



**AGENDA
CITY COUNCIL MEETING
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday, November 7, 2024
Briefing Workshop at 6:00 PM
Regular Meeting at 7:00 PM



Mayor – Christine DeLisle

Place 1 – Kathryn Pantalione-Parker

Place 2 – Michael Herrera

Place 3 – David McDonald

Place 4 – Na'Cole Thompson, Mayor Pro Tem

Place 5 – Chris Czernek

Place 6 – Becki Ross

City Manager – Todd Parton

The meeting will also be live-streamed at the following link: <https://www.leandertx.gov/video>.

BRIEFING WORKSHOP - CONVENE AT 6:00 PM

1. Open Meeting.
2. Roll Call.
3. Convene into Executive Session pursuant to:
 - Section 551.071, Texas Government Code, and Section 1.05 Texas Disciplinary Rules of Professional Conduct to consult with legal counsel regarding acquisition of property for public purpose;
 - Sections 551.071 and 551.072, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct to consult with legal counsel regarding the acquisition of property for the Leander 2243 Water Main Project; and
 - Sections 551.071 and 551.087, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct to deliberate proposed economic development incentives for one or more business prospects that the governmental body seeks to have locate, stay, or expand in or near the territory of the City regarding Project EDA-24-003.

Reconvene into open session to take action as deemed appropriate in the City Council's discretion regarding:

- Acquisition of property for public purpose;
- Acquisition of property for the Leander 2243 Water Main Project; and
- Economic Development incentives regarding Project EDA-24-003.

REGULAR MEETING – CONVENE AT 7:00 PM

4. Open Meeting, Invocation and Pledges of Allegiance.
5. Roll Call.

6. Public comments on items not listed in the agenda.

Public comments on items listed in the agenda will be heard at the time each item is discussed.

[All comments are limited to no more than 3 minutes (6 minutes if translation is needed) per individual.]

7. Staff Reports

- Capital Improvement Program Update: Raider Way and East Woodview Drive Roadway (CIP T.12) Project.

CONSENT AGENDA: ACTION

8. Approval of the minutes for meeting held on October 17, 2024.
9. Rescind approval of contract with Texas Patriot Contracting, LLC, in the amount of \$143,000.00 for repairs and renovations to the Mason Homestead site.
10. Approval of an Ordinance adopting a Covered Applications Policy for the City of Leander prohibiting use of certain social media applications and services on governmental entity devices; designating an Information Security Officer to satisfy compliance with the Covered Applications Policy.
11. Approval of a Special Event Permit and street closures for the Old Town Christmas Parade, Rudolph Run 5K, and the Old Town Christmas Festival being held on Saturday, December 7, 2024
12. Approval of a Resolution authorizing the City of Leander to enter into the Global Payments Card Services Terms and Conditions for Government Entities, under a Cooperative Purchasing Agreement; making findings of fact; and providing an effective date; and authorize the City Manager to execute any and all necessary documents.
13. Approval of an expenditure for the final year of a three (3)- year contract in the amount of \$52,145.00 with On Duty Health for medical/fitness annual evaluations for City of Leander firefighters.
14. Approval of an amendment to existing contract L00286 by and between the City of Leander and Siddons Martin for an increase in contract costs of \$50,000.00, for a new contract total of \$737,500.00, utilizing new BuyBoard Contract #746-24, for the purchase of fire service apparatus parts, equipment, and repair services, and related goods; and authorize the City Manager to execute any and all necessary documents.
15. Approval of the purchase of one (1) 2024 Ford F-550 Bucket Truck from Rockdale Country Ford, dba Caldwell Country, in the amount of \$175,723.00 utilizing the BuyBoard Co-Op Contract #724-23; and authorize the City Manager to execute any and all necessary documents.
16. Approval of the purchase of four (4) message boards from RoadSafe Traffic System in the amount of \$74,000.00 utilizing the BuyBoard Co-Op Contract #703-23; and authorize the City Manager to execute any and all necessary documents.
17. Approval of the purchase of one (1) 100-kilowatt generator from LOFTIN to be located in the Public Works Building at 607 Municipal Drive, Leander, Texas, utilizing BuyBoard Contract #657-21 in the amount of \$60,170.00; and authorize the City Manager to execute any and all necessary documents.
18. Acceptance of public infrastructure improvements for Lake's Lair to include streets, wastewater, water, storm, sidewalks, and landscape improvements.

19. Acceptance of public infrastructure improvements for Leander Estates Phase 1 to include: streets, drainage, water, and landscape improvements.
20. Approval of Change Order No.1 to the contract agreement with Asphalt Inc., LLC, dba Lone Star Paving Company, for Roadway Rehabilitation Fiscal Year 2024, increasing the current contract amount by an amount of \$56,989.50 for a new total of \$2,147,034.50, with no extension of term duration; and authorize the City Manager to execute any and all necessary documents.
21. Approval of the Second Reading of an Ordinance regarding the Bagdad Retail Center Annexation Case A-24-0014 for the voluntary annexation of 4.227 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District, Parcels R023980; and generally located northwest of the intersection of North Bagdad Road and CR 281, Leander, Williamson County, Texas.
22. Approval of a Resolution accepting the petition for the High Gabriel Township Annexation Case A-24-0011 regarding the voluntary annexation of 12.75 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R362129 and R032227; and generally located south of High Gabriel East, approximately 1,100 feet east of US 183, Leander, Williamson County, Texas.
23. Approval of a Resolution accepting the petition for the Simpson Tract Annexation Case A-24-0017 regarding the voluntary annexation of 28.12 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcel R338811; and generally located southeast of the intersection of Mineral Drive and CR 175, Leander, Williamson County, Texas.
24. Approval of a Development Agreement regarding Development Agreement Case DA-24-0008, for the Shanta Ba Plaza Site Development on one (1) parcel of land approximately 2.93 acres $\pm$ in size, more particularly described by Williamson County Appraisal District Parcel R516399; generally located at 1528 Arrowfeather Pass, Leander, Williamson County, Texas.
25. Approval of a Development Agreement regarding Development Agreement Case DA-24-0017 for Leander Kinder Care development on one (1) parcel of land approximately 1.828 acres $\pm$ in size, more particularly described by Williamson County Appraisal District Parcel R542550; generally located at 441 W. Broade Street, Leander, Williamson County, Texas.

PUBLIC HEARING: ACTION

26. Conduct a Public Hearing regarding Zoning Case Z-24-0120 to amend the 675 Kauffman Loop Planned Unit Development to allow for overhead commercial doors on two (2) parcels of land approximately 24.91 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R328207 and R555049; and more commonly known as 675 Kauffman Loop, Leander, Williamson County, Texas.
 - Discuss and consider action regarding Zoning Case Z-24-0120 as described above.
27. Conduct a Public Hearing regarding Zoning Case Z-24-0134 to amend the current zoning of SFU/MH-2-B (Single-Family Urban/Manufactured Home) to adopt the Hill Country Community Ministries – Lacy Drive PUD (Planned Unit Development) with the base zoning district of LC-3-A (Local Commercial) on three (3) parcels of land approximately 1.31 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R036399, R036398, and R036397; and more commonly addressed as 1005 Lacy Drive, 1007 Lacy Drive, and 1009 Lacy Drive, Leander, Williamson County, Texas.
 - Discuss and consider action regarding Zoning Case Z-24-0134 as described above.

28. Conduct a Public Hearing regarding Zoning Case Z-24-0142 to amend the current zoning of SFS-2-B (Single-Family Suburban) to GC-3-C (General Commercial) on one (1) parcel of land approximately 5.094 acres ± in size, more particularly described by Williamson Central Appraisal District Parcel R432899; and generally located at the southeast corner of the intersection of Hero Way West and North Lakeline Boulevard, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0142 as described above.

29. Conduct a Public Hearing regarding Ordinance Case OR-24-0025 to amend the Composite Zoning Ordinance Article V, Section 2(b)(2) to modify the building size requirements, and to provide for related matters; Williamson & Travis Counties, Texas.

- Discuss and consider action regarding Ordinance Case OR-24-0025 as described above.

REGULAR AGENDA

30. Discuss and consider action on a Resolution approving an Interlocal Agreement with the City of Round Rock, City of Austin, and City of Cedar Park regarding the allocation of costs for the rehabilitation of the East Wastewater Treatment Plant of the Brushy Creek Regional Wastewater System (BCRWWS).
31. Council Member Future Agenda Items *[Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.]*
32. Council Member Closing Statements.
33. Adjournment

CERTIFICATION

This meeting will be conducted pursuant to the Texas Government Code Section 551.001 et seq. At any time during the meeting the Council reserves the right to adjourn into Executive Session on any of the above posted agenda for which state law authorizes Executive Session to be held, including but not limited to Sections 551.071 [litigation and certain Consultation with attorney], 551.072 [acquisition of interest in real property], 551.073 [prospective gift to city], 551.074 [certain personnel deliberations], 551.076 [deployment/implementation of security personnel or devices], or 551.087 [Deliberations regarding Economic Development Negotiations]. The City of Leander is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary at (512) 528-2743 for information. Hearing impaired or speech disabled persons equipped with telecommunication devices for the deaf may call (512) 528-2800. I certify that the above agenda for this meeting of the City Council of the City of Leander, Texas, was posted on the bulletin board at City Hall in Leander, Texas, on the 1 day of November 2024 by 5:00 p.m. pursuant to Chapter 551 of the Texas Government Code.



Dara Crabtree, City Secretary, TRMC



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Reconvene into open session to take action as deemed appropriate in the City Council's discretion regarding:

- Acquisition of property for public purpose;
- Acquisition of property for the Leander 2243 Water Main Project; and
- Economic Development incentives regarding Project EDA-24-003.

BACKGROUND:

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

PRESENTER:

Fiscal Impact

Attachments:



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of the minutes for meeting held on October 17, 2024.

BACKGROUND:

Attached are the minutes for the meeting held on October 17, 2024.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

PRESENTER:

Dara Crabtree, City Secretary

Fiscal Impact

Attachments:

1. Draft Minutes 10.17.2024



**MINUTES
CITY COUNCIL MEETING
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday, October 17, 2024
Briefing Workshop at 5:00 PM
Regular Meeting at 7:00 PM



Mayor – Christine DeLisle

Place 1 – Kathryn Pantalion-Parker

Place 2 – Michael Herrera

Place 3 – David McDonald

Place 4 – Na'Cole Thompson, Mayor Pro Tem

Place 5 – Chris Czernek

Place 6 – Becki Ross

City Manager – Todd Parton

BRIEFING WORKSHOP - CONVENE AT 5:00 PM

1. Open Meeting.

Opened meeting at 5:01 p.m.

2. Roll Call.

Roll call reflected all present with Councilmember McDonald arrived at 5:53 p.m.

3. Presentation regarding the 183 Corridor Study.

Presentation included public engagement overview, needs assessment highlights; projects; access management justification; funding opportunities; future ownership of US 183 and next steps.

[City Council took a brief recess at 5:38 p.m./reconvened at 6:03 p.m.]

4. Joint Discussion with the Planning and Zoning Commission regarding the “Option Area” of the Northline Development.

Discussion included: changes to the option area from 2018 to now; Commissioners' concerns during the recent Planning and Zoning Commission meeting; pedestrian connectivity; Planning and Zoning Commission receiving updates on the same page as the Council; market realities; Smart Code optional; and how Commissioners' wish to receive communication on critical updates - abbreviated talking points; and provide reason why City Council is supporting critical update.

Briefing workshop adjourned at 6:36 p.m.

REGULAR MEETING – CONVENE AT 7:00 PM

5. Open Meeting, Invocation and Scout Troops 258 and 358 will present the Colors and lead the Pledges of Allegiance.

Opened meeting at 7:02 p.m.; invocation was provided by Councilmember Czernek; and Scout Troops 258 and 358 presented the Colors and lead the Pledges of Allegiance.

6. Roll Call.

Roll call reflected all present.

7. Public comments on items not listed in the agenda.

Public comments on items listed in the agenda will be heard at the time each item is discussed.

[All comments are limited to no more than 3 minutes (6 minutes if translation is needed) per individual.]

Joshua Waley, 209 S. Brush Street -- commented on construction of residence; fees; receiving different answers on process from Utility Billing and Public Works Department.

8. Staff Reports

- Capital Improvement Program Update: Raider Way and East Woodview Drive Roadway (CIP T.12) Project.

Update included: construction progress; construction impacts; EMS/Fire calls; traffic monitoring - Myrna Bend; and drone footage.

CONSENT AGENDA: ACTION

Mayor DeLisle stated Item 20 was pulled from the consent agenda and will be considered separately.

Motion: Approve consent agenda items 9 through 19 and 21 through 24.

By: Mayor Pro Tem Thompson

Seconded: Councilmember Pantalione-Parker

Vote: 7 - 0

9. Approval of the minutes for meeting held on October 3, 2024.
10. Approval of Resolution authorizing to apply for the Department of Energy, Energy Efficiency and Conservation Block Grant to reduce energy use and support energy efficiency.
11. Acceptance of infrastructure improvements for Bar W Ranch West Phase 2 Lift Station and Wastewater Improvements.
12. Acceptance of the public infrastructure improvements for Travisso Phase 4, Sections 7 and 8 and Phase 5, Section 3 including: streets, drainage and erosion, water, reclaimed water, wastewater, and streetlight improvements.
13. Approval of purchase of one (1) 2024 Ford truck from Sewell Ford of Odessa utilizing Solicitation S24-003 with Sewell Family of Companies in the amount of \$78,483.00; and authorize the City Manager to execute any and all necessary documents.
14. Approval of the Second Reading of an Ordinance regarding Zoning Case Z-24-0135 to amend a portion of the San Gabriel Villas Planned Unit Development and Development Agreement Case DA-24-0009 on one (1) parcel of land approximately 3.028 acres ± in size, more particularly described by Williamson Central Appraisal District Parcel R588850; legally described as Lot 2, Block B of the Aven

Ridge Subdivision, and generally located east of the intersection of Aven Way and 183A Toll Road, Leander, Williamson County, Texas.

15. Approval of the extension of the application expiration for Subdivision Case FP-23-0079 Russi Replat Short Form Final Plat; more particularly described by Travis Central Appraisal District Parcel 354066, generally located at 15105 Round Mountain Road, Leander, Travis County, Texas.
16. Approval of the extension of the application expiration for Subdivision Case FP-23-0081 Gabriels Horn Development Final Plat; more particularly described by Williamson Central Appraisal District Parcels R473804, R500871, R022218, and R500872, generally located northwest of the intersection of Ronald W. Reagan Boulevard and Gabriels Horn Road, Leander, Williamson County, Texas.
17. Approval of the extension of the application expiration for Subdivision Case PICP-21-0036 Northline Block A Construction Plans; more particularly described by Williamson Central Appraisal District Parcel R458187, generally located southwest of the intersection of San Gabriel Parkway and Main Street, Leander, Williamson County, Texas.
18. Approval of the extension of the application expiration for Subdivision Case PICP-22-0020 Northline Block O Construction Plans; more particularly described by Williamson Central Appraisal District Parcels R517094 and R031604, generally located southwest of the intersection of Main Street and William Parker Street, Leander, Williamson County, Texas.
19. Approval of an amendment to Development Agreement Case 22-DA-028 on one (1) parcel of land approximately 13.871 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcel R599180; and more commonly known as 10860 W. Crystal Falls Parkway, Leander, Williamson County, Texas.
20. Approval of management and service agreement by and between City of Leander Texas and Ryan Sanders Sports Services LLC (RS3) for restaurant and bar services to be provided at Crystal Falls Golf Club (CFGF); and authorize the City Manager to execute any and all necessary documents.

Motion: Approve the management and service agreement, following a discussion.

By: Councilmember Pantalion-Parker

Seconded: Councilmember Herrera

Vote: 7 - 0

21. Award of contract utilizing Solicitation S24-010 to Ion Art, Inc., for the purchase and installation of an art sculpture, Iron Frog, at Devine Lake Park in an amount not to exceed \$50,000.00; and authorize the City Manager to execute any and all necessary documents.
22. Approval of a contract with Texas Patriot Contracting, LLC, in the amount of \$143,000.00 and Bee Cave Drilling, Inc., in the amount of \$6,087.30 for repairs and renovations to the Mason Homestead site; and authorize the City Manager to execute any and all necessary documents.
23. Authorize Purchasing Agreement L00409 by and between the City of Leander, Texas, and Xerox Business Solutions Southwest for the purchase of technology products and services, specifically a lease for printers, utilizing Harris County Department of Education (HCDE) "Choice Partners" Purchasing Program contract number 21/031K in the amount of \$290,000.00 for the term of contract expiring October 31, 2029; providing for an effective date; and authorize the City Manager to execute any and all necessary documents.

24. Approval of the Urbana at Hero Way License to Encroach Agreement, Case LA-24-0033, to allow for the installation and maintenance of signage within portions of the right-of-way of Hero Way West, Leander, Williamson County, Texas.

PUBLIC HEARING: ACTION

25. Conduct a Public Hearing regarding Comprehensive Plan Case CPA-24-0014 to amend the Comprehensive Plan land use category from Leander Central to Activity Center on eight (8) parcels of land approximately 16.0602 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R517094, R031604, R646992, R646986, R646987, R646988, R646989, and R646990; and more commonly known as southwest of the intersection of East San Gabriel Parkway and 183A Toll Road, Leander, Williamson County, Texas.

- Discuss and consider action regarding Comprehensive Plan Case CPA-24-0014 as described above.

Open Public Hearing at 7:33 p.m.; closed Public Hearing at 7:37 Brian Weinzetl, 265 John Webster Street; Jordan Crown, 205 John Webster Street; Peter Maselli, 257 John Webster Street spoke in favor of the request. No one spoke in opposition of the request.

Motion: Approve Comprehensive Plan Case CPA-24-0014, following comment.

By: Councilmember Ross

Seconded: Councilmember Pantalione-Parker

Vote: 7 - 0

26. Conduct a Public Hearing regarding the approval of a Resolution approving a Resolution by the Board of Directors of the Brushy Creek Regional Utility Authority, Inc.; authorizing the issuance of “\$39,090,000 Brushy Creek Regional Utility Authority, Inc., City of Leander, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2024”; establishing the procedures for selling and delivering the bonds and resolving other matters incident and relating to the issuance, payment, security, sale and delivery of such bonds

- Discuss and consider action on a Resolution approving a Resolution by the Board of Directors of the Brushy Creek Regional Utility Authority, Inc., authorizing the issuance of “\$39,090,000 Brushy Creek Regional Utility Authority, Inc., City of Leander, Texas Contract Revenue Bonds (Brushy Creek Regional Water Treatment and Distribution Project), Series 2024”; establishing the procedures for selling and delivering the bonds and resolving other matters incident and relating to the issuance, payment, security, sale and delivery of such bonds

Opened Public Hearing at 7:40 p.m.; closed Public Hearing at 7:40 p.m. No one spoke in favor or opposition of the request.

Motion: Approve a Resolution approving a Resolution by the Board of Directors of the Brushy Creek Regional Utility Authority, Inc., following a discussion.

By: Mayor Pro Tem Thompson

Seconded: Councilmember McDonald

Vote: 7 - 0

REGULAR AGENDA

27. Discuss and consider action on the Second Reading of an Ordinance regarding Zoning Case Z-24-0127 to amend the current zoning of Northline Planned Unit Development to adopt the Northline Retail Planned Unit Development with base zoning district of GC-2-A (General Commercial) and Development Agreement Case DA-24-0007 on eight (8) parcels of land approximately 16.0602 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R517094, R031604, R646992, R646986, R646987, R646988, R646989, and R646990; and generally located southwest of the intersection of East San Gabriel Parkway and 183A Toll Road, Leander, Williamson County, Texas.

Motion: Approve second reading of Ordinance regarding Zoning Case Z-24-0127.

By: Councilmember Czernek
Seconded: Councilmember Ross

Vote: 7 - 0

28. Discuss and consider action on an Ordinance implementing Civil Service for Firefighters and establishing classification and the number of positions in each classification; authorizing the Fire Chief to appoint each Assistant Fire Chief; and providing for related matters.

Motion: Approve an Ordinance implementing Civil Service for Firefighters and establishing classification and the number of positions in each classification.

By: Councilmember McDonald
Seconded: Mayor Pro Tem Thompson

Vote: 7 - 0

29. Convene into Executive Session pursuant to Section 551.074, Personnel, to discuss appointments to the Planning and Zoning Commission and Board of Adjustment, if needed.

Reconvene into open session.

Convened into Executive Session at 7:44 p.m.; reconvened into open session at 8:17 p.m.

No action.

30. Discuss and consider action on appointments to the following boards, commissions and committees: Board of Adjustment, Ethics Commission, Historical Preservation Commission, Leander Public Arts and Cultural Commission, Planning and Zoning Commission, Tax Increment Reinvestment Zone No.1(TIRZ) Board, Development Authority Board, as well as the Economic Development Committee and Parks & Recreation Advisory Board if needed.

Motion: Approve the following boards, commissions, and committee appointments:

Board of Adjustment: Binod Maharjan, Gil Debner, Cynthia Rosenthal, Alternate #1 and Joel Bakki, Alternate #3 to a term expiring in October 2026.

Ethics Commission: Gary Hampton, Melissa Bradford, Shay Fulton and Steve Kuwitzky with a term expiring in October 2027.

Historical Preservation Commission: Anna Yelaun, Chris Twing, Esmeralda Gonzales, Joel Bakki, and Triste Freeburg with a term expiring in October 2027.

Leander Public Arts and Culture Commission: Anna Yelaun, Keysha Bradford, Naruby Bollom, Sammy Panzarino and Steve Kuwitzky with a term expiring in October 2026. Michelle Lee to fill an unexpired term expiring in October 2025.

Planning and Zoning Commission: Joseph Morales, Laura Lantrip, Scott Calame and Tara LeDay with a term expiring in October 2027.

TIRZ/Development Authority Board: Bob Biles with a term expiring in October 2026.

By: Mayor DeLisle

Seconded: Councilmember McDonald

Vote: 7 - 0

31. Council Member Future Agenda Items *[Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.]*

- Reducing and/or waiving permit fees for non-profit organizations

32. Council Member Closing Statements.

Kathryn Pantalion-Parker - thanked the Boy Scouts for presenting the Colors.

Michael Herrera - thanked LPACC and staff for their work on Artfest.

David McDonald - thanked the Boy Scouts for presenting the Colors; and Board and Commission applicants.

Na'Cole Thompson - thanked the Boy Scouts for presenting the Colors; Board and Commission applicants and those who served; and stated Artfest was phenomenal and received positive feedback on the event.

Chris Czernek - thanked the Boy Scouts for presenting the Colors and staying the entire meeting; and stated our future looks bright and this is an exciting time.

Becki Ross - thanked LPACC for all their work with Arfest; and it was a fantastic event.

Christine DeLisle - commented on Arfest and thanked staff and LPACC for their work on the event; thanked all the applicants that applied for boards and commissions and their willingness to volunteer; reminded everyone to shop Leander and of upcoming events; stated dinner was from Pizza Hut tonight and issued Proclamation for Texas Teachers' Day.

33. Convene into Executive Session pursuant to:

1. Section 551.071, Texas Government Code, and Section 1.05 Texas Disciplinary Rules of Professional Conduct to consult with legal counsel regarding BCRUA Projects, contracts, and related financing and management of water usage; and
2. Sections 551.071 and 551.072, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct to consult with legal counsel regarding the acquisition of

property for the Leander 2243 Water Main Project.

Reconvene into open session to take action as deemed appropriate in the City Council's discretion regarding:

1. BCRUA Projects, contracts, and related financing and management of water usage; and
2. Acquisition of property for the Leander 2243 Water Main Project.

Convened into Executive Session at 8:47 p.m.; reconvened into open session at 9:14 p.m.

1. No action.
2. No action

34. Adjournment

Adjourned at 9:14 p.m.

APPROVED

MAYOR

ATTEST:

CITY SECRETARY



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Rescind approval of contract with Texas Patriot Contracting, LLC, in the amount of \$143,000.00 for repairs and renovations to the Mason Homestead site.

BACKGROUND:

The City Council approved a contract with Texas Patriot Contracting, LLC at their October 17, 2024 regular meeting for interior and exterior repairs to the Mason Homestead. Following the meeting, staff determined the contract should go through the competitive bid process due to the scope of work and cost of the project. Staff will solicit competitive bids for this project and have the solicitation award for Council consideration on a future agenda.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Staff recommends that the City Council rescind its prior approval of an agreement with Texas Patriot Contracting, LLC, in the amount of \$143,000.00 for repairs and renovations to the Mason Homestead site.

PRESENTER:

Todd Parton, City Manager

Fiscal Impact

Attachments:



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of an Ordinance adopting a Covered Applications Policy for the City of Leander prohibiting use of certain social media applications and services on governmental entity devices; designating an Information Security Officer to satisfy compliance with the Covered Applications Policy.

BACKGROUND:

The 88th Texas Legislature passed Senate Bill 1893 in 2023 which requires state and local government entities to adopt a policy prohibiting the installation or use of certain social media applications (namely TikTok and any other apps developed by TikTok's current owner ByteDance) on government-owned devices and creates a mechanism for the Texas Governor to ban future social media applications or services from government devices if the Texas Governor deems them a threat to the state.

This legislation requires the City of Leander to pass a Covered Applications Policy within sixty (60) days of the release of a model policy written by the Texas Department of Information Resources and the Texas Department of Public Safety. The model policy has been released, and the deadline to pass a Covered Applications Policy is November 20, 2024.

The model policy requires several information security steps which the City of Leander has already taken. The City's Information Technology department has already implemented a Mobile Device Management (MDM) system which allows for remote removal of applications from City-owned devices and limits which applications can be installed. When this legislation took effect on June 14, 2023, the City's designated Information Security Officer blocked TikTok from all City networks and worked with departments to deactivate any City-controlled TikTok accounts they might have utilized. The TikTok application is not available to be installed on City devices, and the only exception would be for law enforcement or information security purposes with appropriate mitigation in place. This policy formalizes procedures the City has followed since the legislation's effective date.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Staff respectfully recommends City Council adopt an ordinance creating a Covered Applications Policy for the City of Leander which prohibits use of certain social media applications and services on governmental entity devices, as required by SB1893.

PRESENTER:

Stuart Smith, Assistant Director of IT / Information Security Officer

Fiscal Impact

Attachments:

1. Ordinance Covered Application Policy.2024
2. Applications Policy for Governmental Entities

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO.

A ORDINANCE OF THE CITY OF LEANDER, ADOPTING A COVERED APPLICATIONS POLICY FOR GOVERNMENTAL ENTITIES AND DESIGNATING AN INFORMATION SECURITY OFFICER TO SATISFY COMPLIANCE WITH THE COVERED APPLICATIONS POLICY

WHEREAS, Texas Government Code, chapter 640 requires local governments and political subdivisions to adopt a Covered Applications Policy for Governmental Entities to address the protection of all electronic devices that are used by the local governmental entity or political subdivision to perform governmental services; and

WHEREAS, the City Council of the City of Leander (“City”) has reviewed and desires to adopt the Covered Applications Policy for Governmental Entities as being in line with the provisions of chapter 640, Texas Government Code;

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

Section 1. Findings. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Policy Adopted. Pursuant to Texas Government Code chapter 640, the City Council hereby approves the Covered Applications Policy for Governmental Entities, attached hereto as Exhibit “A.”

Section 3. Effective Date. This Ordinance will become effective upon its adoption, passage by the City Council in accordance with the procedures on the date of passage as required and publication as required by law.

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this 7 day of November 2024.

ATTEST:

CITY OF LEANDER, TEXAS

Dara Crabtree, City Secretary

Christine DeLisle, Mayor

EXHIBIT “A”

COVERED APPLICATIONS POLICY FOR GOVERNMENTAL ENTITIES

Covered Applications Policy for Governmental Entities

Scope and Definitions

Pursuant to Senate Bill 1893, governmental entities, as defined below, must establish a covered applications policy:

- A department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Education Code Section 61.003.
- The supreme court, the court of criminal appeals, a court of appeals, a district court, or the Texas Judicial Council or another agency in the judicial branch of state government.
- A political subdivision of this state, including a municipality, county, or special purpose district.

This policy applies to all City of Leander full- and part-time employees, contractors, paid or unpaid interns, and other users of government networks. All City of Leander employees are responsible for complying with this policy.

A covered application is:

- The social media service TikTok or any successor application or service developed or provided by ByteDance Limited, or an entity owned by ByteDance Limited.
- A social media application or service specified by proclamation of the governor under Government Code Section 620.005.

Covered Applications on Government-Owned or Leased Devices

Except where approved exceptions apply, the use or installation of covered applications is prohibited on all government-owned or -leased devices, including cell phones, tablets, desktop and laptop computers, and other internet-capable devices.

The City of Leander will identify, track, and manage all government-owned or -leased devices including mobile phones, tablets, laptops, desktop computers, or any other internet-capable devices to:

- a. Prohibit the installation of a covered application.

- b. Prohibit the use of a covered application.
- c. Remove a covered application from a government-owned or -leased device that was on the device prior to the passage of S.B. 1893 (88th Leg, R.S.).
- d. Remove an application from a government-owned or -leased device if the Governor issues a proclamation identifying it as a covered application.

The City of Leander will manage all government-owned or -leased mobile devices by implementing the security measures listed below:

- a. Restrict access to "app stores" or unauthorized software repositories to prevent the installation of unauthorized applications. All applications for mobile devices must be evaluated and approved by the City of Leander's designated Information Security Officer prior to purchase and/or installation.
- b. Maintain the ability to remotely wipe non-compliant or compromised mobile devices through city's Mobile Device Management (MDM) software. All city owned or leased devices must be enrolled in the city's MDM unless a specific exemption is granted by the City of Leander's designated Information Security Officer and appropriate risk mitigation measures are in place.
- c. Maintain the ability to remotely uninstall unauthorized software from mobile devices through the City of Leander's Mobile Device Management (MDM) software. See subsection b immediately above.

Ongoing and Emerging Technology Threats

To provide protection against ongoing and emerging technological threats to the government's sensitive information and critical infrastructure, DPS and DIR will regularly monitor and evaluate additional social media applications or services that pose a risk to this state.

DIR will annually submit to the Governor a list of social media applications and services identified as posing a risk to Texas. The Governor may proclaim items on this list as covered applications that are subject to this policy.

If the Governor identifies an item on the DIR-posted list described by this section, then the City of Leander will remove and prohibit the covered application.

The City of Leander may also prohibit applications or services in addition to those specified by proclamation of the Governor. The City of Leander's designated Information Security Officer has the authority to require removal and prohibit use of any application, service, or program for City of Leander business which he/she determines is

a threat to the Confidentiality, Integrity, or Availability of any City of Leander system or database.

Bring Your Own Device Policy

If the City of Leander implements a “Bring Your Own Device” (BYOD) program, then the City of Leander may consider prohibiting the installation or operation of covered applications on employee-owned devices that are used to conduct government business.

Covered Application Exceptions

The City of Leander’s designated Information Security Officer may permit exceptions authorizing the installation and use of a covered application on government-owned or -leased devices consistent with the authority provided by Government Code Chapter 620.

Government Code Section 620.004 only allows the City of Leander to install and use a covered application on an applicable device to the extent necessary for:

- (1) Providing law enforcement; or
- (2) Developing or implementing information security measures.

If the City of Leander’s designated Information Security Officer authorizes an exception allowing for the installation and use of a covered application, the City of Leander must use measures to mitigate the risks posed to the state during the application’s use including:

- Exclusion of the device from protected networks
- Monitoring of application use by the City of Leander’s designated Information Security Officer
- Revocation of exception if a violation of any information security measure required by the City of Leander’s designated Information Security Officer occurs.

The City of Leander must document whichever measures it took to mitigate the risks posed to the state during the use of the covered application.

Policy Compliance

The City of Leander will verify compliance with this policy through various methods, including but not limited to, IT/security system reports, information security officer audits, and feedback to leadership.

An employee found to have violated this policy is subject to disciplinary action, up to and including termination of employment including acceleration of the City of Leander's disciplinary and escalation procedures. Nothing in this policy shall change the at-will nature of employment with the City, or does this Policy constitute a contract of employment or a legally-binding agreement. An employee does not have a right to progressive discipline.

Policy Review

This policy will be reviewed yearly and updated as necessary to reflect changes in state law, additions to applications identified under Government Code Section 620.006, updates to the prohibited technology list posted to DIR's website, or to suit the needs of the City of Leander.



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of a Special Event Permit and street closures for the Old Town Christmas Parade, Rudolph Run 5K, and the Old Town Christmas Festival being held on Saturday, December 7, 2024

BACKGROUND:

The City of Leander in partnership with The Leander Chamber of Commerce & Visitors Center will co-host the 8th Annual Old Town Christmas Festival from 9:30 a.m. to 9:00 p.m. on Saturday, December 7. The event will feature the Rudolph Run 5K, food and beverage vendors, art vendors, a Christmas Market, and The Polar Express-themed daytime parade.

A special permit is requested for street closures for the parade and festival.

The following streets are proposed to be closed from 7:00 a.m. to 10:00 p.m. on the day of the event:

- W Willis Street between Bagdad Street and N Brushy Street
- W South Street between S West and US 183
- N Brushy Street between Broade and Atkins Street
- Bagdad Street between W Willis and W South Street
- Portions of W South Street, S West Drive, and Municipal Drive for the 5K route from 9:00 a.m. until 12:00 p.m.
- Portions of W South Street, S West Drive, and Municipal Drive for the parade route from 12:30 p.m. until 2:30 p.m.

Additional Considerations:

The Parks and Recreation Department will

- Provide assistance and planning as needed, primarily setting up the City's Christmas Tree, setting up additional lights and displays, and hosting the Christmas Parade,
- Ensure the grounds are presentable (i.e. mowed, trimmed; treated for fire ants, etc.) immediately prior to the festival,
- Set up and remove blockades for parade/festival as needed with assistance from other City departments, and
- Place waste cans and dispose of trash.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Staff respectfully requests Council approval of a special permit to allow for street closures at the times and locations referenced above. Approval is also recommended for the additional considerations outlined.

PRESENTER:

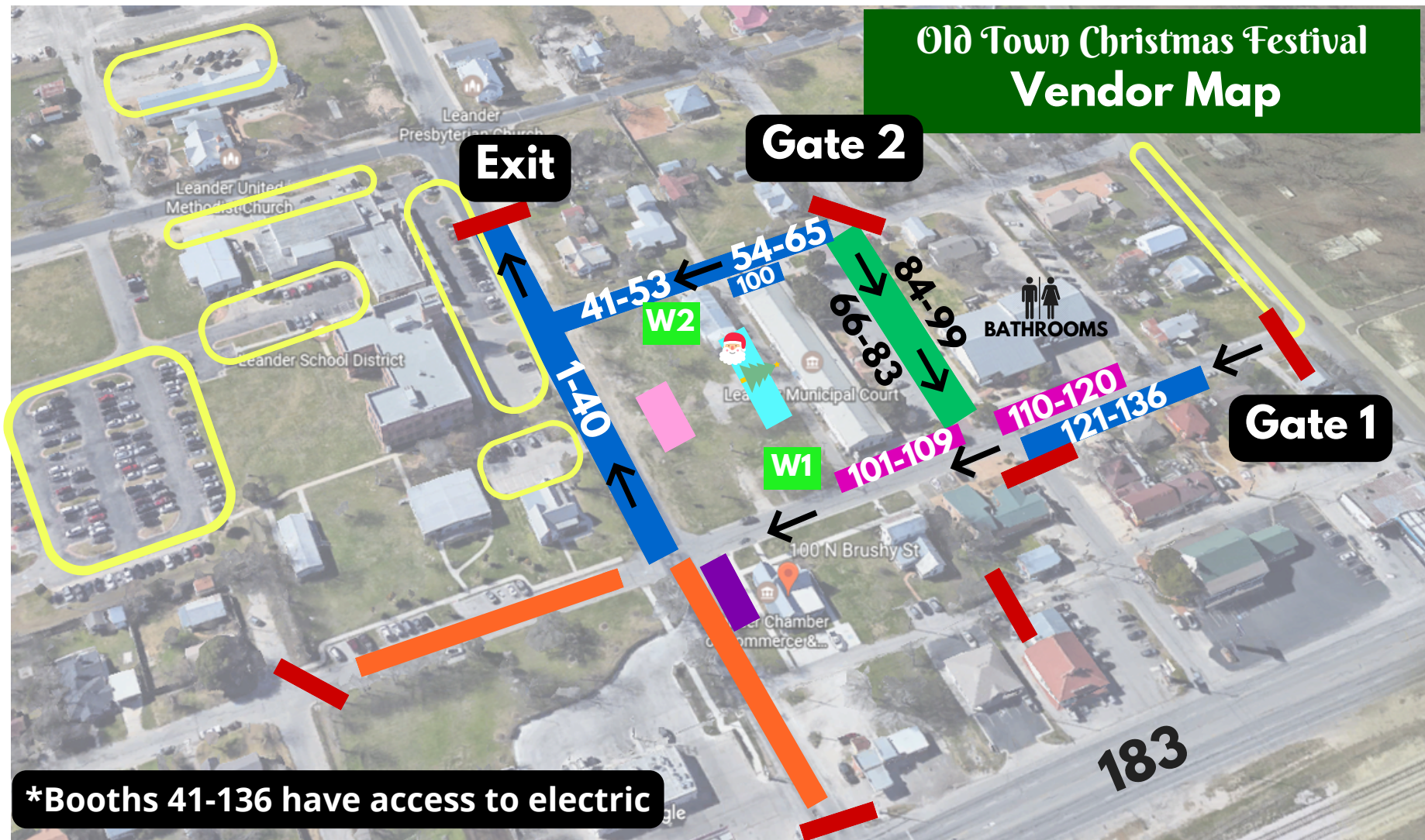
Greg Olmer, Interim Parks & Recreation Director

Fiscal Impact

Attachments:

1. 2024 Christmas Vendor Map
2. 2024 Event Parking Map
3. 2024 Parade Map
4. 2024 5K Map
5. 2024 Christmas Festival Barricade Assignments

Old Town Christmas Festival Vendor Map



LEGEND

	Vendor Parking		Barricades for Road Closures
	Speciality Vendor Booths		Stage
	Food & Beverage Booths		Token Booth
	Beer & Wine Booths		Young Entrepreneur Booths
	Children's Activities		Water Booths

2024 Festival Parking & Road Closure Map



Festival Area



All Day Parking Lot * follow green roads - Sonny to 274*



Parking Lots - Available
AFTER 11:15 am and
AFTER 2:00pm

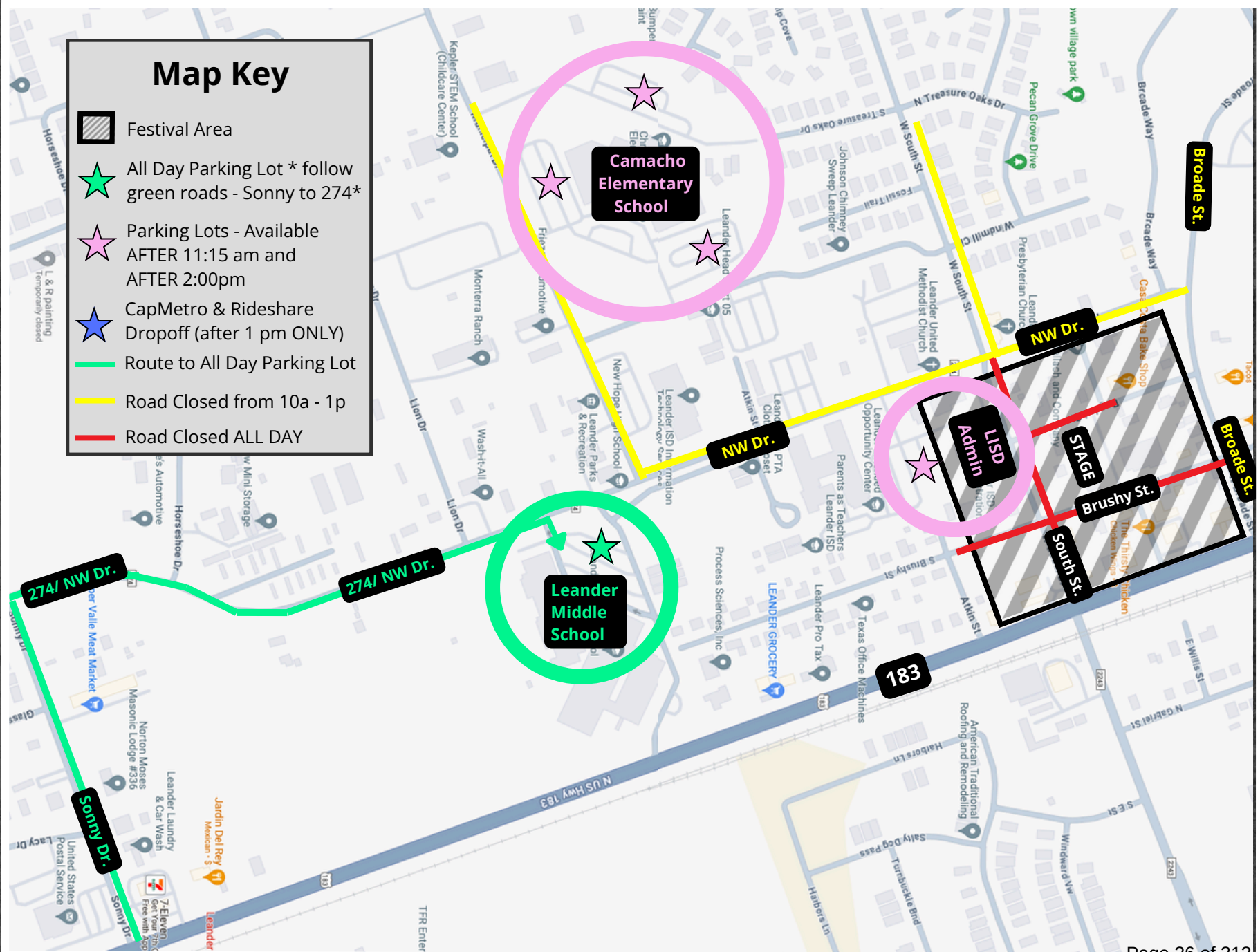


CapMetro & Rideshare
Dropoff (after 1 pm ONLY)

Route to All Day Parking Lot

Road Closed from 10a - 1p

Road Closed ALL DAY



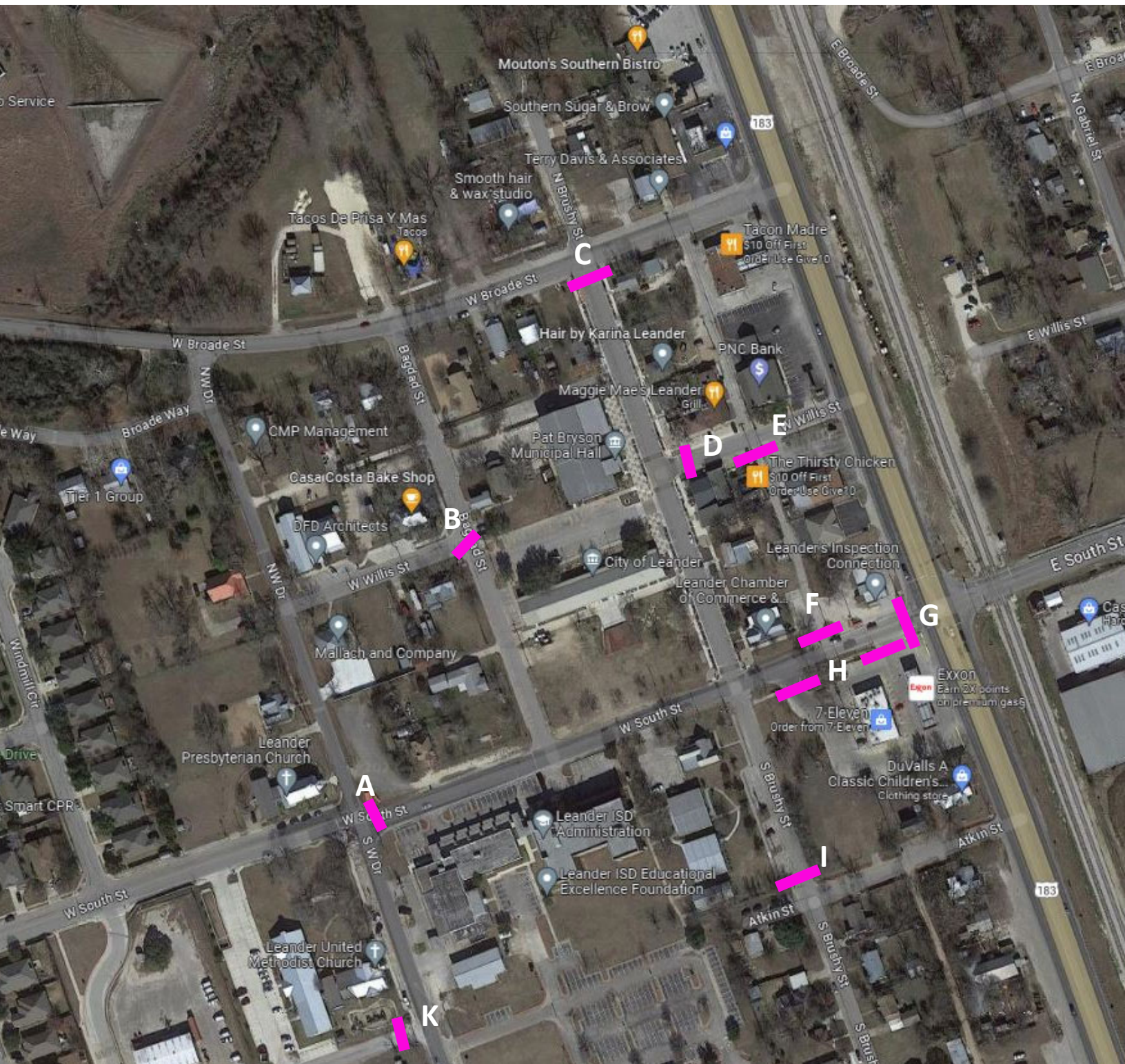
2024 Parade Route



Road Closure—Festival
7:00am—10:00pm

 Road Closure—Parade
12:30pm—2:30pm

2024 Old Town Christmas Festival Road Closures



 Road Closure—Festival
7:00am—10:00pm

Old Town 5k



Leander Old Town Christmas Festival 2024 Barricade Placement and Assignment

FESTIVAL BARRICADES (7:00am – 10:00pm)

A. East side of South/West Drive	Water barricades	PW	Unmanned
B. W. Willis/Bagdad St.	Panel barricade	PW/Chamber	Manned
C. Brushy/Broade	Water barricades	PW	Manned
D. W. Willis/Brushy Street	Water barricades	PW	Unmanned
E. Alley behind Chamber, North	Water barricades	PW	Unmanned
F. Alley behind Chamber, South	Water barricades	PW	Unmanned
G. South/183	Water barricades	PW	Unmanned
H. 7-11 Store entrances on South St.	Water barricades	PW	Unmanned
I. Brushy/Atkins	Water barricades	PW	Unmanned
J. LEO south lot entrance	Bike racks	PARD	Unmanned*
K. Methodist Church south entrance	Bike racks	PARD	Unmanned*

*These sites will be manned by Parks Staff during parade (12:30pm – 2:30pm)

PARADE BARRICADES (12:30pm – 2:30pm)

1. Across Municipal at Northern Trail	Police car w/ lights	Police	Manned
2. Camacho NW Parking Lot	Cones	PARD	Manned
3. Camacho SE Parking Lot	Cones	PARD	Manned
4. LISD Information/Tech Lot	Bike racks	PARD	Manned
5. West Drive/Municipal	Police car w/lights	Police	Manned
6. North lot of Atkin/West	Cones	PARD	Manned
7. LEO Center parking lot/West	Bike racks	PARD	Manned
8. North side of West/South	Panel Barricades	PW	Manned
9. North side of West/Willis	Police car w/ lights	Police	Manned
10. Methodist Church north entrance	Cones	PARD	Manned
11. Windmill/ W South	Police car w/lights	Police	Manned
12. Leander Head Start Parking Lot	Cones	PARD	Manned
13. Camacho East Parking Lot	Bike racks	PARD	Manned

Updated: October 24, 2024



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of a Resolution authorizing the City of Leander to enter into the Global Payments Card Services Terms and Conditions for Government Entities, under a Cooperative Purchasing Agreement; making findings of fact; and providing an effective date; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

Last year, City staff was notified by the City's primary financial and accounting software provider, Tyler Technologies, that they would be ending support on December 31, 2024, for Elavon, which is one of its credit card payment processors. The City has several card processors, depending upon the software being used by the Finance Department. For example, the Golf Course and Parks Department each use different providers because of their ability to integrate with the software being used by each respective department.

The City uses Elavon for accepting utility payments and municipal court payments. Currently, Elavon integrates directly into Tyler Technologies. As a result of Tyler's decision to discontinue support, the City must replace existing card readers in Utility Billing, Municipal Court and the Library, as well, replace Elavon for online payments.

Online payment fees account for the vast majority of the card processing fees. Tyler now supports only two (2) providers, Global Payments, Inc., and itself. The City's Development Services HUB uses Tyler Technologies as the card processor, but all merchant fees are paid by the applicant.

Recently, the City of Cedar Park solicited bids for merchant card services and ultimately selected Global Payments. Leander City staff is recommending that the City Council authorize the Finance Department to "piggyback" onto Cedar Park's agreement with Global Payments.

Payment processors "pass through" the charges from the various card brands (e.g., Visa, Mastercard, American Express) as well as charge a fee of their own based on the dollar volume and number of transactions each month. The pass through charges will not change from the current provider, and represent about seventy-five (75%) percent of the total card processing fees paid each month. The fees charged by Global Payments are comparable to those being charged by Elavon.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Recommend Approval

PRESENTER:

	<u>Fiscal Impact</u>
<u>Amount requested:</u>	\$920,000.00
<u>Approved in current budget (Yes / No):</u>	Yes
<u>Expenditure (New / Amended):</u>	New
<u>Recurring or one-time:</u>	Recurring
<u>Fund source (Operating / Utility / etc.):</u>	Library (01-06-5911); Municipal Court (01-11-5911); Utility Billing (20-01-5911)

Attachments:

1. Clean Global Payments Resolution
2. City of Leander Government Agreement 10.02.2024
3. Global Payments- Pricing

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF LEANDER, TEXAS, AUTHORIZING
THE CITY TO ENTER INTO THE GLOBAL PAYMENTS CARD
SERVICES TERMS & CONDITIONS FOR GOVERNMENT ENTITIES,
UNDER A COOPERATIVE PURCHASING AGREEMENT; MAKING
FINDINGS OF FACT; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Leander, Texas (the “City”) is a home-rule municipality; and

WHEREAS, the City recognizes the need for efficient credit card processing services; and

WHEREAS, pursuant to Chapter 791 of the Texas Government Code, the City has the authority to enter into cooperative purchasing agreements with other governmental entities; and

WHEREAS, the City entered into an Interlocal Agreement with the City of Cedar Park, Texas, under Resolution No. R-13-03-28-FS on March 28, 2013, which established a cooperative purchasing system; and

WHEREAS, the City of Cedar Park has previously contracted with Global Payments Direct, Inc. for credit card processing services in response to the City of Cedar Park’s Solicitation No. 02-09-224-KS-010 for Services (the “Contract”).; and

WHEREAS, the City desires to “piggyback” onto the contract established by Cedar Park in order to procure similar services under the Global Payments Card Services Terms & Conditions for Government Entities;

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

Section 1. Findings of Fact. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Authorization. The City Manager is hereby authorized to enter into the Global Payments Card Services Terms & Conditions for Government Entities in a form substantially similar to that set forth in Exhibit “A” on behalf of the City.

Section 3. Cooperative Purchasing System. The City acknowledges that this procurement is made under the cooperative purchasing system established with the City of Cedar Park, as noted in the 2013 resolution.

Section 4. Effective Date. This resolution shall take effect immediately upon its adoption.

Section 5. Severability. If any provision of this Resolution is illegal, invalid, or unenforceable under present or future laws, the remainder of this Resolution will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal,

invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Resolution.

Section 6. Open Meetings. It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this ____ day of _____, 2024.

CITY OF LEANDER, TEXAS

BY: _____
Christine DeLisle, Mayor

ATTEST:

Dara Crabtree, City Secretary

EXHIBIT A

CARD SERVICES TERMS & CONDITIONS FOR GOVERNMENT ENTITIES

PLEASE READ SECTION 17 ("DISPUTE RESOLUTION") CAREFULLY AS IT RELATES TO ARBITRATION AND CLASS ACTIONS

1. GENERAL.

- 1.1. The "**Card Services Agreement**" consists of these Card Services Terms & Conditions and the Merchant Application and is made by and among Merchant (or "**you**"), Global Payments Direct, Inc. ("**Global Direct**"), and Member (as defined below). The provisions in the Card Services Agreement are applicable to Merchant and, by submitting Transactions hereunder, Merchant agrees to be subject to the same. The member bank identified in the Merchant Application ("**Member**") is a member of Visa USA, Inc. ("**Visa**") and Mastercard International, Inc. ("**Mastercard**"). Global Direct is a registered independent sales organization of Visa, a member service provider of Mastercard, a registered Program Participant of American Express Travel Related Services Company, Inc. ("**American Express**"), and a registered acquirer for Discover Financial Services LLC ("**Discover**"). Any references to the Debit Sponsor shall refer to the debit sponsor identified below.
- 1.2. Merchant and Global Direct agree that the rights and obligations contained in these Card Services Terms and Conditions do not apply to the Member with respect to American Express, Discover and PayPal transactions and Switched Transactions (as defined below). To the extent Merchant accepts Discover cards, the provisions in this Agreement with respect to Discover apply if Merchant does not have a separate agreement with Discover. In such case, Merchant will also be enabled to accept JCB, China UnionPay, Diner's Club and, for card present transactions, PayPal cards under the Discover network and such transactions will be processed at the same fee rate as Merchant's Discover transactions are processed. To the extent Merchant accepts Discover cards and has a separate agreement with Discover, Discover and PayPal card transactions shall be processed as Switched Transactions (as defined below). To the extent Merchant accepts American Express cards, the provisions in this Agreement with respect to American Express apply if Merchant does not have a separate agreement with American Express.
- 1.3. Under the terms of the Card Services Agreement, Merchant will be furnished with the services and products, including any software, described herein and in the Merchant Application and selected by Merchant therein (collectively and individually, as applicable, the "**Services**"). Merchant agrees to be bound by the Card Services Agreement, including the terms of the Merchant Application and these Card Services Terms & Conditions as may be modified or amended in the future pursuant to its and/or their terms. ***Upon the earlier of a Merchant's submission of a transaction to Global Direct or signing the Merchant Application, Merchant shall be deemed to have accepted the Card Services Agreement, including the Terms and Conditions herein.***
- 1.4. Except as expressly stated in the first three paragraphs of section 13, all terms and conditions of this Card Services Agreement shall survive termination to the extent necessary to protect Global Direct and Member's rights herein.

2. SERVICE DESCRIPTIONS.

- 2.1. Credit Card Processing Services: Global Direct's credit card processing services consist of authorization and electronic draft capture of credit card transactions; outclearing of such transactions to the appropriate card associations and/or issuers (e.g., Visa, Mastercard, American Express, Diners, Discover); settlement; certain dispute resolution with cardholders' banks; and transaction-related reporting, statements and products. From time to time under this Card Services Agreement, upon Merchant's request, Global Direct may facilitate the transmission of certain payment card transactions ("**Switched Transactions**") to the respective card issuers, including but not limited to American Express®, Diners Club® and various fleet, private label and commercial cards. Switched Transactions require Global Direct's prior written approval and are subject to applicable pricing; Global Direct does not purchase the indebtedness associated with Switched Transactions.
- 2.2. EBT Transaction Processing Services: Global Direct offers electronic interfaces to Electronic Benefits Transfer ("**EBT**") networks for the processing of cash payments or credits to or for the benefit of benefit recipients ("**Recipients**"). Global Direct will provide settlement and switching services for various Point of Sale transactions initiated through Merchant for the authorization of the issuance of the United States Department of Agriculture, Food and Nutrition Services ("**FNS**") food stamp benefits ("**FS Benefits**") and/or government delivered cash assistance benefits ("**Cash Benefits**," with FS Benefits, "**Benefits**") to Recipients through the use of a state-issued card ("**EBT Card**").
- 2.3. Provisions regarding debit card services are set forth in section 31 below.
- 2.4. Provisions regarding Decline Minimizer Services are set forth in section 33 below.
- 2.5. Provisions regarding CallPop OpenEdge Services are set forth in section 34 below.

- 2.6. With respect to Visa and Mastercard products, Merchant may elect to accept credit cards or debit/prepaid cards or both. Merchant shall so elect on the Merchant Application being completed contemporaneously herewith. Merchant agrees to pay and Merchant's account(s) will be charged pursuant to section 5 of this Card Services Agreement for any additional fees incurred as a result of Merchant's subsequent acceptance of transactions with any Visa or Mastercard product that it has elected not to accept.

3. PROCEDURES.

- 3.1. Merchant will permit holders of valid cards bearing the symbols of the cards authorized to be accepted by Merchant hereunder to charge purchases or leases of goods and services and the debt resulting therefrom shall be purchased hereunder, provided that the transaction complies with the terms of this Card Services Agreement. All indebtedness submitted by Merchant for purchase will be evidenced by an approved sales slip. Merchant will not present for purchase any indebtedness that does not arise out of a transaction between a cardholder and Merchant. Merchant agrees to follow the Card Acceptance Guide which is incorporated into and made part of this Card Services Agreement, <https://www.globalpaymentsinc.com/en-us/cardacceptanceguide> and to be bound by the operating regulations, requirements, and rules of Visa, Mastercard, American Express, Discover, PayPal and any other card association or network organization covered by this Card Services Agreement, as any of the above referenced documents may be modified and amended from time to time (collectively, the **"Card Association Rules"**). Without limiting the generality of the foregoing, Merchant agrees to comply with and be bound by, and to cause any third party who provides Merchant with services related to payment processing or facilitates Merchant's ability to accept credit and debit cards and who is not a party to this Card Services Agreement to comply with and be bound by, the rules and regulations of Visa, Mastercard, American Express, Discover, PayPal and any other card association or network organization related to cardholder and transaction information security, including without limitation, all rules and regulations imposed by the Payment Card Industry (PCI) Security Standards Council (including without limitation the PCI Data Security Standard), Visa's Cardholder Information Security Program, Mastercard's Site Data Protection Program, and Payment Application Best Practices, which, as may be modified and amended from time to time, will constitute Card Association Rules as used herein. Merchant also agrees to cooperate at its sole expense with any request for an audit or investigation by Global Direct, Member, a card association or network organization in connection with cardholder and transaction information security.
- 3.2. Without limiting the generality of the foregoing, Merchant agrees that it will use information obtained from a cardholder in connection with a card transaction solely for the purpose of processing a transaction with that cardholder or attempting to re-present a chargeback with respect to such transaction consistent with the Card Association Rules. To the extent not prohibited by applicable law, Merchant will indemnify and hold Global Direct and Member harmless from any liability assessments (sometimes referred to as "fines" and "penalties") issued by Visa, Mastercard, American Express, Discover, PayPal or any card association or network organization and any other fees and costs arising out of or relating to the processing of transactions by Global Direct and Member at Merchant's location(s) and will reimburse Global Direct for any losses incurred by Global Direct with respect to any such liability assessments, fees and costs,
- 3.3. Merchant must keep all systems and media containing account, cardholder or transaction information (physical or electronic, including but not limited to account numbers, card imprints, and terminal identification numbers) secure and prevent access by or disclosure to anyone other than Merchant's authorized personnel. Merchant must destroy, in a manner that will render the data unreadable, all such media that Merchant no longer deems necessary or appropriate to store (except for sales drafts maintained in accordance with this Card Services Agreement, applicable law, or Card Association Rules). Merchant must also ensure proper destruction of cardholder, transaction or system information (physical or electronic, including but not limited to account numbers, card imprints, and terminal identification numbers) prior to selling, storing, or disposing of any terminal.
- 3.4. Without limiting the generality of any other provision of this Card Services Agreement, Merchant also agrees that it will comply with all applicable federal, state, and local laws, rules, ordinances, and regulations (collectively, **"Applicable Laws"**), including those related to both (a) the truncation or masking of cardholder numbers and expiration dates on transaction receipts from transactions processed at Merchant's location(s), including without limitation the Fair and Accurate Credit Transactions Act and applicable state laws (**"Truncation Laws"**) and (b) the collection of personal information from a cardholder in connection with a card transaction, including all applicable state laws (**"Laws on Collection of Personal Information"**). As between Merchant, on the one hand, and Global Direct and Member, on the other hand, Merchant shall be solely responsible for complying with all such laws, rules, ordinances, and regulations, including the Truncation Laws and Laws on Collection of Personal Information and will, to the maximum extent not prohibited under applicable law, indemnify and hold Global Direct and Member harmless from any claim, loss or damage resulting from a violation of the same as a result of transactions processed at Merchant's location(s).
- 3.5. Global Direct may, from time to time, issue written directions (via mail or Internet) regarding procedures to follow and forms to use to carry out this Card Services Agreement. These directions and the terms of the forms are binding as soon as they are issued and shall form part of these Card Services Terms & Conditions. Such operating regulations and rules may be reviewed upon appointment at Global Direct's designated premises and Merchant acknowledges that it has had the opportunity to request a review and/or review such operating regulations and rules in connection with its execution of this Card Services Agreement.

4. **MARKETING.** Merchant shall adequately display the card issuer service marks and promotional materials supplied by Global Direct. Merchant shall cease to use or display such service marks immediately upon notice from Global Direct or upon termination of this Card Services Agreement. Merchant agrees that all such displays and cessation of such displays shall be in accordance with the Card Association Rules.
5. **PAYMENT, CHARGES AND FEES.** Fees and charges payable by Merchant for all products, services and applications, whether provided by Global Direct, a third party through Global Direct, or directly by a third party with Global Direct collecting monies with respect thereto (e.g., a POS Vendor Fee), shall be as set forth in the Merchant Application (exclusive of taxes, duties and shipping and handling charges) and in Section 39 of these Card Services Terms & Conditions. With respect to POS Vendor Fees, Global Direct does not control and is not responsible for the POS Vendor Fees charged to Merchant, and the pricing for any such fees depends on Merchant's agreement with such third party. Merchant shall at all times maintain one or more commercial checking accounts (the "**Accounts**") with Member or with another financial institution of Merchant's choice acceptable to Member and Global Direct that belongs to the Automated Clearing House ("**ACH**") network and which can accept ACH transactions. Merchant will be provisionally credited for indebtedness purchased under this Card Services Agreement by credit to Merchant's Account(s). Merchant's Account(s) will be provisionally credited for the gross amount of the indebtedness deposited less the amount of any credit vouchers deposited, minus any applicable discount, fees, product service costs, chargebacks, and other fees and charges. Merchant shall not be entitled to credit for any indebtedness that arises out of a transaction not processed in accordance with the terms of this Card Services Agreement or the Card Association Rules. Availability of any such funds shall be subject to the procedures of the applicable financial institution. Chargebacks and adjustments will be charged to Merchant's Account(s) on a daily basis. Merchant agrees to pay and Merchant's Account(s) will be charged for the discount, fees, product service costs, chargebacks, and other fees and charges described in this Card Services Agreement. Merchant also agrees to pay and Merchant's Account(s) will be debited for all fees, arbitration fees, liability assessments, or any other amounts charged or assessed by third parties, the card associations or network organizations on account of or related to Merchant's processing hereunder, including without limitation with regards to any third party who provides Merchant with services related to payment processing or facilitates Merchant's ability to accept credit and debit cards and who is not a party to this Card Services Agreement. If any type of overpayment to Merchant or other error occurs, Merchant's Account(s) may be debited or credited, without notice, and if Merchant's Account(s) do not contain sufficient funds, Merchant agrees to remit the amount owed directly to Global Direct. Merchant agrees not to, directly or indirectly, prevent, block or otherwise preclude any debit by Global Direct or Member to Merchant's Account which is permitted hereunder. Merchant represents and warrants that no one other than Merchant has any claim against such indebtedness except as authorized in writing by Member and Global Direct. Merchant hereby assigns to Member and Global Direct all of its right, title, and interest in and to all indebtedness submitted hereunder, agrees that Member and Global Direct have the sole right to receive payment on any indebtedness purchased hereunder, and further agrees that Merchant shall have no right, title or interest in any such funds, including any such funds held in a Reserve Account (as defined below).
6. **EQUIPMENT AND SUPPLIES/THIRD PARTY SERVICES.**
- 6.1. Merchant agrees that it will not acquire any title, copyrights, or any other proprietary right to any advertising material; leased equipment including im printers, authorization terminals, card reader hardware or printers; software; credit card authenticators; unused forms (online or paper); all hardware and software related to the CallPop OpenEdge Services (as defined below); and Merchant deposit plastic cards provided by Global Direct in connection with this Card Services Agreement. Merchant will protect all such items from loss, theft, damage or any legal encumbrance and will allow Global Direct and its designated representatives reasonable access to Merchant's premises for their repair, removal, modification, installation and relocation. Merchant acknowledges that any equipment or software provided under this Card Services Agreement is embedded with proprietary technology ("**Software**"). Merchant shall not obtain title, copyrights or any other proprietary right to any Software. At all time, Global Direct or its suppliers retain all rights to such Software, including but not limited to updates, enhancements and additions. Merchant shall not disclose such Software to any party, convey, copy, license, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on such Software, or transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices, or any other malicious or unauthorized code. Merchant's use of such Software shall be limited to that expressly authorized by Global Direct. Global Direct's suppliers are intended third party beneficiaries of this Card Services Agreement to the extent of any terms herein pertaining to such suppliers' ownership rights; such suppliers have the right to rely on and directly enforce such terms against Merchant.
- 6.2. The operating instructions or user guides will instruct Merchant in the proper use of the terminals, other hardware or payment application(s), and Merchant shall use and operate the terminals, other hardware or payment application(s) only in such manner. If Merchant has purchased the relevant maintenance/help desk service hereunder, Merchant will promptly notify Global Direct of any equipment malfunction, failure or other incident resulting in the loss of use of the equipment or software or need for repair or maintenance, whereupon Global Direct will make the necessary arrangements to obtain required maintenance or replacement software or hardware. Merchant is responsible for shipping costs. Merchant shall cooperate with Global Direct in its attempt to diagnose any problem with the terminal, other hardware or payment application(s). In the event the Merchant's terminal requires additional Software, Merchant is obligated to cooperate and participate in a dial in down line load procedure. With respect to any item of equipment leased to Merchant by Global Direct, Merchant will not be liable for normal wear and tear, provided, however, that Merchant will be liable to Global Direct in the event that any leased item of equipment is lost, destroyed, stolen or rendered inoperative. To the extent not prohibited under applicable law, Merchant will indemnify Global Direct against any loss arising out of damage to or destruction of any item of equipment or software provided hereunder for any cause whatsoever. Merchant also agrees, to the extent not prohibited under applicable law, to hold harmless and indemnify Global Direct for any costs, expenses, and judgments Global Direct may suffer, including reasonable attorney's fees, as a result of Merchant's use of the equipment or

software provided hereunder. Any unused equipment in its original packaging purchased from Global Direct hereunder may be returned to Global Direct at Merchant's expense within 60 days of receipt. Merchant shall receive a refund of any money paid in connection therewith subject to a re-stocking fee of an amount equal to 20 percent of the total purchase price for the returned equipment. No refunds shall be issued for any equipment returned after 60 days.

6.3. Merchant acknowledges that some of the services and applications to be provided by Global Direct and Member hereunder may be provided by third parties. Merchant agrees that except for its right to utilize such services in connection with this Card Services Agreement, it acquires no right, title or interest in any such services. Merchant further agrees that it has no contractual relationship with any third party providing services under this Card Services Agreement and that Merchant is not a third party beneficiary of any agreement between Global Direct or Member, as applicable, and such third party. Merchant may not resell the services of any third party providing services under this Card Services Agreement to any other party.

6.4. Merchant acknowledges that it may directly obtain software platform services from a third party that facilitate or integrate Global Direct's Services as set forth in section 2. Global Direct does not control and is not responsible for such software platform services or any fees (and their occurrence) charged by such third party to Merchant related to such software platform services. The pricing for Merchant's use of any third-party platform services and any associated fees depends on Merchant's agreement with such third party. Merchant authorizes Global Direct to collect all monies related to Merchant's use of such third-party software (i.e., the POS Vendor Fee) on behalf of such third party as set forth in the Merchant Application and Merchant's agreement with such third party. Global Direct is not responsible for the acts or omissions of any third party and shall have no responsibility for or liability in connection with any software platform services Merchant receives from a third party, even if Global Direct collects monies with respect to such software or services. Global Direct makes no representation or warranty with respect to such third party's software platform services or such third party's access to or ability to integrate with the products, services, and systems of Global Direct and any such access or ability may terminate at any time and Global Direct shall have no obligation to advise Merchant of such termination.

7. **FINANCIAL INFORMATION.** Merchant agrees to furnish Global Direct and Member such financial statements and information concerning Merchant as Global Direct or Member may from time to time request. Global Direct and Member, or their duly authorized representatives, may examine the books and records of Merchant, including records of all indebtedness previously purchased or presented for purchase. Merchant agrees to retain copies of all paper and electronic sales slips and credit slips submitted to Global Direct for a period of two years from submission, or such longer period of time as may be required by the Card Association Rules, by law, or by Global Direct as specifically requested in writing in individual cases.

8. **CHANGE IN BUSINESS.** Merchant agrees to provide Global Direct and Member 60 days prior written notice of its (a) transfer or sale of any substantial part (ten percent or more) of its total stock, assets and/or to liquidate; or (b) change to the basic nature of its business, or (c) provided that Merchant has not indicated on the Merchant Application that it accepts mail order, telephone order, or internet-based transactions, conversion of all or part of the business to mail order sales, telephone order sales, Internet-based sales or to other sales where the card is not present and swiped through Merchant's terminal or other card reader. Upon the occurrence of any such event, the terms of this Card Services Agreement may be modified by Member and/or Global Direct to address issues arising therefrom, including but not limited to requirements of applicable Card Association Rules and/or the fees associated with such transactions.

9. **TRANSFERABILITY.** This Card Services Agreement is not transferable by Merchant without the written consent of Global Direct and Member. Any attempt by Merchant to assign its rights or to delegate its obligations in violation of this paragraph shall be void. Merchant agrees that the rights and obligations of Global Direct hereunder may be transferred by Global Direct without notice to Merchant. Merchant agrees that the rights and obligations of Member hereunder may be transferred to any other member without notice to Merchant. Merchant acknowledges that the transferable rights of Global Direct and Member hereunder shall include, but shall not be limited to, the authority and right to debit the Merchant's Account(s) as described herein.

10. **WARRANTIES AND REPRESENTATIONS.**

10.1. Merchant warrants and represents to Global Direct and Member, both at the time of execution and the presentation of any transaction hereunder: (a) that each sales transaction delivered hereunder will represent a bona fide sale to a cardholder by Merchant for the amount shown on the sales slip as the total sale and constitutes the binding obligation of the cardholder, free from any claim, demand, defense, setoff or other adverse claim whatsoever; (b) that each sales slip or other evidence of indebtedness will accurately describe the goods and services which have been sold and delivered to the cardholder or in accordance with the cardholder's instructions; (c) that Merchant will comply fully with all Applicable Laws, including those applicable to its business; (d) that Merchant will fulfill completely all of its obligations to the cardholder and will resolve any customer dispute or complaint directly with the cardholder; (e) that the signature on the sales slip will be genuine and authorized by cardholder and not forged or unauthorized; (f) that Merchant has taken all reasonable steps to verify the identity of the cardholder and the genuineness of the card and the transaction; (g) that the sales transaction shall have been consummated and the sales slip prepared in full compliance with the provisions of the Card Association Rules; (h) provided that Merchant has not indicated on the Merchant Application that it accepts mail order, telephone order, or internet-based transactions, that none of the sales transactions submitted hereunder represent sales by telephone, or mail, or Internet, or where the card is not physically present at the Merchant's

location and swiped through Merchant's terminal, unless Merchant is specifically authorized in writing by Global Direct to submit such sales slips for purchase, (i) to the extent Merchant has indicated on the Merchant Application that it accepts mail order, telephone order, or internet-based transactions, Merchant shall not submit such a transaction to Global Direct and Member for processing until the goods and/or services are shipped or performed, as applicable, unless otherwise permitted by the card associations or network organizations, (j) that sales transactions submitted hereunder for purchase representing sales to any principal, partner, affiliate, or proprietor of Merchant shall not constitute an unreasonable portion of Merchant's transactions relative to the Merchant's legitimate business requirements, (k) that, without limiting the generality of the foregoing, each sales transaction submitted hereunder and the handling, retention, and storage of information related thereto, will comply with the Card Association Rules, and that all of the information contained in this Card Services Agreement (including the Merchant Application) is true and correct. In the event that any of the foregoing warranties or representations is breached, the affected sales slips or other indebtedness may be refused, or prior acceptance revoked and charged back to the Merchant. Furthermore, if Merchant submits for purchase hereunder a sales transaction that is not the result of a sale of Merchant's goods or services offered to the general public or if Merchant submits any sales transactions for purchase hereunder which represents an unreasonable sales transaction to any principal, partner, or proprietor, of Merchant, such sales transaction may be refused or charged back.

10.2. Merchant must notify Global Direct if Merchant elects to use the terminal service of American Express, Novus, or any other third-party provider. If Merchant elects to use a third-party terminal provider, that provider becomes Merchant's agent for the delivery of card transactions to Global Direct via the applicable card-processing network. Global Direct and Member shall have no responsibility for or liability in connection with any hardware, software or services Merchant receives from a third party agent, even if Global Direct collects monies with respect to such hardware, software or services. Neither Global Direct nor Member makes any representation or warranty with respect to such agent's access to or ability to integrate with the products, services, and systems of Global Direct and any such access or ability may terminate at any time and Global Direct shall have no obligation to advise Merchant of such termination. Merchant agrees to assume full responsibility and liability for any failure of such agent to comply with the Card Association Rules, including without limitation any violation, which results in a chargeback to the Merchant. Global Direct and Member have no responsibility for any card transactions until it receives data for the card transaction in the format required by Global Direct. Merchant also agrees that the obligation hereunder to reimburse the Merchant for the value of the card transactions captured by an agent is limited to the value of the transactions (less applicable fees) received by the card-processing network from the agent.

10.3. ***Neither Member, nor Global Direct, nor any Supplier makes any representations or warranties, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose with respect to any terminal, any equipment, software or services leased, sold, or otherwise furnished hereunder.***

11. **INDEMNITY.** Merchant agrees to satisfy directly with the cardholder any claim or complaint arising in connection with the card sale, regardless of whether such claim or complaint is brought by the cardholder, Global Direct, or another party. To the extent not prohibited under applicable law, Merchant agrees to indemnify defend and hold Global Direct, Member and their respective parent companies, subsidiaries and affiliates (including, without limitation, the respective officers, directors, employees, attorneys, shareholders, representatives and agents of all of the foregoing) harmless from and against any and all liabilities, judgments, arbitration awards, settlements, actions, suits, claims, demands, losses, damages, costs (including, but not limited to, court costs and out of pocket costs and expenses), expenses of any and every type, litigation expenses, and attorneys' fees, including, but not limited to, attorneys' fees incurred in any and every type of suit, proceeding, or action, including but not limited to, bankruptcy proceedings, in connection with, by virtue of, or arising from, either directly or indirectly: (a) any card transaction that does not conform to the requirements of this Card Services Agreement, the Card Association Rules or Applicable Laws; (b) any card transaction or any act or omission of Merchant; (c) Merchant's breach or default or an alleged breach or default of or under any term, covenant, condition, representation, warranty, obligation, undertaking, promise or agreement contained in this Card Services Agreement or in any agreement (whether oral or written) with any cardholder, any agreement with any card association, or in any other agreement with Member or Global Direct, any breach or threatened breach by Merchant of the Card Association Rules or any violation by Merchant of Applicable Laws; (d) the rescission, cancellation or avoidance of any card transaction, by operation of law, adjudication or otherwise; (e) any claim, counterclaim, complaint, dispute or defense, including, without limitation claims brought by Merchant with respect to this Card Services Agreement or a card transaction on which Merchant is not the prevailing party; (f) damages, including, without limitation, those for death or injury caused by the good or service purchases with the card; (g) for all web based, Internet or electronic commerce transactions including Merchant's insecure transmission of card transaction data and/or storage of cardholder information or (h) any compromise of card information or cardholder information resulting from, or for which any network organization or card association determines resulted from, Merchant's failure to abide by applicable security standards, including those found in the Card Association Rules. For purposes of this Agreement, including the foregoing indemnities to the extent not prohibited under applicable law, Merchant is responsible and liable for the acts and omissions of its employees, agents and representatives (whether or not acting within the scope of their duties).

12. **LIMITATION OF LIABILITY.**

12.1. ***Neither Member nor Global Direct nor any independent sales organization referring or providing services to Merchant ("ISO") shall be liable for failure to provide the Services or delay in providing the Services including processing delays or other non-performance if such failure is due to any cause or condition beyond such Party's reasonable control. Such causes or conditions shall include, but shall not be limited to, acts of God or the public enemy, acts of the government***

in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, riots, war, shortages of labor or materials, freight embargoes, unusually severe weather, breakdowns, operational failures, electrical power failures, telecommunications failures, equipment failures, unavoidable delays, the errors or failures of third party systems, non-performance of vendors, suppliers, processors or transmitters of information, or other similar causes beyond such party's control.

- 12.2. *To the maximum extent not prohibited by law, the liability of Global Direct, ISO, and Member for any loss arising out of or relating in any way to this Card Services Agreement, including but not limited to damages arising out of any malfunction of the equipment or the failure of the equipment to operate, the unavailability or malfunction of the equipment or the failure of the equipment to operate, the unavailability or malfunction of the Services, personal injury or property damage, shall, in the aggregate, be limited to actual, direct, and general money damages in an amount not to exceed the lesser of (a) three months' average charge paid by Merchant hereunder (exclusive of interchange fees, assessments, and any other fees or costs that are imposed by a third party in connection with Merchant's payment processing) for the Services during the previous 12 months or such lesser number of months as shall have elapsed subsequent to the Effective Date of this Card Services Agreement, and (b) \$50,000. This shall be the extent of Global Direct's, ISO's, and Member's liability arising out of or relating in any way to this Card Services Agreement, including alleged acts of negligence, breach of contract, or otherwise and regardless of the form in which any legal or equitable action may be brought against Global Direct, ISO, or Member, whether contract, tort, or otherwise, and the foregoing shall constitute Merchant's exclusive remedy.*
- 12.3. *Under no circumstances shall Global Direct, ISO or Member be liable for special, consequential, punitive or exemplary damages, including lost profits, revenues and business opportunities, arising out of or relating in any way to this Card Services Agreement, even if Global Direct, ISO or Member has been advised of the possibility of such damages. Under no circumstances shall Global Direct, ISO, or Member be liable for any settlement amounts pertaining to Switched Transactions; Merchant's recourse therefore shall be to the applicable card issuer. Member shall not be responsible or liable to Merchant for any action taken by Member (or the results thereof) that is authorized by this Agreement.*
- 12.4. *It is agreed that in no event will Global Direct, ISO, or Member be liable for any claim, loss, billing error, imposition of any allegedly improper fee(s), damage or expense arising out of or relating in any way to this Card Services Agreement which is not reported in writing to Global Direct by Merchant within 60 days of such failure to perform, or, in the event of a billing error or the imposition of any allegedly improper fee(s), within 90 days of the date of the invoice or applicable statement. Merchant expressly waives any such claim that is not brought within the time periods stated herein.*
- 12.5. *Global Direct agrees to maintain insurance coverage in amounts not less than those specified in the City of Cedar Park, Texas's Request for Proposal #02-09-224-KS-010 and shall, upon written request, provide certificates of insurance evidencing the same. Such insurance shall be in force and maintained in full force and effect for the duration of this Agreement.*

13. **TERM AND TERMINATION.**

- 13.1. This Card Services Agreement shall remain in full force and effect for an initial term of one year from the Effective Date (the "**Initial Term**"); provided, however, that if Merchant is receiving these Terms and Conditions as an amendment to an existing Card Services Agreement, the amendment shall not affect the then-existing term. The Card Services Agreement will automatically renew for not more than nine (9) additional one-year periods ("**Renewal Term**" or "**Renewal Terms**", and together with the Initial Term, the "**Term**") unless Merchant gives 30 days' advance written notice of termination prior to the end of the then-current term. This Card Services Agreement is expressly made subject to the limitations of the Merchant's state constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multiyear fiscal obligation or an obligation of future appropriations by Merchant, contrary to the any constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Card Services Agreement, with respect to any financial obligation of Merchant which may arise under this Card Services Agreement in any fiscal year, if the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default or breach of this Card Services Agreement, including any sub-agreement, attachment, schedule, or exhibit thereto, by the Merchant.
- 13.2. Notwithstanding the foregoing, Global Direct or Member may terminate or suspend performance of this Card Services Agreement or any portion thereof upon written notice to Merchant. Furthermore, Global Direct may terminate this Card Services Agreement at any time without notice upon Merchant's default in performing under any provision of this Card Services Agreement; upon an unauthorized conversion of all or any part of Merchant's activity to mail order, telephone order, Internet order, or to any activity where the card is not physically present and swiped through the Merchant's terminal or other card reader; upon any failure to follow the Card Acceptance Guide or any Card Association Rules, upon any misrepresentation by Merchant; upon commencement of bankruptcy or insolvency proceedings by or against the Merchant; upon a material change in the Merchant's average ticket or volume as stated in the Merchant Application; where the rules or regulations of any card association require that Member and/or Global Direct terminate and/or suspend this Card Services Agreement; or in the event Global Direct or Member reasonably deems itself insecure (including, without limitation, credit, operational, reputational, financial, technological, security and/or fraud risk or exposure) in continuing this Card Services Agreement.

- 13.3. In addition, a termination by Global Direct shall serve as a termination of the entire Card Services Agreement, including with regard to any ACH Transaction Services provided hereunder. In the event that Global Direct and Member breach the terms and conditions hereof, the Merchant may, at its option, give written notice to Global Direct and Member of its intention to terminate this Card Services Agreement unless such breach is remedied within 30 days of such notice. Failure to remedy such a breach shall make this Card Services Agreement terminable, at the option of the Merchant, at the end of such 30-day period unless notification is withdrawn.
- 13.4. Any Merchant deposit of sales or credit slips that is accepted by Global Direct and Member or by a designated depository after the effective date of termination will be returned to Merchant and will not be credited (or debited) to Merchant's Account(s). If the deposit has already been posted to Merchant's Account(s), said posting will be reversed and the deposit returned to Merchant. Termination of this Card Services Agreement shall not affect Merchant's obligations which have accrued prior to termination or which relate to any indebtedness purchased hereunder prior to termination, including but not limited to chargebacks or liability assessments imposed, received, or processed after termination. In the event of termination, all equipment leased from, and software provided by, Global Direct including but not limited to imprinters, terminals, and printers; all supplies; Card Acceptance Guides; and operating instructions must be returned immediately to Global Direct at Merchant's expense.
- 13.5. Global Direct and Merchant acknowledge and agree that in addition to all other remedies available to Global Direct under the Card Services Agreement or as otherwise available in law or equity, if the Card Services Agreement is terminated prior to the expiration of the applicable Term of the Card Services Agreement for any reason other than for a material, uncured breach by Global Direct, Merchant agrees to pay Processor damages (the "**Damages**") determined by adding an account closure fee as follows (unless a different amount is disclosed on the Merchant Application): (1) \$250 for Merchants with less than twelve months remaining from the date of termination to the end of the then current Term, or; (2) \$500 for Merchants with more than twelve months remaining, or such portion of the foregoing as may be permitted by applicable law. Merchant hereby authorizes Global Direct to accelerate the payment of such applicable amount(s), as well as the right to deduct such total amount(s) from Merchant's Account referenced in Section 5, or to otherwise withhold the total amount(s) from amounts due to Merchant from Global Direct, immediately on or after the effective date of termination. If the Merchant's Account does not contain sufficient funds for the debit or the amount cannot be withheld by Global Direct from amounts due to Merchant, Merchant shall pay Global Direct the amount due within ten (10) days of the date of Global Direct's invoice for same.
- 13.6. Merchant agrees that such Damages shall also be due to Global Direct if Merchant discontinues submitting transactions for processing during the Term for a period of ninety (90) consecutive days, and is not designated on the Merchant Application, or by notice to Global Direct, as a seasonal merchant or as otherwise agreed to by Global Direct.
- 13.7. Merchant acknowledges and agrees that the Damages are not a penalty but rather are a reasonable computation of the financial harm caused by the termination of the Merchant Agreement or the cessation of processing activity by Merchant. Such amount(s) shall not be in lieu of but in addition to any payment obligations for Services already provided hereunder (or that Global Direct may continue to provide), which shall be an additional cost, and any and all other damages to which Global Direct may be entitled hereunder apart from Merchant's breach of this Section 13. Notwithstanding the foregoing, if Merchant provides Global Direct with written notice within forty-five (45) days of Merchant's execution of this Card Services Agreement that it wishes to terminate this Card Services Agreement immediately, Merchant shall not be responsible for the payment of the above-referenced amount(s), but shall be responsible for compliance with all other terms and conditions set forth in this Card Service Agreement, including but not limited to payment for all fees incurred prior to the termination of this Card Services Agreement.
14. **RETURNED ITEMS/CHARGEBACKS.** If a cardholder disputes any transaction, if a transaction is charged back for any reason by a cardholder or the card issuing institution, or if Global Direct or Member has any reason to believe an indebtedness previously purchased is questionable, not genuine, or is otherwise unacceptable, the amount of such indebtedness may be charged back and deducted from any payment due to Merchant or may be charged against any of Merchant's Accounts or the Reserve Account (as defined below). Merchant acknowledges and agrees that it is bound by the Card Association Rules with respect to any chargeback. Merchant further acknowledges that it is solely responsible for providing Global Direct and Member with any available information to re-present a chargeback and that, regardless of any information it provides or does not provide Global Direct and Member in connection with a chargeback, or any other reason, Merchant shall be solely responsible for the liability related to such chargeback. If any such amount is uncollectible through withholding from any payments due hereunder or through charging Merchant's accounts or the Reserve Account, Merchant shall, upon demand by Global Direct, pay Global Direct the full amount of the chargeback. Merchant understands that obtaining an authorization for any sale shall not constitute a guarantee of payment, and such sales slips can be returned or charged back to Merchant like any other item hereunder.
15. **RESERVE ACCOUNT; HOLDBACK RIGHTS.**
- 15.1. At any time, Global Direct and Member may, at their option, establish a reserve account to secure the performance of Merchant's obligations under this Card Services Agreement to such party ("**Reserve Account**"). The Reserve Account may be funded, at Global Direct's sole discretion, through any or all of the following: (a) direct payment by Merchant—at the request of Global Direct or Member, Merchant will deposit funds in the Reserve Account; or (b) the proceeds of indebtedness presented for purchase.

Merchant hereby grants Member a security interest in all accounts referenced in section 5 and authorizes Global Direct (to the extent authorized by Member) or Member to make such withdrawals at such times and in such amounts as it may deem necessary hereunder. Merchant hereby instruct said financial institutions to honor any requests made by Global Direct and Member under the terms of this provision. To the extent not prohibited under applicable law, Merchant will hold harmless the financial institutions and indemnify them for any claims or losses they may suffer as a result of honoring withdrawal requests from Global Direct and Member.

- 15.2. Merchant hereby agrees that Global Direct and Member may deduct from this Reserve Account any amount owed to such party in accordance with this Card Services Agreement. Any funds in the Reserve Account may be held until the later of (a) the expiration of any potentially applicable chargeback rights in respect of purchased indebtedness under the Card Association Rules or (b) the period necessary to secure the performance of Merchant's obligations under this Card Services Agreement, which holding period may extend beyond termination of this Card Services Agreement. Merchant shall have no ownership interest or property rights in the Reserve Account or the funds therein, will not receive any interest on funds being held in a Reserve Account, and has no right to access the funds being held in the Reserve Account or otherwise transfer, pledge or use these funds for its own purposes. Without limiting the generality of the foregoing, upon termination of this Card Services Agreement, Global Direct and Member may maintain the sum of at least five percent of gross sales for the 90-day period prior to termination to be held in a Reserve Account in accordance with the terms of this Card Services Agreement. Global Direct may, at its discretion upon termination of this Card Services Agreement, require that the Merchant maintain more than five percent of gross sales for the 90-day period prior to termination in a Reserve Account.
- 15.3. In addition to any of the other rights granted to Global Direct and Member hereunder, in the event that Global Direct and/or Member, at any time during the term of this Card Services Agreement, determine in its or their commercially reasonable discretion that it may be prudent or necessary to do so as a result of any unusual, suspicious, or risk-exposing activity (including, without limitation, money laundering, invalid sales transactions, counterfeit transactions, altered or duplicate transactions, activity related to a suspected data compromise event or other breach of security standards, or excessive chargebacks), then Member or Global Direct on behalf of Member may, without notice, hold funds otherwise payable to Merchant for such period as Global Direct and/or Member, in its or their commercially reasonable discretion, deem necessary, to provide security against liability for such activity, plus other costs or liabilities reasonably anticipated to be due to Global Direct and/or Member related to the same. To the extent (i) the investigation conducted by Global Direct and/or Member with respect to the unusual, suspicious, or risk-exposing activity determines that such activity is reasonably likely to result in amounts being due from you to Global Direct and/or Member, and (ii) Global Direct and/or Member require the establishment, replenishment, or increase of a Reserve Account in connection therewith, then the funds held may be used to fund such Reserve Account.

16. **DEFAULT/SECURITY INTEREST.**

- 16.1. Upon failure by Merchant to meet any of its obligations under this Card Services Agreement (including funding the Reserve Account), any of the accounts referred to in section 5 may be debited without notice to Merchant, and Merchant (on behalf of itself and its affiliated entities) hereby grants to Member, Global Direct a lien and security interest in all of Merchant's right, title and interest in or to any of the following assets or properties, if any: (a) all of the accounts referenced in the preceding sentence, (b) the Reserve Account (without in any way suggesting that Merchant has ownership interest or property rights in the Reserve Account or the funds therein), (c) any rights to receive credits or payments under this Card Services Agreement, but only until such time any breach has been cured by Merchant in accordance with the terms of this Agreement. Merchant shall execute, acknowledge or deliver any documents or take any actions Member, Global Direct may from time to time request to better assure, preserve, protect, perfect, maintain or enforce this security interest. Except as provided in section 15 (relating to the Reserve Account), Merchant represents and warrants that (a) Merchant has good and valid rights and title to the property described herein, (b) Merchant has full power and authority to grant to Member the security interest pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Card Services Agreement, without the consent or approval of any other person or entity, (c) no other person or entity has a security interest or lien in any of the property described herein and (d) this security interest is a first lien security interest and secures Merchant's obligations to Member under this Card Services Agreement. Member shall have all rights of a secured party and Merchant must obtain the prior written consent of Member before granting any subsequent security interest or lien in the property described herein. Merchant agrees that it is Merchant's intent that these accounts and secured property shall to the extent allowed by applicable law not be subject to any preference, claim, or stay by reason of any bankruptcy or insolvency law. Merchant agrees to act consistently with the understanding that said accounts and secured property under this Card Services Agreement are free of all such preferences, claims or stays by reason of and as allowed by any such law. The scope of the security interest, and Merchant's (on behalf of itself and its affiliated entities) instructions to its financial institutions to accept withdrawal requests from Global Direct, Member, and Merchant's agreement to hold such institutions harmless and to indemnify them, to the extent not prohibited under applicable law, are described above in section 15.
- 16.2. Merchant also agrees that, in the event of a default by Merchant, Member has rights of setoff and recoupment and may apply any of Merchant's balances or any other monies due Merchant from Member towards the payment of amounts due from Merchant under the terms of this Card Services Agreement. The rights stated herein are in addition to any other rights Global Direct or Member may have under applicable law.

17. **DISPUTE RESOLUTION AND CLASS ACTION WAIVER**

- 17.1. Any litigated action regarding, relating to or involving the validity, scope and/or enforceability of this Card Services Agreement, shall be brought in either the courts of the state of Texas sitting in Williamson County or the United States District Court for the Western District of Texas – Austin Division, and Merchant and Global Direct expressly agree to the exclusive jurisdiction of such courts. Merchant and Global Direct hereby agree and consent to the personal jurisdiction and venue of such courts, and expressly waive any objection that Merchant or Global Direct might otherwise have to personal jurisdiction or venue in such courts.
- 17.2. **Class Action Waiver:** *Merchant acknowledges and agrees that all disputes arising out of or related to this Card Services Agreement shall be resolved on an individual basis without resort to any form of class action and shall not be consolidated with the claims of any other parties. Merchant further agrees to waive, and hereby waives, the right to participate in a class action or to litigate or arbitrate on a class wide basis.*
- 17.3. Merchant hereby agrees that claims applicable to American Express may be resolved through arbitration as further described in the American Express Merchant Requirements Guide (the “**American Express Guide**”).
18. **AMENDMENTS.** Global Direct shall have the right to modify or amend the terms and conditions of this Card Services Agreement or the Card Acceptance Guide, including, without limitation, the right to modify, amend, or supplement applicable fees, charges, and/or discounts. Modifications and amendments related to changes to the Card Association Rules, changes to the fees charged by the card associations, Member, or other third parties, or in response to changes in applicable laws or regulations (collectively, a “**Third Party Change**”) may be made effective immediately, and to the extent reasonably possible, Global Direct shall provide written notice of the same to Merchant. Modifications or amendments unrelated to a Third Party Change shall be effective upon the date specified in a notice to the Merchant (the “**Change Notice**”), provided that the date shall not be fewer than thirty (30) business days after the date of such Change Notice. Following the Effective Date, in the event of any modification or amendment not related to a Third Party Change, Merchant shall have the right to terminate this Card Services Agreement, without liability for premature termination pursuant to section 13, by providing written notice thereof to Global Direct, provided that such notice must be given within thirty (30) business days following the date of the Change Notice. Following receipt of such written notice, the amendments communicated by Global Direct or Member shall not take effect, and the Card Services Agreement shall continue under the prior terms for a period of up to 30 days. At the end of such 30-day period, this Card Services Agreement shall terminate and Merchant's ability to utilize the Services will cease. Other than the amendments set forth above, this Card Services Agreement may be amended only in writing signed by Global Direct, Member, and Merchant.
19. **WAIVER.** No provision of this Card Services Agreement shall be deemed waived by any party unless such waiver is in writing and signed by the party against whom enforcement is sought. No failure to exercise, and no delay in exercising on the part of any party hereto, any right, power or privilege under this Card Services Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege under this Card Services Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.
20. **EXCHANGE OF INFORMATION.** Merchant authorizes Global Direct to order a credit report on Merchant. Merchant hereby authorizes Member or any depository institution to release any financial information concerning Merchant or its accounts to Global Direct. Subsequent credit reports may be ordered in connection with updating, renewing or continuing this Card Services Agreement. Upon the written request of any individual who is the subject of a consumer credit report, Global Direct will provide the name and address of the consumer credit reporting agency furnishing such report, if any. Global Direct may exchange information about Merchant with Member, other financial institutions and credit card associations, network organizations and any other party. Merchant hereby authorizes Global Direct to disclose information concerning Merchant's activity to any card association, network organizations, or any of their member financial institutions, or any other party without any liability whatsoever to Merchant.
21. **SEVERABILITY; CONSTRUCTION.** If any provision of this Card Services Agreement or portion thereof is held to be unenforceable, such a determination will not affect the remainder of this Card Services Agreement. Paragraph headings are included for convenience only and are not to be used in interpreting this Card Services Agreement.
22. **NOTICES.** All notices from Merchant to Global Direct or Member under this Card Services Agreement shall be in writing and shall be sent by facsimile, by overnight carrier, or by regular or certified mail. All notices sent to Global Direct or Member shall be effective upon actual receipt by the Corporate Secretary of Global Payments Direct, Inc., 3550 Lenox Road NE, Suite 3000, Atlanta GA 30326. Any notices from Global Direct or Member to Merchant under this Card Services Agreement shall be effective upon the earlier of actual receipt or upon sending such notice to the address provided by Merchant in the Merchant Application or to any other e-mail or physical address to which notices, statements and/or other communications are sent to the Merchant hereunder or via electronic posting or notification accessible to Merchant on Global Direct's Merchant Portal (<https://reporting.globalpay.com/login>) or any successor online reporting tool. The parties hereto may change the name and address of the person to whom notices or other documents required under this Card Services Agreement must be sent at any time by giving notice to the other party.
23. **MERGER.** This Card Services Agreement, including these Card Services Terms & Conditions and the Merchant Application, constitutes the entire agreement between Merchant, Global Direct, and Member and supersedes all prior memoranda or agreements relating thereto, whether oral or in writing.

24. **EFFECTIVE DATE.** If Merchant is receiving these Terms and Conditions as an amendment to an existing Card Services Agreement, the Terms and Conditions shall be effective upon receipt. Otherwise, this Card Services Agreement shall become effective only upon acceptance by Global Direct and Member, or upon delivery of indebtedness at such locations as designated by Global Direct for purchase, whichever event shall first occur. In either event, such date is referred to herein as the **"Effective Date."**
25. **DESIGNATION OF DEPOSITORY.** The financial institution set forth in the Merchant Application is designated by Merchant as a depository institution ("**Depository**") for its credit card indebtedness. Such financial institution must be a member of an Automated Clearing House Association. Merchant authorizes payment for indebtedness purchased hereunder to be made by paying Depository therefore with instructions to credit Merchant's Accounts. Depository, Member, and/or Global Direct may charge any of Merchant's Accounts at Depository for any amount due under this Card Services Agreement. Global Direct must approve in writing any proposed changes to the Account(s) or to the Depository. Merchant represents and warrants that: (a) the Account(s) will always be in the same legal and DBA (if applicable) name as Merchant's name on the Merchant Application; (b) Merchant will own and maintain control of the Account(s) and will keep such Account(s) open at all times during the term and as long as any Reserve Account is in effect; and, (c) the Account(s) will not be associated with any merchant processing activity that is illegal or prohibited by the Card Association Rules or Applicable Law, including without limitation merchant processing activity associated with other accounts and/or processors. Merchant hereby authorizes Depository to release any and all account information to Global Direct as Global Direct may request without any further authorization, approval or notice from or to Merchant.
26. **FINANCIAL ACCOMMODATION.** The acquisition and processing of sales slips hereunder is a financial accommodation and, as such, in the event Merchant becomes a debtor in bankruptcy, this Card Services Agreement cannot be assumed or enforced, and Global Direct and Member shall be excused from performance hereunder.
27. **AUTHORIZED USERS.** To the extent Merchant is granted electronic access to any systems or portals of Global Direct, Merchant shall be responsible for (i) ensuring that only authorized users of such systems or portals access the same; (ii) keeping all logins, user names, and passwords confidential; and (iii) promptly notifying Global Direct of any unauthorized access of such logins, user names, or passwords; and (iv) all actions taken by anyone using such access, logins, user names, or passwords, even if such actions were not authorized by Merchant.
28. **TAXES.** Merchant shall be solely responsible for the calculation, collection, and remittance of any sales tax imposed by any government authority in connection with the provision of Merchant's goods or services. Unless Merchant is otherwise exempt (and can prove such exemption to Global Direct and/or Member's satisfaction), Merchant agrees to pay all taxes imposed on the services, equipment, or other property provided to Merchant pursuant to this Agreement.
29. **REPORTING.** Merchant acknowledges that, under the Card Association Rules, certain merchant activity and terminations of merchant processing agreements may result in Global Direct or Member reporting merchants and their principals for inclusion on a terminated merchant file (e.g., the "MATCH" list). Merchant, on behalf of itself and its principals, hereby consents to such reporting and waives any claim related to the same, even in instances where Merchant or its principals believe that reporting to have been improper or in error.
30. **RELATIONSHIP OF THE PARTIES.** Merchant designates Global Direct and Member as its agent to receive payments for transactions processed pursuant to this Card Services Agreement. Neither Global Direct nor Member, however, shall be considered a partner or fiduciary to Merchant, and nothing in this Card Services Agreement or the rendition of services related to this Card Services Agreement shall be deemed to create a joint venture, partnership, or fiduciary relationship between or among the parties. Rather, the relationship among the parties to this Card Services Agreement is an arm's length commercial relationship.
31. **DEBIT / ATM PROCESSING SERVICES: ADDITIONAL TERMS AND CONDITIONS.**
- 31.1. Debit Sponsor shall act as Merchant's sponsor with respect to the participation of point-of-sale terminals owned, controlled, and/or operated by Merchant (the "**Covered Terminals**") in each of the following debit card networks ("**Debit Networks**"): Accel, AFFN, Alaska Option, CU24, Interlink, Maestro, NYCE, Pulse, Shazam, Star, and Tyme, which Debit Networks may be changed from time-to-time by Debit Sponsor or Global Direct without notice. Merchant may also have access to other debit networks that do not require a sponsor. Global Direct will provide Merchant with the ability to access the Debit Networks at the Covered Terminals for the purpose of authorizing debit card transactions from cards issued by the members of the respective Debit Networks. Global Direct will provide connection to such Debit Networks, terminal applications, settlement, and reporting activities.
- 31.2. Merchant will comply with all Applicable Laws and with all by-laws, regulations, rules, and operating guidelines of the Debit Networks ("**Network Rules**"). Merchant will execute and deliver any application, participation, or membership agreement or other document necessary to enable Debit Sponsor to act as sponsor for Merchant in each Debit Network. Merchant agrees to utilize the debit card Services in accordance with the Card Services Agreement, its exhibits or attachments, and Global Direct's instructions and specifications (including but not limited to the Card Acceptance Guide which is incorporated into and made a part of this Card Services Agreement), and to provide Global Direct with the necessary data in the proper format to enable Global Direct to properly furnish the Services. Copies of the relevant agreements or operating regulations shall be made available to Merchant upon request.

- 31.3. Merchant shall not in any way indicate that Debit Sponsor endorses Merchant's activities, products, or services. Debit Sponsor and Merchant are and shall remain independent contractors of one another, and neither they, nor their respective individual employees, shall have or hold themselves out as having any power to bind the other to any third party. Nothing contained in this section shall be construed to create or constitute a partnership, joint venture, employer-employee, or agency relationship between Debit Sponsor and Merchant.
- 31.4. In the event that Debit Sponsor's sponsorship of Merchant in any Network is terminated prior to the termination of the Card Services Agreement, Global Direct may assign Debit Sponsor's rights and obligations hereunder to a third party. All provisions in this section necessary to enforce the rights and obligations of the parties contained in this section shall survive the termination of Debit Sponsor's debit sponsorship of Merchant under the Card Services Agreement. Debit Sponsor may assign this Agreement to any parent, subsidiary, affiliate, or successor-in-interest.

32. **MERCHANT ACCEPTANCE OF EBT TRANSACTIONS: ADDITIONAL TERMS AND CONDITIONS.** If Merchant accepts EBT transactions (as defined in section 2, Services Descriptions), Merchant agrees to issue Benefits to Recipients in accordance with the procedures specified herein, and in all documentation and user guides provided to Merchant by Global Direct, as amended from time-to-time (including but not limited to the Card Acceptance Guide which is incorporated into and made a part of this Card Services Agreement); and pursuant to the Quest Operating Rules (the "**Quest Rules**"), as amended from time-to-time, issued by the National Automated Clearing House Association as approved by the Financial Management Service of the U.S. Treasury Department. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed them in the Rules. Merchant will provide each recipient a receipt of each Benefit issuance. Merchant will be solely responsible for Merchant's issuance of Benefits other than in accordance with authorizations. Merchant agrees to comply with all the requirements, laws, rules and regulations pertaining to the delivery of services to Benefit Recipients and Benefit Recipient confidentiality. If Merchant issues FS Benefits under this Card Services Agreement, Merchant represents and warrants to Global Direct that Merchant is an FNS-authorized "**Merchant**" (as such term is defined in the Rules) and is not currently suspended or disqualified by FNS. Merchant agrees to secure and maintain at its own expense all necessary licenses, permits, franchises, or other authorities required to lawfully effect the issuance and distribution of Benefits under this Card Services Agreement, including without limitation, any applicable franchise tax certificate and non-governmental contractor's certificate, and covenants that Merchant will not issue Benefits at any time during which Merchant is not in compliance with the requirements of any applicable law. Merchant agrees to hold Global Direct harmless from any costs of compliance or failure to comply with any such obligation by Merchant. Global Direct may terminate or modify the provision of Services to Merchant if any of Global Direct's agreements with government EBT agencies are terminated for any reason or if any party threatens to terminate services to Global Direct due to some action or inaction on the part of Merchant. If any of these Card Services Terms & Conditions are found to conflict with Federal or State law, regulation or policy of the Rules, these Card Services Terms & Conditions are subject to reasonable amendment by Global Direct, the State or its EBT Service Provider to address such conflict upon 90 days written notice to Merchant, provided that Merchant may, upon written notice, terminate the Card Services Agreement upon receipt of notice of such amendment. Nothing contained herein shall preclude the State from commencing appropriate administrative or legal action against Merchant or for making any referral for such action to any appropriate Federal, State, or local agency. Any references to "**State**" herein shall mean the State in which Merchant issues Benefits pursuant hereto. If Merchant issues Benefits in more than one State pursuant hereto, then the reference shall mean each such State severally, not jointly.

33. **DECLINE MINIMIZER SERVICES.** In the event that Merchant elects to use Global Direct's Decline Minimizer Service (as defined herein below), the following terms apply. Merchant represents and warrants that its business is of such a nature that it periodically needs to receive updated cardholder account information and that Merchant does not belong to any high-risk categories as determined by any Card Schemes. In consideration of Merchant's payment of any fees and charges set forth herein, Global Direct agrees to provide to Merchant certain Card decline minimizer services facilitated by applicable card associations, which services are designed to assist merchants in recurring payment industries with maintenance of current cardholder account data (such services, the "**Decline Minimizer Services**"). The Decline Minimizer Services are subject to availability as determined by the card associations. Merchant acknowledges that a card association may terminate or suspend Global Direct's ability or right to provide the Decline Minimizer Services, and Global Direct may terminate its obligations with respect to the Decline Minimizer Service at any time upon notice to Merchant. The Decline Minimizer Services may be subject to additional terms, conditions, and/or fees, notice of which shall be provided to Merchant in accordance with this Agreement.

34. **CALLPOP OPENEDGE SERVICES.**

- 34.1. Global Direct offers hardware and services, which may include but are not limited to, phone/fax to VOIP smart box converter, phone analytics, two-way calling, call notes and call history, quick text for incoming and missed calls, reviews via text, text to pay, smart caller ID, reporting portal(s), and mobile application(s) among other things (collectively, the "**CallPop OpenEdge Services**") for Merchant's sole use with its internal business operations.
- 34.2. In the event that Merchant elects to use Global Direct's CallPop OpenEdge Services (as defined above), the following terms apply. In consideration of Merchant's payment of the fees and charges set forth in the Merchant Application with respect to Global Direct's CallPop OpenEdge Services, and subject to the terms and conditions herein, Global Direct agrees to provide Merchant certain CallPop Services and hereby grants Merchant a limited, non-exclusive, non-sublicensable, non-transferable license in the United States of America to access and use the CallPop Open Edge Services (as defined above) solely for Merchant's internal business operations. Merchant shall not and shall not permit or authorize any other party to (a) decompile, disassemble, reverse engineer, or otherwise attempt to discern the source code of the CallPop OpenEdge Services; or (b) copy, modify, enhance, or otherwise

create derivative works of the CallPop OpenEdge Services. Either party may terminate or suspend the CallPop OpenEdge Services without terminating the rest of the Agreement pursuant to the termination and/or suspension rights specified in the Agreement. Notwithstanding the foregoing, Global Direct may terminate its obligations with respect to the CallPop OpenEdge Services at any time upon notice to Merchant. The CallPop OpenEdge Services may be subject to additional terms, conditions, and/or fees, notice of which shall be provided to Merchant in accordance with this Agreement.

34.3. ***Notwithstanding anything to the contrary herein, excepts as expressly provided herein, Global Direct makes no representation or warranty, express or implied with respect to the CallPop OpenEdge Services, including without limitation, any hardware provided in connection therewith. Global Direct specifically disclaims all warranties as to the merchantability, condition, design, or compliance with specifications or standards, and expressly disclaims all implied warranties, including without limitation implied warranties of merchantability, fitness for a particular use, or noninfringement of third party rights, with respect to the CallPop OpenEdge Services. Global Direct does not warrant that the CallPop OpenEdge Services will operate without interruption or on an error-free basis. Global Direct shall have not liability to Merchant for incidental, special, consequential, indirect or exemplary damages, including without limitation lost profits, revenues and business opportunities, or damages for injury to person or property, arising out of or in connection with the use by Merchant of the CallPop OpenEdge Services.***

35. **DISCOVER PROGRAM MARKS.** Merchant is hereby granted a limited non-exclusive, non-transferable license to use Discover brands, emblems, trademarks, and/or logos that identify Discover cards ("**Discover Program Marks**"). Merchant is prohibited from using the Discover Program Marks other than as expressly authorized in writing by Global Direct. Merchant shall not use the Discover Program Marks other than to display decals, signage, advertising and other forms depicting the Discover Program Marks that are provided to Merchant by Global Direct pursuant to this Card Services Agreement or otherwise approved in advance in writing by Global Direct. Merchant may use the Discover Program Marks only to promote the services covered by the Discover Program Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided that all such uses by Merchant must be approved in advance by Global Direct in writing. Merchant shall not use the Discover Program Marks in such a way that customers could believe that the products or services offered by Merchant are sponsored or guaranteed by the owners of the Discover Program Marks. Merchant recognizes that it has no ownership rights in the Discover Program Marks and shall not assign to any third party any of the rights to use the Discover Program Marks.

36. **PAYPAL MARKS.** PayPal Marks means the brands, emblems, trademarks, and/or logos that identify PayPal Acceptance. Merchant shall not use the PayPal Marks other than to display decals, signage, advertising, and other forms depicting the PayPal Marks that are provided to Merchant by Global Direct pursuant to the Merchant Program or otherwise approved in advance in writing by Acquirer. Merchant may use the PayPal Marks only to promote the services covered by the PayPal Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided that all such uses by Merchant must be approved in advance by Global Direct in writing. Merchant shall not use the PayPal Marks in such a way that customers could believe that the products or services offered by Merchant are sponsored or guaranteed by the owners of the PayPal Marks. Merchant recognizes that it has no ownership rights in the PayPal Marks. Merchant shall not assign to any third party any of the rights to use the PayPal Marks. Merchant is prohibited from using the PayPal Marks, not permitted above, unless expressly authorized in writing by PayPal.

37. **AMERICAN EXPRESS CARD ACCEPTANCE.**

37.1. If Merchant accepts American Express transactions, Merchant hereby acknowledges and agrees that for purposes of acceptance of American Express, the American Express Guide is hereby incorporated by reference into this Card Services Agreement. In addition, Merchant agrees to comply with the terms of all other security and operational guides published by American Express from time to time, including the American Express Data Security Requirements. Merchant hereby authorizes Global Direct to submit American Express transactions to, and receive settlement from, American Express on behalf of Merchant. Merchant must accept the American Express card as payment for goods and services (other than those goods and services prohibited under the American Express Guide sold, or (if applicable) for charitable contributions made, at all of its establishments, except as expressly permitted by state statute. Merchant is jointly and severally liable for the obligations of Merchant's establishments under the Card Services Agreement. For the avoidance of doubt, "**cardholder**" as used in this Card Services Agreement shall include Card Members as defined in the American Express Guide.

37.2. Merchant hereby acknowledges and agrees that (i) Global Direct may disclose American Express Transaction Data (which for purposes of this section 37 shall have the same definition as "**Transaction Data**" in the American Express Guide), Merchant Data (as defined below), and other information about Merchant to American Express, (ii) American Express may use such information to perform its responsibilities in connection with the American Express Program, promote the American Express Network, perform analytics and create reports, and for any other lawful business purpose, including marketing purposes, and (iii) American Express may use the information obtained in this application at the time of setup to screen and/or monitor Merchant in connection with American Express Card marketing and administrative purposes. If Merchant has provided a wireless phone number in connection with this Card Services Agreement, Merchant hereby agrees that it may be contacted at that number and the communications sent may include autodialed text messages or automated prerecorded calls. If Merchant has provided a fax number, Merchant hereby agrees that it may be sent fax communications. To opt out of American Express-related marketing communications, Merchant may contact Global Direct customer service as described in this Card Services Agreement. For purposes of this section 37, "**Merchant Data**" means names, postal and email addresses, tax ID numbers, names and social security numbers of the authorized signer of

Merchant and similar identifying information about Merchant. For clarification, Merchant Data does not include American Express Transaction Data.

- 37.3. Merchant hereby agrees that, in the event that Merchant becomes a High Charge Volume Merchant (as defined below), Merchant will be converted from the American Express Program to a direct American Express Card acceptance relationship with American Express, and upon such conversion, (i) Merchant will be bound by American Express' then-current card acceptance agreement, and (ii) American Express will set pricing and other fees payable by Merchant for American Express Card acceptance. **"High Charge Volume Merchant"** for purposes of this section 37 means an American Express Program Merchant with either (i) greater than \$1,000,000 in American Express charge volume in a rolling twelve (12) month period or (ii) greater than \$100,000 in American Express charge volume in any three (3) consecutive months. For clarification, if Merchant has multiple establishments, the American Express charge volume from all establishments shall be summed to together when determining whether Merchant has exceeded the thresholds above.
- 37.4. Merchant shall not assign to any third party any American Express-related payments due to it under this Card Services Agreement, and all indebtedness arising from American Express Charges (as defined below) will be for bona fide sales of goods and services (or both) at its establishments (as defined below) and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that Merchant may sell and assign future American Express transaction receivables to Global Direct, its affiliated entities and/or any other cash advance funding source that partners with Global Direct or its affiliated entities, without consent of American Express.
- 37.5. In connection with Merchants acceptance of American Express, Merchant agrees to comply with and be bound by, the rules and regulations imposed by the Payment Card Industry (PCI) Security Standards Council (including without limitation the PCI Data Security Standard). Merchant hereby agrees to report all actual or suspected Data Incidents (as such term is defined in the American Express Data Security Requirements) immediately to Global Direct and American Express immediately upon discovery thereof.
- 37.6. Merchant hereby agrees that American Express shall have third party beneficiary rights, but not obligations, to enforce the Card Services Agreement against Merchant to the extent applicable to American Express processing. Merchant's termination of American Express card acceptance shall have no direct or indirect effect on Merchant's rights to accept other card brands. To terminate American Express acceptance, Merchant may contact Global Direct customer service as described in this Card Services Agreement.
- 37.7. Without limiting any other rights provided herein, Global Direct shall have the right to immediately terminate Merchant's acceptance of American Express cards upon request of American Express. Merchant may not bill or collect from any American Express Card Member for any purchase or payment on the American Express card unless a chargeback has been exercised, Merchant has fully paid for such charge, and it otherwise has the right to do so. Merchant shall use the American Express brand and marks in accordance with the requirements set forth in the American Express Guide.

38. ELECTRONIC SIGNATURES.

- 38.1. Under the Electronic Signatures in Global and National Commerce Act (E-Sign), this Card Services Agreement and all electronically executed documents related hereto are legally binding in the same manner as are hard copy documents executed by hand signature when (1) your electronic signature is associated with the Card Services Agreement and related documents, (2) you consent and intend to be bound by the Card Services Agreement and related documents, and (3) the Card Services Agreement is delivered in an electronic record capable of retention by the recipient at the time of receipt (i.e., print or otherwise store the electronic record). This Card Services Agreement and all related electronic documents shall be governed by the provisions of E-Sign.
- 38.2. By pressing Submit, you agree (i) that the Card Services Agreement and related documents shall be effective by electronic means, (ii) to be bound by the terms and conditions of this Card Services Agreement and related documents, (iii) that you have the ability to print or otherwise store the Card Services Agreement and related documents, and (iv) to authorize us to conduct an investigation of your credit history with various credit reporting and credit bureau agencies for the sole purpose of determining the approval of the applicant for merchant status or equipment leasing. This information is kept strictly confidential and will not be released.

39. SURCHARGES/OTHER FEES.

- 39.1. Merchant pricing appears in the Card Services Fee Schedule of the Merchant Application. Merchant may also be charged certain fees and assessments established by the card associations and debit networks, which may be passed through to Merchant. T&E merchants (airline, car rental, cruise line, fast food, lodging, restaurant, travel agent, transportation) may have separate rates quoted for consumer and commercial (business) transactions. Transactions that do not clear as priced are subject to surcharges (as outlined in Merchant Application) that are billed back to you on your monthly statement. The most predominant market sectors and transactions types for surcharges appear below, however, such sectors and transaction types are not comprehensive and are subject to change. Most surcharges can be avoided by using a product that supports authorization and market data requirements established by the card associations and that are subject to change from time to time. Some surcharges occur on specific types of

cards (including without limitation Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card, and "foreign" cards issued outside the United States). Unless your Card Services Fee Schedule specifically addresses commercial cards (i.e., Business Cards, Corporate Cards, Fleet Cards, GSA Cards, Purchase Cards), you will be billed back for the higher cost of acceptance of commercial cards, unless you are primarily a business-to-business supplier with corresponding pricing based on acceptance of commercial cards. The card associations require that information from the original authorization, including a lifecycle identifier, be retained and returned with subsequent authorizations and/or the settled transaction data. The card associations validate this information as part of the clearing and settlement process. If authorization data is not retained and returned at settlement, then the transaction will not clear as priced and will incur a surcharge. For more information concerning surcharging and to view market data, you may wish to check the Global Direct website (www.globalpaymentsinc.com) for best practices information and to license Global Access @dantage (GA@) or Business View for transaction detail review.

- 39.2. The card associations validate this information as part of the clearing and settlement process. If authorization data is not retained and returned at settlement, then the transaction will not clear as priced and will incur a surcharge. For more information concerning surcharging and to view market data, you may wish to check the Global Direct website (www.globalpaymentsinc.com) for best practices information and to license Global Access @dantage (GA@) or Business View for transaction detail review. The items listed in this section 39 are not and are not intended to be a comprehensive list of all instances in which surcharges may apply. Surcharges may apply in additional situations. All surcharges may include additional fees assessed by the applicable card association and Member or Global Direct.
- 39.3. In addition, Merchant may be assessed additional fees which will be in addition to the fees stated on the Merchant Application, including the following:
- 39.4. Merchant will also be assessed (a) Cross-Border fees and a U.S. Acquirer Support fee for international Mastercard and Maestro transactions, (b) an International Service Assessment fee and International Acquirer fee for international Visa transactions, and (c) an International Processing fee and International Service fee for international Discover transactions. These fees, which are applicable to transactions between Merchant and a non-U.S. Mastercard, Maestro, Visa, American Express, or Discover cardholder will be displayed as a separate item on Merchant's monthly statement and may include fees assessed by both the applicable card association and Member or Global Direct.
- 39.5. Merchant will also be assessed per transaction access or participation fees and assessment rates for Visa, Mastercard, American Express, Discover and PayPal transactions, which will be displayed as a separate item on Merchant's monthly statement and may include fees by both the applicable card association and Member or Global Direct. Merchant will also be assessed a Discover Network Authorization Fee.
- 39.6. Merchant may also be assessed a PCI DSS Compliance fee, which will appear as a separate item on Merchant's monthly statement. This fee is assessed by Member and Global Direct in connection with Member and Global Direct's efforts to comply with the PCI Data Security Standard and does not ensure Merchant's compliance with the PCI Data Security Standard or any law, rule or regulation related to cardholder data security. The payment of such fee shall not relieve Merchant of its responsibility to comply with all rules and regulations related to cardholder data security, including without limitation the PCI Data Security Standard. Merchant may also be assessed a PCI DSS Non-Compliance fee until they validate compliance or confirm they are using a PA DSS Validated payment application.
- 39.7. Merchant will also be assessed the following fees on or related to Visa transactions: the Visa Misuse of Authorization System fee, which will be assessed on authorizations that are approved but never settled with the Merchant's daily batch, the Visa Zero Floor Limit Fee, which will be assessed on settled transactions that were not authorized, the Visa Zero Dollar Verification fee, which will be assessed on transactions where Merchant requested an address verification response without an authorization, the Visa Transaction Integrity fee, which will be assessed on Visa signature debit and prepaid transactions that fail to meet processing and transaction standards defined by Visa, and a monthly fee based on the number of card present Merchant locations by Merchant taxpayer identification number and/or all Visa volume processed by a Merchant's taxpayer identification number. Merchant will also be assessed a Mastercard CVC2 Transaction fee and the Mastercard Misuse of Authorization System fee, which will be assessed on authorizations that are approved but never settled with the Merchant's daily batch or not properly reversed within 120 days, and an acceptance and licensing fee that will be applied to the Merchant's total U.S. Mastercard sales volume. These fees will be displayed as separate items on Merchant's monthly statement, provided that the acceptance and licensing fee may be included with Merchant's Mastercard assessment fees, and may include fees assessed by both the applicable card association and Member or Global Direct.

SURCHARGES FOR PREDOMINANT MARKET SECTORS Retail/Restaurant Electronic Merchant

If you are a Retail Merchant or a Restaurant Merchant with retail-only pricing (no Business Card Rate) and utilize a certified terminal product or electronic system or the payment application provided by Global Direct or its partner, which is designed for authorization and settlement through Global Direct, each consumer card transaction you submit which meets all of the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, including without limitation retail commercial card transactions in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card and all Commercial Cards, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a single electronic authorization with magnetic strip read or contactless data capture (electronic imprint) at the time of sale.
- Obtain a single electronic authorization and settle for authorized amounts.
- Obtain a cardholder signature (unless transaction is eligible for No Signature Required [NSR] program).
- Settle and transmit batches same day via your terminal/electronic system.
- The electronic authorization amount must be equal to the transaction amount on all Visa debit card transactions unless a Restaurant (MCC 5812), Fast Food (MCC 5814), Service Station (MCC 5541) or, Bar/Tavern (MCC 5513), Beauty/Barber Shop (MCC 7230), or Taxi/Limousines (MCC 4121).
- The electronic authorization amount must be equal to the transaction amount on Discover retail transactions except that Taxi Limousines (MCC 4121) and Beauty/Barber Shop (MCC 7230) merchant transactions may vary up to 20%. Restaurant (MCC 5812), Fast Food (MCC 5814), Service Station (MCC 5541) or Bar/Tavern (MCC 5513) transactions may vary by more than 20% from the electronic authorization without incurring surcharges.

Restaurant Electronic Merchant

If you are a Restaurant Merchant MCC 5812 or Fast Food Merchant MCC 5814 and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each consumer card transaction you submit which meets all of the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Commercial Card transactions that meet these requirements will be subject to the Business Card rate quoted in the Fee Schedule. Commercial Card transactions not processed in accordance with these requirements will be subject to the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a single electronic authorization with magnetic strip read or contactless data capture (electronic imprint) at the time of sale.
- Obtain a cardholder signature (unless transaction is eligible for NSR program).
- Settle and transmit batches same day via your terminal/electronic system.

Supermarket Electronic Merchant

If you are an approved (certified) supermarket merchant and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all of the following requirements will be priced at the rate(s) quoted for Supermarket Credit Card and Supermarket Check Card. Each transaction not processed as outlined, in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card and commercial cards, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a magnetic strip read (card swipe/contactless data capture/electronic imprint) at the time of sale.
- Obtain a single electronic authorization and settle for authorized amounts.
- Obtain a cardholder signature (unless transaction is eligible for NSR program).
- Settle and transmit batches same day via your terminal/electronic system.
- The electronic authorization amount must be equal to the transaction amount on all Visa debit card transactions.

Emerging Market Electronic Merchant

If you qualify as an Emerging Market Merchant (as defined by Association guidelines from time to time) and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all the following requirements will be priced at the rates quoted. Any other transaction, including commercial card transactions, Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card, and non-magnetic stripe read foreign transactions will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. In addition, each Visa transaction not processed as outlined, but transmitted same day or next day via your terminal/electronic system, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a single electronic authorization.
- Settle and transmit batches same day via your terminal/electronic system.
- Provide market data as required. See Note.

NOTE: If card is not present and a magnetic stripe read does not occur, then Merchant may be required to comply with "Direct Marketer" market data requirements including AVS request on cardholder billing address at time of authorization. If card is present and cardholder signature is obtained, however the magnetic stripe is damaged, then Merchant may be required to obtain AVS match on cardholder billing address zip code.

MOTO Electronic Merchant

If you are a MOTO Merchant (non-magnetic swipe read transactions) and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all of the following requirements will be priced at the rate quoted. Any other transaction, including all foreign transactions and commercial card transactions in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain an electronic authorization and settle for authorized amounts (one reversal permitted on Visa transactions to make authorization amount equal to settle amount).
- Address Verification Request in authorization on cardholder billing address. For Discover transactions, Merchant must obtain full address verification request on street number and/or 9-digit postal code.
- CID verification for Discover merchants on non-recurring transactions.
- Purchase date (settled date) is ship date.
- Send order number with each transaction.
- Settle and transmit batches same day via your terminal/electronic system.
- Send level 3 data (line item detail, sales tax, customer code) with every eligible commercial card transaction.

NOTE: Card Not Present transactions involving one-time, recurring, or installment bill payment transactions are subject to additional card association requirements which must be complied with to avoid surcharges. Electronic commerce transaction requirements are also subject to additional card association requirements which must be complied with to avoid surcharges. Please refer to Card Acceptance Guide for additional requirements.

NOTE: Transactions which utilize our TouchTone Capture system for authorizations and settlement, settle beyond 48 hours, or are not transmitted via the TouchTone Capture system, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

Public Sector Electronic Merchant

If you are an approved (certified) public sector merchant and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all of the following requirements will be priced at the rate(s) quoted for Public Sector. Each transaction not processed as outlined, in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card and commercial cards, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a magnetic strip read (card swipe/contactless data capture/electronic imprint) at the time of sale.
- Obtain a single electronic authorization and settle for authorized amounts.
- Obtain a cardholder signature (unless transaction is eligible for NSR program).
- Settle and transmit batches same day via your terminal/electronic system.
- The electronic authorization amount must be equal to the transaction amount on all Visa debit card transactions.

Purchase Card Electronic Merchant

If you are a Purchase Card Merchant (non-magnetic swipe read transactions) and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets the following requirements will be priced at the rate quoted. Each Visa transaction not processed as outlined but transmitted same day or next day via your terminal/electronic system, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Each Visa business and commercial card transaction will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Any other transaction that does not meet the following requirements, including without limitation foreign transactions, tax-exempt Visa Commercial transactions, Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain an electronic authorization and settle for authorized amounts (one reversal permitted on Visa transactions to make authorization amount equal to settled amount).
- Address Verification Request in authorization on cardholder billing address.
- Purchase date (settled date) is ship date.
- Send order number (customer code) with each transaction.
- Send tax amount with every transaction.
- Send Level 3 data (line item detail) with every eligible commercial card transaction. Sales tax exempt transactions will not be considered to meet these requirements unless they include Level 3 data (line item detail).
- Settle and transmit batches same day via your terminal/electronic system.

Lodging/Auto Rental Electronic Merchant

If you are a Lodging or Auto Rental Merchant utilizing a terminal or electronic system for authorization and settlement through Global Direct, each consumer card transaction you submit which meets the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, including without limitation non-magnetic stripe read foreign transactions, and transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Commercial Card transactions that meet these requirements will be subject to the Business Card rate quoted in the Fee

Schedule. Commercial Card transactions not processed in accordance with these requirements will be subject to the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a magnetic swipe read (card swipe/electronic imprint) at the time of check-in.
- Obtain additional electronic authorizations or send partial reversals to bring total authorized amount within 15% of settled amount. Authorizations must meet card association requirements.
- Obtain a cardholder signature for final transaction amount.
- Purchase Date is hotel check-out date/auto return date.
- Length of guest stay/rental in initial authorization.
- Hotel Folio/Rental Agreement Number and check-in date/check-out date transmitted with each transaction.
- Additional market data may be required for commercial card transactions to avoid surcharges. Lodging merchants who (1) accept credit cards for advance payment; (2) guarantee reservations using a credit card; or (3) provide express check-out services to guests, must comply with additional card association requirements for these services in addition to additional authorization and settlement market data requirements. Lodging merchants who subject charges to final audit and bill for ancillary/additional charges must comply with additional bank card association requirements for these services in addition to additional authorization and settlement market data requirements to avoid surcharges. These transactions may also be subject to the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Please see Card Acceptance Guide for requirements and best practices for these transactions. **Paper Deposit Merchant** Non-terminal/electronic paper deposit transactions will be priced at the rate quoted in the Card Services Fee Schedule of the Merchant Application.

Debit Card Merchant

Each debit card transaction will be assessed the network's acquirer fee in addition to the debit card per item fee quoted in the Card Services Fee Schedule of the Merchant Application.

Card Present / Mag Stripe Failure:

A magnetic stripe read is also referred to as an electronic imprint. If the magnetic stripe is damaged, then other validation means may be required to protect against counterfeit cards and merchant must obtain a manual imprint. Most products, including the payment application, if any, will prompt for cardholder billing zip code and perform an AVS check for a zip code match. CID verification is recommended for Discover key-entered transactions. Key-entered retail transactions are subject to higher interchange and surcharges.

The foregoing information regarding surcharging is not comprehensive and is subject to change by the card association. Additional or different rates or fees may apply based on the details of a subject transaction.

All questions regarding Card Services should be referred to Global Payments Direct Inc. – 3550 Lenox Road NE, Suite 3000, Atlanta, GA. 30326, or call: 1-800-367-2638. Note: Billing disputes must be forwarded, in writing, to Customer Service within 60 days of the date of the statement and/or notice.

Contact information for Member is listed in the Merchant Application.

Global Payments Direct Inc. is a registered ISO of Wells Fargo Bank, N.A.

Debit sponsorship is provided by PB&T Bank, 301 West 5th Street, Pueblo, Colorado 81003 – 1(888)728-3550

Additional Owner/Officer Information Page for Merchant Processing Agreement (If Needed)

Note: Complete Owner / Officer Information must be present for all Equity Owners with 25% or greater equity in the business and for any person(s) with authority or control. Spaces 1 - 4 must be completed directly on the Merchant Processing Agreement; all additional owner/officer information may be provided on the Additional Owner/Officer Page as needed.

Acceptance of Merchant Application and Terms & Conditions / Merchant Authorization.

Your Card Services Agreement is between Global Payments Direct, Inc. ("Global Direct"), the Merchant named above, and the Member named below ("Member"). Member is a member of Visa, USA, Inc. ("Visa") and MasterCard International, Inc. ("MasterCard"); Global Direct is a registered independent sales organization of Visa, a member service provider of MasterCard and a registered acquirer for Discover Financial Services, LLC. ("Discover") and a registered Program Participant of American Express Travel Related Services Company, Inc. ("American Express"). A copy of the Card Services Terms and Conditions, revision number Government Entities 04-23-GPI-WF, has been provided to you. Please sign below to signify that you have received a copy of the Card Services Terms & Conditions and that you agree to all terms and conditions contained therein. If this Merchant Application is accepted for card services, Merchant agrees to comply with the Merchant Application and the Card Services Terms & Conditions as may be modified or amended in the future. If you disagree with any Card Services Terms & Conditions, do not accept service.

IF MERCHANT SUBMITS A TRANSACTION TO GLOBAL DIRECT HEREUNDER, MERCHANT WILL BE DEEMED TO HAVE ACCEPTED THE CARD SERVICES TERMS & CONDITIONS.

By your signature below on behalf of Merchant, you certify that all information provided in this Merchant Application is true and accurate and you authorize Global Direct, and Global Direct on Member's behalf, to initiate debit entries to Merchant's checking account(s) in accordance with the Card Services Terms and Conditions. In addition, by your signature below on behalf of Merchant you authorize Global Direct and/or Open Edge Payments, LLC. to order a consumer credit report on you, Merchant and each of Merchant's officers, partners, and/or owners, as well as subsequent consumer credit reports, which may be required or used in conjunction with the maintenance, updating, renewal or extension of the services provided hereunder, or in conjunction with reviewing, taking collection action on, or other legitimate purposes associated with the Merchant account.

Additional Owners -Complete Owner/Officer Information must be present for all Equity Owners with 25% or greater equity in the business and for any person(s) with authority or control. An owner or person with control listed, must be the one to accept the agreement at the end of this application.

Owner/Officer Name:	Citizenship: ☐ U.S. ☐ Non-U.S.	Date of Birth (mm/dd/yyyy):	Social Security Number:	Home Phone Number:
Home Address:	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
Former Address (If less than 1 year at current address):	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
SIGNATURE: X	Equity Owned: %	Title:		Date:
Owner/Officer Name:	Citizenship: ☐ U.S. ☐ Non-U.S.	Date of Birth (mm/dd/yyyy):	Social Security Number:	Home Phone Number:
Home Address:	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
Former Address (If less than 1 year at current address):	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
SIGNATURE: X	Equity Owned: %	Title:		Date:
Owner/Officer Name:	Citizenship: ☐ U.S. ☐ Non-U.S.	Date of Birth (mm/dd/yyyy):	Social Security Number:	Home Phone Number:
Home Address:	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
Former Address (If less than 1 year at current address):	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
SIGNATURE: X	Equity Owned: %	Title:		Date:
Owner/Officer Name:	Citizenship: ☐ U.S. ☐ Non-U.S.	Date of Birth (mm/dd/yyyy):	Social Security Number:	Home Phone Number:
Home Address:	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
Former Address (If less than 1 year at current address):	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
SIGNATURE: X	Equity Owned: %	Title:		Date:
Owner/Officer Name:	Citizenship: ☐ U.S. ☐ Non-U.S.	Date of Birth (mm/dd/yyyy):	Social Security Number:	Home Phone Number:
Home Address:	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
Former Address (If less than 1 year at current address):	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
SIGNATURE: X	Equity Owned: %	Title:		Date:
Owner/Officer Name:	Citizenship: ☐ U.S. ☐ Non-U.S.	Date of Birth (mm/dd/yyyy):	Social Security Number:	Home Phone Number:
Home Address:	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
Former Address (If less than 1 year at current address):	City:	State:	Zip:	Years There: ☐ Rent ☐ Own
SIGNATURE: X	Equity Owned: %	Title:		Date:

--FORMS TO BE RETURNED WITH PROPOSAL--

5. PRICING

The undersigned hereby declares: to have carefully examined the contract documents, including all addenda; have a clear understanding of said documents and premises; propose to provide the necessary tools, machinery, apparatus and other means of maintenance; and to furnish all labor, materials and services specified in the contract or called for in the contract documents for the prices as indicated below.

Attach Pricing table

CONTRACT TIME: The term of contract shall be for one year, beginning on the date of execution of the contract, and shall automatically renew for up to nine (9) additional one (1) year periods with no more than a 3% escalation factor per renewal. The City reserves the right to make a single or multiple awards, whichever are in the best value to the City to accomplish all services outlined in this proposal.

DOCUMENTS: Each proposer by submittal of their RFP response represents and warrants that they are satisfied as to the requirements and provisions of the RFP for this project and the documents describing the scope of work.

Signature:



Title: Senior Director of Sales, Enterprise Accounts

Date: March 29, 2024

Global Payments Fee Schedule	
Payment Processing Costs (absorbed model)	
<u>Credit/Debit Card Merchant Absorbed Cost</u> - per card transaction w/ Visa, MasterCard, Discover and American Express for transactions on top of bank card brand fees. Applies to: Online and In Person	0.10% + \$0.10
<u>ACH Merchant Absorbed Cost</u> - per eCheck transaction	\$0.50

Miscellaneous Costs	
<u>Credit Card Chargebacks</u> - if a card payer disputes a transaction at the card issuing bank (e.g. stolen card)	\$15.00
<u>eCheck Rejects</u> - Return Item Fee, Unauthorized Entry Fee and Re-presentment Fee.	\$5.00
<u>Monthly Gateway Fee</u> - Per merchant account	\$0.00
<u>PCI Monthly Compliance Fee</u> - Per merchant account	\$15.00*
	*PCI compliance is required by Visa/MC. If you do not submit your certification, there is a \$69.95 non-compliant fee will be assessed.

Optional Services	
Optional Services	
<u>Convenience Fee</u> - fees passed on to consumer	2.95% (\$2.00 minimum)
<u>ACH Convenience Fee</u> - fees passed on to consumer	\$1.50
<u>Monthly Settlement</u>	5 basis points
Equipment	
Ingenico Lane 3000 (Integrates w/ Tyler Tech)	\$299
PAX A80	\$349
PAX A920	\$499



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of an expenditure for the final year of a three (3)- year contract in the amount of \$52,145.00 with On Duty Health for medical/fitness annual evaluations for City of Leander firefighters.

BACKGROUND:

In 2022, the City entered into a three (3)- year contract with On Duty Health to provide for professional medical services for the Fire Department. As part of this agreement, firefighters undergo an annual medical evaluation in accordance with the National Fire Protection Association (NFPA) 1582 standards. These medical evaluations include various components, such as lab work, a fitness assessment, a VO2 max stress test, ultrasound screening, and vision and audiometry testing. The cost per physical is approximately \$600.00 per member.

In the first two years of the contract, the total cost of the physicals was approximately \$48,000.00 and did not require City Council authorization since it fell under the \$50,000.00 limit and only needed the City Manager's approval. Physicals were conducted in October this year, and due to an increased number of physicals conducted, the cost this year is \$52,145.00, which requires the City Council's approval for the expenditure.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Staff recommends approval.

PRESENTER:

Billy Wusterhausen, Fire Chief

	<u>Fiscal Impact</u>
<u>Amount requested:</u>	\$52,145.00
<u>Approved in current budget (Yes / No):</u>	Yes
<u>Expenditure (New / Amended):</u>	Amended
<u>Recurring or one-time:</u>	Recurring
<u>Fund source (Operating / Utility / etc.):</u>	Operating budget

Attachments:

1. On Duty Health 07.25.2022

Firefighter owned



Keeping Firefighters
Healthy & Fit For Service





Keeping Firefighters
Healthy & Fit For Service

▶ Proposal for
Leander, TX Fire Department

**NFPA-1582 Firefighter Health
and Fitness Assessments**

**On-site Occupational Health Providers
Specialized in Firefighter Health**

Prepared For
Tony Anguiano, Division Chief

Proposed On
7-20-2022

THREE YEAR CONTRACT

Dear Chief Anguiano,

Thank you for your proposal request from On Duty Health regarding your upcoming annual firefighter health & fitness assessments. We take very seriously the high calling that it is to serve this critical population. And we're confident that we'll provide you with expert health assessments as well as excellent customer service.

Included in this proposal, you'll find the outline of services we offer, including a full NFPA 1582, 1583 and WFI compliant annual assessment at your department. This includes a full body ultrasound screening, comprehensive labs, a maximal 12-lead EKG treadmill stress test (WFI protocol), TRUE VO2 Max testing, vision and audiometry testing, muscular strength and endurance testing, in-depth behavioral health assessment, and more.

Our medical record system is fully electronic, meaning that each of your members will always have a secure online portal through which they can track their health results year to year. And, we provide administration with a department-wide analytics dashboard to help inform your decisions on where to implement health improvement plans, with our guidance.

We also hope to partner with you to offer continuing services such as return-to-duty assessments, new hire assessments, health education seminars, behavioral health support, nutrition counseling and fitness training. Consider us your one-stop-shop for all your fire health needs.

Our Co-owner and Chief Operating Officer is a Texas Fire Chief with 25+ years in the industry, bringing a firefighter-tailored experience and perspective to everything we do. We practice evidence-based medicine, following current peer-reviewed research, offering novel cancer screening tools such as the Galleri Multi-Cancer Detection Blood Test and Low Dose CT. Our physicians are board certified in cardiology, radiology, dermatology, general and preventative medicine. And our team of Physician Assistants, Nurse Practitioners, Ultrasound Technicians, Exercise Physiologists, Counselors, Nutritionists, Personal Trainers and Phlebotomists are all specifically trained in firefighter occupational health.

Again, thank you for your request. I'm hopeful that we'll be working together soon to help keep your firefighters healthy and fit for service. And please don't hesitate to call or email us if you have any questions.



Warm regards,



Kristin Batla, PA-C
Chief Medical Officer, Co-owner
On Duty Health

Highlights

- Full NFPA 1582, 1583, and WFI compliant annual assessment at your department.
- Full body ultrasound screening, including Radiology followup for abnormal findings
- Maximal 12-lead EKG treadmill stress test (WFI protocol), including Cardiology followup for abnormal findings
- TRUE VO2 Max testing
- Comprehensive labs and urinalysis
- Vision and audiometry testing
- Muscular strength and endurance testing
- In-depth behavioral health assessments
- Return-to-duty assessments
- New hire assessments
- Health education seminars
- Behavioral health support
- Nutrition counseling
- Fitness training



Company Profile

On Duty Health is a female and firefighter owned, physician-led, customer-service-centered healthcare company specifically specialized in mobile firefighter health. We serve over 3,300 first responders in 67 cities across Texas & California with our comprehensive annual health and fitness assessments.

This company was founded specifically to improve health outcomes for firefighters; a highly at-risk population. These risks include:

Cancers (NIOSH)

- 9% higher risk of being diagnosed with cancer
- 14% higher risk of dying from cancer
- Significantly higher risk for specific types of cancer

Cardiac Deaths (NFA)

40-50% of annual duty-related fatalities

Behavioral Health Issues (IAFF)

- 19% experienced suicidal thoughts
- 27% struggled with substance abuse
- 65% suffer from PTSD
- 80% said asking for help would make them seem "weak"

With the above statistics in mind, our system has been designed to identify life threatening issues early so a firefighter may have the best chance at not only surviving, but thriving well into retirement. We are fully NFPA-compliant, but go well beyond the NFPA standards by incorporating recommendations from IAFF & IAFC, US Preventative Services Task Force, CDC, National Institute for Occupational Safety and Health, American College of Cardiology, American Heart Association, American College of Sports Medicine, OSHA, and the research and experience of our own health team.



Proposal

Annual Firefighter Health & Fitness Assessments

Description	Crew	Unit Price	Pricing
Standard NFPA-1582 / WFI Assessment	80	\$499	\$39,920.00
Comprehensive Labs & Urinalysis			Included
Full Physical Assessment w/ Vision & Hearing			Included
Maximal 12-lead EKG Treadmill Stress Test w/Cardiology followup when indicated			Included
TRUE VO2 Max Testing			Included
Muscular Endurance and Strength Analysis			Included
Ultrasound Enhanced Cancer Screening w/ Radiology followup when indicated			Included
Behavioral Health Assessment			Included
Nicotine Screening (Urine) - <i>discounted</i>	80	\$29	\$2,320.00
Testosterone levels - <i>discounted</i>	80	\$29	\$2,320.00
Heavy Metals Profile I, Blood (arsenic, lead, mercury) - <i>discounted</i>	17	\$109	\$1,853.00
Cardiology/Radiology Followup Contingency	80	\$29	\$2,320.00
On-Site Mobile Phlebotomy Fee Waived (clients will have draws performed at local LabCorp)			
Total			\$48,733.00

Note: This proposal and agreement constitutes a 3 year contract, locking in the current pricing for a 3 year period. The period begins as of the signing of this contract and runs through the completion of the 3rd annual round of assessments.

A breakdown of the above items is provided on the next page, including additional services offered and pricing.



Breakdown of Services

Item	Description	Pricing
Comprehensive Labs	Mobile Phlebotomy (On-site draw fee. If all patients visit LabCorp directly for their draws, this fee will not be charged)	\$49
	Urinalysis	Included
	CBC (Complete Blood Count w/differential)	Included
	CMP (Comprehensive Metabolic Panel)	Included
	Lipid Panel with LDL/HDL Ratio	Included
	A1C (Glucose/Hemoglobin Diabetes Test)	Included
	TSH (Thyroid Stimulating Hormone)	Included
	PSA (Prostate Specific Antigen - Men) [included over 40]	Included
	FIT (Fecal Occult Blood Colorectal Cancer Screening) [included over 40]	Included
Physical Assessment	Comprehensive Physical	Included
	Vital Signs	Included
	Vision Test & Audiometry Exam	Included
	Skin Cancer Assessment	Included
	Personal Consult with Review of Results	Included
	Personalized Health Plan with Nutrition & Exercise Recommendations	Included
	Behavioral Health Assessment with Questionnaires & Oral Examination	Included
Fitness Assessment	Pulmonary Function Test (Spirometry)	Included
	Resting EKG	Included
	Maximal 12-Lead EKG Treadmill Stress Test using WFI Protocol. Includes Cardiology followup read when indicated	Included
	TRUE VO2 Max Testing	Included
	Metabolic Analysis w/ Body Composition	Included
	Muscular Strength, Endurance & Flexibility Evaluation	Included
Ultrasound Enhanced Cancer Screening	Includes ultrasound imaging of the heart with function, aorta & aortic valves, carotid arteries, thyroid, liver, pancreas, gall bladder, spleen, kidneys, bladder, pelvic (women), testicular and prostate (men). Includes Radiology followup read when indicated	Included

Additional Services Available

Item	Description	Pricing
Cancer Labs	Galleri Multi-Cancer Early Detection Blood Test (50+ cancers)	\$719
	Cancer marker screening (CEA, CA 19-9, AFP, Amylase, Lipase)	\$99
	CA-125 (ovarian cancer screening - women)	\$49
	Cancer antigen 15-3 (CA 15-3) [breast cancer]	\$99
Other Labs	COVID-19 Antibody Testing	\$99
	Hepatitis A, B and C Test (Acute Hepatitis Panel)	\$69
	QuantiFERON Gold TB (Blood test)	\$89
	Medical Professionals Urine Drug Screen (12 drug panel)	\$99
	Nicotine Screening (Urine)	\$49
	HIV testing	\$49
	Heavy Metals Profile I, Blood (arsenic, lead, mercury)	\$129
	Heavy Metals Profile II, Blood (arsenic, cadmium, lead, mercury)	\$159
	Cholinesterase (HazMat) testing	\$69
	Testosterone levels	\$49
Radiology	Chest X-ray: TB screening & chest masses. Reviewed by radiologist	\$129
New Hire & Return to Duty	Available on an ongoing basis with regional scheduling (Send member to us at a nearby agency). Same pricing as full assessment.	Standard
Mental Health Support	Each health assessment comes standard with a written and oral behavioral health assessment, designed for firefighters. For continued support, we use counselors & therapists that are specifically trained to meet the needs of your firefighter with PTSD support and more. Can be offered on-site or through tele-medicine.	Variable Pricing
Personal Training	Our certified personal trainer can build individual or group packages to improve health outcomes through customized workout routines and demonstrations	Variable Pricing
Nutrition Counseling	Each health assessment comes standard with nutrition recommendations. However, our licensed nutritionist can build individual or group packages to work with your members for guidance in meal planning, shopping, cooking, and more for enhanced health outcomes.	Variable Pricing

More Information

If you'd like to hear more about our system and how we're leading the way in firefighter health, check out this video presentation from our CEO, Greg Batla:



Online

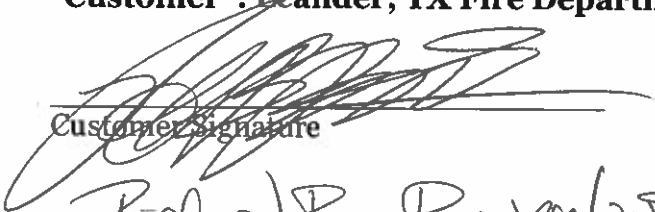
www.onduty.health

Contract

If you agree with the above proposal and pricing, as well as the Terms & Conditions found below, **please sign and date below indicating your intent to enlist our services.**

Signatures:

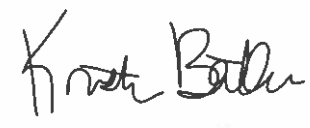
"Customer": Leander, TX Fire Department


Customer Signature

Richard B. Bever
Print Name

City Manager
Print Title

07/21/22
Date



Kristin Batla, PA-C
Chief Medical Officer
"Company": On Duty Health

7-20-2022

Date

Master Terms & Conditions

These Master Terms and Conditions (together with the Proposal/Purchase Order the Contract) govern all use of the Services from On Duty Health – Texas, PLLC, a Texas professional limited liability company (“Company”) by the “Customer”, as defined in the Proposal/Purchase Order (collectively the “Parties” and individually a “Party”).

1. Services. The Company shall provide the Customer’s employees with certain services (“Services”). Services consist of an annual on-site Physical/Fitness Assessment based on each member’s essential job functions as set forth in their applicable job description. “Fitness Assessment,” as defined by the National Fire Protection Association, includes a medical history evaluation, hands-on physical exam, blood analysis, urinalysis, vision testing, audiometry testing, pulmonary function testing, treadmill stress test with 12 lead EKG, cancer screening elements, in substantial compliance with NFPA 1582, NFPA 1583, and WFI (Wellness Fitness Initiative) standards.
2. Fee. The Customer shall pay the Company the fee set forth in the Proposal/Purchase Order for each Fitness Assessment. The Customer shall remit payment to the Company for all Services within thirty (30) days of receipt of the invoice. A 2% late fee charge will be assessed after 30 days, and for each month thereafter that the payment is delayed. Each annual round of assessments will be billed at the completion of that round. The pricing is considered “locked,” unless the number of members to be seen decreases by 15%.
3. Termination of Contract. The Customer may terminate the Contract, in whole or in part, with or without cause, without penalty, with ninety (90) days written notice. After this point, the Customer may not terminate the Purchase Order and shall be responsible for the fees for all Services performed, as described in the Purchase Order. The ninety (90) day termination period will reset each year on the day immediately following the completion of that year’s assessments. The Company also reserves the right to cancel the Contract, with or without cause, without penalty, with ninety (90) days written notice.
4. Contract Period. This proposal and agreement constitute a three (3) year contract, locking in the current pricing for a three (3) year period. The period begins as of the signing of this Contract and runs through the completion of the 3rd annual round of assessments.
5. Employee List & Schedule. At least four (4) weeks before the Company performs the Services each year, the Customer shall provide the Company with a list of all employees that will receive the Services (based off of the “Roster Template” provided by the Company). At least two (2) weeks before the Company performs

the Services each year, the Customer shall provide the Company with a Schedule of which employees will be seen at what date and time (based off of the "Schedule Template" provided by the Company).

6. Credits. If Customer has an employee(s) who will miss the assessments due to sickness or other reasons, the Customer will hold a "credit" for that employee for 200 days, and may work with Company to schedule them for their assessments at another time and place.
7. Location Reciprocity. The Customer agrees to allow a small number of members from other departments, if any, to be seen on their premises. This allows for make-up physicals if a member missed at a nearby department, return to duty or new hire physicals. As such, other nearby departments will be granting such reciprocity to The Customer.
8. Equipment. The Company agrees to provide all equipment and supplies necessary for the assessments, EXCEPT for a treadmill. The Customer agrees to provide a properly functioning treadmill (with variable speed and variable incline) and adequate space for the assessments to be conducted.
9. Notice. All notices hereunder must be in writing to the other Party. If to the Company, the notice shall be sent to:

Greg Batla
Chief Executive Officer
2028 E. Ben White Blvd, STE 240-4949
Austin, TX 78741
greg@onduty.health

10. Amendments. No amendment to or modification of this Contract will be effective unless it is in writing and signed by the Parties.
11. Force Majeure. The Company shall not be liable or responsible to the Customer, nor be deemed to have defaulted or breached this MTC, for any failure or delay in fulfilling or performing any term of this MTC when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of the Company including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, or telecommunication breakdown or power outage.
12. Relationship of the Parties. Each Party is acting independently; neither is an agent, servant, or employee of the other; and the Parties are not engaged in a joint enterprise.

13. Governing Law. This Contract shall be governed by Texas law.
14. Severability. If any provision of this Contract is held for any reason to be illegal, unenforceable or invalid, such holding will not affect the legality or validity of any of the other provisions herein.
15. Entire Agreement. This Contract constitutes the entire agreement between the Parties hereto and supersedes any other prior or contemporaneous agreement concerning the subject matter of this transaction, whether oral or written.
16. Assignment. This Contract may not be assigned without the prior written consent of the other Party, which may be granted or withheld in the sole discretion of the Party being asked to consent.
17. Confidentiality. In the course of performing the Services, the Parties recognize that Company may come in contact or become familiar with information that Customer may consider confidential. Company agrees to keep all such information confidential and not to discuss or divulge it to anyone other than appropriate Customer personnel or their designees.
18. Governmental Immunity. This Contract is expressly made subject to Customer's governmental immunity under the Texas Civil Practice and Remedies Code and all applicable state and federal law. The Parties hereto expressly agree that no provision of this Contract is in any way intended to constitute a waiver of any immunities from suit or from liability that Customer has by operation of law.
19. Agreement. In signing the Proposal/Purchase Order above, Customer agrees to the entirety of the terms and conditions set forth, as amended, in this Master Terms and Conditions.

Contact

512.655.3578
info@onduty.health

2028 E Ben White Blvd
STE 240-4949
Austin, TX 78741



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EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of an amendment to existing contract L00286 by and between the City of Leander and Siddons Martin for an increase in contract costs of \$50,000.00, for a new contract total of \$737,500.00, utilizing new BuyBoard Contract #746-24, for the purchase of fire service apparatus parts, equipment, and repair services, and related goods; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

The Leander Fire Department utilizes Siddons Martin Emergency Group, LLC to service and maintain the fire engines and equipment.

On February 1, 2024, the City Council approved contract L00286 between the City of Leander and Siddons Martin Emergency Group, LLC, for the purchase of fire service apparatus parts, equipment, repair services, and related goods through two (2) BuyBoard Contracts, and set a total combined spending limit of \$687,500.00. It was known at that time that contract #651-21 was set to expire on September 30, 2024, and that contract #698-23 would expire March 31, 2026.

This amendment is to replace the expired contract (#651-21) with a new BuyBoard Contract, #746-24, which has an expiration date of September 30, 2027. This amendment is also increasing the overall authorized expenditure amount by \$50,000.00 to a new limit of \$737,500.00 due to the high spending in FY24 for repair services.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Staff recommends approval.

PRESENTER:

Billy Wusterhausen, Fire Chief

	<u>Fiscal Impact</u>
<u>Amount requested:</u>	\$393,750.00
<u>Approved in current budget (Yes / No):</u>	Yes
<u>Expenditure (New / Amended):</u>	Amended
<u>Recurring or one-time:</u>	Recurring
<u>Fund source (Operating / Utility / etc.):</u>	General Operating Fund

Attachments:

1. L00286 Contract- Siddons Martin
2. L00286 Contract Amendment

AN RESOLUTION OF THE CITY OF LEANDER, TEXAS

RESOLUTION NO. 24-001-00

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE PURCHASE OF FIRE SERVICE APPARATUS PARTS, EQUIPMENT, AND REPAIR SERVICES AND RELATED GOODS FROM SIDDONS MARTIN EMERGENCY GROUP, LLC AS AN APPROVED VENDOR PURSUANT TO A COOPERATIVE PURCHASING PROGRAM; MAKING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE PROVIDING A SAVINGS CLAUSE, PROVIDING AN EFFECTIVE DATE, PROVIDING AN OPEN MEETINGS CLAUSE, AND PROVIDING FOR OTHER RELATED MATTERS.

WHEREAS, the City of Leander ("City") desires to purchase fire service apparatus parts, equipment, and repair services, and related goods; and

WHEREAS, Chapter 271, Subchapter F of the Texas Local Government Code allows for local governments to participate in cooperative purchasing programs with other local governments; and

WHEREAS, the BuyBoard Cooperative Purchasing Program ("BuyBoard") is a cooperative purchasing program administered by the Texas Association of School Boards (TASB) for the purpose of procuring goods and services for its members; and

WHEREAS, the City is a member of BuyBoard; and

WHEREAS, Siddons Martin Emergency Group, LLC is an approved vendor of BuyBoard; and

WHEREAS, the City desires to have the City Manager of the City of Leander execute an agreement for the purchase said goods and services from Siddons Martin Emergency Group, LLC through BuyBoard in an amount not to exceed \$687,500.00.

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Authorization. The City Manager is hereby authorized to negotiate and execute a purchase agreement in the same or substantially same form as the purchase agreement attached hereto as **Exhibit A** to effectuate the purchase of fire service apparatus parts, equipment, and repair services, and related goods from Siddons Martin Emergency Group, LLC as an approved vendor of BuyBoard subject to the powers and duties prescribed by the City of Leander Code of Ordinances and not to exceed \$687,500.00.

Section 3. Severability. If any provision of this Resolution is illegal, invalid, or unenforceable under present or future laws, the remainder of this Resolution will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Resolution.

Section 4. Effective Date. This Resolution will become effective upon its adoption, passage by the City Council in accordance with the procedures on the date of passage as required and publication as required by law.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this 1st day of February, 2024.

CITY OF LEANDER, TEXAS

BY: *C. DeLisle*
Christine DeLisle, Mayor

ATTEST:

Dara Crabtree
Dara Crabtree, City Secretary



EXHIBIT
"A"

**CITY OF LEANDER AGREEMENT FOR PURCHASE
OF
FIRE SERVICE APPARATUS VEHICLES AND REPAIR SERVICES
WITH
SIDDONS MARTIN EMERGENCY GROUP, LLC
CONTRACT L00286**

THE STATE OF TEXAS	§	
	§	
CITY OF LEANDER	§	KNOW ALL BY THESE PRESENTS:
	§	
COUNTY OF WILLIAMSON	§	
	§	

THAT THIS AGREEMENT for the purchase of fire service apparatus vehicles and repair services, and for related goods (referred to herein as the "Agreement"), is made and entered into on this the 1st day of the month of February, 2024 by and between the **CITY OF LEANDER**, a Texas home-rule municipality, whose offices are located at 105 N. Brushy Street, Leander, Texas 78641 (referred to herein as the "City"), and **SIDDONS MARTIN EMERGENCY GROUP, LLC**, whose offices are located at 1362 East Richey, Houston, TX 77073 (referred to herein as "Vendor").

RECITALS:

WHEREAS, City desires to purchase certain goods, specifically fire service apparatus vehicles and repair services; and

WHEREAS, City is a member of the BuyBoard Cooperative Purchasing Program ("BuyBoard ") and Vendor is an approved BuyBoard vendor through BuyBoard Contract# 651-21 and 698-23; and

WHEREAS, City desires to purchase certain goods from Vendor through BuyBoard as set forth herein; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties. and obligations;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the parties as follow:

1.01 DEFINITIONS

A. **Agreement** means the binding legal contract between City and Vendor whereby City agrees to buy specified goods and Vendor is obligated to provide said goods.

B. **City** means the City of Leander, Williamson County, Texas.

C. **Effective Date** means the date upon which the binding signatures of both parties to this Agreement are affixed.

D. **Force Majeure** means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind from the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, restraint of the government and the people, civil disturbances, explosions, or other causes not reasonably within the control of the party claiming such inability.

E. **Goods** mean the specified supplies, materials, commodities, or equipment.

F. **Vendor** means Siddons Martin Emergency Group, LLC, its successors or assigns.

2.01 EFFECTIVE DATE AND TERM

A. This Agreement shall be effective on the date this Agreement has been signed by each party hereto and shall remain in full force and effect unless and until it expires by operation of the term indicated herein, or is terminated or extended as provided herein.

B. This Agreement shall terminate September 30, 2024 (Contract # 651-21) and March 31, 2026 (Contract # 698-23). An administrative amendment is anticipated on October 1, 2024, to permit usage of the new BuyBoard contract for repair services.

C. City reserves the right to review the relationship with Vendor at any time and may elect to terminate this Agreement with or without cause or may elect to continue.

3.01 CONTRACT DOCUMENTS AND EXHIBITS

The goods which are the subject matter of this Agreement are described in Exhibit "A" and, together with this Agreement, comprise the Contract Documents. Any inconsistencies or conflicts in the contract documents shall be resolved by giving preference to the terms and conditions set forth in pages one (1) through nine (9) of this Agreement.

4.01 ITEMS

A. The goods which are the subject matter of this Agreement are described generally in the attached Exhibit "A."

B. This Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence, or discussions.

C. Vendor shall satisfactorily provide all deliverables described in Exhibit "A" within

the contract term specified. A change in the Scope of Services or any term of this Agreement, must be negotiated and agreed to in all relevant details, and must be embodied in a valid Supplemental Agreement as described in Section 9.01 herein.

5.01 COSTS

A. City agrees to pay for supplies during the term of this Agreement at the pricing set forth at in Exhibit "A." Vendor specifically acknowledged and agrees that City is not obligated to use or purchase any estimated annual quantity of goods. Only if, and when needed by City, the costs listed on Exhibit "A" shall be the basis of any charges collected by Vendor.

B. The City shall be authorized to pay the Vendor in an amount of **Six-Hundred Eighty-Seven Thousand Five-Hundred and No/100 Dollars (\$687,500.00)** for the term of this Agreement.

6.01 INVOICES

All invoices shall include, at a minimum, the following information:

- A. Name and address of Vendor;
- B. Purchase Order Number;
- C. Description and quantity of items received; and
- D. Delivery or performance dates.

7.01 NON-APPROPRIATION AND FISCAL FUNDING

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the goods as determined by City's budget for the fiscal year in question. City may affect such termination by giving Vendor a written notice of termination at the end of its then current fiscal year.

8.01 PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Vendor will be made within thirty (30) days of the day on which City receives the performance, supplies, materials, equipment, and/or deliverables, or within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for the performance and/or deliverables or services, whichever is later. Vendor may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(6); however, this Policy does not apply to payments made by City in the event:

- A. There is a bona fide dispute between City and Vendor, a contractor, subcontractor, or supplier about the goods delivered or the service performed that cause the payment to be late; or

- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
- D. Invoices are not mailed to City in strict accordance with instructions, if any, on the purchase order or the Agreement or other such contractual agreement.

9.01 SUPPLEMENTAL AGREEMENT

The terms of this Agreement may be modified by written Supplemental Agreement hereto, duly authorized by City Council or by the City Manager, if the City determines that there has been a significant change in (1) the scope, complexity, or character of the services to be performed or goods to be delivered; (2) the costs associated with the payment of goods and services; or (3) the duration of the work to be performed. Any such Supplemental Agreement must be executed by both parties within the period specified as the term of this Agreement. Vendor shall not perform any work or incur any additional costs prior to the execution, by both parties, of such Supplemental Agreement. Vendor shall make no claim for extra work done or goods delivered unless and until there is full execution of any Supplemental Agreement, and the City shall not be responsible for actions by Vendor nor for any costs incurred by Vendor relating to additional work not directly authorized by Supplemental Agreement.

10.01 GRATUITIES AND BRIBES

City may, by written notice to Vendor, cancel this Agreement without liability to Vendor if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Vendor or its agents or representatives to any City officer, employee, or elected representative with respect to the performance of this Agreement. In addition, Vendor may be subject to penalties stated in Title 8 of the Texas Penal Code.

11.01 TAXES

City is exempt from Federal Excise and State Sales Tax; therefore, tax shall not be included in Vendor's charges.

12.01 ORDERS PLACED WITH ALTERNATE VENDORS

If Vendor cannot provide the goods as specified, City reserves the right and option to obtain the products from another supplier or suppliers.

13.01 CITY'S REPRESENTATIVE

City hereby designates the following representative authorized to act on its behalf with regard to Contract Management of this Agreement:

Billy Wusterhausen
Fire Department Chief
PO Box 319
Leander, Texas 78646
512-528-1664
wusterhausen@leandertx.gov

14.01 INSURANCE

Vendor shall meet all City of Leander Insurance Requirements as set forth at:
<https://www.leandertx.gov/finance/page/purchasing>.

15.01 RIGHT TO ASSURANCE

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

16.01 DEFAULT

If Vendor abandons or defaults under this Agreement and is a cause of City purchasing the specified goods elsewhere, Vendor agrees that it may be charged the difference in cost, if any, and that it will not be considered in the re-advertisement of the service and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

Vendor shall be declared in default of this Agreement if it does any of the following:

- A. Fails to fully, timely and faithfully perform any of its material obligations under this Agreement;
- B. Fails to provide adequate assurance of performance under the "Right to Assurance" section herein; or
- C. Becomes insolvent or seeks relief under the bankruptcy laws of the United States.

17.01 TERMINATION AND SUSPENSION

A. City has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon thirty (30) days' written notice to Vendor.

B. In the event of any default by Vendor, City has the right to terminate this Agreement for cause, upon ten (10) days' written notice to Vendor.

C. Vendor has the right to terminate this Agreement only for cause, that being in the event of a material and substantial breach by City, or by mutual agreement to terminate evidenced

in writing by and between the parties.

D. In the event City terminates under subsections (A) or (B) of this section, the following shall apply: Upon City's delivery of the referenced notice to Vendor, Vendor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after such notice of termination, Vendor shall submit a statement showing in detail the goods and/or services satisfactorily performed under this Agreement to the date of termination. City shall then pay Vendor that portion of the charges, if undisputed. The parties agree that Vendor is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

18.01 INDEMNIFICATION

Vendor shall defend (at the option of City), indemnify, and hold City, its successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Vendor, or Vendor's agents, employees or subcontractors, in the performance of Vendor's obligations under this Agreement, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of City or Vendor (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

19.01 COMPLIANCE WITH LAWS, CHARTER, AND ORDINANCES

A. Vendor, its agents, employees, and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Leander, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

B. In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel and will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Vendor verifies Vendor does not boycott Israel and will not boycott Israel during the term of this Agreement.

C. To the extent the Agreement constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Governmental Code, as amended, solely for the purposes of compliance with Chapter 2252 of the Texas Governmental Code, and except to the extent otherwise required by applicable federal law, Vendor represents that the Vendor nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Vendor is a company listed by the Texas Comptroller Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

D. The Vendor hereby verifies that it and its parent's company, wholly or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of the Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and to the extent such section

is not inconsistent with a governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing or investment of funds. As used in the foregoing verification, "boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil-based energy and does not commit or pledge to meet environmental standards beyond federal and state law; or (B) does business with a company described as by the preceding statement in (A).

E. The Vendor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" means: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; but does not include (a) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; or (b) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

20.01 ASSIGNMENT AND DELEGATION

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall assign, sublet, or transfer any interest in this Agreement without prior written authorization of the other party.

21.01 NOTICES

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

1. When delivered personally to the recipient's address as stated in this Agreement;
or
2. Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

Notice to Vendor:

Siddons Martin Emergency Group, LLC
1362 East Richey
Houston, TX 77073

Notice to City:

City Manager
PO Box 319
Leander, TX 78646

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Vendor.

22.01 APPLICABLE LAW; ENFORCEMENT AND VENUE

This Agreement shall be enforceable in Leander, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

23.01 EXCLUSIVE AGREEMENT

This document, and all appended documents, constitutes the entire Agreement between Vendor and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing, duly authorized by action of the City Manager or City Council.

24.01 DISPUTE RESOLUTION

The Parties agree that in the event of a dispute concerning the performance or non-performance of any obligations flowing from or because of this Agreement and prior to the initiation of any formal action, the Parties will voluntarily submit the dispute to mediation. If a mediator cannot be agreed to within 30 days of a party requesting mediation, the parties will submit the matter to a dispute resolution center for mediation as though it were referred through the operation of the Texas Alternative Dispute Resolution Procedures Act, Title 7, Chapter 154, TEX. CIV. PRAC. & REM. CODE ANN. (Vernon 2019). No record, statement, or declaration resulting from or in connection with such alternate dispute resolution procedure may be used in evidence in subsequent litigation except to demonstrate that this article has been complied with in good faith by a party.

25.01 SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

26.01 MISCELLANEOUS PROVISIONS

Standard of Care. Vendor represents that it employs trained, experienced, and competent persons to perform all of the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed in a manner according to generally accepted industry practices.

Time is of the Essence. Vendor understands and agrees that time is of the essence and that any failure of Vendor to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Vendor shall be fully responsible for its delays or for failures to use best efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Vendor's failure to perform in these circumstances, City may pursue any remedy available without waiver of any of City's additional legal rights or remedies.

Force Majeure. Neither City nor Vendor shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given and all reasonable efforts undertaken to mitigate its effects.

Multiple Counterparts. This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, City and Vendor have executed this Agreement on the dates indicated.

City of Leander

Siddons Martin Emergency Group, LLC



Signature



Signature

Print Name: Isaac D. Turner

Print Name: Jeffrey A. Doran - Director Order Mngement

Title: Interim City Manager

Title: _____

Date: February 1, 2024

Date: 01-19-2024



**AGENDA
CITY COUNCIL MEETING
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday, February 1, 2024
Briefing Workshop at 6:00 PM
Regular Meeting at 7:00 PM



Mayor – Christine DeLisle	Place 4 – Na'Cole Thompson
Place 1 – Kathryn Pantalion-Parker	Place 5 – Chris Czernek
Place 2 – Esme Mattke Longoria, Mayor Pro Tem	Place 6 – Becki Ross
Place 3 – David McDonald	Interim City Manager – Isaac Turner

The meeting will also be live-streamed at the following link: <https://www.leandertx.gov/video>.

BRIEFING WORKSHOP - CONVENE AT 6:00 PM

1. Open Meeting.
2. Roll Call.
3. Capital Improvement Projects update

REGULAR MEETING – CONVENE AT 7:00 PM

4. Open Meeting, Invocation and Pledges of Allegiance.
5. Roll Call.
6. Public comments on items not listed in the agenda.

Public comments on items listed in the agenda will be heard at the time each item is discussed.

[All comments are limited to no more than 3 minutes (6 minutes if translation is needed) per individual.]

7. Recognitions/Proclamations/Visitors.
 - Black History Month (February)
8. Leander Chamber of Commerce and Visitors Center Report

CONSENT AGENDA: ACTION

9. Approval of the minutes for meeting held on January 18, 2024.
10. Approval of the extension of the application expiration for Subdivision Case FP-21-0006 Rosenbusch Phase 3; more particularly described by Williamson Central Appraisal District Parcel R599344;

generally located to the east of the intersection of Vista Ridge Drive and Lakeline Boulevard; Leander, Williamson County, Texas.

11. Approval of the extension of the application expiration for Subdivision Case PICIP-22-0017 Lenox Hill Townhomes; more particularly described by Williamson Central Appraisal District Parcel R653589, generally located on the west side of Ronald W. Reagan Boulevard, approximately 750 feet south of Niles Drive, Leander, Williamson County, Texas.
12. Approval of the extension of the application expiration for Subdivision Case PP-22-0003 Greenlight Village preliminary plat; on two (2) parcels of land approximately 14.02 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District R031386 and R031387; generally located on the south side of Hero Way West, east of N. Bagdad Rd and west of Broade Way, Leander, Williamson County, Texas.
13. Acceptance of streetlight public improvements for Northline Phase 1 and Texas Department of Licensing and Regulation (TDLR) sidewalk improvements for Phase 1, Blocks S, T, and U, and driveway improvements for Northline Blocks C, D, L, and M.
14. Approval of the over-sizing costs from eight (8)- inch waterlines to sixteen (16)- inch waterlines reimbursable expenses as stated in the terms of the Development and Cost Participation Agreement for Public Improvements for the Hilltop Ranch Subdivision; and authorizing the Interim City Manager to execute any and all necessary documents.
15. Ratify the approval of an alternate date of January 27, 2024 for a Special Event Permit and street closures for the Martin Luther King Day March and Celebration in Old Town Park originally approved by the City Council on December 21, 2023.
16. Approval of a Resolution authorizing a Purchasing Agreement by and between the City of Leander and Siddons Martin Emergency Group, LLC for the purchase of fire service apparatus parts, equipment, and repair services, and related goods through BuyBoard Contracts 651-21 and 698-23 in the total amount of \$687,500.00 for the term of the contract expiring September 30, 2024 and March 31, 2026 respectively; providing for an effective date; and authorizing the Interim City Manager to execute any and all necessary documents.

PUBLIC HEARING: ACTION

17. Conduct a Public Hearing regarding Subdivision Case CP-23-0024 to adopt the Enclave at Crystal Falls Concept Plan and Preliminary Plat on four (4) parcels of land approximately 19.53 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R031345, R031341, R031342, and R559253; generally located on the north side of East Crystal Falls Parkway approximately 1,000 feet west of Ronald W. Reagan Boulevard., Leander, Williamson County, Texas.
 - Discuss and consider action regarding Subdivision Case CP-23-0024 as described above.

REGULAR AGENDA

18. Discuss and consider action on Fiscal Year 2025 Budget Planning, Calendar, Guidelines, and Objectives.
19. Discuss and consider action on a Resolution in support of temporary actions deemed necessary to implement Phase 4 response measures as described in the Water Conservation and Drought Contingency Plan.

20. Council Member Future Agenda Items *[Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.]*
21. Council Member Closing Statements.
22. Convene into Executive Session pursuant to:
 1. Section 551.071 and 551.072, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct to consult with legal counsel and acquisition of property regarding a recreation center; and
 2. Section 551.071, Texas Government Code, and Section 1305, Texas Disciplinary Rules of Professional Conduct to consult with legal counsel regarding Public Utilities Commission Docket No. 53063, petition by outside city ratepayers appealing the water rates established by the City of Leander, Texas; and
 3. Section 551.074, Texas Government Code, to discuss or deliberate the appointment, employment and duties of a public officer or employee: City Manager search; and
 4. Section 551.074, Texas Government Code to discuss Interim City Manager assignments and duties.

Reconvene into open session to take any action deemed appropriate in the City Council's discretion regarding:

1. recreation center; and
2. Public Utilities Commission Docket No. 53063, petition by outside city ratepayers; and
3. City Manager search; and
4. Interim City Manager assignments and duties.

23. Adjournment

CERTIFICATION

This meeting will be conducted pursuant to the Texas Government Code Section 55 1.001 et seq. At any time during the meeting the Council reserves the right to adjourn into Executive Session on any of the above posted agenda for which state law authorizes Executive Session to be held, including but not limited to Sections 55 1.071 [litigation and certain Consultation with attorney], 551.072 [acquisition of interest in real property], 55 1.073 [prospective gift to city], 55 1.074 [certain personnel deliberations], 551.076 [deployment/implementation of security personnel or devices], or 551.087 [Deliberations regarding Economic Development Negotiations]. The City of Leander is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary at (512) 528-2743 for information. Hearing impaired or speech disabled persons equipped with telecommunication devices for the deaf may call (512) 528-2800. I certify that the above agenda for this meeting of the City Council of the City of Leander, Texas, was posted on the bulletin board at City Hall in Leander, Texas, on the 26 day of January 2024 by 5:00 p.m. pursuant to Chapter 551 of the Texas Government Code.



Dara Crabtree, City Secretary
TRMC



EXECUTIVE SUMMARY
2/1/2024

AGENDA SUBJECT:

Approval of a Resolution authorizing a Purchasing Agreement by and between the City of Leander and Siddons Martin Emergency Group, LLC for the purchase of fire service apparatus parts, equipment, and repair services, and related goods through BuyBoard Contracts 651-21 and 698-23 in the total amount of \$687,500.00 for the term of the contract expiring September 30, 2024 and March 31, 2026 respectively; providing for an effective date; and authorizing the Interim City Manager to execute any and all necessary documents.

BACKGROUND:

Chapter 791, § 271.102 of the Texas Government Code states; "a local government may participate in a Cooperative Purchasing Program with another local government or a local cooperative organization. A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of goods or services."

When local governments purchase goods or services, they have three (3) options in order to complete those purchases: requesting invitations to bid; soliciting requests for proposals; or by utilizing the cooperative purchasing program established by the State of Texas.

A Master Interlocal Agreement permits the City to utilize the cooperative organization's current and/or future contracts for goods and services without having to seek competitive bids.

This agreement allows the City to purchase items from the vendor up to \$687,500.00 in costs on/or before the expiration date of September 30, 2024 (Contract # 651-21) and March 31, 2026 (Contract #698-23).

This contract will be in place through September 30, 2024 (Contract # 651-21) and March 31, 2026 (Contract #698-23), as a Fire Department contract for the purchase of fire service apparatus parts, equipment, and repair services, and related goods in an approximate annual value of \$343,750.00.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Staff recommends approval

PRESENTER:

Billy Wusterhausen, Fire Chief

<u>Amount requested:</u>	<u>Fiscal Impact</u>
<u>Approved in current budget (Yes / No):</u>	343,750.00 annually, 687,500.00 total
<u>Expenditure (New / Amended):</u>	YES
<u>Recurring or one-time:</u>	New
<u>Fund source (Operating / Utility / etc.):</u>	Recurring
	General Operating Fund

Attachments:

1. Siddons Martin Contract- Resolution
2. Siddons Martin Contract-Exhibit A



Amendment No. 1
to
Contract No. L00286
for
Fire Service Apparatus Vehicles and Repair Services
between
Siddons Martin Emergency Group, LLC
and the
City of Leander, Texas

- 1.0 The City hereby amends the above referenced contract to permit usage of the new BuyBoard contract for repair and maintenance services and the administrative addition of \$50,000 for covered services.
- 2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 2/1/24 – 9/30/24	\$687,500.00	\$687,500.00
Amendment No. 1: Replacement of BuyBoard 651-21 with updated contract 746-24 10/1/24 – 9/30/27	\$50,000.00	\$737,500.00

- 3.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date:

Jeffrey A. Doran 10-07-2024

Printed Name: Jeffrey A. Doran - Director Order Management
Siddons Martin Emergency Group, LLC
1362 East Richey
Houston , TX 77073

Signature & Date:

Todd Parton, City Manager
City of Leander

Cheryl Kaufman 10/9/24

Cheryl Kaufman, Purchasing and General Services
Manager
City of Leander Purchasing Office



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of the purchase of one (1) 2024 Ford F-550 Bucket Truck from Rockdale Country Ford, dba Caldwell Country, in the amount of \$175,723.00 utilizing the BuyBoard Co-Op Contract #724-23; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

Funds are budgeted in the Fiscal Year 2025 budget for the purchase of one (1) bucket truck for the Public Works Streets Department. This will be second bucket truck for traffic signals and streetlight crew and will help with their installation/maintenance activities.

Public Works staff has reached out to various vendors for the availability of the needed vehicle via BuyBoard agreement. The needed vehicle is available for purchase with Rockdale Country Ford, dba Caldwell Country, with expected delivery in twelve to eighteen (12 to 18) months. Considering the long delivery lead time for the vehicle, staff recommends moving forward with placing this order utilizing the BuyBoard Co-Op Contract #724-23.

Local Government Code Sec. 271.012: Cooperative Purchasing Program Participation, provides that a local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services. BuyBoard Contract #724-23 will be used.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

City staff recommends approval of the purchase of one (1) 2024 Ford F-550 Bucket Truck from Rockdale Country Ford, dba Caldwell Country, in the amount of \$175,723.00 utilizing the BuyBoard Co-Op Contract #724-23; and authorize the City Manager to execute any and all necessary documents.

PRESENTER:

Gina M. Ellison, P.E., Executive Director of Public Works

Fiscal Impact

<u>Amount requested:</u>	\$175,723.00
<u>Approved in current budget (Yes / No):</u>	Yes

<u>Expenditure (New / Amended):</u>	New
<u>Recurring or one-time:</u>	One-Time
<u>Fund source (Operating / Utility / etc.):</u>	GL # 40-04-7000

Attachments:

1. Truck Quote

QUOTE# 001-VSW24288

CONTRACT PRICING WORKSHEET

End User: CITY OF LEANDER	Contractor: ROCKDALE COUNTRY
Contact Name: JAMES SPAULDING	ROCKDALE COUNTRY FORD DBA CALDWELL COUNTRY
Email: JSPAULDING@LEANDERTX.GOV	Prepared By: Averyt Knapp
Phone #: 512-528-2730	Email: aknapp@caldwellcountry.com
Fax #:	Phone #: 979-567-6116
Location City & State: LEANDER, TX	Fax #: 979-567-4376
Date Prepared: FEBRUARY 16, 2024	Address: P. O. Box 72, ROCKDALE, TX 76567
Contract Number: BUY BOARD #724-23	Tax ID # 27-3037856

Product Description: 2024 FORD F550 REGULAR CAB

A Base Price (\$43,150) & Options (\$132,173):

\$175,323

B Fleet Quote Option:

Code	Description	Cost	Code	Description	Cost
	4X2-REGULAR CAB, 16,500#GVWR, 6.7L-V8 DIESEL, 10-SPD AUTOMATIC, 225/70R19.5G (6), 40-20-40 VINYL SEATS, FULL RUBBER FLOOR, AIR CONDITION, AMFM- STEREO W/SYNC, TILT, CRUISE, POWER WINDOWS, POWER LOCKS, POWER TRAILER TOW MIRRORS, KEYLESS ENTRY, HD FRONT SUSPENSION, VERSALIFT BODY T-30- MHN, PER ATTACHED	INCL			
	FORD WARRANTY 5YR/60,000 MILES POWERTRAIN @ N/C	INCL		ROCKDALE COUNTRY FORD PO BOX 72 ROCKDALE, TEXAS 76567	
	PRICES VALID FOR 30 DAYS BUT SUBJECT TO CHANGE DUE TO SUPPLY CHAIN CHALLENGES			REVERIFY PRICING BEFORE ISSUING PURCHASE ORDER. COMMODITY SURCHARGES MAY APPLY AFTER PO ISSUED	

Subtotal B

INCL

C Unpublished Options

Code	Description	Cost	Code	Description	Cost

Subtotal C

D Other Price Adjustments (Installation, Delivery, Etc...)		
Subtotal D (DELIVERY FROM VERSALIFT TO LEANDER)		INCL
E Unit Cost Before Fee & Non-Equipment Charges (A+B+C+D)		\$175,323
Quantity Ordered		1
Subtotal E		\$175,323
F Non-Equipment Charges (Trade-In, Warranty, Etc...)		
BUY BOARD FEE		\$400
G. Color of Vehicle: WHITE		
H. Total Purchase Price (E+F)		\$175,723
Estimated Delivery Date:		12-18 MONTHS APPX



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of the purchase of four (4) message boards from RoadSafe Traffic System in the amount of \$74,000.00 utilizing the BuyBoard Co-Op Contract #703-23; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

Funds are budgeted in the Fiscal Year 2025 budget for the purchase of four (4) new Message Boards for the Public Works Department. These additional message boards will help the Public Works Department to facilitate citywide messaging during various events, emergencies, and operational activities. Public Works staff has reached out to various vendors for the availability of the needed message boards via BuyBoard agreement and the message boards are available for purchase with RoadSafe Traffic System.

Local Government Code Sec. 271.012: Cooperative Purchasing Program Participation, provides that a local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services. BuyBoard Contract #703-23 will be used.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

Staff recommends approval of the purchase of four (4) Message Boards from RoadSafe Traffic System in the amount of \$74,000.00 utilizing the BuyBoard Co-Op Contract #703-23; and authorize the City Manager to execute any and all necessary documents.

PRESENTER:

Gina M. Ellison, P.E., Executive Director of Public Works

	<u>Fiscal Impact</u>
<u>Amount requested:</u>	\$74,000.00
<u>Approved in current budget (Yes / No):</u>	Yes
<u>Expenditure (New / Amended):</u>	New
<u>Recurring or one-time:</u>	One-time
<u>Fund source (Operating / Utility / etc.):</u>	GL# 40-04-7100 and GL# 20-02-7100

Attachments:

1. Message Board Quote



601 Commercial Drive, Buda, TX 78610
512-437-6499

Customer: [REDACTED] - City of Leander
PO Box 319 , Leander, TX 78646

Sale Date: 10/14/2024

Contact:

Ship To:

Pay Type:

Pay Terms:

Tax Code: TX78610NSA

PO:

Cust Ref:

Cust Type:

Sales Person: Alexandra Carrisalez

Shipping:

Notes: BUYUBOARD CONTRACT 703-23 VB FREE DELIVERY INCLUDED

Material	Description	UM	Qty	Unit Price	Product Total	Tax	Total
Special order	Ver-Mac Full Matrix Sign PCMS-1500 75" x 132" display panel 3 X 85 watt solar panels, Stealth Technology, Jamlogic refresh and alerts *NTCIP V-Touch Controller with V-Sync WI-FI 4G Modem & 10 year cell plan INCLUDED	EA	4.0	\$18,500.00	\$74,000.00	\$0.00	\$74,000.00

Item Total: **\$74,000.00**

Tax Total: **\$0.00**

Grand Total: **\$74,000.00**

Customer Signature: _____



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of the purchase of one (1) 100-kilowatt generator from LOFTIN to be located in the Public Works Building at 607 Municipal Drive, Leander, Texas, utilizing BuyBoard Contract #657-21 in the amount of \$60,170.00; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

Installation of a generator will help maintain continuous operations throughout the Public Works Building in the event of power outages, especially during severe storm events. It will also help to ensure continuous operation of the SCADA system, which monitors and controls water and wastewater system systems, the Traffic Management Center, which monitors and controls citywide traffic signals, as well as the Fleet Maintenance shop that maintains a majority of the City's vehicles and equipment.

Local Government Code Sec. 271.012: Cooperative Purchasing Program Participation, provides that a local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services. BuyBoard Contract #657-21 will be used.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

City staff recommends approval of purchase of one (1) 100-kilowatt generator from LOFTIN for the City of Leander Public Works Building located at 607 Municipal Drive, Leander, Texas, utilizing BuyBoard Contract #657-21 in the amount of \$60,170.00; and authorize the City Manager to execute any and all necessary documents.

PRESENTER:

Gina M. Ellison, P.E., Executive Director of Public Works

	<u>Fiscal Impact</u>
<u>Amount requested:</u>	\$60,170.00
<u>Approved in current budget (Yes / No):</u>	Yes
<u>Expenditure (New / Amended):</u>	New
<u>Recurring or one-time:</u>	One-time
<u>Fund source (Operating / Utility / etc.):</u>	GL # 20-02-7100

Attachments:

1. Proposal-08262024 -GATS



Turnkey Proposal
BuyBoard Contract 657-21

Attn:

Project: City of Leander Public Works
Address:

Date: August 26, 2024

Proposal # JP27122075

Thank you for your request. We are pleased to provide the following proposal:

<u>MODEL</u>	<u>DESCRIPTION</u>	<u>QTY</u>	<u>PRICE</u>
100REOZJF	KOHLER OUTDOOR DIESEL GENERATOR SET RATED 100 KW UL 2200 listed generator set Standby Rated, 120/208v, 3 phase, 4 wire, 60 hz Electronic Isochronous Governor 50°c/122°f unit mounted radiator Controller, APM402 Microprocessor based with ±0.5% VR - Integral thermal overload protection - Remote annunciator panel - NFPA 110 - Remote E-stop switch 2 input / 5 output programmable module for remote indication 400 amp main line circuit breaker, 100% rated, LI Sound-attenuated enclosure with internal silencer 24 hour / 198 gallon UL142 listed subbase diesel tank Engine jacket water heater - 120VAC Starting batteries, cables, and 10 amp float-equalize charger Standard factory tests at 0.8pf as detailed below Field startup and on-site test with full resistive load Two Year system warranty	1	
ATS	400 AMP SERVICE ENTRANCE AUTOMATIC TRANSFER SWITCH 3 pole, solid neutral, 208Vac, 3 phase, NEMA 3R enclosure Programmed transition, ±0.5% voltage and frequency sensing Programmable inputs, outputs, exerciser, and time delays	1	
TOTAL PRICE			\$ 60,170.00
All pricing is FOB factory, freight prepaid and allowed to jobsite. Offloading and installation by others. Price does not include any federal, state, or local sales, use, property, TERP, or excise taxes that may be applicable.			

THIS PROPOSAL IS VALID FOR FIFTEEN (15) DAYS. Due to market volatility, orders placed or released beyond fifteen days from proposal date may require a revised proposal prior to order acceptance by Loftin Equipment Company.

Proposed by:

Jonathan Proctor 936-577-4535 jproctor@loftinequip.com

Loftin Equipment Company



CURRENT ESTIMATED LEAD TIMES

SUBMITTALS	Submittal data and drawings will be available within seven (7) days from receipt of purchase order.
GENERATOR SET	18 - 35 weeks after approved submittals and written release for production.
TRANSFER SWITCH	12 - 14 weeks after approved submittals and written release for production

IMPORTANT LEAD TIME AND PRICING NOTES:

Lead time estimates provided above are the best estimate available at the time of proposal and should be verified prior to order release. Current component shortages are resulting in constantly shifting production schedules. Please be aware that we cannot guarantee ship dates.

The quoted price for this equipment has been calculated based on the current prices for the component materials. However, the market for generators, fuel tanks, enclosures, transfer switches, and related components is currently considered to be volatile, and sudden price increases could occur. Loftin Equipment agrees to use its best efforts to obtain the lowest possible prices from available component suppliers, but should there be an increase in the prices of these specified materials that are after the date of this proposal and prior to release for order, the Customer agrees to pay that cost increase to Loftin Equipment. Alternatively, the customer may choose to cancel the order at that time, and there will be no penalty for cancellation. Once order has been released for production, normal cancellation policies (as stated elsewhere in this proposal) will apply.

CLARIFICATIONS / EQUIPMENT NOTES

- This proposal is based on the electrical one-line and specification section and is intended to meet the functional intent of the specifications. If changes are required to our bill of material, we will be happy to revise our proposal.**
- Manufacturer's warranty period begins at time the equipment is initially started up by our service department.
- ATS fault current ratings are shown below and should be reviewed by the contractor for compliance with project requirements.
- Lugs for generator breakers and automatic transfer switches will be provided per submittal information furnished, and compliant with UL2200 and UL1008 approvals. Please review prior to equipment release. If the project requires lug changes from the factory offering it will be done by others and at their expense and is not included in our proposal.
- Nominal generator rating shown above. Standard derates for altitude and temperature may apply per Kohler publication TIB-101. For additional information, please contact your Kohler representative.
- Unless otherwise noted, equipment proposed meets Emergency Stationary ICE definition (for EPA compliance): Limited to emergency operation (no time limit) and maintenance and readiness testing of not more than 100 hours/year. Owner/Operator is required to maintain records, and have them available for inspection.
- Any fines, fees, or permits for the installation or operation of this equipment are the responsibility of the equipment owner and will not be paid for by Loftin Equipment.
- Unless otherwise noted, the generator set uses integral isolation, and does not include steel spring isolators.
- Vapor Gas Fuel System includes fuel mixer, electronic secondary gas regulator, gas solenoid valve, and flexible fuel line between the engine and the skid-mounted fuel system components. External fuel supply components are not included.
- Protective relay calibration, settings, coordination study, 3rd party site testing, etc. are not part of this proposal unless specifically listed as included.
- NETA acceptance testing, infrared scanning, harmonic content testing, insulation resistance testing, and/or ground fault testing is not included in our proposal and will need to be provided by others. Standard onsite testing at unity power factor will be provided
- Kohler standard production tests consist of the following:

• Warnings/Shutdowns test: - Emergency stop - Overcrank - Locked rotor - Overspeed (Not available on units with ECMs) - If applicable: overvoltage, pre-low oil pressure (PLOP), low oil pressure (LOP), pre-high engine temperature (PHET), high engine temperature (HET), low coolant level (LCL), low water temperature (LWT)	• Electrical readings @ 0, 1/4, 1/2, 3/4, and full load 3-phase current - Frequency - Power factor • Mechanical readings - Oil pressure - Ambient air temperature - Coolant Temperature • 100% block load acceptance
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MISCELLANEOUS

- Equipment, and/or labor, and/or various items proposed are in accordance with Loftin Equipment Company's experienced interpretations of plans and specifications, within the limited time between request for bid and bid due date. Materials supplied under this proposal, which are commercially produced to typical industry standards, have been deemed in substantial compliance and therefore acceptable. Only the materials itemized on the above proposal will be supplied. Please verify all items, sizes and quantities listed on our proposal. Loftin Equipment Company is not responsible for omissions.
- In the event that a proposal is not accepted in its entirety, we reserve the right to decline any part or all of the order.
- Loftin Equipment Company's prices do not include any federal, state, or local taxes, use tax, property tax, TERP tax, or excise taxes. If any such taxes are imposed, the seller will invoice them to the buyer as a separate item. In lieu of such taxes, the purchaser must provide with each order, a tax exemption certificate acceptable to the proper taxing authorities, unless such certificate is already on file with Loftin Equipment Company. Loftin Equipment reserves the rights to update any sales tax exemption certificate as deemed necessary pursuant to the taxing authorities.
- It is the responsibility of the Contractor to notify Loftin Equipment at time of order of any specific time constraints involved in this project, and the specific impact of failure to meet that requirement. Lead times shown above are an estimate based on current production schedule and should be verified at time of order release. After an order has been placed with Kohler, an estimated ship date will be provided that is subject to change. Buyer will be notified if production schedule is altered and Loftin Equipment shall not be responsible for any ensuing liquidated damages, unless specifically agreed to in writing by an officer of Loftin Equipment Company.
- All stenographic, typographic, or clerical errors are subject to correction.
- ***THIS PROPOSAL IS VALID FOR FIFTEEN (15) DAYS. Due to market volatility, orders placed or released beyond fifteen (15) days from proposal date may require a revised proposal prior to order acceptance by Loftin Equipment Company.***

CANCELLATION OF ORDER

- Upon acceptance by Loftin Equipment Company and written release of order by Customer, this order will be entered for production and will not thereafter be subject to cancellation or deferment of delivery without Loftin Equipment Company's written consent. Any expense incurred by Loftin Equipment Company due to the cancellation of an order or the deferment of a delivery schedule will be billed to the purchaser and be immediately due and owing, together with any and all costs of cancellation, including attorney's fees.
- The following charges may be assessed for cancellation of any order:
 1. 15% of total order price if cancelled after we have provided submittals and prior to releasing for manufacture.
 2. 25% of total order price if cancelled after release to order.
 3. 100% of total order price if the equipment is already on order with the factory and in the Kohler frozen schedule.
 4. 100% of total order price if cancelled after the equipment has shipped from the manufacturing plant.

PAYMENT TERMS:

- All contracts will be reviewed for lien/bond rights prior to order of equipment.
- Customers must have an open, approved account with net 30-day terms with Loftin Equipment.
- Invoicing for equipment using custom third-party tanks and/or enclosures:
 - 20% at release
 - 40% progress billing of equipment shipping to 3rd party vendor
 - 35% progress billing of equipment shipping to customer designated site
 - 5% upon completion of startup
- Invoices are due net 30 days from date of invoice.
- Other payment terms (i.e. discounts, pay when paid, pay if paid, etc.) can only be established by an Officer of Loftin Equipment and MUST be approved BEFORE placing the order.

ALTERNATE PAYMENT TERMS FOR THOSE CUSTOMERS/JOB THAT DID NOT QUALIFY FOR NET 30 TERMS:

It may be determined by Credit the customer and/or the job did not qualify for open, Net 30 day terms. Following are alternate payment options.

- A down payment in the amount of 50% of the total purchase price to place the equipment on order. A Pro Forma invoice will be provided. Upon receipt of good funds (check, cashier's check, or ACH) the equipment will be placed on order.
- Additional 50% will be required when the equipment is ready to ship from the factory. A Pro Forma invoice will be provided and upon receipt of good funds (check, cashier's check, or ACH), the equipment will be delivered to the designated job site.



COLLECTION-LITIGATION COSTS:

The customer agrees to pay all costs and collection expenses, including attorney fees, if collection of the amounts due require the assistance of a collection agency or attorney. Accrued interest on late payments: 1.50% per month.

The Undersigned agrees and warrants they have read the foregoing and accept these Terms and Conditions:

Accepted By: _____

PRINT NAME

TITLE

Date: _____



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Acceptance of public infrastructure improvements for Lake's Lair to include streets, wastewater, water, storm, sidewalks, and landscape improvements.

BACKGROUND:

The public infrastructure, streets, wastewater, water, storm, sidewalks, and landscape improvements required for the Lake's Lair have been installed, inspected, and are substantially completed. All documentation required for acceptance of this project has been received, including record drawings, a statement of substantial completion prepared by a professional engineer licensed by the State of Texas, copies of all inspection reports and certified test results, electronic files of the improvements, an affidavit of all bills paid, and a two (2)- year term maintenance bond.

The maintenance bond will commence its two (2)- year term upon City Council acceptance, as anticipated, on November 7, 2024, which will provide warranty and maintenance coverage for public infrastructure improvements through November 7, 2026. The Engineering Department will perform a formal inspection of the improvements approximately thirty (30) days prior to the expiration of the maintenance bond to ensure that any defects in materials, construction, or maintenance are corrected prior to the expiration of the bond.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

The City Staff recommend the City Council's formal acceptance of Lake's Lair public infrastructure improvements.

PRESENTER:

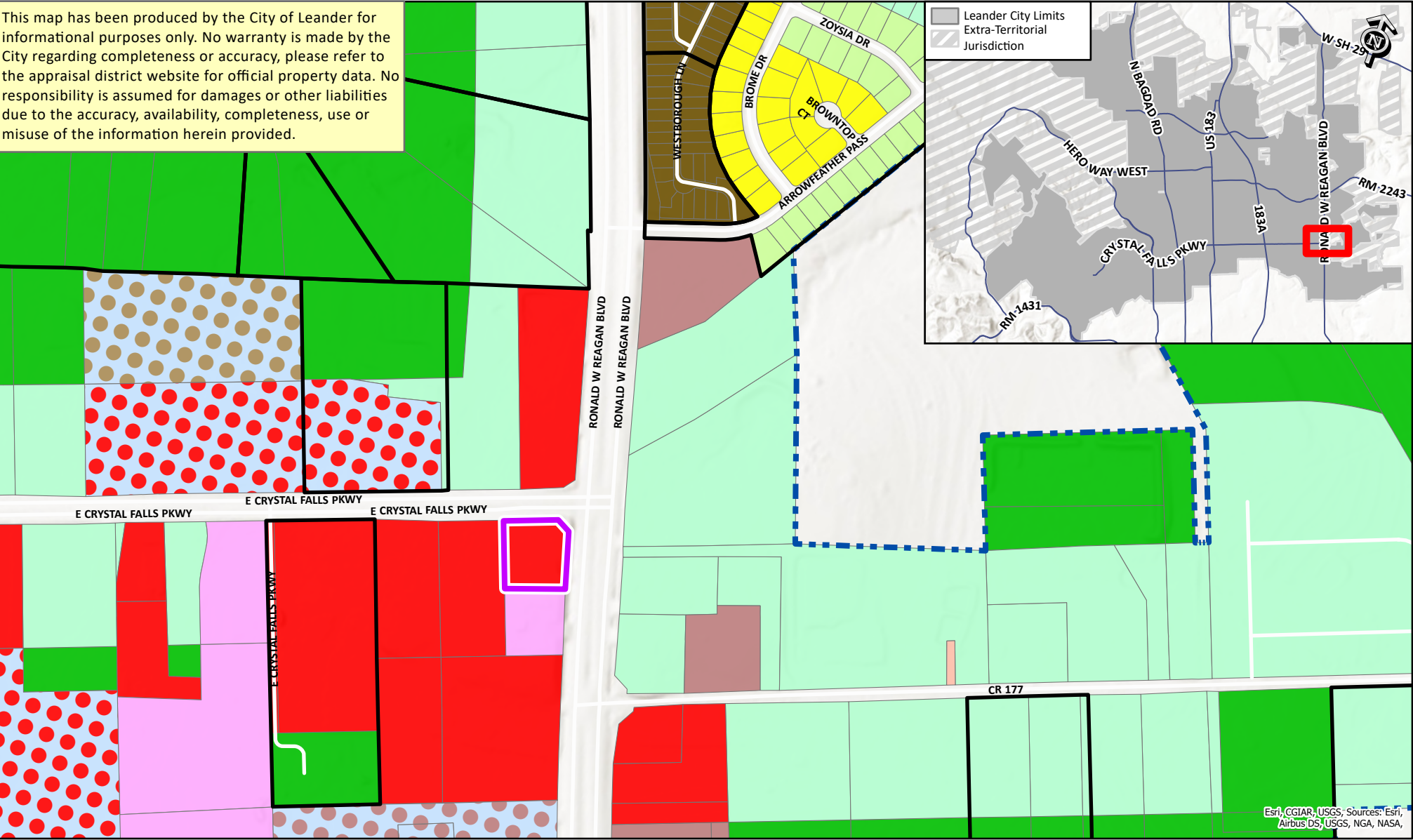
Emily D. Truman, P.E., CFM, City Engineer

Fiscal Impact

Attachments:

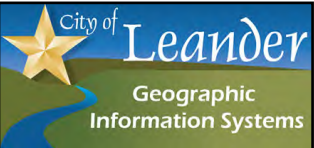
1. PICIP-22-0031 Lake's Lair Council Packet

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy, please refer to the appraisal district website for official property data. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



SUBDIVISION ACCEPTANCE

Lake's Lair - PICP-22-0031



 City Limits

 Accepted Subdivision

RESIDENTIAL

-  SFR - Single-Family Rural
-  SFS - Single-Family Suburban
-  SFU - Single-Family Urban
-  SFC - Single-Family Compact
-  MF - Multi-Family

RETAIL / COMMERCIAL

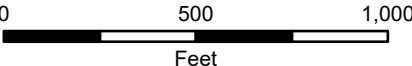
-  LO - Local Office

LC - Local Commercial

-  GC - General Commercial
-  HC - Heavy Commercial

PUD LAND USE

-  PUD - Multi-Family
-  PUD - Local Commercial
-  PUD - General Commercial





TEXAS DEPARTMENT OF LICENSING & REGULATION

P.O. Box 12157 • Austin, Texas 78711-2157
techinfo@tdlr.texas.gov • www.tdlr.texas.gov

INSPECTION RESPONSE FORM

Building or facility owners or the owners' designated agent (form required) may use this form to indicate the status of outstanding violations associated with the referenced construction project that were identified during the inspection to verify compliance with the Texas Accessibility Standards (TAS).

Texas Administrative Code Chapter 68.52(d) for written verification of corrections to be provided no later than 30 days from the date of the inspection and all corrections must be completed no later than 270 days from the date of the inspection.

1. PROJECT INFORMATION

Name:	Refuel 340 (previously referred to as Refuel Market)	TDLR Project #:	TABS2022026627
Physical Address:	16061 Ronald W Reagan Blvd, Leander, TX, 78641 (fka 10996 E. Crystal Falls Parkway)		
Street Name, Number, Suite Number, City, State, Zip Code			

2. INSPECTION STATUS INFORMATION (check only one A, B, or C)

A.	☒	All violations cited on the inspection report related to the above referenced project <u>have been corrected</u> .
B.	☐	All violations cited on the inspection report relating to the above referenced project not corrected by the end of 270 calendar days from the date of the inspection report will be corrected by: _____ (completion date). Note: Projects inspected by a RAS, have 270 calendar days from the date of the inspection report to correct inspection violations. Completion dates after 270 calendar days of the inspection report must be approved by TDLR.
C.	☐	The following violations cited on the inspection report relating to the above referenced project <u>will not be corrected</u> : TAS violation reference(s): _____ A Variance Application has been submitted and/or approved for: _____

3. RAS INFORMATION

Name:	Justin Walton	RAS #:	1329	Company/Agency:	Texas Accessibility Solutions
Physical Address:	3333 Melton Road, Sanger, TX 76266				
Street Name, Number, Suite Number, City, State, Zip Code					
Phone Number:	940-368-1989	Email:	Justin.Walton@me.com		

4. OWNER / DESIGNATED AGENT INFORMATION

Building/facility Owner or Designee:	Refuel Operating Company, LLC	Representative:	
Physical Address:	4105 Faber Place Drive, Suite 300, North Charleston, South Carolina, 29405		
Street Name, Number, Suite Number, City, State, Zip Code			
Phone Number:	843.388.4966	Email:	legal@refuelmarket.com

I am the owner of this building/facility or the agent designated by the owner to act on their behalf: (check one)

☒ Owner (Person or entity that holds title to this property)	☐ Owner's Designated Agent (Must attach a Designated Agent Form)
--	--

I certify by my signature below that the information provided is true and accurate. I also understand that failure to correct the violation(s) may result in this project being forwarded to the Enforcement Division of TDLR.

Travis Smith, President & CDO of
Refuel Operating Company, LLC

Printed Name of Owner or Designated Agent

Signature of Owner or Designated Agent

09.23.2024
Date

Engineer's Concurrence for Project Acceptance

Project: LAKE'S LAIR Date: 8/13/2024

City of Leander Issued Permit Number: PICP-22-0031

Owner's Name & Address

ODYSSEY SERVICES GROUP, LLC

9540 GARLAND RD, SUITE 381-188

DALLAS, TX 75218

Consultant Engineer's Name & Address

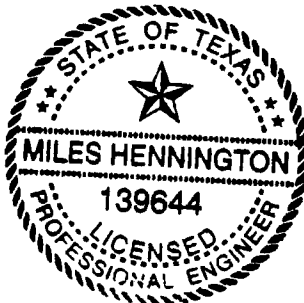
KIMLEY-HORN

11700 KATY FREEWAY, SUITE 800

HOUSTON, TX 77079

On this date, I, the undersigned Professional Engineer in the State of Texas, or my representative, have made a visual inspection of the above referenced project. No discrepancies from the approved construction plans or deficiencies in construction were visible or brought to my attention. I, therefore, certify that all improvements are in substantial compliance with the approved construction plans and all City, State, and Federal requirements, including the City of Leander Subdivision Ordinance and Composite Zoning Ordinance.

If applicable, for closeout of public improvement construction project (PICP) permits, I additionally certify that all project closeout procedures with other governmental entities have been completed and finalized with each entity prior to submittal of my concurrence letter to the City of Leander.



(SEAL)

Miles Hennington

Signature

MILES HENNINGTON

Typed Name

KIMLEY-HORN

Engineering Firm Name

928

Registered Engineering Firm Number

October 11, 2024
City of Leander
201 N. Brushy Street
Leander, Texas 78641

Attn,

The following is the information as applicable for the offsite improvements associated with the Lake's Lair Public Improvement and Construction Plans -PICP22-0031 of this "project".

Final Plat Legal Name as Recorded: Lake's Lair Subdivision

Name on Approved Construction Documents: Lake's Lair Public Improvement and Construction Plans

Name on Bank Bond for Fiscal Posting: Refuel Operating Company, LLC.

Final Cost and Quantities:

Costs Categories	Totals
Streets (Striping)	\$1,850.00
Sanitary Sewer	\$176,527.00
Water	\$102,835.00
Storm	\$106,540.00
Sidewalks	\$100,000.00
Landscape Improvements	\$60,483.00
Total	\$548,235.00

Total Improvements = \$548,235.00
Maintenance Bond (10%) = \$ 54,823.50

Currently Paid Inspection Fees= \$ 11,066.54
Inspection Fees (3.5%)= \$ 19,188.22
Remaining Inspection Fees to be paid= \$ 8,121.68

If you have any questions or require any additional information, please do not hesitate to contact me at 281-920-6304.

Sincerely,



Kenneth Cargill, P.E.
Associate
TBPE F-928

**FINAL BILLS PAID AFFIDAVIT
AND WAIVER OF LIEN**

STATE OF TEXAS
COUNTY OF Hays

Date: 10/2/2024

Developer:

Contractor/Material
Provider ("Affiant"): Centex Utilities, LLC

Project: Leander Refuel Market

This is to acknowledge and certify that Affiant has completed the construction of all improvements for the project noted above and that Affiant has been paid in full for all labor and material provided to the above-noted construction project, except for retainage, and acknowledges and certifies that Affiant, and all of his or its agents, employees, successors, assigns, subsidiaries, and legal representatives will and do release and waive all Mechanic's liens, or similar lien rights, which have or might arise as a result of the Affiant's or Affiant's agents' or employees' providing labor and materials to the above-noted project. Affiant understands that a portion or all of the property upon which the project is located has been or will be accepted by the City of Leander, Texas, for ownership, maintenance, and operation. Affiant further agrees that it shall look solely to the Developer for payment of the retainage and shall have no cause of action whatsoever, against the City in the event that the retainage is not paid to the Affiant, and that Affiant shall not file a lien of any kind which has or may arise related to the release of the retainage for the project. Affiant acknowledges and understands that the City is relying on the representations made in this document to accept the phase or portion of the subdivision in which the project is located.

In addition to the foregoing, Affiant acknowledges and certifies that Affiant has paid all laborers, subcontractors, materialmen, and all other persons or parties who have provided labor or materials through, for, or on behalf of the Affiant to the above-noted construction project.

Affiant indemnifies and holds Owner harmless from any liens, debts or obligations which arise as a result of labor or materials provided by or through Affiant to the project through the date set out above. Affiant further indemnifies and holds harmless all real property on which the improvements were constructed and all interests in such property, including leasehold interests, from any liens, debts, or obligations arising from any labor or materials provided by or through Affiant to the project through the date set out above.

SUBSCRIBED AND SWORN TO BY Affiant on this 2nd day of Oct, 2024.

Initialed: SB

AFFIANT:

Signature: Shannon Glick

Typed Name: Shannon Glick

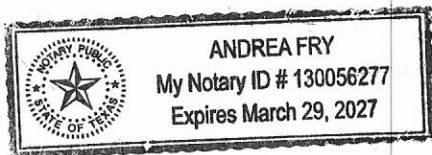
Title: President

STATE OF TEXAS
COUNTY OF Hays

BEFORE ME the undersigned authority on this day personally appeared Shannon Glick, known to me to be the person noted above, and acknowledged to me the following: that he/she executed the foregoing for the purpose and consideration therein expressed, in the capacity therein stated, and as the duly authorized act and deed of the party releasing and waiving the lien therein; and that every statement therein is within his/her knowledge and is true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2 day of 10, 2024.

[SEAL]



Andrea Fry
Notary in and for the State of Texas

Name: Andrea Fry

My commission expires: 3-29-27

Initialed: _____

MAINTENANCE BOND
Subdivision Improvements

Bond Number: HACS-A351-0002-M

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

KNOW ALL BY THESE PRESENTS, that Refuel Operating Company, LLC
as Principal, whose address is 4105 Faber Place Drive, Suite 300, North Charleston, SC 29405 and
Hudson Insurance Company a Corporation organized under the
laws of the State of Delaware, and duly authorized to do business in the State of Texas, as
Surety, are held and firmly bound unto the City of Leander, Texas as Obligee, in the penal sum
of Fifty Four Thousand Eight Hundred Twenty Three and 50/100-- Dollars
(\$ 54,823.50) to which payment will and truly to be made we do bind ourselves, our
and each of our heirs, executors, administrators, successors and assigns jointly and severally,
firmly by these presents.

WHEREAS, the said Principal has constructed Lake Lair Public Improvement
Construction Plans 22-PICP-0031 (the
“improvements”) pursuant to the ordinances of the Obligee, which ordinances are hereby
expressly made a part hereof as though the same were written and embodied herein;

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to
guarantee for the period of two (2) years after acceptance by the Obligee, against all defects in
workmanship and materials which may become apparent during said period;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, if the
Principal keeps and perform the requirement of the Obligee’s ordinances and this Maintenance
Bond to maintain the improvements and keep the same in good repair and shall indemnify the
Obligee for all loss that the Obligee may sustain by reason of any defective materials or
workmanship which become apparent during the period of two (2) years from and after the date
of acceptance by the Owner, then this obligation shall be void, otherwise to remain in full force
and effect, and Owner shall have and cover from said Principal and Surety damages in the
premises, as provided, and it is further agreed that this obligation shall be a continuing one
against the Principal and Surety hereon, and that successive recoveries may be had thereon for
successive breaches until the full amount shall have been exhausted; and it is further understood
that the obligation herein to maintain said improvements shall continue throughout the
maintenance period, and the same shall not be diminished in any manner from any cause during
said time.

Principal agrees to repair or reconstruct the improvements in whole or in part at any time
within the two year period to such extent as the Obligee deems necessary to properly correct all
defects except for normal wear and tear. If the Principal fails to make the necessary corrections
within ten days after being notified, the Obligee may do so or have done all said corrective work
and shall have recovery hereon for all expenses thereby incurred. Principal will maintain and
keep in good repair the improvements for a period of two years from the date of acceptance; it
being understood that the purpose of this Maintenance Bond is to cover all defective conditions
arising by reason of defective material, work, or labor performed by said Principal or its

subcontractors, and in the case the said Principal shall fail to do so within ten days after being notified, it is agreed that the Obligee may do said work and supply such materials, and charge the same against Principal and Surety on this obligation.

The Surety shall notify the Obligee at least fifteen (15) days prior to the end of the first full calendar year and prior to the lapse of this Maintenance Bond at the end of the second full calendar year.

Surety and Principal agree that whenever a defect or failure of the improvement occurs within the period of coverage under this Bond, the Surety and Principal shall provide a new maintenance bond or other surety instrument in a form acceptable to the Obligee and compliant with the Obligee's ordinances conditioned to guarantee for the period of one (1) year after the Obligee's acceptance of the corrected defect or failure, against all defects in workmanship and materials associated with the corrected defect or failure which may become apparent during said period, which shall be in addition to this Maintenance Bond.

The Surety agrees to pay the Obligee upon demand all loss and expense, including attorneys' fees, incurred by the Obligee by reason of or on account of any breach of this obligation by the Surety. Provided further, that in any legal action be filed upon this bond, venue shall lie in the county where the improvements are constructed.

This Bond is a continuing obligation and shall remain in full force and effect until cancelled as provided for herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the improvements, or the work to be performed thereon, or the plans, specifications or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the improvements, or the work to be performed thereon.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 4th day of October, 2024.

Refuel Operating Company, LLC
Principal

By: 

Title: Travis Smith, President and COO

Address: 4105 Faber Place Drive, Suite 300

North Charleston, SC 29405

Hudson Insurance Company
Surety

By: 

Title: David T. Miclette, Attorney-in-Fact

Address: 100 William St., 5th Floor

New York, NY 10038

The name and address of the Resident Agent of Surety is:

Bowen, Miclette & Britt Insurance Agency, LLC

2800 N. Loop West, Suite 1100, Houston, TX 77092

(Seal)



HACS-A351-0002-M

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

Rita G. Gulizo, Barry K. McCord, Stacey Bosley, Robert Overbey, Lacey Hitchcock, Ashley Britt

Will Duke, Stacey Owens, Robert C. Davis, David T. Miclette, Nikole Jeannette, Jennifer Mitchell

of the State of Texas

its true and lawful Attorney(s)-in-Fact, at New York, New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking shall obligate said Company for any portion of the penal sum thereof in excess of the sum of **Twenty Five Million Dollars (\$25,000,000.00)**.

Such bonds and undertakings when duly executed by said Attorney(s)-in-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Senior Vice President thereunto duly authorized, on this 24th day of April, 20 23 at New York, New York.



(Corporate seal)

Attest Dina Daskalakis
Dina Daskalakis No. 01MU6067553
Corporate Secretary

HUDSON INSURANCE COMPANY

By Michael P. Cifone
Michael P. Cifone
Senior Vice President

STATE OF NEW YORK
COUNTY OF NEW YORK SS.

On the 24th day of April, 20 23 before me personally came **Michael P. Cifone** to me known, who being by me duly sworn did depose and say that he is a Senior Vice President of **HUDSON INSURANCE COMPANY**, the corporation described herein and which executed the above instrument, that he knows the seal of said Corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

(Notarial Seal)



Ann M. Murphy
ANN M. MURPHY
Notary Public, State of New York
No. 01MU6067553
Qualified in Nassau County
Commission Expires December 10, 2025

CERTIFICATION

STATE OF NEW YORK
COUNTY OF NEW YORK SS.

The undersigned **Dina Daskalakis** hereby certifies:

That the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27th, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOVLED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Witness the hand of the undersigned and the seal of said Corporation this 4th day of October, 20 21

(Corporate seal)



By Dina Daskalakis
Dina Daskalakis, Corporate Secretary

Figure: 28 TAC §1.601(a)(2)(B)

Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company. If you don't, you may lose your right to appeal.

Hudson Insurance Company

To get information or file a complaint with your insurance company:

Call: Hudson Insurance Company

Insurance company at 212-978-2800

Toll-free: 1-866-246-9945

Email: kzimmerly@hudsoninsgroup.com

Mail: 100 William Street, 5th floor

New York, NY 10038

The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439

File a complaint: www.tdi.texas.gov

Email: ConsumerProtection@tdi.texas.gov

Mail: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

¿Tiene una queja o necesita ayuda?

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

Hudson Insurance Company

Para obtener información o para presentar una queja ante su compañía de seguros:

Llame a: Hudson Insurance Company

Compañía de Seguro al 212-978-2800

Teléfono gratuito: 1-866-246-9945

Correo electrónico: kzimmerly@hudsoninsgroup.com

Dirección postal: 100 William Street, 5th floor
New York, NY 10038

El Departamento de Seguros de Texas

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: www.tdi.texas.gov

Correo electrónico: ConsumerProtection@tdi.texas.gov

Dirección postal: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Acceptance of public infrastructure improvements for Leander Estates Phase 1 to include: streets, drainage, water, and landscape improvements.

BACKGROUND:

The public infrastructure for streets, drainage, water and landscape improvements required for the Leander Estates Phase 1 has been installed, inspected, and is substantially completed. All documentation required for acceptance of this project has been received, including record drawings, a statement of substantial completion prepared by a professional engineer licensed by the State of Texas, copies of all inspection reports and certified test results, electronic files of the improvements, an affidavit of all bills paid, and a two (2)- year term maintenance bond.

The maintenance bond will commence its two (2)- year term upon City Council acceptance, as anticipated, on November 7, 2024, which will provide warranty and maintenance coverage for public infrastructure improvements through November 7, 2026. The Engineering Department will perform a formal inspection of the improvements approximately thirty (30) days prior to the expiration of the maintenance bond to ensure that any defects in materials, construction, or maintenance are corrected prior to the expiration of the bond.

HISTORY/TIMELINE:

APPLICANT/AGENT:

RECOMMENDATION:

City Staff recommend the City Council's formal acceptance of Leander Estates Phase 1 public infrastructure improvements.

PRESENTER:

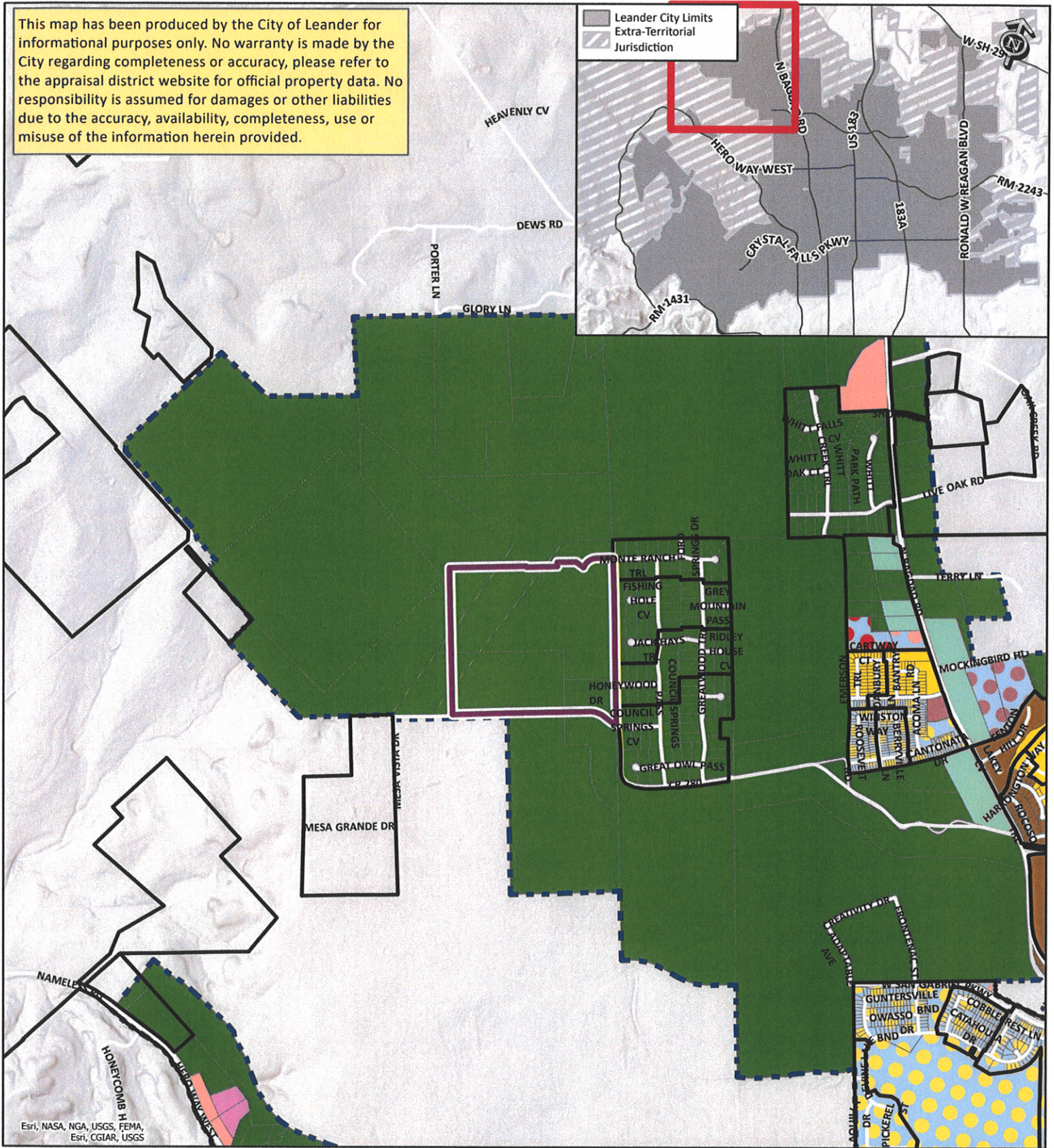
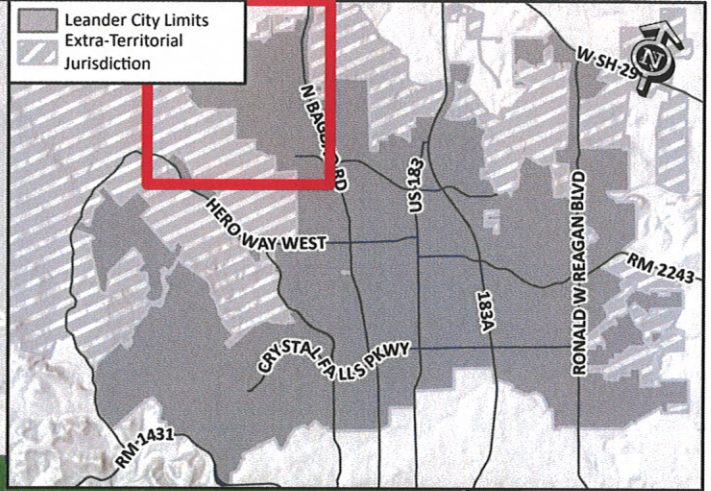
Emily D. Truman, P.E., CFM, City Engineer

Fiscal Impact

Attachments:

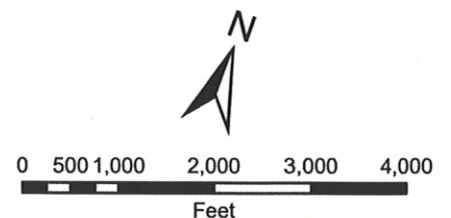
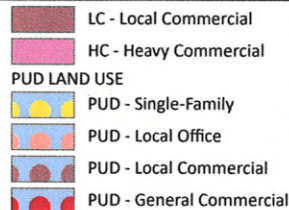
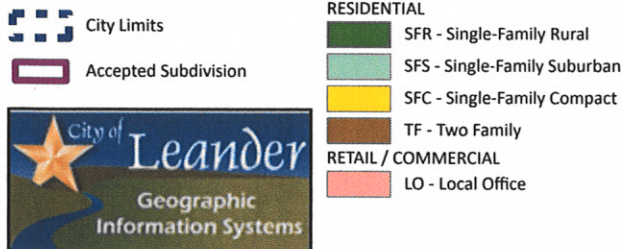
1. Leander Estates Ph 1 Packet

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy, please refer to the appraisal district website for official property data. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



SUBDIVISION ACCEPTANCE

Leander Estates Ph 1 - 22-PICP-012





101 Old Settlers Blvd, Suite 280
Round Rock, Texas 78665
Tel: 512.441.9493
www.quiddity.com

October 4, 2024

City of Leander Planning Department
201 North Brushy Street
Leander, TX 78641

Re: Leander Estates Subdivision Construction Plans
Leander, Texas 78620
Case No. 22-PICP-012

To Whom it May Concern:

A Registered Accessibility Specialist (RAS) Letter was not provided with this submittal. There is no proposed infrastructure requiring approval from a Registered Accessibility Specialist within the Construction Plans.

Sincerely,

Eric C. Vann, P.E.

Engineer's Concurrence for Project Acceptance

Project: Leander Estates Phase 1

Date: 9/30/2024

City of Leander Issued Permit Number: PICP-22-012

Owner's Name & Address

Leander Land Holdings | LLC
11200 Richmond Avenue Ste. 100
Houston, TX 77082

Consultant Engineer's Name & Address

Quiddity Engineering
3100 Alvin Devane Blvd Ste. 150
Austin, TX 78741

On this date, I, the undersigned Professional Engineer in the State of Texas, or my representative, have made a visual inspection of the above referenced project. No discrepancies from the approved construction plans or deficiencies in construction were visible or brought to my attention. I, therefore, certify that all improvements are in substantial compliance with the approved construction plans and all City, State, and Federal requirements, including the City of Leander Subdivision Ordinance and Composite Zoning Ordinance.

If applicable, for closeout of public improvement construction project (PICP) permits, I additionally certify that all project closeout procedures with other governmental entities have been completed and finalized with each entity prior to submittal of my concurrence letter to the City of Leander.

All items have been completed
- Landscaping is in Escrow



(SEAL)


Signature

William A.C. McAshan, P.E.

Typed Name

Quiddity Engineering LLC

Engineering Firm Name

F-23290 & 10046100

Registered Engineering Firm Number

MAINTENANCE BOND
Subdivision Improvements

Bond No. 022238450

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

KNOW ALL BY THESE PRESENTS, that Five Star Civil Construction, LLC as Principal, whose address is 301 Brushy Creek Road, Ste. 108, Cedar Park, TX 78613, and Liberty Mutual Insurance Company, a Corporation organized under the laws of the State of MA, and duly authorized to do business in the State of Texas, as Surety, are held and firmly bound unto the City of Leander, Texas as Obligee, in the penal sum of Four Hundred Seventy Thousand Seven Hundred Sixty Four And 97/100 Dollars (\$470,764.97) to which payment will and truly to be made we do bind ourselves, our and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has constructed Leander Estates Subdivision Phase 1: Roadway, Water and Storm, Drainage Improvements, #22-PICP-012 (the "improvements") pursuant to the ordinances of the Obligee, which ordinances are hereby expressly made a part hereof as though the same were written and embodied herein;

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of two (2) years after acceptance by the Obligee, against all defects in workmanship and materials which may become apparent during said period;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, if the Principal keeps and perform the requirement of the Obligee's ordinances and this Maintenance Bond to maintain the improvements and keep the same in good repair and shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which become apparent during the period of two (2) years from and after the date of acceptance by the Owner, then this obligation shall be void, otherwise to remain in full force and effect, and Owner shall have and cover from said Principal and Surety damages in the premises, as provided, and it is further agreed that this obligation shall be a continuing one against the Principal and Surety hereon, and that successive recoveries may be had thereon for successive breaches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said improvements shall continue throughout the maintenance period, and the same shall not be diminished in any manner from any cause during said time..

Principal agrees to repair or reconstruct the improvements in whole or in part at any time within the two year period to such extent as the Obligee deems necessary to properly correct all defects except for normal wear and tear. If the Principal fails to make the necessary corrections within ten days after being notified, the Obligee may do so or have done all said corrective work and shall have recovery hereon for all expenses thereby incurred. Principal will maintain and keep in good repair the improvements for a period of two years from the date of acceptance; it being understood that the purpose of this Maintenance Bond is to cover all defective conditions arising by reason of defective material, work, or labor performed by said Principal or its subcontractors, and in the case the said Principal shall fail to do so

within ten days after being

Page of

notified, it is agreed that the Obligee may do said work and supply such materials, and charge the same against Principal and Surety on this obligation.

The Surety shall notify the Obligee at least fifteen (15) days prior to the end of the first full calendar year and prior to the lapse of this Maintenance Bond at the end of the second full calendar year.

Surety and Principal agree that whenever a defect or failure of the improvement occurs within the period of coverage under this Bond, the Surety and Principal shall provide a new maintenance bond or other surety instrument in a form acceptable to the Obligee and compliant with the Obligee's ordinances conditioned to guarantee for the period of one (1) year after the Obligee's acceptance of the corrected defect or failure, against all defects in workmanship and materials associated with the corrected defect or failure which may become apparent during said period, which shall be in addition to this Maintenance Bond.

The Surety agrees to pay the Obligee upon demand all loss and expense, including attorneys' fees, incurred by the Obligee by reason of or on account of any breach of this obligation by the Surety. Provided further, that in any legal action be filed upon this bond, venue shall lie in the county where the improvements are constructed.

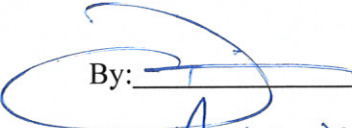
This Bond is a continuing obligation and shall remain in full force and effect until cancelled as provided for herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the improvements, or the work to be performed thereon, or the plans, specifications or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the improvements, or the work to be performed thereon.

Page of

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 18th day of September , 2024.

Five Star Civil Construction, LLC
Principal

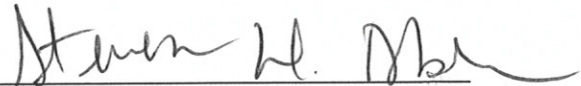
By:  _____

Title: MANAGING PARTNER

Address: _____

301 Brushy Creek Road, Ste. 108
Cedar Park, TX 78613

Liberty Mutual Insurance Company
Surety

By:  _____

Title: Steven W. Dobson, Attorney-in-Fact

Address: _____

7900 Windrose Ave
Plano, TX 75024

The name and address of the Resident Agent of Surety is:

Time Insurance Agency, Inc.

1405 E. Riverside Drive, Austin, TX 78741

(Seal)



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8205041 - 969219**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, John W. Schuler; Patricia Ferguson; Steven W. Dobson

all of the city of Austin state of TX each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 15th day of March, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 15th day of March, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 18th day of Sept 2024.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary



Figure: 28 TAC § 1.601(a)(2)(B)

Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

The Ohio Casualty Insurance Company

To get information or file a complaint with your insurance company or HMO:

Call: The Ohio Casualty Insurance Company **at** 206-473-6210

Online: www.LibertyMutualSuretyClaims.com

Email: HOSCL@libertymutual.com

Mail: P.O. Box 34526 Seattle, WA 98124

The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439

File a complaint: www.tdi.texas.gov

Email: ConsumerProtection@tdi.texas.gov

Mail: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091

¿Tiene una queja o necesita ayuda?

Si tiene, un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

The Ohio Casualty Insurance Company

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

Llame a: The Ohio Casualty Insurance Company

al 206-473-6210

En línea: www.LibertyMutualSuretyClaims.com

Correo electrónico: HOSCL@libertymutual.com

Dirección postal: P.O. Box 34526 Seattle, WA 98124

El Departamento de Seguros de Texas

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439

Presente una queja en: www.tdi.texas.gov

Correo electrónico: ConsumerProtection@tdi.texas.gov

Dirección postal: MC 111-1A, P.O. Box 149091, Austin, TX 78714-9091



3100 Alvin Devane Boulevard, Suite 150
Austin, Texas 78741-7425
Tel: 512.441.9493
Fax: 512.445.2286
www.quiddity.com

September 30, 2024

City of Leander
201 N. Brushy Street
Leander, Texas 78641

To whom it may concern,

The following is the information applicable for the **PUBLIC** street, drainage, water, wastewater, landscape, and streetlight improvements of Leander Estates Phase 1 (PICP-22-0012).

Final Plat Legal Name as Recorded: Leander Estates Phase 1 Final Plat

Name on Approved Construction Documents: Leander Estates Subdivision PH1

Name on Bank Bond for Fiscal Posting: Time Insurance

COSTS CATEGORIES	AMOUNT
Streets (including embankment & E/S controls)	\$1,611,914.90
Drainage	\$1,629,310.33
Water	\$1,241,224.50
Wastewater	\$0.00
Streetlights	\$0.00
Landscape Improvements	\$225,200.00
TOTAL	\$4,707,649.73

Based on the total public improvement cost of \$4,707,649.73 and inspection fee of \$276,488.82 paid to the City on June 11th, 2023, the following values were calculated:

Total Improvements =	\$4,707,649.73
Maintenance Bond (10%) =	\$470,764.97
Currently Paid Inspection Fees =	\$276,488.83
Inspection Fees (3.5%) =	\$164,767.74
Remaining Insp. Fees to be Paid =	\$-111,721.09

Please reach out to me at (512) 685-5138 if you have any additional questions.

Sincerely,

Eric C. Vann, PE
Project Manager

ECV/ccb



LEANDER ESTATES PHASE 1 - FINAL COST AND QUANTITIES



A Item No.	B Description of Work	UNIT	QTY	UNIT PRICE	C Scheduled Value
ROADWAY IMPROVEMENTS					
	SUBDIVISION				
	LOCAL ROADWAY EXCAVATION	CY	6,866.00	\$ 4.55	\$ 31,240.30
	LOCAL ROADWAY FILL	CY	5,079.00	\$ 4.55	\$ 23,109.45
	2" HMACTY D	SY	33,894.00	\$ 16.70	\$ 566,029.80
	8" FLEXIBLE BASE	SY	45,446.00	\$ 8.85	\$ 402,197.10
	SUBGRADE PREP	SY	45,446.00	\$ 1.50	\$ 68,169.00
	2' RIBBON CURB	LF	22,580.00	\$ 14.50	\$ 327,410.00
	INTERNAL STREET STOP SIGN	EA	4.00	\$ 333.00	\$ 1,332.00
	INTERNAL STREET STOP SIGN WITH TWO STREET BLADES	EA	9.00	\$ 333.00	\$ 2,997.00
	SPEED LIMIT SIGN	EA	5.00	\$ 299.00	\$ 1,495.00
	SPEED LIMIT AROUND CURVE SIGN	EA	2.00	\$ 339.00	\$ 678.00
	TYPE III BARRICADES AND ROAD CLOSED SIGN	EA	3.00	\$ 1,185.00	\$ 3,555.00
	NO OUTLET LEFT SIGN	EA	1.00	\$ 339.00	\$ 339.00
	NO OUTLET RIGHT SIGN	EA	3.00	\$ 339.00	\$ 1,017.00
	NO OUTLET RIGHT SIGN WITH TWO STREET BLADES	EA	1.00	\$ 339.00	\$ 339.00
	FIRE LANE SIGN WITH RIGHT ARROW	EA	1.00	\$ 1,185.00	\$ 1,185.00
	STRIPING DECALS	LS	1.00	\$ 18,550.00	\$ 18,550.00
	EROSION CONTROLS				
	STABILIZED CONSTRUCTION ENTRANCE	EA	1.00	\$ 8,305.00	\$ 8,305.00
	PLACEMENT OF REINFORCED FILTER FABRIC FENCE	LF	13,164.00	\$ 3.75	\$ 49,365.00
	INLET PROTECTION	EA	4.00	\$ 593.00	\$ 2,372.00
	ROCK BERM	LF	548.00	\$ 29.50	\$ 16,166.00
	TREE PROTECTION	LF	4,427.00	\$ 4.25	\$ 18,814.75
	CR280				
	6" COMPACTED MOISTURE CONDITIONED SUB-GRADE	SY	1,586.00	\$ 2.00	\$ 3,172.00
	8" TY B (AS CALLED OUT IN REV 1 PLANS)	SY	1,093.00	\$ 14.00	\$ 15,302.00
	1.5" HMACTY D	SY	3,613.00	\$ 13.50	\$ 48,775.50
	TOTAL ROADWAY IMPROVEMENTS				\$ 1,611,914.90
WATER IMPROVEMENTS					
	16" C900 DR18 WATERLINE	LF	1,578.00	\$ 135.00	\$ 213,030.00
	8" WET CONNECTION W/TAPPING SLEEVE AND VALVE (PLANS CALL OUT FOR CONNECTION TO STUB)	EA	1.00	\$ 2,140.00	\$ 2,140.00
	16" WET CONNECTION WITH TAPPING SLEEVE AND VALVE (PLANS CALL FOR CONNECTION TO EXISTING STUBS)	EA	2.00	\$ 3,140.00	\$ 6,280.00
	8" C900 DR18	LF	10,925.00	\$ 56.32	\$ 615,296.00
	FIRE HYDRANT	EA	17.00	\$ 6,810.00	\$ 115,770.00
	BLUE FIRE HYDRANT REFLECTIVE BUTTONS	EA	17.00	\$ 13.00	\$ 221.00
	2" C900 DR18 DUAL WATER SERVICE LEADS	EA	46.00	\$ 2,130.00	\$ 97,980.00
	2" C900 DR18 SINGLE WATER SERVICE	EA	12.00	\$ 1,665.00	\$ 19,980.00
	2" DIAMETER BLOW OFF VALVE (PLANS SHOW 6)	EA	6.00	\$ 2,325.00	\$ 13,950.00
	16" GATE VALVE AND BOX (PLANS SHOW 2)	EA	2.00	\$ 18,150.00	\$ 36,300.00
	8" GATE VALVE AND BOX	EA	25.00	\$ 2,652.70	\$ 66,317.50
	30" STEEL ENCASEMENT (PRICED AS BORING WITH BORE PITS)	LF	27.00	\$ 1,930.00	\$ 52,110.00
	1.5" IRRIGATION METER	EA	1.00	\$ 1,850.00	\$ 1,850.00
	TOTAL WATER IMPROVEMENTS				\$ 1,241,224.50
STORM & DRAINAGE IMPROVEMENTS					
	EXCAVATION OF ROADSIDE DITCH	CY	42,233.00	\$ 4.55	\$ 192,160.15
	ROADSIDE DITCH EMBANKMENT	CY	6,715.00	\$ 4.55	\$ 30,553.25
	8X8 JBOX	EA	1.00	\$ 27,000.00	\$ 27,000.00
	2X4 RCB	LF	54.00	\$ 265.00	\$ 14,310.00
	8X4 RCB	LF	274.00	\$ 714.00	\$ 195,636.00
	24" RCP	LF	110.00	\$ 97.00	\$ 10,670.00
	30" RCP	LF	222.00	\$ 125.00	\$ 27,750.00
	36" RCP	LF	236.00	\$ 179.00	\$ 42,244.00
	48" RCP	LF	74.00	\$ 240.00	\$ 17,760.00
	54" RCP	LF	228.00	\$ 335.00	\$ 76,380.00
	8" PVC ORIFICE INCLUDING 6" GATE VALVE	LF	85.00	\$ 70.00	\$ 5,950.00
	4X5 MBC	LF	268.00	\$ 425.00	\$ 113,900.00
	BULL ROCK RIP RAP	SY	3,091.00	\$ 42.75	\$ 132,140.25
	GABION WALL	LF	91.00	\$ 66.25	\$ 6,028.75
	CONCRETE HEADWALL WITH FLARED WINGS (NO PIPE RUNNERS)	EA	4.00	\$ 12,599.24	\$ 50,396.96
	CONCRETE SET	EA	12.00	\$ 5,750.00	\$ 69,000.00
	VERTICAL SEDIMENT DEPTH MARKER	EA	3.00	\$ 1,130.00	\$ 3,390.00
	4X4 AREA INLET (UPSIZED 1 FOR 36" PIPE, EQUIVALENT TO PARK)	EA	4.00	\$ 5,345.00	\$ 21,380.00
	4' STANDARD MANHOLE WITH 22" CIP BEND	EA	1.00	\$ 5,655.00	\$ 5,655.00
	EXCAVATION OF PONDS	CY	41,638.00	\$ 4.55	\$ 189,452.90
	SPREAD AND COMPACT DETENTION FILL MATERIAL ALONG DETENTION MAINTENANCE BERM	CY	6,853.00	\$ 4.55	\$ 31,181.15
	POND 1 OUTFALL STRUCTURES	EA	1.00	\$ 47,100.00	\$ 47,100.00
	POND 3 OUTFALL STRUCTURE	EA	1.00	\$ 31,550.00	\$ 31,550.00

LEANDER ESTATES PHASE 1 - FINAL COST AND QUANTITIES



A	B				C
Item No.	Description of Work	UNIT	QTY	UNIT PRICE	Scheduled Value
	POND 4 OUTFALL STRUCTURE	EA	1.00	\$ 11,093.25	\$ 11,093.25
	2' CLAY LINER	SY	27,028.00	\$ 1.45	\$ 39,190.60
	CULVERT 3-3 REGRADE TO TIE INTO LAKELINE SWALE	DAY	5.00	\$ 4,200.00	\$ 21,000.00
	8" CRUSHED LIMESTONE BASE (POND ACCESS RD)	SY	1,944.00	\$ 9.20	\$ 17,884.80
	IRON FENCE AT POND 1 AND 3	LF	1,894.00	\$ 34.25	\$ 64,869.50
	INSTALL DOUBLE 12"SDR35 CROSSING AT HONEYWOOD ENTRANCE TO GREATWOOD	LF	104.00	\$ 150.00	\$ 15,600.00
	INSTALL 12" DOUBLE SET	EACH	2.00	\$ 4,750.00	\$ 9,500.00
	INSTALL BULL ROCK RIP RAP AT 12" SET	SY	14.50	\$ 42.75	\$ 619.88
	INSTALL 24" CLIII RCP AT MONTERANCH TRAIL ENTRANCE TO GREATWOOD	LF	70.00	\$ 110.00	\$ 7,700.00
	INSTALL 24" SET	EACH	2.00	\$ 4,750.00	\$ 9,500.00
	INSTALL BULL ROCK RIP RAP AT 24" SET	SY	17.25	\$ 42.75	\$ 737.44
	ADDED DITCHES THROUGHOUT SUBDIVISION	LS	1.00	\$ 90,026.46	\$ 90,026.46
TOTAL STORM & DRAINAGE IMPROVEMENTS					\$ 1,629,310.33
LANDSCAPING IMPROVEMENTS					
	LANDSCAPING	LS	1.00	\$ 225,200.00	\$ 225,200.00
TOTAL LANDSCAPING IMPROVEMENTS					\$ 225,200.00
TOTAL ROADWAY IMPROVEMENTS					\$ 1,611,914.90
TOTAL WATER IMPROVEMENTS					\$ 1,241,224.50
TOTAL STORM & DRAINAGE IMPROVEMENTS					\$ 1,629,310.33
TOTAL LANDSCAPING IMPROVEMENTS					\$ 225,200.00
TOTAL					\$ 4,707,649.73
10% MAINTENANCE BOND					\$ 470,764.97

**FINAL BILLS PAID AFFIDAVIT
AND WAIVER OF LIEN**STATE OF TEXAS
COUNTY OF *Williamson*Date: *9/17/2024*Developer: *Epitome Development*Contractor/Material
Provider ("Affiant"): *Five Star Civil Construction*Project: *Leander Estates Phase 1*

This is to acknowledge and certify that Affiant has completed the construction of all improvements for the project noted above and that Affiant has been paid in full for all labor and material provided to the above-noted construction project, except for retainage, and acknowledges and certifies that Affiant, and all of his or its agents, employees, successors, assigns, subsidiaries, and legal representatives will and do release and waive all Mechanic's liens, or similar lien rights, which have or might arise as a result of the Affiant's or Affiant's agents' or employees' providing labor and materials to the above-noted project. Affiant understands that a portion or all of the property upon which the project is located has been or will be accepted by the City of Leander, Texas, for ownership, maintenance, and operation. Affiant further agrees that it shall look solely to the Developer for payment of the retainage and shall have no cause of action whatsoever, against the City in the event that the retainage is not paid to the Affiant, and that Affiant shall not file a lien of any kind which has or may arise related to the release of the retainage for the project. Affiant acknowledges and understands that the City is relying on the representations made in this document to accept the phase or portion of the subdivision in which the project is located.

In addition to the foregoing, Affiant acknowledges and certifies that Affiant has paid all laborers, subcontractors, materialmen, and all other persons or parties who have provided labor or materials through, for, or on behalf of the Affiant to the above-noted construction project.

Affiant indemnifies and holds Owner harmless from any liens, debts or obligations which arise as a result of labor or materials provided by or through Affiant to the project through the date set out above. Affiant further indemnifies and holds harmless all real property on which the improvements were constructed and all interests in such property, including leasehold interests, from any liens, debts, or obligations arising from any labor or materials provided by or through Affiant to the project through the date set out above.

SUBSCRIBED AND SWORN TO BY Affiant on this 17th day of Sept, 2024.Initialed: *At*

PAGE 1 of 2

AFFIANT:

Signature: _____

Typed Name: _____

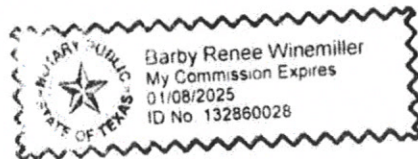
Title: _____

STATE OF TEXAS
COUNTY OF Williamson

BEFORE ME the undersigned authority on this day personally appeared Alejandro Alderete known to me to be the person noted above, and acknowledged to me the following: that he/she executed the foregoing for the purpose and consideration therein expressed, in the capacity therein stated, and as the duly authorized act and deed of the party releasing and waiving the lien therein; and that every statement therein is within his/her knowledge and is true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 17th day of Sept 2024

[SEAL]



Notary in and for the State of Texas

Name: _____

My commission expires: _____

Initialed: AA



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of Change Order No.1 to the contract agreement with Asphalt Inc., LLC, dba Lone Star Paving Company, for Roadway Rehabilitation Fiscal Year 2024, increasing the current contract amount by an amount of \$56,989.50 for a new total of \$2,147,034.50, with no extension of term duration; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

On May 02, 2024, the construction contract for the Roadway Rehabilitation Fiscal Year 2024 project was awarded to Lone Star Paving Company for the amount of \$2,090,045.00. This change order incorporates the additional cost incurred based on actual field quantities. The attached change order form lists various field quantity changes. Changes include full depth repair at various locations based on field conditions, manhole and water valve locations identified during paving and additional striping/markings.

HISTORY/TIMELINE:

05/02/2024 - Award of Solicitation CIPS24-008 to Asphalt Inc., LLC, dba Lone Star Paving Company

APPLICANT/AGENT:

RECOMMENDATION:

Staff recommends approval of Change Order No. 1, in the amount of \$56,989.50, to the construction contract agreement for Roadway Rehabilitation Fiscal Year 2024, increasing the current contract amount of \$2,090,045.00 to a new total of \$2,147,034.50, to Asphalt Inc., LLC, dba Lone Star Paving Company; and authorize the City Manager to execute all necessary documents

PRESENTER:

Gina M. Ellison, P.E., Executive Director of Public Works

	<u>Fiscal Impact</u>
<u>Amount requested:</u>	\$56,989.50
<u>Approved in current budget (Yes / No):</u>	No
<u>Expenditure (New / Amended):</u>	New
<u>Recurring or one-time:</u>	One-time
<u>Fund source (Operating / Utility / etc.):</u>	01-21-5605 (Road Rehab Project)

Attachments:

1. Change Order No 1

CHANGE ORDER NO.: 1

Owner: City of Leander Owner's Project No.: P24-PW-02
Engineer: Asphalt Inc. LLC dba Lone Star Paving
Contractor: Company Engineer's Project No.:
Project: Roadway Rehabilitation FY 2024 Contractor's Project No.:
Contract Name: P24-PW-02-LSP-CIPS24-008
Date Issued: Effective Date of Change Order:

The Contract is modified as follows upon execution of this Change Order:

Description:

The change order incorporates the additional cost for following items per actual field quantities and conditions.

- Full Depth Repair Locations along Hero Way based on current field conditions at the time of paving.
- Manhole and Water Valve casting which were identified/located field during the paving operation and striping.

Attachments: Additional Quantity Sheet.

Change in Contract Price

Original Contract Price:
\$ 2,090,045.00
Increase of this Change Order:
\$ 56,989.50
Contract Price incorporating this Change Order:
\$ 2,147,034.50

Authorized by Owner

By: _____
Title: _____
Date: _____

Accepted by Contractor

Jon Wickes

Project Manager

10/10/2024

City of Leander Roadway Rehabilitation FY 2024

Field Quantity Sheet

Contractual							Final Field		Change in	
S.N.	Bid Item	Item Description	Unit	Unit Price	Quantity	Amount	Quantity	Amount	Quantity	Amount
A. Heroway West (North of Apple Spring Dr to North of Honeycomb Mesa)										
5	351	FLEXIBLE PAVEMENT STRUCTURE REPAIR (4")	SY	\$ 33.00		\$ -	853	\$ 28,149.00	853.00	\$ 28,149.00
6	666	REFL PAV MKR TY I (W) 4" (SLD) (100MIL)	FT	\$ 0.52	11680	\$ 6,073.60	11876	\$ 6,175.52	196.00	\$ 101.92
6	666	REFL PAV MKR TY I (W) 4" (SLD) (100MIL)	FT	\$ 0.52	11640	\$ 6,073.60	11895	\$ 6,185.40	215.00	\$ 111.80
7	666	REFL PAV MKR TY I (W) 24" (SLD) (100MIL)	FT	\$ 20.00	48	\$ 960.00	0	\$ -	(48.00)	\$ (960.00)
8	672	REFL PAV MKR TY II A-A	EA	\$ 12.00	230	\$ 2,760.00	292	\$ 3,504.00	62.00	\$ 744.00
SUBTOTAL AMOUNT BID - A. Heroway West (North of Apple Spring Dr to North of Honeycomb Mesa)						\$ 15,867.20	\$ 44,013.92		\$ 28,146.72	
B. Northern Trl., Mason St, Dew Drop Ln, Bent Wood Dr, Teal Ln										
7	672	REFL PAV MKR TY II 8-B	EA	\$ 20.00	5	\$ 100.00	6	\$ 120.00	1.00	\$ 20.00
SUBTOTAL AMOUNT BID - B. Northern Trl., Mason St, Dew Drop Ln, Bent Wood Dr, Teal Ln						\$ 100.00	\$ 120.00		\$ 20.00	
C. Eagles Way, Lantana Dr, Lantana Ln, Coyote Ln, Moon Glow Dr										
10	COL 107-4	WATER VALVE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 675.00	4	\$ 2,700.00	8	\$ 5,400.00	4.00	\$ 2,700.00
SUBTOTAL AMOUNT BID - C. Eagles Way, Lantana Dr, Lantana Ln, Coyote Ln, Moon Glow Dr						\$ 2,700.00	\$ 5,400.00		\$ 2,700.00	
D. Sonny Drive (Bagdad to Moon Glow Dr) and Adjacent courts										
7	672	REFL PAV MKR TY II 8-B	EA	\$ 20.00	2	\$ 40.00	14	\$ 280.00	12.00	\$ 240.00
9	COL 107-4	MANHOLE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 1,225.00	14	\$ 17,150.00	15	\$ 18,375.00	1.00	\$ 1,225.00
10	COL 107-4	WATER VALVE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 675.00	6	\$ 4,050.00	11	\$ 7,425.00	5.00	\$ 3,375.00
SUBTOTAL AMOUNT BID - D. Sonny Drive (Bagdad to Moon Glow Dr) and Adjacent courts						\$ 21,240.00	\$ 26,080.00		\$ 4,840.00	
E. Honeyuckie Drive and Adjacent Courts										
7	672	REFL PAV MKR TY II 8-B	EA	\$ 20.00	6	\$ 120.00	2	\$ 40.00	(4.00)	\$ (80.00)
SUBTOTAL AMOUNT BID - E. Honeyuckie Drive and Adjacent Courts						\$ 120.00	\$ 40.00		\$ (80.00)	
F. Sarita Valley Subdivision-Section 1(Sarita Dr., Wedge Scale Pass, Plume Cv)										
6	666	REFL PAV MKR TY I (W) 8" (SLD) (100MIL)	FT	\$ 6.00	110	\$ 660.00	169	\$ 1,014.00	59.00	\$ 354.00
7	666	REFL PAV MKR TY I (W) 24" (SLD) (100MIL)	FT	\$ 20.00	60	\$ 1,200.00	137	\$ 2,740.00	77.00	\$ 1,540.00
8	666	REFL PAV MKR TY I (W) (LEFT TURN ARROW) (100 MIL)	FA	\$ 300.00	1	\$ 300.00	2	\$ 600.00	1.00	\$ 300.00
9	666	REFL PAV MKR TY I (W) (RIGHT TURN ARROW) (100 MIL)	EA	\$ 300.00	1	\$ 300.00	3	\$ 900.00	2.00	\$ 600.00
10	666	REFL PAV MKR TY I (W) (ONLY) (100 MIL)	EA	\$ 335.00	2	\$ 670.00	3	\$ 1,005.00	1.00	\$ 335.00
11	672	REFL PAV MKR TY II 8-B	EA	\$ 20.00	6	\$ 120.00	9	\$ 180.00	3.00	\$ 60.00
12	COA 628	INLET PROTECTION	LS	\$ 500.00	1	\$ 500.00	2	\$ 1,000.00	1.00	\$ 500.00
14	COL 107-4	WATER VALVE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 675.00	11	\$ 7,425.00	8	\$ 5,400.00	(3.00)	\$ (2,025.00)
SUBTOTAL AMOUNT BID - F. Sarita Valley Subdivision-Section 1(Sarita Dr., Wedge Scale Pass, Plume Cv)						\$ 11,175.00	\$ 12,839.00		\$ 1,664.00	
Alt. 1 - Sarita Valley Subdivision-Section 2 (Feather Reed Dr., Silver Fountain Dr., Rabbits Tail Dr., Lyme Ridge Dr., Purple Moore Pass)										
5	666	REFL PAV MKR TY I (W) 24" (SLD) (100MIL)	FT	\$ 20.00	168	\$ 3,360.00	154	\$ 3,080.00	(14.00)	\$ (280.00)
6	672	REFL PAV MKR TY II 8-B	EA	\$ 20.00	10	\$ 200.00	11	\$ 220.00	1.00	\$ 20.00
8	COL 107-4	MANHOLE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 1,225.00	20	\$ 24,500.00	21	\$ 25,725.00	1.00	\$ 1,225.00
9	COL 107-4	WATER VALVE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 675.00	18	\$ 12,150.00	14	\$ 9,450.00	(4.00)	\$ (2,700.00)
SUBTOTAL AMOUNT BID - Alt. 1 - Sarita Valley Subdivision-Section 2						\$ 40,210.00	\$ 38,475.00		\$ (1,735.00)	

City of Leander Roadway Rehabilitation FY 2024

Field Quantity Sheet

Contractual						Final Field		Change in		
S.N.	Bid Item	Item Description	Unit	Unit Price	Quantity	Amount	Quantity	Amount	Quantity	Amount
Alt. 2 - Sarita Valley Subdivision-Section 3										
(Wedgescale pass, Arrowfeather pass, Brane Dr., Zayla Dr., Browntop Ct)										
5	666	REFL PAV MKR TY I (W) 24" (SLD) (100MIL)	FT	\$ 20.00	70	\$ 1,400.00	109	\$ 2,180.00	39.00	\$ 780.00
6	672	REFL PAV MKR TY II B B	EA	\$ 20.00	10	\$ 200.00	8	\$ 160.00	(2.00)	\$ (40.00)
8	COL 107-4	MANHOLE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 1,225.00	23	\$ 28,175.00	28	\$ 34,300.00	5.00	\$ 6,125.00
9	COL 107-4	WATER VALVE CASTING ADJUSTMENT AND CONCRETE BLOCK	EA	\$ 675.00	6	\$ 4,050.00	8	\$ 5,400.00	2.00	\$ 1,350.00
SUBTOTAL AMOUNT BID - Alt. 2 - Sarita Valley Subdivision-Section 3						\$ 33,825.00	\$ 42,040.00		\$ 8,215.00	
Alt. 3 - Ronald Ragan Blvd (within City Limits)-Restriping Only										
1	500	MOBILIZATION/DEMOBILIZATION	LS	\$ 18,000.00	1	\$ 18,000.00	1	\$ 18,000.00	0	\$ -
2	502	BARRICADES, SIGNS AND TRAFFIC HANDLING	LS	\$ 9,000.00	1	\$ 9,000.00	1	\$ 9,000.00	0	\$ -
3	666	REFL PAV MKR TY I (Y) 4" (SLD) (100MIL)	FT	\$ 0.42	62800	\$ 26,376.00	61865	\$ 25,983.30	-935	\$ (392.70)
4	666	REFL PAV MKR TY I (W) 4" (SLD) (100MIL)	FT	\$ 0.42	62400	\$ 26,208.00	65392	\$ 27,464.64	2992	\$ 1,256.64
5	666	REFL PAV MKR TY I (W) 4" (BRK) (100MIL)	FT	\$ 0.44	17400	\$ 7,656.00	17571	\$ 7,731.24	171	\$ 75.24
6	666	REFL PAV MKR TY I (W) 8" (SLD) (100MIL)	FT	\$ 1.05	17150	\$ 18,007.50	17258	\$ 18,120.90	108	\$ 113.40
7	666	REFL PAV MKR TY I (W) 12" (SLD) (100MIL)	FT	\$ 6.60	1780	\$ 11,748.00	1040	\$ 6,864.00	740	\$ (4,884.00)
8	666	REFL PAV MKR TY I (W) 24" (SLD) (100MIL)	FT	\$ 11.40	1770	\$ 20,178.00	1823	\$ 20,782.20	53	\$ 604.20
9	666	REFL PAV MKR TY I (W) (LEFT TURN ARROW) (100 MIL)	EA	\$ 220.00	10	\$ 2,200.00	16	\$ 3,520.00	6	\$ 1,320.00
10	666	REFL PAV MKR TY I (W) (RIGHT TURN ARROW) (100 MIL)	EA	\$ 270.00	18	\$ 3,960.00	36	\$ 7,920.00	18	\$ 3,960.00
11	666	REFL PAV MKR TY I (W) (ONLY) (100 MIL)	EA	\$ 240.00	28	\$ 6,720.00	49	\$ 11,760.00	21	\$ 5,040.00
12	666	REFL PAV MKR TY I (W) (BIKE SYML) (100 MIL)	EA	\$ 200.00	10	\$ 2,000.00	11	\$ 2,200.00	1	\$ 200.00
13	666	REFL PAV MKR TY I (W) (BIKE ARW) (100 MIL)	EA	\$ 160.00	10	\$ 1,600.00	11	\$ 1,760.00	1	\$ 160.00
14	672	REFL PAV MKR TY (FH BLUE REFLECTOR) TY II B-B	EA	\$ 20.00	90	\$ 1,800.00	84	\$ 1,680.00	-6	\$ (120.00)
15	672	REFL PAV MKR TY I C	EA	\$ 4.00	2698	\$ 10,792.00	2277	\$ 9,108.00	-421	\$ (1,684.00)
16	677	EUM EXT PAV MKR & MKRS (24")	FT	\$ 5.00	1770	\$ 8,850.00	2344	\$ 11,720.00	574	\$ 2,870.00
17	677	EUM EXT PAV MKR & MKRS (W) (LEFT TURN ARROW) (100 MIL)	EA	\$ 100.00	10	\$ 1,000.00	16	\$ 1,600.00	6	\$ 600.00
18	677	EUM EXT PAV MKR & MKRS (W) (RIGHT TURN ARROW) (100 MIL)	EA	\$ 100.00	18	\$ 1,800.00	36	\$ 3,600.00	18	\$ 1,800.00
19	677	EUM EXT PAV MKR & MKRS (W) (ONLY) (100 MIL)	EA	\$ 100.00	28	\$ 2,800.00	49	\$ 4,900.00	21	\$ 2,100.00
20	677	EUM EXT PAV MKR & MKRS (W) (BIKE SYML)	EA	\$ 100.00	10	\$ 1,000.00	11	\$ 1,100.00	1	\$ 100.00
21	677	EUM EXT PAV MKR & MKRS (W) (BIKE ARW)	EA	\$ 100.00	10	\$ 1,000.00	11	\$ 1,100.00	1	\$ 100.00
SUBTOTAL AMOUNT BID - Alt. 3 - Ronald Ragan Blvd (within City Limits)-Restriping Only						\$ 182,695.50	\$ 195,914.28		\$ 13,218.78	
Total Amount										\$ 56,989.50



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of the Second Reading of an Ordinance regarding the Bagdad Retail Center Annexation Case A-24-0014 for the voluntary annexation of 4.227 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District, Parcels R023980; and generally located northwest of the intersection of North Bagdad Road and CR 281, Leander, Williamson County, Texas.

BACKGROUND:

A resolution was adopted on June 6, 2024 and commenced the voluntary annexation of 4.227 acres $\pm$ as described above. The resolution set the public hearing for July 9, 2024 and the readings of the ordinance for July 9, 2024 and July 18, 2024. The applicant requested to delay the final reading of the ordinance to allow the City of Liberty Hill to complete the release from the Extraterritorial Jurisdiction. The Liberty Hill City Council considered the release during their meeting held September 25, 2024. No action was taken.

Senate Bill 2038:

(d) If a municipality fails to take action to release the area under Subsection (c) by the later of the 45th day after the date the municipality receives the petition or the next meeting of the municipality's governing body that occurs after the 30th day after the date the municipality receives the petition, the area is released by operation of law.

HISTORY/TIMELINE:

06/06/2024 – Resolution Adopted
07/09/2024 – City Council, Public Hearing
09/25/2024 – Liberty Hill City Council

APPLICANT/AGENT:

Tom Groll Engineering (Tom J. Groll) on behalf of Bagdad Retail Estate, LLC. (Moez Momin)

RECOMMENDATION:

Staff recommends approval. The City Council unanimously approved the annexation during the July 9, 2024 meeting.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. A-24-0014 Att 1 Bagdad Retail Center - Ordinance
2. A-24-0014 Att 2 Bagdad Retail Center - Location Map

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS ANNEXING 4.227 ACRES OF LAND, MORE OR LESS, LOCATED IN WILLIAMSON COUNTY, TEXAS, INTO THE CORPORATE LIMITS OF THE CITY OF LEANDER, TEXAS, AT THE REQUEST OF THE PROPERTY OWNER; APPROVING AN AGREEMENT FOR THE PROVISION OF SERVICES FOR THE ANNEXED AREA; MAKING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR OPEN MEETINGS AND OTHER RELATED MATTERS.

WHEREAS, the City of Leander, Texas, is a home-rule municipality authorized by State law to annex territory lying adjacent and contiguous to the City;

WHEREAS, the owners of the property, as hereinafter described, made written request for the City to annex such property in compliance with the *Tex. Loc. Gov't. Code*;

WHEREAS, the property is adjacent and contiguous to the present city limits;

WHEREAS, the City Council heard and has decided to grant the owners' request that the City annex said property;

WHEREAS, a public hearing was conducted prior to consideration of this Ordinance in accordance with §43.0673 of the *Tex. Loc. Gov't. Code*;

WHEREAS, notice of the public hearing was published not more than twenty (20) nor less than ten (10) days prior to the public hearing;

WHEREAS, the City intends to provide services to the property to be annexed according to the agreement for the provision of services attached hereto as **Exhibit A**.

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

SECTION 1. That all of the above premises and findings of fact are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. All portions of the following described properties (hereinafter referred to as the "Annexed Property"), not previously annexed into the City, are hereby annexed into the corporate limits of the City of Leander:

Being a 4.227 acre tract of land, located in the Joseph Lee Survey, Abstract No. 393, Williamson County, Texas; said 4.227 acre tract being a remaining portion of that called 4.92 acre tract of land recorded in Document No. 2022030204, Official Public Records, Williamson County, Texas being more particularly described in **Exhibit B** attached hereto and incorporated herein for all purposes.

SECTION 3. That the provision of services agreement submitted herewith is hereby approved as part of this Ordinance, made a part hereof and attached hereto as **Exhibit A**.

SECTION 4. That the future owners and inhabitants of the Annexed Property shall be entitled to all of the rights and

privileges of the City as set forth in the provisions of services agreement attached hereto as **Exhibit A**, and are further bound by all acts, ordinances, and all other legal action now in full force and effect and all those which may be hereafter adopted.

SECTION 5. That the official map and boundaries of the City, heretofore adopted and amended be and hereby are amended so as to include the Annexed Property as part of the City of Leander.

SECTION 6. That the Annexed Property shall be temporarily zoned District “SFR-1-B” as provided in the City Zoning Ordinance, as amended, until permanent zoning is established, therefore.

SECTION 7. That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 8. That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov’t. Code*.

SECTION 9. That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov’t. Code*.

PASSED AND APPROVED on First Reading this 9th day of July 2024.

FINALLY PASSED AND APPROVED on this 7th day of November 2024.

ATTEST:

CITY OF LEANDER, TEXAS

Dara Crabtree, City Secretary

Christine DeLisle, Mayor

Exhibit A

SERVICE AGREEMENT

[SEE ATTACHED]

**AGREEMENT REGARDING POST-ANNEXATION PROVISION OF SERVICES
FOR PROPERTY TO BE ANNEXED INTO THE CITY OF LEANDER**

This Agreement is entered into by and between the City of Leander, Texas, a municipal corporation ("City"), and the Bagdad Real Estate, LLC ("Landowner"). The City and the Landowner may be referred to herein singularly as "Party" or collectively as the "Parties."

RECITALS

WHEREAS, upon the request of the Landowner, the City intends to institute annexation proceedings for an area of land described more in **Exhibit A** and attached hereto and incorporated by reference herein, less and except any property previously annexed by the City (the, "Subject Property"); and

WHEREAS, Section 43.0672, Loc. Gov't. Code, requires the Parties to enter into a written agreement identifying a list of public services to be provided to the Subject Property and a schedule for the provision of those services that are not otherwise provided on the effective date of the annexation; and

WHEREAS, this Agreement is being entered into by and between the Parties to comply with Texas Local Government Code, Chapter 43, Sub-Chapter C-3, Section 43.0672, prior to the City's consideration of an ordinance annexing the Subject Property, it being understood, acknowledged and agreed by the Parties that annexation of the Subject Property is a condition precedent to this Agreement becoming effective; and

WHEREAS, this Agreement shall be deemed effective on the effective date of an ordinance approved by the City annexing the Subject Property (hereinafter, the "Effective Date"); and

WHEREAS, the Subject Property is not included in the municipal annexation plan and is exempt from the requirements thereof; and

WHEREAS, the infrastructure provided for herein and that are existing are sufficient to service the Subject Property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City; and

WHEREAS, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapter 43, Loc. Gov't. Code*, to annex the Subject Property into the City; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

The following services and schedule represent the provision of services agreed to between the Landowner of the Subject Property and the City establishing a program under which the City will provide municipal services to the Subject Property, as required by section 43.0672 of the Texas Local Government Code. The services detailed herein will be provided at a level consistent with service levels provided to other similarly situated areas within the City.

The following services will be provided for the Subject Property on the Effective Date of annexation:

(1) **General Municipal Services.** Pursuant to the requests of the owner and this Agreement, the following services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City. Upon annexation, police protection will be provided to the Subject Property at a level consistent with the service to other areas of the City with similar population density and characteristics. The City's police services include neighborhood patrols, criminal investigations, crime prevention, community services and school programs.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present personnel and equipment.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City. The City provides residential solid waste collection services within the City limits for a fee under a contract between the City and private refuse collection operator. The residential solid waste collection services include garbage collection, recycling, bulky item collection and yard waste collection. Commercial solid waste collection services are also available. This service will be provided for a fee to any person within the Subject Property requesting the service after the Effective Date of annexation, provided that a privately owned solid waste management service provider is unavailable. If the Subject Property is already receiving service, the City may not prohibit solid waste collection by the privately owned solid waste management service provider, nor may the City offer solid waste collection services for a period of two (2) years following the Effective Date of the annexation unless a privately owned solid waste management service provider is or becomes unavailable, as established by Texas Local Government Code section 43.0661. If a landowner uses the services of a privately owned solid waste management service provider or services are available from a privately owned solid waste management service provider during the two (2) years following annexation, the City will not provide solid waste collection services to that landowner.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of City-owned parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities. Municipal Court and General Administration services will also be available to property owners and residents in the Subject Property on the same basis those facilities are available to current City property owners and residents.

G. Maintenance of other City facilities, buildings, and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned "SFR-1-B" with the intent to rezone the Subject Property upon request of the landowner or staff. The

Planning & Zoning Commission and the City Council will consider rezoning the Subject Property at future times in response to requests submitted by the Landowners or authorized city staff. The City will impose and enforce its adopted ordinances, including but not limited to, zoning, subdivision development, site development and building code regulations within the Subject Property upon the Effective Date of the annexation. Enforcement will be in accordance with City ordinances. Development plans and plats for projects within the Subject Property will be reviewed for compliance with City standards.

(2) **Scheduled Municipal Services.** Due to the size and vacancy of the Subject Property, the plans and schedule for the development of the Subject Property, the following municipal services will be provided on a schedule and at increasing levels of service as provided herein:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of water service, water service will be provided to the Subject Property, or applicable portions thereof, by the utility holding a water certificate of convenience and necessity ("CCN") for the Subject Property, or portions thereof as applicable, or absent a water CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's water utility system, the Subject Property's owner shall construct the internal water lines and pay the costs of line extension and construction of such facilities necessary to provide water service to the Subject Property as required in City ordinances. Upon acceptance of the water lines within the Subject Property and any off-site improvements, water service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City; subject to all the ordinances, regulations and policies of the City in effect from time to time. The system will be accepted and maintained by the City in accordance with its usual acceptance and maintenance policies. New water line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances of the City in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a water well that is in use on the effective date of the annexation and is in compliance with applicable rules and regulations shall be permitted and such use may continue until the Subject Property's owner requests and is able to connect to the City's water utility system.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of wastewater service, wastewater service will be provided to the subjects property, or applicable portions thereof, by the utility holding a wastewater CCN for the Subject Property, or portions thereof as applicable, or absent a wastewater CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of wastewater service. If connected to the City's wastewater utility system, the Subject Property's owner shall construct the internal wastewater lines and pay the costs of line

extension and construction of facilities necessary to provide wastewater service to the Subject Property as required in City ordinances. Upon acceptance of the wastewater lines within the Subject Property and any off-site improvements, wastewater service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The wastewater system will be accepted and maintained by the City in accordance with its usual policies. Requests for new wastewater line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a septic system that is in use on the effective date of the annexation and is in compliance with all applicable rules and regulations shall be permitted and such use may continue until the Subject Property owner requests and is able to connect to the City's wastewater utility system.

C. Maintenance of streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on existing public streets within the Subject Property and other streets that are hereafter constructed and finally accepted by the City. The maintenance of the streets and roads will be limited as follows:

1. Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.; and

2. Routine maintenance as presently performed by the City.

D. The City will maintain existing public streets within the Subject Property, and following installation and acceptance of new roadways by the City as provided by city ordinance, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain such newly constructed public streets, roadways and rights-of-way within the boundaries of the Subject Property, as follows:

(i) As provided in C(i)(1) and C(i)(2) above;

(ii) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(iii) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(iv) Installation and maintenance of street lighting in accordance with established policies of the City;

E. The outer boundaries of the Subject Property abut existing roadways. The Landowner agrees that no improvements are required on such roadways to service the Subject Property.

(3) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the Subject Property or redevelopment, the Landowner will be responsible for the development costs the same as a developer in a similarly situated area

under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the Subject Property the same as similarly situated properties. When deemed necessary, capital improvement acquisition or construction will occur in accordance with applicable ordinances and regulations and the adopted capital improvement plans of the City, as applicable and amended, which are incorporated herein by reference.

(4) **Term.** If not previously expired, this agreement expires at the end of ten (10) years.

(5) **Property Description.** The legal description of the Subject Property is as set forth in the Annexation Ordinance and exhibits attached to the Annexation Ordinance to which this Agreement is attached.

(6) **Binding Effect/Authority.** This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns. Each Party further warrants that each signatory to this Agreement is legally authorized to bind the respective individual or entity for the purposes established herein.

(7) **Choice of Law.** This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for any dispute shall lie exclusively in Williamson County, Texas.

(8) **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory Parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

(9) **Legal Construction.** If any provision in this Agreement is for any reason found to be unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

(10) **Entire Agreement.** This Agreement contains the entire Agreement between the Parties relating to the rights herein granted and the obligations herein assumed and cannot be varied except by written agreement of the Parties. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the Party to be charged.

EXECUTED and AGREED to by the Parties this the 6th day of June, 2024.

ATTEST:


Dara Crabtree, City Secretary

THE CITY OF LEANDER, TEXAS


Todd Parton, City Manager

Exhibit B

PROPERTY DESCRIPTION

[SEE ATTACHED]



Land Surveying. Land Planning. Consulting.

Firm: 10194104 512-915-4950

1430 N. Robertson Road, Salado, Texas 76571

FIELD NOTES FOR A 4.586 ACRE TRACT OF LAND:

BEING A 4.586 ACRE TRACT OF LAND, LOCATED IN THE JOSEPH LEE SURVEY, ABSTRACT NO. 393, WILLIAMSON COUNTY, TEXAS; SAID 4.586 ACRE TRACT, BEING THE REMAINING PORTION OF THAT CALLED 4.92 ACRE TRACT OF LAND RECORDED IN DOCUMENT NO. 2022030204, OFFICIAL PUBLIC RECORDS, WILLIAMSON COUNTY, TEXAS; SAID 4.586 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8" iron rod with an aluminum "Williamson County" cap located in the southwest right-of-way line of County Road 279, also known as Bagdad Road, being the northeast corner of the remainder of said 4.92 acre tract, the northwest corner of that called 0.375 acre tract of land deeded to Williamson County, recorded in Document No. 2023044242, Official Public Records, Williamson County, Texas, being in the southeast line of that called 5.03 acre tract of land recorded in Document No. 9661705, Official Public Records, Williamson County, Texas, said point being the northeast corner of the herein described tract of land and being the beginning of a curve to the left;

Thence, with the southwest right-of-way line of County Road 279, the southwest lines of said 0.375 acre tract the northeast lines of the remainder of said 4.92 acre tract, the following two (2) courses and distances:

1. **S 10° 06' 50" E**, a distance of **417.09'**, to a 5/8" iron rod with an aluminum "Williamson County" cap located for an angle point of the herein described tract of land;
2. **S 30° 27' 22" W**, a distance of **41.90'**, to a 5/8" iron rod with an aluminum "Williamson County" cap located at the intersection of the southwest right-

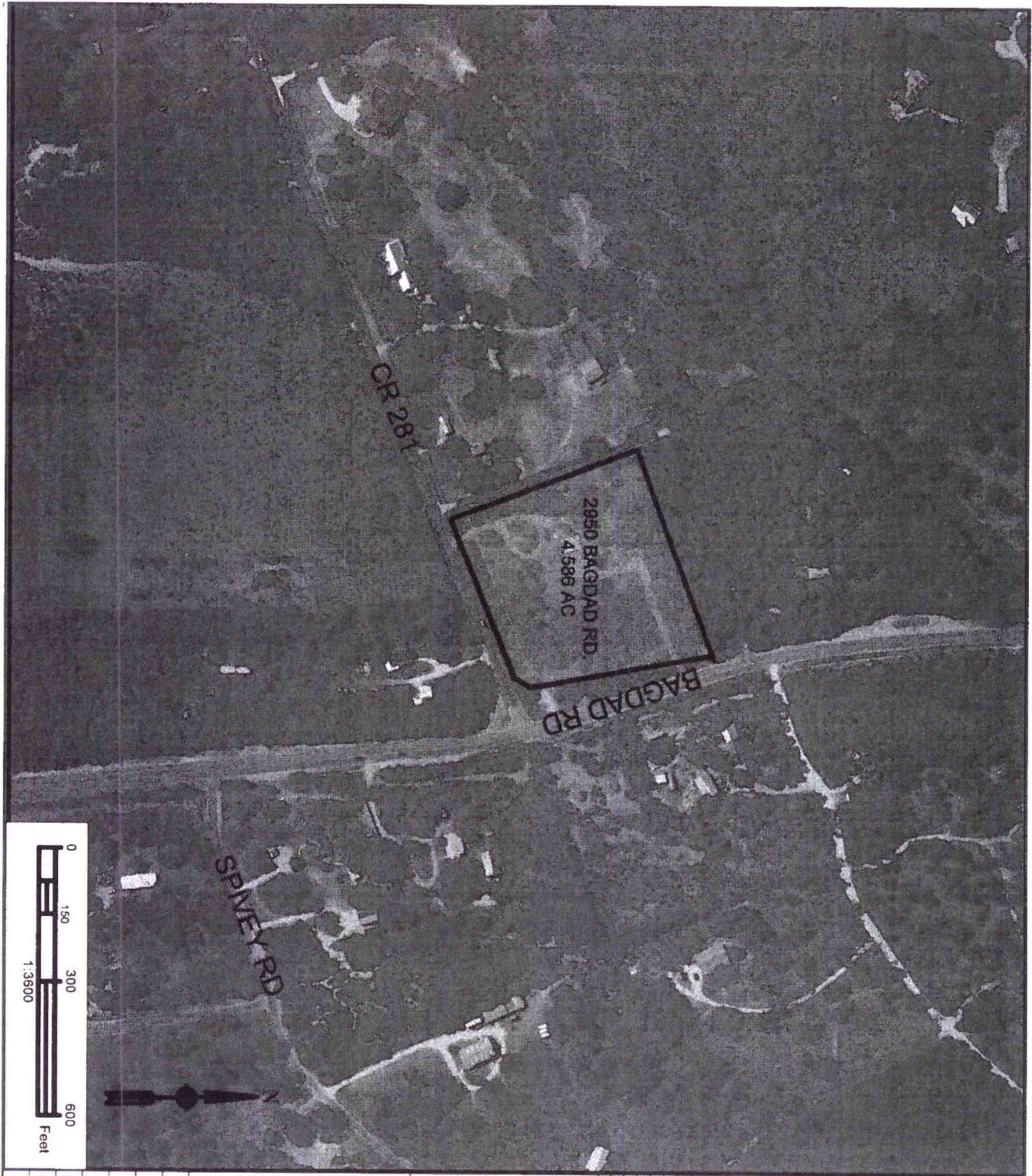
of-way line of County Road 279 and the northwest right-of-way line of County Road 281, being an angle point of said 0.375 acre tract, an angle point of the remainder of said 4.92 acre tract, said point being the southeast angle point of the herein described tract of land;

3. **Thence**, with the northwest right-of-way line of County Road 281, the southeast line of the remainder of said 4.92 acre tract, **S 67° 55' 49" W**, a distance of **386.01'**, to a 1/2" iron rod with a blue "QUICK INC RPLS 6447" plastic cap set in the northwest right-of-way line of County Road 281, being the southwest corner of the remainder of said 4.92 acre tract, the southeast corner of that called 2.50 acre tract of land recorded in Document No. 2015042340, Official Public Records, Williamson County, Texas, said point being the southwest corner of the herein described tract of land;
4. **Thence**, departing the northwest right-of-way line of County Road 281, with the southwest line of the remainder of said 4.92 acre tract, the northeast line of said 2.50 acre tract, **N 20° 15' 04" W**, a distance of **449.17'**, to a 4" cedar fence post located at the northwest corner of said 4.92 acre tract, the southwest corner of said 5.03 acre tract, being in the northeast line of said 2.50 acre tract, said point being the northwest corner of the herein described tract of land;
5. **Thence**, with the northwest line of said 4.92 acre tract, the southeast line of said 5.03 acre tract, **N 69° 43' 32" E**, a distance of **491.65'**, to the **POINT OF BEGINNING** containing **4.586 acres** of land.

Note: The basis of bearing was established using the Trimble VRS Network, NAD (83), Texas State Plane Coordinate System, Central Zone, 4203, US Survey Foot, Grid. A survey plat was prepared by a separate document.




Travis L. Quicksall RPLS #6447
Date: 06/26/2023
Job #23-0076

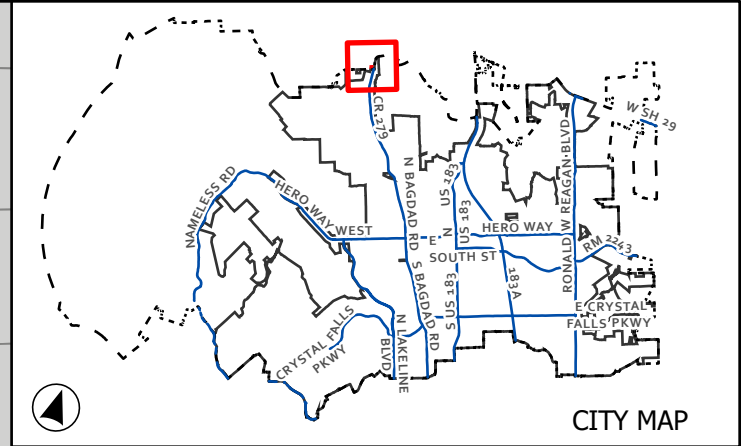
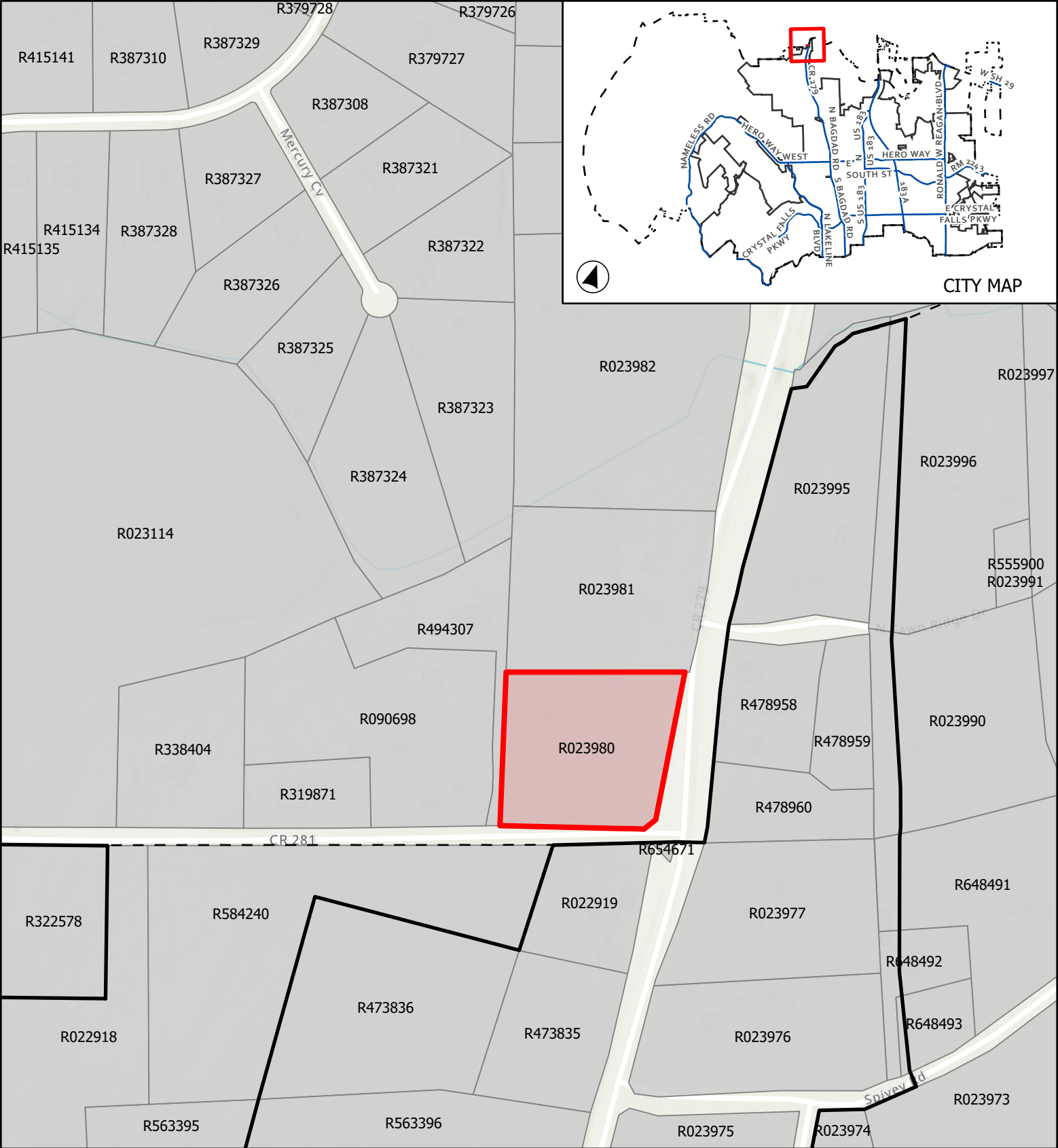


PREPARED
FOR: **BAGDAD REALESTATE, LLC**
5522 JENOLAN RIDGE LANE
SUGAR LAND, TX 77479

NO.	DATE	DESCRIPTION	BY

2905 BAGDAD RD.
LOCATION MAP

Sheet Index: _____
 Date: _____
 Scale: _____
 Check by: _____
 Drawn by: _____
 Sheet No: _____
 Project No: _____



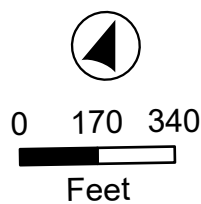
CASE: A-24-0014

ATTACHMENT 2

BAGDAD RETAIL CENTER
VOLUNTARY ANNEXATION

Location Map

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



- City Limits
- ETJ Boundary
- Subject Boundary



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of a Resolution accepting the petition for the High Gabriel Township Annexation Case A-24-0011 regarding the voluntary annexation of 12.75 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R362129 and R032227; and generally located south of High Gabriel East, approximately 1,100 feet east of US 183, Leander, Williamson County, Texas.

BACKGROUND:

This resolution commences the voluntary annexation of 12.75 acres $\pm$ as described above. This property is currently located in unincorporated Williamson County to the north of the Bryson Subdivision off High Gabriel East. It is currently undeveloped acreage with a couple existing houses. Proposed development includes large lot residential. The applicant is requesting annexation in order to extend City water and wastewater through the property. This agenda item does not include the zoning request. A separate public hearing will be held to discuss the zoning request.

The resolution sets the public hearing for December 5, 2024, and the readings of the ordinance for December 5, 2024, and December 19, 2024.

Approval of this item initiates the annexation process and does not approve the annexation. Zoning Case Z-24-0118 is associated with this annexation.

HISTORY/TIMELINE:

APPLICANT/AGENT:

Kirkman Engineering (Sandy Brantley) on behalf of United AP Investments of Texas, LLC (Nilangini Sishodia)

RECOMMENDATION:

Staff recommends approval.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. A-24-0011 Att 1 High Gabriel Township Resolution

2. A-24-0011 Att 2 High Gabriel Township Voluntary Annexation - Location Map
3. A-24-0011 Att 3 High Gabriel Annexation Schedule

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF LEANDER, TEXAS, ACCEPTING THE PETITION FOR ANNEXATION OF 12.75 ACRES, MORE OR LESS, OF LAND LOCATED IN WILLIAMSON COUNTY, TEXAS; SETTING AN ANNEXATION SCHEDULE; PROVIDING FOR OPEN MEETINGS AND OTHER RELATED MATTERS.

WHEREAS, the owner of certain property located within Williamson County, Texas, have petitioned the City of Leander, Texas, (hereinafter, the “City”), a home-rule City, for annexation of said property, more particularly described in **Exhibit A** attached hereto and incorporated by reference herein (the, “Subject Property”), into the City limits; and

WHEREAS, the Subject Property is contiguous and adjacent to the corporate limits of the City and the owner(s) have made application for annexation; and

WHEREAS, after review and consideration of such requests and petition for annexation from the owners of the Subject Property, the City Council finds that the Subject Property may be annexed pursuant to §43.0671 of the *Local Government Code*; and

WHEREAS, the petitioner has agreed and consented to the annexation of the Subject Property by the City and further agreed to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted.

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Proceedings. The petition for annexation, attached hereto as **Exhibit A**, of the Subject Property described hereinbelow and further described in **Exhibit B** and the service plan attached hereto as **Exhibit C**, are hereby accepted (all exhibits described herein are incorporated by reference herein for all purposes).

Subject Property:

Being 12.75 acres, more or less, of land in the William Mancil Survey, Abstract No. 437, Williamson County, Texas, being that same tract of land called 12.75 acres in a deed dated May 19, 1978 from High Gabriel Development Co., Inc. to Billy E. Moore, ET UX, as recorded in Volume 713, Page 243, Deed Records of Williamson County, Texas.

A public hearing has been set for the date of the 5th day of December, 2024. Notice of such hearing shall be posted and the hearing shall be open to the public to accept public comment on the annexation request. In the event of a conflict between the Subject Property description contained herein, **Exhibit**

B shall control.

Section 3. Severability. Should any section or part of this Resolution be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Resolution are declared to be severable.

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED this the 7th day of November, 2024.

ATTEST:

THE CITY OF LEANDER, TEXAS

Dara Crabtree, City Secretary

Christine DeLisle, Mayor

Exhibit A
PETITION
(SEE ATTACHED)

STATE OF TEXAS

§

§

COUNTY OF WILLIAMSON

§

**REQUEST & PETITION TO THE CITY COUNCIL OF THE CITY OF LEANDER
FOR ANNEXATION OF PROPERTY**

WHEREAS, the undersigned are owners of a property located within Williamson County, Texas, such properties being more particularly described hereinafter by true and correct legal descriptions (the, "Subject Property"); and

WHEREAS, the undersigned has sought the annexation of the Subject Property by the City of Leander, Texas, (hereinafter sometimes referred to as "City"), in order to obtain the benefits of City services to the Subject Property by the City; and

WHEREAS, the Subject Property is contiguous and adjacent to the corporate limits of the City; and

WHEREAS, the City, pursuant to §43.003, *Tex. Loc. Gov't. Code* and the request of the property owner, is authorized to annex the Subject Property; and

WHEREAS, pursuant to §43.0672, *Tex. Loc. Gov't. Code*, the City and the undersigned have negotiated and entered into a written agreement for the provision of services to the Subject Property, said agreement being attached hereto as **Exhibit A** and incorporated by reference herein; and

WHEREAS, the undersigned agrees and consents to the annexation of the Subject Property by the City and further agrees to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted.

NOW THEREFORE, the undersigned by this Petition and Request:

SECTION ONE: Requests the City Council of the City to commence annexation proceedings and to annex into the corporate limits of the City of Leander, Texas, of all portions of the Subject Property described as follows:

**SEE EXHIBIT B ATTACHED HERETO AND INCORPORATED BY
REFERENCE HEREIN FOR ALL PURPOSES.**

SECTION TWO: Requests that after annexation the City provide such services as are legally permissible and provided by the City, including sanitation, water and general governmental services as set forth in the written agreement regarding the provision of services attached hereto as **Exhibit A**.

SECTION THREE: Acknowledges executing and entering into the agreement, attached hereto as **Exhibit A**, and that such agreement is wholly adequate and acceptable to the undersigned

who hereby requests the City Council to proceed with the annexation and to publish notice and hold the requisite public hearing thereon, in accordance with the applicable laws of the State of Texas.

SECTION FOUR: Acknowledges that the undersigned understands and agrees that all City services to the Subject Property will be provided by the City on the same terms and conditions as provided to other similarly situated areas of the City and as provided in the written agreement regarding the provision of services attached hereto as **Exhibit A**.

SECTION FIVE: Agrees that a copy of this Request and Petition may be filed of record in the offices of the City of Leander and in the real property records of Williamson County, Texas, and shall be notice to and binding upon all persons or entities now or hereafter having any interest in the Subject Property.

FILED, this ____ day of _____, 20____, with the City Secretary of the City of Leander, Williamson County, Texas.

Petitioners:

By: Ambarn
Name: Ashok M. Parmar
Title: Owner
Address: 2104 Brighton Park Dr.
Bakersfield, CA 93311
County: Kern

By: _____
Name: _____
Title: _____
Address: _____
County: _____

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

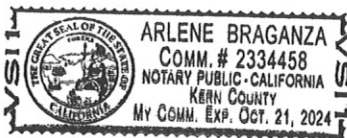
State of California

County of KERN

On APRIL 26, 2024 before me, ARLENE BRAGANZA, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared ASHOK PARMAR
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ArBraganza
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Request + Petition - City of Leander, TX

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: 0

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Exhibit B

PROPERTY DESCRIPTION

[SEE ATTACHED]

DESCRIPTION OF 7.505 ACRES, MORE OR LESS, OF LAND AREA, IN THE WILLIAM MANCIL SURVEY, ABSTRACT NO. 437, IN WILLIAMSON COUNTY, TEXAS, BEING THAT SAME TRACT OF LAND CALLED 7.503 ACRES IN A DEED DATED MAY 19, 1978 FROM HIGH GABRIEL DEVELOPMENT CO., INC. TO BILLY E. MOORE, ET UX, AS RECORDED IN VOLUME 713, PAGE 243, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found in the north line of that 5.27 acre tract of land described in a deed dated August 7, 1996 from Worth Seaman, to The Moore Company, as recorded in Doc# 9644304, Official Public Records of Williamson County, Texas, for the southwest corner of the aforementioned Moore Tract, same being the southeast corner of that 5.00 acres tract of land described in a deed dated March 24, 1998 from Toni M. Hicks, to Robert B. Riley, et ux, as recorded in Doc# 9831589, Official Public Records of Williamson County, Texas, and being the southwest corner of the herein described tract of land;

THENCE leaving the PLACE OF BEGINNING and the aforementioned The Moore Company Tract, with the common line of the Moore Tract and the aforementioned Riley Tract, the following seven (7) courses:

1. N 06°53'00"W 149.66 feet to a 1/2" iron rod found;
2. N 01°49'45"E 251.56 feet to a 1/2" iron rod found;
3. N 22°44'00"W 101.53 feet to a 1/2" iron rod found;
4. N 01°16'15"E 167.63 feet to a 1/2" iron rod found;
5. N 39°13'45"E 85.90 feet to a 1/2" iron rod found;
6. N 17°31'15"E 65.42 feet to a 1/2" iron rod found for the northeast corner of the Riley Tract; and
7. N 75°21'00"W 10.93 feet to a 1/2" iron rod found for the southeast corner of Lot 6, High Gabriel East Section Three, a subdivision in Williamson County, Texas, according to the map or plat thereof recorded in Cabinet C, Slide 24, Plat Records of Williamson County, Texas;

THENCE leaving the Riley Tract, with the common line of the Moore Tract and said Lot 6, N 07°57'15"W 399.16 feet to a 1/2" iron rod found on the south line of Riva Ridge Drive, for the northwest corner of the Moore Tract, same being the northeast corner of Lot 6, for the northwest corner of the herein described tract of land;

THENCE leaving Lot 6, with the common line of Riva Ridge Drive and the Moore Tract, the following two (2) courses:

1. with a right breaking curve having a radius length of 247.80 feet, an arc length of 136.26 feet and a chord which bears N 72°58'45"E 134.55 feet to a 1/2" iron rod found; and
2. with a right breaking curve having a radius length of 183.80 feet, an arc length of 61.77 feet and a chord which bears S 82°43'30"E 61.48 feet to a 1/2" iron rod found for the northeast corner of the Moore Tract, same being the northwest corner of that 10.16 acre tract of land described in a deed dated August 8, 2000 from the Veterans Land Board of the State of Texas, to James Joseph, as recorded in Doc# 2000063127, Official Public Records of Williamson County, Texas, and being the northeast corner of the herein described tract of land;

THENCE leaving Riva Ridge Drive, with the common line of the Moore Tract and the aforementioned Joseph Tract, the following eight (8) courses:

1. S 19°33'45"W 86.93 feet to a 1/2" iron rod found;
2. S 44°32'45"E 81.67 feet to a 1/2" iron rod found;
3. S 09°06'00"E 110.73 feet to a 1/2" iron rod found;
4. S 17°53'30"E 122.70 feet to a 1/2" iron rod found;
5. S 07°02'00"E 99.36 feet to a 1/2" iron rod found;
6. S 13°50'45"E 74.59 feet to a 1/2" iron rod found;
7. S 12°01'45"W 93.93 feet to a 1/2" iron rod found; and
8. S 18°43'30"E 481.88 feet to a 1/2" iron rod found in the north line of the aforementioned The Moore Company Tract, for the southeast corner of the Moore Tract, same being the southwest corner of the Joseph Tract, and being the southeast corner of the herein described tract of land;

THENCE leaving the Joseph Tract, with the common line of the Moore Tract and the Moore Company Tract, S 71°28'30"W 422.89 feet to the PLACE OF BEGINNING. There are contained within these metes and bounds, 7.505 acres, more or less

EXHIBIT A

ABRAM DASHNER RPLS, LLC

TEXAS REGISTERED PROFESSIONAL LAND SURVEYOR 5901

TBPLS FIRM NO. 10194420

info@rpls5901.com 512-244-3395

5.266 ACRES
WILLIAM MANCIL SURVEY
WILLIAMSON COUNTY, TX

FILE NO. 2022.050
PROJECT: 172-01
DATE: 03/22/2022

DESCRIPTION

5.266 ACRES IN THE WILLIAM MANCIL SURVEY, ABS. NO. 437, IN WILLIAMSON COUNTY, TEXAS, BEING THAT CERTAIN 5.248 ACRE TRACT CONVEYED TO MARK LANE MCILHERAN AND CHERRI JILL MICILHERAN BY DEED OF RECORD, IN DOCUMENT NO. 2017023131, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 5.266 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a calculated point at the northwest corner of said 5.248 acre tract, being the northeast corner of that certain 3.894 acre tract conveyed to Dolores Ima Later Seaman, by Deed of record in Document No. 2006057416 of said Official Public Records, also being the southeast corner of that certain 18.70 acre tract conveyed to Tai Keong & wife, Becky Sou-Heng Wong, and Kwok-Wai Chiu & wife, Jen Jong Huang, by Deed of record in Volume 1982, Page 631, of the Official Records of Williamson County, Texas, and the southwest corner of that certain 5.00 acre tract conveyed to Lisa M H Green-Otero and John R Green-Otero, by Deed of record in Document No. 2018079780, of said Official Public Records, for the northwesterly corner hereof;

THENCE, N69°21'40"E, along the north line of said 5.248 acre tract, in part along the south line of said 5.00 acre tract, at 208.16 feet passing a 1/2-inch iron rod found at the southeast corner of said 5.00 acre tract, being the southwest corner of that certain 7.505 acre tract conveyed to Mark McIlheran and Cheri McIlheran, by Deed of record in Document No. 2017022864, of said Official Public Records, and continuing along the south line of said 7.505 acre tract for a total distance of a distance of 630.44 feet to a 1/2-inch iron rod found at the southeast corner of said 7.505 acre tract, also being the southwest corner of a 10.13 acre tract conveyed to Chad E Merrigan and Christine L Merrigan, by Deed of record in Document No. 2006057585, of said Official Public Records, for an angle point;

THENCE, N69°25'20"E, along the south line of said 10.13 acre tract, being the north line of said 5.248 acre tract, a distance of 615.79 feet to a 1/2-inch iron rod found at the southeast corner of said 10.13 acre tract, being the southwest corner of a 3.3063 acre tract conveyed to James E Gammage, by Deed of record in Document No. 2000000508, of said Official Public Records, for an angle point;

THENCE, N69°29'55"E, along the south line of said 3.3063 acre tract, being the north line of said 5.248 acre tract, a distance of 224.90 feet to a 1/2-inch iron rod found at the northwest corner of a 2.3872 acre tract conveyed to Miriam Garcia & Brigido Cruces, by Deed of record in Document No. 2011046622, of said Official Public Records, for the northeasterly corner of said 5.248 acre tract and hereof;

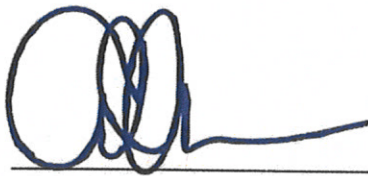
THENCE, S22°06'55"E, along the west line of said 2.3872 acre tract, being the east line of said 5.248 acre tract, a distance of 155.39 feet to a 1/2-inch iron rod found at the northeast corner of Lot 12, Block F, Bryson Phase 2, Section 2, a subdivision of record in Document No. 2019094753, of said Official Public Records, for the southeasterly corner of said 5.248 acre tract and hereof;

THENCE, S69°24'05"W, in part along the north line of said Bryson Phase 2, Section 2, in part along the north terminus of Upchurch Street (50' r.o.w.), and in part along the north line of Bryson Phase 2, Section 1, a subdivision of record in Document No. 2017105839, of said Official Public Records, a distance of 1475.15 feet to a 1/2-inch iron rod found at the southwest corner of said 5.248 acre tract, in the north line of Lot 11, Block C, of said Bryson Phase 2, Section 1, being the southeast corner of said 3.894 acre tract, for the southwesterly corner hereof;

THENCE, N20°37'58"W, along the east line of said 3.894 acre tract, being the west line of said 5.248 acre tract, a distance of 155.50 feet to the **POINT OF BEGINNING**, and containing 5.266 acres (229,421 square feet) of land, more or less.

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD 83(2011), CENTRAL ZONE, UTILIZING THE LEICA SMARTNET CONTINUALLY OPERATING REFERENCE NETWORK.

I HEREBY CERTIFY THAT THE ABOVE DESCRIPTION WAS PREPARED BASED UPON A FIELD SURVEY PERFORMED UNDER MY SUPERVISION DURING THE MONTHS OF JULY AND AUGUST, 2021, AND IS TRUE AND CORRECT TO THE BEST OF MY ABILITIES.



ABRAM C. DASHNER
TEXAS RPLS 5901
TBPLS FIRM NO. 10194420



Exhibit C

SERVICE AGREEMENT

[SEE ATTACHED]

**AGREEMENT REGARDING POST-ANNEXATION PROVISION OF SERVICES
FOR PROPERTY TO BE ANNEXED INTO THE CITY OF LEANDER**

This Agreement is entered into by and between the City of Leander, Texas, a municipal corporation ("City"), and United AP Investments of Texas, LLC ("Landowner"). The City and the Landowner may be referred to herein singularly as "Party" or collectively as the "Parties."

RECITALS

WHEREAS, upon the request of the Landowner, the City intends to institute annexation proceedings for an area of land described more in Exhibit A and attached hereto and incorporated by reference herein, less and except any property previously annexed by the City (the, "Subject Property"); and

WHEREAS, Section 43.0672, Loc. Gov't. Code, requires the Parties to enter into a written agreement identifying a list of public services to be provided to the Subject Property and a schedule for the provision of those services that are not otherwise provided on the effective date of the annexation; and

WHEREAS, this Agreement is being entered into by and between the Parties to comply with Texas Local Government Code, Chapter 43, Sub-Chapter C-3, Section 43.0672, prior to the City's consideration of an ordinance annexing the Subject Property, it being understood, acknowledged and agreed by the Parties that annexation of the Subject Property is a condition precedent to this Agreement becoming effective; and

WHEREAS, this Agreement shall be deemed effective on the effective date of an ordinance approved by the City annexing the Subject Property (hereinafter, the "Effective Date"); and

WHEREAS, the Subject Property is not included in the municipal annexation plan and is exempt from the requirements thereof; and

WHEREAS, the infrastructure provided for herein and that are existing are sufficient to service the Subject Property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City; and

WHEREAS, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapter 43, Loc. Gov't. Code*, to annex the Subject Property into the City; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

The following services and schedule represent the provision of services agreed to between the Landowner of the Subject Property and the City establishing a program under which the City will provide municipal services to the Subject Property, as required by section 43.0672 of the Texas Local Government Code. The services detailed herein will be provided at a level consistent with service levels provided to other similarly situated areas within the City.

The following services will be provided for the Subject Property on the Effective Date of annexation:

(1) **General Municipal Services.** Pursuant to the requests of the owner and this Agreement, the following services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City. Upon annexation, police protection will be provided to the Subject Property at a level consistent with the service to other areas of the City with similar population density and characteristics. The City's police services include neighborhood patrols, criminal investigations, crime prevention, community services and school programs.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present personnel and equipment.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City. The City provides residential solid waste collection services within the City limits for a fee under a contract between the City and private refuse collection operator. The residential solid waste collection services include garbage collection, recycling, bulky item collection and yard waste collection. Commercial solid waste collection services are also available. This service will be provided for a fee to any person within the Subject Property requesting the service after the Effective Date of annexation, provided that a privately owned solid waste management service provider is unavailable. If the Subject Property is already receiving service, the City may not prohibit solid waste collection by the privately owned solid waste management service provider, nor may the City offer solid waste collection services for a period of two (2) years following the Effective Date of the annexation unless a privately owned solid waste management service provider is or becomes unavailable, as established by Texas Local Government Code section 43.0661. If a landowner uses the services of a privately owned solid waste management service provider or services are available from a privately owned solid waste management service provider during the two (2) years following annexation, the City will not provide solid waste collection services to that landowner.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of City-owned parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities. Municipal Court and General Administration services will also be available to property owners and residents in the Subject Property on the same basis those facilities are available to current City property owners and residents.

G. Maintenance of other City facilities, buildings, and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned "SFR-1-B" with the intent to rezone the Subject Property upon request of the landowner or staff. The

Planning & Zoning Commission and the City Council will consider rezoning the Subject Property at future times in response to requests submitted by the Landowners or authorized city staff. The City will impose and enforce its adopted ordinances, including but not limited to, zoning, subdivision development, site development and building code regulations within the Subject Property upon the Effective Date of the annexation. Enforcement will be in accordance with City ordinances. Development plans and plats for projects within the Subject Property will be reviewed for compliance with City standards.

(2) **Scheduled Municipal Services.** Due to the size and vacancy of the Subject Property, the plans and schedule for the development of the Subject Property, the following municipal services will be provided on a schedule and at increasing levels of service as provided herein:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of water service, water service will be provided to the Subject Property, or applicable portions thereof, by the utility holding a water certificate of convenience and necessity ("CCN") for the Subject Property, or portions thereof as applicable, or absent a water CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's water utility system, the Subject Property's owner shall construct the internal water lines and pay the costs of line extension and construction of such facilities necessary to provide water service to the Subject Property as required in City ordinances. Upon acceptance of the water lines within the Subject Property and any off-site improvements, water service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City; subject to all the ordinances, regulations and policies of the City in effect from time to time. The system will be accepted and maintained by the City in accordance with its usual acceptance and maintenance policies. New water line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances of the City in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a water well that is in use on the effective date of the annexation and is in compliance with applicable rules and regulations shall be permitted and such use may continue until the Subject Property's owner requests and is able to connect to the City's water utility system.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of wastewater service, wastewater service will be provided to the subjects property, or applicable portions thereof, by the utility holding a wastewater CCN for the Subject Property, or portions thereof as applicable, or absent a wastewater CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of wastewater service. If connected to the City's wastewater utility system, the Subject Property's owner shall construct the internal wastewater lines and pay the costs of line

extension and construction of facilities necessary to provide wastewater service to the Subject Property as required in City ordinances. Upon acceptance of the wastewater lines within the Subject Property and any off-site improvements, wastewater service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The wastewater system will be accepted and maintained by the City in accordance with its usual policies. Requests for new wastewater line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a septic system that is in use on the effective date of the annexation and is in compliance with all applicable rules and regulations shall be permitted and such use may continue until the Subject Property owner requests and is able to connect to the City's wastewater utility system.

C. Maintenance of streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on existing public streets within the Subject Property and other streets that are hereafter constructed and finally accepted by the City. The maintenance of the streets and roads will be limited as follows:

1. Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.; and

2. Routine maintenance as presently performed by the City.

D. The City will maintain existing public streets within the Subject Property, and following installation and acceptance of new roadways by the City as provided by city ordinance, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain such newly constructed public streets, roadways and rights-of-way within the boundaries of the Subject Property, as follows:

(i) As provided in C(i)(1) and C(i)(2) above;

(ii) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(iii) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(iv) Installation and maintenance of street lighting in accordance with established policies of the City;

E. The outer boundaries of the Subject Property abut existing roadways. The Landowner agrees that no improvements are required on such roadways to service the Subject Property.

(3) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the Subject Property or redevelopment, the Landowner will be responsible for the development costs the same as a developer in a similarly situated area

under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the Subject Property the same as similarly situated properties. When deemed necessary, capital improvement acquisition or construction will occur in accordance with applicable ordinances and regulations and the adopted capital improvement plans of the City, as applicable and amended, which are incorporated herein by reference.

(4) **Term.** If not previously expired, this agreement expires at the end of ten (10) years.

(5) **Property Description.** The legal description of the Subject Property is as set forth in the Annexation Ordinance and exhibits attached to the Annexation Ordinance to which this Agreement is attached.

(6) **Binding Effect/Authority.** This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns. Each Party further warrants that each signatory to this Agreement is legally authorized to bind the respective individual or entity for the purposes established herein.

(7) **Choice of Law.** This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for any dispute shall lie exclusively in Williamson County, Texas.

(8) **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory Parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

(9) **Legal Construction.** If any provision in this Agreement is for any reason found to be unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

(10) **Entire Agreement.** This Agreement contains the entire Agreement between the Parties relating to the rights herein granted and the obligations herein assumed and cannot be varied except by written agreement of the Parties. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the Party to be charged.

EXECUTED and AGREED to by the Parties this the ____ day of _____, 20__.

ATTEST:

THE CITY OF LEANDER, TEXAS

Dara Crabtree, City Secretary

Todd Parton, City Manager

LANDOWNER(S):

By: Ashok M. Parmar
Name: Ashok M. Parmar
Title: Landowner
Address 2104 Brighton Park Dr.
Bakersfield, CA 93311
County Kern

By: _____
Name: _____
Title: _____
Address _____
County _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared _____, owner of the Subject Property and Petitioner herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that they had authority to bind the entity and that they executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____ 20__.

(SEAL)

Notary Public - State of Texas

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

KERN

On APRIL 26, 2024

Date

before me, ARLENE BRAGANZA, NOTARY PUBLIC

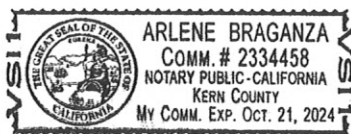
Here Insert Name and Title of the Officer

personally appeared

ASHOK PARMAR

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

ArBraganza
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Agreement Regarding Post-Annexation

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: Q

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

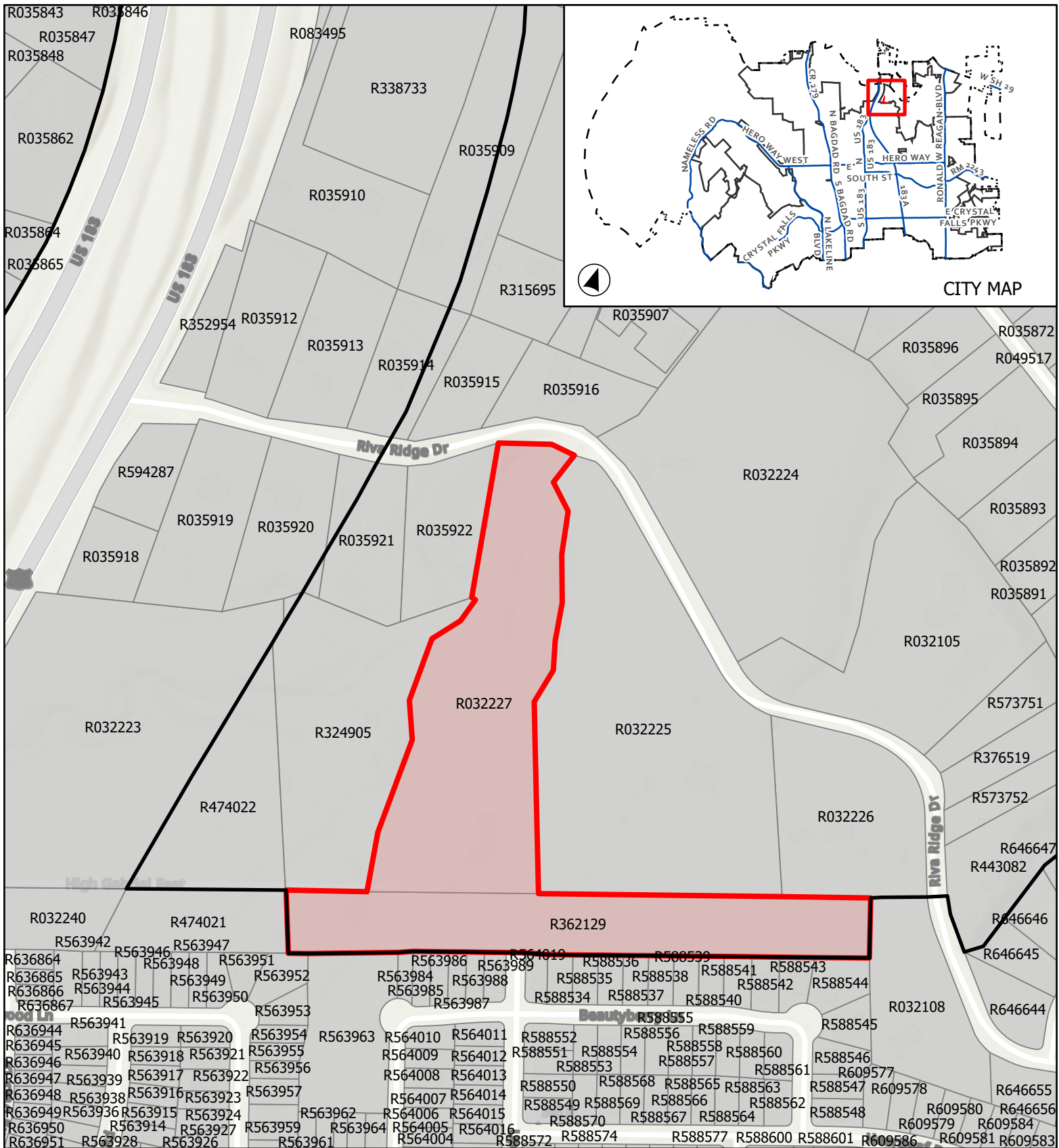
☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

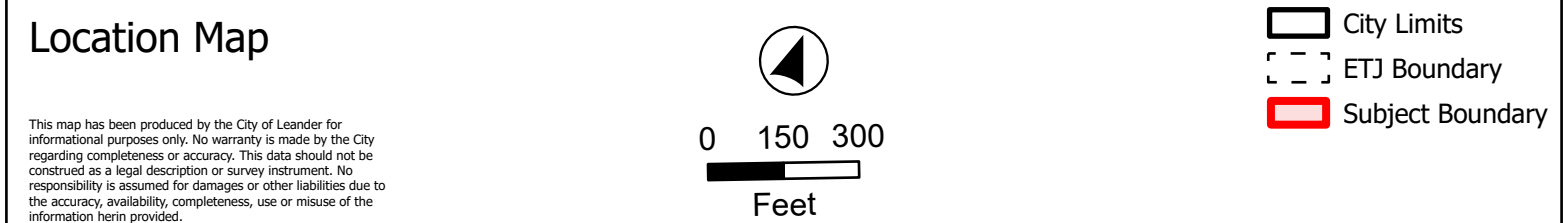
☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer is Representing: _____



CASE: A-24-0011 ATTACHMENT 2 HIGH GABRIEL TOWNSHIP VOLUNTARY ANNEXATION



Schedule for Voluntary Annexation
7.505 +/- ACRES IN WILLIAMSON COUNTY

[illegible]

Thursday, December 19, 2024 Or at a special called meeting after the First Reading; Or within 90 days of First Reading. Tuesday December 10, 2024 – Council packet deadline	SECOND & FINAL READING OF ORDINANCE REGULAR MEETING	Second reading of annexation Ordinance – City Charter, Section 4.06(c)
Within 30 days of Second Reading	CITY SENDS COPY OF MAP showing boundary changes to County Voter Registrar in a format that is compatible with mapping format used by registrar	Elec. Code §42.0615
Within 60 days of Second Reading	CITY PROVIDES CERTIFIED COPY OF ORDINANCE AND MAPS TO: 1. County Clerk 2. County Appraisal District 3. County Tax Assessor Collector 4. 911 Addressing 5. Sheriff's Office 6. City Department Heads 7. State Comptroller 8. Franchise Holders ESD - if annexed area located in district and city intends to remove the area from the district and be the sole provider of emergency services; See Health and Safety Code, Section 775.022	Williamson County ESD No. 5: Notice must be sent to the secretary of the ESD board by certified mail, return receipt requested, as applicable Leander is located in Williamson and Travis Counties. Confirm which ESD needs notice of disannexation.

***Dates in BOLD are MANDATORY dates to follow. Please advise of schedule deviation.**



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of a Resolution accepting the petition for the Simpson Tract Annexation Case A-24-0017 regarding the voluntary annexation of 28.12 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcel R338811; and generally located southeast of the intersection of Mineral Drive and CR 175, Leander, Williamson County, Texas.

BACKGROUND:

This resolution commences the voluntary annexation of 28.12 acres $\pm$ as described above. This property is currently subject to an agricultural tax exemption and an annexation development agreement. The annexation development agreement requires annexation once the property owner sells the property for redevelopment or redevelops the property. Proposed development for the property includes large lot residential development to the south of the Trails at Leander subdivision. This agenda item does not include a zoning request. A separate public hearing will be held to discuss the zoning request.

The resolution sets the public hearing for December 5, 2024, and the readings of the ordinance for December 5, 2024, and December 19, 2024.

Approval of this item initiates the annexation process and does not approve the annexation. Zoning Case Z-24-0149 is associated with this annexation.

HISTORY/TIMELINE:

APPLICANT/AGENT:

Kimley-Horn Associates (Ethan Harwell) on behalf of The Estate of Peggy Borho Simpson (Chirsty Simpson Ledbetter)

RECOMMENDATION:

Staff recommends approval.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. A-24-0017 Att 1 Simpson - Resolution
2. A-24-0017 Att 2 Location Map - Simpson Tract
3. A-24-0017 Att 3 Annexation Schedule - Simpson Tract

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF LEANDER, TEXAS, ACCEPTING THE PETITION FOR ANNEXATION OF 28.12 ACRES, MORE OR LESS, OF LAND LOCATED IN WILLIAMSON COUNTY, TEXAS; SETTING AN ANNEXATION SCHEDULE; PROVIDING FOR OPEN MEETINGS AND OTHER RELATED MATTERS.

WHEREAS, the executor of the estate containing a certain property located within Williamson County, Texas, has petitioned the City of Leander, Texas, (hereinafter, the “City”), a home-rule City, for annexation of said property, more particularly described in **Exhibit A** attached hereto and incorporated by reference herein (the, “Subject Property”), into the City limits; and

WHEREAS, the Subject Property is contiguous and adjacent to the corporate limits of the City and the owner(s) have made application for annexation; and

WHEREAS, after review and consideration of such requests and petition for annexation from the owners of the Subject Property, the City Council finds that the Subject Property may be annexed pursuant to §43.0671 of the *Local Government Code*; and

WHEREAS, the petitioner has agreed and consented to the annexation of the Subject Property by the City and further agreed to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted.

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Proceedings. The petition for annexation, attached hereto as **Exhibit A**, of the Subject Property described hereinbelow and further described in **Exhibit B** and the service plan attached hereto as **Exhibit C**, are hereby accepted (all exhibits described herein are incorporated by reference herein for all purposes).

Subject Property:

BEING a 28.12 acres tract of land situated in the Anastasha Carr Survey, Abstract 122, Williamson County, Texas; and being a portion of a called 28.280 acres tract of land to Peggy Borho Simpson, as shown on instrument recorded under Document No. 2024032193, of the Official Public Records of Williamson County, Texas (O.P.W.C.T.), said 28.280 acres tract described in Vol. 2542, PG. 838, O.P.W.C.T.

A public hearing has been set for the date of the 5th day of December, 2024. Notice of such hearing shall be posted and the hearing shall be open to the public to accept public comment on the annexation request. In the event of a conflict between the Subject Property description contained herein, **Exhibit**

B shall control.

Section 3. Severability. Should any section or part of this Resolution be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Resolution are declared to be severable.

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED this the 7th day of November, 2024.

ATTEST:

THE CITY OF LEANDER, TEXAS

Dara Crabtree, City Secretary

Christine DeLisle, Mayor

Exhibit A
PETITION
(SEE ATTACHED)

STATE OF TEXAS

§

COUNTY OF WILLIAMSON

§

§

REQUEST & PETITION TO THE CITY COUNCIL OF THE CITY OF LEANDER
FOR ANNEXATION OF PROPERTY

WHEREAS, the undersigned is the executor of the Estate of Peggy Borho Simpson and the aforementioned estate contains a property located within Williamson County, Texas, such properties being more particularly described hereinafter by true and correct legal descriptions (the, "Subject Property"); and

WHEREAS, the undersigned has sought the annexation of the Subject Property by the City of Leander, Texas, (hereinafter sometimes referred to as "City"), in order to obtain the benefits of City services to the Subject Property by the City; and

WHEREAS, the Subject Property is contiguous and adjacent to the corporate limits of the City; and

WHEREAS, the City, pursuant to §43.003, *Tex. Loc. Gov't. Code* and the request of the property owner, is authorized to annex the Subject Property; and

WHEREAS, pursuant to §43.0672, *Tex. Loc. Gov't. Code*, the City and the undersigned have negotiated and entered into a written agreement for the provision of services to the Subject Property, said agreement being attached hereto as **Exhibit A** and incorporated by reference herein; and

WHEREAS, the undersigned agrees and consents to the annexation of the Subject Property by the City and further agrees to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted.

NOW THEREFORE, the undersigned by this Petition and Request:

SECTION ONE: Requests the City Council of the City to commence annexation proceedings and to annex into the corporate limits of the City of Leander, Texas, of all portions of the Subject Property described as follows:

SEE EXHIBIT B ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN FOR ALL PURPOSES.

SECTION TWO: Requests that after annexation the City provide such services as are legally permissible and provided by the City, including sanitation, water and general governmental services as set forth in the written agreement regarding the provision of services attached hereto as **Exhibit A**.

SECTION THREE: Acknowledges executing and entering into the agreement, attached

hereto as Exhibit A, and that such agreement is wholly adequate and acceptable to the undersigned who hereby requests the City Council to proceed with the annexation and to publish notice and hold the requisite public hearing thereon, in accordance with the applicable laws of the State of Texas.

SECTION FOUR: Acknowledges that the undersigned understands and agrees that all City services to the Subject Property will be provided by the City on the same terms and conditions as provided to other similarly situated areas of the City and as provided in the written agreement regarding the provision of services attached hereto as Exhibit A.

SECTION FIVE: Agrees that a copy of this Request and Petition may be filed of record in the offices of the City of Leander and in the real property records of Williamson County, Texas, and shall be notice to and binding upon all persons or entities now or hereafter having any interest in the Subject Property.

FILED, this 24th day of October 2024, with the City Secretary of the City of Leander, Williamson County, Texas.

Petitioner(s):

By: Christy Simpson Ledbetter
Christy Simpson Ledbetter
Independent Executor of the Estate of Peggy Borho Simpson
Williamson County, Texas, No. 24-0422-CP4

STATE OF TEXAS

§
§
§

COUNTY OF TEXAS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Christy Simpson Ledbetter, Executor of the Estate of Peggy Borho Simpson and Petitioner herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that they had authority to bind the entity and that they executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 21st day of October 2024.

(SEAL)

Ashley Brake
Notary Public - State of Texas

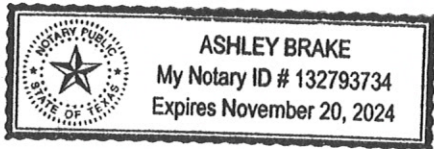


Exhibit B

PROPERTY DESCRIPTION

[SEE ATTACHED]

LEGAL DESCRIPTION:
28.12 ACRES

BEING A 28.12 ACRES TRACT OF LAND SITUATED IN THE ANASTASHA CARR SURVEY, ABSTRACT 122, WILLIAMSON COUNTY, TEXAS; AND BEING A PORTION OF A CALLED 28.280 ACRES TRACT OF LAND TO PEGGY BORHO SIMPSON, AS SHOWN ON INSTRUMENT RECORDED UNDER DOCUMENT NO. 2024032193, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, (O.P.R.W.C.T.); SAID 28.280 ACRES TRACT DESCRIBED IN VOL. 2542, PG. 838, O.P.R.W.C.T.; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH IRON ROD FOUND, IN THE NORTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 172, A VARIABLE RIGHT-OF-WAY WIDTH, SAME BEING THE NORTH BOUNDARY LINE OF SAID 28.280 ACRES TRACT, FOR THE NORTHWEST CORNER OF A CALLED 6,650 SQ. FT. TRACT OF LAND DESCRIBED TO WILLIAMSON COUNTY, TEXAS, AS SHOWN ON INSTRUMENT RECORDED UNDER DOCUMENT NO. 2009016238, O.P.R.W.C.T.; SAME BEING THE SOUTHWEST CORNER OF BORHO, PHASE 5, A LEGAL SUBDIVISION AS SHOWN ON PLAT RECORDED UNDER DOCUMENT NO. 2014079128, O.P.R.W.C.T.;

THENCE, DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 175, WITH SAID NORTH BOUNDARY LINE OF THE 28.280 ACRES TRACT, SAME BEING THE SOUTH BOUNDARY LINE OF SAID BORHO, PHASE 5 AND THE SOUTH BOUNDARY LINE BORHO, PHASE 6, A LEGAL SUBDIVISION AS SHOWN ON PLAT RECORDED UNDER DOCUMENT NO. 2016070584, O.P.R.W.C.T.; NORTH 68°19'07" EAST, A DISTANCE OF 1,845.69 FEET TO A 1/2-INCH IRON ROD FOUND, IN THE WEST BOUNDARY LINE OF A CALLED 558.26 ACRES TRACT OF LAND DESCRIBED TO WILLIAMSON COUNTY, TEXAS, AS SHOWN ON INSTRUMENT RECORDED UNDER DOCUMENT NO. 2006065107, O.P.R.W.C.T.; FOR THE NORTHEAST CORNER OF SAID 28.280 ACRES TRACT, SAME BEING THE SOUTHEAST CORNER OF SAID BORHO, PHASE 6;

THENCE, WITH SAID WEST BOUNDARY LINE OF THE 558.26 ACRES TRACT, SAME BEING THE EAST BOUNDARY LINE OF SAID 28.280 ACRES TRACT, SOUTH 20°16'49" EAST, A DISTANCE OF 700.00 FEET TO A 1/2-INCH IRON ROD FOUND, FOR THE SOUTHEAST CORNER OF SAID 28.280 ACRES TRACT;

THENCE, CONTINUING WITH SAID WEST BOUNDARY LINE OF THE 558.26 ACRES TRACT, SAME BEING THE SOUTH BOUNDARY LINE OF THE 558.26 ACRES TRACT, THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. SOUTH 69°10'56" WEST, A DISTANCE OF 590.99 FEET TO A 1/2-INCH IRON ROD FOUND;
2. SOUTH 69°13'26" WEST, A DISTANCE OF 532.19 FEET TO A 1/2-INCH IRON ROD FOUND;
3. SOUTH 69°45'16" WEST, A DISTANCE OF 245.66 FEET TO A 1/2-INCH IRON ROD FOUND, FOR THE NORTHEAST CORNER OF A CALLED 0.782 ACRES TRACT OF LAND DESCRIBED TO AVULA HOLDINGS LLC AND VD INVESTMENTS & MANAGEMENT, LLC, AS SHOWN ON INSTRUMENT RECORDED UNDER DOCUMENT NO. 2022009487, O.P.R.W.C.T.;

THENCE, DEPARTING SAID WEST BOUNDARY LINE OF THE 558.26 ACRES TRACT, CONTINUING WITH SAID SOUTH BOUNDARY LINE OF THE 28.280 ACRES TRACT, SAME BEING THE NORTHWEST BOUNDARY LINE OF SAID 0.782 ACRES TRACT, SOUTH 69°39'56" WEST, A DISTANCE OF 361.95 FEET TO A 1/2-INCH IRON ROD FOUND, IN SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 175, FOR THE SOUTHWEST CORNER OF SAID 28.280 ACRES TRACT, SAME BEING THE NORTHWEST CORNER OF SAID 0.782 ACRES TRACT;

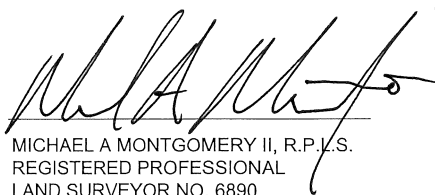
THENCE, WITH SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 175, THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

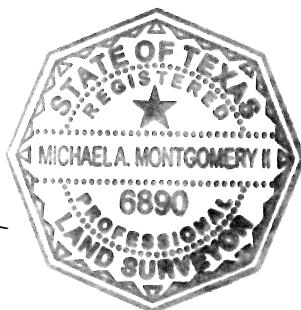
1. NORTH 31°39'29" WEST, A DISTANCE OF 57.25 FEET TO A 1/2-INCH IRON ROD WITH PLASTIC CAP STAMPED "KHA" SET;
2. NORTH 29°56'54" WEST, A DISTANCE OF 352.36 FEET TO A 1/2-INCH IRON ROD WITH PLASTIC CAP STAMPED "KHA" SET;
3. NORTH 23°35'34" WEST, A DISTANCE OF 45.17 FEET TO A 1/2-INCH IRON ROD WITH PLASTIC CAP STAMPED "KHA" SET, FOR THE BEGINNING OF A CURVE;
4. WITH SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 02°04'48", A RADIUS OF 6,075.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 31°04'39" WEST, 220.54 FEET, AND AN ARC LENGTH OF 220.55 FEET TO THE **POINT OF BEGINNING** AND CONTAINING 28.12 ACRES OF LAND, MORE OR LESS, IN WILLIAMSON COUNTY, TEXAS. THIS DOCUMENT WAS PREPARED IN THE OFFICE OF KIMLEY-HORN INC. IN AUSTIN, TEXAS.

SURVEYOR'S NOTES:

BASIS OF BEARINGS IS THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203). ALL COORDINATES AND DISTANCES SHOWN HEREON ARE SURFACE VALUES. THE SURFACE ADJUSTMENT FACTOR IS 1.00012. THE UNIT OF LINEAR MEASUREMENT IS U.S. SURVEY FEET.

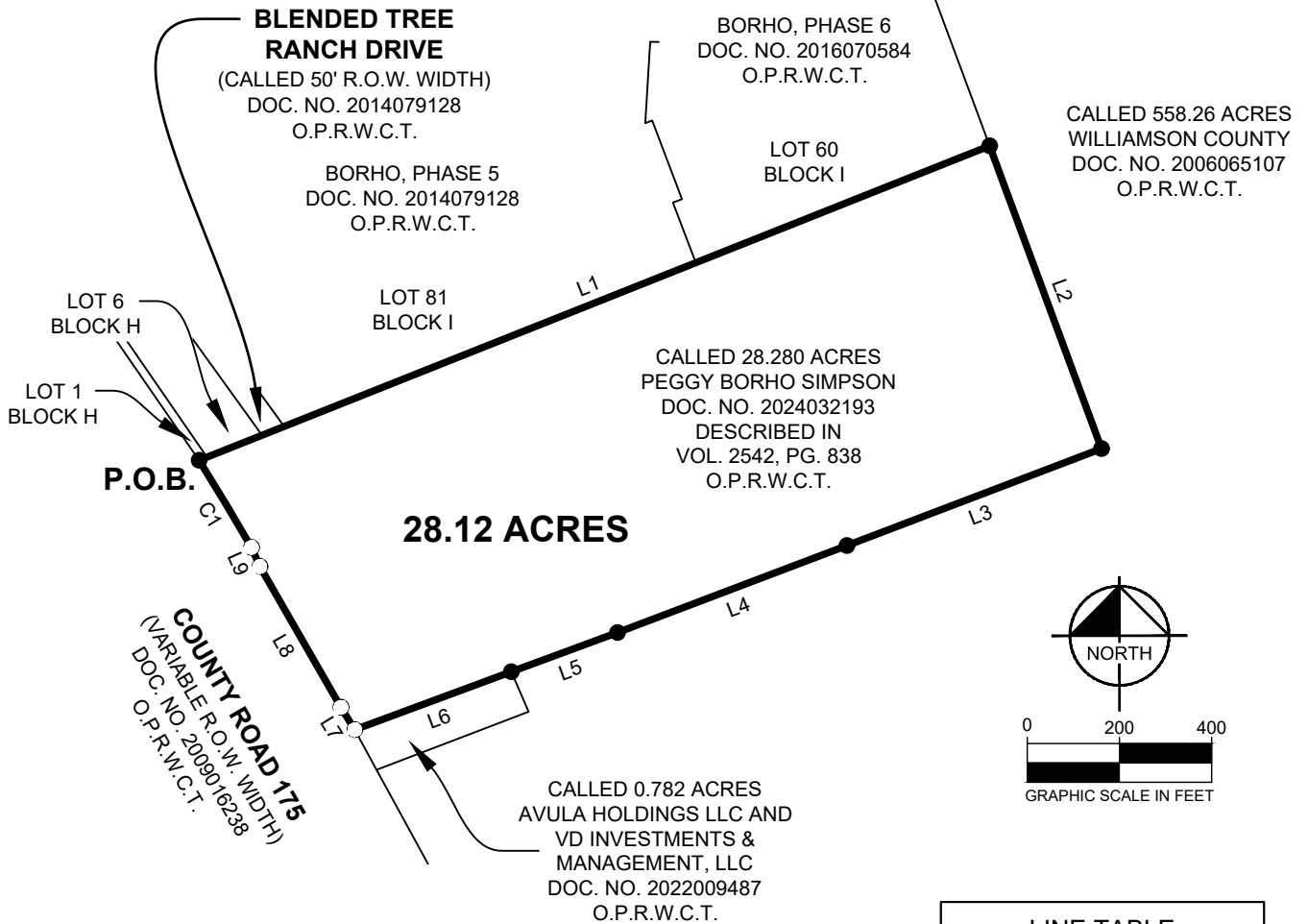
THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE §138.95, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.


MICHAEL A. MONTGOMERY II, R.P.L.S.
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6890



LEGAL DESCRIPTION
28.12 ACRES
BEING A PORTION OF THE
ANASTASHA CARR SURVEY, ABSTRACT 122
WILLIAMSON COUNTY, TEXAS

Kimley»Horn					
10814 JOLLYVILLE ROAD, CAMPUS IV SUITE 200, AUSTIN, TEXAS 78759 TEL. NO. (512) 418-1771 WWW.KIMLEY-HORN.COM					
SCALE	DRAWN BY	CHECKED BY	DATE	PROJECT NO.	SHEET NO.
N/A	RPP	MMII	10/4/2024	067783185	1 OF 2



LEGEND	
●	= 1/2" IRON ROD FOUND
○	= 1/2" IRON ROD W/ "KHA" CAP SET
O.P.R.W.C.T.	= OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS

LINE TYPE LEGEND	
—	PROPERTY LINE
- - -	ADJOINER LINE

CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	2°04'48"	6075.00'	220.55'	N31°04'39"W	220.54'

LINE TABLE		
NO.	BEARING	LENGTH
L1	N68°19'07"E	1845.69'
L2	S20°16'49"E	700.00'
L3	S69°10'56"W	590.99'
L4	S69°13'26"W	532.19'
L5	S69°45'16"W	245.66'
L6	S69°39'56"W	361.95'
L7	N31°39'29"W	57.25'
L8	N29°56'54"W	352.36'
L9	N23°35'34"W	45.17'

SURVEYOR'S NOTES:

BASIS OF BEARINGS IS THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203). ALL COORDINATES AND DISTANCES SHOWN HEREON ARE SURFACE VALUES. THE SURFACE ADJUSTMENT FACTOR IS 1.00012. THE UNIT OF LINEAR MEASUREMENT IS U.S. SURVEY FEET.

THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE §138.95, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

EXHIBIT
28.12 ACRES
BEING A PORTION OF THE
ANASTASHA CARR SURVEY, ABSTRACT 122
WILLIAMSON COUNTY, TEXAS

10814 JOLLYVILLE ROAD, CAMPUS IV
SUITE 200, AUSTIN, TEXAS 78759
TEL. NO. (512) 418-1771
WWW.KIMLEY-HORN.COM

SCALE 1" = 400'	DRAWN BY RPP	CHECKED BY MMII	DATE 10/4/2024	PROJECT NO. 067783185	SHEET NO. 2 OF 2
--------------------	-----------------	--------------------	-------------------	--------------------------	---------------------

Exhibit C

SERVICE AGREEMENT

[SEE ATTACHED]

**AGREEMENT REGARDING POST-ANNEXATION PROVISION OF SERVICES
FOR PROPERTY TO BE ANNEXED INTO THE CITY OF LEANDER**

This Agreement is entered into by and between the City of Leander, Texas, a municipal corporation ("City"), and Christy Simpson Ledbetter, Executor of the Estate of Peggy Borho Simpson ("Landowner"). The City and the Landowner may be referred to herein singularly as "Party" or collectively as the "Parties."

RECITALS

WHEREAS, upon the request of the Landowner, the City intends to institute annexation proceedings for an area of land described more in **Exhibit A** and attached hereto and incorporated by reference herein, less and except any property previously annexed by the City (the, "Subject Property"); and

WHEREAS, Section 43.0672, Loc. Gov't. Code, requires the Parties to enter into a written agreement identifying a list of public services to be provided to the Subject Property and a schedule for the provision of those services that are not otherwise provided on the effective date of the annexation; and

WHEREAS, this Agreement is being entered into by and between the Parties to comply with Texas Local Government Code, Chapter 43, Sub-Chapter C-3, Section 43.0672, prior to the City's consideration of an ordinance annexing the Subject Property, it being understood, acknowledged and agreed by the Parties that annexation of the Subject Property is a condition precedent to this Agreement becoming effective; and

WHEREAS, this Agreement shall be deemed effective on the effective date of an ordinance approved by the City annexing the Subject Property (hereinafter, the "Effective Date"); and

WHEREAS, the Subject Property is not included in the municipal annexation plan and is exempt from the requirements thereof; and

WHEREAS, the infrastructure provided for herein and that are existing are sufficient to service the Subject Property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City; and

WHEREAS, it is found that all statutory requirements have been satisfied and the City is authorized by *Chapter 43, Loc. Gov't. Code*, to annex the Subject Property into the City; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

The following services and schedule represent the provision of services agreed to between the Landowner of the Subject Property and the City establishing a program under which the City will provide municipal services to the Subject Property, as required by section 43.0672 of the Texas Local Government Code. The services detailed herein will be provided at a level consistent with service levels provided to other similarly situated areas within the City.

The following services will be provided for the Subject Property on the Effective Date of annexation:

(1) **General Municipal Services.** Pursuant to the requests of the owner and this Agreement, the following services shall be provided immediately from the effective date of the annexation:

A. Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City. Upon annexation, police protection will be provided to the Subject Property at a level consistent with the service to other areas of the City with similar population density and characteristics. The City's police services include neighborhood patrols, criminal investigations, crime prevention, community services and school programs.

B. Fire protection and Emergency Medical Services as follows:

Fire protection by the present personnel and equipment of the City fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present personnel and equipment.

C. Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City. The City provides residential solid waste collection services within the City limits for a fee under a contract between the City and private refuse collection operator. The residential solid waste collection services include garbage collection, recycling, bulky item collection and yard waste collection. Commercial solid waste collection services are also available. This service will be provided for a fee to any person within the Subject Property requesting the service after the Effective Date of annexation, provided that a privately owned solid waste management service provider is unavailable. If the Subject Property is already receiving service, the City may not prohibit solid waste collection by the privately owned solid waste management service provider, nor may the City offer solid waste collection services for a period of two (2) years following the Effective Date of the annexation unless a privately owned solid waste management service provider is or becomes unavailable, as established by Texas Local Government Code section 43.0661. If a landowner uses the services of a privately owned solid waste management service provider or services are available from a privately owned solid waste management service provider during the two (2) years following annexation, the City will not provide solid waste collection services to that landowner.

D. Animal control as follows:

Service by present personnel, equipment and facilities or by contract with a third party, as provided within the City.

E. Maintenance of City-owned parks and playgrounds within the City.

F. Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities. Municipal Court and General Administration services will also be available to property owners and residents in the Subject Property on the same basis those facilities are available to current City property owners and residents.

G. Maintenance of other City facilities, buildings, and service.

H. Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned "SFR-1-B" with the intent to rezone the Subject Property upon request of the landowner or staff. The

Planning & Zoning Commission and the City Council will consider rezoning the Subject Property at future times in response to requests submitted by the Landowners or authorized city staff. The City will impose and enforce its adopted ordinances, including but not limited to, zoning, subdivision development, site development and building code regulations within the Subject Property upon the Effective Date of the annexation. Enforcement will be in accordance with City ordinances. Development plans and plats for projects within the Subject Property will be reviewed for compliance with City standards.

(2) **Scheduled Municipal Services.** Due to the size and vacancy of the Subject Property, the plans and schedule for the development of the Subject Property, the following municipal services will be provided on a schedule and at increasing levels of service as provided herein:

A. Water service and maintenance of water facilities as follows:

(i) Inspection of water distribution lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of water service, water service will be provided to the Subject Property, or applicable portions thereof, by the utility holding a water certificate of convenience and necessity ("CCN") for the Subject Property, or portions thereof as applicable, or absent a water CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City's water utility system, the Subject Property's owner shall construct the internal water lines and pay the costs of line extension and construction of such facilities necessary to provide water service to the Subject Property as required in City ordinances. Upon acceptance of the water lines within the Subject Property and any off-site improvements, water service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City; subject to all the ordinances, regulations and policies of the City in effect from time to time. The system will be accepted and maintained by the City in accordance with its usual acceptance and maintenance policies. New water line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances of the City in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a water well that is in use on the effective date of the annexation and is in compliance with applicable rules and regulations shall be permitted and such use may continue until the Subject Property's owner requests and is able to connect to the City's water utility system.

B. Wastewater service and maintenance of wastewater service as follows:

(i) Inspection of sewer lines as provided by statutes of the State of Texas.

(ii) In accordance with the applicable rules and regulations for the provision of wastewater service, wastewater service will be provided to the subjects property, or applicable portions thereof, by the utility holding a wastewater CCN for the Subject Property, or portions thereof as applicable, or absent a wastewater CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of wastewater service. If connected to the City's wastewater utility system, the Subject Property's owner shall construct the internal wastewater lines and pay the costs of line

extension and construction of facilities necessary to provide wastewater service to the Subject Property as required in City ordinances. Upon acceptance of the wastewater lines within the Subject Property and any off-site improvements, wastewater service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The wastewater system will be accepted and maintained by the City in accordance with its usual policies. Requests for new wastewater line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a septic system that is in use on the effective date of the annexation and is in compliance with all applicable rules and regulations shall be permitted and such use may continue until the Subject Property owner requests and is able to connect to the City's wastewater utility system.

C. Maintenance of streets and rights-of-way as appropriate as follows:

(i) Provide maintenance services on existing public streets within the Subject Property and other streets that are hereafter constructed and finally accepted by the City. The maintenance of the streets and roads will be limited as follows:

1. Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.; and

2. Routine maintenance as presently performed by the City.

D. The City will maintain existing public streets within the Subject Property, and following installation and acceptance of new roadways by the City as provided by city ordinance, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain such newly constructed public streets, roadways and rights-of-way within the boundaries of the Subject Property, as follows:

(i) As provided in C(i)(1) and C(i)(2) above;

(ii) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(iii) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(iv) Installation and maintenance of street lighting in accordance with established policies of the City;

E. The outer boundaries of the Subject Property abut existing roadways. The Landowner agrees that no improvements are required on such roadways to service the Subject Property.

(3) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the effective date of the annexation: None. Upon development of the Subject Property or redevelopment, the Landowner will be responsible for the development costs the same as a developer in a similarly situated area

under the ordinances in effect at the time of development or redevelopment. No additional capital improvements are necessary at this time to service the Subject Property the same as similarly situated properties. When deemed necessary, capital improvement acquisition or construction will occur in accordance with applicable ordinances and regulations and the adopted capital improvement plans of the City, as applicable and amended, which are incorporated herein by reference.

(4) **Term.** If not previously expired, this agreement expires at the end of ten (10) years.

(5) **Property Description.** The legal description of the Subject Property is as set forth in the Annexation Ordinance and exhibits attached to the Annexation Ordinance to which this Agreement is attached.

(6) **Binding Effect/Authority.** This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns. Each Party further warrants that each signatory to this Agreement is legally authorized to bind the respective individual or entity for the purposes established herein.

(7) **Choice of Law.** This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for any dispute shall lie exclusively in Williamson County, Texas.

(8) **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory Parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

(9) **Legal Construction.** If any provision in this Agreement is for any reason found to be unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

(10) **Entire Agreement.** This Agreement contains the entire Agreement between the Parties relating to the rights herein granted and the obligations herein assumed and cannot be varied except by written agreement of the Parties. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the Party to be charged.

EXECUTED and AGREED to by the Parties this the ____ day of _____, 20__.

ATTEST:

THE CITY OF LEANDER, TEXAS

Dara Crabtree, City Secretary

Todd Parton, City Manager

LANDOWNER(S):

Christy Simpson Ledbetter

Christy Simpson Ledbetter

Executor of the Estate of Peggy Borho Simpson

Williamson County No. 24-422-CP4

Date: 10-24-2024

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

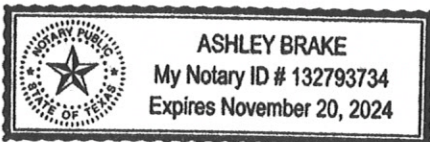
BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Christy Simpson Ledbetter, executor of the Estate of Peggy Borho Simpson, and Petitioner herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that they had authority to bind the entity and that they executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 24th day of October 2024.

(SEAL)

Ashley Brake

Notary Public - State of Texas



Schedule for Voluntary Annexation 28.12 +/- ACRES IN WILLIAMSON COUNTY

[illegible]

Thursday, December 19, 2024 Or at a special called meeting after the First Reading; Or within 90 days of First Reading. Tuesday December 10, 2024 – Council packet deadline	SECOND & FINAL READING OF ORDINANCE REGULAR MEETING	Second reading of annexation Ordinance – City Charter, Section 4.06(c)
Within 30 days of Second Reading	CITY SENDS COPY OF MAP showing boundary changes to County Voter Registrar in a format that is compatible with mapping format used by registrar	Elec. Code §42.0615
Within 60 days of Second Reading	CITY PROVIDES CERTIFIED COPY OF ORDINANCE AND MAPS TO: 1. County Clerk 2. County Appraisal District 3. County Tax Assessor Collector 4. 911 Addressing 5. Sheriff's Office 6. City Department Heads 7. State Comptroller 8. Franchise Holders ESD - if annexed area located in district and city intends to remove the area from the district and be the sole provider of emergency services; See Health and Safety Code, Section 775.022	Williamson County ESD No. 5: Notice must be sent to the secretary of the ESD board by certified mail, return receipt requested, as applicable Leander is located in Williamson and Travis Counties. Confirm which ESD needs notice of disannexation.

***Dates in BOLD are MANDATORY dates to follow. Please advise of schedule deviation.**



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of a Development Agreement regarding Development Agreement Case DA-24-0008, for the Shanta Ba Plaza Site Development on one (1) parcel of land approximately 2.93 acres ± in size, more particularly described by Williamson County Appraisal District Parcel R516399; generally located at 1528 Arrowfeather Pass, Leander, Williamson County, Texas.

BACKGROUND:

The purpose of this Development Agreement is to implement masonry standards associated with the project. This agreement will allow for the City to enforce the development standards set forth in the agreement through the building permit, inspection, and certificate of occupancy processes by this agreement, given that House Bill 2439 adopted in the 86th Legislative Session limits the ability of cities to enforce certain development standards governing building materials by ordinance.

This agreement requires that all structures are comprised of at least one hundred (100%) percent masonry. Masonry includes stone, brick, stucco, or factory tinted split-faced concrete masonry units. The Composite Zoning Ordinance includes an incentive that allows for a reduction in the building setback requirements when additional masonry is provided as part of the development. The proposed site development complies with the incentive requirements of the zoning ordinance upon approval of the masonry development agreement.

HISTORY/TIMELINE:

APPLICANT/AGENT:

Dynamic Engineering Consultants, PC (Cassandra Huggins) on behalf of DB Land Austin, LLC (Vipul Patel)

RECOMMENDATION:

Staff recommends approval.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. DA-24-0008 Att 1 Shanta ba Plaza - Development Agreement
2. DA-24-0008 Att 2 Exhibit A

**MASONRY DEVELOPMENT AGREEMENT
ESTABLISHING DEVELOPMENT STANDARDS
FOR THE SHANTA BA PLAZA**

This Development Agreement Establishing Development Standards for the **Shanta Ba Plaza Site Plan** (the "Agreement") is made and entered into, effective as of the ____ day of _____, 20____, by and between the **City of Leander, Texas**, a Texas home rule municipal corporation (the "City"), and **DB Land Austin, LLC** (the "Developer"). The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

Section 1. Purpose; Consideration.

- (a) The Developer owns that certain 2.93 acre tract located in Williamson County, Texas, being more particularly described in **Exhibit A** attached hereto and incorporated herein for all purposes (the "Property") and wishes to develop the Property for a grocery store and retail development (the "Development"). The Developer desires that the City be able to enforce the development standards set forth herein through its building permit, inspection, and certificate of occupancy processes by this agreement, given that House Bill 2439 adopted in the 86th Legislative Session limits the ability of cities to enforce certain development standards governing building materials by ordinance.
- (b) The Developer will benefit from the City enforcing the Development Standards as set forth herein because it will be more efficient and cost-effective for compliance to be monitored and enforced through the City's building permit and inspection processes and will help ensure that the Development is built out as planned by the Developer after conveyance to the builder of homes or other buildings and structures authorized by the applicable zoning regulations. The City will benefit from this Agreement by having assurance regarding certain development standards for the Development, having certainty that such Development Standards may be enforced by the City, and preservation of property values within the City.
- (c) The benefits to the Parties set forth in this Article 1, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

Section 2. Term; Termination.

- (a) The term of this Agreement shall be in full force and effect from the Effective Date hereof, subject to earlier termination as provided in this Agreement. Unless earlier terminated as provided in this Agreement, this Agreement shall terminate upon the issuance of the final certificate of occupancy for the final structure in the Development.
- (b) The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer defaults under the terms of this Agreement, subject to the notice and cure provisions in Section 6.

Section 3. Development Standards.

- (a) **Development Requirements.** The exterior wall standards set forth in this section shall apply to the structures located on the Property. At least one hundred percent (100%) of the combined exterior surface area of all walls, including all stories of buildings / structures, shall consist of stone, brick, painted or tinted stucco, or similar material approved by the Director of Planning.
- (b) **Building Permits.** The Developer acknowledges and agrees that compliance with Section 3(a) will be a condition of issuance of building permits and certificates of occupancy. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 3(a) above, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must be in compliance with this Agreement, as well as the Applicable Regulations, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this Agreement must accompany a building permit application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.

Section 4. Development of the Property. Except as modified by this Agreement, the Development and the Property will be developed in accordance with all applicable local, state, and federal regulations, including but not limited to the City's ordinances and the zoning regulations applicable to the Property, and such amendments to City ordinances and regulations that may be applied to the Development and the Property under Chapter 245, Texas Local Government Code, and good engineering practices (the "Applicable Regulations"). If there is a conflict between the Applicable Regulations and the Development Standards, the Development Standards shall control.

Section 5. Assignment of Commitments and Obligations; Covenant Running with the Land.

- (a) Developer's rights and obligations under this Agreement may be assigned by Developer to one (1) or more purchasers of all or part of the Property; provided the City Council must first approve and consent to any such assignment by Developer of this Agreement or of any right or duty of Developer pursuant to this Agreement, which consent shall not be unreasonably withheld or delayed.
- (b) This Agreement shall constitute a covenant that runs with the Property and is binding on future owners of the Property, and a copy of this Agreement shall be recorded in the Official Public Records of Williamson County, Texas. The Developer and the City acknowledge and agree that this Agreement is binding upon the City and the Developer and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 6. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party of written notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable legal remedy not inconsistent with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy. In addition to the other remedies set forth herein, the City may withhold approval of a building permit application or a certificate of occupancy for a structure that does not comply with the Development Standards. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy.

Section 7. Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, and neither party waives any legal right or defense available under law or in equity.

Section 8. Attorneys Fees. In the event of action pursued in court to enforce rights under this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

Section 9. Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

Section 10. Force Majeure.

- (a) The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- (b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by

the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.

- (c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

Section 11. Notices. Any notice to be given hereunder by any party to another party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Leander
Attn: City Manager
P.O. Box 319
Leander, Texas 78641
Williamson County

with copy to:

The Knight Law Firm, LLP
Attn: Paige H. Saenz, Partner
223 West Anderson Lane, Suite A-105
Austin, Texas 78752
Travis County

Any notice mailed to the Developer shall be addressed:

DB Land Austin, LLC
Attn: Vipul Patel
2105 Split Diamond Way
Round Rock, TX 78664
Travis County

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

Section 12. Waiver of Alternative Benefits. The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement, Developer hereby waives any and all claims or causes of action against the City Developer may have for or with respect to any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement.

Section 13. Severability. Should any court declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

Section 14. Agreement and Amendment. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

Section 15. No Joint Venture. The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

Section 16. No Third Party Beneficiaries. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

Section 17. Effective Date. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

Section 18. Recordation. This Agreement shall be recorded in the Official Public Records of Williamson County, Texas.

Section 20. Texas Law Governs. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie exclusively in Williamson County, Texas.

Section 21. Anti-Boycott Verification. To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, the Developer represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (i)

boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms “boycotts Israel” and “boycott Israel” as used in this paragraph have the meanings assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code, as amended.

Section 22. Iran, Sudan and Foreign Terrorist Organizations. To the extent this Agreement constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

Section 23. Time is of the Essence. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

Section 24. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A – Property Description & Sketch

EXECUTED in multiple originals this the ____ day of _____, 20__.

CITY:

City of Leander, Texas

a Texas home-rule municipal corporation

Attest:

By: _____
Name: Dara Crabtree
Title: City Secretary

By: _____
Name: Christine DeLisle
Title: Mayor

THE STATE OF TEXAS
COUNTY OF _____

§
§

This instrument was acknowledged before me on this ____ day of _____, 20__, by _____, Mayor of the City of Leander, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

DEVELOPER:

DB Land Austin, LLC

By: [Signature]

Name: Vipul Patel

Title: Owner

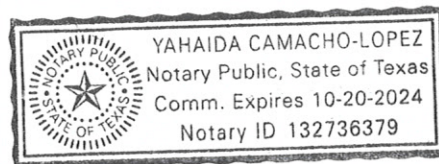
THE STATE OF TEXAS
COUNTY OF Travis

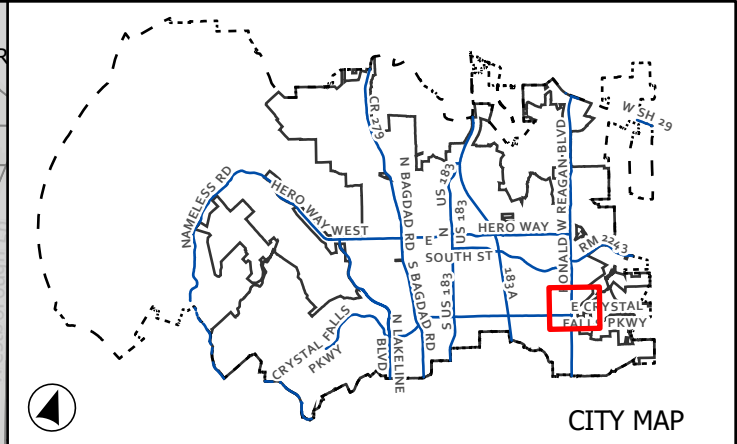
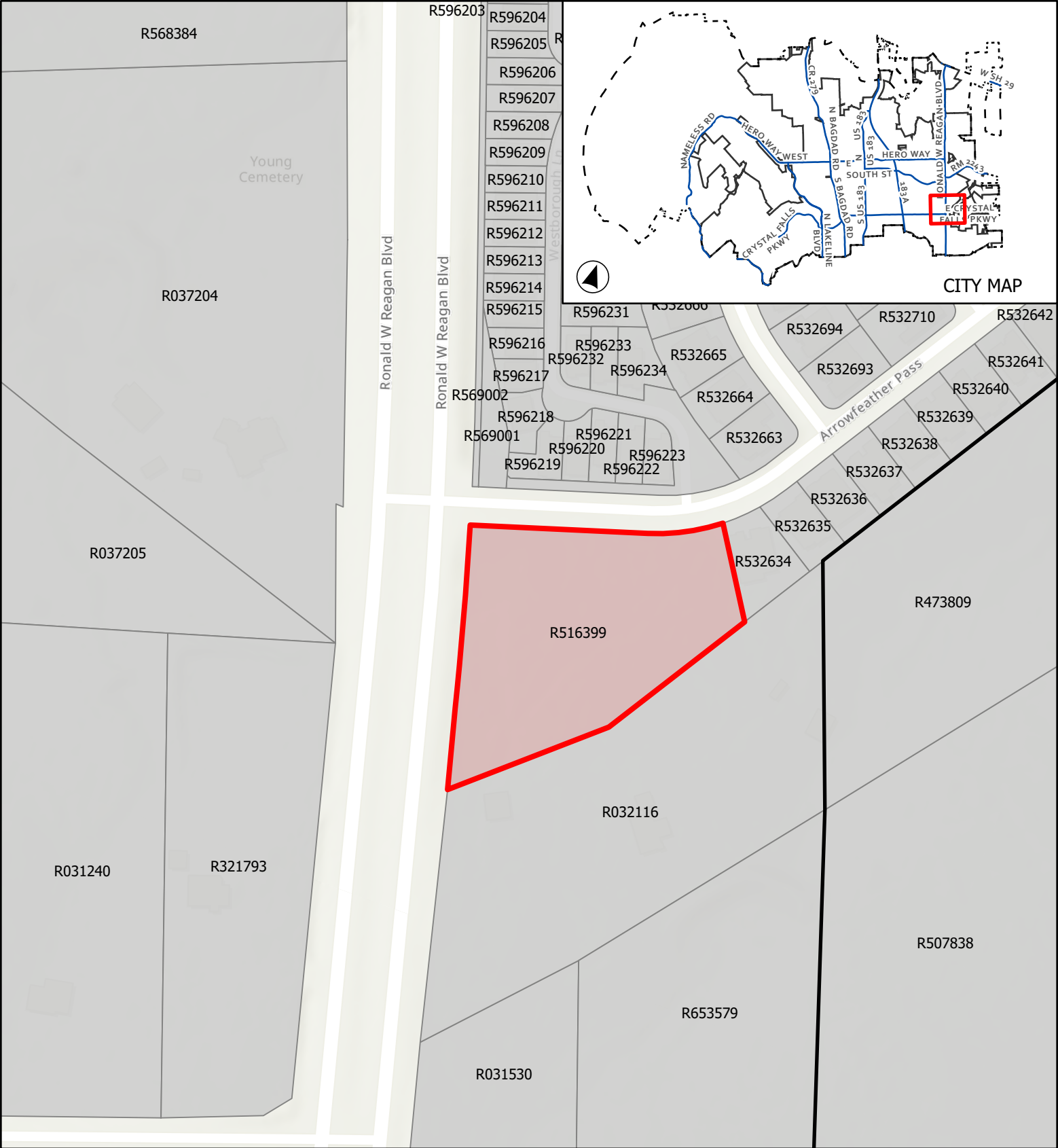
§
§

This instrument was acknowledged before me on this 14 day of August, 2024, by Vipul Kumar S. Patel, Owner of DB Land Austin, LLC, a Shanta Ba Plaza company, on behalf of said company.

(SEAL)

[Signature]
Notary Public, State of Texas





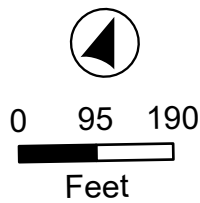
CASE: DA-24-0008

EXHIBIT A

SHANTA BA PLAZA

Location Map

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



- City Limits
- ETJ Boundary
- Subject Boundary



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Approval of a Development Agreement regarding Development Agreement Case DA-24-0017 for Leander Kinder Care development on one (1) parcel of land approximately 1.828 acres ± in size, more particularly described by Williamson County Appraisal District Parcel R542550; generally located at 441 W. Broade Street, Leander, Williamson County, Texas.

BACKGROUND:

The purpose of this Development Agreement is to implement masonry standards associated with the project. This agreement will allow for the City to enforce the development standards set forth in the agreement through the building permit, inspection, and certificate of occupancy processes by this agreement, given that House Bill 2439 adopted in the 86th Legislative Session limits the ability of cities to enforce certain development standards governing building materials by ordinance.

This agreement requires that all structures are comprised of at least one hundred (100%) percent masonry. Masonry includes stone, brick, stucco, or factory tinted split-faced concrete masonry units. The Composite Zoning Ordinance includes an incentive that allows for a reduction in the landscaping requirements. The ordinance requires two (2) shade trees per every six hundred (600) square feet of setback area. The incentive allows the applicant to reduce the landscaping to one (1) shade tree per every six hundred (600) square feet of setback area. The proposed site development complies with the incentive requirements of the zoning ordinance upon approval of the masonry development agreement.

Article VI, Section 1 (b)(13) of the Composite Zoning Ordinance

(13) If the exterior surface area of all walls for non-residential or multi-family buildings/structures are comprised of one hundred (100%) percent Masonry, then the ratio may be reduced to one (1) shade tree per six hundred (600) square feet in the front setback.

HISTORY/TIMELINE:

APPLICANT/AGENT:

Cumulus Design (Mason Lepak) on behalf of H-E-B, LP. (Benjamin Scott)

RECOMMENDATION:

Staff recommends approval.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. DA-24-0017 Att 1 Masonry Development Agreement - Leander Kinder Care
2. DA-24-0017 Att 2 Exhibit A - Leander Kinder Care

**MASONRY DEVELOPMENT AGREEMENT
ESTABLISHING DEVELOPMENT STANDARDS
FOR THE Leander Kinder Care**

This Development Agreement Establishing Development Standards for the **Leander Kinder Care Site Plan** (the "Agreement") is made and entered into, effective as of the 7th day of November, 2024, by and between the **City of Leander, Texas**, a Texas home rule municipal corporation (the "City"), and **ACA Leander, LLC**, a Texas limited liability company (the "Developer"). The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

Section 1. Purpose; Consideration.

- (a) The Developer is under contract to purchase that certain 1.828 acre tract located in Williamson County, Texas, being more particularly described in **Exhibit A** attached hereto and incorporated herein for all purposes (the "Property") and wishes to develop the Property for a Child Care Center (the "Development"). The Developer desires that the City be able to enforce the development standards set forth herein through its building permit, inspection, and certificate of occupancy processes by this agreement, given that House Bill 2439 adopted in the 86th Legislative Session limits the ability of cities to enforce certain development standards governing building materials by ordinance.
- (b) The Developer will benefit from the City enforcing the Development Standards as set forth herein because it will be more efficient and cost-effective for compliance to be monitored and enforced through the City's building permit and inspection processes and will help ensure that the Development is built out as planned by the Developer after conveyance to the builder of homes or other buildings and structures authorized by the applicable zoning regulations. The City will benefit from this Agreement by having assurance regarding certain development standards for the Development, having certainty that such Development Standards may be enforced by the City, and preservation of property values within the City.
- (c) The benefits to the Parties set forth in this Article 1, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

Section 2. Term; Termination.

- (a) The term of this Agreement shall be in full force and effect from the Effective Date hereof, subject to earlier termination as provided in this Agreement. Unless earlier terminated as provided in this Agreement, this Agreement shall terminate upon the issuance of the final certificate of occupancy for the final structure in the Development.
- (b) The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer defaults under the terms of this Agreement, subject to the notice and cure provisions in Section 6.

Section 3. Development Standards.

- (a) **Development Requirements.** The exterior wall standards set forth in this section shall apply to the structures located on the Property. At least one hundred percent (100%) of the combined exterior surface area of all walls, including all stories of buildings / structures, shall consist of stone, brick, painted or tinted stucco, or similar material approved by the Director of Planning.
- (b) **Building Permits.** The Developer acknowledges and agrees that compliance with Section 3(a) will be a condition of issuance of building permits and certificates of occupancy. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 3(a) above, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must be in compliance with this Agreement, as well as the Applicable Regulations, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this Agreement must accompany a building permit application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.

Section 4. Development of the Property. Except as modified by this Agreement, the Development and the Property will be developed in accordance with all applicable local, state, and federal regulations, including but not limited to the City's ordinances and the zoning regulations applicable to the Property, and such amendments to City ordinances and regulations that may be applied to the Development and the Property under Chapter 245, Texas Local Government Code, and good engineering practices (the "Applicable Regulations"). If there is a conflict between the Applicable Regulations and the Development Standards, the Development Standards shall control.

Section 5. Assignment of Commitments and Obligations. Developer's rights and obligations under this Agreement may be assigned by Developer to one (1) or more purchasers of all or part of the Property; provided the City Council must first approve and consent to any such assignment by Developer of this Agreement or of any right or duty of Developer pursuant to this Agreement, which consent shall not be unreasonably withheld or delayed.

Section 6. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party of written notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60)

days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable legal remedy not inconsistent with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy. In addition to the other remedies set forth herein, the City may withhold approval of a building permit application or a certificate of occupancy for a structure that does not comply with the Development Standards. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy.

Section 7. Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, and neither party waives any legal right or defense available under law or in equity.

Section 8. Attorneys Fees. In the event of action pursued in court to enforce rights under this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

Section 9. Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

Section 10. Force Majeure.

- (a) The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- (b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- (c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force

Majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

Section 11. Notices. Any notice to be given hereunder by any party to another party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Leander
Attn: City Manager
P.O. Box 319
Leander, Texas 78641
Williamson County

with copy to:

The Knight Law Firm, LLP
Attn: Paige H. Saenz, Partner
223 West Anderson Lane, Suite A-105
Austin, Texas 78752
Travis County

Any notice mailed to the Developer shall be addressed:

ACA Leander, LLC
Attention: Calvin Axtell
3939 Bee Cave Road, Bldg. C-100
Austin, Texas 78746
Email: calvin@veritascommercial.com

with copy to:

Terrazas PLLC
Attention: Michael Blue
1001 S. Capital of Texas Hwy, Bldg. L, Suite 250
Austin, Texas 78746
Email: mblue@terrazaspllc.com

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

Section 12. Waiver of Alternative Benefits. The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement, Developer hereby waives any and all claims or causes of action against the City Developer may have for or with respect to

any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement.

Section 13. Severability. Should any court declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

Section 14. Agreement and Amendment. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

Section 15. No Joint Venture. The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

Section 16. No Third Party Beneficiaries. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Developer.

Section 17. Effective Date. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

Section 18. Recordation. This Agreement shall be recorded in the Official Public Records of Williamson County, Texas upon the Developer closing on the purchase of the Property and before the issuance of any building permit for the Development.

Section 20. Texas Law Governs. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie exclusively in Williamson County, Texas.

Section 21. Anti-Boycott Verification. To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, the Developer represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (i) boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms “boycotts Israel” and “boycott Israel” as used in this paragraph have the meanings assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code, as amended.

Section 22. Iran, Sudan and Foreign Terrorist Organizations. To the extent this Agreement constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

Section 23. Time is of the Essence. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

Section 24. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A – Property Description & Sketch

EXECUTED in multiple originals this the ____ day of _____, 20 ____.

CITY:

City of Leander, Texas

a Texas home-rule municipal corporation

Attest:

By: _____

Name: Dara Crabtree

Title: City Secretary

By: _____

Name: Christine DeLisle

Title: Mayor

THE STATE OF TEXAS

§

COUNTY OF _____

§

This instrument was acknowledged before me on this ____ day of _____, 20 ____, by _____, Mayor of the City of Leander, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

DEVELOPER:

ACA Leander, LLC,
a Texas limited liability company

By: 

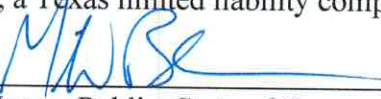
Name: CALVIN AXTELL

Title: MANAGER

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 31st day of OCTOBER, 20 24, by Calvin Axtell, Manager of ACA Leander, LLC, a Texas limited liability company, on behalf of said company.

(SEAL)


Notary Public, State of Texas

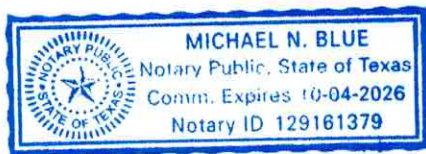


Exhibit A

Lot(s) 2B, HEB LEANDER SUBDIVISION LOT 2A, LOT 2B, BLOCK A REPLAT, a subdivision in Williamson County, Texas, according to the map or plat thereof, recorded under Document No. 2015064244 of the Official Public Records of Williamson County, Texas.



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Conduct a Public Hearing regarding Zoning Case Z-24-0120 to amend the 675 Kauffman Loop Planned Unit Development to allow for overhead commercial doors on two (2) parcels of land approximately 24.91 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R328207 and R555049; and more commonly known as 675 Kauffman Loop, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0120 as described above.

BACKGROUND:

This request is the second step in the zoning process. This property is located to the east of the intersection of Ronald W Reagan Boulevard and Kauffman Loop, to the east of HEB. The applicant is requesting to amend the existing zoning that allows for commercial development to add an allowance for overhead commercial doors. This change would allow for additional uses such as oil change facilities. The proposal does comply with the Comprehensive Plan and is appropriate for properties located in an Activity Center identified by the Comprehensive Plan.

The Planning Analysis is provided as Attachment #1 and provides more details about the request and the property.

HISTORY/TIMELINE:

10/10/2022 – PUD Approved
06/19/2024 – PUD Minor Amendment #1 Approved
10/10/2024 – Planning & Zoning Commission, 1st Public Hearing

APPLICANT/AGENT:

Southwest Land Service, Inc. (David Singleton) on behalf of 675 Kauffman, LP. (Joseph Williams).

RECOMMENDATION:

Staff recommends approval. The Planning & Zoning Commission unanimously recommended approval during the October 10, 2024 meeting.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. Z-24-0120 Att 1 Planning Analysis - 675 Kauffman Loop
2. Z-24-0120 Att 2 Current Zoning - 675 Kauffman Loop
3. Z-24-0120 Att 3 FLU Map - 675 Kauffman Loop
4. Z-24-0120 Att 4 Public Notification - 675 Kauffman Loop
5. Z-24-0120 Att 5 Proposed Zoning - 675 Kauffman Loop
6. Z-24-0120 Att 6 Aerial Map - 675 Kauffman Loop
7. Z-24-0120 Att 7 PUD Notes - 675 Kauffman Loop
8. Z-24-0120 Att 8 Letter of Intent - 675 Kauffman Loop
9. Z-24-0120 Att 9 Neighborhood Outreach - 675 Kauffman Loop
10. Z-24-0120 Att 10 Ordinance - 675 Kauffman Loop
11. Z-24-0120 Att 11 10-10-2024 P & Z Minutes



PLANNING ANALYSIS

ZONING CASE Z-24-0120 675 KAUFFMAN LOOP PLANNED UNIT DEVELOPMENT

GENERAL INFORMATION

Owner/Agent:	Southwest Land Service, Inc. (David Singleton) on behalf of 675 Kauffman, LP. (Joseph Williams).
Current Zoning:	675 Kauffman Loop Planned Unit Development with base zoning: GC-2-A (General Commercial) SFT-2-A (Single Family Townhouse)
Proposed Zoning:	675 Kauffman Loop Planned Unit Development with base zoning: GC-2-A (General Commercial) SFT-2-A (Single Family Townhouse)
Size and Location:	The property is located at 675 Kauffman Loop, including approximately 25 acres.
Staff Contact:	Karina Castillo, AICP Planning Manager

APPLICANT REQUEST

The applicant has submitted a request to amend the existing PUD on their property in order to allow the use of commercial overhead service in the GC (General Commercial) portion of the project.

STAFF CONCLUSIONS

Y N

- ☒ ☐ Does the proposal comply with the intent statements of the Composite Zoning Ordinance? *see page 3*
- ☒ ☐ Does the proposal comply with the goal statements of the Comprehensive Plan? *see page 4*
- ☒ ☐ Does the proposal warrant any other special considerations? *see below*

SPECIAL CONSIDERATIONS

Article V, Section 2(b)(2)(vi) of the Composite Zoning Ordinance prohibits the use of commercial overhead doors within the Type 2 site component. The applicant is requesting to amend the 675 Kauffman Loop PUD to allow for commercial overhead doors in the commercial portion of the PUD.

SITE INFORMATION:**ABUTTING ZONING AND LAND USE:**

	ZONING	LAND USE
NORTH	Liberty Hill ETJ	Vacant
EAST	ETJ	Vacant
SOUTH	Interim SFR-1-B	Residential
WEST	Bar W Commercial PUD	Commercial

SURROUNDING AREA:

This property is located south of SH 29, east of the Bar W Commercial development.

PHYSICAL AND NATURAL FEATURES:

This property contains some significant trees throughout the site.

PROPERTY HISTORY:

This property was annexed into the City of Leander on 10/9/2022.

PREVIOUS ZONING CASES:

The following zone cases were previously submitted for this property:

- 22-Z-005 requested a zone change from Interim SFR-1-B (Single-Family Rural) to adopt the 675 Kauffman Loop Planned Unit Development with base zoning of GC-2-A (General Commercial) and SFT-2-A (Single Family Townhouse) and was approved on 10/10/2022.
- Z-24-0125 requested an amendment of 675 Kauffman Loop Planned Unit Development which included a minor adjustment to the location of a portion of the commercial development associated with this project, and was approved on 6/19/2024.

MAJOR CORRIDORS:

This property has access onto SH 29 and Kauffman Loop.

TRANSPORTATION PLAN REQUIREMENTS:

This property does not include any proposed roads shown on the Transportation Master Plan.

The table below includes the proposed streets within the development. These streets have not been reviewed and are subject to change during the review process.

STREET	CLASSIFICATION	LAND USE CONTEXT	DESIGN ELEMENTS
SH 29	Controlled Access	Commercial	400' ROW 10' sidewalk
Kauffman Loop	Arterial	Commercial	100' ROW 4-Lane Arterial 10' sidewalk

SUBDIVISIONS:

No subdivision cases have been previously submitted for this property.

EXISTING UTILITIES:

This property has access to water along Kauffman Loop as shown in Figure 2. The nearest wastewater is located at the intersection of Ronald W. Reagan Boulevard and Kauffman Loop, as shown in Figure 3.

CURRENT LAND USES:

This property is currently developed as a residential home.

PROPOSED ZONING DISTRICT:**PUD – PLANNED UNIT DEVELOPMENT:**

The purpose and intent of the Planned Unit Development (PUD) district is to design unified standards for development in order to facilitate flexible, customized zoning and subdivision standards which encourage imaginative and innovative designs for the development of property within the City. The intent of this zoning request is to provide for a commercial and residential development. The contents of this PUD further explain and illustrate the overall function desired for this development. A Conceptual Site Layout and Land Use Plan has been attached to this PUD, Exhibit C, to illustrate the design intent for the property. The Conceptual Site Layout and Land Use Plan is intended to serve as a guide to illustrate the general community vision and design concepts and is not intended to serve as a final document. The intent of this zoning district is to cohesively regulate the development to assure compatibility with adjacent single-family residences, neighborhoods, and commercial properties within the region.

USE COMPONENT**GC – GENERAL COMMERCIAL:**

Features: Any use in LC plus bar, nightclub, entertainment venues, hospital, hotel, liquor store, office/warehouse, vehicle and equipment sales, leasing and repair, furniture sales, pet shop, wholesale activities less than 3,500 sq. ft.

Intent: Development of small to large scale commercial, retail, and commercial service uses located in high traffic areas. Access to this component should be provided by an arterial street. The heaviest concentration of this component should be located at intersections of arterial streets.

SITE COMPONENT**TYPE 2:**

Features: Accessory buildings greater of 10% of primary building or 120 sq. ft.; accessory dwellings for SFR, SFE and SFS; drive-thru service lanes; uses not to exceed 40,000 sq. ft.; multi-family provides at least 100% of units with an enclosed garage parking space.

Intent:

- (1) The Type 2 site component may be utilized with non-residential developments that are adjacent to a residential district or other more restrictive district to help reduce potential negative impacts to the more restrictive district and to provide for an orderly transition of development intensity.
- (2) The Type 2 site component is intended to be utilized for residential development not meeting the intent of a Type 1 site component and not requiring the additional accessory structure or accessory dwelling privileges of the Type 3 site component.
- (3) This component is intended to be utilized with the majority of LO and LC use components except those that meet the intent of the Type 1 or Type 3 site component or with any use requiring drive-through service lanes.
- (4) This component is intended to be utilized with LO, LC, GC, HC, and HI use components when adjacent to residential districts and additional compatibility standards are warranted.
- (5) This component is generally not intended to be utilized with HC and HI use components except where such component is adjacent to, and not adequately buffered from, residential districts or other more restricted districts, and except as requested by the land owner.
- (6) Compliance with Type 1 standards shall also be deemed as compliance with this component.

ARCHITECTURAL COMPONENT**TYPE A:**

Features: 5 or more architectural features.

Intent:

- (1) The Type A architectural component is intended to be utilized for high quality developments or to provide variety as an additional option for portions of a residential development and may be utilized in or adjacent to single-family uses.
- (2) This component is intended to be utilized for single-family development that backs up to, or sides to, a major thoroughfare.
- (3) Combined with appropriate use and site components, this component is intended to help provide for harmonious land use transitions by applying this component to a less restrictive use or site component adjacent to a more restrictive use or site component. This standard may be utilized to help ensure compatibility for non-residential uses, multi-family, two-family, townhouse or small lot residential development with adjacent property that is more restricted.
- (4) This component is intended to be utilized for buildings requiring heights greater than those provided in other architectural components.
- (5) This component may be utilized for any high profile development, for any property in a prominent location or at an important gateway to the community.
- (6) This component is not intended to become an involuntary standard for the majority of a single-family subdivision, especially with SFR, SFE, SFS, SFU and SFC components.

COMPREHENSIVE PLAN:**Applicable Comprehensive Plan goal statements**

- Strategy 1.1: Guide future growth and development following the comprehensive plan to achieve a more balanced, diverse economy.
- Strategy 10.1: Maintain and/or improve affordability and diversity in the housing market.
- Strategy 10.2: Support housing that has well-defined design character, compatibility with adjacent uses, and balanced density.

Applicable Future Land Use categories**ACTIVITY CENTER**

- Activity Center areas are the major strategic commercial centers within the community. They are intended to provide opportunity for diverse retail, employment and mixed-use destinations at critical intersections to create dense, value-intense development. These centers are regional in nature and serve a population beyond Leander, and are found on major highways and arterials. Managing access and traffic in these high-volume areas will require planning and coordination.

In a changing retail environment, Activity Centers are designed to become community destinations with activities, amenities, shopping, restaurants and places to gather, live and work. These mixed-use centers complement neighborhood centers and the urban development around Leander Station. Individually, these centers are expected to have a differing balance of land use, design, and atmosphere based on their location and context. High-density apartments and lofts are appropriate if designed and connected to the larger mixed-use center.

The Activity Center land use is intended to be implemented using a strategically planned framework, typically a PUD. When multiple landowners exist without a unified development scheme, proposed projects should plan for future integration to balance the activity center area as much as possible.

Desired Mix: 70-100% Non-Residential, 0-30% Residential

INTERGOVERNMENTAL/INTERDEPARTMENTAL REVIEW:

This proposal was reviewed by all applicable departments within the City of Leander. All plats submitted will be reviewed by Williamson County along with City Staff.

SCHEDULE:**DEVELOPMENT MEETING**

A development meeting was not held with Staff, but the applicant has been working closely with staff to coordinate the process of this project.

NOTIFICATION

09/19/2024 - Public Notice on Hill Country News
 09/25/2024 - Mail Notification to Property Owners within 200'
 09/25/2024 - Public Hearing Signage Posted on Property
 10/10/2024 - Planning and Zoning Commission Public Hearing
 11/07/2024 - City Council Public Hearing & First Reading of the Ordinance
 11/21/2024 - City Council Second & Final Reading of the Ordinance

PUBLIC NOTIFICATION:

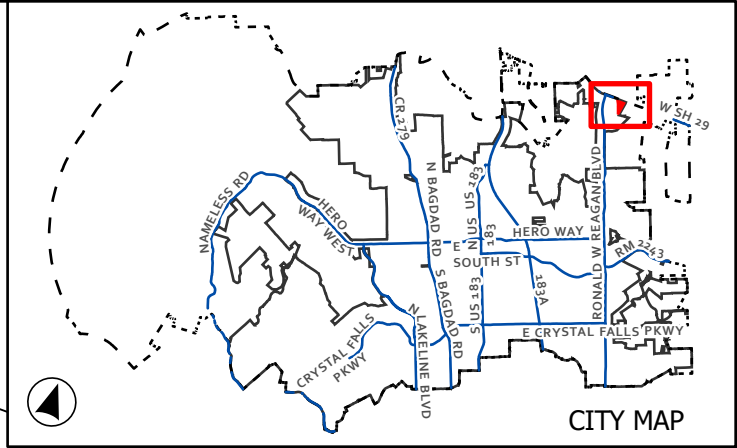
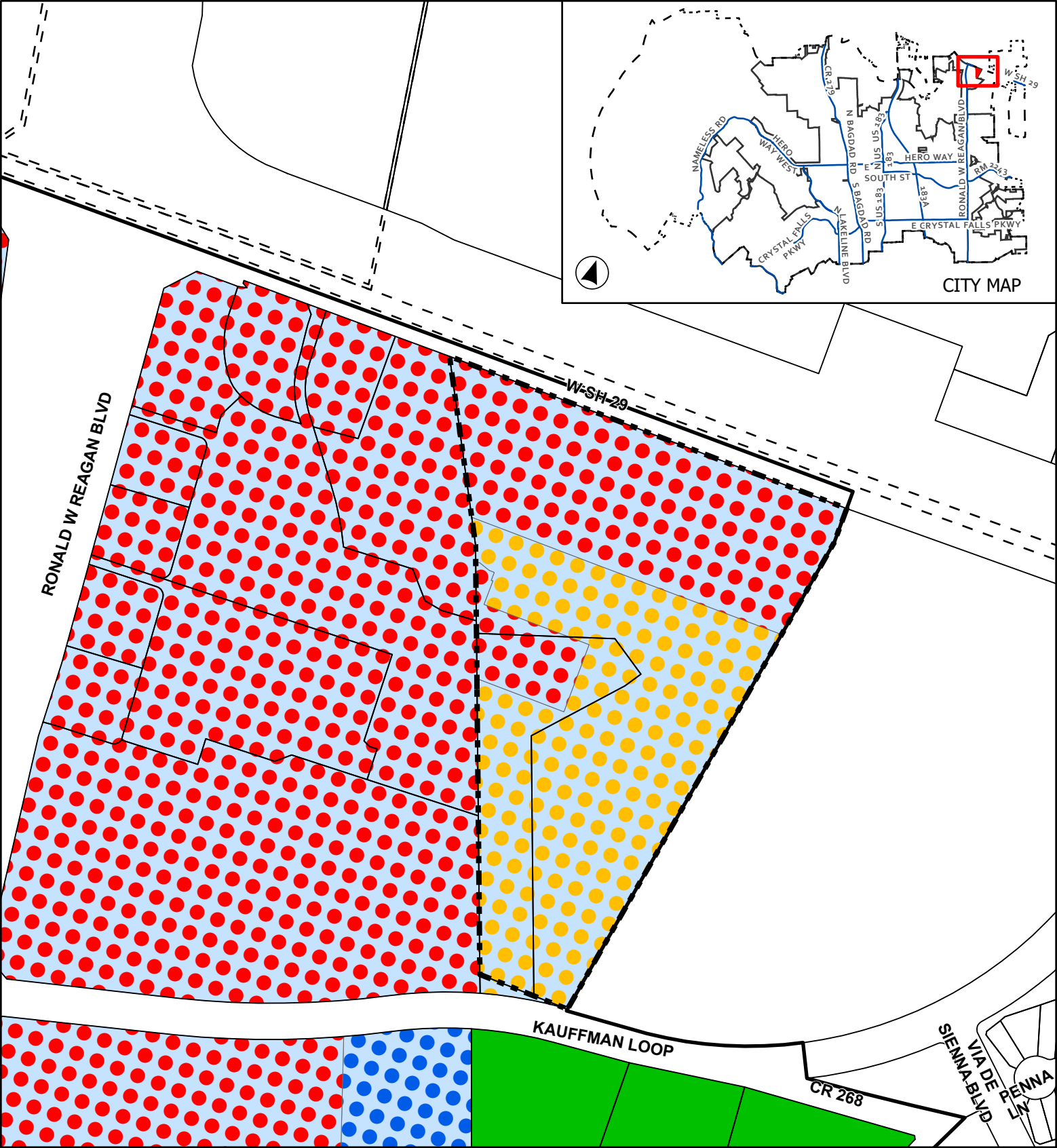
In addition to the notice mailed on behalf of the City to all property owners within 200', the agent is required to reach out to all property owners of property zoned as single-family or any properties used as single-family uses within 500' as per Article X, Section 3 (d) of the Composite Zoning Ordinance. Any Homeowner's Association located within 500' shall also be contacted.

A letter was mailed to all the required property owners within 500' with information for a neighborhood. No questions or concerns were received.

Please see the full report from the applicant attached.

APPROVAL CRITERIA:

The applicant is proposing to amend the approved Planned Unit Development to allow for the use of commercial overhead service doors in the GC (General Commercial) portion of the project. Article VIII, Section 2 of the Composite Zoning Ordinance which requires doors to not be oriented towards the street or residential uses and screened from view will still need to be met. Staff recommends approval of the request.



CASE: Z-24-0120

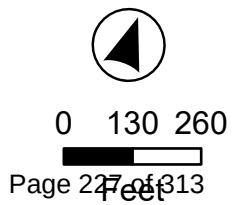
ATTACHMENT 2

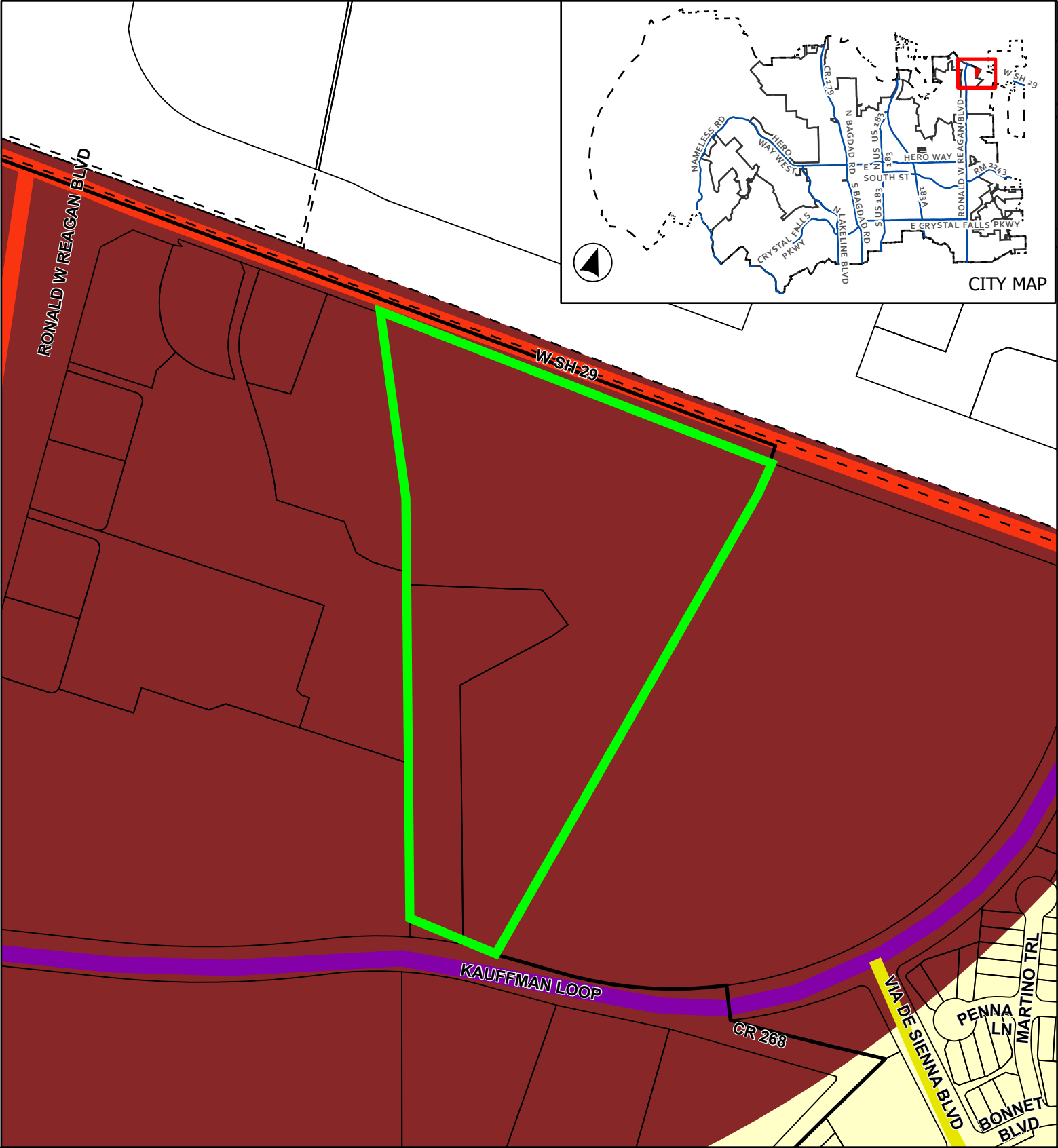
675 KAUFFMAN LOOP
MAJOR AMENDMENT
EXISTING PUD

Current Zoning

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- Leander City Limits
- Extra-Territorial Jurisdiction
- Subject Boundary
- SFR - Single-Family Rural
- PUD - Townhomes
- PUD - Mixed Use
- PUD - General Commercial





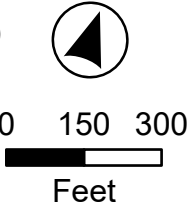
CASE: Z-24-0120

ATTACHMENT 3

675 KAUFFMAN LOOP
MAJOR AMENDMENT
EXISTING PUD

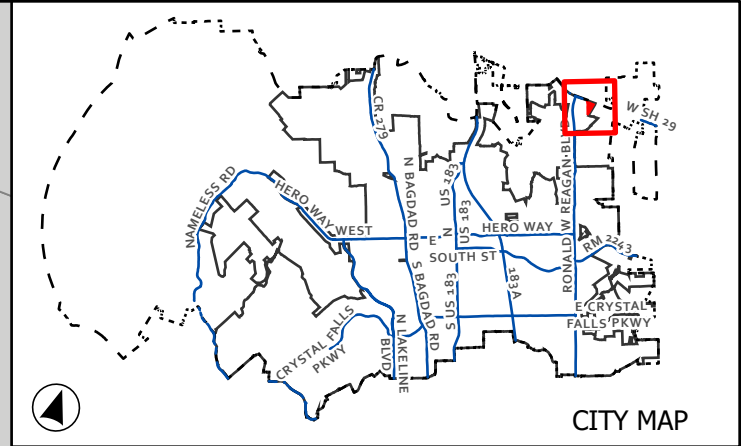
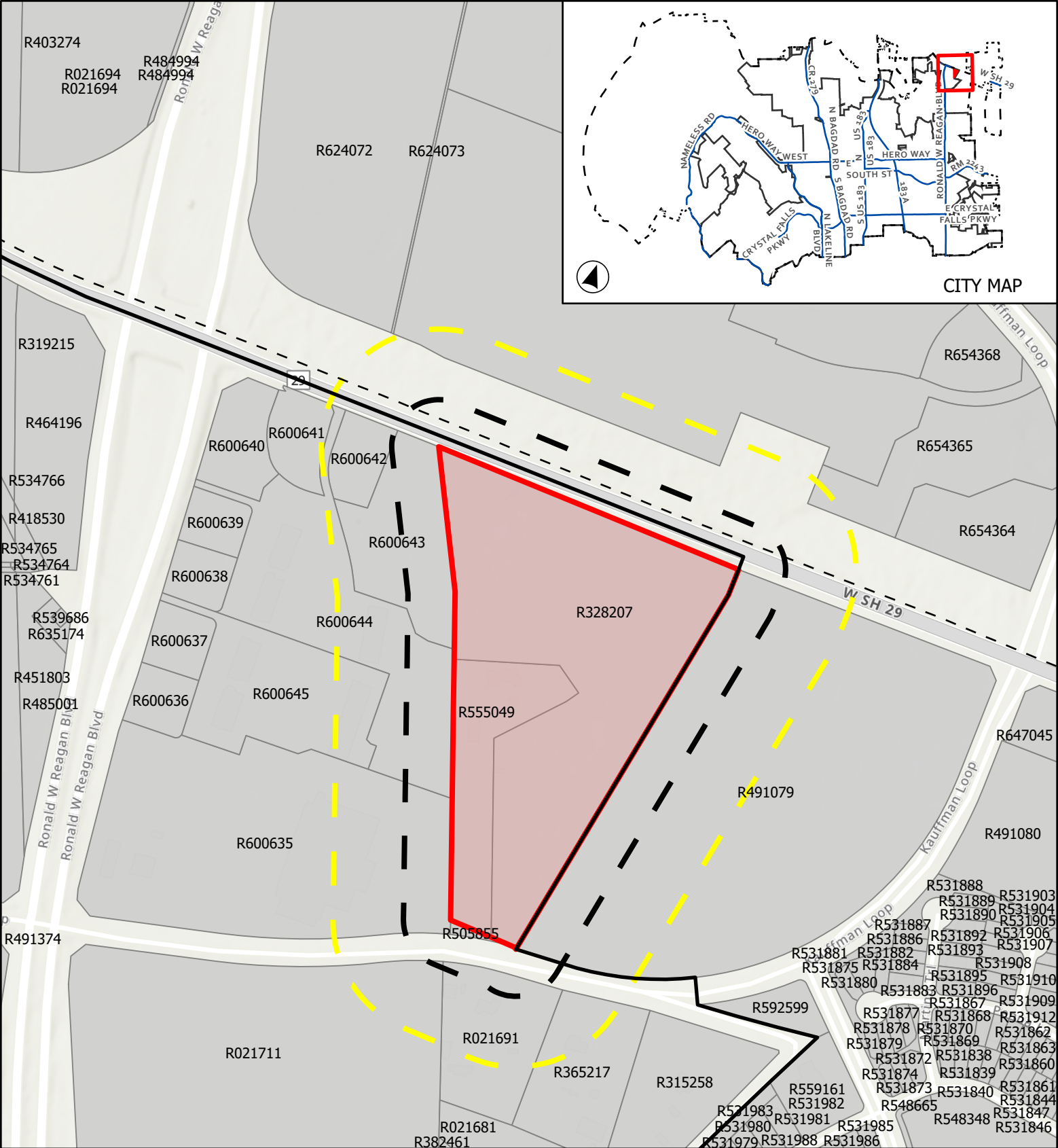
Future Land Use Map

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- Leander City Limits
- ETJ Boundary
- Subject Boundary
- Neighborhood Residential

- ## Thoroughfare Plan
- Access Controlled, Existing
 - Arterial 4 Lane, Existing
 - Collector, Existing



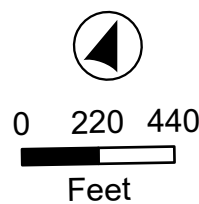
CASE: Z-24-0120

ATTACHMENT 4

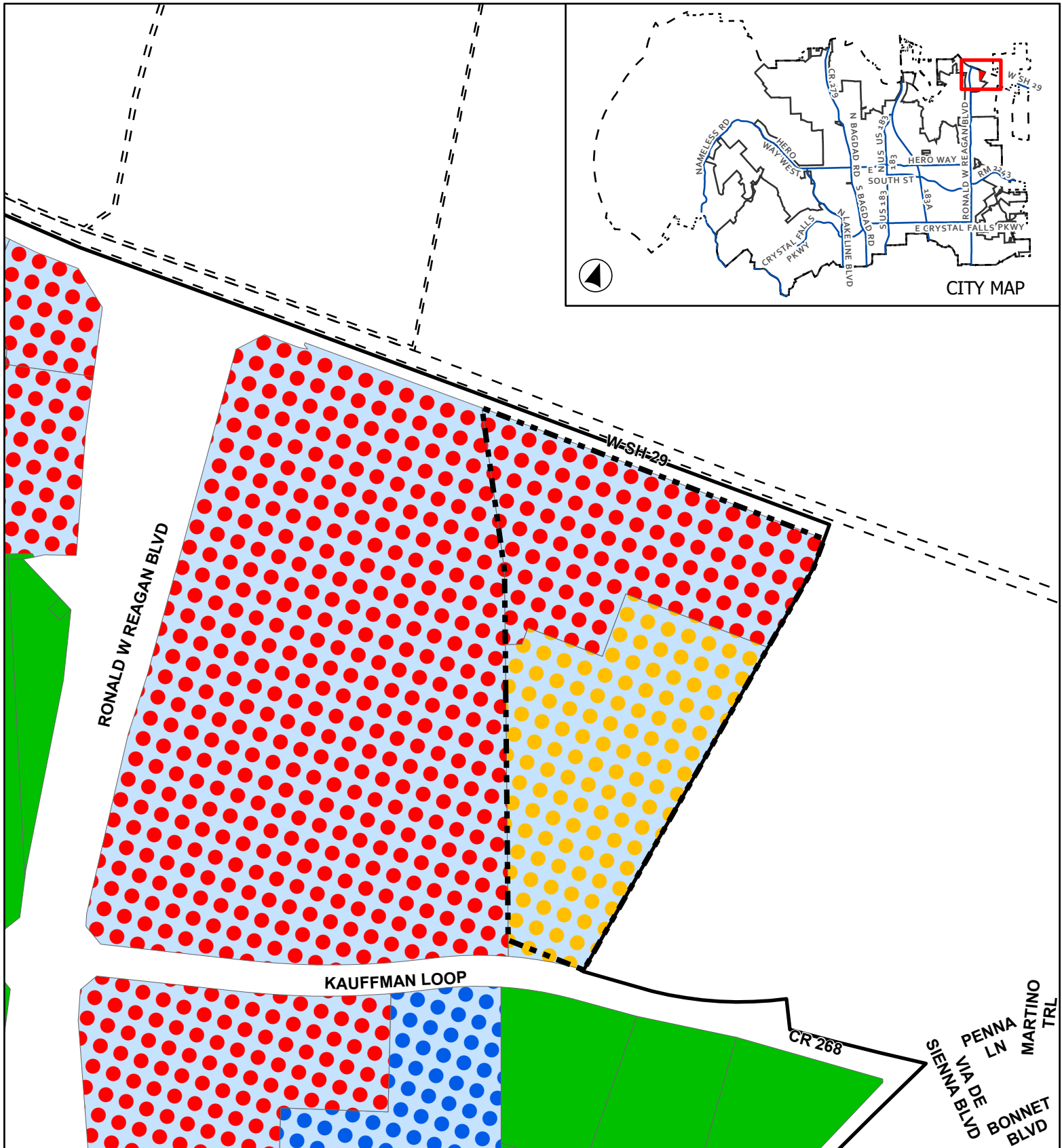
675 KAUFFMAN LOOP
MAJOR AMENDMENT
EXISTING PUD

Public Notification

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City Limits
ETJ Boundary
Subject Boundary
Notification Buffer
200'
500'



CASE: Z-24-0120

ATTACHMENT 5

360 KAUFFMAN LOOP
MINOR PUD AMENDMENT
(Z-24-0125)

Proposed Zoning

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- Leander City Limits
- Extra-Territorial Jurisdiction
- Subject Boundary
- SFR - Single-Family Rural

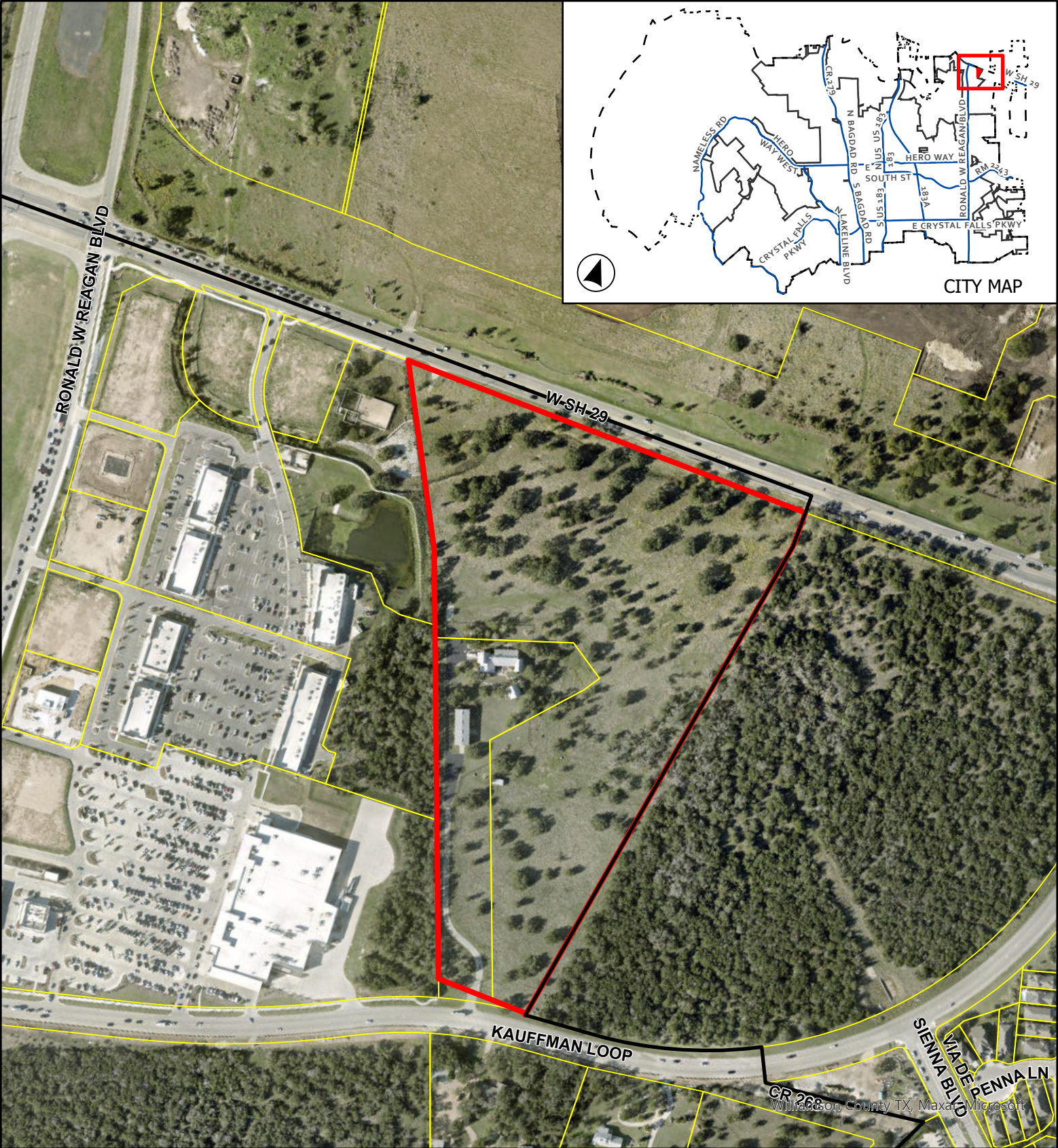
- PUD - Townhomes
- PUD - Mixed Use
- PUD - General Commercial



0 150 300



Feet



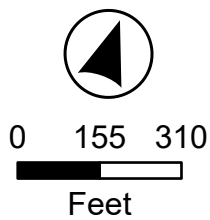
CASE: Z-24-0120

ATTACHMENT 6

**675 KAUFFMAN LOOP
MAJOR AMENDMENT
EXISTING PUD**

Aerial Map

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



- Leander City Limits
- Subject Boundary

Exhibit A

675 Kauffman Loop Planned Unit Development Amendment #2

A. Purpose and Intent

1. The 675 Kauffman Loop PUD is comprised of approximately 25 acres, as shown in **Exhibit B**. The development of this property includes commercial and residential development.

B. Applicability and Base Zoning

1. All aspects regarding the development of this PUD shall comply the City of Leander Composite Zoning Ordinance, except as established in this exhibit, titled **Exhibit A**.
2. For the purpose of establishing development standards for the PUD, the following base zoning districts have been selected from the Leander Composite Zoning Ordinance.

GC-2-A (General Commercial)
SFT-2-A (Single Family Townhouse)

C. Conceptual Site Layout & Land Use Plan

1. A Conceptual Site Layout and Land Use Plan has been attached to this PUD, **Exhibit C**, to illustrate the design intent for the property. The Conceptual Site Layout and Land Use Plan is intended to serve as a guide to illustrate the general community vision and design concept; as well as a guide for general geometry and layout of the future private roadway and building envelopes. It is not intended to serve as a final document.

D. Allowable / Prohibited Uses

1. The allowable uses include all uses authorized pursuant to SFT and GC use components as identified in **Exhibit C**, except the following as prohibited uses:
 - a) Bar, nightclub or private club.
 - b) Equipment and furniture or other similar good sales, repair and service.
 - c) Funeral home, included embalming and crematory facilities associated with an on-site funeral home or cemetery.
 - d) Manufactured housing sales and accessory building sales.
 - e) Office/warehouse including painting, plumbing or similar commercial service.
 - f) Transportation related facilities including commercial parking lots, passenger terminals, taxi-cab station and mass transit terminals.
 - g) New or used vehicle and mayor equipment sales, rental or leasing, repair of new or used vehicles, body shop.
 - h) Wholesale activities with less than 3,500 square feet of gross area of business.

2. The maximum number of townhouses (10 units/acre) on the 15.36 SFT tract is 153 units.
3. A condo regime is proposed for the townhouse tract allowing multiple units on one lot.

E. Development Standards

1. The PUD modifies the limitations of Article VI, Section 7 (b) (5) of the City's Composite Zoning Ordinance regarding the use of structural stabilization for the perimeter of non- residential and multi-family drainage facilities being limited to ninety (90%) percent of the pond perimeter excluding outlet structures.
2. This project shall utilize private drives instead of public roadways. Private drives will meet city of Leander Private Drive standards.
3. Sidewalks are required throughout the interior of the project and connecting Kauffman. These sidewalks shall be a minimum of four (4') feet wide and constructed of concrete.
4. Guest Parking will be provided at a ratio ten (10%) percent of the required spaces.
5. Turf grass in the narrow strips adjacent to street curbs between sidewalk and street pavement shall be prohibited. Materials such as river rock crushed granite, or similar product shall be used in this location.
6. All HOA Landscape Lots shall be limited to fifty (50%) percent turf grass coverage.
7. Commercial portions of the development (Parcels 1 or 2 – Exhibit C) shall be developed with vertical improvements prior to or concurrently with the residential portions of the development (Parcel 3 – Exhibit C). Commercial Portions of the development (Parcels 1 or 2 – Exhibit C) shall be developed with pad ready improvements prior to or concurrently with the residential portion of the development (Parcel 3 – Exhibit C).
8. Commercial overhead service doors are permitted in the General Commercial portion of the project.

SOUTHWEST
LAND SERVICES, INC.

April 10, 2024

Robin Griffin, Dir. of Development Services
City of Leander
201 N. Brushy Street
Leander, TX 78641

**RE: 675 Kauffman Loop PUD
Major PUD amendment request**

Ms. Griffin,

On behalf of 675 Kauffman Loop Management, LP (Applicants and Owners), we are submitting the enclosed Major PUD Amendment Application to amend the PUD on approximately 10.153 acres of the referenced property from PUD GC-2-A to PUD GC-3-A Base Zoning. The balance of the original PUD tract and all other stipulations and conditions of the original PUD are proposed to remain unchanged.

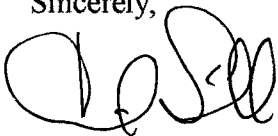
The tract is located in an "Activity Center" on the Future Land Use Map and immediately adjacent to and east of the Bar W Commercial PUD which includes the HEB grocery store and other commercial uses. The tract east of the Subject tract remains undeveloped.

The proposed zoning is consistent with the City's Comprehensive Plan and will further the goals established therein by expanding an existing employment base contiguous to existing transportation arterials and provide additional local commercial opportunities within the corporate boundaries of the City.

The topography of the site is relatively flat with slopes of less than two percent (2%). The property has a significant number of trees that will be cataloged during the site plan process in accordance with the City's Tree Ordinance in advance of any further development on the tract.

We respectfully solicit Staff's recommendation for approval of the request and welcome any questions you have in regard to the request.

Sincerely,



David Singleton

Mailing address: P.O. Box 984 Leander Texas 78646-0984
Delivery address: 108 Paloma Point, Georgetown Texas 78628
southwestland@gmail.com 512.259.9000

APPLICANT'S SUMMARY OF NEIGHBORHOOD COMMUNICATIONS

This summary is only required for a PUD or a Minor PUD

1. How and when were the surrounding neighborhood and residential property owners within 500' notified, how was information shared, and who was directly involved in the communication process? Please provide the address of the properties notified and the name and contact information of the residents directly involved in the communication process. Attach any materials that were distributed.

A letter (a copy of which is attached) was mailed to all required property owners within 500' describing the proposed amendment providing our contact information and offering a Zoom call to ask specific questions or gain additional information.

2. Who was notified (i.e. property owners, HOA, etc)? The HOA and/or a representative if there is no organized HOA must be contacted, if applicable. Provide a separate sheet listing the contact information used including the names and addresses of the individuals.

All of the required property owners were notified in writing via USPS.

3. What concerns were raised during these communications?

No questions or comments were received from any of the notified owners.

4. What specific conditions were added to or modified within the zoning request in response to the concerns raised at the meeting?

N/A

The above information is deemed to be true to the best of my knowledge.

Signature: _____



Date September 11, 2024

SOUTHWEST
LAND SERVICES, INC.

August 28, 2024

Re: 675 Kauffman Loop

Proposed Amendment to existing PUD

Dear Neighbor,

The purpose of this letter is to notify you of a proposed change to an existing PUD (Planned Unit Development) in your area. I represent the owners of approximately 25 acres located at 675 Kauffman Loop. The owner is proposing to amend the existing PUD **ONLY** on the portion of the tract proposed for GC-2-A (approximately 10 acres) that fronts Highway 29. The proposed change is limited to allowing commercial overhead service doors.

The subject property is located within an area designated as an Activity Center on the City of Leander's Comprehensive Land Use Plan. This land use designation encourages a mixture of local commercial uses including the uses being proposed for the project. The Comprehensive Plan further identifies General Commercial (GC) as a suitable zoning category for the corridor.

We are mindful of the recent increase of COVID cases and some may not be comfortable at an in-person meeting, so we are scheduling a Zoom meeting for September 10th 2024 at 7:00 p.m. Please feel free to call, text or email with questions or concerns, or contact our office for the Zoom call login information.

If you would like to discuss this project in greater detail or ask any questions related to this submittal to the City of Leander, please contact me by phone at 512-259-9000 or by email at southwestland@gmail.com. So that we can appropriately represent communications back to the City, please contact us no later than September 10th.

Sincerely,

David Singleton

Mailing address: P.O. Box 984 Leander Texas 78646-0984
Delivery address: 108 Paloma Point, Georgetown Texas 78628
southwestland@gmail.com 512.259.9000

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING THE ZONING ORDINANCE BY AMENDING THE 675 KAUFFMAN LOOP PUD (PLANNED UNIT DEVELOPMENT) TO ALLOW FOR OVERHEAD COMMERCIAL DOORS; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of the property described herein after (the "Property") has requested that the Property be rezoned;

WHEREAS, after giving at least ten (10) days written notice to the owners of land within two hundred (200') feet of the Property, the Planning & Zoning Commission held a public hearing on the proposed rezoning and forwarded its recommendation on the rezoning to the City Council;

WHEREAS, after publishing notice of the public hearing at least fifteen (15) days prior to the date of such hearing, the City Council at a public hearing has reviewed the request and the circumstances of the Property and finds that a substantial change in circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired;

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

SECTION 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Amendment of Zoning Ordinance. Ordinance No. 05-018-00, as amended, the City of Leander Composite Zoning Ordinance (the "Zoning Ordinance" or "Code"), is hereby modified and amended by rezoning the Property as set forth in Section 3.

SECTION 3. Applicability. This ordinance applies to the following parcel of land, which is herein referred to as the "Property". That certain parcel of land being including 24.91 acres ±; being more particularly described in Exhibit "B"; addressed as 675 Kauffman Loop; identified by Williamson Central Appraisal District tax identification numbers R328207 and R555049; more particularly described in Instrument Number 2021063860; recorded in the Official Public Records of Williamson County, Texas.

SECTION 4. Property Rezoned. The Zoning Ordinance is hereby amended by amending the 675 Kauffman Loop PUD (Planned Unit Development) to allow for overhead commercial doors. The PUD shall be developed and occupied in accordance with this Ordinance, the PUD plan attached as Exhibits "A" and "B" which are hereby adopted and incorporated herein for all purposes, and the Composite Zoning Ordinance to the extent not amended by this Ordinance. In the event of a conflict between the Composite Zoning Ordinance and the requirements for the

Property set forth in this Ordinance, this Ordinance shall control.

SECTION 5. Recording Zoning Change. The City Council directs the Planning Department to record this zoning classification on the City's official zoning map with the official notation as prescribed by the City's zoning ordinance.

SECTION 6. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

SECTION 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED on First Reading this the 7th day of November, 2024.

FINALLY PASSED AND APPROVED on this the 21st day of November, 2024.

ATTEST:

THE CITY OF LEANDER, TEXAS:

Dara Crabtree, City Secretary

Christine DeLisle, Mayor



**MINUTES
PLANNING & ZONING COMMISSION MEETING
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday, October 10, 2024
Regular Meeting at 6:00 PM



**Place 1 – Donnie Mahan
Place 2 – John Cosgrove
Place 3 – Ron May
Place 4 – Deirdre Moss**

**Place 5 – James Oliver, Vice Chair
Place 6 – Laura Lantrip, Chair
Place 7 – Scott Calame
Staff Liaison – Robin Griffin**

REGULAR MEETING

1. Call to Order.
Meeting was called to order at 6:00 p.m.
2. Roll Call.
All present except Commissioner Deirdre Moss.
3. Director's report to the Planning & Zoning Commission on action taken by City Council on the October 3, 2024 meeting.
4. Review of meeting protocol.
5. Public comments on items not listed in the agenda.

Public comments on items listed in the agenda will be heard at the time each item is discussed.

[All comments are limited to no more than 3 minutes (6 minutes if translation is needed) per individual.]

No one wished to speak.

CONSENT AGENDA: ACTION

Motion to approve Consent Agenda Item # 6.

6. Approval of the minutes for meeting held on September 26, 2024.

By: Board Member May
Seconded: Board Member Calame

Vote: 6 - 0 None

PUBLIC HEARING: ACTION

7. Conduct a Public Hearing and consider action regarding Comprehensive Plan Case CPA-24-0014 to amend the Comprehensive Plan land use category from Leander Central to Activity Center on eight (8) parcels of land approximately 16.0602 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R517094, R031604, R646992, R646986, R646987, R646988, R646989, and R646990; and more commonly known as southwest of the intersection of East San Gabriel Parkway and 183A Toll Road, Leander, Williamson County, Texas.

- Discuss and consider action regarding Comprehensive Plan Case CPA-24-0014 as described above.

Marshall Hines, 1801 Montana Leander, TX 78641 spoke in opposition to the request.
Peter Maselli, 257 John Webster St Leander, TX 78641 spoke in favor to the request.

Motion to approve CPA-24-0014.

By: Board Member Calame
Seconded: Board Member Lantrip

Vote: 3 - 3 Board Member Mahan, Board Member Cosgrove, Board Member Oliver

Motion Failed.

8. Conduct a Public Hearing and consider action regarding Zoning Case Z-24-0120 to amend the 675 Kauffman Loop Planned Unit Development to allow for overhead commercial doors on two (2) parcels of land approximately 24.91 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R328207 and R555049; and more commonly known as 675 Kauffman Loop, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0120 as described above.

No one spoke in favor or opposition of the request.

Motion to approve Zoning Case Z-24-0120.

By: Board Member Lantrip
Seconded: Board Member Calame

Vote: 6 - 0 None

9. Conduct a Public Hearing and consider action regarding Zoning Case Z-24-0134 to amend the current zoning of SFU/MH-2-B (Single-Family Urban/Manufactured Home) to adopt the Hill Country Community Ministries – Lacy Drive PUD (Planned Unit Development) with the base zoning district of LC-3-A (Local Commercial) on three (3) parcels of land approximately 1.31 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R036399, R036398, and R036397; and more commonly addressed as 1005 Lacy Drive, 1007 Lacy Drive, and 1009 Lacy Drive, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0137 as described above.

No one spoke in favor or opposition of the request.

Motion to approve Zoning case Z-24-0137.

By: Board Member Mahan

Seconded: Board Member Cosgrove

Vote: 6 - 0 None

10. Conduct a Public Hearing regarding Zoning Case Z-24-0142 to amend the current zoning of SFS-2-B (Single-Family Suburban) to GC-3-C (General Commercial) on one (1) parcel of land approximately 5.094 acres ± in size, more particularly described by Williamson Central Appraisal District Parcel R432899; and generally located at the southeast corner of the intersection of Hero Way West and N. Lakeline Boulevard, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0142 as described above.

No one spoke in favor or in opposition of the request.

Motion to approve Zoning case Z-24-0142.

By: Board Member Mahan

Seconded: Board Member Oliver

Vote: 6 - 0 None

REGULAR AGENDA

11. Adjournment
Meeting adjourned at 7:24 p.m.

APPROVED

CHAIR

ATTEST:

STAFF LIAISON



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Conduct a Public Hearing regarding Zoning Case Z-24-0134 to amend the current zoning of SFU/MH-2-B (Single-Family Urban/Manufactured Home) to adopt the Hill Country Community Ministries – Lacy Drive PUD (Planned Unit Development) with the base zoning district of LC-3-A (Local Commercial) on three (3) parcels of land approximately 1.31 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R036399, R036398, and R036397; and more commonly addressed as 1005 Lacy Drive, 1007 Lacy Drive, and 1009 Lacy Drive, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0134 as described above.

BACKGROUND:

This request is the second step in the zoning process. This property is located at 1005, 1007, and 1009 Lacy Drive, midblock of Lacy Drive between Sonny Drive and Sheila Drive. A portion of the property is currently utilized for Hill Country Ministries operations, and they wish to expand their use. This zoning change would allow for the following uses:

- Local Commercial Uses (office, retail, restaurant, etc);
- Uses operated by a nonprofit to include a food pantry, donation center, and/or thrift store; and
- Tiny Homes.

The proposal does comply with the Comprehensive Plan and is appropriate for properties located in the Transitional Residential land use category identified by the Comprehensive Plan. The Planning Analysis is provided as Attachment #1 and provides more details about the request and the property.

HISTORY/TIMELINE:

01/20/1978 – Annexed into City

10/10/2024 – Planning & Zoning Commission, 1st Public Hearing

APPLICANT/AGENT:

Goode Faith Engineering, LLC. (Anthony Goode) on behalf of Hill Country Community Ministries (Tiesa Hollaway)

RECOMMENDATION:

Staff recommends approval. The Planning & Zoning Commission unanimously recommended approval during the October 10, 2024 meeting.

PRESENTER:

Fiscal Impact

Attachments:

1. Z-24-0134 Att 1 Planning Analysis - Lacy Dr Minor PUD
2. Z-24-0134 Att 2 Current Zoning - Lacy Dr Minor PUD
3. Z-24-0134 Att 3 FLU Map - Lacy Dr Minor PUD
4. Z-24-0134 Att 4 Public Notification - Lacy Dr Minor PUD
5. Z-24-0134 Att 5 Proposed Zoning - Lacy Dr Minor PUD
6. Z-24-0134 Att 6 Aerial Map - Lacy Dr Minor PUD
7. Z-24-0134 Att 7 PUD Notes - Lacy Dr Minor PUD
8. Z-24-0134 Att 8 Letter of Intent - Lacy Dr Minor PUD
9. Z-24-0134 Att 9 Neighborhood Outreach - Lacy Dr Minor PUD
10. Z-24-0134 Att 10 Ordinance - Lacy Dr Minor PUD
11. Z-24-0134 Att 11 10-10-2024 P & Z Minutes



PLANNING ANALYSIS

ZONING CASE Z-24-0134
 HILL COUNTRY COMMUNITY MINISTRIES –
 LACY DRIVE PUD
 1005 LACY DRIVE, 1007 LACY DRIVE, AND 1009 LACY DRIVE

GENERAL INFORMATION

Owner/Agent: Goode Faith Engineering, LLC. (Anthony Goode) on behalf of Hill Country Community Ministries (Tiesa Hollaway).

Current Category: SFU/MH-2-B (Single-Family Urban/Manufactured Home)

Proposed Category: Hill Country Community Ministries – Lacy Drive PUD (Planned Unit Development) with base zoning:
 LC-3-A (Local Commercial)

Size and Location: The property is located at 1005 Lacy Drive, 1007 Lacy Drive, and 1009 Lacy Drive, including approximately 1.31 acres.

Staff Contact: Karina Castillo, AICP
 Planning Manager

APPLICANT REQUEST

The applicant has submitted a request to change the designated zoning district of their property in order to operate a food pantry, a clothes closet/thrift store, and a resource center/office space.

STAFF CONCLUSIONS

Y N

- ☒ ☐ Does the proposal comply with the intent statements of the Composite Zoning Ordinance? *see page 3*
- ☒ ☐ Does the proposal comply with the goal statements of the Comprehensive Plan? *see page 4*
- ☒ ☐ Does the proposal warrant any other special considerations? *see below*

SPECIAL CONSIDERATIONS

This request was notified with a base zoning of GC (General Commercial). However, the request has been amended to include the base zoning of LC (Local Commercial) and is proposing to include the use of food pantry, donation center, and thrift store when operated by a non-profit. Similar to the existing zoning district, Tiny Homes are proposed to be permitted in lieu of the other allowed uses.

SITE INFORMATION:**ABUTTING ZONING AND LAND USE:**

	ZONING	LAND USE
NORTH	SFU/MH-2-B	Residential
EAST	GC-3-C	Commercial
SOUTH	SFU/MH-2-B	Residential
WEST	SFU/MH-2-B	Residential

SURROUNDING AREA:

This property is located on Lacy Drive, behind the Brake Check along US183. The surrounding uses to the north, south, and west of the site include residential uses.

PHYSICAL AND NATURAL FEATURES:

This property contains some significant trees on the site.

PROPERTY HISTORY:

This property is a part of the original incorporation of 01/20/1978.

PREVIOUS ZONING CASES:

The following zone cases were previously submitted for this property:

- Ordinance established the base zoning for this property as SFU/MH-2-B (Single-Family Urban/Manufactured Home).

MAJOR CORRIDORS:

This property has access onto Lacy Drive.



Figure 1 – Aerial.

TRANSPORTATION PLAN REQUIREMENTS:

This property does not include any proposed roads shown on the Transportation Master Plan.

SUBDIVISIONS:

No subdivision cases have been previously submitted for this property:

EXISTING UTILITIES:

This property has access to water and wastewater along Lacy Drive as shown in Figures 2 and 3 below.



Figure 2: Water System.



Figure 2: Wastewater System.

CURRENT LAND USES:

This property is currently being used as a donation center by the Hill Country Community Ministries.

PROPOSED ZONING DISTRICT:

USE COMPONENT**LC – LOCAL COMMERCIAL:**

Features: Any use in LO plus retail sales and services, restaurants, banks, nursery or greenhouse, grocery sales, pharmacies, fitness centers, dance and music academies, artist studio, colleges and universities, bed and breakfast. Hours of operation: 5:00 a.m. to 10:00 p.m. Sun.-Thurs., 5:00 a.m. to 11:00 p.m. Fri. and Sat.

Intent: Development of small scale, limited impact commercial, retail, personal services and office uses located in close proximity to their primary customers, which cater to the everyday needs of the nearby residents, and which may be located near residential neighborhoods. Access should be provided by a collector or higher classification street.

SITE COMPONENT**TYPE 3:**

Features: Accessory buildings up to 30% of primary building; accessory dwellings; drive-thru service; limited outdoor display and storage; outdoor fueling and washing of vehicles; overhead service doors, no indoor parking required.

Intent:

- (1) A Type 3 site component is intended to be utilized with LO and LC use components where adjacent to less restricted districts to provide for a land use transition.
- (2) This component is intended to be utilized with residential components where accessory dwellings or additional accessory structures are appropriate and are not provided for in the Type 1 or 2 site components.
- (3) This component is intended to be combined with LO, LC, GC, HC and HI components where it is appropriate to utilize the outdoor site area for outdoor fuel sales, limited outdoor display and storage or accessory buildings.
- (4) Compliance with Type 1 or 2 standards shall also be deemed as compliance with this component.

ARCHITECTURAL COMPONENT**TYPE A:**

Features: 5 or more architectural features.

Intent:

- (1) The Type A architectural component is intended to be utilized for high quality developments or to provide variety as an additional option for portions of a residential development and may be utilized in or adjacent to single-family uses.
- (2) This component is intended to be utilized for single-family development that backs up to, or sides to, a major thoroughfare.
- (3) Combined with appropriate use and site components, this component is intended to help provide for harmonious land use transitions by applying this component to a less restrictive use or site component adjacent to a more restrictive use or site component. This standard may be utilized to help ensure compatibility for non-residential uses, multi-family, two-family, townhouse or small lot residential development with adjacent property that is more restricted.
- (4) This component is intended to be utilized for buildings requiring heights greater than those provided in other architectural components.
- (5) This component may be utilized for any high profile development, for any property in a prominent location or at an important gateway to the community.
- (6) This component is not intended to become an involuntary standard for the majority of a single-family subdivision, especially with SFR, SFE, SFS, SFU and SFC components.

COMPREHENSIVE PLAN:**Applicable Future Land Use categories****TRANSITIONAL**

- The Transitional future development category is envisioned for areas that are ripe for or already beginning to transition towards greater density, or provide a more compatible transition to lower-density residential. These areas are intended to be primarily developed with slightly greater density and housing types than those allowed in Neighborhood Residential.

Density and use character are semi-urban, with townhouses, small lot single-family, cottages, local office, local commercial and attached single-family products. In some cases, transitioning densities are similar to Neighborhood Residential yet are seen as a definitive change in density and character from prior use and intensity. In general, these areas, while in differing contexts, provide a transition between lower density Neighborhood Residential and more intensive nonresidential uses.

The Transitional areas in Leander are notable for today's rural streets and lack of proximity to commercial centers. Infrastructure improvements, traffic dispersion, pedestrian upgrades, and adjacency compatibility should be at the forefront of rezoning considerations.

INTERGOVERNMENTAL/INTERDEPARTMENTAL REVIEW:

This proposal was reviewed by all applicable departments within the City of Leander. All plats submitted will be reviewed by Williamson County along with City Staff.

SCHEDULE:**DEVELOPMENT MEETING**

A development meeting was not held with Staff, but the applicant has been working closely with staff to coordinate the process of this project.

NOTIFICATION

- 09/19/2024 - Public Notice on Hill Country News
- 09/25/2024 - Mail Notification to Property Owners within 200'
- 09/25/2024 - Public Hearing Signage Posted on Property

10/10/2024 - Planning and Zoning Commission Public Hearing
 11/07/2024 - City Council Public Hearing & First Reading of the Ordinance
 11/21/2024 - City Council Second & Final Reading of the Ordinance

PUBLIC NOTIFICATION:

In addition to the notice mailed on behalf of the City to all property owners within 200', the agent is required to reach out to all property owners of property zoned as single-family or any properties used as single-family uses within 500' as per Article X, Section 3 (d) of the Composite Zoning Ordinance. Any Homeowner's Association located within 500' shall also be contacted.

A neighborhood meeting was held at 6:00 pm on 06/27/2024 at 1009 Lacy Drive. No residents/property owners attended the neighborhood meeting. Two phone calls were received following the letter that was sent. Below is a list of comments/concerns that were discussed during the meeting:

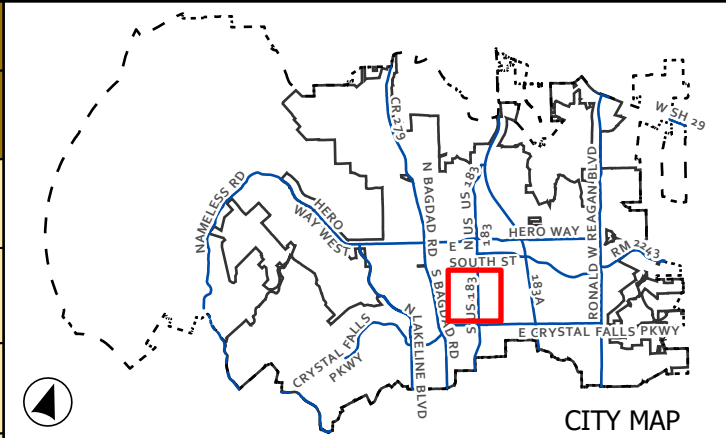
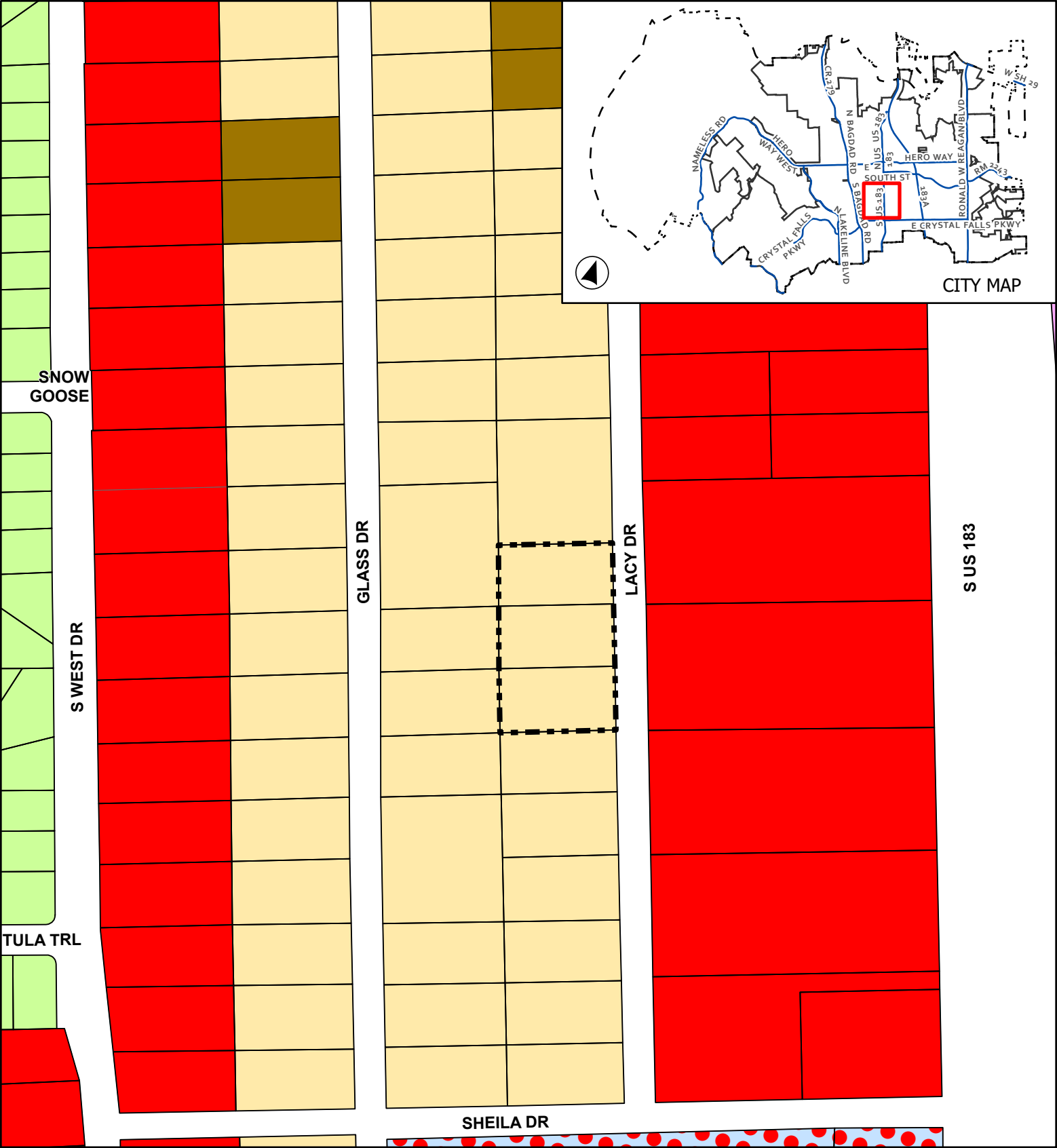
- Homelessness
- Vandalism
- Criminal behavior

No changes were made to address issues discussed.

Please see the full report from the applicant attached.

APPROVAL CRITERIA:

The proposed PUD (Planned Unit Development) includes a base zoning district of LC (Local Commercial) which is compatible with the Future Land Use category of Transitional. The proposed use by the Hill Country Community Ministries includes services for the community that are open to the public but would not generate a significant amount of traffic to greatly impact the surrounding development. If the site is not developed as a food pantry, donation center, and/or thrift store, then the site will be permitted to develop as Tiny Homes, which is allowed under the current zoning district. Staff recommends approval of the request.



CASE: Z-24-0134

ATTACHMENT 2

LACY DR MINOR PUD

Current Zoning

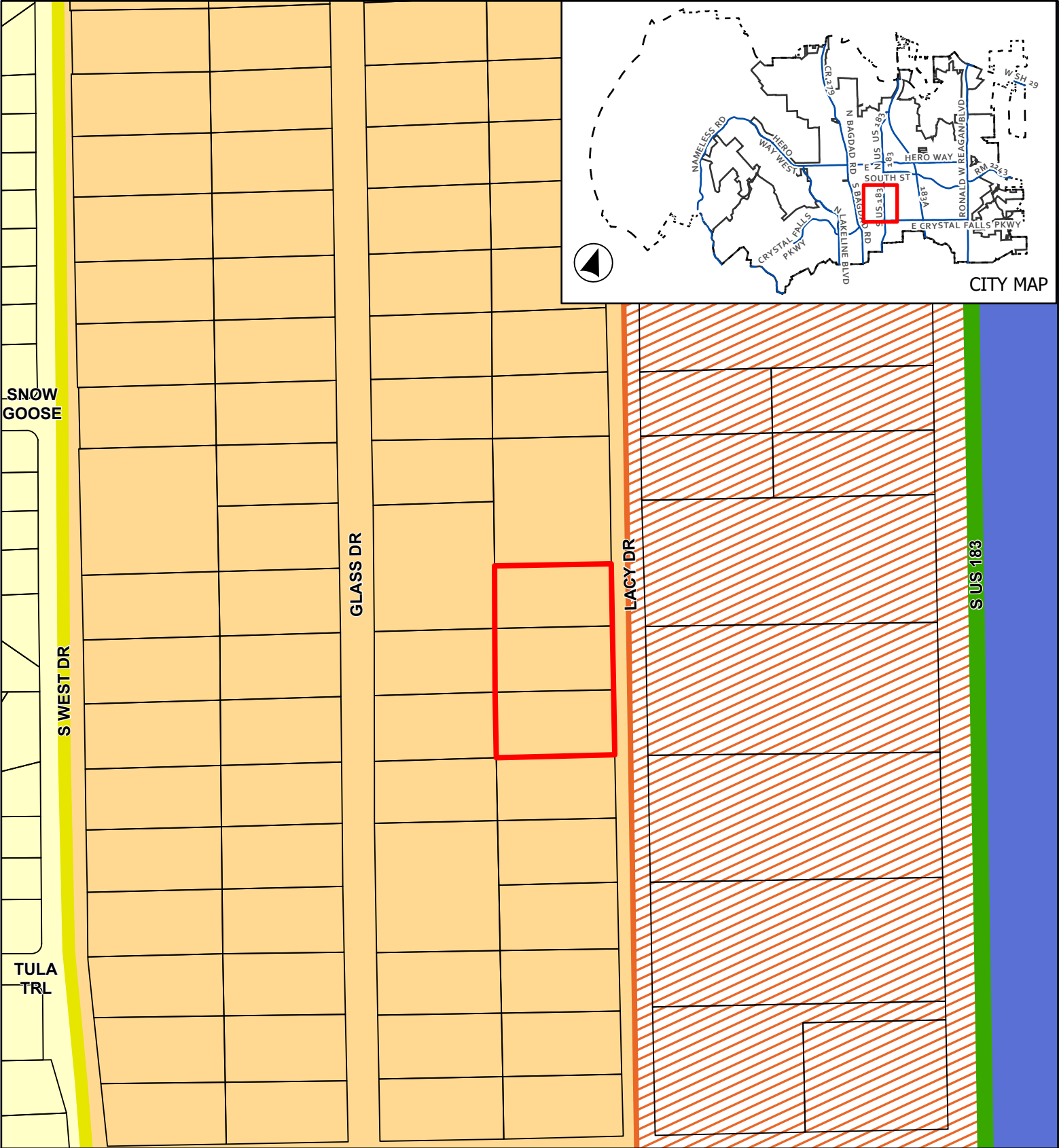
This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.

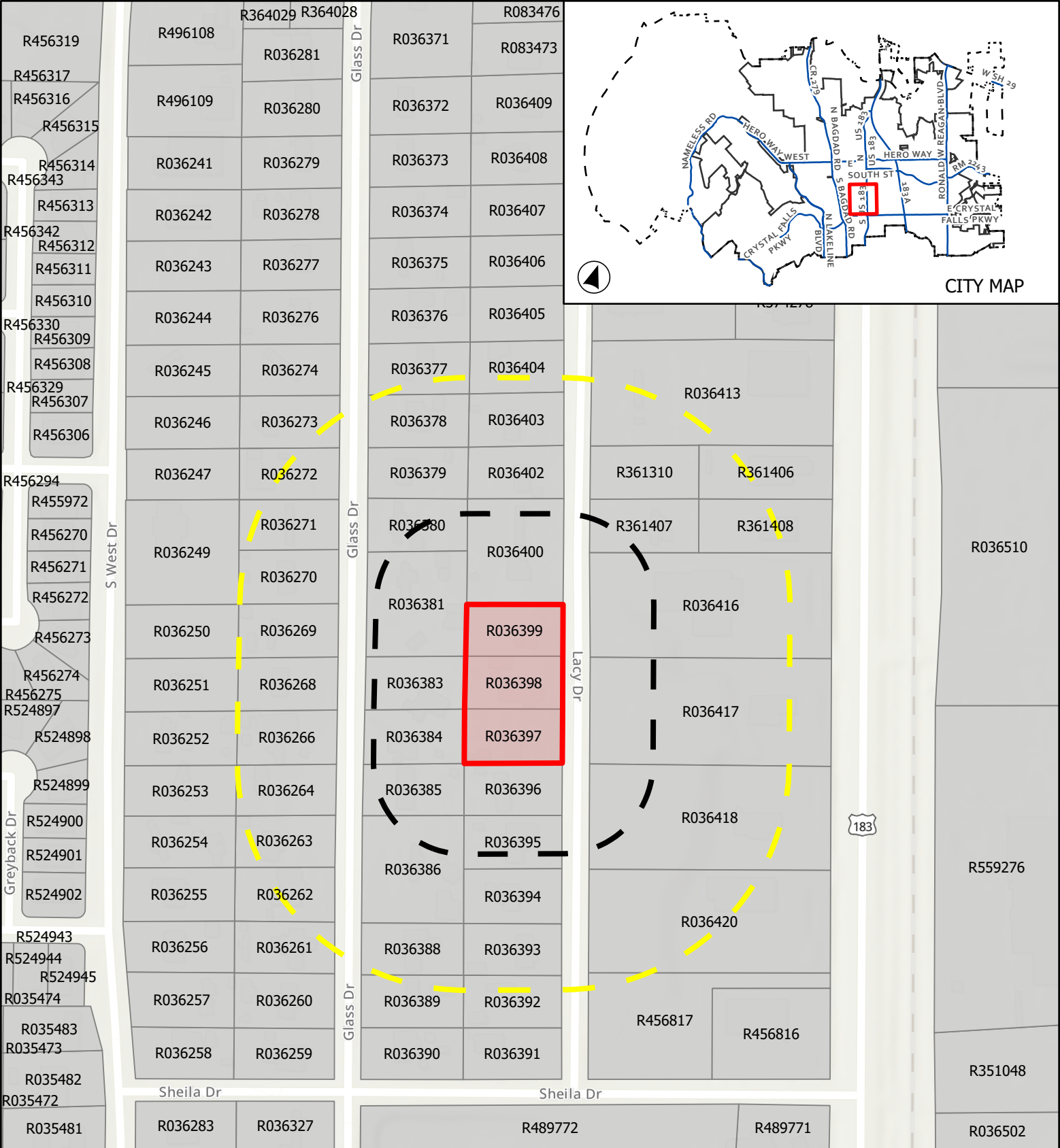
- Leander City Limits
- Extra-Territorial Jurisdiction
- Subject Boundary
- SFU - Single-Family Urban
- SFU/MH - Single-Family Urban/Manufactured Home

- TF - Two Family
- GC - General Commercial
- HC - Heavy Commercial
- PUD - General Commercial



0 70 140 Feet
 Page 25 of 313

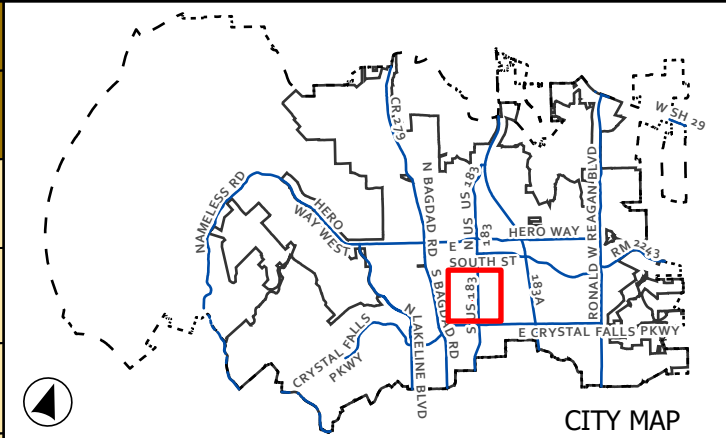
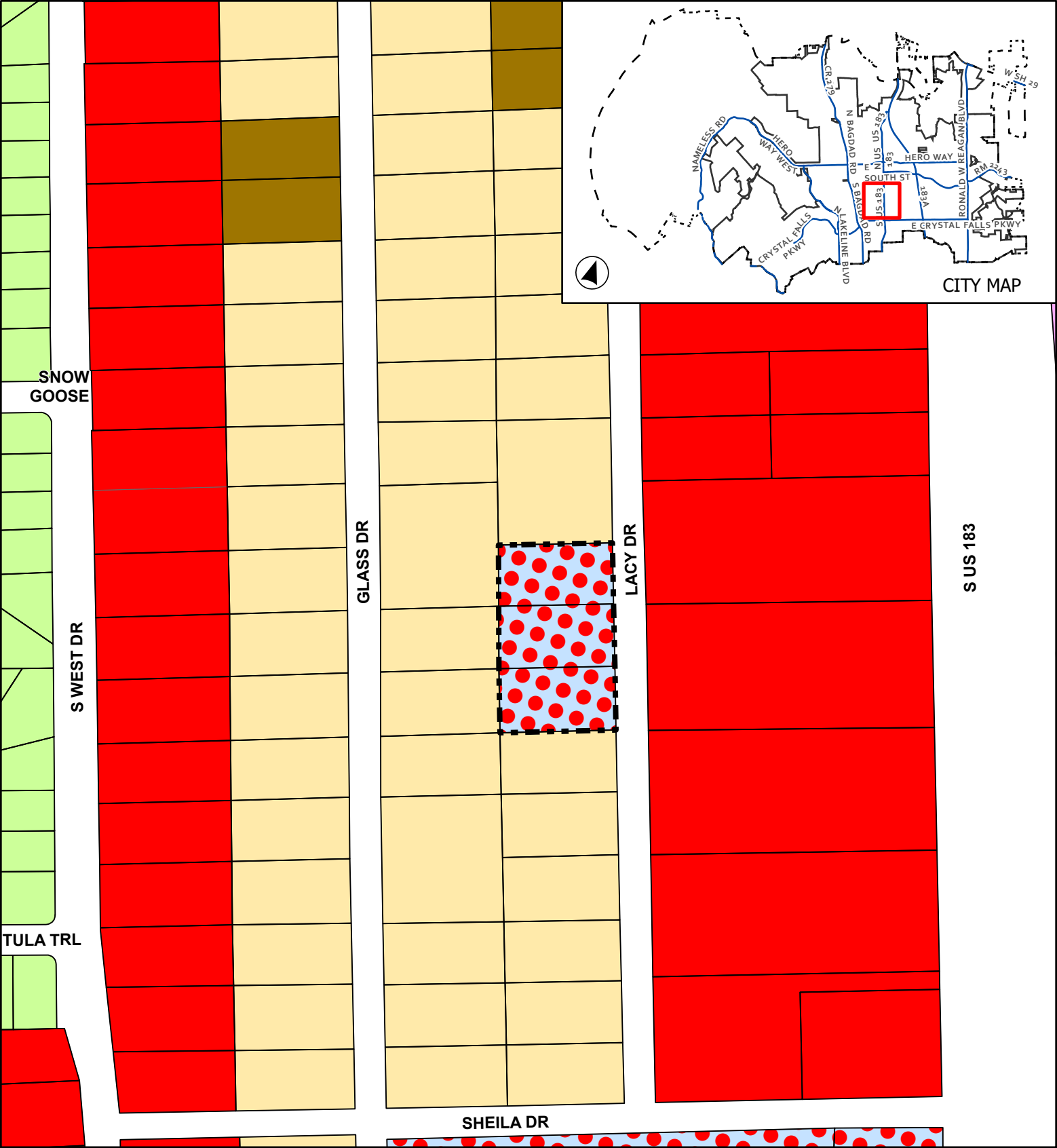




CASE: Z-24-0134

ATTACHMENT 4

LACY DR MINOR PUD



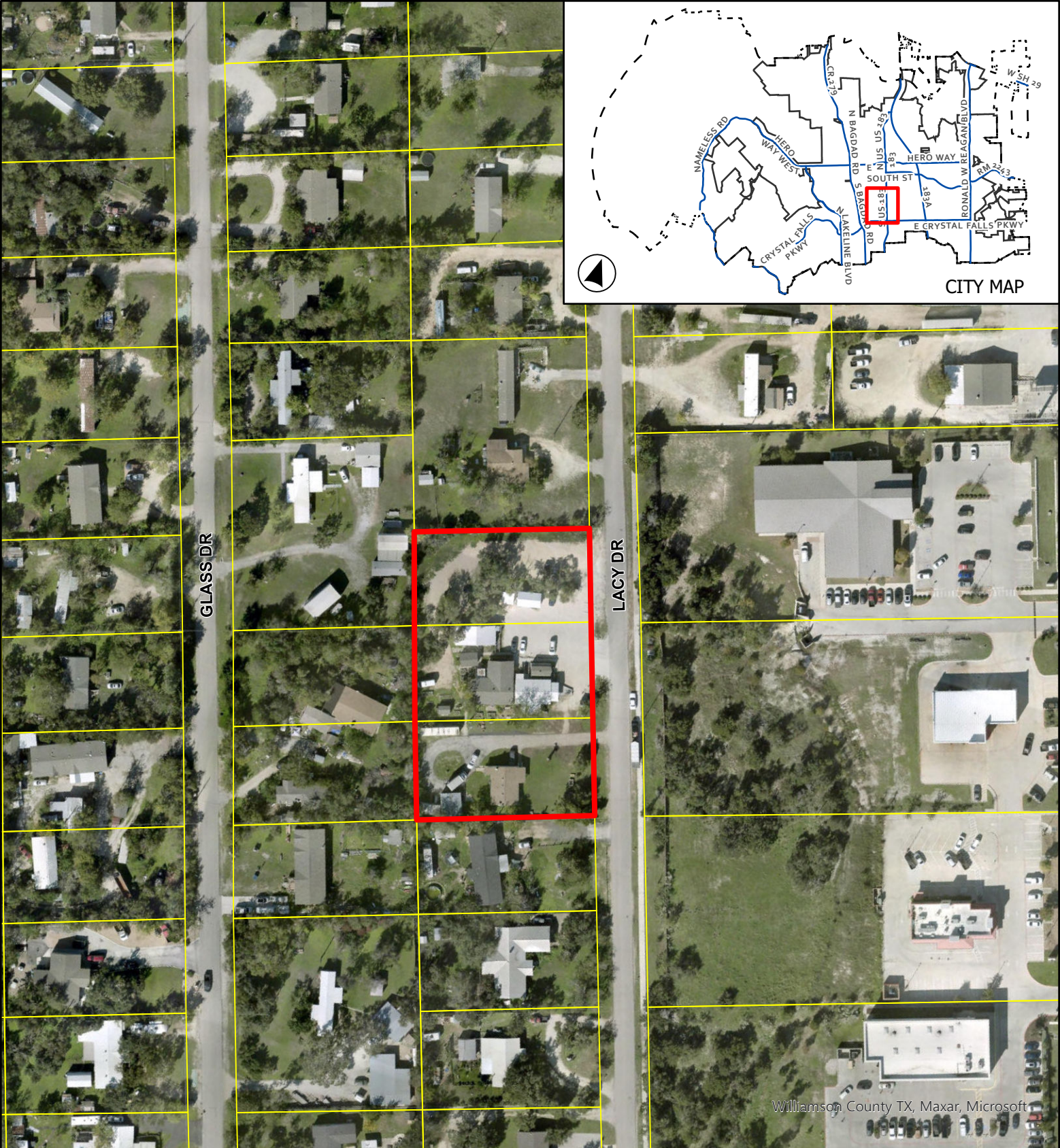
CASE: Z-24-0134 ATTACHMENT 5 LACY DR MINOR PUD

Proposed Zoning

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.

- Leander City Limits
- Extra-Territorial Jurisdiction
- Subject Boundary
- SFU - Single-Family Urban
- SFU/MH - Single-Family Urban/Manufactured Home
- TF - Two Family
- GC - General Commercial
- HC - Heavy Commercial
- PUD - General Commercial

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GLASS DR

LACY DR

CITY MAP

Williamson County TX, Maxar, Microsoft

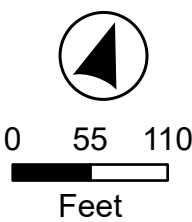
CASE: Z-24-0134

ATTACHMENT 6

LACY DR MINOR PUD

Aerial Map

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



- Leander City Limits
- Subject Boundary

EXHIBIT A

Hill Country Community Ministries – Lacy Drive Minor Planned Unit Development Zoning

A. Purpose and Intent

1. The 1005, 1007 & 1009 Hill Country Community Ministries Minor PUD is comprised of approximately 1.31 acres, as shown in **Exhibit B**. The development of this property includes a food pantry, a clothes closet/thrift store, and a resource center/office space.

B. Applicability and Base Zoning

1. All aspects regarding the development of this PUD shall comply with the City of Leander Composite Zoning Ordinance, except as established in this exhibit, titled **Exhibit A**.
2. For the purpose of establishing development standards for the PUD, the following base zoning districts have been selected from the Leander Composite Zoning Ordinance.

LC-3-A (Local Commercial)

C. Allowable / Prohibited Uses

1. The allowable uses shall include:
 - a. Any use permitted in the “LC” use component
 - b. Equipment and furniture or other similar goods sales, repair and service
 - c. Nonprofit 501 (c)(3) organization that provides aid to the community including the following uses:
 - a. Food Pantry
 - b. Small Scale Donation Center
 - c. Thrift Store
 - d. Tiny homes are permitted in lieu of other uses, in compliance with Section 11 of the Composite Zoning Ordinance
2. The prohibited uses shall include:
 - a. Funeral home, including embalming and crematory facilities associated with an onsite funeral home or cemetery.

D. Definitions

1. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section.
 - a. **Food Pantry** – A food pantry means a nonprofit business that includes a distribution center where food is donated and families can receive food.
 - b. **Small Scale Donation Center** – A small scale donation center means a center used for the collection and storage of donated goods to be distributed as part of a thrift store.
 - c. **Thrift Store** – A thrift store means a nonprofit business that engages in the sale or resale of previously owned or used goods and merchandise typically used to raise funds for a charitable institution.

EXHIBIT B

Hill Country Community Ministries – Lacy Drive Minor Planned Unit Development Zoning

1005, 1007 & 1009 Lacy Drive, Leander Texas are each approximately 0.43618 acres.





June 27, 2024

City of Leander Planning
PO Box 319
Leander, TX 78641

RE: 1005, 1007 & 1009 Lacy Drive
Minor PUD Application

Dear Robin Griffin:

Goode Faith Engineering is submitting a Minor PUD application on behalf of Hill Country Community Ministries (HCCM), a 501(c)3 non-profit, serving Williamson and NW Travis Counties. The intent of this application is to request a PUD zoning change from SFU/MH to GC-3-A. This allows for construction of a new food pantry, clothes closet, and resource center. However, they would like the option of retaining a Residential component to allow for tiny homes to be built where the current food pantry is in case the land is donated prior to development.

HCCM has been grandfathered in and is providing food, clothes, and financial resources to the community from Lacy Drive. Currently, the properties contain single family and manufactured buildings, along with gravel parking.

Please contact me at (972) 822-1682 or anthony@goodefaitheng.com if you have any questions.

Sincerely,

Anthony Goode, P.E.

APPLICANT'S SUMMARY OF NEIGHBORHOOD COMMUNICATIONS

This summary is only required for a PUD or a Minor PUD

1. How and when were the surrounding neighborhood and residential property owners within 500' notified, how was information shared, and who was directly involved in the communication process? Please provide the address of the properties notified and the name and contact information of the residents directly involved in the communication process. Attach any materials that were distributed.

A letter was mailed from Tiesa Hollaway, Executive Director of Hill Country Community Ministries, to the surrounding neighborhood and residential property owners on 6/8/2024.

The letter, the list of property owners and addresses, and the architect's rendering are included with this application.

2. Who was notified (i.e. property owners, HOA, etc)? The HOA and/or a representative if there is no organized HOA must be contacted, if applicable. Provide a separate sheet listing the contact information used including the names and addresses of the individuals.

All property owners within 500 feet of the subject properties were notified.

The letter, the list of property owners and addresses, and the architect's rendering are included with this application.

3. What concerns were raised during these communications?

There were no attendees at the meeting offered on June 27, 2024. Tiesa Hollaway received 2 phone calls as a result of the letters sent.

One call was from a homeowner on Lacy Drive informing Tiesa about her intention to sell her property.

One call was from the property management company for Baylor, Scott & White Medical asking about the homelessness in the area as well as HCCM's experience with vandalism. They have a property in South Austin and have had issues with criminal behavior and mental ill there.

Tiesa informed them that we have very little homelessness in this area and have not had any issues with vandalism.

4. What specific conditions were added to or modified within the zoning request in response to the concerns raised at the meeting?

As a result of these conversations, no conditions were added or modified to the zoning request

The above information is deemed to be true to the best of my knowledge.

Signature: _____

Date 7/15/2024



HCCM
Hill Country Community Ministries

Help for People
Hope for the Future

June 6, 2024

Re: Re-zoning 1.37 acres, Hill Country Community Ministries for GC -3- A – General Commercial

Dear Resident/Owner,

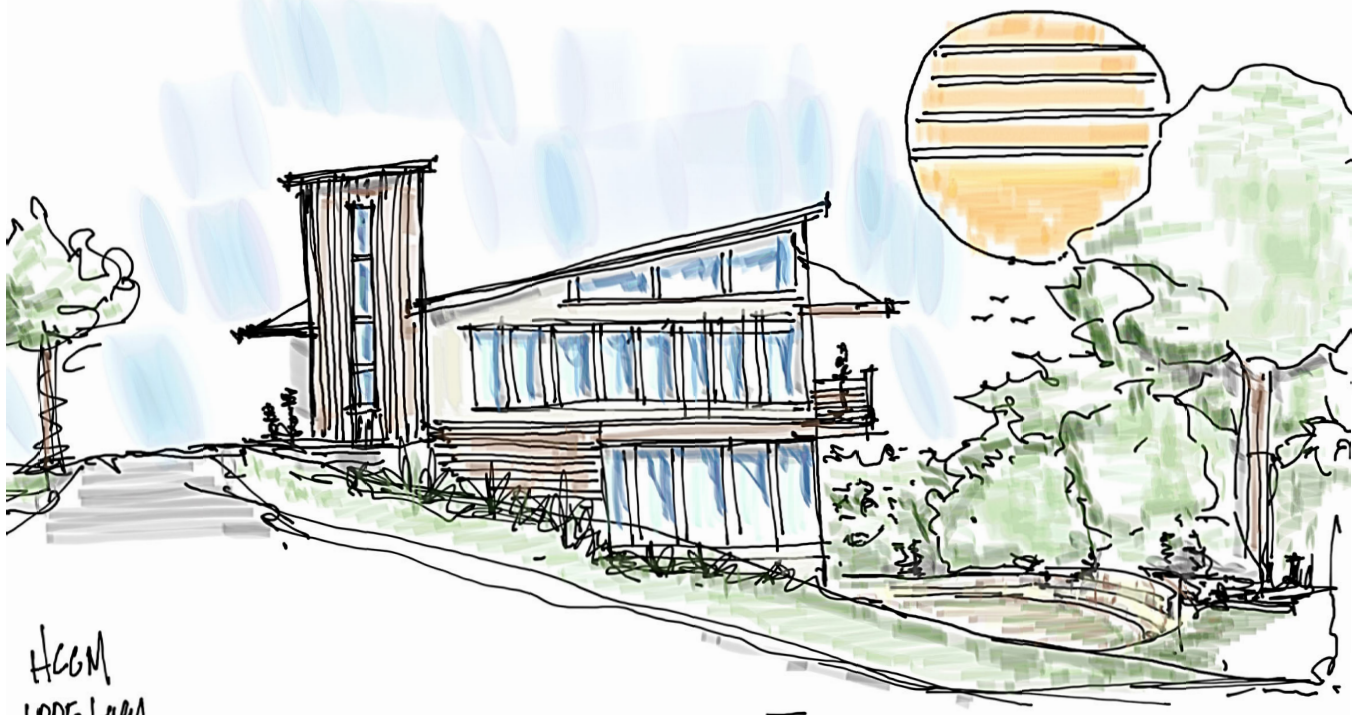
This letter is to inform you that approximately 1.37 acres of land located at 1005 Lacy, 1007 Lacy and 1009 Lacy Drive will be considered for a re-zoning request to accommodate the food pantry and resource center. Enclosed please find a conceptual site plan for the 1.37 acres.

Please contact Tiesa Hollaway, Executive Director of Hill Country Community Ministries at 512-259-0360 ext. 204 if you have any questions or concerns. We will be holding a meeting on Thursday, June 27th at 6 PM at 1009 Lacy Dr., Leander, TX 78641 for any neighbor who would like to participate in a question-and-answer session.

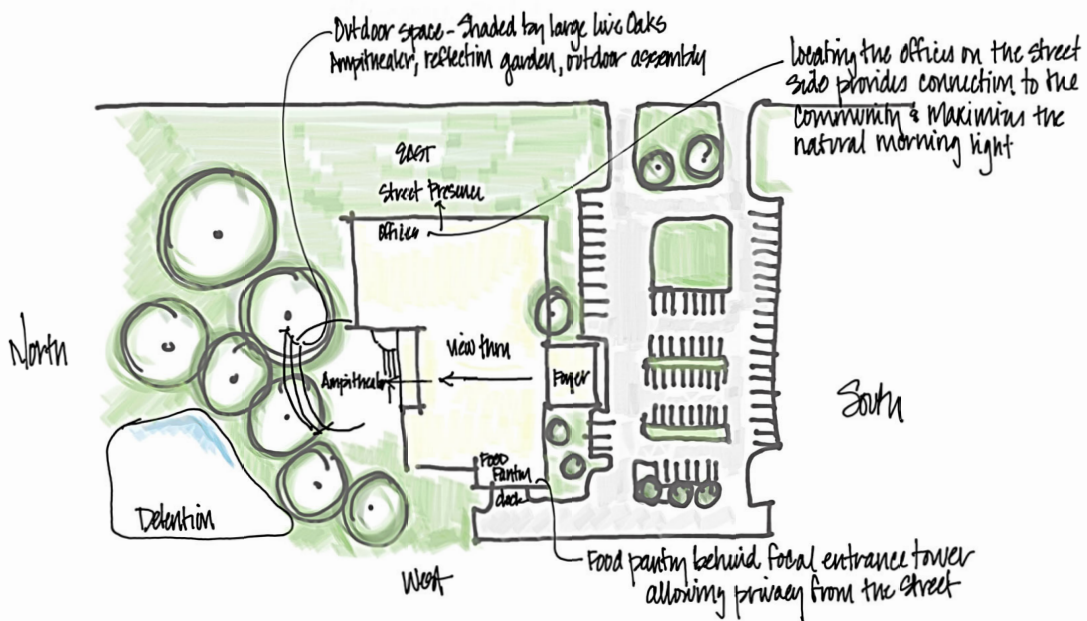
Thank you for your consideration and please reach out with any questions.

Sincerely,

Tiesa Hollaway
Executive Director



HGM
1005 LAM
© BCD B.M.M



Site Concept

1005 Lacy Drive
© BCD HGM

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING THE ZONING ORDINANCE BY CREATING THE HILL COUNTRY COMMUNITY MINISTRIES – LACY DRIVE MINOR PUD (PLANNED UNIT DEVELOPMENT) WITH THE BASE ZONING DISTRICT OF LC-3-A (LOCAL COMMERCIAL); MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of the property described herein after (the "Property") has requested that the Property be rezoned;

WHEREAS, after giving at least ten (10) days written notice to the owners of land within two hundred (200') feet of the Property, the Planning & Zoning Commission held a public hearing on the proposed rezoning and forwarded its recommendation on the rezoning to the City Council;

WHEREAS, after publishing notice of the public hearing at least fifteen (15) days prior to the date of such hearing, the City Council at a public hearing has reviewed the request and the circumstances of the Property and finds that a substantial change in circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired;

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

SECTION 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Amendment of Zoning Ordinance. Ordinance No. 05-018-00, as amended, the City of Leander Composite Zoning Ordinance (the "Zoning Ordinance" or "Code"), is hereby modified and amended by rezoning the Property as set forth in Section 3.

SECTION 3. Applicability. This ordinance applies to the following parcel of land, which is herein referred to as the "Property". That certain parcel of land being including 1.31 acres ±; being more particularly described in Exhibit "B"; located at 1005 Lacy Drive, 1007 Lacy Drive, and 1009 Lacy Drive; identified by Williamson Central Appraisal District tax identification number R036397, R036398, and R036399; more particularly described in Instrument Numbers 2021128057 and 1987035838; recorded in the Official Public Records of Williamson County, Texas.

SECTION 4. Property Rezoned. The Zoning Ordinance is hereby amended by creating the Hill Country Community Ministries – Lacy Drive Minor PUD (Planned Unit Development) with the base zoning district of LC-3-A (Local Commercial). The PUD shall be developed and occupied in accordance with this Ordinance, the PUD plan attached as Exhibits "A" and "B" which are hereby adopted and incorporated herein for all purposes, and the Composite Zoning Ordinance to

the extent not amended by this Ordinance. In the event of a conflict between the Composite Zoning Ordinance and the requirements for the Property set forth in this Ordinance, this Ordinance shall control.

SECTION 5. Recording Zoning Change. The City Council directs the Planning Department to record this zoning classification on the City's official zoning map with the official notation as prescribed by the City's zoning ordinance.

SECTION 6. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

SECTION 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED on First Reading this the 7th day of November, 2024.
FINALLY PASSED AND APPROVED on this the 21st day of November, 2024.

ATTEST:

THE CITY OF LEANDER, TEXAS:

Dara Crabtree, City Secretary

Christine DeLisle, Mayor



**MINUTES
PLANNING & ZONING COMMISSION MEETING
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday, October 10, 2024
Regular Meeting at 6:00 PM



Place 1 – Donnie Mahan
Place 2 – John Cosgrove
Place 3 – Ron May
Place 4 – Deirdre Moss

Place 5 – James Oliver, Vice Chair
Place 6 – Laura Lantrip, Chair
Place 7 – Scott Calame
Staff Liaison – Robin Griffin

REGULAR MEETING

1. Call to Order.
Meeting was called to order at 6:00 p.m.
2. Roll Call.
All present except Commissioner Deirdre Moss.
3. Director's report to the Planning & Zoning Commission on action taken by City Council on the October 3, 2024 meeting.
4. Review of meeting protocol.
5. Public comments on items not listed in the agenda.

Public comments on items listed in the agenda will be heard at the time each item is discussed.

[All comments are limited to no more than 3 minutes (6 minutes if translation is needed) per individual.]

No one wished to speak.

CONSENT AGENDA: ACTION

Motion to approve Consent Agenda Item # 6.

6. Approval of the minutes for meeting held on September 26, 2024.

By: Board Member May
Seconded: Board Member Calame

Vote: 6 - 0 None

PUBLIC HEARING: ACTION

7. Conduct a Public Hearing and consider action regarding Comprehensive Plan Case CPA-24-0014 to amend the Comprehensive Plan land use category from Leander Central to Activity Center on eight (8) parcels of land approximately 16.0602 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R517094, R031604, R646992, R646986, R646987, R646988, R646989, and R646990; and more commonly known as southwest of the intersection of East San Gabriel Parkway and 183A Toll Road, Leander, Williamson County, Texas.

- Discuss and consider action regarding Comprehensive Plan Case CPA-24-0014 as described above.

Marshall Hines, 1801 Montana Leander, TX 78641 spoke in opposition to the request.
Peter Maselli, 257 John Webster St Leander, TX 78641 spoke in favor to the request.

Motion to approve CPA-24-0014.

By: Board Member Calame
Seconded: Board Member Lantrip

Vote: 3 - 3 Board Member Mahan, Board Member Cosgrove, Board Member Oliver

Motion Failed.

8. Conduct a Public Hearing and consider action regarding Zoning Case Z-24-0120 to amend the 675 Kauffman Loop Planned Unit Development to allow for overhead commercial doors on two (2) parcels of land approximately 24.91 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R328207 and R555049; and more commonly known as 675 Kauffman Loop, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0120 as described above.

No one spoke in favor or opposition of the request.

Motion to approve Zoning Case Z-24-0120.

By: Board Member Lantrip
Seconded: Board Member Calame

Vote: 6 - 0 None

9. Conduct a Public Hearing and consider action regarding Zoning Case Z-24-0134 to amend the current zoning of SFU/MH-2-B (Single-Family Urban/Manufactured Home) to adopt the Hill Country Community Ministries – Lacy Drive PUD (Planned Unit Development) with the base zoning district of LC-3-A (Local Commercial) on three (3) parcels of land approximately 1.31 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R036399, R036398, and R036397; and more commonly addressed as 1005 Lacy Drive, 1007 Lacy Drive, and 1009 Lacy Drive, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0137 as described above.

No one spoke in favor or opposition of the request.

Motion to approve Zoning case Z-24-0137.

By: Board Member Mahan

Seconded: Board Member Cosgrove

Vote: 6 - 0 None

10. Conduct a Public Hearing regarding Zoning Case Z-24-0142 to amend the current zoning of SFS-2-B (Single-Family Suburban) to GC-3-C (General Commercial) on one (1) parcel of land approximately 5.094 acres ± in size, more particularly described by Williamson Central Appraisal District Parcel R432899; and generally located at the southeast corner of the intersection of Hero Way West and N. Lakeline Boulevard, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0142 as described above.

No one spoke in favor or in opposition of the request.

Motion to approve Zoning case Z-24-0142.

By: Board Member Mahan

Seconded: Board Member Oliver

Vote: 6 - 0 None

REGULAR AGENDA

11. Adjournment
Meeting adjourned at 7:24 p.m.

APPROVED

CHAIR

ATTEST:

STAFF LIAISON



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Conduct a Public Hearing regarding Zoning Case Z-24-0142 to amend the current zoning of SFS-2-B (Single-Family Suburban) to GC-3-C (General Commercial) on one (1) parcel of land approximately 5.094 acres ± in size, more particularly described by Williamson Central Appraisal District Parcel R432899; and generally located at the southeast corner of the intersection of Hero Way West and North Lakeline Boulevard, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0142 as described above.

BACKGROUND:

This request is the second step in the zoning process. This property is located to the southeast of the intersection of Hero Way West and North Lakeline Boulevard. The property to the south is in the ETJ, but under the same ownership as the property subject to the zoning case. The applicant is requesting to change the zoning from the interim single-family district to a commercial zoning district. This change will allow for a variety of uses that could include commercial/retail centers, gas stations, car washes, office space, and/or restaurants. The proposal does comply with the Comprehensive Plan and is appropriate for properties located in a Priority Neighborhood Center identified by the Comprehensive Plan.

The Planning Analysis is provided as Attachment #1 and provides more details about the request and the property.

HISTORY/TIMELINE:

11/06/2002 -- Annexed into City

10/10/2024 – Planning & Zoning Commission, 1st Public Hearing

APPLICANT/AGENT:

Pohl Jensen, LLC (Jennifer Jensen) on behalf of John and Nancy Gilpin

RECOMMENDATION:

Staff recommends approval of the zoning request. The Planning & Zoning Commission unanimously recommended approval during the October 10, 2024 meeting.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. Z-24-0142 Att 1 Planning Analysis - Gilpin Project
2. Z-24-0142 Att 2 Current Zoning - Gilpin Project
3. Z-24-0142 Att 3 FLU Map - Gilpin Project
4. Z-24-0142 Att 4 Public Notification - Gilpin Project
5. Z-24-0142 Att 5 Proposed Zoning - Gilpin Project
6. Z-24-0142 Att 6 Aerial Map - Gilpin Project
7. Z-24-0142 Att 7 Letter of Intent - Gilpin Project
8. Z-24-0142 Att 8 Neighborhood Outreach - Gilpin Project
9. Z-24-0142 Att 9 Ordinance- Gilpin Project
10. Z-24-0142 Att 10 10-10-2024 P & Z Minutes



PLANNING ANALYSIS

ZONING CASE Z-24-0142 GILPIN PROJECT

GENERAL INFORMATION

Owner/Agent: Pohl Jensen, LLC (Jennifer Jensen) on behalf of John and Nancy Gilpin.

Current Zoning: SFS-2-B (Single-Family Suburban)

Proposed Zoning: GC-3-C (General Commercial)

Size and Location: The property is located at the southeast corner of the intersection of Hero Way West and N. Lakeline Boulevard, including approximately 5.094 acres.

Staff Contact: Jason Pho
Assistant Planner

APPLICANT REQUEST

The applicant has submitted a request to change the designated zoning district of their property to develop a mixed-use commercial area including retail stores, office space, dining establishments, and entertainment venues.

STAFF CONCLUSIONS

Y N

- ☒ ☐ Does the proposal comply with the intent statements of the Composite Zoning Ordinance? *see page 4*
- ☒ ☐ Does the proposal comply with the goal statements of the Comprehensive Plan? *see page 4*
- ☒ ☐ Does the proposal warrant any other special considerations? *see below*

SPECIAL CONSIDERATIONS

This property is part of a larger 37.06-acre parcel that is in the ETJ. The applicant has the option of annexing the remaining portion of the larger parcel and incorporate that acreage into this development.

SITE INFORMATION:

ABUTTING ZONING AND LAND USE:

	ZONING	LAND USE
NORTH	SFS-2-B	Vacant
EAST	Urbana PUD	Local Commercial, Single-Family Residential
SOUTH	ETJ	Vacant
WEST	SFS-2-B	Vacant

SURROUNDING AREA:

This property is located south of Hero Way West. To the east of this site is the Urbana subdivision. To the north, south, and west of the property is undeveloped land.

PHYSICAL AND NATURAL FEATURES:

This property contains few existing trees along Hero Way West and does not contain any floodplains.

PROPERTY HISTORY:

This property was annexed into the City of Leander on 11/06/2002.

PREVIOUS ZONING CASES:

No zoning cases have been previously submitted for this property.

MAJOR CORRIDORS:

This property has access onto N. Lakeline Boulevard and Hero Way West.



Figure 1: Aerial

TRANSPORTATION PLAN REQUIREMENTS:

This property does not include any proposed roadways shown on the Transportation Master Plan.

The table below includes the proposed streets within the development. These streets have not been reviewed and are subject to change during the review process.

STREET	CLASSIFICATION	LAND USE CONTEXT	DESIGN ELEMENTS
Lakeline Boulevard	Arterial	Commercial	100' ROW 4-Lane Arterial 10' Sidewalk
Hero Way West	Arterial	Commercial	126' ROW 6-Lane Arterial 10' sidewalk

SUBDIVISIONS:

No subdivision cases have been previously submitted for this property.

EXISTING UTILITIES:

This property has access to water along Hero Way West as shown in Figure 2. The Capital Improvement Project W.72 which includes the extension of a water line along North Lakeline Boulevard is nearing completion. The nearest wastewater is located to the south of the property as shown in Figure 3.



Figure 2: Water Systems



Figure 3: Wastewater systems

CURRENT LAND USES:

This property is currently vacant.

PROPOSED ZONING DISTRICT:

USE COMPONENT**GC – GENERAL COMMERCIAL:**

Features: Any use in LC plus bar, nightclub, entertainment venues, hospital, hotel, liquor store, office/warehouse, vehicle and equipment sales, leasing and repair, furniture sales, pet shop, wholesale activities less than 3,500 sq. ft.

Intent: Development of small to large scale commercial, retail, and commercial service uses located in high traffic areas. Access to this component should be provided by an arterial street. The heaviest concentration of this component should be located at intersections of arterial streets.

SITE COMPONENT**TYPE 3:**

Features: Accessory buildings up to 30% of primary building; accessory dwellings; drive-thru service; limited outdoor display and storage; outdoor fueling and washing of vehicles; overhead service doors, no indoor parking required.

Intent:

- (1) A Type 3 site component is intended to be utilized with LO and LC use components where adjacent to less restricted districts to provide for a land use transition.
- (2) This component is intended to be utilized with residential components where accessory dwellings or additional accessory structures are appropriate and are not provided for in the Type 1 or 2 site components.
- (3) This component is intended to be combined with LO, LC, GC, HC and HI components where it is appropriate to utilize the outdoor site area for outdoor fuel sales, limited outdoor display and storage or accessory buildings.
- (4) Compliance with Type 1 or 2 standards shall also be deemed as compliance with this component.

ARCHITECTURAL COMPONENT**TYPE C (non-residential only):**

Features: 3 or more architectural features.

Intent:

- (1) The Type C architectural component is intended to be utilized only in the LO, LC, GC, HC and HI use components for intermediate quality development.
- (2) Combined with appropriate use and site components, this component can help to provide for harmonious land use transitions from districts that are less restricted to districts that are more restricted.
- (3) This component is not intended for the majority of the LO and LC use components except those that may be adjacent to less restricted districts.

COMPREHENSIVE PLAN:

Applicable Comprehensive Plan goal statements

- Strategy 1.1: Guide future growth and development following the comprehensive plan to achieve a more balanced, diverse economy.

Applicable Future Land Use categories**ACTIVITY CENTER**

- Activity Center areas are the major strategic commercial centers within the community. They are intended to provide opportunity for diverse retail, employment and mixed-use destinations at critical intersections to create dense, value-intense development. These centers are regional in nature and serve a population beyond Leander, and are found on major highways and arterials. Managing access and traffic in these high-volume areas will require planning and coordination.

In a changing retail environment, Activity Centers are designed to become community destinations with activities, amenities, shopping, restaurants and places to gather, live and work. These mixed-use centers complement neighborhood centers and the urban development around Leander Station. Individually, these centers are expected to have a differing balance of land use, design, and atmosphere based on their location

and context. High-density apartments and lofts are appropriate if designed and connected to the larger mixed-use center.

The Activity Center land use is intended to be implemented using a strategically planned framework, typically a PUD. When multiple landowners exist without a unified development scheme, proposed projects should plan for future integration to balance the activity center area as much as possible.

Desired Mix: 70-100% Non-Residential, 0-30% Residential

INTERGOVERNMENTAL/INTERDEPARTMENTAL REVIEW:

This proposal was reviewed by all applicable departments within the City of Leander. All plats submitted will be reviewed by Williamson County along with City Staff.

SCHEDULE:

DEVELOPMENT MEETING

A development meeting was held with Staff on 06/17/2024. No changes were made to the project since the development meeting was held.

NOTIFICATION

09/19/2024 - Public Notice on Hill Country News
 09/25/2024 - Mail Notification to Property Owners within 200'
 09/25/2024 - Public Hearing Signage Posted on Property
 10/10/2024 - Planning and Zoning Commission Public Hearing
 11/07/2027 - City Council Public Hearing & First Reading of the Ordinance
 11/21/2024 - City Council Second & Final Reading of the Ordinance

PUBLIC NOTIFICATION:

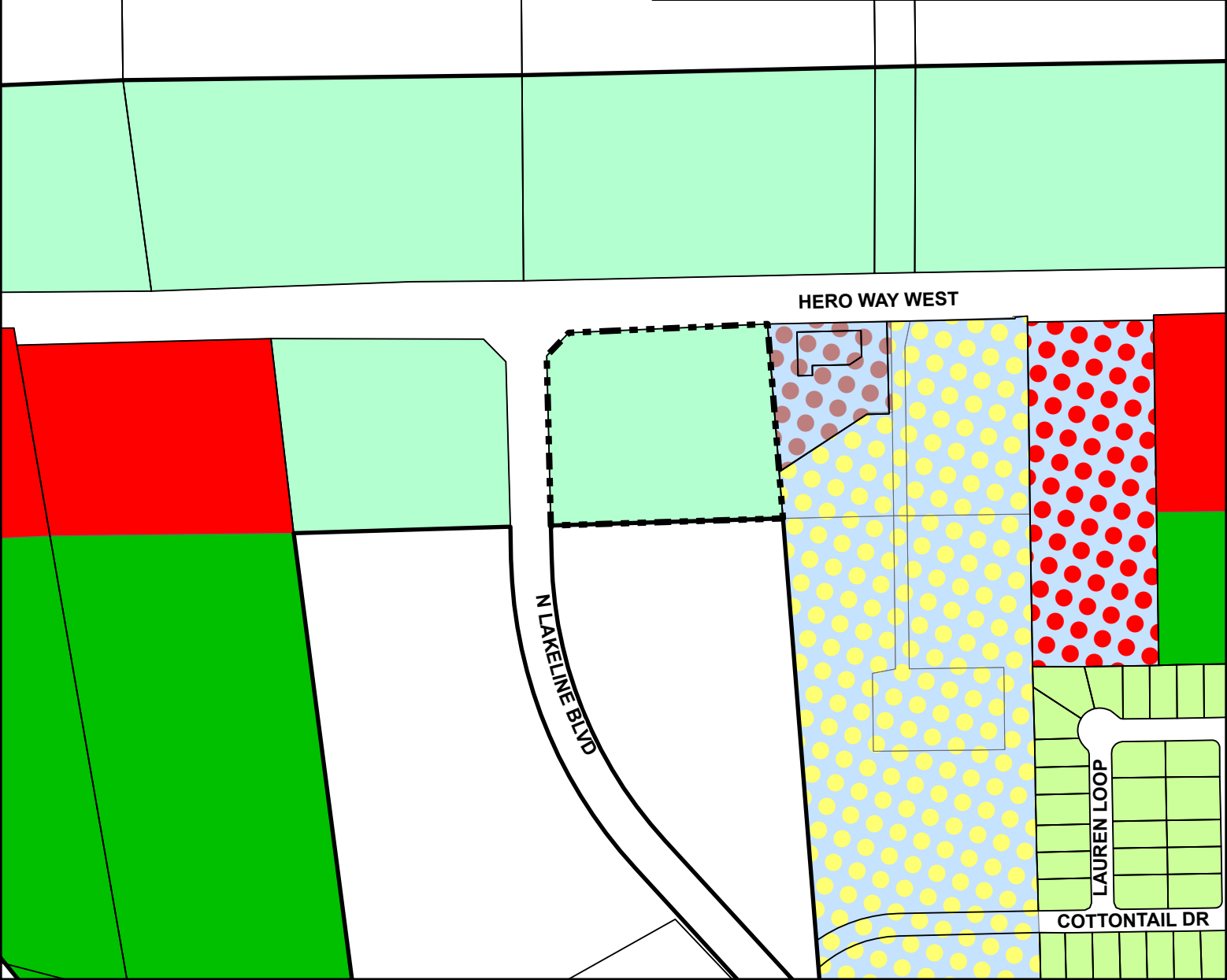
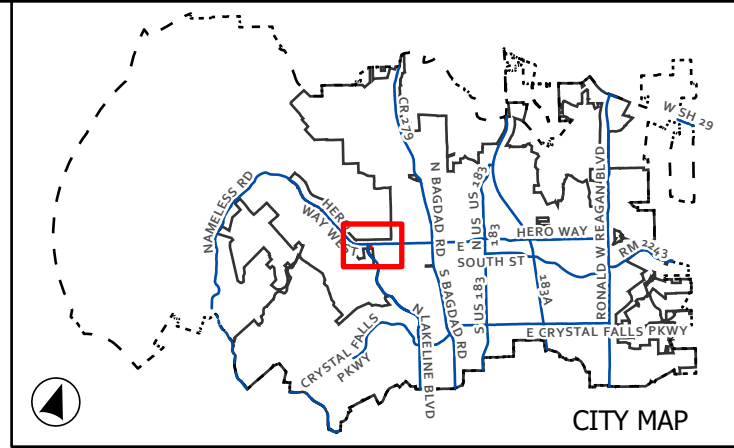
In addition to the notice mailed on behalf of the City to all property owners within 200', the agent is required to reach out to all property owners of property zoned as single-family or any properties used as single-family uses within 500' as per Article X, Section 3 (d) of the Composite Zoning Ordinance. Any Homeowner's Association located within 500' shall also be contacted.

A neighborhood meeting was held at 7:00 pm on 08/07/2024 virtually and another at 6:30 pm on 08/08/2024 in-person. No residents/property owners attended the neighborhood meetings.

Please see the full report from the applicant attached.

APPROVAL CRITERIA:

This property is located within an Activity Center which are intended to provide opportunity for diverse retail, employment and mixed-use destinations at critical intersections. This future land use category is compatible with the proposed General Commercial use component. Staff recommends approval of this request.



CASE: Z-24-0142 ATTACHMENT 2 GILPIN PROJECT

Current Zoning

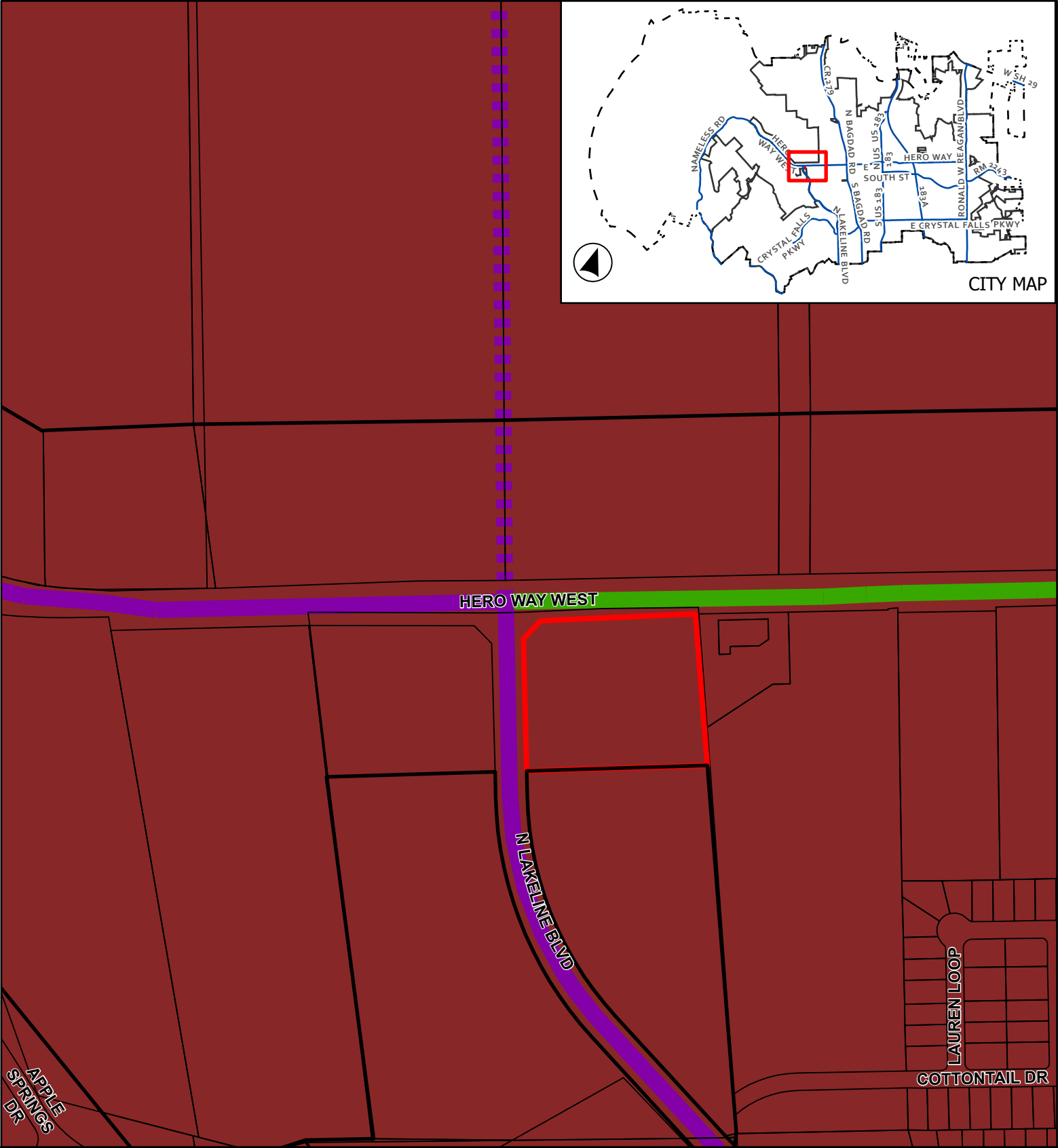
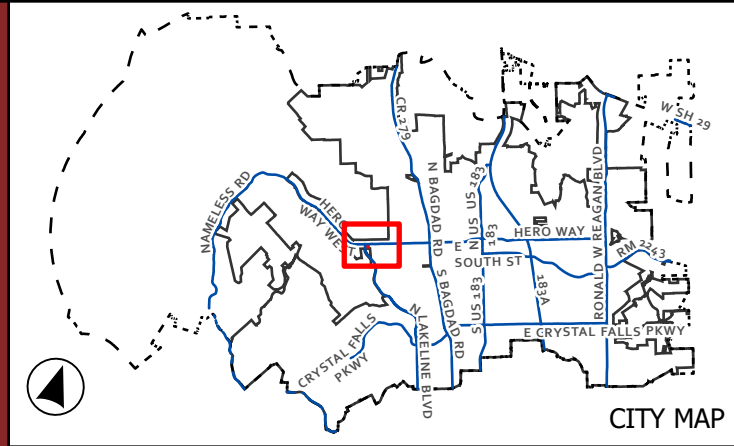
This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.

- Leander City Limits
- Extra-Territorial Jurisdiction
- Subject Boundary
- SFR - Single-Family Rural
- SFS - Single-Family Suburban
- GC - General Commercial
- PUD - Single-Family
- PUD - Local Commercial
- PUD - General Commercial
- SFU - Single-Family Urban

0 120 240

Feet

Page 278 of 313



CASE: Z-24-0142

ATTACHMENT 3

GILPIN PROJECT

Future Land Use Map



0 150 300

Feet

Leander City Limits

ETJ Boundary

Subject Boundary

Future Land Use

Activity Center

Thoroughfare Plan

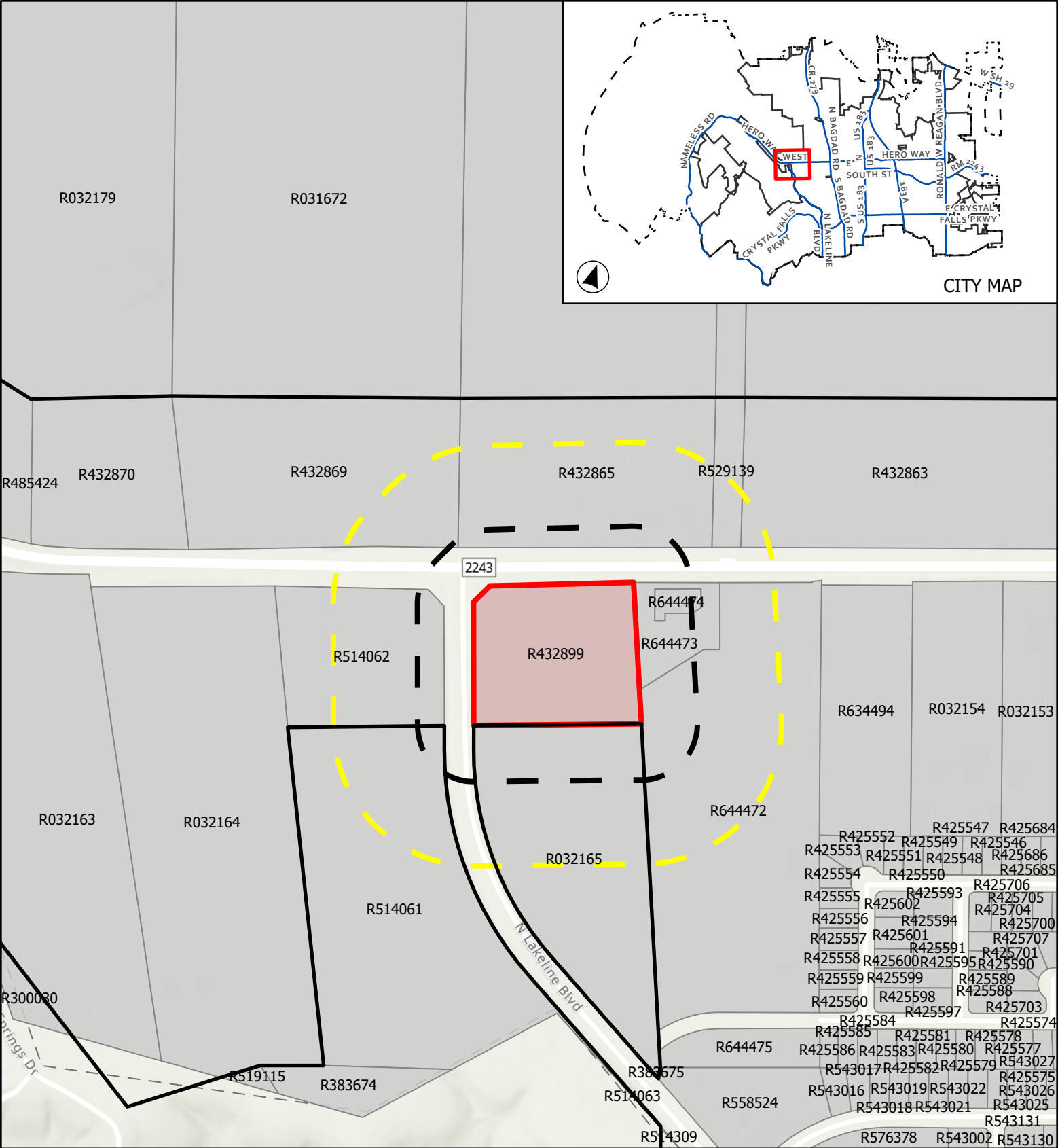
Arterial 6 Lane, Existing

Arterial 4 Lane, Existing

Arterial 4 Lane, Proposed

Page 274 of 313

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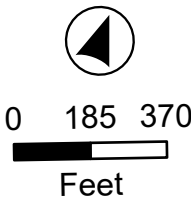
CASE: Z-24-0142

ATTACHMENT 4

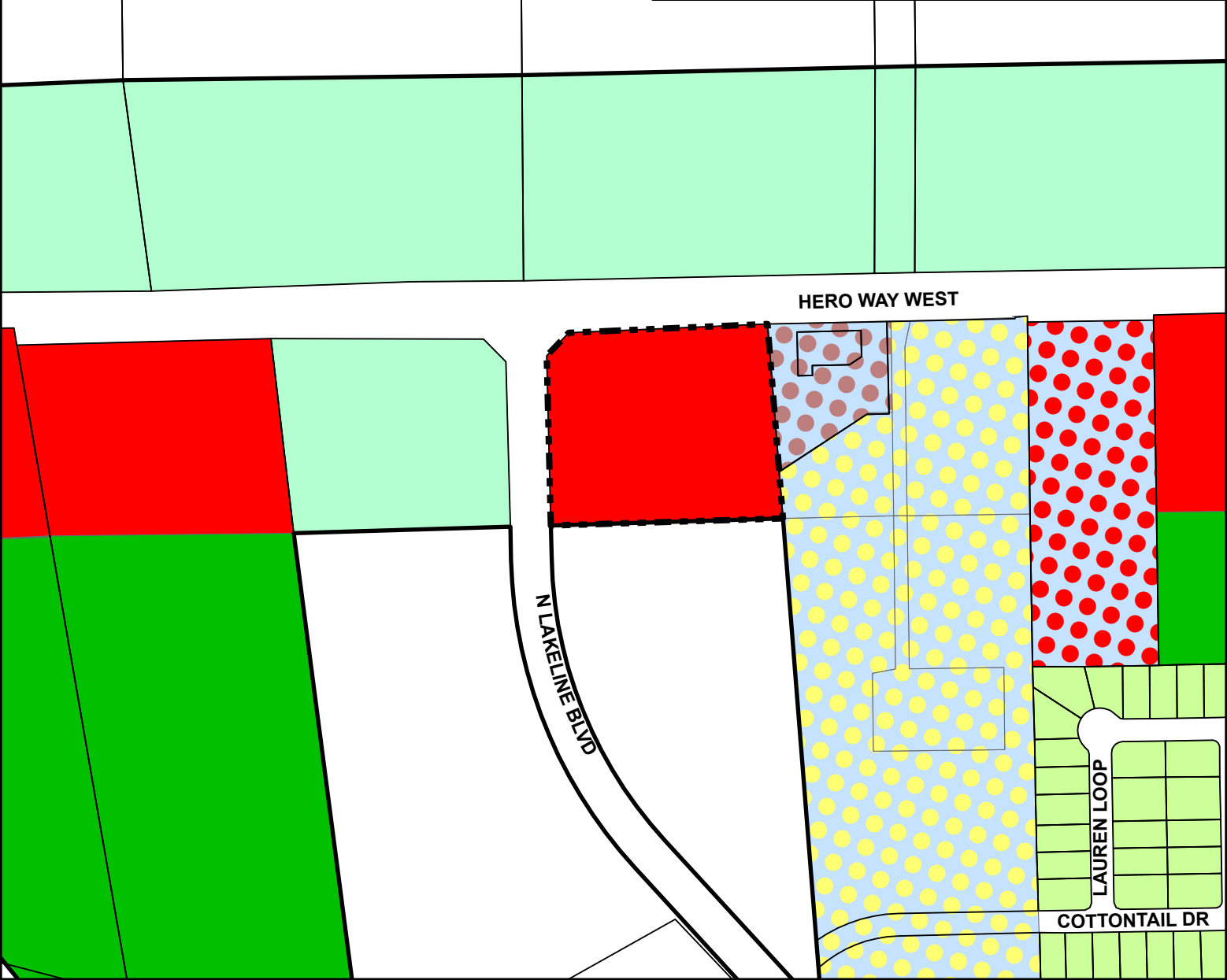
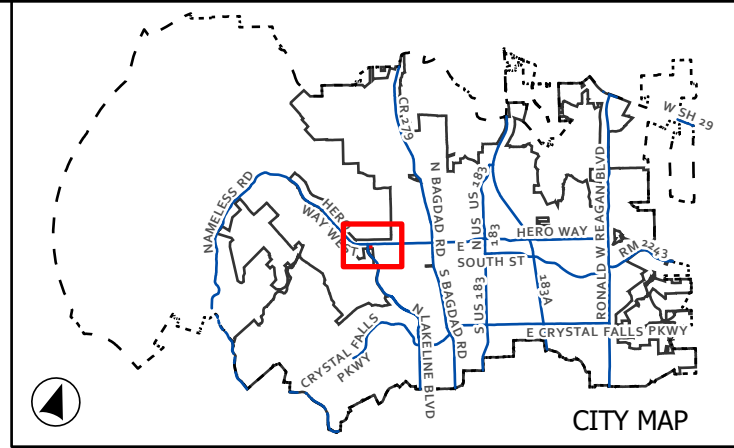
GILPIN PROJECT

Public Notification

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- City Limits
- ETJ Boundary
- Subject Boundary
- Notification Buffer
- 200'
- 500'



CASE: Z-24-0142

ATTACHMENT 5

GILPIN PROJECT

Proposed Zoning

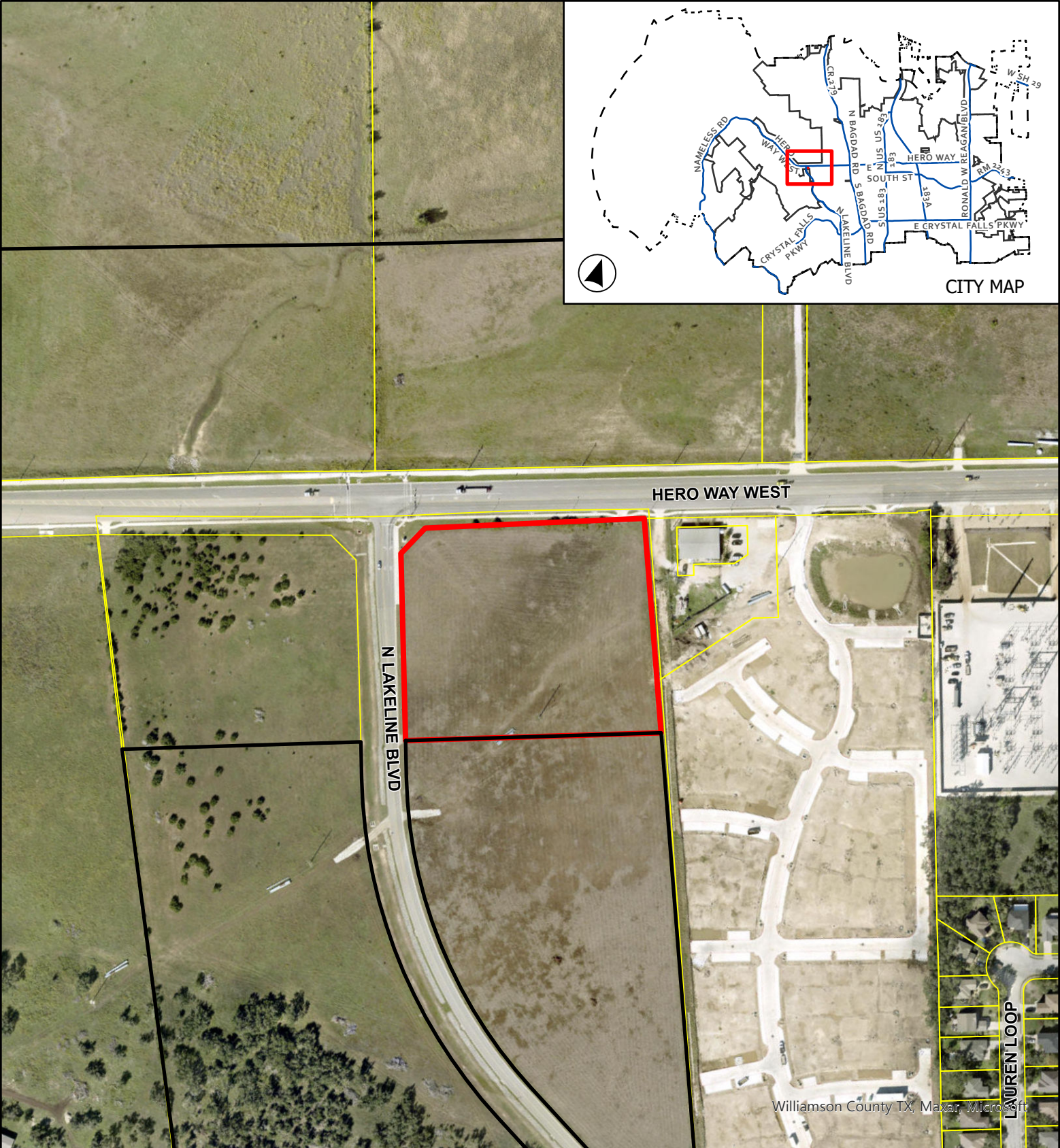
This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.

- | | |
|--------------------------------|---------------------------|
| Leander City Limits | SFU - Single-Family Urban |
| Extra-Territorial Jurisdiction | GC - General Commercial |
| Subject Boundary | PUD - Single-Family |
| SFR - Single-Family Rural | PUD - Local Commercial |
| SFS - Single-Family Suburban | PUD - General Commercial |

0 120 240

Feet

Page 276 of 313



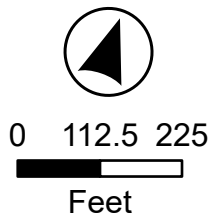
CASE: Z-24-0142

ATTACHMENT 6

GILPIN PROJECT

Aerial Map

This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, completeness, use or misuse of the information herein provided.



- Leander City Limits
- Subject Boundary

City of Leander

105 N. Brushy Street

Leander, TX 78641

Dear Leander City Staff and Council,

I am writing to formally request a change in zoning designation for the property located at the southeast corner of Hero Way and Lakeline, Blvd. in Leander, Texas, legal description is, 5.094 acres situated in the Moses S Hornsby survey, abstract No. 292 in Williamson County, Texas. Being a portion of that certain 37.06 acre tract conveyed to Nancy L. Rosenbusch Gilpin and Husband John Gilpin, by deed of record in Volume 1703, page 544 of the deed records of Williamson County, Texas; said 5.094 acre tract being more particularly described by metes and bounds attached hereto, from Single Family Suburban Residential (SFS-2-B) to General Commercial-3-C (GC-3-C). This proposal aligns with the city's future land use plan, particularly the "activity center" concept, and promises to deliver significant benefits to the city of Leander.

****Project Overview and Alignment with the City's Plan:****

The proposed project involves the development of a mixed-use commercial area that will include retail stores, office spaces, dining establishments, and entertainment venues. The design and layout of the development are detailed in the attached exhibits, which outline the site plans, building elevations, and landscape designs.

****Economic and Community Benefits:****

I. **Increased Sales Tax Revenue:**

- The transition to a commercial zoning designation will facilitate the establishment of businesses that generate sales tax revenue. This influx of revenue will enhance the city's financial resources, enabling the funding of public services and infrastructure improvements.

2. **Job Creation:**

- The development will create numerous employment opportunities for residents, from construction jobs during the development phase to permanent positions in retail, office, and service sectors upon completion.

3. ****Enhanced Amenities and Services:****

- Residents will benefit from increased access to a variety of amenities and services. The convenience of having shopping, dining, and entertainment options within close proximity will improve the quality of life for Leander's residents.

4. ****Stimulating Economic Growth:****

- The presence of a vibrant commercial hub will attract further investment and development in the surrounding areas, fostering overall economic growth and diversification.

****Consistency with the Future Land Use Plan:****

The city's future land use plan designates the area as an "activity center," aimed at fostering vibrant, mixed-use developments that combine commercial, residential, and recreational spaces. The proposed rezoning and subsequent development are in direct alignment with this vision, promoting a balanced and sustainable community growth strategy.

****Supporting Exhibits:****

To provide a comprehensive understanding of the proposed development, I have attached the following exhibits:

- Exhibit A: Conceptual Plan
- Exhibit B: Building Elevations

These exhibits illustrate the thoughtful planning and design considerations that have been incorporated to ensure the project enhances the community while maintaining a harmonious relationship with the existing residential areas.

****Conclusion:****

In conclusion, the proposed zoning change from SFSR to GC-3 is a strategic move that promises to bring substantial economic and community benefits to the city of Leander. I respectfully request the City Council's favorable consideration of this zoning change, as it is a pivotal step

toward realizing the city's vision of a dynamic and prosperous activity center.

Thank you for your time and consideration. I look forward to the opportunity to discuss this proposal further and to contribute to the continued growth and success of Leander.

Sincerely,

Jennifer Jensen, Agent

A handwritten signature in black ink, appearing to read "Jennifer Jensen", with a stylized, wavy line extending from the end.

update as of 9/4

APPLICANT'S SUMMARY OF NEIGHBORHOOD COMMUNICATIONS

1. How and when were the surrounding neighborhood and residential property owners within 500' notified, how was information shared, and who was directly involved in the communication process? Please provide the address of the properties notified and the name and contact information of the residents directly involved in the communication process. Attach any materials that were distributed.

We held a zoom meeting and an in person meeting, but no one came. Jody Giddens and another neighbor called and verbally gave their support of the project and were very positive. We have not received negative feedback thus far.

2. Who was notified (i.e. property owners, HOA, etc)? The HOA and/or a representative if there is no organized HOA must be contacted, if applicable. Provide a separate sheet listing the contact information used including the names and addresses of the individuals.

All required neighbors. Info in original submission.

3. What concerns were raised during these communications?

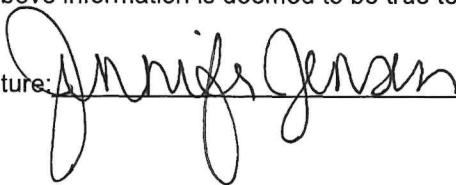
No concerns have been raised. All positive

4. What specific conditions were added to or modified within the zoning request in response to the concerns raised at the meeting?

N/A

The above information is deemed to be true to the best of my knowledge.

Signature:



Date

9/4/24

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING ONE (1) PARCEL OF LAND FROM SFS-2-B (SINGLE-FAMILY SUBURBAN) TO GC-3-C (GENERAL COMMERCIAL); MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of the property described herein after (the "Property") has requested that the Property be rezoned;

WHEREAS, after giving at least ten (10) days written notice to the owners of land within two hundred (200') feet of the Property, the Planning & Zoning Commission held a public hearing on the proposed rezoning and forwarded its recommendation on the rezoning to the City Council;

WHEREAS, after publishing notice of the public hearing at least fifteen (15) days prior to the date of such hearing, the City Council at a public hearing has reviewed the request and the circumstances of the Property and finds that a substantial change in circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired;

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

SECTION 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Amendment of Zoning Ordinance. Ordinance No. 05-018-00, as amended, the City of Leander Composite Zoning Ordinance (the "Zoning Ordinance" or "Code"), is hereby modified and amended by rezoning the Property as set forth in Section 3.

SECTION 3. Applicability. This ordinance applies to the following parcel of land, which is herein referred to as the "Property". That certain parcel of land being including 5.094 acres ±; being more particularly described in Exhibit "A"; located at the southeast corner of the intersection of Hero Way West and North Lakeline Boulevard; identified by Williamson Central Appraisal District tax identification number R432899; more particularly described in Instrument Numbers 1988027465; recorded in the Official Public Records of Williamson County, Texas.

SECTION 4. Property Rezoned. The Zoning Ordinance is hereby amended by changing the zoning district for the Property from SFS-2-B (Single-Family Suburban) to GC—3-C (General Commercial) as shown in Exhibit "A".

SECTION 5. Recording Zoning Change. The City Council directs the Planning Department to record this zoning classification on the City's official zoning map with the official notation as prescribed by the City's zoning ordinance.

SECTION 6. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

SECTION 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED on First Reading this the 7th day of November, 2024.

FINALLY PASSED AND APPROVED on this the 21st day of November, 2024.

ATTEST:

THE CITY OF LEANDER, TEXAS:

Dara Crabtree, City Secretary

Christine DeLisle, Mayor



**MINUTES
PLANNING & ZONING COMMISSION MEETING
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday, October 10, 2024
Regular Meeting at 6:00 PM



Place 1 – Donnie Mahan
Place 2 – John Cosgrove
Place 3 – Ron May
Place 4 – Deirdre Moss

Place 5 – James Oliver, Vice Chair
Place 6 – Laura Lantrip, Chair
Place 7 – Scott Calame
Staff Liaison – Robin Griffin

REGULAR MEETING

1. Call to Order.
Meeting was called to order at 6:00 p.m.
2. Roll Call.
All present except Commissioner Deirdre Moss.
3. Director's report to the Planning & Zoning Commission on action taken by City Council on the October 3, 2024 meeting.
4. Review of meeting protocol.
5. Public comments on items not listed in the agenda.

Public comments on items listed in the agenda will be heard at the time each item is discussed.

[All comments are limited to no more than 3 minutes (6 minutes if translation is needed) per individual.]

No one wished to speak.

CONSENT AGENDA: ACTION

Motion to approve Consent Agenda Item # 6.

6. Approval of the minutes for meeting held on September 26, 2024.

By: Board Member May
Seconded: Board Member Calame

Vote: 6 - 0 None

PUBLIC HEARING: ACTION

7. Conduct a Public Hearing and consider action regarding Comprehensive Plan Case CPA-24-0014 to amend the Comprehensive Plan land use category from Leander Central to Activity Center on eight (8) parcels of land approximately 16.0602 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R517094, R031604, R646992, R646986, R646987, R646988, R646989, and R646990; and more commonly known as southwest of the intersection of East San Gabriel Parkway and 183A Toll Road, Leander, Williamson County, Texas.

- Discuss and consider action regarding Comprehensive Plan Case CPA-24-0014 as described above.

Marshall Hines, 1801 Montana Leander, TX 78641 spoke in opposition to the request.
Peter Maselli, 257 John Webster St Leander, TX 78641 spoke in favor to the request.

Motion to approve CPA-24-0014.

By: Board Member Calame
Seconded: Board Member Lantrip

Vote: 3 - 3 Board Member Mahan, Board Member Cosgrove, Board Member Oliver

Motion Failed.

8. Conduct a Public Hearing and consider action regarding Zoning Case Z-24-0120 to amend the 675 Kauffman Loop Planned Unit Development to allow for overhead commercial doors on two (2) parcels of land approximately 24.91 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R328207 and R555049; and more commonly known as 675 Kauffman Loop, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0120 as described above.

No one spoke in favor or opposition of the request.

Motion to approve Zoning Case Z-24-0120.

By: Board Member Lantrip
Seconded: Board Member Calame

Vote: 6 - 0 None

9. Conduct a Public Hearing and consider action regarding Zoning Case Z-24-0134 to amend the current zoning of SFU/MH-2-B (Single-Family Urban/Manufactured Home) to adopt the Hill Country Community Ministries – Lacy Drive PUD (Planned Unit Development) with the base zoning district of LC-3-A (Local Commercial) on three (3) parcels of land approximately 1.31 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R036399, R036398, and R036397; and more commonly addressed as 1005 Lacy Drive, 1007 Lacy Drive, and 1009 Lacy Drive, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0137 as described above.

No one spoke in favor or opposition of the request.

Motion to approve Zoning case Z-24-0137.

By: Board Member Mahan

Seconded: Board Member Cosgrove

Vote: 6 - 0 None

10. Conduct a Public Hearing regarding Zoning Case Z-24-0142 to amend the current zoning of SFS-2-B (Single-Family Suburban) to GC-3-C (General Commercial) on one (1) parcel of land approximately 5.094 acres ± in size, more particularly described by Williamson Central Appraisal District Parcel R432899; and generally located at the southeast corner of the intersection of Hero Way West and N. Lakeline Boulevard, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-24-0142 as described above.

No one spoke in favor or in opposition of the request.

Motion to approve Zoning case Z-24-0142.

By: Board Member Mahan

Seconded: Board Member Oliver

Vote: 6 - 0 None

REGULAR AGENDA

11. Adjournment
Meeting adjourned at 7:24 p.m.

APPROVED

CHAIR

ATTEST:

STAFF LIAISON



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Conduct a Public Hearing regarding Ordinance Case OR-24-0025 to amend the Composite Zoning Ordinance Article V, Section 2(b)(2) to modify the building size requirements, and to provide for related matters; Williamson & Travis Counties, Texas.

- Discuss and consider action regarding Ordinance Case OR-24-0025 as described above.

BACKGROUND:

This request is the second step in the ordinance amendment process. The Composite Zoning Ordinance provides three (3) components to make up a zoning district in order to provide more flexibility. These components include:

- Use Component – This component identifies the permitted uses for the property.
- Site Component – This component determines the permitted uses that may be conducted outside, physical size of buildings and hours of operation.
- Architectural Component – This component provides requirements for the vertical structures including percentage of window and door openings, architectural features.

Over time, staff has observed an increase in Minor PUD (Planned Unit Development) requests to allow for an increase in the maximum building size associated with the Type 2 Site Component. Staff supports amendments to the zoning to allow the increase when the property is not adjacent to a residential subdivision. Staff proposes amending the requirements to not apply the building size restriction in instances where the development is not adjacent to residential development.

CURRENT LANGUAGE:

Individual users shall not exceed 40,000 gross square feet of floor area in a single building. A single building may not exceed 60,000 square feet of floor area.

PROPOSED LANGUAGE:

Individual users shall not exceed 40,000 gross square feet of floor area in a single building. A single building may not exceed 60,000 square feet of floor area. The building size limitation only applies to properties that abut property utilized for a single-family or two-family residences and zoned for single-family or two-family uses, including, land located within a Planned Unit Development (PUD) (the “Residentially Zoned Property”). The term Residentially Zoned Property excludes property that is zoned to Interim Zoning District SFR-1-B pursuant to Article II, Section 3 of this Ordinance, unless there is an approved concept plan, preliminary plat, final plat, or site development permit for single-family or two-family uses of such property.

HISTORY/TIMELINE:

10/24/2024 - Planning & Zoning Commission, 1st Public Hearing

APPLICANT/AGENT:

City of Leander

RECOMMENDATION:

Staff recommends approval of the ordinance amendment.

PRESENTER:

Robin M. Griffin, AICP, Executive Director of Development Services

Fiscal Impact

Attachments:

1. OR-24-0025 Att 1 CZO Type 2 Ordinance
2. OR-24-0025 Att 2 10-24-2024 P & Z Minutes

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING SECTIONS OF ARTICLE 14.02, THE COMPOSITE ZONING ORDINANCE TO AMEND THE COMPOSITE ZONING ORDINANCE TO UPDATE THE BUILDING SIZE MAXIMUMS ASSOCIATED WITH THE TYPE 2 SITE COMPONENT, AND PROVIDE FOR RELATED MATTERS; PROVIDING A SEVERABILITY CLAUSE, PROVIDING SAVINGS, EFFECTIVE DATE AND OPEN MEETINGS CLAUSES, AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City sees a need to update the maximum building size requirements that are associated with the Type 2 Site Component in order to accommodate commercial projects that are not adjacent to residential developments.

WHEREAS, the Planning & Zoning Commission held a public hearing on the proposed amendments to Section 14.02.001, Article 14.02, Chapter 14, Leander Code of Ordinances (the “Composite Zoning Ordinance”), and forwarded its recommendation on the amendments to the City Council; and

WHEREAS, after publishing notice of the public hearing at least fifteen (15) days prior to the date of such hearing, the City Council at a public hearing has reviewed the request and the circumstances of the Property and finds that a substantial change in circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired;

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

SECTION 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Amendment of Article V, Section 2 (b)(2)(v). Article V, Section 2 (b)(v) of the Composite Zoning Ordinance is hereby amended as follows:

- (v) Individual users shall not exceed 40,000 gross square feet of floor area in a single building. A single building may not exceed 60,000 square feet of floor area. The building size limitation only applies to properties that abut property utilized for a single-family or two-family residences and zoned for single-family or two-family uses, including, land located within a Planned Unit Development (PUD) (the “Residentially Zoned Property”). The term Residentially Zoned Property excludes property that is zoned to Interim Zoning District SFR-1-B pursuant to Article II, Section 3 of this Ordinance, unless there is an approved concept plan, preliminary plat, final plat, or site development permit for single-family or two-family uses of such property.

SECTION 3. Conflicting Ordinances. Exhibit " A", Chapter 14, Leander Code of Ordinances is amended as provided herein. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

SECTION 4. Savings Clause. All rights and remedies of the City of Leander are expressly saved as to any and all violations of the provisions of any ordinances affecting subdivision within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter

SECTION 6. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

SECTION 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED on First Reading this the 7th day of November, 2024.

FINALLY PASSED AND APPROVED on this the 21st day of November, 2024.

ATTEST:

THE CITY OF LEANDER, TEXAS:

Dara Crabtree, City Secretary

Christine DeLisle, Mayor



**MINUTES
PLANNING & ZONING COMMISSION MEETING
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday, October 24, 2024
Regular Meeting at 6:00 PM



**Place 1 – Donnie Mahan
Place 2 – John Cosgrove
Place 3 – Ron May
Place 4 – Deirdre Moss**

**Place 5 – James Oliver, Vice Chair
Place 6 – Laura Lantrip, Chair
Place 7 – Scott Calame
Staff Liaison – Robin Griffin**

REGULAR MEETING

1. Call to Order.
Call the meeting at 6:00 p.m.
2. Roll Call.
All Commissioners are present.
3. Director's report to the Planning & Zoning Commission on action taken by City Council on the October 17, 2024 meeting.
4. Review of meeting protocol.
5. Public comments on items not listed in the agenda.

Public comments on items listed in the agenda will be heard at the time each item is discussed.

[All comments are limited to no more than 3 minutes (6 minutes if translation is needed) per individual.]

No one wished to speak.

CONSENT AGENDA: ACTION

Motion to approve Consent Agenda Items # 6 & 7

6. Approval of the minutes for meeting held on October 10, 2024.
7. Approval of the submittal schedule for Subdivision, Site Development Applications, and Dry Utility Applications pursuant to Article IX, Section 9 (a) (1) b. of the Composite Zoning Ordinance and Article II, Section 20 (e) of the Subdivision Ordinance; Leander, Williamson & Travis Counties, Texas. Motion to approve OR-24-0025

By: Board Member May
Seconded: Board Member Oliver

Vote: 7 - 0 None

PUBLIC HEARING: ACTION

8. Conduct a Public Hearing and consider action regarding Ordinance Case OR-24-0025 to amend the Composite Zoning Ordinance Article V, Section 2(b)(2) to modify the building size requirements, and to provide for related matters; Williamson & Travis Counties, Texas.

- Discuss and consider action regarding Ordinance Case OR-24-0025 as described above.

No one wished to speak

Motion to approve OR-24-0025

By: Board Member May

Seconded: Board Member Moss

Vote: 7 - 0 None

REGULAR AGENDA

9. Adjournment
Meeting adjourned at 6:09 p.m.

APPROVED

CHAIR

ATTEST:

STAFF LIAISON



EXECUTIVE SUMMARY
11/7/2024

AGENDA SUBJECT:

Discuss and consider action on a Resolution approving an Interlocal Agreement with the City of Round Rock, City of Austin, and City of Cedar Park regarding the allocation of costs for the rehabilitation of the East Wastewater Treatment Plant of the Brushy Creek Regional Wastewater System (BCRWWS).

BACKGROUND:

A portion of the City of Leander's wastewater flows into the Brushy Creek Regional Wastewater System (BCRWWS). The regional system is owned by the City of Round Rock, City of Cedar Park, City of Austin, and City of Leander. The BCRWWS consists of two (2) wastewater treatment plants (WWTP), the East WWTP (30 million gallons per day capacity) and the West WWTP (3 million gallons per day capacity). The existing East WWTP is in need of rehabilitation of the treatment structures, equipment, and other components across multiple areas of the plant which will be designed, bid, and constructed.

The purpose of this Agreement is to set forth the terms and conditions of the allocation of costs for the rehabilitation of the East Wastewater Treatment Plant of the BCRWWS. As seen in Exhibit A of Attachment 2, Leander's cost responsibility will be 12.82%, which is based on the ownership of the 33 million gallons per day (MGD) treatment capacity of the BCRWWS. The plant is currently being expanded to 40 MGD, of which Leander is not a cost participant, however the rehabilitation design has a goal of preparing the needed technical documentation to add to the 40 MGD bid phase allowing rehabilitation work to be performed under the same project, overseen by one general contractor. The needed rehabilitation will only be a part of the existing East Plant's 30 MGD treatment capacity and does not include any components of the expansion to 40 MGD of which Leander is not a participant.

For the preparation of the FY 2025 budget, BCRWWS budgeted for the design of the rehabilitation improvements, and has a capital outlay for the construction of these improvements estimated over the next five (5) fiscal years that will be updated as the design is completed. Please see Attachment 4.

Leander's **Estimated** Cost Participation for the 30 MGD Rehabilitation Improvements:

FY 2025: \$128,200.00 (Design)

FY 2026: \$153,840.00 (Construction)

FY 2027: \$518,800.00 (Construction)

FY 2028: \$518,800.00 (Construction)

FY 2029: \$518,800.00 (Construction)

TOTAL: \$1,820,440.00 (Design & Construction)

The rehabilitation design contract will be brought to Leander City Council for action at the November 17, 2024, meeting, and future construction contracts for the rehabilitation efforts will be bid over the coming years with each award brought to Leander City Council for consideration.

HISTORY/TIMELINE:

12/08/2009 - Cities of Austin, Cedar Park, and Round Rock (Parties) entered into a Master Contract for the BCRWWS
06/04/2010 - Approval of Amended and Restated Master Contract for financing
06/09/2011 - Approval of the First Amendment to the Master Contract to clarify duties for allocation of Cost and Re-rating
06/19/2017 - Approval of an Interlocal Agreement Re-rating and Expansion of the East WWTP
07/13/2017 - Approval of an Interlocal Agreement regarding the 30 MGD Expansion
09/21/2023 - Approval of a Second Amendment to the Master Contract to provide for Leander's purchase of an undivided interest in the East Treatment Plant and the West Treatment Plant real property, and to modify the flow calculation methodology
01/25/2024 - Approval of an Interlocal Agreement regarding the 40 MGD Expansion

APPLICANT/AGENT:

RECOMMENDATION:

Staff recommends execution of the Brushy Creek Regional Wastewater System (BCRWWS) Interlocal Agreement to set forth the terms and conditions of the allocation of costs for the rehabilitation of the East Wastewater Treatment Plant of the BCRWWS.

PRESENTER:

Gina M. Ellison, P.E., Executive Director of Public Works

Fiscal Impact

Attachments:

1. BCRWWS Resolution for ILA - East Plant Rehabilitation
2. BCRWWS ILA for East WWTP Rehabilitation
3. Map
4. Pages from BCRWWS FY2025 Partner OM Capital Budget - Final 7-23-24

RESOLUTION NO. _____

**INTERLOCAL AGREEMENT REGARDING
ALLOCATION OF COSTS FOR THE REHABILITATION OF
THE EAST WASTEWATER TREATMENT PLANT OF
THE BRUSHY CREEK REGIONAL WASTEWATER SYSTEM**

WHEREAS, the City of Leander (City) and the Cities of Austin, Cedar Park, and Round Rock own and operate the Brushy Creek Regional Wastewater System (System) under the 2010 Amended and Restated Master Contract for the Financing, Construction, ownership and Operation of the System; and

WHEREAS, the cities have agreed to jointly rehabilitate the various components of the System to maintain compliance with regulatory requirements and improve operations for the benefit of the parties; and

WHEREAS, the City wishes to enter into an Interlocal Agreement with Austin, Cedar Park, and Round Rock to address allocation of costs for the rehabilitation of the East Wastewater Treatment Plant; and

WHEREAS, Texas Government Code Chapter 791 authorizes local governments and agencies of the state to enter into agreements with one another to perform governmental functions and services,

WHEREAS, the City Council supports entering into an Interlocal Agreement with Austin, Cedar Park, and Round Rock as an owner and operator of the System.

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Interlocal Cooperation Agreement. The City Council supports entering into an Interlocal Cooperation Agreement with Austin, Cedar Park, and Round Rock as described herein.

Section 3. Authorization. The City Council authorizes and directs the Mayor to execute the Interlocal Agreement regarding allocation of costs for rehabilitation of the East Wastewater Treat Plant.

Section 4. Effective Date. This resolution shall take effect immediately from and after its passage in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on the _____ day of _____, 2024.

THE CITY OF LEANDER, TEXAS

Christine DeLisle, Mayor

ATTEST:

Dara Crabtree, City Secretary

**INTERLOCAL AGREEMENT REGARDING
ALLOCATION OF COSTS FOR THE REHABILITATION OF
THE EAST WASTEWATER TREATMENT PLANT OF
THE BRUSHY CREEK REGIONAL WASTEWATER SYSTEM**

THIS INTERLOCAL AGREEMENT REGARDING THE ALLOCATION OF COSTS FOR THE REHABILITATION OF THE EAST WASTEWATER TREATMENT PLANT OF THE BRUSHY CREEK REGIONAL WASTEWATER SYSTEM ("Agreement") is entered into among the City of Austin, ("Austin"), the City of Cedar Park ("Cedar Park"), the City of Leander, ("Leander"), and the City of Round Rock, ("Round Rock"), to be effective this the 24th day of October 2024 (the "Effective Date.") In this Agreement, Austin, Cedar Park, Leander, and Round Rock are sometimes individually referred to as "**Party**" and collectively referred to as "**Parties**."

Recitals

WHEREAS, Austin, Cedar Park, and Round Rock entered into that certain Master Contract for the Financing, Construction, Ownership, and Operation of the Brushy Creek Regional Wastewater System dated December 8, 2009, with terms and conditions to jointly own and operate the Brushy Creek Regional Wastewater System ("System") purchased from the Lower Colorado River Authority ("Original Master Contract"); and

WHEREAS, on June 4, 2010, the Parties entered into an Amended and Restated Master Contract for the Financing, Construction, Ownership and Operation of the Brushy Creek Regional Wastewater System, (the "Master Agreement"); and

WHEREAS, on June 9, 2011, the Parties entered into the First Amendment to the Master Contract to amend and clarify the duties and responsibilities of the Operations Committee, and to amend the provisions regarding the Capital Expense Budget; and

WHEREAS, on June 19, 2017, the Parties entered into that one certain Interlocal Agreement Regarding the Allocation of Cost for the Re-rating and Expansion to the East Wastewater Treatment Plant of the Brushy Creek Regional Wastewater System, to pursue expansion of the East Wastewater Treatment Plant ("WWTP"); and

WHEREAS, on July 13, 2017, the Parties entered into that one certain Interlocal Agreement Regarding Allocation of Costs for the Expansion to the East Wastewater Treatment Plant of the Brushy Creek Regional Wastewater System, to establish the terms and conditions of the cost allocations to expand the WWTP to 30 MGD; and

WHEREAS, on September 21, 2023, the Parties entered into a Second Amendment to the Master Contract to provide for Leander's purchase of an undivided interest in the East Treatment Plant real property and the West Treatment Plant real property, as well as to modify the flow calculation methodology; and

WHEREAS, on January 25, 2024, the Parties entered into that one certain Interlocal Agreement Regarding Allocation of Costs for the Expansion to the East Wastewater Treatment

Plant of the Brushy Creek Regional Wastewater System (the "40 MGD Expansion"), whereby on the Cities of Round Rock and Austin participate in all costs incurred in the expansion, and the Cities of Cedar Park and Leander do not participate in any expansion related costs; and

WHEREAS, Section 3.7 of the Master Contract provides for the procedures to be followed to accomplish the design and construction of Capital Improvements such as repair and rehabilitation of System Components, including the execution of interlocal agreements such as this Agreement; and

WHEREAS, the Parties have agreed to jointly pursue the rehabilitation of various System Components of the WWTP, (the "Project") to meet or maintain Regulatory Requirements and to improve operations of the System for the benefit of the Parties; and

WHEREAS, the purpose of this Agreement is to set forth the terms and conditions of the allocation of costs for the rehabilitation of the WWTP, and pursuant to which the Parties will participate in the costs and expenses related thereto.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

I.

DEFINITIONS

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

1.01 "Agreement" means this Interlocal Agreement Regarding the Allocation of Costs for the Rehabilitation of the WWTP.

1.02 "Contractor(s)" means one or more of the firms engaged by the Parties to perform Construction Services.

1.03 "Construction Services" means services provided by one or more firms to construct the Project.

1.04 "Construction Services Contract(s)" means those certain contracts for construction services to be approved by the Parties pursuant to which the Contractor(s) shall provide Construction Services.

1.05 "Cost Allocation Percentage" means the percentage of Project Costs to be paid by each Party. The Cost Allocation Percentages are based on the Parties' capacity ownership in the 33.0 MGD capacity of the System. The Project Cost Allocation Percentages are set forth on **Exhibit "A"** attached hereto.

1.06 "Effective Date" means the date set forth in the introductory paragraph of this Agreement.

1.07 "Master Agreement" means the Amended and Restated Master Contract for the Financing, Construction, Ownership and Operation of the Brushy Creek Regional Wastewater System dated

June 4, 2010, and as amended by the First Amendment to the Master Agreement entered into on June 9, 2011.

1.08 “Operations Committee” or “OC” means the Operations Committee created in Section 4.6 of the Master Agreement.

1.09 “Project” means: the efforts to design, install, and construct the necessary rehabilitation and repair of the WWTP outlined in this Agreement.

1.10 “Project Consultant(s)” means one or more of the firms engaged by the Parties to perform Project Consulting Services.

1.11 “Project Consulting Contract(s)” means those certain contracts for engineering and related services to be approved by the Parties pursuant to which the Project Consultant(s) shall provide Project Consulting Services.

1.12 “Project Consulting Services” means the services required for the preliminary and final engineering and other services to be performed by the Project Consultant(s) pursuant to the Project Consulting Contracts in order to complete the objectives of the Project.

1.13 “Project Costs” means all costs and expenses incurred by the Parties in furtherance of the Project.

1.14 “Project Fund” means the funds contributed by the Parties for the Project in accordance with Section 5.02 of this Agreement.

1.15 “System” means the Brushy Creek Regional Wastewater System.

1.16 “WWTP” means the East Wastewater Treatment Plant of the System.

II.

OPERATIONS COMMITTEE

2.01 Responsibility of the OC.

- (a) The OC shall:
 - (i) Attend and participate in regular meetings with the Project Consultant(s) and Contractor(s) to monitor the status of the Project and to provide direction and recommendations with respect thereto;
 - (ii) Review and unanimously approve, in writing, reports for the Project produced by the Project Consultant(s) and Contractor(s);
 - (iii) Review and unanimously approve, in writing, any revisions to the scope to be performed by the Project Consultant(s) and Contractor(s);
 - (iv) Review and unanimously approve in writing other contracts necessary for the completion of the Project;

- (v) Confirm in writing the final completion of Project; and
- (vi) Address any other pertinent matters relating to the Project.

(b) The OC shall meet at regular intervals to review the matters over which it has authority. The OC shall be diligent, prompt, and timely in reviewing and acting on matters submitted to it.

III.

CONSULTANT SERVICES

3.01 Consultant Services.

(a) The Parties intend to enter into Project Consultant Contracts in the form unanimously approved by the Parties.

(b) After the scope of Project Consultant Contracts is approved, including any proposed changes to a Project Consultant's compensation, the Project Consultant Contracts may only be modified by unanimous written authorization from the Parties, such authorization shall be set forth in a "Supplemental Contract."

(c) The Parties agree that the final design of the Project will not be finalized until the OC has reviewed and unanimously approved in writing such design.

(d) Within ten (10) business days of receipt of any preliminary and/or final reports prepared by the Project Consultant(s), the members of the OC shall specify in writing to each other any objections regarding the draft reports, and any proposed revisions thereto. If any member of the OC fails to object in writing to the report within the ten (10)-business-day period, then that member shall be deemed to have approved the draft report. In the event that any member of the OC timely objects to the draft report, then the OC shall endeavor in good faith to resolve the matter by unanimous agreement. If the OC cannot unanimously agree to the proper resolution within fifteen (15) business days, then the OC shall refer the dispute to the respective City Managers of the Parties. The City Managers shall work diligently and in good faith to resolve the dispute as quickly as possible so as not to jeopardize the completion of the Project.

(e) The Parties agree that the design and funding for the design will include only those systems and components the Parties unanimously agree are for rehabilitation only, and no portions of the design will be for the purpose of increasing capacity to support the 40 MGD Expansion.

3.02 Work Product.

(a) Any Party is entitled to copies of any work product produced by the Project Consultant(s) in connection with the Project Consultant Services. The Party requesting a copy of such information shall pay all reasonable costs incurred in preparing and furnishing the copies.

(b) In accordance with, and subject to the terms and conditions set forth in the Project Consultant Contracts, the Parties may utilize the work product produced by the Project Consultant(s) for their own purposes.

IV. CONSTRUCTION SERVICES

4.01 Construction Services.

(a) The Parties intend to enter into Construction Services Contracts in the form unanimously approved by the Parties.

(b) After the scope of Construction Services Contracts are approved, the Construction Services Contracts may only be modified by unanimous written authorization from the Parties, such authorization shall be set forth in a "Supplemental Contract."

(c) The Parties agree that the Construction Services Contracts will not be finalized until the OC has reviewed and unanimously approved in writing such Contracts.

V. PROJECT COSTS.

5.01 Payment of Project Costs.

(a) All Project Costs shall be shared by the Parties as set forth in Exhibit "A" attached hereto.

(b) The Parties agree that Project Consultant(s) and Contractor(s) will be instructed to send all invoices to Round Rock and that upon receipt of each invoice from the Project Consultant(s) and Contractor(s), Round Rock shall review the invoice and confirm that the Project Consulting Services and/or Construction Services have been completed in accordance with the request for payment.

(c) Upon Round Rock's approval of each invoice for Project Costs, Round Rock will transmit a copy of the approved invoice to each Party's representative on the OC. Within ten (10) business days of receipt of the invoice for payment, the members of the OC shall specify in writing to Round Rock any objections regarding the invoice for payment. If any member of the OC fails to object in writing to the invoice within the ten (10) business day period, then the Party represented by such OC member shall be deemed to have approved the invoice for payment. In the event that any member of the OC timely objects to the invoice, then the matter shall be resolved in accordance with the following procedures:

(i) If the objection relates to the performance of work or services by a Project Consultant, then the OC shall exercise all rights to which the Parties are entitled under the Project Consulting Contract or Construction Contract to resolve the dispute, require correction of the defective work, and otherwise address the concern of the objecting member of the OC.

(ii) In the event that any member of the OC objects to an invoice for reasons not related to the performance of work or services by the Project Consultant or Contractor, then the OC shall endeavor in good faith to resolve the matter by unanimous agreement. If the OC cannot unanimously agree to the proper resolution within thirty (30) calendar days of the date of written objection, then the invoice shall be paid as received; provided, however, that any Party may subsequently seek a determination of the dispute through the dispute resolution process set forth in Sec. 5.03 below, and the allocation of costs between the Parties shall be adjusted in accordance with such determination. Any such request for dispute resolution must be brought within thirty (30) calendar days of the date of written objection.

(iii) In the event that Project Costs exceed agreed upon estimates, then the OC must approve such overruns by unanimous agreement. If the OC cannot unanimously agree, then the matter shall be submitted to the City Managers for resolution as set forth in Sec. 5.03.

(d) The Parties agree that the reasonable compensation cost for Round Rock's performing the aforesaid financial administration and other general administrative services is the sum of \$2,000 per month, beginning when the first Project Consultant Contract is executed, and ending with the completion of the construction of the Project, which costs shall be shared and allocated among the Parties (including Round Rock) according to the Cost Allocation Percentages set forth in Exhibit "A".

(e) In the event of termination of this Agreement prior to the completion of the Project, all Parties shall provide payment of their pro rata share of the Project Costs incurred prior to and through the date of the termination.

(f) The Parties agree that construction of the Project will occur in subsequent fiscal years subject to the approval of and appropriation of funds by the governing body of each Party, and no funding for construction will be paid or authorized by the Parties until October 1, 2025.

5.02 Project Fund.

(a) The Parties shall contribute monies to the Project Fund in accordance with the following provisions:

(i) Within ten (10) calendar days of execution of the Project Consulting Contract(s), each Party shall deposit into the Project Fund a sum, which represents twenty five percent (25%) of each Party's share of the estimated Project Costs for Project Consulting Services. The Project Fund shall be placed in an interest-bearing account, and the interest shall become part of the Project Fund, with each Parties share of interest as based on the Cost Allocation Percentages set forth in Exhibit "A" to be credited toward each Parties cost responsibility.

(ii) Within ten (10) calendar days of execution of the Construction Services Contract(s), each Party shall deposit into the Project Fund a sum, which represents twenty-five percent (25%) of each Party's share of the estimated Project Costs for construction. The Project Fund shall be placed in an interest-bearing account, and the interest shall become part of the Project Fund, with each Parties share of interest as based on the Cost Allocation Percentages set forth in Exhibit "A" to be credited toward each Parties cost responsibility. Payment into the Project Fund for construction of the Project is subject to Section 5.01(f) of this Agreement, and will not be paid until after October 1, 2025.

(iii) At such time as the balance in the Project Fund is substantially depleted, as determined in Round Rock's reasonable discretion, Round Rock shall provide written notice (by email or otherwise) thereof to the other Parties, each of which shall have thirty (30) calendar days to deposit into the Project Fund an additional payment, in the same amount as originally deposited. Each notice by Round Rock shall be accompanied by a written accounting report that identifies in reasonable detail all prior expenditures from the Project Fund.

(b) In the event that there are remaining funds, including accumulated interest, within the Project Fund upon final completion of the Project, then Round Rock shall promptly divide and remit within 30 calendar days such funds to the Parties on a pro rata basis according to the percentage of all Project Costs previously paid by each of the Parties. Payment shall be accompanied by a written accounting describing the basis for calculation of payment to each Party.

5.03 Disputes. In the event of any disputes among the Parties, the Parties agree that the City Managers shall work diligently and in good faith to resolve the dispute as quickly as possible so as not to jeopardize the completion of the Project.

VI

GENERAL PROVISIONS

6.01 Authority. This Agreement is made in part under the authority conferred in Chapter 791, *Texas Government Code* and Section 552.001, *Texas Local Government Code*.

6.02 Severability. The provisions of this Agreement are severable and, if any provision of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement will not be affected and this Agreement will be construed as if the invalid portion had never been contained herein.

6.03 Payments from Current Revenues. Any payments required to be made by a Party under this Agreement will be paid from current revenues or other funds lawfully available to the Party for such purpose. The obligation of Parties to make payments to Round Rock will not constitute a general obligation or indebtedness of the Parties that obligate a Party to levy or pledge any revenue from taxes.

6.04 Cooperation. The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

6.05 Entire Agreement. Except as otherwise expressly provided herein, this Agreement contains the entire agreement of the Parties regarding the sharing of costs for the Project Consulting Services and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter. The Parties confirm that further agreements regarding the Project are contemplated and will not be affected or limited by this Agreement.

6.06 Amendments. Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.

6.07 Applicable Law; Venue. This Agreement will be construed in accordance with Texas law. Venue for any action arising hereunder will be in Williamson County, Texas.

6.08 Notices. Any notices given under this Agreement will be effective if (i) forwarded to a Party by hand-delivery; (ii) transmitted to a Party by confirmed telecopy; or (iii) deposited with the U.S. Postal Service, postage prepaid, certified, to the address of the Party indicated below:

AUSTIN:

P.O. Box 1088
Austin, Texas 78767
Attn: Director, Austin Water
Telephone: (512) 972-0109

with copy to:

City Law Department
P.O. Box 1088
Austin, Texas 78767
Attn: Division Chief, Utility & Regulatory
Division

CEDAR PARK:

450 Cypress Creek Road, Bldg. 1
Cedar Park, Texas 78613
Attn: Kenneth Wheeler
Telephone: (512) 401-5550
Email: kenneth.wheeler@cedarparktexas.gov

with copy to:

J.P LeCompte
City Attorney
450 Cypress Creek Road, Bldg. 1
Cedar Park, Texas 78613
Email: JP.LeCompte@cedarparktexas.gov

ROUND ROCK:

221 East Main
Round Rock, Texas 78664
Attn: Michael Thane
Telephone: (512) 218-3236
Email: mthanel@roundrocktexas.gov

with copy to:

Steve Sheets
309 E. Main Street
Round Rock, Texas 78664-5264
Telephone: (512) 255-8877
Email: steve@scrrlaw.com

LEANDER:

P.O. Box 319
Leander, Texas 78646-0319
Attn: City Manager
Telephone: (512) 259-1178
Email: tparton@leandertx.gov

with copy to:

Paige Saenz
223 W. Anderson Lane, Suite A-105
Austin, Texas 78752
Telephone: (512) 323-5778
Email: paige@cityattorneytexas.com

6.09 Force Majeure. The Parties shall not be deemed in violation of this Agreement if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects. Force majeure shall not relieve the Parties of their obligation to make payment to Round Rock as provided in this Agreement.

6.10 Independent Contractor. Each of the Parties shall have the status of an independent contractor hereunder and shall be solely responsible for the proper direction of its employees hereunder and each Party's employees shall not be considered employees or borrowed servants of any of the other parties for any reason.

6.11 No Third-Party Beneficiaries. This Agreement shall inure only to the benefit of the Parties and third parties not privy to this Agreement shall not, in any form or manner, be considered a third-party beneficiary of this Agreement.

6.12 Conflict. If there is a conflict between the Master Agreement, as amended, and this Agreement, the provisions of this Agreement shall control.

6.13 Termination. This Agreement may be terminated by mutual agreement of the Parties. If this Agreement is terminated by the Parties prior to its completion of Project Consulting Services,

then the terms and conditions of the Master Agreement shall control. Any outstanding balance within the Project Fund will be returned proportionally in accordance with the applicable Exhibit percentages. The Parties shall then work cooperatively with due diligence to determine how to address existing and future wastewater treatment capacity issues.

6.14 Default. In the event that one Party believes that the other Party is in default of any of the provisions in this agreement, the non-defaulting party will make written demand to cure to the defaulting party and give the defaulting party up to thirty days to cure the default or, if the curative action cannot reasonably be completed within thirty days, the defaulting party will commence the curative action within thirty days and thereafter diligently pursue the curative action to completion. This period must pass before the non-defaulting party may initiate any remedies available to the non-defaulting party due to such default. The non-defaulting party shall mitigate direct or consequential damages arising from any default to the extent reasonably possible under the circumstances. The parties agree that they will use their best efforts to resolve any disputes and may engage in mediation or other alternative dispute resolution methods as recommended by the laws of the State of Texas before initiating any lawsuit to enforce their rights under this agreement. Nothing in this agreement shall be construed to limit a Party's right to recover damages or to seek other appropriate curative remedies if a breach of contract action is filed by a non-defaulting party to this Agreement.

6.15 Counterparts. Effect of Partial Execution. This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

6.16 No Waiver of Immunities or Defenses. Nothing in this Agreement shall be deemed to waive, modify, or amend any immunity or legal defense available at law or in equity to the Parties, their past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party.

6.17 Authority. Each Party represents and warrants that it has the full right, power, and authority to execute this Agreement.

(SIGNATURES ON FOLLOWING PAGES)

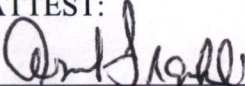
CITY OF AUSTIN:

By: _____
Robert Goode, Assistant City Manager

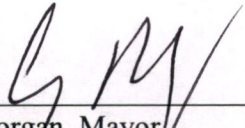
Date: _____

CITY OF ROUND ROCK:

ATTEST:



Megan Spinks, City Clerk
Ann Franklin

By: 

Craig Morgan, Mayor

Date: 10/24/20

CITY OF CEDAR PARK:

ATTEST:

LeAnn Quinn, City Secretary

By: _____
Jim Penniman-Morin, Mayor

Date: _____

CITY OF LEANDER:

ATTEST:

Dara Crabtree, City Secretary

By: _____
Christine DeLisle, Mayor

Date: _____

EXHIBIT A

Allocation of Project Costs (For 33 MGD Capacity of the System)

<u>City</u>	<u>Ownership Capacity (MGD)</u>	<u>Cost Allocation</u>
Round Rock	20.05	60.76%
Leander	4.23	12.82%
Cedar Park	5.46	16.55%
<u>Austin</u>	<u>3.26</u>	<u>09.87%</u>
TOTALS	33.00	100.00%

Document Path: C:\Users\echapman\OneDrive - City of Round Rock\Documents\ArcGIS\Projects\bcrrws east wwrp expansion\bcrrws east wwrp expansion.aprx Date: 10/8/2024



BCRWWS East Wastewater Treatment Plant Expansion to 40 MGD - Rehab





City of Round Rock
FY 2025 - FY 2030 Capital Improvement Plan
Brushy Creek Regional Wastewater System

Final - July 23, 2024

Capital Costs							
BCRWWS Projects							
Future 6 Years							
PROJECT/CAPITAL ITEM	2024/2025 FY 2025	2025/2026 FY 2026	2026/2027 FY 2027	2027/2028 FY 2028	2028/2029 FY 2029	2029/2030 FY 2030	Total
BCRWWS Projects							
2024 West Plant Permit Renewal ^A	12,400	-	-	-	-	-	12,400
60" Regional Interceptor Rehab ^C	250,000	750,000	750,000	3,000,000	3,000,000	-	7,750,000
84" Regional Interceptor Repair ^C	300,000	-	-	-	-	-	300,000
Effluent Filters & Pump Station (Tertiary Filters) ^A	8,731,100	970,200	-	-	-	-	9,701,300
Regional Flow Meters ^C	60,000	-	-	-	-	-	60,000
Regional Manhole Rehab ^C	55,000	55,000	55,000	-	-	-	165,000
Regional WW System Master Plan ^A	82,000	-	-	-	-	-	82,000
WWTP Expansion to 40MGD ^B	5,500,000	6,600,000	37,700,000	42,750,000	41,250,000	5,100,000	138,900,000
WWTP Expansion to 40MGD - Rehab Improvements ^A	1,000,000	1,200,000	4,000,000	4,000,000	4,000,000	-	14,200,000
WWTP Security Improvements ^A	50,000	-	-	-	-	-	50,000
TOTAL BCRWWS PROJECTS	\$ 15,740,500	\$ 9,575,200	\$ 42,505,000	\$ 49,750,000	\$ 48,250,000	\$ 5,100,000	\$ 171,220,700

For planning purposes, please reference the capacity allocation below for each project as identified.

	Austin	Cedar Park	Leander	Round Rock	BCMUD	FBMUD	Total
^A Treatment Capacity at 30 MGD	9.87%	16.55%	12.82%	53.48%	5.61%	1.67%	100.00%
^B Interlocal Agreement for WWTP Expansion to 40 MGD	10.00%	0.00%	0.00%	90.00%	0.00%	0.00%	100.00%
^C Regional Line Capacity	26.18%	29.75%	11.49%	28.48%	2.84%	1.26%	100.00%