 21.00% | $ 10,146.99 | **SOURCEWELL CONTRACT PRICE:** | $ 38,172.01 |
| **V: NON-BASE OPTIONS** | | | **Non-Base Options (%) =** | 0 |
| Inbound Freight | | $ 1,513.00 | | |
| Pre-Delivery Inspections | | $ 750.00 | | |
| Delivery | | Included | | |
| | **SUB-TOTAL:** | $ 2,263.00 | **SUB-TOTAL:** | $ - |
| **VI: UNPUBLISHED OPTIONS ADDED TO CONTRACT PRICE (SUBTOTAL OF COL1 & COL 2)** | | | | $ 2,263.00 |
| **VII: TOTAL IV + VI** | | | | $ 40,435.01 |
| **VIII: QUANTITY ORDERED UNITS:** | | 1 | | $ 40,435.01 |
| **IX: TRADE-IN OR OTHER CREDIT(S):** | | $ 3,135.01 | CASE Q2 Discount & Multi Unit Discount | $ 3,135.01 |
| | | | **TOTAL:** | $ 37,300.00 |

**PRICING SUBJECT TO CHANGE BASED ON AVAILABILITY**

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-2

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to purchase one (1) new M4wd cab tractor to replace unit 16414, from Lowe Tractor Sourcewell contract 082923-kba for $53,001.11.

**Item Reference:**

The fleet replacement program budgets for departments to add additional units to their fleet when needed. For fiscal year 2025, it was decided that the Street Department needed to replace unit 16414. Local Vendor Lower Tractor has 1) new M4wd cab tractor Sourcewell Contract 082923-kba for $53,001.11. Funds will be from the FY25 replacement account 640-0661-641.26-04.

**RECOMMENDATION:**

**It is recommended that the City Council consider authorizing the City Manager to purchase one (1) new M4wd cab tractor to replace unit 16414, from Lowe Tractor Sourcewell Contract 082923-kba for $53,001.11.**

**Attachments:**
Cab Tractor quote

**Drafted/Recommended By:**
**Department Leader** Stan Stoffregen Fleet Manager

**Edited/Submitted By:**
**City Manager**

Sourcewell

Ground Maintenance, CE, Utility Tractors, Mowers, RTV's - 112624-KBA
Ag Tractors with Related Attachments - 082923-KBA
NJPA Arkansas 4500041718
NJPA Delaware 655-17673
Nebraska 14777 (OC)
Mississippi 8200067336

M4-071HDC12 WEB QUOTE #2868671
Date: 4/17/2025 2:29:21 PM

– Customer Information –
Schreck, Deborah
33152
City of Tyler
dschreck@tylertexas.com
9035311323

16414

Quote Provided By
LOWE TRACTOR & EQUIPMENT, INC.
Lazaro Rodriguez
3250 NNE Loop 323
Tyler, TX 75708
email: junior@lowetractor.com
phone: 9035935337

Cab Tractor
F426
Steel Storm

– Standard Features –

Kubota

M Series

M4-071HDC12
UTILITY CAB TRACTOR, 4WD, HYDRAULIC SHUTTLE TRANSMISSION
*** EQUIPMENT IN STANDARD MACHINE ***

**DIESEL ENGINE**
Kubota V3307 Direct Injection
3.3L (203 cu. in.) 4 Cyl
EPA Tier 4 Emission Certified
SAE Gross HP:74.3
Engine Net HP: 68.7
Max . PTO HP: 60
Common Rail Electronic Fuel
Electronic Engine Management
Constant RPM Management
Turbocharged
130 Amp Alternator
12V 900 CCA Battery

EXHAUST EMISSION CONTROL TYPE
DPF System (Diesel Particulate Filter)

HYDRAULICS / HITCH / DRAWBAR
Open Center Gear Type
Max. Flow @ Rated Engine Speed: 2400 RPM
Power Steering: 6.3 gpm
Impl. Flow: 16.7 gpm
Total Flow

REMOTE VALVES
M4 Standard (1) SCD (Self Canceling Detent)
M4 Deluxe (2) SCD (Self Canceling Detent)
FD (Floating Detent)

3 POINT HITCH & DRAWBAR
Cat I/II 3-Point Hitch
@ Lift Points: 4189
(ASAE)@24" Behind:3307
Telescoping Lower Links
Telescoping Stabilizers
Swinging Drawbar - Straight

POWER TAKE OFF
Live-Independent Hyd. PTO
SAE 1 3/8" Six Spline
540 RPM @ 2160 Eng. RPM
540/540E Economy Optional on Standard Model
Provides 540 PTO @ 1828 Eng. RPM

TRANSMISSION
Fully Synchronized Transmission
12F / 12R Electro Hydraulic-Shuttle
Electronic De-clutch Button
Planetary Final Drives
Rear Differential Lock

FRONT AXLE
Hydrostatic Power Steering
4WD: Cast Iron, Bevel Gear 55 Deg

LIGHTING
2 Headlights - Tail lights
2 Hazard Flasher Lights w/Turn Signals

FLUID CAPACITY
Fuel Tank Capacity Cab: 23.8 gal
Cooling System:10.6 qts
Crankcase:12.7 qts
Hydraulics/Trans:50.8 qts
Hydraulics 10.6 gal
Front Axle 4WD: 5.8 qts

INSTRUMENTS
Tachometer/Hour meter
Oil Pressure
Fuel Gauge
Coolant Temperature

CAB (Ultra Grand Cab Category II)
Category 2 Pressurized
Flat Deck
Suspension Seat w/ Retractable Seat Belt and Adjustable Armrests
Adjustable backrest and headrest
Dual Level Air Conditioning & Heater
Front Wiper w/ Washer - 2 Speed
Radio Ready, Includes 2 Speakers
Antenna and Wiring Harness
2 Doors, Frameless all glass
Left & Right Side Steps
High Visbility Roof Panel
Sun Visor
Tilt Steering Wheel
Interior Dome Light
Accessory Plug 12V -15 Amp
Cup Holder
Ashtray
Horn
Interior Console Light

CAB LIGHTING
Standard: Halogen
Deluxe: LED
2 Front Work Lights
2 Rear Work Lights

SAFETY EQUIPMENT
Backup Alarm Ready
Deluxe: LED
Beacon Light Ready
Retractable Seat Belt
Flip-Up PTO Shield
Safety Start Switches:
Shuttle Lever Neutral
PTO - OPC Alarm 10 Sec.
Electric Key Shut Off
Parking Brake
Turn Signals
SMV Sign
Deluxe: Electric 4wd Engagment

– Custom Options –

| | |
|---|---|
| M4-071HDC12 Base Price: | $63,566.00 |
| (1) MID MOUNT WORK LIGHT KIT, M4 HAL<br>M7366-MID MOUNT WORK LIGHT KIT, M4 HAL | $453.00 |
| Configured Price: | $64,019.00 |
| Sourcewell Discount: | ($14,084.18) |
| SUBTOTAL: | $49,934.82 |
| Factory Assembly: | $325.00 |
| Dealer Assembly: | $55.00 |
| Freight Cost: | $793.75 |
| PDI: | $400.00 |
| Strobe Light/Back Up Alarm, Spotlight installation, Delivery | $1,425.00 |
| TX HETAX | $67.54 |
| Total Unit Price: | $53,001.11 |
| Quantity Ordered: | 1 |
| Final Sales Price: | $53,001.11 |

Purchase Order Must Reflect Final Sales Price.

**To order, place your Purchase Order directly with the quoting dealer**

DRAFT

Vermeer 691 Heads

| | | |
|---|---|---|
| SPECIAL OFFER | NORMAL | NORMAL OFFER |
| VERSION | CAB | CAB |
| REGION | NAFTA | |
| | POWERSTAR 75 | POWERSTAR 75 |
| ENGINE POWER | 75HP | 75 HP |
| BRAND | NHAG | NEW HOLLAND AG |
| TRANSMISSION | | |
| TRANSMISSION | 330276 | 12X12 POWER SHUTTLE |
| PACKAGE SELECTION | | |
| PACKAGES | X99801X | CUSTOM CONFIGURATION |
| POWER TRAIN | | |
| FRONT AXLE | 744580 | 4WD ELECTRO HYD LIMITED SLIP |
| TIRES | | |
| FRONT WHEELS AND TIRES | 8232404 | 11.2R24 R1W |
| REAR WHEELS AND TIRES | 8355404 | 16.9R30 R1W |
| HYDRAULICS | | |
| MID-MOUNT VALVES | 762164 | LESS MMV NEW |
| LOADER | | |
| BUCKET | XT8140X | LESS BUCKET_ |
| LOADER BRACKETS | 743593 | LESS FRONT LOADER |
| WEIGHTS | | |
| FRONT BALLAST | 390215 | LESS FRONT CARRIER AND WEIGHTS |
| REAR BALLAST | 330470 | 4 X 110 LB REAR WHEEL WEIGHTS |
| OPERATOR'S MANUALS | | |
| COUNTRY CONFIGURATION | 334255 | USA ENGLISH CONFIGURATION |
| HIDDEN ITEMS | | |

| | | |
|---|---|---|
| 3 POINT HITCH CONTROL | 332035 | 3-PT EXTERNAL CONTROL (MECH) |
| AIR CLEANER | 390200 | AIR CLEANER W/ PRE-CLEANER |
| BATTERY | 743585 | 100 AH BATTERY |
| COUNTRY CONFIGURATI | X98703X | MARKET PACK NOT FOR EU |
| DRAWBAR AND 3 POINT HITCH | 743598 | FLEX ENDS TLSPC STABILIZERS |
| ENGINE | 391013 | ENGINE F5C T4 |
| ENGINE EXHAUST | 743545 | A PILLAR EXHAUST W/GUARD |
| ENGINE OPTIONS | 390018 | FAN |
| FENDERS | 743599 | REAR FENDERS (30-34) |
| FRONT FENDERS | 390860 | LESS FRONT FENDERS |
| FRONT THREE POINT HITCH | 334218 | FAS SUPPORT + FHPL READY |
| FUEL TANK | 744574 | FUEL TANK + PROTECTION |
| HITCH | 743595 | LIFT-O-MATIC PLUS |
| HYD PUMP | 743563 | 12.5 GPM IMPLEMENT PUMP |
| LINKAGE DRAWBAR | XT8915X | LESS LINKAGE DRAWBAR |
| OPERATOR STRUCTURE #1 | 334183 | DELUXE CAB W/HIVIS PANEL |
| PARK LOCK | 759176 | HAND OPERATED PARKING BRAKE LE |
| PIN CONNECTOR | 334992 | STD+30AH+HORN+ACS |
| PTO | 743565 | 540 RPM PTO |
| REAR DIFF LOCK | 390381 | REAR MECH DIFFERENTAIL LOCK |
| REAR HITCHES/DRAWBAR | 392905 | SWINGING DRAWBAR LESS CLEVIS |
| REAR REMOTES | 743569 | 2 REMOTES 4 COUPLERS |
| RH/LH DRIVE | XT9847X | RH DRIVE |
| ROTARY BEACON | XT9146X | LESS LH ROTARY BEACON |
| RR MIRRORS | 743576 | 2 EXTERNAL MIRRORS |
| SEAT | 332850 | DELUX FABRIC SEAT W/AIR SUSP |
| SPECIAL COLORS/PANELS | X98502X | NEW HOLLAND BLUE |

| | | |
|---|---|---|
| SPEED | 743552 | 25 MPH (40 KPH) |
| TOOL BOX L/SET OF T | 332998 | TOOLBOX |
| TRLR BRK VLV | XT7130X | NO HYDRAULIC TRAILER BRAKES |
| WATERPROOF | 743558 | LESS WATERPROOF TRANSMISSION |
| WORK LAMPS | 332717 | 2 FRONT & 2 REAR ROOF WK LIG |

List Price $76,605.00
Dealer Invoice $62,691.98
City of Tyler Cost$61,500.00

*Sourcewell Quote* **ASSOCIATED SUPPLY COMPANY, INC.**

| | | | |
|---|---|---|---|
| **Sourcewell Vendor:** | Associated Supply Company, Inc.<br>2602 E Front St Tyler Texas | **Prepared By:** | Travis Slick |
| **Phone:** | 903-593-0201 | **Mobile:** | 903-312-7224 |
| **Fax:** | | **Email:** | tslick@ascoeq.com |
| | | **Date Prepared:** | 5/12/2025 |
| **Government Agency:** | **CITY OF TYLER**<br>**Sourcewell Member#: 33152** | | |
| **Ship To:** | **CITY OF TYLER**<br>410 W Oakwood<br>Tyler TX 75702 | **Bill To:** | **City of Tyler**<br>PO BOX 336<br>Tyler, Texas 75710 |
| **Contacts' Name:** | Debora Schreck | **Phone:** | 903-531-1323 |
| **Email:** | dschreck@tylertexas.com | **Fax:** | |
| **Product Description:** | **MY24 FARMALL 75C CAB** | **Sourcewell Contract:** | **082923 CNH-1** |
| **I. Price List Dated:** | 10/2/2023 | **Base Price:** | $82,499.00 |

**II: Base Bid Options (Itemized Below)**

| | | | | | |
|---|---|---|---|---|---|
| **CIH FARMALL 75C TRACTOR (173193)** | Included | | * 540 RPM PTO | Included | |
| *DELUXE CAB W/ HI-VIS PANEL | Included | | * 3RD FUNCTION -- 2MMV + DIVERTER | Included | |
| *DELUXE FABRIC SEAT W/ AIR SUSP. | Included | | * L620 NON-SELF LEVELING LOADER + SSQA | Included | |
| *INSTRUCTOR SEAT | Included | | *84" BUCKET | Included | |
| *HAND BRAKE | Included | | *4WD+ EH ENGAGE + LIMITED SLIP | Included | |
| *12x12 POWER SHUTTLE - 40KPH TRANS | Included | | *LESS FRONT CARRIER AND WEIGHTS | Included | |
| *3PT LIFT-O-MATIC PLUS | Included | | *4x110 REAR WHEEL WEIGHTS | Included | |
| *2 HYD. REAR REMOTES | Included | | *AND ALL OTHER STANDARD EQUIPMENT | Included | |
| *11.2R24 FRONT TIRES - R1W RADIAL | Included | | | | |
| *16.9R30 REAR TIRES - R1W RADIAL | Included | | | | |
| *74 Engine Hp/ 64PTO Hp | Included | | | | |
| **SUB-TOTAL:** | $ - | | **SUB-TOTAL:** | $ - | |
| | | | **Options List Price Total:** | $ - | |
| **III. SUB-TOTAL OF I & II** | | | | $ 82,499.00 | |
| **IV. HGAC Discount:** | 21.00% | $ 17,324.79 | **SOURCEWELL CONTRACT PRICE:** | $ 65,174.21 | |
| **V: NON-BASE OPTIONS** | | | **Non-Base Options (%) =** | 0 | |
| SHIPPING & HANDLING | | $ 971.86 | | $ - | |
| PDI / SET UP | | $ 700.00 | | $ - | |
| DELIVERY | | $ 1,000.00 | | $ - | |
| **SUB-TOTAL:** | | $ 2,671.86 | **SUB-TOTAL:** | $ - | |
| **VI: UNPUBLISHED OPTIONS ADDED TO CONTRACT PRICE (SUBTOTAL OF COL1 & COL 2)** | | | | $ 2,671.86 | |
| **VII: TOTAL IV + VI** | | | | $ 67,846.07 | |
| **VIII: QUANTITY ORDERED UNITS:** | | 1 | | $ 67,846.07 | |
| **IX: TRADE-IN OR OTHER CREDIT(S):** | | $ - | | $ - | |
| | | | **TOTAL:** | $ 67,846.07 | |

**Warranty Tractor : 2 yr or 2000 Hrs (whichever comes first)**

****PRICING SUBJECT TO CHANGE BASED ON MFG PRICE AT TIME OF INVOICE****

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-3

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to apply for and accept Smith County 9-1-1 District participation funding for various equipment upgrades for the Tyler Police Department, in the amount of $94,238.53.

**Item Reference:**

As part of the Tyler Police Department's Public Safety Answering Point (PSAP), telecommunicators provide services for law enforcement and fire personnel. They also answer initial calls for Emergency Medical Services and forward those to the appropriate response agency. In an on-going effort to maintain state-of-the-art equipment and remain responsive to the needs of Tyler citizens, there is an occasional need to evaluate and update facilities and equipment.

Each year, Smith County 9-1-1 District allows for Public Safety Answering Point (PSAP) funding reimbursements. The total amount for this PSAP funding request is $94,238.53. Per Smith County 9-1-1 District PSAP funding guidelines, any funding requests more than $5,000 must be authorized by the governing body of the requesting agency, in addition to submission of the form(s) attached. The three projects that make up this PSAP funding reimbursement request are below:

1. This fiscal year, numerous laptops for Police and Fire vehicles were replaced due to age and compatibility. The laptops serve as a vital tool to ensure effective delivery of 9-1-1 services because of our interconnected Computer Aided Dispatch (CAD) system. The estimated cost for the eligible laptop replacements is approximately $118,569.61, with Smith County 9-1-1 District agreeing to reimburse for 60% of the total cost, or $71,141.77.

2. In addition to in-car laptops, eight (8) desktop computers used inside the City of Tyler PSAP are slated for replacement due to limited hard drive space and a required migration to Windows 11. Because these are some of the primary computers running the Computer Aided Dispatch (CAD) system, the anticipated reimbursement from SC911 District is the full cost of $10,888.00.

3. A third project inside the City of Tyler PSAP involves adding a radio to a console that currently lacks those capabilities. Upgrading this console will bring the total number of radio consoles on the Dispatch floor to six (6). The cost for the radio upgrade is anticipated to be $12,208.76 and is anticipated to be reimbursed at 100% by the SC911 District.

**RECOMMENDATION:**

**It is recommended that the City Council approve the attached PSAP Participation Project funding requests and authorize the City Manager to accept Smith County 9-1-1 District funding in the amount of $94,238.53 for various equipment upgrades inside the Tyler Police Department PSAP.**

**Attachments:**
PSAP Part. Funding request form - In-car laptops ($71,141.77)
PSAP Part. Funding request form - Dispatch desktops ($10,888.00)
PSAP Part. Funding request form - Dispatch 6th radio ($12,208.76)

**Drafted/Recommended By:**
**Department Leader** Jimmy E. Toler / Chief of Police

**Edited/Submitted By:**
**City Manager**

# REQUEST FOR PUBLIC SAFETY ANSWERING POINT (PSAP) PROJECT PARTICIPATION FUNDS FROM SC 9-1-1 DISTRICT

Date of Request: **07-23-2025**

**The City of Tyler**, a local governmental entity in Smith County, Texas, hereby requests that the SC 9-1-1 District consider and approve this Request for Public Safety Answering Point (PSAP) Project Participation Funds to enhance and improve 9-1-1 System operations as described:

A. **Amount of Funds Requested** –*$71,141.77*

B. **Description of how funds will be used to enhance or improve 9-1-1 operations in Smith County**: The requested funds are 60% of the total amount the City of Tyler has expended so far in FY25 ($118,569.61) to replace aging laptops inside police and fire vehicles. The laptops serve as a vital tool as part of our interconnected Computer Aided Dispatch (CAD) system. The requested funds are designated as partial reimbursement for 54 laptops being replaced due to end of service life – 34 in law enforcement vehicles and 20 in fire apparatus.

I, the undersigned, am authorized to enter contracts on behalf of City of Tyler and I here represent that I am authorized to make this funding request on behalf of the City of Tyler.

I understand that should this request be approved, this Request form shall so note and be signed by the SC 9-1-1 Director and that by the addition of his signature, this document will be attached as either a fully incorporated EXHIBIT or AMENDMENT to the original *INTERLOCAL PUBLIC SAFETY ANSWERING POINT (PSAP) PROJECT PARTICIPATION FUNDING AGREEMENT* between SC 9-1-1 District and the City of Tyler.

I understand that should this request be denied, that the same or different future funding requests may be made and that each such request will be reviewed and approved or denied based on the totality of circumstances and funding opportunities available at the time of each such request.

Signed this _____ day of _____, 2025.

**On behalf of the City of Tyler**:

_____

Mayor Donald Warren, City of Tyler Authorized Representative

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**FOR SC 9-1-1 DISTRICT USE ONLY: Funding Approval or Denial**

1.____Having considered the foregoing and finding that mutual interests to improve Smith County 9-1-1 System services are served by granting the above-described funding request, the request is **HEREBY APPROVED**.

***OR***

2.____The District, having considered the above request, cannot currently fund the described project and therefore, the request is **HEREBY DENIED**.

Signed this _____ day of _____, 2025.

**On behalf of SC 9-1-1 District**:

_____

**Bill Morales, Director**

**A copy of the signed Request form shall be sent to the requesting entity by certified mail, return receipt requested.**

# REQUEST FOR PUBLIC SAFETY ANSWERING POINT (PSAP) PROJECT PARTICIPATION FUNDS FROM SC 9-1-1 DISTRICT

Date of Request: **07-23-2025**

**The City of Tyler**, a local governmental entity in Smith County, Texas, hereby requests that the SC 9-1-1 District consider and approve this Request for Public Safety Answering Point (PSAP) Project Participation Funds to enhance and improve 9-1-1 System operations as described:

A. **Amount of Funds Requested** –*$10,888.00*

B. **Description of how funds will be used to enhance or improve 9-1-1 operations in Smith County**: The requested funds are to be used to replace the current desktop computers being used by City of Tyler PSAP dispatchers. Due to limited hard drive space and a required migration to Windows 11, all eight (8) computers are being replaced. These computers support the Computer Aided Dispatch (CAD) system and are essential for reliable delivery of 9-1-1 services.

I, the undersigned, am authorized to enter contracts on behalf of City of Tyler and I here represent that I am authorized to make this funding request on behalf of the City of Tyler.

I understand that should this request be approved, this Request form shall so note and be signed by the SC 9-1-1 Director and that by the addition of his signature, this document will be attached as either a fully incorporated EXHIBIT or AMENDMENT to the original *INTERLOCAL PUBLIC SAFETY ANSWERING POINT (PSAP) PROJECT PARTICIPATION FUNDING AGREEMENT* between SC 9-1-1 District and the City of Tyler.

I understand that should this request be denied, that the same or different future funding requests may be made and that each such request will be reviewed and approved or denied based on the totality of circumstances and funding opportunities available at the time of each such request.

Signed this _____ day of _____, 2025.

**On behalf of the City of Tyler**:

_____

Mayor Donald Warren, City of Tyler Authorized Representative

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**FOR SC 9-1-1 DISTRICT USE ONLY: Funding Approval or Denial**

1.____Having considered the foregoing and finding that mutual interests to improve Smith County 9-1-1 System services are served by granting the above-described funding request, the request is **HEREBY APPROVED**.

***OR***

2.____The District, having considered the above request, cannot currently fund the described project and therefore, the request is **HEREBY DENIED**.

Signed this _____ day of _____, 2025.

**On behalf of SC 9-1-1 District**:

_____

**Bill Morales, Director**

**A copy of the signed Request form shall be sent to the requesting entity by certified mail, return receipt requested.**

# REQUEST FOR PUBLIC SAFETY ANSWERING POINT (PSAP) PROJECT PARTICIPATION FUNDS FROM SC 9-1-1 DISTRICT

Date of Request: **07-23-2025**

**The City of Tyler**, a local governmental entity in Smith County, Texas, hereby requests that the SC 9-1-1 District consider and approve this Request for Public Safety Answering Point (PSAP) Project Participation Funds to enhance and improve 9-1-1 System operations as described:

A. **Amount of Funds Requested** –*$12,208.76*

B. **Description of how funds will be used to enhance or improve 9-1-1 operations in Smith County**: The requested funds are to be used to add a sixth (6th) radio for Tyler Police and Fire dispatchers to communicate with all personnel. Currently, the City of Tyler PSAP has one console on the Dispatch floor that lacks a radio. Because of this, the console is frequently reserved for call-takers and/or personnel in training. To enhance 9-1-1 service delivery, a radio project from MCA has been quoted that will upgrade this console to match the others. The quoted price for the radio and its accessories is $12,208.76.

I, the undersigned, am authorized to enter contracts on behalf of City of Tyler and I here represent that I am authorized to make this funding request on behalf of the City of Tyler.

I understand that should this request be approved, this Request form shall so note and be signed by the SC 9-1-1 Director and that by the addition of his signature, this document will be attached as either a fully incorporated EXHIBIT or AMENDMENT to the original *INTERLOCAL PUBLIC SAFETY ANSWERING POINT (PSAP) PROJECT PARTICIPATION FUNDING AGREEMENT* between SC 9-1-1 District and the City of Tyler.

I understand that should this request be denied, that the same or different future funding requests may be made and that each such request will be reviewed and approved or denied based on the totality of circumstances and funding opportunities available at the time of each such request.

Signed this _____ day of _____, 2025.

**On behalf of the City of Tyler**:

_____

Mayor Donald Warren, City of Tyler Authorized Representative

---

**FOR SC 9-1-1 DISTRICT USE ONLY: Funding Approval or Denial**

1.____Having considered the foregoing and finding that mutual interests to improve Smith County 9-1-1 System services are served by granting the above-described funding request, the request is **HEREBY APPROVED**.

***OR***

2.____The District, having considered the above request, cannot currently fund the described project and therefore, the request is **HEREBY DENIED**.

Signed this _____ day of _____, 2025.

**On behalf of SC 9-1-1 District**:

_____

**Bill Morales, Director**

**A copy of the signed Request form shall be sent to the requesting entity by certified mail, return receipt requested.**

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-4

**Date:** July 23, 2025

**Subject:** Request that the City Council consider ratifying a payment of $54,843.00 to Capps-Capco Construction, Inc., for the emergency repair of the street failure of Lake Forest Dr. at Lake Lee.

**Item Reference:**

A reinforced concrete pipe (RCP) culvert under Lake Forest Dr. connecting the north silt pond to Lake Lee in the Woods, had separated joints. These separated joints allowed soil to enter the pipe and be poured into Lake Lee, undermining an inlet box and its connecting pipe to the culvert. This loss of soil also caused the curb, gutter, and street to fail, resulting in a lane closure and creating an emergency repair situation.

Capps-Capco was contracted to seal the separated joints in the two (2) 48" RCPs, replace the failed curb and gutter, replace the failed inlet box, and repair the asphalt roadway.

Funding Source: Stormwater Capital Outlay, General Fund

**RECOMMENDATION:**

**Request that the City Council consider ratifying a payment of $54,843.00 to Capps-Capco Construction, Inc., for the emergency repair of the street failure of Lake Forest Dr. at Lake Lee.**

**Attachments:**
2025-06-30_Lake_Forest_Dr_@_Lake_Lee_Emergency_Inv_107849_App'd

**Drafted/Recommended By:**
**Department Leader** Paul Neuhaus, P.E., M.S. - Stormwater Management and Environmental Compliance Engineer

**Edited/Submitted By:**
**City Manager**

CAPCO CONSTRUCTION, INC
13044 CR 192· Tyler, TX 75703
(903) 531-9670 ·Fax (903) 531-9675

**Date: June 30, 2025**
Job No:
Invoice Number: 107849

**City of Tyler**

**Re: CityofTyler_Lake Forest Drive @ Lake Lee**

| Category | Amount |
|---|---|
| Date of service : June 2025 | |
| Time/Labor/Equipment Charges | |
| Mobilization | $1,850.00 ✓ |
| Sod | $1,675.00 ✓ |
| Asphalt repair - 4" thick | $16,200.00 ✓ |
| New 10' x 3' Curb Inlet(5' deep) | $12,500.00 ✓ |
| Curb & Gutter | $5,518.00 ✓ |
| Collar Exist RCPs | $15,000.00 ✓ |
| Grout Headwall | $2,100.00 ✓ |
| **TOTAL INVOICE AMOUNT** | $54,843.00 |

Paul Neuhaus

**As always, we appreciate the opportunity to be of service.**
**Tax ID # 26-0368802**

Rec'd 06/30/2025
App'd 07/07/2025
Emergency repair of failed street, inlet box, curb and gutter, and culvert.
Capital Outlay Budget: $54,843.00
575-0748-748.26-29
CC 07/23/2025; Item C-A-6

# CAPPS-CAPCO CONSTRUCTION, INC. BID

**FOR**

## City of Tyler

### Lake Forest Drive @ Lake Lee

| ITEM NO | | QUANTITY | UNIT | UNIT PRICE | EXTENSION |
|---|---|---|---|---|---|
| | | | | | |
| 1.00 | Mobilization | 1.00 | LS | $1,850.00 | $1,850.00 |
| 2.00 | Sod | 1.00 | LS | $1,675.00 | $1,675.00 |
| 3.00 | Asphalt repair - 4" thick | 97.00 | SY | $150.00 | $14,550.00 |
| 4.00 | New 10' x 3' Curb Inlet (5' deep) | 1.00 | LS | $12,500.00 | $12,500.00 |
| 5.00 | Curb & Gutter | 62.00 | LF | $89.00 | $5,518.00 |
| 6.00 | Collar exist RCP's | 5.00 | EA | $3,750.00 | $18,750.00 |
| | | | | | |
| | | | | | |
| | Note: Existing pipe condition unknown until excavating | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | Total | | | | ✓ **$54,843.00** |

Capps-Capco Construction, Inc.
Contractor
13044 CR 192
Tyler, TX 75703

(Signature)

By (Printed Name)

City of Tyler

Paul Neuhaus

(Signature)

Paul Neuhaus - 05/19/2025

By (Printed Name)

*Capps-Capco Construction, Inc.*
*13044 CR 192*
*Tyler, TX 75703*
*903-561-6657*
*903-531-9675 fax*

5/15/2025



Separated Joint in Pipe Leading to Street Failure




Lake Forest Dr Street Failure



Separated Joint During Repair



Street Failure and Inlet Box that Failed and Settled Due to Soil Loss



Repaired Pipe




Repaired Inlet Box and Curb



Repaired Street and Area, Aerial View 01



Repaired Street and Area, Aerial View 02

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-5

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to execute and add Addendum #1 to the Work Order #02 to the Master Services Agreement with The C.T. Brannon Corporation for the design and construction phase services, as they relate to the 2025 Structure Flooding Projects for $42,300.00.

**Item Reference:** **CC 11/13/2024, Item C-A-13**

The scope of this Capital Improvement Project (CIP) is an amendment to an existing work order with The C.T. Brannon Corp to develop plans, bid, and construct a solution to solve a long-time problem and prevent future flooding of three (3) residential homes and multiple properties on Downing Street and Kidd Drive. The original study and solution proposed maintaining the existing storm main routing, requiring the demolition of structures built over a stormwater main because there is no easement.

A Preliminary Engineering Study (PER)/First Stage Design was performed as part of the 2025 Structure Flooding Project to confirm if a more cost-effective solution is available. The PER confirmed that adding an inlet and secondary stormwater main was more cost-effective. Since the project requires new easements and a parallel system to the existing one, a meeting with the residents has taken place to gain their approval of the project.

Funding source: Stormwater Capital Outlay, General Fund

**RECOMMENDATION:**

**It is recommended that the City Council consider authorizing the City Manager to execute and add Addendum #1 to the Work Order #02 to the Master Services Agreement with The C.T. Brannon Corporation for the design and construction phase services, as they relate to the 2025 Structure Flooding Projects for $42,300.00.**

**Attachments:**
2023-09-15_EA_MSA_WO_02_Add_1_2025a_Structure_Flooding
20250404_211152
F2755A2C-99BC-42A6-8F65-BAC7F07127B4
01
Screenshot 2025-07-08 131714

**Drafted/Recommended By:**
**Department Leader** Paul Neuhaus, P.E., M.S. - Stormwater Management and Environmental Compliance Engineer

**Edited/Submitted By:**
**City Manager**

## INDEX OF EXHIBITS

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***(Applicable only to construction contracts affecting City-owned buildings and other public works)***

## Exhibit A - E/A's Work Order / Scope of Services

**Addendum #1 to Existing Contract**

**Drainage Improvements**
**Downing St. & Kidd Dr.**
**Scope of Services**

## Phase 9 – Construction Plans for Downing Street & Kidd Drive Drainage Improvements

**Project Description:**
Downing Drive – Kidd Drive Drainage Improvements
Utilizing the preliminary work and studies already completed on this project, we will prepare construction plans and specifications for erosion control and drainage improvements including, easement preparation, bid documents, bidding, contract administration & RPR services.

**Basic Services per Section 1**

**DESIGN PHASE**

1. Coordinate boundary surveying and easement field note preparation.
2. Coordinate with Oncor, CenterPoint, Suddenlink & AT&T regarding relocations of facilities if needed.
3. Prepare construction plans using AutoCAD Civil 3D
4. Prepare plan/profile drawings of the proposed improvements
5. Provide 1 copy of construction plans for review at 75% & 95% completion.
6. Plan and profile sheets will be drafted at 1"=20' scale with 1"=5' vertical scale on 22"x34" paper. This will allow ½ sized sheets on 11x17 to be at 1"=40' scale.
7. Prepare preliminary Engineer's Opinion of Probable Construction Cost
8. Meetings with City on various items and coordination
9. Prepare bid documents, bid proposal, technical specifications and special specifications
10. Provide pdf copies of plans and specifications to City & Bidders

Payment for the **Design Phase** for the project will be a lump sum payment not to exceed**: Fifteen Thousand Dollars ($15,000.00)**

**BIDDING PHASE**

1. Coordinate bid advertisement with Purchasing Dept.
2. Coordinate and attend pre-bid meeting
3. Prepare bid addenda as necessary
4. Attend the bid opening, tabulate bids, and make a recommendation for award
5. Prepare contract documents using City of Tyler standard contract for Public Works.
6. Attend bid award at ½ Sales Tax meeting and City Council meeting.

Payment for the **Bidding Phase** will be a lump sum payment not to exceed: **Four Thousand Dollars ($4,000.00).**

**CONTRACT ADMINISTRATION PHASE**

1. Coordinate and attend pre-construction conference
2. Review monthly pay requests and make recommendations to City for payment
3. Attend meetings on site with Contractor and/or Utility Companies
4. Periodic site visits to check progress of construction
5. Review submittals & Answer RFI questions regarding construction plans & specifications
6. Coordinate construction staking
7. Prepare punch list at end of construction
8. Coordinate final walk through with City and make recommendation for final acceptance.

Payment for the **Contract Administration Phase** will be a lump sum payment not to exceed: **Six Thousand Five Hundred Dollars ($6,500.00).**

**ADDITIONAL SERVICES per Section 2**

The following subconsultants will be used for this project to perform the following tasks. Payment for these services shall be as shown in Section 5.1 of the contract. **An additional 10% will be added to all subconsultants bills.**

**Boundary and Topographic Surveying:** K.L. Kilgore and Associates, Inc
Tyler, TX

1. Prepare Field Notes and exhibits for drainage easements - $2,000 per parcel (lump sum). There are 4 easements needed for a total of $8,000 (lump sum).

**Resident Project Representative (RPR)**
We will provide RPR services per Section 3 of the contract at an hourly rate based on the attached rate sheet. At this time, estimate these services to total **Eight Thousand Dollars ($8,000)**. This work will be provided on an hourly basis with expenses based on the attached rate sheet. This amount will not be exceeded without approval by Owner.

## Summary

**(Including 10% override on subconsultants)**

**Phase 9 – Downing Street and Kidd Drive Drainage Improvements**

| | | |
|---|---|---|
| Design Phase | $ 15,000 | (lump sum not to exceed) |
| Bidding Phase | $ 4,000 | (lump sum not to exceed) |
| Contract Admin Phase | $ 6,500 | (lump sum not to exceed) |
| RPR Phase | $ 8,000 | (hourly not to exceed) |
| Boundary Surveys and Easements | $ 8,800 | (hourly not to exceed) |
| **Total** | **$ 42,300** | |

**WORK ORDER FOR PROFESSIONAL SERVICES**

**PROJECT: Structure Flooding**
**WORK ORDER NUMBER: 02, Add #1**

---

This Addendum constitutes authorization by the City of Tyler, Texas (OWNER) for The C.T. Brannon Corporation (ENGINEER) to provide engineering services for the above titled project (hereinafter called the PROJECT). The PROJECT includes the following Services:

ENGINEER shall provide engineering services for the OWNER in accordance with the STANDARD FORM OF AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES (hereinafter called the CONTRACT) dated **November 20, 2023**. The scope of services for this part of the work is generally as follows:

1) SECTION 1.2 – During the Preliminary Report Phase the ENGINEER shall: Provide the services described in SECTION 1.2 of the CONTRACT.

2) SECTION 1.3 – During the Preliminary Design Phase the ENGINEER shall: Provide the services described in SECTION 1.3 of the CONTRACT.

3) SECTION 1.4 – During the Final Design Phase the ENGINEER shall: Provide the services described in SECTION 1.4 of the CONTRACT.

4) SECTION 1.5 – During the Bidding and Negotiation Phase the ENGINEER shall: Provide the services described in SECTION 1.5 of the CONTRACT.

5) SECTION 1.6 – During the Construction Phase the Engineer shall: Provide the services described relating to bidding in SECTION 1.6 of the CONTRACT.

6) Project Specific Scope and Fees: PROJECT scope details are attached to this Work Order and fees for said scope are included.

7) PROJECT Schedule: The ENGINEER shall perform services for the PROJECT in accordance with the schedule in Exhibit B.

8) OWNER's Responsibilities: The OWNER's responsibilities shall be as described in SECTION 3 of the AGREEMENT.

9) Method of payment for various project components: OWNER shall pay the ENGINEER for services rendered as provided for in SECTION 5 of the said AGREEMENT unless modified herein and agreed to in writing by both parties to said contract.

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order No. 02 to the CONTRACT dated November 20, 2023 on this the 24th day of July , 2025.

| OWNER: | ENGINEER: |
|---|---|
| CITY OF TYLER, TEXAS | _____ |
| BY:_____ | BY:_____ |
| ATTEST:_____ | ATTEST:_____ |
| DATE:_____ | DATE:_____ |

Half Cent Sales Tax Board Approval Date: N/A

City Council Approval Date: July 23, 2025, Agenda Item Number: C-A-7

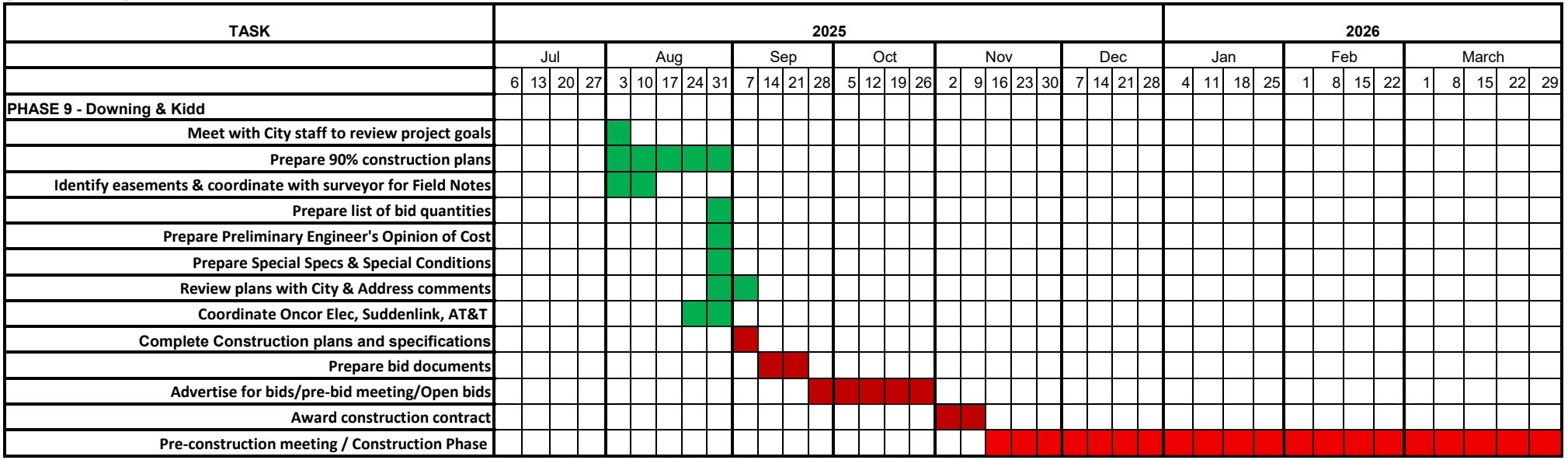
**Exhibit B - E/A's PROJECT Schedule**

**CITY OF TYLER**

**Design / Construction Schedule for 2025 STRUCTURE FLOODING PROJECTS**

**The C.T. Brannon Corporation**

(Nov 2024 - Dec 2025)



## Exhibit C - E/A's Rate Schedule and Hourly Fees

# Attachment II
# Current Hourly Charges for Professional Services

**PERSONNEL**

Charges include all salaries, salary expense, overhead and profit.

| | | |
|---|---|---|
| Principal | $ | 220.00 |
| Dual A Operator | $ | 150.00 |
| Project Manager | $ | 165.00 |
| Licensed Engineer | $ | 145.00 |
| Graduate Engineer III | $ | 110.00 |
| Graduate Engineer II | $ | 95.00 |
| Graduate Engineer I | $ | 90.00 |
| Intern | $ | 45.00 |
| Civil Technician | $ | 130.00 |
| Resident Project Representative | $ | 115.00 |
| Construction Services Manager | $ | 125.00 |
| Construction Services Technician II | $ | 95.00 |
| Construction Services Technician | $ | 85.00 |
| Office Technician | $ | 80.00 |
| Clerical | $ | 65.00 |

**EXPENSES**

| | | |
|---|---|---|
| Reproduction | | |
| B/W 8.5x11 per each | $ | 0.15 |
| Colored prints 8.5x11 per each | $ | 1.00 |
| Colored prints 11x17 per each | $ | 1.50 |
| “C”, “D” or “E” size Bond per each | $ | 5.00 |
| “C”, “D” or “E” size Vellum per each | $ | 15.00 |
| “C”, “D” or “E” size Mylar Film per each | $ | 15.00 |
| Travel per mile | $ | 0.70 + 10% |
| Lodging and meals (Out of town trips) | | Cost + 10% |
| Scanning | | |
| “C”, “D” or “E” sized Scanning of original per sheet (does not include plot) | $ | 2.00 |

Special contracted services such as reproduction, aerial photography, GPS (Global Positioning Satellite) surveys, contract surveying, geotechnical investigations, project models and artists renderings, and contract project representation is billed at the amount invoiced to us plus ten percent (10%).

April 28, 2025

## 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:<br>a) Products - Completed Operations<br>b) Independent Contractors<br>c) Broad Form Property Damage<br>d) X-C-U Coverage<br>X = Explosion Hazard<br>C = Collapse Hazard<br>U = Underground Damage<br>e) Contractual Liability or Cross Liability | Not Less than:<br>**$1,000,000** (1 million) Each Occurrence<br>**$2,000,000** (2 million) General Aggregate **Per PROJECT**<br><br>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:<br>a) Any Auto; OR<br>b) All Owned Autos, and<br>c) Hired Autos, and<br>d) Non-Owned Autos. | Not Less than:<br>**$1,000,000** (1 million) Each Occurrence |
| **3) PROFESSIONAL ERRORS & OMISSIONS LIABILITY** Policy shall include (but not limited to) the following:<br>a) A minimum three (3) year Discovery (tail) Reporting period, and<br>b) A Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder. | Not Less than:<br>**$1,000,000** (1 million) Each Claim<br>**$2,000,000** (2 million) Annual Aggregate<br><br>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<br><br>Not Less than:<br>**$1,000,000** (1 million) Each Claim<br>**$2,000,000** (2 million) Annual Aggregate |
| **5) COMMERCIAL UMBRELLA / EXCESS LIABILITY *** | Not Less than:<br>**$5,000,000** (5 million) Each Occurrence<br>**$5,000,000** (5 million) General Aggregate<br><br>Any Self-Insured-Retention or Deductible shall not exceed $25,000. |
| **6) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY** | **Statutory Limits for Workers' Compensation**<br>TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401<br>TEX. ADMIN. CODE, Title 28, Part 2<br>**Employer's Liability Limits**<br>**$1,000,000 (1 million)** Bodily Injury by Accident<br>**$1,000,000 (1 million)** Bodily Injury by Disease Each Occurrence<br>**$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.<br>*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)<br><br>Policy **effective date** is ON or BEFORE Contract date, and<br>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]<br>☒ **Occurrence** Box is Checked<br>☒ **Per PROJECT** Box is Checked for General Aggregate Limit. |
| 4. | Business Automobile Liability [*See* Section 7.3.2]<br>At a minimum each of the following boxes should be checked:<br>☒ Any Auto<br>OR<br>☒ All Owned Autos, and<br>☒ Hired Autos, and<br>☒ Non-Owned Autos. |
| 5. | Professional Errors and Omissions Liability [*See* Section 7.3.2] |
| 6. | Commercial Umbrella / Excess Liability [*See* Section 7.3.2]<br>☒ Occurrence Box is Checked |
| 7. | Workers Compensation and Employers Liability [*See* Section 7.3.2]<br>☒ WC Statutory Limits Box is Checked |
| | Look at the "Description of Operations . . . Special Provisions" Box.<br>[*See* Section 7.4] [*See also* Section 7.6]<br><br>Clearly indicate the **CITY** has been endorsed by using this language:<br><br>"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]<br>City of Tyler<br>P.O. Box 2039<br>Tyler, TX 75710 |

CTBRANN01C LJONES1

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/10/2025

**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: | |
|---|---|---|
| License # 1057464<br>INSURICA<br>4802 Kinsey Drive<br>Tyler, TX 75703 | PHONE (A/C, No, Ext): (903) 509-8808 | FAX (A/C, No): (903) 509-8818 |
| | E-MAIL ADDRESS: | |

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Central Mutual Insurance Company | 20230 |
| INSURER B : Valley Forge Insurance Company | 20508 |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED

The C. T. Brannon Corporation
P O Box 7487
Tyler, TX 75701

**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<br>[ ] CLAIMS-MADE [X] OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br>[ ] POLICY [X] PRO-JECT [X] LOC<br>[ ] OTHER: | X | X | BOP8930191 | 1/1/2025 | 1/1/2026 | EACH OCCURRENCE<br>DAMAGE TO RENTED PREMISES (Ea occurrence)<br>MED EXP (Any one person)<br>PERSONAL & ADV INJURY<br>GENERAL AGGREGATE<br>PRODUCTS - COMP/OP AGG | $ 2,000,000<br>$ 300,000<br>$ 10,000<br>$ 2,000,000<br>$ 4,000,000<br>$ 4,000,000 |
| A | AUTOMOBILE LIABILITY<br>[X] ANY AUTO<br>[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS<br>[X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY | X | X | BOP8930191 | 1/1/2025 | 1/1/2026 | COMBINED SINGLE LIMIT (Ea accident)<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident) | $ 1,000,000<br>$<br>$<br>$ |
| A | [X] UMBRELLA LIAB [X] OCCUR<br>[ ] EXCESS LIAB [ ] CLAIMS-MADE<br>[ ] DED [X] RETENTION $ 10,000 | X | X | CXS8930192 | 1/1/2025 | 1/1/2026 | EACH OCCURRENCE<br>AGGREGATE | $ 4,000,000<br>$ 4,000,000 |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ]<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N / A | X | WC 620878050 | 1/1/2025 | 1/1/2026 | [X] PER STATUTE [ ] OTH-ER<br>E.L. EACH ACCIDENT<br>E.L. DISEASE - EA EMPLOYEE<br>E.L. DISEASE - POLICY LIMIT | <br>$ 1,000,000<br>$ 1,000,000<br>$ 1,000,000 |

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

**The City of Tyler is included as an Additional Insured including ongoing and completed operations as respects General Liability and granted Additional Insured as respects Auto Liability. Granted Waiver of Subrogation as respects to General Liability, Auto, and Workers' Compensation all as required by written contract subject to policy terms, conditions and exclusions. Coverage is primary and non contributory as respects General Liability and Auto as required by written contract. Policies are endorsed to provide (30) days Notice of Cancellation to the certificate holder shown below.**

**CERTIFICATE HOLDER**

City of Tyler
2025 Structure Flooding
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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# 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)<br>or Organization(s):<br>City of Tyler<br>P.O. Box 2039<br>Tyler, TX 75710</td><td>Location(s) of Covered Operations:<br><br>PROJECT [insert project name],<br>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<br><br>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<br>1</td><td colspan="2">FORM: CG 20 10 10 01<br>Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization<br><br>AND<br>FORM: CG 20 37 07 04<br>Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option<br>2</td><td colspan="2">FORM: CG 20 10 07 04<br>Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization<br><br>AND<br>FORM: CG 20 37 07 04<br>Additional Insured – Owners, Lessees, or Contractors – Completed Operations</td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option<br>3</td><td colspan="2">FORM: GA 4113 11 99<br>Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work<br>AND<br>FORM: GA 233 02 07<br>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<br><br>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<br><br>♦ 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>

# BLANKET ADDITIONAL INSURED AND LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

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## I. BLANKET ADDITIONAL INSURED PROVISIONS

### A. ADDITIONAL INSURED – BLANKET VENDORS

**Who Is An Insured** is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed under a "**written contract**" to provide insurance, 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, subject to the following additional exclusions:

**1.** The insurance afforded the vendor 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

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**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:

**(1)** The exceptions contained in Subparagraphs **d.** or **f.**; or

**(2)** 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.

**3.** This provision **2.** does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.

**4.** This provision **2.** does not apply if "**bodily injury**" or "**property damage**" included within the "**products-completed operations hazard**" is excluded either by the provisions of the Policy or by endorsement.

**B. MISCELLANEOUS ADDITIONAL INSUREDS**

**1.** **Who Is An Insured** is amended to include as an insured any person or organization (called additional insured) described in paragraphs **3.a.** through **3.j.** below whom you are required to add as an additional insured on this policy under a "**written contract**."

**2.** However, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide the additional insured with:

**a.** A higher limit of insurance than required by such "**written contract**;"

**b.** Coverage broader than required by such "**written contract**" and in no event greater than that described by the applicable paragraph a. through k. below; or

**c.** Coverage for "**bodily injury**" or "**property damage**" included within the "**products-completed operations hazard**." But this paragraph **c.** does not apply to the extent coverage for such liability is provided by paragraph **3.j.** below.

Any coverage granted by this endorsement shall apply only to the extent permitted by law.

**3.** Only the following persons or organizations can qualify as additional insureds under this endorsement:

**a. Controlling Interest**

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

**(1)** such person or organization's financial control of you; or

**(2)** Premises such person or organization owns, maintains or controls while you lease or occupy these premises;

provided that the coverage granted to such additional insureds does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

**b. Co-owner of Insured Premises**

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" as co-owner of such premises.

**c. Grantor of Franchise**

Any person or organization that has granted a franchise to you, but only with respect to such person or organization's liability for "**bodily injury**," "**property damage**," or "**personal and advertising injury**" as grantor of a franchise to you.



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**d. Lessor of Equipment**

Any person or organization from whom you lease 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 such equipment, provided that the "**occurrence**" giving rise to such "**bodily injury**" or "**property damage**" or the offense giving rise to such "**personal and advertising injury**" takes place prior to the termination of such lease.

**e. Lessor of Land**

Any person or organization from whom you lease land, but only with respect to liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance or use of that specific part of the land leased to you, provided that the "**occurrence**" giving rise to such "bodily injury" or "**property damage**" or the offense giving rise to such "**personal and advertising injury**," takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**f. Lessor of Premises**

An owner or lessor of premises leased to you, or such owner or lessor's real estate manager, but only with respect to liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance or use of such part of the premises leased to you, and provided that the "**occurrence**" giving rise to such "**bodily injury**" or "**property damage**" or the offense giving rise to such "**personal and advertising injury**," takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**g. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee, or receiver's liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance, or use of a premises by you.
This insurance does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**h. State or Political Subdivisions**

A state or government agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such government agency or subdivision or political subdivision's liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of:

**(1)** The following hazards in connection with premises you own, rent, or control and to which this insurance applies:

**(a)** The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

**(b)** The construction, erection, or removal of elevators; or

**(c)** The ownership, maintenance or use of any elevators covered by this insurance; or

**(2)** The permitted or authorized operations performed by you or on your behalf. But the coverage granted by this paragraph does not apply to:

**(a)** "**Bodily injury**", "**property damage**" or "**personal and advertising injury**" arising out of operations performed for the state or government agency or subdivision or political subdivision; or

**(b)** "**Bodily injury**" or "**property damage**" included within the "**products-completed operations hazard**."

With respect to this provision's requirement that additional insured status must be requested under a "**written contract**," we will treat as a "**written contract**" any governmental permit that requires you to add the governmental entity as an additional insured.

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**i. Trade Show Event Lessor**

With respect to your participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom you are required to include as an additional insured, but only with respect to such person or organization's liability for "**bodily injury**," "**property damage**," or "**personal and advertising injury**" caused by:

**a.** Your acts or omissions; or

**b.** Acts or omissions of those acting on your behalf;

in the performance of your ongoing operations at the trade show premises during the trade show event.

**j. Other Person or Organization**

Any person or organization who is not an additional insured under paragraphs **a.** through **i.** above. Such additional insured is an insured solely for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" for which such additional insured is liable because of your acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

**(1)** For "**bodily injury**," "**property damage**," or "**personal and advertising injury**" arising out of the rendering or failure to render any professional services;

**(2)** For "**bodily injury**" or "**property damage**" included in the "**products-completed operations hazard**." But this provision **(2)** does not apply to such "**bodily injury**" or "**property damage**" if:

**(a)** It is entirely due to your negligence and specifically results from your work for the additional insured which is the subject to the "**written contract**"; and

**(b)** The "**written contract**" requires you to make the person or organization an additional insured for such "**bodily injury**" or "**property damage**"; or

**(3)** Who is afforded additional insured coverage under another endorsement attached to this policy.

**C. ADDITIONAL PROVISIONS PERTINENT TO ADDITIONAL INSURED COVERAGE**

**1.** With respect only to additional insured coverage provided under paragraphs **A.** and **B.** above:

**a.** The **BUSINESSOWNERS COMMON POLICY CONDITIONS** are amended to add the following to the Condition entitled **Other Insurance**:

This insurance is excess of all other insurance available to an additional insured whether primary, excess, contingent or on any other basis. However, if a "**written contract**" requires that this insurance be either primary or primary and noncontributing, then this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.

**b.** Under **Liability and Medical Expense Definitions**, the following definition is added:

"**Written contract**" means a written contract or agreement that requires you to make a person or organization an additional insured on this policy, provided the contract or agreement:

**(1)** Is currently in effect or becomes effective during the term of this policy; and

**(2)** Was executed prior to:

**(a)** The "**bodily injury**" or "**property damage**;" or

**(b)** The offense that caused the "**personal and advertising injury**";

for which the additional insured seeks coverage.

**2.** With respect to any additional insured added by this endorsement or by any other endorsement attached to this Coverage Part, the section entitled **Who Is An Insured** is amended to make the following natural persons insureds.

If the additional insured is:

**a.** An individual, then his or her spouse is an insured;



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**b.** A partnership or joint venture, then its partners, members and their spouses are insureds;

**c.** A limited liability company, then its members and managers are insureds;

**d.** An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are insureds; or

**e.** Any type of entity, then its employees are insureds;

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations. Furthermore, employees of additional insureds are not insureds with respect to liability arising out of:

**(1)** "**Bodily injury**" or "**personal and advertising injury**" to any fellow employee or to any natural person listed in paragraphs **a.** through **d.** above;

**(2)** "**Property damage**" to property owned, occupied or used by their employer or by any fellow employee; or

**(3)** Providing or failing to provide professional health care services.

## II. LIABILITY EXTENSION COVERAGES

It is understood and agreed that this endorsement amends the **Businessowners Liability Coverage Form**. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

### A. Bodily injury – Expanded Definition

Under **Liability and Medical Expenses Definitions**, the definition of "**Bodily injury**" is deleted and replaced by the following:

"**Bodily injury**" means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the physical injury, sickness or disease.

### B. Broad Knowledge of Occurrence

Under Businessowners Liability Conditions, the Condition entitled Duties In The Event of Occurrence, Offense, Claim or Suit is amended to add the following:

Paragraphs **a.** and **b.** above 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 applies separately to you and any additional insured.

### C. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives and spouses of any natural person insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives and spouses only for claims arising solely out of their capacity as such and, in the case of a spouse, where such claim seeks damages from marital common property, jointly held property, or property transferred from such natural person insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative or spouse outside the scope of such person's capacity as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.

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**D. Fellow Employee First Aid Coverage**

In the section entitled **Who Is An Insured**, paragraph **2.a.1.** is amended to add the following:

The limitations described in subparagraphs **2.a.1.(a)**, **(b)** and **(c)** do not apply to your "**employees**" for "**bodily injury**" that results from providing cardiopulmonary resuscitation or other first aid services to a co-"**employee**" or "**volunteer worker**" that becomes necessary while your "**employee**" is performing duties in the conduct of your business. Your "**employees**" are hereby insureds for such services. But the insured status conferred by this provision does not apply to "**employees**" whose duties in your business are to provide professional health care services or health examinations.

**E. Legal Liability – Damage To Premises**

**1.** Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, Exclusion **k. Damage To Property**, is replaced by the following:

**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 any real property on which you or any contractors or subcontractors working directly or indirectly in 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.

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 **1**, **3**, and **4**, of this exclusion do not apply to "**property damage**" (other than damage by fire or explosion) to premises:

**(1)** rented to you:

**(2)** temporarily occupied by you with the permission of the owner, or

**(3)** to the contents of 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 – Liability and Medical Expenses Limits of Insurance.

Paragraphs **3**, **4**, **5**, and **6** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **6** of this exclusion does not apply to "**property damage**" included in the "**products-completed operations hazard**."

**2.** Under **B. Exclusions**, **1. Applicable to Business Liability Coverage**, the following paragraph is added, and replaces the similar paragraph, if any, beneath paragraph **(14)** of the exclusion entitled **Personal and Advertising Injury**:

Exclusions **c, d, e, f, g, h, i, k, l, m, n, and o,** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in **Section D. Liability And Medical Expenses Limits Of Insurance.**



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3. The first Paragraph under item **5. Damage To Premises Rented To You Limit** of the section entitled **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

   The most we will pay under Business Liability for damages because of "**property damage**" to any one premises, while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You Limit. The Damage to Premises Rented to You Limit is the greater of:

   **a.** $1,000,000; or

   **b.** The Damage to Premises Rented to You Limit shown in the Declarations.

**F. Personal and Advertising Injury – Discrimination or Humiliation**

1. Under **Liability and Medical Expenses Definitions**, the definition of "**personal and advertising injury**" is amended to add the following:

   **h.** Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

   **(1)** Not done intentionally by or at the direction of:

   **(a)** The insured; or

   **(b)** Any "**executive officer**," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and

   **(2)** Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.

2. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, the exclusion entitled **Personal and Advertising Injury** is amended to add the following additional exclusions:

   **(15) Discrimination Relating to Room, Dwelling or Premises**

   Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.

   **(16) Employment Related Discrimination**

   Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any insured.

   **(17) Fines or Penalties**

   Fines or penalties levied or imposed by a governmental entity because of discrimination.

3. This provision **(Personal and Advertising Injury – Discrimination or Humiliation)** does not apply if **Personal and Advertising Injury** Liability is excluded either by the provisions of the Policy or by endorsement.

**G. Personal and Advertising Injury - Broadened Eviction**

Under **Liability and Medical Expenses Definitions**, the definition of "**Personal and advertising injury**" is amended to delete Paragraph c. and replace it with the following:

**c.** The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room dwelling or premises that a person or organization occupies committed by or on behalf of its owner, landlord or lessor.

**H. Waiver of Subrogation – Blanket**

We waive any right of recovery we may have against:

**a.** Any person or organization with whom you have a written contract that requires such a waiver.

All other terms and conditions of the Policy remain unchanged.

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**IMPORTANT: THIS ENDORSEMENT CONTAINS DUTIES THAT APPLY TO THE ADDITIONAL INSURED IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT. SEE PARAGRAPH C., OF THIS ENDORSEMENT FOR THESE DUTIES.**

# BLANKET ADDITIONAL INSURED ENDORSEMENT WITH PRODUCTS-COMPLETED OPERATIONS COVERAGE AND BLANKET WAIVER OF SUBROGATION

**Architects, Engineers and Surveyors**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

**A.** **Who Is An Insured** is amended to include as an insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement; but the written contract or written agreement must be:

**1.** Crrently in effect or becoming effective during the term of this policy; and

**2.** Executed prior to the:

**a.** "**Bodily injury**" or "**property damage**"; or

**b.** Offense that caused the "**personal and advertising injury**";

for which the additional insured seeks coverage

**B.** The insurance provided to the additional insured is limited as follows:

**1.** The person or organization is an additional insured only with respect to liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" caused in whole or in part by:

**a.** Your acts or omissions; or

**b.** The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations specified in the written contract or written agreement; or

**c.** "**Your work**" that is specified in the written contract or written agreement, but only for "**bodily injury**" or "**property damage**" included in the "**products-completed operations hazard**," and only if:

**(1)** The written contract or written agreement requires you to provide the additional insured such coverage; and

**(2)** This Coverage Part provides such coverage.

**2.** The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.

**3.** The insurance provided to the additional insured does not apply to "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services including:

**a.** The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications by any architect, engineer or surveyor performing services on a project of which you serve as construction manager; or

**b.** Inspection, supervision, quality control, engineering or architectural services done by you on a project of which you serve as construction manager.

**4.** The insurance provided to the additional insured does not apply to "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of construction or demolition work while you are acting as a construction or demolition contractor.

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**C.** Under **Businessowners Liability Conditions**, the condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended to add the following:

An additional insured under this endorsement will as soon as practicable:

**1.** Give written notice of an occurrence or an offense to us which may result in a claim or "**suit**" under this insurance;

**2.** Tender the defense and indemnity of any claim or "**suit**" to us for a loss we cover under this Coverage Part;

**3.** Except as provided for in paragraph **D.2.** below:

**a.** Tender the defense and indemnity of any claim or "**suit**" to any other insurer which also has insurance for a loss we cover under this Coverage Part; and

**b.** Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.

We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a claim or "**suit**" from the additional insured.

**D.** With respect only to the insurance provided by this endorsement, the condition entitled **Other Insurance** of the **BUSINESSOWNERS COMMON POLICY CONDITIONS** is amended to delete paragraphs **2.** and **3.** and replace them with the following:

**2.** This insurance is excess over any other insurance available to the additional insured, whether primary, excess, contingent or on any other basis, But if required by the written contract or written agreement, this insurance will be primary and noncontributory relative to insurance on which the additional insured is a Named Insured.

**3.** When this insurance is excess, we will have no duty under **Business Liability** insurance to defend the additional insured against any "**suit**" if any other insurer has a duty to defend the additional insured against that "**suit**" If no other insurer defends, we will undertake to do so, but we will be entitled to the additional 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:

**(a)** The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

**(b)** The total of all deductible and self-insured amounts under all 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.

**E. Additional Insured – Extended Coverage**

When an additional insured is added by this or any other endorsement attached to this Coverage Part, the section entitled **Who Is An Insured** is amended to make the following natural persons insureds:

If the additional insured is:

**1.** An individual, then his or her spouse is an insured;

**2.** A partnership or joint venture, then its partners, members and their spouses are insureds;

**3.** A limited liability company, then its members and managers are insureds;

**4.** An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are insureds; or

**5.** Any type of entity, then its employees are insureds;

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations. Furthermore, employees of additional insureds are not insureds with respect to liability arising out of:

**(1)** "**Bodily injury**" or "**personal and advertising injury**" to any fellow employee or to any natural person listed in paragraphs **1.** through **4.** above;



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**(2)** "**Property damage**" to property owned, occupied or used by their employer or by any fellow employee; or

**(3)** Providing or failing to provide professional health care services.

**F.** The condition entitled **Transfer of Rights of Recovery Against Others to Us** of the **BUSINESSOWNERS COMMON POLICY CONDITIONS** is amended to deleted paragraph **2.** and replace it with the following:

**2.** We waive any right of recovery we may have against any person or organization with whom you have agreed to waive such right of recovery in a written contract or agreement because of payments we make for injury or damage arising out of your ongoing operations or "**your work**" done under a contract with that person or organization and included within the "**products-completed operations hazard**."

All other terms and conditions of the Policy remain unchanged.

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**Exhibit E- Certificate of Interested Parties (Form 1295)**

**(If Required)**

**Check Here if this Section is NOT Used ☒**

**Previously Submitted as part of**
**Work Order 02**

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 Work Order** ☐

**PROJECT:** Title of Project
**WORK ORDER NUMBER:** E.G. 01

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****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, wastewater 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.



yond Dance Company





# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-6

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to approve a reconciliation change order that will decrease the final project cost by $65.30 and the release of retainage in the amount of $16,562.47 to A-10 Construction for the Lake Palestine Water Treatment Plant Erosion Control Project Bid No. 25-006.

**Item Reference:**

Lake Palestine Water Treatment Plant is located in the southern portion of Tyler and provides drinking water to approximately half of the City. In the late summer of 2023, the clear wells at the plant had a tank level reading malfunction which resulted in the clear wells overflowing and causing a significant amount of erosion at the perimeter of the plant. While this did not hinder the ability of the plant to treat water, and the tank level reading equipment was speedily repaired, it did create a void in the intruder-resistant fence at the perimeter, which could result in a TCEQ violation.

This prompted TWU to enlist Elledge Engineering in the solution. A plan set was developed to address the void caused by clear well overflow and also prevent significant erosion from occurring if the tank level reader failed again.

On January 22, 2025, City Council approved A-10 Construction to move forward with the construction portion of the project. The final walk through and punch list has been completed, and the project is ready for final acceptance. The Reconciliation Change Order No. 1 will decrease the total contract price by $65.30 to a total of $165,624.70.

**RECOMMENDATION:**

**It is recommended that the City Council consider authorizing the City Manager to approve a reconciliation change order that will decrease the final project cost by $65.30 and the release of retainage in the amount of $16,562.47 to A-10 Construction for the Lake Palestine Water Treatment Plant Erosion Control Project Bid No. 25-006.**

**Attachments:**

City of Tyler Bid No. 25-006 Lake Palestine WTP Erosion Control Project - Project Completion Letter with Exhibits
Image 1
Image 2

**Drafted/Recommended By:**
**Department Leader** Jacob Yanker, Utilities Project Engineer/ Kate Dietz, PE, Director of Utilities

**Edited/Submitted By:**
**City Manager**

ELLEDGE ENGINEERING CORPORATION
P.O. Box 7110
Tyler, Texas 75711
TBPE #F-16917

(903) 780-3251

June 26, 2025

Mr. Jacob Yanker, Project Engineer
**City of Tyler Water Utilities**
P.O. Box 2039
Tyler, Texas 75710-2039

**RE: City of Tyler Bid No. 25-006**
**Lake Palestine WTP Erosion Control Project**
**Project Completion**

Dear Mr. Yanker:

This project is complete. All items noted in the final inspection have been corrected. Enclosed please find the following:

1. Reconciliation Change Order No. 1, which decreases the total contract price by $65.30 to a total of $165,624.70.
2. Contractors final pay request for retainage in the amount $16,562.47.
3. Contractors Affidavit of Bills Paid.
4. Waiver and Release of Lien.

We recommend the City approval of the change order, release of retainage and accept the project as complete.

Should you have any questions or require additional information, please contact me at phil.elledge@gmail.com. Thank you for the opportunity to work with you on this important project.

Sincerely,

Phil Elledge, P.E., President
Elledge Engineering Corporation
TBPE F-16917

cc: A-10 Construction Land Improvement, LLC

Enclosures

**CHANGE ORDER NO. 1 (RECONCILIATION)**
**ADJUSTMENT OF QUANTITIES**

PROJECT NAME: **City of Tyler Bid Number 25-006**
**Lake Palestine WTP Erosion Control Project**

DATE: 6/26/2025

CONTRACTOR: A-10 Construction Land Improvement LLC
ADDRESS: 14028 County Road 2141
Troup, TX 75789-4509
PHONE NO.: (903) 330-4786

BID NUMBER: **25-006**

| ITEM NO. | ITEM DESCRIPTION | UNIT OF MEASURE | CONTRACT QUANTITY | UNIT PRICE | QTY. COMPLETE TO DATE | QTY. OVERRUN/ (UNDERRUN) | COST INCREASE/ (DECREASE) |
|---|---|---|---|---|---|---|---|
| 1 | ROW PREPARATION | LS | 1 | $3,000.00 | 1 | 0.00 | $0.00 |
| 2 | DEMOLISH CONCRETE APRON AND PLACE DOWNSTREAM | SY | 71 | $65.00 | 71 | 0.00 | $0.00 |
| 3 | REMOVE AND DISPOSE EXISTING RCP (18 IN) | LF | 40 | $65.00 | 40 | 0.00 | $0.00 |
| 4 | REMOVE AND DISPOSE EXISTING WINGWALL | EA | 1 | $4,500.00 | 1 | 0.00 | $0.00 |
| 5 | RELOCATE EXISTING CONCRETE RIPRAP DOWNSTREAM | SY | 100 | $40.00 | 100 | 0.00 | $0.00 |
| 6 | REMOVE INTRUDER RESISTANT FENCING | LF | 100 | $10.00 | 100 | 0.00 | $0.00 |
| 7 | UNCLASSIFIED EXCAVATION (PLAN QUANTITY) | CY | 350 | $30.00 | 350 | 0.00 | $0.00 |
| 8 | MISCELLANEOUS GRADING | LS | 1 | $3,000.00 | 1 | 0.00 | $0.00 |
| 9 | CELLULAR FIBER MULCH SEEDING(PERM)(RURAL)(SANDY) | SY | 435 | $6.00 | 435 | 0.00 | $0.00 |
| 10 | TEMPORARY SPECIAL SHORING (AS NEEDED) | SY | 50 | $30.00 | 50 | 0.00 | $0.00 |
| 11 | FILTER FABRIC | SY | 175 | $5.00 | 175 | 0.00 | $0.00 |
| 12 | RIPRAP (STONE PROTECTION)(DRY)(6IN)(12IN) | CY | 5 | $158.00 | 19 | 14.00 | $2,212.00 |
| 13 | RIPRAP (STONE PROTECTION)(DRY)(12IN)(18IN) | CY | 100 | $170.00 | 80.61 | (19.39) | ($3,296.30) |
| 14 | RIPRAP (STONE PROTECTION)(DRY)(14IN)(24IN) | CY | 15 | $200.00 | 16.48 | 1.48 | $296.00 |
| 15 | RIPRAP (CONC)(MAIN CHANNEL)(WEST) | SY | 75 | $90.00 | 60 | (15.00) | ($1,350.00) |
| 16 | RIPRAP (CONC)(SIDE CHANNEL)(WEST) | SY | 15 | $90.00 | 24 | 9.00 | $810.00 |
| 17 | WALL A (MAIN CHANNEL) | LF | 50 | $290.00 | 53 | 3.00 | $870.00 |
| 18 | WALL B (SIDE CHANNEL) | LF | 20 | $250.00 | 49 | 29.00 | $7,250.00 |
| 19 | WALL C (MAIN CHANNEL) | LF | 20 | $150.00 | 24 | 4.00 | $600.00 |
| 20 | RIPRAP (CONC)(END TREATMENT)(EAST) | SY | 15 | $90.00 | 15 | 0.00 | $0.00 |
| 21 | GRAVEL BEDDING | CY | 20 | $130.00 | 26.70 | 6.70 | $871.00 |
| 22 | HP PIPE(ADS DUAL WALL)(36IN) | LF | 40 | $125.00 | 40 | 0.00 | $0.00 |
| 23 | MODIFIED JUNCTION BOX | EA | 1 | $21,500.00 | 1 | 0.00 | $0.00 |
| 24 | MOBILIZATION AND BONDS | LS | 1 | $12,000.00 | 1 | 0.00 | $0.00 |
| 25 | TEMPORARY SEDIMENT CONTROL FENCE (INSTALL) | LF | 75 | $4.00 | 150 | 75.00 | $300.00 |
| 26 | TEMPORARY SEDIMENT CONTROL FENCE (REMOVE) | LF | 75 | $4.00 | 75 | 0.00 | $0.00 |
| 27 | 8" CONCRETE CURB(EAST) | LF | 135 | $30.00 | 135 | 0.00 | $0.00 |

| ITEM NO. | ITEM DESCRIPTION | UNIT OF MEASURE | CONTRACT QUANTITY | UNIT PRICE | QTY. COMPLETE TO DATE | QTY. OVERRUN/ (UNDERRUN) | COST INCREASE/ (DECREASE) |
|---|---|---|---|---|---|---|---|
| 28 | CONCRETE APRON (EAST) | SY | 85 | $90.00 | 85 | 0.00 | $0.00 |
| 29 | INTRUDER RESISTANT FENCING | LF | 100 | $55.00 | 100 | 0.00 | $0.00 |
| 30 | INTRUDER RESISTANT FENCING(4' WALK GATE) | EA | 1 | $750.00 | 1 | 0.00 | $0.00 |
| 31 | EROSION CONTROL MAINTENANCE | LS | 1 | $100.00 | 1 | 0.00 | $0.00 |
| 32 | ALLOWANCE FOR ADDITIONAL WORK | LS | 1 | $15,000.00 | 0 | (1.00) | ($15,000.00) |
| CO1-1 | CRACK SEAL | LS | 0 | $300.00 | 1 | 1.00 | $300.00 |
| CO1-2 | SELECT MATERIAL FROM OFF-SITE | CY | 0 | $18.00 | 54 | 54.00 | $972.00 |
| CO1-3 | BERMUDA SOD 10' AROUND TOP CHANNEL | LS | 0 | $3,500.00 | 1 | 1.00 | $3,500.00 |
| CO1-4 | EROSION CONTROL BLANKET | LF | 0 | $4.00 | 400 | 400.00 | $1,600.00 |

| | |
|---|---|
| Original Contract Total | $165,690.00 |
| Total Amount of Previous Change Orders | $0.00 |
| Total Amount of this Change Order - Increase / (Decrease) | ($65.30) |
| **FINAL CONTRACT TOTAL** | **$165,624.70** |

This Document will become a supplement to the contract and all provisions will apply hereto.

**RECOMMENDED FOR APPROVAL:**

Engineer — Date: 6/26/2025

**ACCEPTED:**

Contractor — Date: 6/26/25

**REVIEWED:**

City Attorney's Office — Date

**APPROVED:**

City Manager — Date

**DATE APPROVED BY COUNCIL:** _____

180

| | | |
|---|---|---|
| A-10 Construction Land Improvement LLC<br>Attn: Nick Rousseau<br>14028 County Road 2141<br>Troup, TX 75789-4509<br><br>(903) 330-4786 Telephone<br>a10construction@yahoo.com | Engineer: | Elledge Engineering Corp<br>P.O. Box 7110<br>Tyler, Texas 75711<br><br>(903) 780-3251 Telephone<br>phil.elledge@gmail.com |

Owner: City of Tyler
Attn: Jacob Yanker
P.O. Box 2039
Tyler, Texas 75710-2039

(903) 533-2095 Telephone
jcyanker@tylertexas.com

6-25-2025

Submitted by date

Project: City of Tyler Bid Number 25-006
Lake Palestine WTP Erosion Control Project

Pay Request No. 4
Date: 6/25/2025

| Item No. | Pay Item Description | Estimated Quantity | Unit | Bid Amount | | Completed This Month | | Total to Date | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | Unit Price | Extended Price | Quantity | Extended Price | Quantity | Extended Price |
| 1 | ROW PREPARATION | 1 | LS | $3,000.00 | $ 3,000.00 | 0 | $ - | 1 | $ 3,000.00 |
| 2 | DEMOLISH CONCRETE APRON AND PLACE DOWNSTREAM | 71 | SY | $65.00 | $ 4,615.00 | 0 | $ - | 71 | $ 4,615.00 |
| 3 | REMOVE AND DISPOSE EXISTING RCP (18 IN) | 40 | LF | $65.00 | $ 2,600.00 | 0 | $ - | 40 | $ 2,600.00 |
| 4 | REMOVE AND DISPOSE EXISTING WINGWALL | 1 | EA | $4,500.00 | $ 4,500.00 | 0 | $ - | 1 | $ 4,500.00 |
| 5 | RELOCATE EXISTING CONCRETE RIPRAP DOWNSTREAM | 100 | SY | $40.00 | $ 4,000.00 | 0 | $ - | 100 | $ 4,000.00 |
| 6 | REMOVE INTRUDER RESISTANT FENCING | 100 | LF | $10.00 | $1,000.00 | 0 | $ - | 100 | $ 1,000.00 |
| 7 | UNCLASSIFIED EXCAVATION (PLAN QUANTITY) | 350 | CY | $30.00 | $ 10,500.00 | 0 | $ - | 350 | $ 10,500.00 |
| 8 | MISCELLANEOUS GRADING | 1 | LS | $3,000.00 | $ 3,000.00 | 0 | $ - | 1 | $ 3,000.00 |
| 9 | CELLULAR FIBER MULCH SEEDING(PERM)(RURAL)(SANDY) | 435 | SY | $6.00 | $ 2,610.00 | 0 | $ - | 435 | $ 2,610.00 |
| 10 | TEMPORARY SPECIAL SHORING (AS NEEDED) | 50 | SY | $30.00 | $ 1,500.00 | 0 | $ - | 50 | $ 1,500.00 |
| 11 | FILTER FABRIC | 175 | SY | $5.00 | $ 875.00 | 0 | $ - | 175 | $ 875.00 |
| 12 | RIPRAP (STONE PROTECTION)(DRY)(6IN)(12IN) | 5 | CY | $158.00 | $ 790.00 | 0 | $ - | 19 | $ 3,002.00 |
| 13 | RIPRAP (STONE PROTECTION)(DRY)(12IN)(18IN) | 100 | CY | $170.00 | $ 17,000.00 | 0.00 | $ - | 80.61 | $ 13,703.70 |
| 14 | RIPRAP (STONE PROTECTION)(DRY)(14IN)(24IN) | 15 | CY | $200.00 | $ 3,000.00 | 0.00 | $ - | 16.48 | $ 3,296.00 |
| 15 | RIPRAP (CONC)(MAIN CHANNEL)(WEST) | 75 | SY | $90.00 | $ 6,750.00 | 0 | $ - | 60 | $ 5,400.00 |
| 16 | RIPRAP (CONC)(SIDE CHANNEL)(WEST) | 15 | SY | $90.00 | $ 1,350.00 | 0 | $ - | 24 | $ 2,160.00 |
| 17 | WALL A (MAIN CHANNEL) | 50 | LF | $290.00 | $ 14,500.00 | 0 | $ - | 53 | $ 15,370.00 |
| 18 | WALL B (SIDE CHANNEL) | 20 | LF | $250.00 | $ 5,000.00 | 0 | $ - | 49 | $ 12,250.00 |
| 19 | WALL C (MAIN CHANNEL) | 20 | LF | $150.00 | $ 3,000.00 | 0 | $ - | 24 | $ 3,600.00 |
| 20 | RIPRAP (CONC)(END TREATMENT)(EAST) | 15 | SY | $90.00 | $ 1,350.00 | 0 | $ - | 15 | $ 1,350.00 |
| 21 | GRAVEL BEDDING | 20 | CY | $130.00 | $ 2,600.00 | 0.00 | $ - | 26.70 | $ 3,471.00 |
| 22 | HP PIPE(ADS DUAL WALL)(36IN) | 40 | LF | $125.00 | $ 5,000.00 | 0 | $ - | 40 | $ 5,000.00 |
| 23 | MODIFIED JUNCTION BOX | 1 | EA | $21,500.00 | $ 21,500.00 | 0 | $ - | 1 | $ 21,500.00 |
| 24 | MOBILIZATION AND BONDS | 1 | LS | $12,000.00 | $ 12,000.00 | 0 | $ - | 1 | $ 12,000.00 |
| 25 | TEMPORARY SEDIMENT CONTROL FENCE (INSTALL) | 75 | LF | $4.00 | $ 300.00 | 0 | $ - | 150 | $ 600.00 |
| 26 | TEMPORARY SEDIMENT CONTROL FENCE (REMOVE) | 75 | LF | $4.00 | $ 300.00 | 0 | $ - | 75 | $ 300.00 |
| 27 | 8" CONCRETE CURB(EAST) | 135 | LF | $30.00 | $ 4,050.00 | 0 | $ - | 135 | $ 4,050.00 |
| 28 | CONCRETE APRON (EAST) | 85 | SY | $90.00 | $ 7,650.00 | 0 | $ - | 85 | $ 7,650.00 |
| 29 | INTRUDER RESISTANT FENCING | 100 | LF | $55.00 | $ 5,500.00 | 0 | $ - | 100 | $ 5,500.00 |
| 30 | INTRUDER RESISTANT FENCING(4' WALK GATE) | 1 | EA | $750.00 | $ 750.00 | 0 | $ - | 1 | $ 750.00 |
| 31 | EROSION CONTROL MAINTENANCE | 1 | LS | $100.00 | $ 100.00 | 0 | $ - | 1 | $ 100.00 |
| 32 | ALLOWANCE FOR ADDITIONAL WORK | 1 | LS | $15,000.00 | $ 15,000.00 | 0 | $ - | 0 | $ - |
| N/A | CRACK SEAL | 0 | LS | $300.00 | $ - | 0 | $ - | 1 | $ 300.00 |
| N/A | SELECT MATERIAL FROM OFF-SITE | 0 | CY | $18.00 | $ - | 0 | $ - | 54 | $ 972.00 |
| N/A | BERMUDA SOD 10' AROUND TOP CHANNEL | 0 | LS | $3,500.00 | $ - | 0 | $ - | 1 | $ 3,500.00 |
| N/A | EROSION CONTROL BLANKET | 300 | LF | $4.00 | $ - | 0 | $ - | 400 | $ 1,600.00 |
| | RETAINAGE | | LS | | | 1 | $ 16,562.47 | | |
| | **Total Work Completed** | | | $ | **165,690.00** | $ | **16,562.47** | $ | **165,624.70** |
| | | | | | Stored Materials | $ | - | | $ - |
| | | | | | Less 10% Retainage | $ | - | | $ - |
| | | | | | Less Previous Payments | $ | - | | $ 149,062.23 |
| | | | | | **Total Amount Due** | $ | **16,562.47** | | $ **16,562.47** |

RECOMMENDED FOR PAYMENT

06-26-2025

## Section 12 CONTRACTOR'S AFFIDAVIT OF BILLS PAID

| | | |
|---|---|---|
| THE STATE OF TEXAS | § | **CONTRACTOR'S AFFIDAVIT OF BILLS PAID** |
| | § | **CAPITAL IMPROVEMENT PROJECT (CIP ) CONTRACTS** |
| | § | |
| COUNTY OF SMITH | § | **Tex. Prop. Code Ann. § 53.085(a)** |

**THIS AFFIDAVIT is made for the purpose of** obtaining balance due from City of Tyler, "**CITY**", on the construction work described herein provided the **CONTRACTOR** has fully performed his contractual obligations under the terms of the AGREEMENT.

I, Nick Rousseau *[Name of Affiant]*, do solemnly swear or affirm that I am the legal representative of A-10 Construction & Land Improvement *[Contractor's Company / Corporation Name]*, the City of Troup, the County of Smith, the State of Texas, and that the work for the construction of the project designated below has been satisfactorily completed:

| | |
|---|---|
| **City of Tyler Bid Number** | 25-006 |
| **Project Name** | Lake Palestine WTP Erosion Control Project |

Additionally, I do solemnly swear or affirm:

☑ All bills for materials, supplies, apparatus, fixtures, machinery, labor, subcontractors, laborers and materialmen used in connection with the construction of this project have been fully paid.

OR

☐ The following bills have **not** been fully paid (☐ attach additional pages if necessary):

| Name | Amount Owed | Telephone | Address |
|---|---|---|---|
| | $ | | |
| | $ | | |
| | $ | | |

Signature of Contractor

Sworn to and subscribed before me by *Affiant* on the 27th day of June, 2025.

MICHELLE SALAS RODRIGUEZ
Notary ID #128691986
My Commission Expires
August 1, 2027

Michelle Salas Rodriguez
Notary Public In and For The State of Texas

My Commission Expires: August 1, 2027

Michelle Salas Rodriguez
Notary's Printed Name

# Section 14 WAIVER AND RELEASE

| | | |
|---|---|---|
| THE STATE OF TEXAS | § | **CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT** |
| | § | |
| | § | **PURSUANT TO** |
| | § | |
| | § | **AGREEMENT** |
| | § | **AND/OR** |
| COUNTY OF SMITH | § | **PURSUANT TO TEX. PROPERTY CODE § 53.284 FORMS FOR WAIVER AND RELEASE OF LIEN OR PAYMENT BOND CLAIM** |

## CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

| | |
|---|---|
| **City of Tyler Bid Number** | 25-006 |
| **Project Name** | Lake Palestine WTP Erosion Control Project |

On receipt by the signer of this document of a check from City of Tyler *[Maker of Check]* in the sum of $ $16,562.47 payable to A-10 Construction Land Improvement LLC *[Payee(s) of Check]* and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of City of Tyler *[Owner]* located at 14792 Old Noonday Road, Tyler, Texas 75703 *[Location]* to the following extent: Lake Palestine WTP Erosion Control Project *[Job Description]*.

This release covers the final payment to the signer for all labor, services, equipment, or materials furnished to the property or to City of Tyler *[Person with Whom Signer Contracted]*.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

Date 06-26-2025

A-10 Construction Land Improvement LLC (Company name)

By _____ (Signature)

President (Title)





# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-7

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to execute a Capital Improvement Project (CIP) contract in the amount of $263,062.00 for the Private Service Relocation Bid No. 25-039 to Rub-A-Dub Plumbing and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

**Item Reference:**

Near Chilton Road, Sunnybrook Road, and Old Bullard Road, there are 32 residential properties with water services connected to a water main that is behind the houses. These water mains have been historical problem areas, resulting in multiple main breaks every year that present access challenges to get heavy equipment and crews to make the repairs along with flooding property when breaks occur. In order to address this issue, Tyler Water Utilities (TWU) has installed a new water main in the street (front of the houses) in order to abandon and replace the existing problematic lines in the rear.

Kimley Horn and Associates has designed a plan set to reroute the private service to the new water main in front of the house. Extra attention was placed on tree protection for the construction portion of this project, which includes trenchless installation methods along with enlisting a certified arborist to implement a tree protection plan. Temporary workspace agreements have been executed by each property owner to allow for the contractor (Rub-A-Dub Plumbing) to access the property to make the necessary reroute.

On June 10, 2025, sealed bids were opened and read aloud; the results were as follows:

Rub-a-Dub Plumbing - $263,062.00
A-10 Construction and Land Improvement LLC - $344,591.00
D&D Pipeline Consultants LLC - $345,825.00
Power Scoop Utility LLC - $499,500.00

The Engineer's cost estimate was $260,868.00. The low bidder, Rub-A-Dub Plumbing, had two clerical errors in the bid tab, but upon further investigation and discussion among staff and our consultant, along with the fact that the next lowest bidder was 31% higher, these errors did not constitute the bid being thrown out. Because this work is on the customer side of the meter, a licensed plumber must oversee the project. This requirement may explain the 31% price increase between the lowest bidder, who is a plumber, and the second-lowest bidder, who is a general contractor.

**RECOMMENDATION:**

**It is recommended that the City Council consider authorizing the City Manager to execute a CIP contract in the amount of $263,062.00 for the Private Service Relocation Bid No. 25-039 to Rub-A-Dub Plumbing and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.**

**Attachments:**
Private Service Relocation _Future Debt_Resolution Form_Constrution
Private Service Relocation Site Map
Award Recommendation Letter_25-039

**Drafted/Recommended By:**
**Department Leader** Jacob Yanker, Utilities Project Engineer/ Kate Dietz, PE, Director of Utilities

**Edited/Submitted By:**
**City Manager**

**RESOLUTION NO. R-2025-**

**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 PRIVATE WATER SERVICE RELOCATION; 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 Private Water Service Relocation 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 $263,062.00.

**Part 2:** That this Resolution shall be effective immediately upon adoption.

**PASSED AND APPROVED**, this the 23rd day of July, 2025.

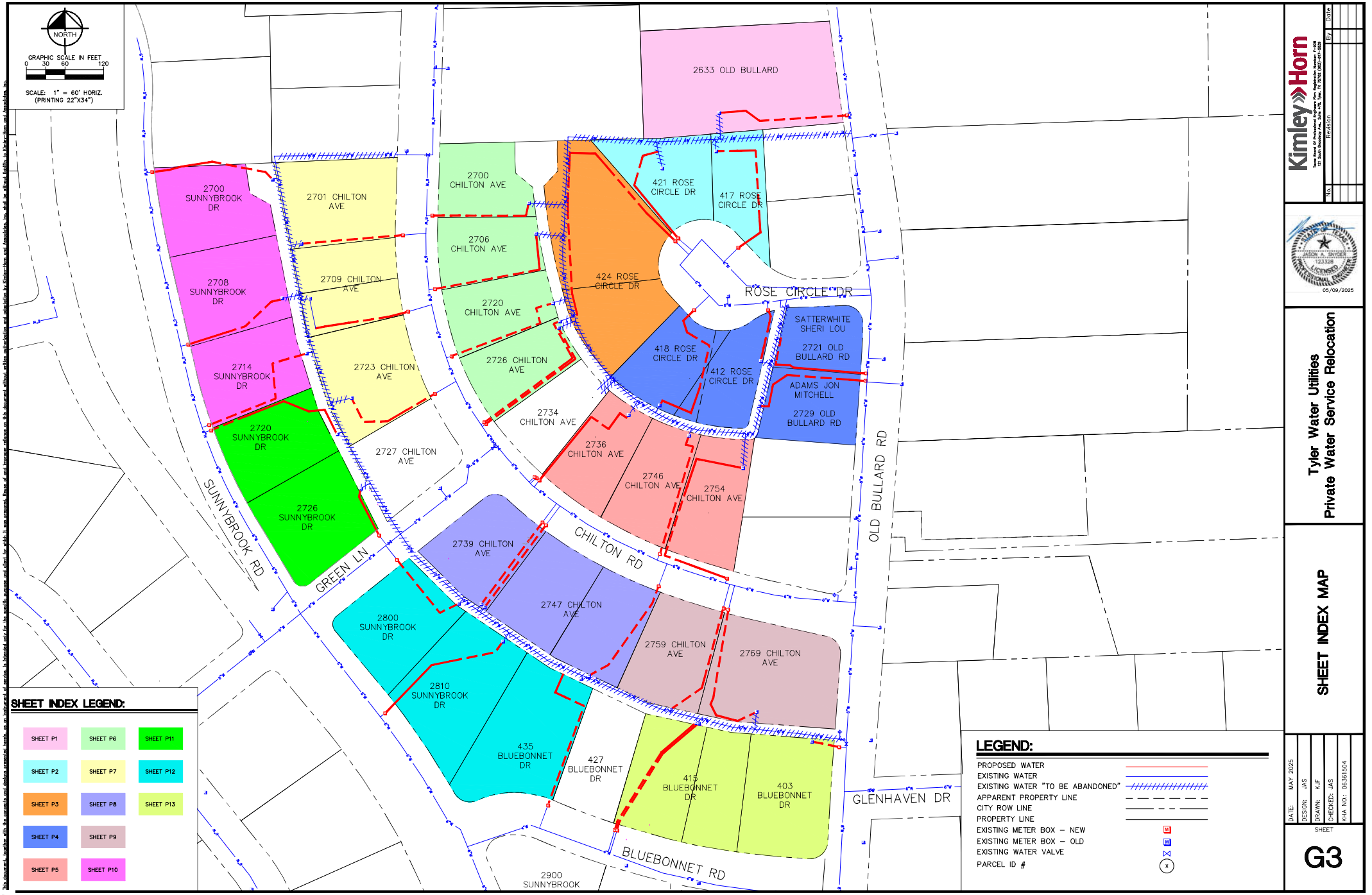
_____
DONALD P. WARREN, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

_____
CASSANDRA BRAGER, CITY CLERK

APPROVED:

_____
DEBORAH G. PULLUM,
CITY ATTORNEY




**SHEET INDEX LEGEND:**

| | | |
|---|---|---|
| SHEET P1 | SHEET P6 | SHEET P11 |
| SHEET P2 | SHEET P7 | SHEET P12 |
| SHEET P3 | SHEET P8 | SHEET P13 |
| SHEET P4 | SHEET P9 | |
| SHEET P5 | SHEET P10 | |

**LEGEND:**

- PROPOSED WATER
- EXISTING WATER
- EXISTING WATER "TO BE ABANDONED"
- APPARENT PROPERTY LINE
- CITY ROW LINE
- PROPERTY LINE
- EXISTING METER BOX – NEW
- EXISTING METER BOX – OLD
- EXISTING WATER VALVE
- PARCEL ID # (x)

Kimley»Horn

| No. | Revision | By | Date |
|---|---|---|---|

Texas Board Of Professional Engineers Firm Registration Number: F-928
Texas Board Of Professional Surveyors Firm Registration Number: LS-100
11720 Amber Park Drive, Suite 350 Austin, Texas 78726 (512) 418-1771

STATE OF TEXAS
JASON A. SNYDER
123328
LICENSED
PROFESSIONAL ENGINEER
05/09/2025

**Tyler Water Utilities**
**Private Water Service Relocation**

**SHEET INDEX MAP**

DATE: MAY 2025
DESIGN: JAS
DRAWN: KJF
CHECKED: JAS
KHA NO.: 063615004

SHEET
G3

IMAGES
OBJECTS BY
USE LAYER
ATTRIBUTES BY
USE LAYER
This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Kimley»Horn

July 11, 2025

Mr. Jacob Yanker
Tyler Water Utilities
511 W Locust Street
Tyler, TX 75702

**RE:** ***Recommendation of Award for Private Water Service Relocation (Bid No. 25-039)***

Dear Jacob:

On Tuesday, June 10, 2025, bids were opened for the construction of the Private Water Service Relocation project. There was a total of four bidders with the following bids:

| **Bidder** | **Base Bid** |
|---|---|
| Rub-A-Dub Plumbing | $263,062.00 |
| A-10 Construction and Land Improvement, LLC | $344,591.00 |
| D&D Pipeline Consultants, LLC | $345,825.00 |
| Power Scoop Utility, LLC | $499,500.00 |

A bid tabulation is attached to this letter.

Per the requirements set forth in the Instructions to Bidders, bidders were required to submit the following with their bid: a bid bond, a signed Proposal form, and acknowledgement of Addendum No. 1. All bidders met this requirement, except for Rub-A-Dub Plumbing, who did not submit the correct signed Proposal form.

Upon examination of the bids, the following bid irregularities were noted:

1. Rub-A-Dub Plumbing submitted the incorrect Proposal form from the original bid documents instead of the revised bid form in Addendum No. 1. The bid price shown in the table above represents the as-read bid.

Section 3.18 of the Instructions to Bidders states, “the City reserves the right to waive any irregularities and to make the award in the best interests of the City”. Tyler Water Utilities has decided to waive the irregularity found in Rub-A-Dub Plumbing’s bid.

Rub-A-Dub Plumbing is a local plumbing contractor with significant private plumbing experience within the City of Tyler. While they have not worked directly for the City of Tyler before, they do have experience serving other local municipalities, including the City of Athens, who recommended using them. In addition, they meet the requirements listed in the Special Conditions of their work being supervised by a licensed Master Plumber and having an ISA Board Certified Arborist on their team. Given the above, we recommend the construction contract be awarded to Rub-A-Dub Plumbing for the total amount bid of $263,062.00.

We appreciate the opportunity to continue to support you on this project. Please contact me at (903) 253-9916 or jason.snyder@kimley-horn.com should you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



Jason A. Snyder, P.E.
Associate

**BID NO: 25-039 - Tyler Water Utilities Private Water Service Relocation**

**BID OPENING: June 10, 2025**

| ITEM NO. | ESTIMATE QUANTITY | UNIT | NAME OF PAY ITEM | Rub-A-Dub Plumbing (Original) | | A-10 Construction and Land Improvement LLC | | D&D Pipeline Consultants LLC | | Power Scoop Utility LLC | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | UNIT PRICE | EXTENDED PRICE | UNIT PRICE | EXTENDED PRICE | UNIT PRICE | EXTENDED PRICE | UNIT PRICE | EXTENDED PRICE |
| TOTAL BASE BID | | | | | | | | | | | |
| 1 | 1 | LS | Mobilization, Bonds, and Insurance | $ 30,000.00 | $ 30,000.00 | $ 28,000.00 | $ 28,000.00 | $ 16,000.00 | $ 16,000.00 | $ 15,000.00 | $ 15,000.00 |
| 2 | 820 | LF | 1" AWWA C901 PE Water Service Line By Open Cut | $ 20.00 | $ 16,400.00 | $ 20.00 | $ 16,400.00 | $ 16.00 | $ 13,120.00 | $ 20.00 | $ 16,400.00 |
| 3 | 1,829 | LF | 1" AWWA C901 PE Water Service Line By Other Than Open Cut | $ 20.00 | $ 36,580.00 | $ 20.00 | $ 36,580.00 | $ 25.00 | $ 45,725.00 | $ 35.00 | $ 64,015.00 |
| 4 | 803 | LF | 1.5" AWWA C901 PE Water Service Line By Open Cut | $ 24.00 | $ 19,272.00 | $ 25.00 | $ 20,075.00 | $ 17.00 | $ 13,651.00 | $ 45.00 | $ 36,135.00 |
| 5 | 1,566 | LF | 1.5" AWWA C901 PE Water Service Line By Other Than Open Cut | $ 24.00 | $ 37,584.00 | $ 25.00 | $ 39,150.00 | $ 27.00 | $ 42,282.00 | $ 60.00 | $ 93,960.00 |
| 6 | 566 | LF | 2" AWWA C901 PE Water Service Line By Open Cut | $ 28.00 | $ 15,848.00 | $ 30.00 | $ 16,980.00 | $ 19.00 | $ 10,754.00 | $ 70.00 | $ 39,620.00 |
| 7 | 805 | LF | 2" AWWA C901 PE Water Service Line By Other Than Open Cut | $ 28.00 | $ 22,540.00 | $ 30.00 | $ 24,150.00 | $ 29.00 | $ 23,345.00 | $ 85.00 | $ 68,425.00 |
| 8 | 8 | EA | Install 5/8" Domestic Meter Assembly | $ 1,000.00 | $ 8,000.00 | $ 1,000.00 | $ 8,000.00 | $ 1,000.00 | $ 8,000.00 | $ 500.00 | $ 4,000.00 |
| 9 | 4 | EA | Install 1" Domestic Meter Assembly | $ 1,000.00 | $ 4,000.00 | $ 1,000.00 | $ 4,000.00 | $ 920.00 | $ 3,680.00 | $ 700.00 | $ 2,800.00 |
| 10 | 14 | EA | Install 1.5" Domestic Meter Assembly | $ 1,551.00 | $ 21,714.00 | $ 1,500.00 | $ 21,000.00 | $ 1,650.00 | $ 23,100.00 | $ 800.00 | $ 11,200.00 |
| 11 | 6 | EA | Install 2" Domestic Meter Assembly | $ 1,633.00 | $ 9,798.00 | $ 2,000.00 | $ 12,000.00 | $ 2,200.00 | $ 13,200.00 | $ 1,000.00 | $ 6,000.00 |
| 12 | 2 | EA | Install 1" Irrigation Meter Assembly | $ 2,278.00 | $ 4,556.00 | $ 1,000.00 | $ 2,000.00 | $ 1,420.00 | $ 2,840.00 | $ 1,100.00 | $ 2,200.00 |
| 13 | 1 | EA | Install 1.5" Irrigation Meter Assembly | $ 2,520.00 | $ 2,520.00 | $ 1,500.00 | $ 1,500.00 | $ 3,000.00 | $ 3,000.00 | $ 1,300.00 | $ 1,300.00 |
| 14 | 35 | EA | Connect to Existing Water Service | $ 50.00 | $ 1,750.00 | $ 1,000.00 | $ 35,000.00 | $ 450.00 | $ 15,750.00 | $ 450.00 | $ 15,750.00 |
| 15 | 35 | EA | Remove and Dispose of Existing Meter Box | $ 50.00 | $ 1,750.00 | $ 100.00 | $ 3,500.00 | $ 400.00 | $ 14,000.00 | $ 50.00 | $ 1,750.00 |
| 16 | 35 | EA | Hydrostatic Testing | $ 50.00 | $ 1,750.00 | $ 500.00 | $ 17,500.00 | $ 400.00 | $ 14,000.00 | $ 500.00 | $ 17,500.00 |
| 17 | 1 | LS | Revegitation - Allowance | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 |
| 18 | 1 | LS | Irrigation Repair - Allowance | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 | $ 10,000.00 |
| 19 | 1 | LS | Tree Protection Plan and Implementation | $ 8,000.00 | $ 8,000.00 | $ 5,000.00 | $ 5,000.00 | $ 40,000.00 | $ 40,000.00 | $ 50,000.00 | $ 50,000.00 |
| 20 | 2,189 | LF | Trench Safety Plan and Implementation | $ 500.00 | $ 500.00 | $ 4.00 | $ 8,756.00 | $ 2.00 | $ 4,378.00 | $ 5.00 | $ 10,945.00 |
| 21 | 1 | LS | Erosion Control Plan and Implementation | $ 500.00 | $ 500.00 | $ 10,000.00 | $ 10,000.00 | $ 4,000.00 | $ 4,000.00 | $ 7,500.00 | $ 7,500.00 |
| 22 | 1 | LS | Owner Construction Contingency | $ - | $ - | $ 15,000.00 | $ 15,000.00 | $ 15,000.00 | $ 15,000.00 | $ 15,000.00 | $ 15,000.00 |
| TOTAL BASE BID | | | | | **$ 263,062.00** | | **$ 344,591.00** | | **$ 345,825.00** | | **$ 499,500.00** |

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-8

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to execute an Agreement for Access across City-owned property at Lake Tyler to Jimmy L. Green.

**Item Reference:**

Jimmy L. Green owns property located near 14340 Northwest Road near Lake Tyle East. The property is used for a single-family home. The property is currently being accessed by a single driveway that crosses City-owned property to 13515 CR 2216. There is no record of formal approval ever being granted by the City for the driveway and the current owner has requested formal approval.

Tyler Water Utilities staff has reviewed the request for an access agreement and recommends approval. The access agreement fee has been paid in accordance with the City of Tyler Code of Ordinances, and a location map and copy of the Agreement for Access are attached for review.

**RECOMMENDATION:**

**It is recommended that the City Council authorize the City Manager to execute an Agreement for Access across City-owned property at Lake Tyler to Jimmy L. Green.**

**Attachments:**
Access Agreement
William M. Puckett Survey A-769

**Drafted/Recommended By:**
**Department Leader** Pam Lee/Kate Dietz, P.E., Director of Utilities

**Edited/Submitted By:**
**City Manager**

**NON-TRANSFERABLE**

**AGREEMENT FOR ACCESS**

**THIS CONTRACT AND AGREEMENT** entered into the date last herein written by and between the City of Tyler, Texas, hereinafter called CITY, and JIMMY L. GREEN, hereinafter called PERMITTEE:

**WITNESSETH**

PERMITTEE is hereby granted, subject to the conditions hereinafter set out and agreed upon by PERMITTEE, a right in ingress and egress over and across a parts of the following described land owned by CITY for access to property owned by PERMITTEE from the public road or Lake Tyler Road hereinafter named or described:

See Attached Field Notes. 14340 Northwest Road

1. The rights may not be transferred or assigned, in whole or in part, without the CITY'S prior written consent. Any exercise of such right by any person, firm or corporation other than PERMITTEE without the written consent of CITY shall be grounds for the termination of all rights hereunder. It is expressly provided, however, that CITY'S failure to terminate this agreement is not and shall not be construed as a waiver of its right to do so, nor as CITY'S acquiescence in such additional or extended use.

2. The rights granted hereunder may be terminated by CITY upon thirty (30) days written notice to PERMITTEE when, in the sole and exclusive judgment of the Governing Body of CITY, such termination would be in the best interest of CITY. PERMITTEE expressly agrees that CITY shall not be liable for any damage or injury resulting from any termination limitation of this instrument or the rights hereunder. The notice required hereunder shall be conclusively deemed given to PERMITTEE when mailed to the address of PERMITTEE as shown in this instrument.

3. The location of all roads and means of access constructed hereunder shall be constructed, maintained and repaired in accordance with the above legal description and as shown on the attached plat by PERMITTEE and at PERMITTEE'S sole expense. CITY shall not be liable or responsible for any such cost.

4. CITY shall never be liable for any damage or injury resulting or allegedly resulting from the construction, operation, maintenance, repair or use of any road or accessway hereunder. PERMITTEE agrees to indemnify and hold harmless CITY from any and all claims for injury and/or damage resulting, directly or indirectly, from CITY'S execution of this instrument or the rights and privileges granted hereby.

5. PERMITTEE shall not, without prior written consent of CITY, remove or alter any improvements placed upon property owned by CITY.

6. By execution of this instrument, PERMITTEE expressly accepts and agrees to all its terms and agrees to be bound thereby.

**EXECUTED** this _____ day of _____, A. D., 20_____.

**PERMITTEE:**

_____
JIMMY L. GREEN

**CITY OF TYLER, TEXAS:**

_____
EDWARD BROUSSARD,
CITY MANAGER

**ATTEST:**

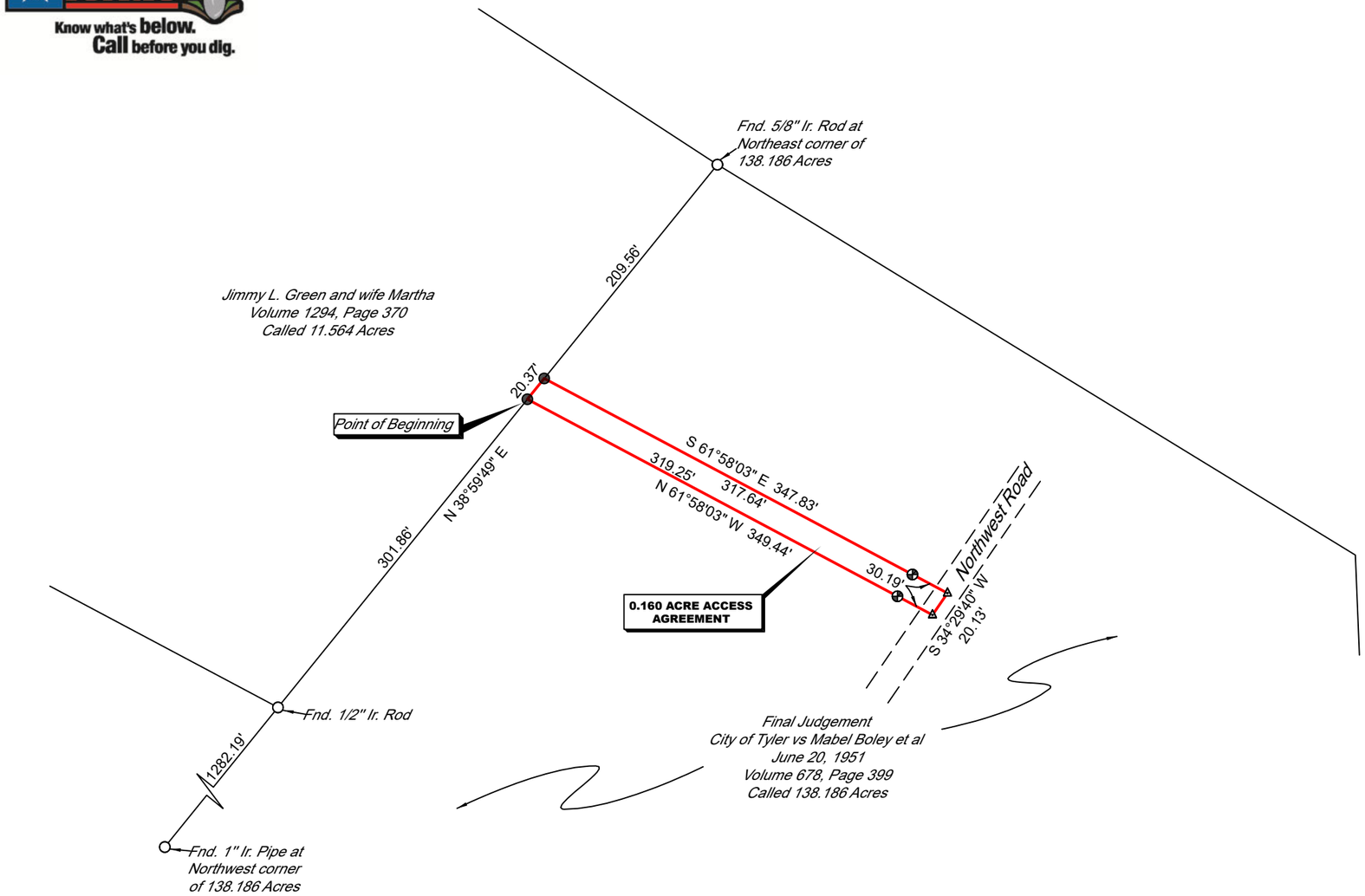
_____
CASSANDRA BRAGER
CITY CLERK

**STATE OF TEXAS** §
§
**COUNTY OF SMITH** §

This instrument was acknowledged before me on the _____ day of _____, 20_____, by **JIMMY GREEN**.

_____
Notary Public, in and for the State of Texas

# WILLIAM M. PUCKETT SURVEY A - 769




LEGAL DESCRIPTION

All that certain tract, lot or parcel of land, a part of the William M. Puckett Survey Abstract 769, Smith County, Texas, and being a part of that certain called 138.186 acre tract of land described in a Final Judgement dated June 20, 1951, City of Tyler vs Mabel Boley et al that is recorded in Volume 678, Page 399 of the Deed Records of Smith County, Texas and being more completely described as follows, to wit;

Beginning at a 1/2 inch iron rod with a cap stamped “Lacy Surveying Property Corner” set for corner in the Northwesterly boundary line of said 138.186 acres and in the Southeasterly boundary line of the Jimmy L. Green and wife Martha called 11.564 acre tract (Volume 1294, Page 370), from which a 1/2 inch iron rod found at the South corner of said 11.564 acres bears South 38 degrees 59 minutes and 49 seconds West, a distance of 301.86 feet, and from said iron rod a 1 inch iron pipe found at the Northwest corner of said 138.186 acres bears South 38 degrees 59 minutes and 49 seconds West, a distance of 1282.19 feet;

Thence North 38 degrees 59 minutes and 49 seconds East, along said lines, for a distance of 20.37 feet, to a 1/2 inch iron rod with a cap stamped “Lacy Surveying Property Corner” set for corner, from which a 5/8 inch iron rod found at the North corner of said 138.186 acres and at the East corner of said 11.564 acres bears North 38 degrees 59 minutes and 49 seconds East, a distance of 209.56 feet;

Thence South 61 degrees 58 minutes and 03 seconds East, across said 138.186 acres, at a distance of 317.64 feet, pass a 1/2 inch iron rod with a cap stamped “Lacy Surveying Ref Marker” set for reference and continue for a total distance of 347.83 feet, to a point for corner in the centerline of Northwest Road;

Thence South 34 degrees 29 minutes and 40 seconds West, continuing across said 138.186 acres and along said centerline, for a distance of 20.13 feet, to a point for corner;

Thence North 61 degrees 58 minutes and 03 seconds West, continuing across said 138.186 acres, at a distance of 30.19 feet, pass a 1/2 inch iron rod with a cap stamped “Lacy Surveying Ref Marker” set for reference and continue for a total distance of 349.44 feet, to the place of beginning and containing 0.160 acres.

N

0' 20' 40' 60' 80' 100' 150' 200'

196

LEGEND

- Set 1/2" Ir. Rod with cap stamped "LACY SURVEYING PROPERTY CORNER"
- Set 1/2" Ir. Rod with cap stamped "LACY SURVEYING REF MARKER"
- Found Ir. Rod (size noted)
- Point for Corner

Road

Abstract Line (Scaled)

NOTES

- Grid Bearings based on Texas State Plane Coordinate System, Texas North Central Zone 4202, NAD83.
- This survey was prepared without the benefit of a title commitment
- No attempt has been made to locate easements, utilities or improvements other than those shown hereon.
- Deed references shown hereon refer to the Deed, Land or Official Public Records of Smith County, Texas and may not reflect current ownership.
- Field Notes prepared of even date.

## PLAT OF SURVEY
## SHOWING
## PART OF THE WILLIAM M. PUCKETT SURVEY A - 769
## SMITH COUNTY, TEXAS

I, DANIEL LEE COOPER, REGISTERED PROFESSIONAL LAND SURVEYOR NO 6148, do hereby certify that this plat was prepared from an on the ground survey performed under my direction and supervision on April 4, 2025.

GIVEN UNDER MY HAND AND SEAL, this the 21st day of April, 2025.

Daniel Lee Cooper

REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6148

STATE OF TEXAS
REGISTERED
DANIEL LEE COOPER
6148
PROFESSIONAL
LAND SURVEYOR

ADDRESS: Northwest Road

JOB # : 2025066

CLIENT : Jimmy Green

SCALE: 1" = 100.00'

LACY SURVEYING

P.O. BOX 1001
CHANDLER, TEXAS 75758
PHONE (903) 859 - 9942
LacySurveying.com
Texas Board of Professional
Engineers and Land Surveyors
Firm #10194876

# CITY OF TYLER
# CITY COUNCIL COMMUNICATION

**Agenda Number.** C-A-9

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to execute an Engineering Services Agreement with Pape Dawson Consulting Engineers, LLC for the Gilley Creek Lift Station Force Main Replacement in the amount of $732,600.00 and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

**Item Reference:**

The Gilley Creek Lift Station is located on the East side of Tyler and is a critical part of the sanitary sewer collection system. The lift station, which was constructed in the mid-1970s, has an existing force main that is approximately 6,900 feet long and is currently constructed out of 18-inch Asbestos Cement pipe. Fortunately, the failure history of this force main has only two repairs made on it over the last 30 years, but the pipe has reached the end of its useful life. The Greenbriar force main (located on the west side of town) is constructed out of the same material and has seen rapid deterioration over the past year. It is currently being remediated via sliplining in an emergency repair package.

In a report from February 2024 as part of the Consent Decree, Pipeline Analysis recommended that the force main be replaced due to its high criticality score and poor condition. The report noted that the force main is the oldest in Tyler, being installed in 1974.

The scope for this project is to replace the full length of the existing pipe with a new 18" PVC pipe installed via open trench, as well as replace two (2) 18-inch check valves, two (2) 18-inch plug valves, and one (1) 6-inch surge relief valve in the Gilley Creek Lift Station facility.

The pre-engineering cost estimate is $3,700,000.00. Design is anticipated to take 270 days, and construction will last an additional 180 days.

**RECOMMENDATION:**

**It is recommended that the City Council consider authorizing the City Manager to execute an Engineering Services Agreement with Pape Dawson Consulting Engineers, LLC, for the Gilley Creek Lift Station Force Main Replacement in the amount of $732,600.00 and adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.**

**Attachments:**

104135 Engineering Agreement (DRAFT 2025-07-01)
25-26 KSA Engineers - City of Tyler - COI
Gilley Creek Force Main Site Map
Gilley Creek FM Replacement _Future Debt_Resolution Form_Engineering

**Drafted/Recommended By:**
**Department Leader** Jacob Yanker, Utilities Project Engineer/ Kate Dietz, PE, 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 **Pape Dawson Consulting Engineers, 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 **"Gilley Creek Lift Station Force Main Replacement"** (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 = $359,700.00
- Hourly/Reimbursable Expenses = $372,900.00
- **Total Contract Price** = **$732,600.00**

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:
Pape Dawson
Attn: Christopher B. Aylor, P.E.
6781 Oak Hill Blvd.
Tyler, TX 75703

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:** _____

Managing Principal Date

John G. Reidy, 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 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 A**
**Scope of Service**
**Gilley Creek Lift Station Force Main Replacement**

This Agreement constitutes authorization by the City of Tyler (OWNER) for Pape Dawson Consulting Engineers, LLC (ENGINEER) to provide engineering services for the **Gilley Creek Lift Station Force Main Replacement** (hereinafter called the Project).

**PROJECT DESCRIPTION**

Project consists of the replacement of the City of Tyler's Gilley Creek Lift Station force main by installation of an approximate 6,900-ft long, 18-in diameter PVC pressure pipeline. The existing force main is planned to remain in service during construction and in place as a redundant pipeline upon completion of project. Project also includes the replacement of two (2) 18-inch check valves, two (2) 18-inch plug valves, and one (1) 6-inch surge relief valve within the Gilley Creek Lift Station facility.

The scope of services is based on the design of one (1) construction project with a pre-design opinion of probable construction cost of $3,700,000.

**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: Provide services as stated in Section 1.5 of the Agreement.
E. Construction Phase: Provide services as stated in Section 1.6 of the Agreement.
F. Operational Phase: Not Used.

Additional Services of ENGINEER: The ENGINEER is hereby authorized to perform the following additional services:

A. Design Surveying.
B. Environmental Assessment (Jurisdictional Waters Delineation and Endangered Species Assessment).
C. USACE Notification, Permitting, and Coordination.
D. Texas Historical Commission (THC) Consultation and Coordination.
E. Archeological Permitting and Coordination.
F. Cultural/Archeological Resources Survey.
G. Deed Research/Property Owner Coordination.
H. Right-of-Way Agent.
I. Easement Plat/Description Preparation.
J. City Permitting Coordination.
K. Texas Department of Transportation (TxDOT) Utility Permitting, Application, and Coordination.
L. Union Pacific Railroad (UPRR) Utility Permitting, Application, and Coordination.
M. Resident Project Representative.
N. Reimbursable Expenses (Printing, Postage, Mileage, etc.).

ENGINEER's Exclusions:

A. Study and Report Preparation.
B. Subsurface Utility Engineering and Utility Potholing.

C. Relocation of Existing and/or Conflicting Utilities.
D. Geotechnical Investigation.
E. Construction Materials Testing.
F. Coordination, Application, or Permitting with all Local, State, and/or Federal agencies other than those specified in Additional Services.
G. Coordination, Application, or Permitting with all Funding Agencies.
H. Stormwater Pollution Plans, Applications, and/or Permits.
I. Traffic Control Plans and/or Traffic Control Permitting.
J. Design and/or Analysis of Lift Station Volume, Capacity, and/or Operations.
K. Design and/or Analysis of Receiving Wastewater Collection System.
L. Landscape Architecture.
M. CCTV and/or Pipe Inspections.
N. Legal Services.

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**
**Gilley Creek Lift Station Force Main Replacement**

**PROJECT SCHEDULE**

Engineer shall complete their services with the following time specific period upon OWNER's notice to proceed.

1. Complete Preliminary Design: 150 calendar days following receipt of fully executed contract with OWNER.
2. Complete Final Design: 120 calendar days following receipt of OWNER's comments on submitted preliminary design documents.
3. Complete Bidding Phase: Within the time designated by the OWNER based upon an approved bid schedule developed following receipt of OWNER's comments on the submitted final design plans.
4. Complete Construction Phase – 180 calendar days (6 months) following issuance of notice to proceed to Contractor.

**Exhibit C**
**Fee Summary**
**Gilley Creek Lift Station Force Main Replacement**

**FEE SUMMARY**

Engineering Fees: The fees for the scope of services described above is as follows:

| Phase | Contract Amount | Terms |
|---|---|---|
| Preliminary Design | $ 173,800.00 | Lump Sum |
| Design Surveying | $ 30,000.00 | Hourly & Reimbursable [1] |
| Environmental Assessment | $ 32,500.00 | Hourly & Reimbursable [1] |
| USACE Notification, Permitting, and Coordination [2] | $ 15,000.00 | Hourly & Reimbursable [1] |
| THC Consulting and Coordination | $ 7,500.00 | Hourly & Reimbursable [1] |
| Archeological Permitting and Coordination [3] | $ 7,500.00 | Hourly & Reimbursable [1] |
| Cultural/Archeologicial Resources Survey [4] | $ 40,000.00 | Hourly & Reimbursable [1] |
| Deed Research/Property Owner Coordination [5] | $ 10,000.00 | Hourly & Reimbursable [1] |
| Right-of-Way Agent [5] | $ 32,000.00 | Hourly & Reimbursable [1] |
| Final Design | $ 115,900.00 | Lump Sum |
| Easement Plat/Description Preparation [5] | $ 25,000.00 | Hourly & Reimbursable [1] |
| City Permitting Coordination | $ 10,000.00 | Hourly & Reimbursable [1] |
| TxDOT Utility Permitting, Application, and Coordination [6] | $ 10,000.00 | Hourly & Reimbursable [1] |
| UPRR Utility Permitting, Application, and Coordination [7] | $ 10,000.00 | Hourly & Reimbursable [1] |
| Bidding | $ 10,000.00 | Lump Sum |
| Construction Administration | $ 60,000.00 | Lump Sum [8] |
| Resident Project Representative | $ 138,400.00 | Hourly & Reimbursable [1 8 9] |
| Reimbursable Expenses | $ 5,000.00 | Hourly & Reimbursable [1] |
| **Total** | **$ 732,600.00** | |

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).
2. If permanent impacts to jurisdictional waters are anticipated, a preconstruction notification (PCN) will be prepared and submitted to the USACE to support application of a Nationwide Permit (NWP).
3. If THC requires archeological field investigations, an Antiquities Permit will be prepared and submitted to the THC.
4. If THC requires archeological field investigations, a cultural/archeological resources survey will be conducted along with the preparation and submission of a report to the THC. Survey assumes two (2) days of shovel testing by a 2-person crew (approx. 30 shovel tests – 30 cm diameter and 80-cm deep).
5. Deed Research/Property Owner Coordination, Right-of-Way Agent, and Easement Plat/Description Preparation services assume seven (7) easements along the planned construction limits.
6. TxDOT Utility Permitting, Application, and Coordination services assume one (1) utility encroachment.
7. UPRR Permitting, Application, and Coordination services assume one (1) utility crossing.
8. Construction Administration and Resident Project Representative assumes a construction period of 180 consecutive calendar days. ENGINEER's work on these phases beyond the construction period established will be billed at hourly rates listed on the attached schedule.
9. Resident Project Representative budget is based upon 40 hours per week for the duration of the construction period.

# 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:<br>a) Products - Completed Operations<br>b) Independent Contractors<br>c) Broad Form Property Damage<br>d) X-C-U Coverage<br>X = Explosion Hazard<br>C = Collapse Hazard<br>U = Underground Damage<br>e) Contractual Liability or Cross Liability | Not Less than:<br>**$1,000,000** (1 million) Each Occurrence<br>**$2,000,000** (2 million) General Aggregate **Per Project**<br><br>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:<br>a) Any Auto; OR<br>b) All Owned Autos, and<br>c) Hired Autos, and<br>d) Non-Owned Autos. | Not Less than:<br>**$1,000,000** (1 million) Each Occurrence |
| **3) PROFESSIONAL ERRORS & OMISSIONS LIABILITY** Policy shall include (but not limited to) the following:<br>a) A minimum three (3) year Discovery (tail) Reporting period, and<br>b) A Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder. | Not Less than:<br>**$1,000,000** (1 million) Each Claim<br>**$2,000,000** (2 million) Annual Aggregate<br><br>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<br><br>Not Less than:<br>**$1,000,000** (1 million) Each Claim<br>**$2,000,000** (2 million) Annual Aggregate |
| **5) COMMERCIAL UMBRELLA / EXCESS LIABILITY *** | Not Less than:<br>**$5,000,000** (5 million) Each Occurrence<br>**$5,000,000** (5 million) General Aggregate<br><br>Any Self-Insured-Retention or Deductible shall not exceed $25,000. |
| **6) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY** | **Statutory Limits for Workers' Compensation**<br>TEX. LAB. CODE ANN. Title 5, Subtitle A, Chapter 401<br>TEX. ADMIN. CODE, Title 28, Part 2<br>**Employer's Liability Limits**<br>**$1,000,000 (1 million)** Bodily Injury by Accident<br>**$1,000,000 (1 million)** Bodily Injury by Disease Each Occurrence<br>**$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.<br>*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)<br><br>Policy **effective date** is ON or BEFORE Contract date, and<br>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]<br>☒ **Occurrence** Box is Checked<br>☒ **Per Project** Box is Checked for General Aggregate Limit. |
| 4. | Business Automobile Liability [*See* Section 7.3.2]<br>At a minimum each of the following boxes should be checked:<br>☒ Any Auto<br>OR<br>☒ All Owned Autos, and<br>☒ Hired Autos, and<br>☒ Non-Owned Autos. |
| 5. | Professional Errors and Omissions Liability [*See* Section 7.3.2] |
| 6. | Commercial Umbrella / Excess Liability [*See* Section 7.3.2]<br>☒ Occurrence Box is Checked |
| 7. | Workers Compensation and Employers Liability [*See* Section 7.3.2]<br>☒ WC Statutory Limits Box is Checked |
| | Look at the "Description of Operations . . . Special Provisions" Box.<br>[*See* Section 7.4] [*See also* Section 7.6]<br><br>Clearly indicate the **CITY** has been endorsed by using this language:<br><br>"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]<br>City of Tyler<br>P.O. Box 2039<br>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)<br>or Organization(s):<br>City of Tyler<br>P.O. Box 2039<br>Tyler, TX 75710</td><td>Location(s) of Covered Operations:<br><br>Project [insert project name],<br>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<br><br>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<br>1</td><td colspan="2">FORM: CG 20 10 10 01<br><u>Additional Insured - Owners, Lessees, or Contractors – Scheduled Person or Organization</u><br><br>AND<br>FORM: CG 20 37 07 04<br><u>Additional Insured – Owners, Lessees, or Contractors – Completed Operations</u></td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option<br>2</td><td colspan="2">FORM: CG 20 10 07 04<br><u>Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization</u><br><br>AND<br>FORM: CG 20 37 07 04<br><u>Additional Insured – Owners, Lessees, or Contractors – Completed Operations</u></td></tr>
<tr><td colspan="3">OR</td></tr>
<tr><td>Option<br>3</td><td colspan="2">FORM: GA 4113 11 99<br><u>Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization – Your Work</u><br><br>AND<br>FORM: GA 233 02 07<br><u>Contractors’ Commercial General Liability Broadened – with coverage for Completed Operations in conformance to specific written contract</u></td></tr>
<tr><td colspan="3">COMMERCIAL UMBRELLA / EXCESS LIABILITY<br><br>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<br><br>♦ 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.

Client#: 1863504 PAPEDAWS2

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/09/2025

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 any rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**
USI Insurance Services NW CL1
825 NE Multnomah, Suite 1500
Portland, OR 97232
503 224-8390

**CONTACT NAME:** Eric Kikalo
**PHONE (A/C, No, Ext):** 503 224-8390 **FAX (A/C, No):** 610 362-8130
**E-MAIL ADDRESS:** eric.kikalo@usi.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : National Fire Insurance Co. of Hartford | 20478 |
| INSURER B : Illinois Union Insurance Company | 27960 |
| INSURER C : Allied World Surplus Lines Insurance Co | 24319 |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

**INSURED**
KSA Engineers, Inc.
140 E. Tyler Street, Ste 600
Longview, TX 75601-0000

**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 INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | 7012316633 | 02/28/2025 | 02/28/2026 | EACH OCCURRENCE | $1,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $1,000,000 |
| | | | | | | | MED EXP (Any one person) | $15,000 |
| | | | | | | | PERSONAL & ADV INJURY | $1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $2,000,000 |
| | POLICY X PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $2,000,000 |
| | OTHER: | | | | | | | $ |
| A | AUTOMOBILE LIABILITY | | | 7012296190 | 02/28/2025 | 02/28/2026 | COMBINED SINGLE LIMIT (Ea accident) | $1,000,000 |
| | X ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| B | UMBRELLA LIAB X OCCUR | | | G48685596001 | 02/28/2025 | 02/28/2026 | EACH OCCURRENCE | $5,000,000 |
| | X EXCESS LIAB CLAIMS-MADE | | | | | | AGGREGATE | $5,000,000 |
| | DED RETENTION $ | | | | | | | $ |
| A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N | | | 7012316647 | 02/28/2025 | 02/28/2026 | X PER STATUTE OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N | N / A | | | | | E.L. EACH ACCIDENT | $1,000,000 |
| | (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $1,000,000 |
| C | Professional Liability | | | 03145815 | 02/28/2025 | 02/28/2026 | $5,000,000 | |

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

RE: Tyler Gilley Lift Station Force Main Replacement project located in Smith County, Texas. General Liability coverage applies to ongoing and completed operations. Coverage is primary and non contributory as respects General Liability and Auto. All policies provide (30) days Notice of Cancellation. The Professional Liability policy provides a Blanket Waiver of Subrogation as required by written contract. The Professional Liability policy includes an endorsement providing that 30 days notice of cancellation for reasons other (See Attached Descriptions)

**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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# DESCRIPTIONS (Continued from Page 1)

**than non payment of premium and 10 days notice of cancellation for nonpayment of premium will be given to the Certificate Holder by the Insurance Carrier, when required by written contract.**

**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: 7/1/1965**

**************************************************************************************************
**NAMED INSUREDS: Arborleaf Engineering & Surveying, Inc.; D2410 Partners, LP; Pape Dawson Munoz, LLC; Pape Dawson Charitable Foundation; Pape-Dawson Consulting Engineers Holdings, LLC; PD Management Holdco, LLC; Pape Dawson Engineers Holdings, Inc. Pape-Dawson Partners, LLP; Pape-Dawson Consulting Engineers, LLC DBA: Pape Dawson Engineers, Inc.; Pape-Dawson Engineers, LLC; VRRSP Consultants, LLC; Pape-Dawson Consulting Engineers, Inc. Employee 401K Plan; Dowdey Anderson & Associates 401K Plan; Pape-Dawson Consulting Engineers, Inc.; Employee Benefits Plan Trust; Dowdey,  Anderson & Associates, LLC; Costello, LLC; Costello, Inc. 401(K) Plan; Poulos & Bennett, LLC; Q. Grady Minor & Associates, P.A.; Q. Grady Minor and Associates, LLC; Maxwell Reddick & Associates, Inc.; Maxwell Reddick & Associates, LLC; Ragan-Smith Associates, Inc.; Ragan-Smith Associates, LLC; KSA Engineers, Inc.; BLOC Design-Build, LLC; Legacy Bear Properties, LLC; KSA Alliance, Inc.; Eberly & Associates, Inc.**

**The General Liability and Automobile Liability coverages include primary non-contributory additional insured coverage when required under written contract or written agreement as per attached endorsements. General Liability and Automobile Liability waiver of subrogation coverage is included per attached endorsements. Workers Compensation coverage includes waiver of subrogation coverage when required by written contract or agreement, per attached endorsement. Umbrella follows form to General Liability, Auto Liability and Employers Liability. 30-Day Notice of Cancellation.**

**RE: Tyler Gilley Lift Station Force Main Replacement project located in Smith County, Texas. General Liability coverage applies to ongoing and completed operations. Coverage is primary and non contributory as respects General Liability and Auto. All policies provide (30) days Notice of Cancellation. The Professional Liability policy provides a Blanket Waiver of Subrogation as required by written contract. The Professional Liability policy includes an endorsement providing that 30 days notice of cancellation for reasons other than non payment of premium and 10 days notice of cancellation for nonpayment of premium will be given to the Certificate Holder by the Insurance Carrier, when required by written contract.**

CNA

# CNA PARAMOUNT

## Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

**I.** **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, 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 subject to such **written contract**; or

**B.** in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

**1.** the **written contract** requires you to provide the additional insured such coverage; and

**2.** this **coverage part** provides such coverage.

**II.** But if the **written contract** requires:

**A.** additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or

**B.** additional insured coverage with "arising out of" language; or

**C.** additional insured coverage to the greatest extent permissible by law;

then paragraph **I.** above is deleted in its entirety and replaced by the following:

**WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

**III.** Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

**A.** coverage broader than required by the **written contract**; or

**B.** a higher limit of insurance than required by the **written contract**.

**IV.** The insurance granted by this endorsement to the additional insured does not apply to **bodily injury**, **property damage**, or **personal and advertising injury** arising out of:

**A.** the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:

**1.** the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and

**2.** supervisory, inspection, architectural or engineering activities; or

**B.** any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.

**V.** Under **COMMERCIAL GENERAL LIABILITY CONDITIONS,** the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:



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**Primary and Noncontributory Insurance**

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

**1.** primary and non-contributing with other insurance available to the additional insured; or

**2.** primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

**VI.** Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

**1.** give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;

**2.** send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and

**3.** make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph **3.** does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

**VII.** Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

**Written contract** means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

**A.** is currently in effect or becomes effective during the term of this policy; and

**B.** was executed prior to:

**1.** the **bodily injury** or **property damage**; or

**2.** the offense that caused the **personal and advertising injury**;

for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



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# CNA PARAMOUNT

## Waiver of Transfer of Rights of Recovery Against Others to the Insurer Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

| SCHEDULE |
| --- |
| **Name Of Person Or Organization:** |
| ANY PERSON OR ORGANIZATION WHOM THE NAMED INSURED HAS AGREED IN WRITING IN A CONTRACT OR AGREEMENT TO WAIVE SUCH RIGHTS OF RECOVERY, BUT ONLY IF SUCH CONTRACT OR AGREEMENT: |
| 1.IS IN EFFECT OR BECOMES EFFECTIVE DURING THE TERM OF THIS COVERAGE PART; AND<br>2.WAS EXECUTED PRIOR TO THE BODILY INJURY, PROPERTY DAMAGE OR PERSONAL AND ADVERTISING INJURY GIVING RISE TO THE CLAIM. |
| |

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, it is understood and agreed that the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

With respect to the person or organization shown in the Schedule above, the Insurer waives any right of recovery the Insurer may have against such person or organization because of payments the Insurer makes for injury or damage arising out of the **Named Insured's** ongoing operations or **your work** included in the **products-completed operations hazard**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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## DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM

BUSINESS AUTO COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "**insureds**" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** Pape-Dawson Consulting Engineers, LLC

**Endorsement Effective Date:**

| **SCHEDULE** |
|---|
| **Name Of Person(s) Or Organization(s):** |
| ANY PERSON OR ORGANIZATION THAT THE NAMED INSURED IS OBLIGATED TO PROVIDE INSURANCE WHERE REQUIRED BY A WRITTEN CONTRACT OR AGREEMENT IS AN INSURED,BUT ONLY WITH RESPECT TO LEGAL RESPONSIBILITY FOR ACTS OR OMISSIONS OF A PERSON/ORGANIZATION FOR WHOM LIABILITY COVERAGE IS AFFORDED UNDER THIS POLICY |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. |

Each person or organization shown in the Schedule is an "**insured**" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "**insured**" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** - Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** - Covered Autos Coverages of the Auto Dealers Coverage Form.



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## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM

BUSINESS AUTO COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** Pape-Dawson Consulting Engineers, LLC

**Endorsement Effective Date:**

| **SCHEDULE** |
|---|
| **Name(s) Of Person(s) Or Organization(s):** |
| ANY PERSON OR ORGANIZATION FOR WHOM OR WHICH YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN THIS WAIVER FROM US. YOU MUST AGREE TO THAT REQUIREMENT PRIOR TO LOSS. |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. |

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "**accident**" or the "**loss**" under a contract with that person or organization.



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## TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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. ☐ Specific Waiver

   Name of person or organization

   ☒ 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: Refer to Schedule of Operations

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.



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# CNA PARAMOUNT

## Architects, Engineers and Surveyors General Liability Extension Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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**1. ADDITIONAL INSUREDS**

**a.** **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **I.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

**(1)** is currently in effect or becomes effective during the term of this **Coverage Part**; and

**(2)** was executed prior to:

**(a)** the **bodily injury** or **property damage**; or

**(b)** the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

**b.** However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

**(1)** a higher limit of insurance than required by such contract or agreement; or

**(2)** coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **I.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

**1.** such person or organization's financial control of a **Named Insured**; or

**2.** premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Engineers, Architects or Surveyors Engaged By You**

An architect, engineer or surveyor engaged by the **Named Insured**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by the **Named Insured's** acts or omissions, or the acts or omissions of those acting on the **Named Insured's** behalf:

**a.** in connection with the **Named Insured's** premises; or

**b.** in the performance of the **Named Insured's** ongoing operations.

But the coverage hereby granted to such additional insureds does not apply to **bodily injury**, **property damage** or **personal and advertising injury** arising out of the rendering of or failure to render any professional services by, on behalf of, or for the **Named Insured**, including but not limited to:


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1. the preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2. supervisory, inspection, architectural or engineering activities.

**D. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

**E. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury** or **property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:

   **a.** the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

   **b.** the construction, erection, or removal of elevators; or

   **c.** the ownership, maintenance or use of any elevators covered by this insurance; or

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2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

a. **Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or

b. **Bodily injury** or **property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

**I. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:

a. the **Named Insured's** acts or omissions; or

b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. ADDITIONAL INSURED – EXTENDED COVERAGE**

When an additional insured is added by this or any other endorsement attached to this **Coverage Part**, **WHO IS AN INSURED** is amended to make the following natural persons **Insureds**.

If the additional insured is:

**a.** An individual, then his or her **spouse** is an **Insured**;

**b.** A partnership or joint venture, then its partners, members and their **spouses** are **Insureds**;

**c.** A limited liability company, then its members and managers are **Insureds**; or

**d.** An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are **Insureds**;


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## ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

| SCHEDULE |
| --- |
| **Name of Additional Insured Person Or Organization** |
| ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT TO NAME AS AN ADDITIONAL INSURED. |

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II** - LIABILITY COVERAGE, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "**accident**" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.



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# CNA PARAMOUNT

## General Aggregate Limit - Per Project Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

**I.** For each single construction or service project away from premises the **Named Insured** owns or rents, a separate Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

**A.** all **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

**B.** all medical expenses under **Coverage C**;

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Project General Aggregate Limit applicable to any other project.

**II.** All:

**A.** **damages** under **Coverage B**, regardless of the number of locations or projects involved;

**B.** **damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

**C.** medical expenses under **Coverage C**, caused by accidents which cannot be attributed solely to ongoing operations at a single project,

will reduce the General Aggregate Limit shown in the Declarations.

**III.** The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular project.

**IV.** When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.

**V.** If a single construction or service project away from premises owned by or rented to the **Named Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, such project will still be deemed to be the same project.

**VI.** The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



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SEAL
TBPE Firm Registration No. F-1356

This document is released for the purpose of interim review under the authority of Elisabeth W. Bogenschutz, P.E. on July 11, 2025. It is not to be used for construction, bidding, or permit purposes.

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www.ksaeng.com

| | |
|---|---|
| DRAWN BY: | EWS |
| DESIGNED BY: | BWB |
| LATEST REVISION: | 7/11/2025 |
| KSA JOB NO.: | 104135 |

CITY OF TYLER, TEXAS
GILLEY CREEK LIFT STATION FORCE MAIN REPLACEMENT
PROJECT NAME:

PROJECT EXHIBIT
SHEET NAME:

| MARK | REVISION | DATE |
|---|---|---|

**RESOLUTION NO. R-2025-**

**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 GILLEY CREEK LIFT STATION FORCE MAIN REPLACEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Tyler, Texas reserves the right to issue debt for the engineering, design, and construction of the Gilley Creek Lift Station Force Main 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 $732,600.

**Part 2:** That this Resolution shall be effective immediately upon adoption.

**PASSED AND APPROVED**, this the 23rd day of July, 2025.

_____
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-10

**Date:** July 23, 2025

**Subject:** Request that the City Council consider authorizing the City Manager to award the Private Lateral Group 3 Program Construction for Consent Decree Remediation Work in the amount of $997,024.00 to C&A Construction, LLC and to adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.

**Item Reference:** **April 10, 2017 Consent Decree; Aug 28, 2024 Council Meeting M-2**

This is the third phase of Private Lateral improvements related to the Consent Decree. These lines are in Basins 14 and 18, and this work is the result of the private lateral assessment work performed by Pipeline Analysis.

After investigation and design, the improvements have been divided into categories of work ranging from replacing cleanout caps to replacing the entire lateral. One (1) bid was received and publicly opened for this project.

C&A Construction, LLC was the low bidder for the project. The total amount for the work is $997,024.00.

The engineer and City staff have reviewed the bid and recommend that the Construction Contract, in the amount of $997,024.00, be awarded to C&A Construction, LLC.

**RECOMMENDATION:**

**It is recommended that the City Council consider authorizing the City Manager to award the Private Lateral Group 3 Program Construction for Consent Decree Remediation Work in the amount of $997,024.00 to C&A Construction, LLC and to adopt a Resolution reserving the right to reimburse expenditures with proceeds of future debt.**

**Attachments:**
Group 3 PL OPC - Bid Tab- C&A Construction LLC
Group 3 Private Lateral C&A Resolution.docx

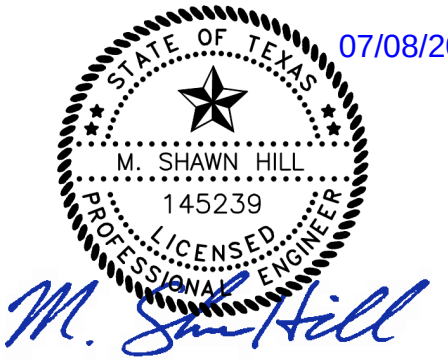
**Drafted/Recommended By:**
**Department Leader** Tiffany Currie, P.E. & Kate Dietz, P.E., Utilities Director

**Edited/Submitted By:**
**City Manager**

**Group 3 Private Lateral Program - 25-073 Bid Tab**

| | | | | C&A Construction, LLC. | |
|---|---|---|---|---|---|
| **BID ITEM** | **DESCRIPTION** | **UNITS** | **QUANTITY** | **UNIT PRICE** | **TOTAL PRICE** |
| 1 | MOBILIZATION | EA | 514 | $ 223.00 | $ 114,622.00 |
| 2 | REPLACE CLEANOUT CAP OR INSTALL T-CONE STOPPER (A) | EA | 231 | $ 135.00 | $ 31,185.00 |
| 3 | REPAIR BROKEN CLEANOUT (B) | EA | 67 | $ 808.00 | $ 54,136.00 |
| 4 | CCTV SERVICE, DETERMINE CONDITION AND REPAIRS REQUIRED (C) | EA | 196 | $ 651.00 | $ 127,596.00 |
| 5 | DISCONNECT ABANDONED SERVICE LINE AT PROPERTY LINE (D) | EA | 13 | $ 678.00 | $ 8,814.00 |
| 6 | DISCONNECT YARD DRAIN AND PLUG (E) | EA | 4 | $ 733.00 | $ 2,932.00 |
| 7 | POINT REPAIR ON SERVICE LATERAL (F) | EA | 3 | $ 1,913.00 | $ 5,739.00 |
| 8 | PRIVATE LATERAL REPAIRS FROM CCTV | AL | 1 | $ 600,000.00 | $ 600,000.00 |
| 9 | LANDSCAPE AND IRRIGATION | AL | 1 | $ 10,000.00 | $ 10,000.00 |
| 10 | CONTINGENCY | LS | 1 | $ 42,000.00 | $ 42,000.00 |
| | | **TOTAL AMOUNT** | | | **$ 997,024.00** |

I certify that the unit prices entered into this spreadsheet match the written unit prices or are an exact duplicate of the unit prices submitted and certified by the applicable contractor.




07/08/2025

RESOLUTION NO. R-2025-__

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 2025 SANITARY SEWER CREEK CROSSING REPLACEMENT PROJECT; AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS**, the City of Tyler, Texas (the "Issuer") reserves the right to issue debt for the engineering, design, and construction of the Group 3 Private Lateral Program 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 $997,024.

**Part 2:** That this Resolution shall be effective immediately upon adoption.

**PASSED AND APPROVED**, this the 23rd day of July 2025.

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

ATTEST:

_____
CASSANDRA BRAGER, CITY CLERK

APPROVED:

_____
DEBORAH G. PULLUM, CITY ATTORNEY