



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

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday - April 6, 2023
Briefing Workshop at 6:00 PM
Regular Meeting at 7:00 PM



Mayor – Christine DeLisle
Place 1 – Kathryn Pantalion-Parker
Place 2 – Esme Mattke Longoria
Place 3 – David McDonald

Place 4 – Na'Cole Thompson, *Mayor Pro Tem*
Place 5 – Chris Czernek
Place 6 – Becki Ross
City Manager – Rick Beverlin

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. Receive presentation of fiscal year 2023 road rehabilitation program and funding options.
4. Meet and Greet with Board and Commission applicants.

REGULAR MEETING – CONVENE AT 7:00 PM

5. Open Meeting, Invocation and Pledges of Allegiance.
6. Roll Call.
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 by Council.

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

8. Recognitions/Proclamations/Visitors.
 - Child Abuse Prevention & Awareness Month (April)
 - Education & Sharing Day (April 2, 2023)
 - National Public Safety Telecommunications Week (April 9-15)

9. Staff Report
- Parks and Recreation Update

CONSENT AGENDA: ACTION

10. Approval of the minutes for meeting held on March 16, 2023.
11. Acceptance of the City Council Mission Statement and Goals.
12. Reject bid received regarding Solicitation S23-004 request for proposal Call to Art Public Art Project Opportunity - Murals.
13. Approval of a Special Event Permit for the 11th Annual Leander Bull Riding Shootout to be held on May 6, 2023, with a contingency date of May 20, 2023 at the South San Gabriel River Park Property, Leander, Williamson County, Texas.
14. Approval of joining the Texas Attorney General's global opioid settlement with Allergan, CVS, Walgreens, and Walmart; and authorize the City Manager to execute Settlement Participation Forms and any and all necessary documents.
15. Approval of an addendum to the 380 Agreement with Cangshan Cutlery Company, a California S Corporation ("Cangshan"); New Star Foodservice, Inc., a California S Corporation ("New Star"); Everware International, a California S Corporation ("Everware"); and CMHH Heritage, LLC, a Texas limited liability company ("CMHH Heritage"); (collectively hereafter referred to as "Company"). Cangshan, New Star Foodservice, and Everware merged with newly created Texas entities.
16. Acceptance of public infrastructure improvements for Bryson Phase 4 Section 5.
17. Acceptance of public infrastructure improvements for the PEC Data Center.
18. Approval of a Right of Entry Agreement by and between the City of Leander and Emogene Champion and the Albert R. Champion Exemption Equivalent Trust for the San Gabriel Parkway Phase III project (CIP T.46); and authorize the City Manager to execute any and all documents.
19. Approval of Second Amendment to firm water contract by and between the Lower Colorado River Authority and City of Leander for municipal uses to increase the maximum annual quantity to thirty-one thousand (31,000) acre-feet; and authorize the City Manager to execute any and all necessary documents.
20. Approval of reimbursable expenses of the Devine Lake Phase 4 Development Agreement for oversize of utility lines requested by the City in the amount of \$90,162.00; and authorize the City Manager to execute any and all necessary documents.
21. Award of Solicitation S23-002 to Gage and Cade Construction, LLC, for the installation of a new temporary construction access road along the future San Gabriel Parkway East in the Palmera Ridge neighborhood (CIP W.41), in the amount of \$92,475.35; and authorize the City Manager to execute any and all necessary documents.

22. Approval of Amendment No. 1 to Task Order KFA-58 to K Friese & Associates, Inc. for capital improvement water update as part of the Water Masterplan in the amount of \$25,000.00 for a new total contract amount of \$123,354.00; and authorize the City Manager to execute any and all necessary documents.
23. Approval of a Resolution authorizing the BCRUA Board President to award the Phase 1D water treatment plant expansion construction contract to Excel Construction Services, LLC.
24. Approval of a Resolution appointing the Planning & Zoning Commission as members of the Water and Wastewater Capital Improvements Advisory Committee; appointing an additional member who resides within the City's extraterritorial jurisdiction (ETJ); making findings of fact; and providing for related matters.
25. Award of Solicitation S22-036B to Grapevine Dodge Chrysler Jeep, Grapevine, Texas, for the purchase of three (3) fleet vehicles in the amount of \$166,695.00; and authorize the City Manager to execute any and all necessary documents.
26. Approval of a purchase of a 2022 Ford F-350 from Rush Truck Center, Dallas, Texas, for the Public Works Department utilizing Buyboard Contract 601-19 in the amount of \$118,500.00; and authorize the City Manager to execute any and all necessary documents.
27. Approval of the Second Reading of an Ordinance regarding Zoning Case Z-22-0048 to amend the current zoning of TF-2-B (Two-Family) to adopt the Lion Drive Minor PUD (Planned Unit Development) with a base zoning district of SFT-2-A (Single-Family Townhouse) on three (3) parcels of land approximately 1.14 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R619654, R619653, and R61952; and more commonly known as 507-519 Lion Drive, Leander, Williamson County, Texas.
28. Approval of the extension of the application expiration for Subdivision Case FP-21-0023 Lively Tract Ph 4 Final Plat; more particularly described by Williamson Central Appraisal District Parcels R544675 and R021695; generally located to the south of the southern terminus of Lively Ranch Road; Leander, Williamson County, Texas.

PUBLIC HEARING: ACTION

29. Conduct a Public Hearing regarding Zoning Case Z-22-0052 to amend the current zoning of PUD/TOD-CD (Planned Unit Development/Transit Oriented Development – Conventional Development Sector) to adopt the 183A Plaza Minor PUD (Planned Unit Development) with a base zoning district of GC-3-A (General Commercial) on one (1) parcel of land approximately 9.61 acres ± in size, more particularly described by Williamson Central Appraisal District parcel R461862; and generally located approximately 700 feet southeast of the intersection of 183A Toll Road and Aven Way, Leander, Williamson County, Texas.
 - Discuss and consider action regarding Zoning Case Z-22-0052 as described above.
30. Conduct a Public Hearing regarding Subdivision Case CP-22-0013 to adopt the LC Hero Way Concept Plan on two (2) parcels of land approximately 21.86 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R031600 & R457677; generally located to the northwest of the intersection of Hero Way and Main Street, Leander, Williamson County, Texas.
 - Discuss and consider action regarding Subdivision Case CP-22-0013 as described above.

REGULAR AGENDA

31. Discuss the dissolution of the Leander Library Foundation.
32. Discuss and consider action on a Resolution supporting the City of Leander's request to U.S. Representative John Carter to receive Community Project Funding assistance for Community Oriented Policing Services (COPS) Technology & Equipment projects.
33. Discuss and consider action on an agreement to terminate an Interlocal Agreement by and between the Brushy Creek Regional Utility Authority and City of Leander regarding water treatment plant superintendent and operator services.
34. 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.]*
35. Council Member Closing Statements.
36. Convene into Executive Session pursuant to:
 1. 551.087, Texas Government Code Deliberate the purchase, exchange, lease, or value of real property and 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 governmental body is conducting economic development negotiations related to the following project(s): Project Orange Build and
 2. Section 551.071, Texas Government Code, Section 1.05, Texas Disciplinary Rules of Professional Conduct, and Section 551.072, Texas Government Code, to deliberate with legal counsel regarding the Lease Agreement between City of Leander and Ride or Die, LLC; and
 3. Section 551.072, Texas Government Code, to deliberate the acquisition of properties located in Elijah D. Harmon Survey Abstract 6 for the purpose of a utility easement and temporary construction easement for the Reclaim Water Project (CIP WW.46); and
 4. Section 551.072, Texas Government Code, to deliberate the acquisition of real property for public facilities.

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

 1. Project Orange Build;and
 2. Lease Agreement between City of Leander and Ride or Die, LLC; and
 3. Acquisition of properties for utility easement and temporary construction easement for the Reclaim Water Project (CIP WW.46); and
 4. Public facilities.
37. 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 31 day of March 2023 by 5:00 p.m. pursuant to Chapter 551 of the Texas Government Code.


Dara Crabtree, City Secretary, TRMC



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of the minutes for meeting held on March 16, 2023.

BACKGROUND:

Attached are minutes for meeting held on March 16, 2023.

PRESENTER:

Dara Crabtree, City Secretary

Attachments

1. Draft Minutes



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

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas
Thursday - March 16, 2023



**Mayor – Christine DeLisle
Place 1 – Kathryn Pantalion-Parker
Place 2 – Esme Mattke Longoria
Place 3 – David McDonald**

**Place 4 – Na'Cole Thompson, *Mayor Pro Tem*
Place 5 – Chris Czernek
Place 6 – Becki Ross
City Manager – Rick Beverlin**

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

BRIEFING WORKSHOP - CONVENE AT 6:00 PM

1. Opened meeting at 6:01 p.m.
2. Roll Call reflected all present.
3. Discussed political sign placement and size, and receive sign ordinance update including directory signage; flags with logos; human signs with limits; halo lit channel letters; electronic messaging provisions; clarify height measurement; sign height along arterials; alternative materials; monument spacing; options for swooper flags; political signs; address industry standards; jurisdiction standards; work with County on political sign model ordinance; timing; process of sign permitting and samples of violations when present draft to council; Master Sign Plan utilized to assist current business owners; review comprehensive list of political signs and bring back to a future agenda; bandit signs; and signs inside businesses.

Briefing Workshop adjourned at 6:26 p.m.

REGULAR MEETING – CONVENE AT 7:00 PM

4. Opened meeting at 7:00 p.m., Invocation provided by Reverend Joanna Crawford and Mayor Christine led the Pledges of Allegiance.
5. Roll Call reflected all present.

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 by Council.

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

Greg Burger, 300 CR 290 - commented on recent sale of property; rapid growth; cannot get permit to build home; renting a home waiting for permit to be issued; want to vote and submit for board but unable until can construct house.

Mitch Fuller, 145 Danblu Drive, Hutto - commented on VFW 10427 past commander; impact over last five years; number one Post in division; participation in various activities; and proud member of community.

Kat Howell, 11327 Hero Way W - commented on write down your story to pass along to your family members; and March 24-25 Mason Heritage Days.

7. Recognitions/Proclamations/Visitors.

- Mayor's Monarch Pledge

8. Received presentation on Vietnam Veterans Memorial Day event including transfer of Vietnam Veterans Memorial Wall; advocating on behalf of Veterans in the community; March 29, 1973 last troops left Vietnam; event will be held March 29; 144 panels on the Wall; names on the Wall; number of casualties; this March 29 marks 50 years since the end of the Vietnam War; appreciate support Leander has shown to our Veterans; and ask for support from Council to support a Vietnam Veterans Memorial Day in Leander.

[Council took a brief recess at 7:45 p.m.; reconvened at 7:52 p.m.]

9. Staff Reports

- Brush removal update including TFR curbside pickup; 16, 248 cubic yards collected to date; Public Works cleared 367 cubic yards to date; areas in progress; and areas complete.
- Water update including BCRUA pipeline repair; currently in Phase 2; and BCRUA monitoring.

CONSENT AGENDA: ACTION

Motion by Councilmember David McDonald, Seconded by Councilmember Kathryn Pantalione-Parker to approve consent agenda items 10 through 24.

Vote: 7 - 0

10. Approval of the minutes for meeting held on March 2, 2023.

11. Approval of the extension of the application expiration for Subdivision Case FP-21-0024 Devine Lake Phase 4 Final Plat; more particularly described by Williamson Central Appraisal District Parcel R502970; generally located to the southwest of the intersection of San Gabriel Parkway and Bagdad Road; Leander, Williamson County, Texas.

12. Approval of the second reading of an Ordinance regarding the Bar W Ranch East Annexation Case A-22-0006 regarding the voluntary annexation of 51.426 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcel R021711; and generally located to the southeast of the intersection of Kauffman Loop and Ronald W. Reagan Boulevard, Leander, Williamson County, Texas.
13. Approval of the second reading of an ordinance regarding Zoning Case Z-22-0021 to amend the current zoning of Interim SFR-1-B (Single-Family Rural) to adopt the Bar W Ranch East Commercial PUD (Planned Unit Development) with the base zoning districts of SFT-2-A (Single-Family Townhouse), MF-2-A (Multi-Family), and GC-2-A (General Commercial) on one (1) parcel of land approximately 51.426 acres $\pm$ in size, and approval of Development Agreement Case DA-22-0022 more particularly described by Williamson Central Appraisal District Parcel R021711; and generally located to the southeast of the intersection of Kauffman Loop and Ronald W Reagan Blvd., Leander, Williamson County, Texas.
14. Ratify approval of a professional services agreement with Willdan Financial Services for utility rate consulting services executed by the City Manager on February 22, 2022; and authorize a not-to-exceed amount of \$100,000.00.
15. Approval of a Resolution suspending for forty-five (45) days the effective date proposed by Atmos Energy-Mid-Texas Division in its application filed on or about February 24, 2023, pursuant to section 104.301 of the Gas Utility Regulatory Act, also referred to as the "GRIP" statute.
16. Award of Pond Maintenance 2023 solicitation to DigDug Construction, LLC. for the maintenance of City-owned ponds in the amount of \$137,851.94; and authorize the City Manager to execute any and all necessary documents.
17. Approval of Amendment 2 to Task Order GBA-001 with George Butler Associates, Inc., for additional professional services for detention study, floodplain analysis, additional design of Wastewater Lift Station No. 6, and additional design of Wastewater Lift Station No. 2 (CIP WW.44) project in the amount of \$80,373.00 for a total contract amount of \$581,536.00; and authorize the City Manager to execute any and all necessary documents.
18. Reject all bids received for wastewater collection system lift station improvements: Phase 2, Lift Station No. 7 and Lift Station No. 8 (CIP WW.44).
19. Approval of a Resolution authorizing the President of BCRUA to execute an Agreement with Thalle Construction Company for the repair of the thirty-six (36")- inch Underwater Pipeline.
20. Acceptance of public infrastructure improvements for Edgewood Subdivision Phase 1 Section 1.
21. Approval of Amendment 4 to Task Order WAL-2, Professional Services Agreement with Walker Partners, LLC, for revising construction documents of Downtown Fire Improvement projects (CIP W.22) to relocate a bore pit and temporary construction easement from one private property to another, in the amount of \$12,750.00; for a new contract total of \$273,972.00; and authorize the City Manager to execute any and all necessary documents.
22. Approval of reimbursable expenses for the cost to oversize utility lines requested by the City pursuant to the Devine Lake Phase 3 Development Agreement; and authorize of the City Manager to execute any and all necessary documents.

23. Approval of purchase of playground equipment for Devine Lake Park from Whirlix Design, Inc. in the amount of \$85,000.00 utilizing the BuyBoard Contract 679-22; and authorize the City Manager to execute any and all necessary documents.
24. Approval of purchase of playground equipment for Robin Bledsoe Park from Whirlix Design, Inc. in the amount of \$185,000.00 utilizing the BuyBoard Contract 679-22; and authorize the City Manager to execute any and all necessary documents.

PUBLIC HEARING: ACTION

25. Mayor Christine opened a Public Hearing at 8:14 p.m. regarding Zoning Case Z-22-0048 to amend the current zoning of TF-2-B (Two-Family) to adopt the Lion Drive Minor PUD (Planned Unit Development) with a base zoning district of SFT-2-A (Single-Family Townhouse) on three (3) parcels of land approximately 1.14 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R619654, R619653, and R61952; and more commonly known as 507-519 Lion Drive, Leander, Williamson County, Texas. No one spoke in favor or opposition of the request. The Public Hearing closed at 8:14 p.m.

- Discuss and consider action regarding Zoning Case Z-22-0048 as described above.

Motion by Councilmember Chris Czernek, Seconded by Councilmember Kathryn Pantalion-Parker to approve Zoning Case Z-22-0048 to amend the current zoning of TF-2-B (Two-Family) to adopt the Lion Drive Minor PUD (Planned Unit Development) with a base zoning district of SFT-2-A (Single-Family Townhouse) on three (3) parcels of land approximately 1.14 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R619654, R619653, and R61952; and more commonly known as 507-519 Lion Drive, Leander, Williamson County, Texas.

Vote: 7 - 0

REGULAR AGENDA

26. Discuss and consider action on Development Agreement Case DA-22-0004 Hilltop Development Agreement and the Collateral Assignment of Rights Contract located on one (1) parcel of land approximately 105.064 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcel R560473; generally located at the southwest corner of CR 280 and the future extension of Lakeline Boulevard, Leander, Williamson County, Texas.

Motion by Councilmember Kathryn Pantalion-Parker, Seconded by Councilmember Chris Czernek to approve Development Agreement Case DA-22-0004 Hilltop Development Agreement and the Collateral Assignment of Rights Contract located on one (1) parcel of land approximately 105.064 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcel R560473; generally located at the southwest corner of CR 280 and the future extension of Lakeline Boulevard, Leander, Williamson County, Texas, following a discussion.

Vote: 7 - 0

27. Discuss and consider action on the purchase of up to seven (7) various fleet vehicles from Gunn Buick GMC, Ltd. pursuant to the BuyBoard 601-19, in the amount of \$302,006.90; and authorize the City Manager to execute any and all necessary documents.

Motion by Councilmember Kathryn Pantalion-Parker, Seconded by Mayor Pro Tem Na'Cole Thompson to approve the purchase of up to seven (7) various fleet vehicles from Gunn Buick GMC, Ltd. pursuant to the BuyBoard 601-19, in the amount of \$302,006.90; and authorize the City Manager to execute any and all necessary documents.

Vote: 7 - 0

28. Discuss and consider action on an Ordinance amending Ordinance No. 22-079-00 adopting the annual budget of the City of Leander, Texas for Fiscal Year 2023.

Motion by Councilmember Kathryn Pantalion-Parker, Seconded by Councilmember Esme Mattke Longoria to approve an Ordinance amending Ordinance No. 22-079-00 adopting the annual budget of the City of Leander, Texas for Fiscal Year 2023, following a discussion.

Vote: 7 - 0

29. 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.]*

- Traffic study on E. Crystal Falls between 183 and 183A
- Cost analysis of hybrid police vehicles

30. Council Member Closing Statements.

Esme Mattke Longoria - wishing kids a happy spring break; and commented on upcoming City-wide Clean-up on April 1.

Chris Czernek - wished everyone a Happy St. Patrick's Day.

Christine DeLisle - reminded everyone to shop local; dinner came from Chipotle; commented on upcoming events Mason Heritage Days, City-wide Clean-up, Eggstravagnza, Green Thumbs Up Talk, and upcoming Active Adult trips.

31. Convened into Executive Session at 8:45 p.m. pursuant to Section 551.074, Texas Government Code, to discuss city manager goals.

Reconvened into open session at 9:20 p.m. to take action as deemed appropriate in the City Council's discretion regarding city manager goals.

No action taken.

32. Adjourned at 9:20 p.m.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Acceptance of the City Council Mission Statement and Goals.

BACKGROUND:

The attached Mission Statement and Goals are based on previous discussions and align with the City Manager 2023 Goals approved by City Council on March 2, 2023.

HISTORY/TIMELINE:

02.18.2022 - City Council Strategic Planning with Ron Cox
02.22.2022 - Staff Strategic Planning with Ron Cox
01.27.2023 - Retreat
03.02.2023 - City Manager Goals Approved

Attachments

1. Mission Statement and Goals
2. CM 2023 Goals



City of
Leander

Mission Statement

The mission of the City of Leander is to enhance the quality of life for its residents.



City of
Leander

Council Key Vision Elements

- A city that has a small-town feel: neighborly, connected, friendly, feel they belong, and is family friendly.
- People are invested in the community.
- People advocate for the community.
- Has a robust economy, balanced and diversified base.
- Everything is in Leander that we need: jobs, food, entertainment, etc.
- A safe community is of high priority.
- A charming quality of life.
- A vibrant city: alive, growing, thriving and active.
- The community purposely embraces diversity: all have a sense of belonging, with a variety of events, variety of housing choices, promoting a sense of inclusion.



City of
Leander

Key Mission Elements

- Be forward thinking.
- Think forward proactively.
- Keep the city in good financial standing.
- Engage and connect at all levels in the community.
- Continually revise and re-evaluate the development against the Comprehensive Plan.
- Continue to enhance mobility with partnership with CapMetro and others
- Provide exemplary water, utilities, roads, facilities, and other infrastructure for the community.
- Be an employer providing competitive compensation, quality leadership, be flexible, innovative, and show appreciation.
- Be consistent in outreach to the community: encourage volunteerism and inclusiveness, educate, advocate, and communicate.
- Support regional opportunities that support the Leander vision.
- Be timely and responsive to customers and stakeholders.
- Provide opportunities for improving the quality of life in the community with beautiful open spaces, parks, and playgrounds; sponsoring events that bring people together; providing outreach through libraries and the arts.
- Improve economic development opportunities including local access to shopping and entertainment.



City of
Leander

Strategic Focus Areas

Safety (revised 2-28-22)

- Continue to maintain a safe and secure community.
- Keep crime low.
- Provide a safe traffic/transportation system.
- Coordinate and cooperate with our neighbors to maintain safety in our region.

Infrastructure and Mobility

- Provide for and support the infrastructure necessary to support and improve the quality of life, including water, wastewater services, roads, drainage, and facilities.

Land Use and Zoning

- Utilize the Comprehensive Plan to guide proper land uses.
- Constantly re-evaluate and revise as necessary the assumptions to account for the changing environment and market.

Economic Development

- Improve economic opportunities that ensures economic stability and supports the quality of life.
- Target primary employers.



City of
Leander

Strategic Focus Areas cont'd.

Communication

- Focus on communication to the stakeholders and citizens.
- Be consistent in the city's message – both internally and externally.
- Provide clear expectations to the customer early in the process.

Diversity

- Be purposeful in promoting and providing accessibility to all.
- Be purposeful in describing the history of Leander that completely describes and acknowledges its diversity.

Sense of Place

- Create and maintain a strong community identity.
- Establish a brand that portrays Leander.
- Develop a cohesive sense of community identity recognizing its diverse history.



City of
Leander

Goals and Objectives

Utilizing the Strategic Focus Areas establish goals and objectives.



City of
Leander

Strategic Focus Areas Safety

Initiatives, Strategies, and Goals

Growth and Planning

- Take a proactive approach to public safety when planning for growth.
- Manage the growth of multi-family to create less dense environments.
- Focus on business development that enhances quality of life and sustainability.

Programming and Services

- Establish a community outreach program.
- Provide outreach to HOA's and businesses for security audits in the various neighborhoods and homes.
- Prepare a lighting plan for parks that promotes safety.
- Provide Park patrols.
- Ensure proper training and communication with WARN Central Texas.



Strategic Focus Areas Safety

Staffing

- Add staff to increase community outreach.
- Prioritize proper pay, benefits, and incentives policies to retain personnel.
- Continue to ensure proper staffing, resources, and environment.

Communication

- Take responsibility for improving communication for safety in these areas.
 - Police and Fire safety tips.
 - Pedestrian and bicycle safety classes and tips.
 - Social media tips.
 - Website.
- Prepare and distribute periodic reports on top three issues for police and fire.
- Communicate with HOAs on safety issues within their neighborhoods to pass along to their residents.



City of
Leander

Strategic Focus Area Communication

Initiatives, Strategies, and Goals

Messaging

- Focus on relationship building in all areas.
- Establish consistent messages and messaging for social media.

Services

- Establish a citizen education program (academy).
- Establish community or group specific forums.
 - Establish an outreach program specific to HOA's.
- Support work force development through partnerships with Austin Community College, internships and training.
- Promote the city at appropriate events as an employer.



City of
Leander

Strategic Focus Area Communication

Programs and Projects

- Establish a uniform communication protocol.
 - Redesign the website for simplicity, modern look, ease of navigation, accessibility to internal documents.
 - Consider inserts, mailers, doorhangers as possible communication techniques.
 - Consider the use of mailers, newsletters, and program guides to impart information.
- Establish a Customer Service Policy.
- Establish a 360-feedback program.
- Include IT in all plan reviews.



City of
Leander

Strategic Focus Area Infrastructure

Initiatives, Strategies, and Goals

Project Planning

- Establish a “leading towards” mindset.
- Establish a plan for long-term maintenance and funding of infrastructure.
 - Use the Comprehensive Plan to plan for future infrastructure needs.
- Establish a strategic 10–20-year Capital Improvements Plan (CIP) to catch up with and forecast future growth.
 - Adhere to the CIP – stay on task.
 - Establish funding sources for infrastructure improvements.
 - Budget for future infrastructure.
 - Closely coordinate projects – time and budgets.



City of
Leander

Strategic Focus Area Infrastructure

- Establish facilities master plan.
 - Consider modular/flex spaces.
 - Consider multiuse spaces.
 - Consider a smart/flexible facilities plan - repurposing existing space as new spaces are constructed.
 - Consider partnerships – both public and private for facilities.
- Constantly review the water infrastructure plan.
- Plan conduit for fiber and internet connectivity throughout the city.
- Consider the CCNs in the area.



City of
Leander

Strategic Focus Area Land Use and Zoning

Initiatives, Strategies, and Goals

Planning

- Continuously review and update all long-term plans.
- Maintain consistency with the Comprehensive Plan.
 - Review the Comprehensive Plan every 5 years and should include an estimate of cost to the City and timeframes to implement the amendments.
 - More effectively plan the ETJ areas to steer and guide growth.
 - Work with the County on land uses in the ETJ area.
- Strategically focus on desired commercial development.
- Determine what type businesses are desired.
- Consider minimizing rooftops to manage water and infrastructure demand.



City of
Leander

Strategic Focus Area Land Use and Zoning

Ordinances and Regulations

- Be proactive in bringing ordinances to Council for review and revisions when issues are found.
- Establish guidelines and regulations that promote the “small town feel” including landscaping requirements.
- Establish xeriscape incentives
- Update the zoning districts.
- Review and revise as necessary parkland dedication requirements.
- Establish policies for
 - Short term rentals,
 - Food trucks,
 - Farmer’s markets.
- Review and revise requirements for
 - Home businesses,
 - Accessory structure sizes,
 - Residential recycling into multifamily.



City of
Leander

Strategic Focus Area Economic Development

Initiatives, Strategies, and Goals

Business Development

- Reduce friction (improve opportunities) for small business development.
- Create an incentives program and provide information upfront in the process to guide the type of growth wanted and needed.
- Target infrastructure expansion to enhance and attract commercial development.
- Recruit to the highest and best use for Leander.
- Target upscale restaurants and retail with the use of appropriate incentives.
- Recruit desirable retail competitors to locate in Leander.
- Utilize “niche” businesses to promote and maintain the small-town feel.
- Develop “shop local” promotions.
- Target companies coming to the transit oriented development.



City of
Leander

Strategic Focus Area Economic Development

Programs and Plans

- Explore sports tourism utilizing HOT funds.
- Preserve the available commercial properties for commercial development (not yielding to pressures for single family development in those designated areas).
- Promote “spec” spaces that are shovel ready.
- Be strategic in the use of public/private partnerships for businesses and additional parks spaces.
- Develop a workforce pipeline with LISD, ACC and manufacturers to assist in attracting commercial.

Ordinances and Regulations

- Update ordinances in response to new development trends.



City of
Leander

Strategic Focus Area Diversity

Initiatives, Strategies, and Goals

Messaging

- Ensure the City is welcoming and inclusive of all groups.
- Be intentional and be relational.
- Meet people where they are.
- Be accountable to the needs of others in our diverse community.

Programming

- Encourage diversity among city boards and commissions.
- Identify and assist with citizen driven events.
- Partner with schools to engage the community.
- Ensure events are inclusive
 - Artists, music, food, etc.
 - Enhance and modify to ensure diversity.
- Survey residents about diverse needs and desires.



City of
Leander

Strategic Focus Areas

Sense of Place

Initiatives, Strategies, and Goals

Messaging

- Maintain a sense of identity for being welcoming, our history, the culture(s) of the area, safety, connecting and connectivity with others.
- Preserve our history while keeping an eye toward the future.
- Identify Leander as close to big city amenities without big city problems.
- Encourage investing in Leander to keep dollars and resources here.

Programming

- Identify and prioritize opportunities for interaction among citizens throughout the community.
 - Identify and promote unique places and events.
- Identify and engage new partners in our growth.
 - Engage with realtors
- Develop our brand.
- Consider establishing a business incubator.
- Consider establishing a museum.
- Conduct a survey of residents to determine what they want and need in the community.
 - Engage residents in feedback, identifying their sense of place.



City of
Leander

Threats

- Fear of the unknown.
- Lack of staff to get the job done.
- Lack of financial resources.
- Lack of time to do the job right.
- Lack of desire to complete the tasks at hand.
- Personal conflicts.
- Lack of know-how.
- Being overwhelmed with all there is to accomplish.

2023 City Manager Goals

CAPITAL IMPROVEMENT PROGRAM

- Start construction on Senior Center and work to stay within budget and scope.
- Start construction on all funded Old Town capital projects and coordinate effort to minimize local business and event disruptions.
- Finalize plans for construction of a new City Hall facility and establish a draft plan to address unmet needs of other City facilities.

CITY BUDGET

- Proactively manage the fiscal year 2023 budget to maintain current levels of service.
- Adjust Parkland Dedication fees to provide for additional city park facilities and minimize obligations from city debt or general revenues.

COMMUNICATION

- Keep Council informed of significant changes to the fiscal year 2023 budget.
- Launch a new and improved City website.

CUSTOMER SERVICE

- Implement the recommendations for Development Services improvement presented by BerryDunn in October 2022.
- Host a forum with local area developers to solicit feedback regarding current City ordinances, policies, and services.

ECONOMIC DEVELOPMENT

- Amend the Comprehensive Plan to support the City's desire for commercial growth.
- Develop an Economic Development strategic plan for long-term commercial growth.
- Identify a standard set of agreement terms that will hold partners accountable to success and minimize risk to the City.

PUBLIC SAFETY

- Conduct a third-party analysis of Police and Fire Department operations in preparation for anticipated meet-and-confer discussions.
- Form an internal Safety Committee to review proposed major development projects in preparation for anticipated service obligations.

CITY MANAGER DEVELOPMENT

- Meet with consultant on professional development.
- Implement 360 evaluation process for FY 2023 review.

Approved by City Council 03.02.2023



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Reject bid received regarding Solicitation S23-004 request for proposal Call to Art Public Art Project Opportunity - Murals.

BACKGROUND:

The RFP was let on February 9, 2023, with the bid opening held on March 2, 2023; the City received only one (1) bid.

Following a meeting with the Leander Public Arts and Culture Commission (LPACC) subcommittee and the entire Commission, they agreed it was difficult to determine a clear and unique vision for the project based on one (1) submittal. LPACC unanimously voted to recommend to the City Council to reject the one bid at their March 8th meeting. Staff and the Chamber recommend rejecting the lone bid as well.

The City is working with others to identify additional artist outlets to release a new RFP in the coming weeks with a few changes including but not limited to an enhanced scoring criteria, a "not-to-exceed" budget figure and revising the evaluation team to include the entire LPACC not just the subcommittee.

RECOMMENDATION:

Staff recommends rejecting the one bid submitted.

PRESENTER:

Mark Tummons, Director of Parks & Recreation

Attachments

1. RFP #S23-004 Call To Art



Purchasing Division
105 N. Brushy Street
Leander, TX 78641
www.leandertx.gov

Solicitation #S23-004

**REQUEST FOR PROPOSAL / CALL TO ART
PUBLIC ART PROJECT OPPORTUNITY – MURALS**

Responses Due: March 2, 2023



**REQUEST FOR PROPOSAL / CALL TO ART
PUBLIC ART PROJECT OPPORTUNITY – MURALS**

PART I

GENERAL

1. **PURPOSE:** The City of Leander, in association with the City of Leander Public Art and Culture Commission herein after “City”, seeks an agreement with a qualified Individual, Firm, or Corporation, herein “Respondent”, To create and provide” a mural initiative throughout the City of Leander beginning with the Robin Bledsoe site first.

It's no secret that murals make our neighborhoods beautiful! They add color to building walls and streets that would otherwise go unnoticed, which is a treat for local residents and tourists alike. Murals attract new local businesses, help bring customers to pre-existing locations, and boost the economy of an area.

For this project, are seeking to have a permanent mural painted on the rear-side of a park restroom facility which is located on the north side of the park. The site is adjacent to a picnic area, playground, and walkways which are very visible to the future mural. Robin Bledsoe Park also contains high-use recreation amenities such as aquatic center and splash pad; soccer/multipurpose sports complex; basketball court; and amphitheater. The new mural will be highly exposed to a large variety of residents and visitors on a near daily basis.

Lastly, the project coincides with the LPACC Master Plan.

2. **BACKGROUND:** The City of Leander is a premier community in the Austin/Central Texas area. The City lies on the northeast edge of Texas Hill Country, roughly ten miles due west of Interstate 35 on US 183, and just north of Austin TX. Since 2000, the community has grown from 7,600 to nearly 87,000 residents and is one of the fastest growing cities in Texas and the nation. The Leander Public Arts and Culture Commission's (LPACC) mission is to promote art, culture and education that contributes to a sense of community. LPACC is comprised of 9 community residents passionate about art and cultural events within the Leander community.
3. **LOCATION:** Robin Bledsoe Park {601 S. Bagdad, Leander, TX. 78641}.
<https://www.leandertx.gov/parksrec/page/robin-bledsoe-park>
4. **BUDGET:** \$20,000 - \$25,000. The final budget will include all costs associated with the project; including but not limited to artist fees, labor, materials, installation, insurance, travel and lodging.
5. **DEFINITIONS, TERMS AND CONDITIONS:** By submitting a response to this solicitation, the Respondent agrees that the City's standard Definitions, Terms and Conditions, in effect at the time of release of the solicitation, shall govern but shall be superseded by those terms and conditions specifically provided for otherwise within this solicitation, in a separate agreement or on the face of a purchase order. The City's Definitions, Terms and Conditions are herein made a part of this solicitation and can be found on the City's website by visiting
https://www.leandertx.gov/sites/default/files/fileattachments/finance/page/233/purch_terms_2020.pdf.

5.1. Any exception to or additional terms and conditions attached to the response will not be considered unless respondent specifically references them on the front of the Solicitation Document. **WARNING:** Exception to or additional terms and conditions may result in disqualification of the response.

6. **ATTACHMENTS:** Attachments A through C are herein made a part of this solicitation.

6.1. Attachment A: Reference Sheet

6.2. Attachment B: CIQ Form

CLARIFICATION: For questions or clarifications of specifications, you may contact:

Kay Johnson
Purchasing Department
City of Leander
Telephone: 512-528-2730
kjohnson@leandertx.gov

The individual listed above may be contacted by telephone or visited for clarification of the specifications only. No authority is intended or implied that specifications may be amended or alterations accepted prior to solicitation opening without written approval of the City of Leander through the Purchasing Department.

8. **RESPONDENT REQUIREMENTS:** The opening of a solicitation shall not be construed as the City's acceptance of such as qualified and responsive.

8.1. Respondents shall be firms, corporations, individuals or partnerships normally engaged in the provision or service described herein.

9. **BEST VALUE EVALUATION AND CRITERIA:** Respondents may be required to make an oral presentation to the selection team to further present their qualifications. These presentations will provide the Respondent the opportunity to clarify their proposal and ensure a mutual understanding of the services to be provided and the approach to be used.

All solicitations received may be evaluated based on the best value for the City. In determining best value, the City may consider:

- Proposed fees;
- Reference of Respondent and of Respondent's services;
- Quality of the Respondent's services;
- The extent to which the services meet the City's needs;
- Respondent's past relationship with the City;
- Any relevant criteria specifically listed in the solicitation

9.1. The City reserves the right to reject any or all responses, or delete any portion of the response, or to accept any response deemed most advantageous, or to waive any irregularities or informalities in the response received that best serves the interest and at the sole discretion of the City.

10. **COMMITTEE REVIEW:** An evaluation committee will review each response to determine the most highly qualified Respondent on the basis of demonstrated competence and qualifications using the following weighted criteria. A consensus score will be assigned to each response. Appointed

members of the Leander Public Arts and Culture Commission, City of Leander, and Leander Chamber of Commerce & Visitors Center will accept and review all entries.

Criteria	Possible Points
Artist Resume	25
Proposed budget	30
Samples of original artwork	30
References	15
Total	100

The evaluation process may reveal additional information for consideration. The City reserves the right to modify, without notice, the evaluation structure and weighted criteria to accommodate these additional considerations to serve the best interest of the City.

11. **AWARD:** The City reserves the right to enter into an Agreement or a Purchase Order with a single award, split awards, non-award, or use any combination that best serves the interest and at the sole discretion of the City. Award announcement will be made upon City Council approval of staff recommendation and executed agreement. Award announcement will appear on the City's website at <https://bids.leandertx.gov/>.
- 11.1. The City reserves the right to reject any or all responses, or delete any portion of the response, or to accept any response deemed most advantageous, or to waive any irregularities or informalities in the response received that best serves the interest and at the sole discretion of the City.
- 11.2. Chapter 176, Texas Local Government Code requires that disclosures of certain relationships be made in relation to certain contracts with the City. Local government officers are the members of the City Council, the City Manager, and other City employees or agents who exercise discretion in planning, recommending, selecting and contracting of a vendor. Please contact the City Secretary for a list of City employees and agents who may qualify as local government officers. Click here [Chapter 176, Texas Local Government Code](#), to review this requirement.
- 11.3. A completed CIQ Form, herein Attachment B, is required with each response.
- 11.4. Once a selection is made and the City has the intent to award, the successful respondent will be required to submit Form 1295 to the State of Texas electronically prior to executing the agreement or purchase order.
- https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
12. **AGREEMENT TERM:** The terms of the awarded agreement shall include but not be limited to the following:
- 12.1. The term "agreement" shall mean the executed contract awarded as a result of this solicitation and all exhibits thereto. At a minimum, the following documents will be incorporated into the agreement:
- 12.1.1. Solicitation document, attachments and exhibits;
- 12.1.2. Solicitation addendums, if applicable;
- 12.1.3. City's Definitions, Terms and Conditions;
- 12.1.4. Successful Respondent's submission.
- 12.2. If the Respondent fails to perform its duties in a reasonable and competent manner, the City shall give written notice to the Respondent of the deficiencies and the successful Respondent shall have thirty (30) days to correct such deficiencies. If the Respondent fails to correct the

deficiencies within the thirty (30) days, the City may terminate the agreement by giving the Respondent written notice of termination and the reason for the termination.

- 12.3. If the agreement is terminated, for any reason, respondent shall turn over all material, records and deliverables created to date within fifteen (15) working days after completion of duties through the termination date.
13. **PROMPT PAYMENT POLICY:** Payments will be made in accordance with the Texas Prompt Payment Law, Texas Government Code, Subtitle F, Chapter 2251. The City will pay Vendor within thirty days after the acceptance of the supplies, materials, equipment, or the day on which the performance of services was completed or the day, on which the City receives a correct invoice for the supplies, materials, equipment or services, whichever is later. The Vendor may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply to payments made by the City in the event:
- 13.1. There is a bona fide dispute between the City and Vendor concerning the supplies, materials, services or equipment delivered or the services performed that causes the payment to be late; or
- 13.2. The terms of a federal agreement, grant, regulation, or statute prevent the City from making a timely payment with Federal Funds; or
- 13.3. There is a bona fide dispute between the Vendor and a subcontractor or between a subcontractor and its suppliers concerning supplies, material, or equipment delivered or the services performed which caused the payment to be late; or
- 13.4. The invoice is not mailed to the City in strict accordance with instructions, if any, on the purchase order or agreement or other such contractual agreement.
14. **NON-APPROPRIATION:** The resulting Agreement is a commitment of the City's current revenues only. It is understood and agreed the City shall have the right to terminate the Agreement at the end of any City fiscal year if the governing body of the City does not appropriate funds sufficient to purchase the estimated yearly quantities, as determined by the City's budget for the fiscal year in question. The City may affect such termination by giving Vendor a written notice of termination at the end of its then current fiscal year.

PART II
SCHEDULE

1. **SOLICITATION SCHEDULE:** It is the City's intention to comply with the following solicitation timeline:

Event	Event Date*
RFP Released	February 9, 2023
Deadline for Vendor Questions Submitted to the City of Leander	February 16, 2023 at 5:00 PM CST
Questions and Answers to be posted on the City of Leander website on or before	February 23, 2023 at 5:00 PM CST
RFP Opened (last day to submit Responses)	March 2, 2023 at 2:00 PM CST
Contract Award Target	No later than May 2023
Oral Presentation (if necessary)	TBD
Services to begin upon execution of contract	

*The City of Leander reserves the right to change the dates in the Schedule of Events above upon written notification to prospective Vendors through a posting on the City of Leander website. It is the responsibility of interested Vendors to check the City of Leander website for all updates and changes.

All questions regarding the solicitation shall be submitted via website

<https://bids.leandertx.gov/>. by 5:00 PM on the due date noted above. A copy of all the questions submitted and the City's response to the questions shall be posted on our webpage at: **<https://bids.leandertx.gov/>**.

2. **SOLICITATION UPDATES:** Respondents shall be responsible for monitoring the City's website at **<https://bids.leandertx.gov/>** for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancelations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.
3. **RESPONSE DUE DATE:** Signed and sealed responses are due at or before **9:00 AM**, on the date noted above to the Purchasing Department. Mail or carry sealed responses to:

FedEx, UPS or Hand Deliver to:

**City of Leander
Purchasing Department
105 N. Brushy Street
Leander, Texas 78641**

Mail to:

**City of Leander
Purchasing Department
PO Box 319
Leander, TX 78646**

- 3.1. Responses received after this time and date shall not be considered.
- 3.2. Sealed responses shall be clearly marked on the outside of packaging with the Solicitation title, number, due date and **"DO NOT OPEN"**.
- 3.3. Facsimile or electronically transmitted responses are **not acceptable**.
- 3.4. Late responses will be returned to Respondent unopened if return address is provided.
- 3.5. Responses cannot be altered or amended after opening.

- 3.6. No response can be withdrawn after opening without written approval from the City for an acceptable reason.
- 3.7. The City will not be bound by any oral statement or offer made contrary to the written specifications.
4. **AGREEMENT NEGOTIATIONS:** In establishing an agreement as a result of the solicitation process, the City may:
 - 4.1. Review all submittals and determine which Respondents are reasonable qualified for award of the agreement.
 - 4.2. Determine the Respondent whose submittal is most advantageous to the City considering the evaluation criteria.
 - 4.3. Attempt to negotiate with the most responsive Respondent an agreement at fair and reasonable terms, conditions and cost.
 - 4.4. If negotiations are successful, enter into an agreement or issue a purchase order.
 - 4.5. If not successful, formally end negotiations with that Respondent. The City may then:
 - 4.5.1. Select the next most highly qualified Respondent and attempt to negotiate an agreement at fair and reasonable terms, conditions and cost with that Respondent.
 - 4.5.2. The City shall continue this process until an agreement is entered into or until all negotiations are terminated.
 - 4.6. The City also reserves the right to reject any or all submittals, or to accept any submittal deemed most advantageous, or to waive any irregularities or informalities in the submittal received.
5. **POST AWARD MEETING:** The City and Respondent shall have a post award meeting to discuss, but not be limited to the following:
 - 5.1. Identify specific milestones, goals and strategies to meet objectives.
 - 5.2. Provide City contact(s) information for implementation of agreement.
6. **COSTS INCURRED:** Respondent shall acknowledge that the issuance of a solicitation shall in no way obligate the City to award a contract or to pay any costs associated with the preparation of a response to said solicitation. The costs in developing and submitting proposals, preparing for and participating in oral presentations or any other similar expenses incurred by a Respondent are the sole responsibility of the Respondent and shall not be reimbursed by the City.

PART III

SPECIFICATIONS

1. **CALL FOR ENTRIES:** The City of Leander through its Public Arts and Culture Commission (LPACC) welcomes all artists to apply.
2. **EXHIBIT DETAILS:** The targeted area is above the masonry and below the soffit of the building. It includes 2 recessed areas and a middle pillar. The area faces most of the park and is closest to a children's playground area. It is finished with stucco or concrete. The mural will occupy a total area that measures approximately 2120 sq. ft. Supplies used must be durable for outdoors in all temperatures & weather with little to no maintenance necessary for 5-10yrs minimum and must be appropriate for all ages. The art must be of original design and execution and will be subject to approval by Leander Public Art and Culture Commission, in conjunction with the City of Leander City Council and Leander Parks and Recreation Department.
3. **PROJECT GOALS:**

- 3.1. LPACC intends to support the City of Leander and Leander Chamber of Commerce by enhancing our inventory of public art.
- 3.2. Conceptually or visually incorporate our designated themes.
- 3.3. Support the City's visitor and tourism industry by enhancing our inventory of public art.
- 3.4. Support the Leander Wildflower Trail Initiative.
4. **ARTWORK GOALS:** Bright, family-oriented, fun, creative, welcoming, representative, and inspiring for our community.
5. **THEME:** "Love Leander Wildly"
6. **WORK SIZE:** Approximately 2120 sq. ft.
7. **SITE PHOTO:** MURAL SITE - ROBIN BLEDSOE PARK - 601 S. BAGDAD RD., LEANDER TX



8. **ADDITIONAL INFORMATION:**
 - 8.1. Artist is solely responsible for the mural creation and installation
 - 8.2. Artist is expected to attend the revealing/opening ceremony of the mural
 - 8.3. Artist must provide Leander Public Art and Culture Commission with a monthly update on progress
 - 8.4. Artist will allow the Leander Public Art and Cultural Commission and its affiliates to photograph and publish photos and information related to the Artist's previous or current work. Artist will be given recognition of the completed artwork.
 - 8.5. LPACC and its affiliates will not be liable for the degradation of the art caused by normal outdoor wear and tear.
9. **COPYRIGHTS:** The artist selected will be required to sign a release of all copyrights over to the City of Leander and the Leander Public Arts and Culture Commission.
10. **SELECTION PROCESS:** Appointed members of the Leander Public Arts and Culture Commission, City of Leander, and Leander Chamber of Commerce & Visitors Center will accept and review all entries. Finalists will be judged on creativity, overall aesthetics, and budget. LPACC reserves the right to reject any artwork it deems inappropriate for display in the public setting. This includes work deemed purposefully designed to advance any form of discriminatory agenda.

If you are selected as a finalist, you will be contacted and asked to submit up to 3 original proposals for the project. Finalists will be given no less than 2 weeks' notice to submit their proposals. The panel of judges will be open to various ideas that fit within the theme and description of the project as laid out in this document. The judges may also reach out for clarifying questions during the second phase of the selection process.

Criteria for selection includes: artistic merit as evidenced by the submitted materials; the applicant's professional qualifications; proven ability to perform well on similar projects; and demonstrated ability to work with government agencies, boards, committees, architects, engineers, and other groups for the successful completion of similar art projects.

The finalist selected for the project will be required to enter into a written contract with the City of Leander, meet all contractual requirements and to work as a team to accomplish the goals of the project.

PART IV

RESPONSE REQUIREMENTS

1. **SOLICITATION SUBMISSION REQUIREMENTS:** To achieve a uniform review process and obtain the maximum degree of comparability, the responses shall be organized in the manner specified below. Responses **shall not exceed twenty (25) pages** in length (excluding title page, index/table of contents, work sample attachments (on flash drive) and dividers). Information in excess of those pages allowed will not be evaluated. One page shall be interpreted as one side of a printed, 8 1/2" X 11" sheet of paper.

The Respondent shall submit **one (1) original signed paper copy and two (2) copies** of its Response.

In addition, the Respondent shall submit one (1) flash drive containing a complete copy of Respondent's submission in an acceptable electronic format (PDF, RTF, TXT, DOC, XLS). A complete copy of the Response includes all documents required by this Solicitation. The flash drive shall be titled: "SOLICITATION NUMBER - Complete copy of [Name of Respondent]'s submission." **Failure to provide a flash drive may result in disqualification for award.**

If supplemental materials are included with the Response the flash drive must include such supplemental materials. The Response and accompanying documentation are the property of the City and will not be returned.

TAB #1

- 1.1. Title Page (1 page) – Show the solicitation title and number, the name of your firm, address, telephone number(s) name of contact person and date.

TAB #2

- 1.2. Letter of Transmittal (1 page) – Identify the services for which solicitation has been prepared.
 - 1.2.1. Briefly state your firm's understanding for the services to be performed and make a positive commitment to provide the services as specified.
 - 1.2.2. Provide the name(s) of the person(s) authorized to make representations for your firm, their titles, address, telephone numbers and e-mail address.
 - 1.2.3. The letter of each solicitation shall be signed in permanent ink by a corporate officer or other individual who has the authority to bind the firm. The name and title of the individuals(s) signing the solicitation shall be clearly shown immediately below the signature.

1.2.4. Describing exhibition proposal and detail of materials.

- | | |
|---------------|--|
| TAB #3 | 1.3. <u>Table of Contents</u> (1 page) – Clearly identify the materials by Tab and Page Number. |
| TAB #4 | 1.4. <u>Artist Resume</u> – Respondent must submit a resume including; biography, educational background, and exhibition record. The resume is limited to three pages or less utilizing a font size of 11 or greater. Resume must include name, address, phone (cell preferred), e-mail and website. |
| TAB #5 | 1.5. <u>Proposed Budget</u> – Respondent shall provide detailed itemized budget including all fees. |
| TAB #6 | 1.6. <u>Samples of Original Artwork</u> – Applicants may include links to Websites and/or Social Media accounts where artwork is available for perusal. |
| TAB #7 | 1.7. <u>References</u> - Provide the name, address, telephone number and e-mail of at least three (3) firms applicable to Municipal, Government, or Clients that utilize the service outlined in the scope within the last two (2) years. Attachment A: Reference Sheet is herein provided. |
| TAB #8 | 1.8. <u>Added Value</u> – Respondent shall explain and propose any added value. |

PART V

1. **CONFIDENTIALITY OF CONTENT:** All documents submitted in response to a solicitation shall be subject to the Texas Public Information Act. Following an award, responses are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. Pricing is not considered to be confidential under any circumstances.
 - 1.1 Information in a submittal that is legally protected as a trade secret or otherwise confidential must be clearly indicated with stamped, bold red letters stating "CONFIDENTIAL" on that section of the document. The City will not be responsible for any public disclosure of confidential information if it is not clearly marked as such.
 - 1.2 If a request is made under the Texas Public Information Act to inspect information designated as confidential, the Respondent shall, upon request from the City, furnish sufficient written reasons and information as to why the information should be protected from disclosure. The matter will then be presented to the Attorney General of Texas for final determination.
2. **ETHICS ORDINANCE AND DISCLOSURE STATEMENTS:** The City's Ethics Ordinance requires persons seeking to enter discretionary contracts with the City or appearing before the City Council or another City board or body to disclose certain conflicts of interest. The relevant sections of the Ethics Ordinance are set forth below. The Ethics Ordinance can be found in Article 9.05, Chapter 9 of the City's Code of Ordinances at the following link:
<http://z2codes.franklinlegal.net/franklin/Z2Browser2.html?showset=leanderset>

Sec. 9.05.007 Persons doing business with the city

- (a) Persons seeking discretionary contracts.
 - (1) For the purpose of assisting the city in the enforcement of provisions contained in this article, an individual or business entity seeking a discretionary contract from the city is required to disclose in connection with a proposal for a discretionary contract any conflict of interest. This is set forth in [sections 9.05.004](#) and [9.05.005](#) of this article. Further, the

individual or business entity agree to abide by the same ethical standards as set forth for public servants in this article.

- (2) Subsection (a) of this section will become a permanent footnote on documents contained in city bid packets for discretionary contracts.
- (b) Disclosure of conflicts of interest by persons appearing before a board or city body. A person appearing before any city board or other city body for the purpose of doing business with the city shall disclose to that board or body any facts known to such person which may show or establish that:
 - (1) An employee or officer of the city that advises or makes presentations to the board or city body; or
 - (2) Any member of the board or city body; has or may have a conflict of interest pursuant to chapter 171, Tex. Loc. Gov't. Code, or an interest which would violate the ethical standards set forth in this article, if he or she were to participate in the processing or consideration of the subject matter.

Sec. 9.05.009(f) Disclosure by persons appearing before a city body. Any person who appears before any city body who has had business dealings within the preceding 12-month period involving one or more transactions of five hundred dollars (\$500.00) or more each quarter, or for a total of twenty-five hundred dollars (\$2,500.00) or more, within the preceding 12-month period with a councilmember, commissioner, or business entity in which a councilmember or commissioner has a substantial interest, shall disclose such business dealings at the time of the appearance. Any person who shall intentionally or knowingly fail to make the aforesaid disclosure shall be guilty of a misdemeanor and shall be fined in accordance with this article.

ATTACHMENT A

RESPONDENT'S REFERENCE SHEET

PLEASE COMPLETE AND RETURN THIS FORM WITH THE SOLICITATION RESPONSE

SOLICITATION NUMBER: _____

RESPONDENT'S NAME: _____ **DATE:** _____

Provide the name, address, telephone number and **E-MAIL** of at least three (3) Municipal and/or Government agencies or firms of comparable size that have utilized similar service within the last two (2) years. City of Leander references are not applicable. References may be checked prior to award. Any negative responses received may result in disqualification of submittal.

- | | | | |
|----|-----------------------|-----------|-----------------------|
| 1. | Company's Name | | |
| | Name of Contact | | |
| | Title of Contact | | |
| | E-Mail Address | | |
| | Present Address | | |
| | City, State, Zip Code | | |
| | Telephone Number | () | Fax Number: () |
| | | | |
| 2. | Company's Name | | |
| | Name of Contact | | |
| | Title of Contact | | |
| | E-Mail Address | | |
| | Present Address | | |
| | City, State, Zip Code | | |
| | Telephone Number | () | Fax Number: () |
| | | | |
| 3. | Company's Name | | |
| | Name of Contact | | |
| | Title of Contact | | |
| | E-Mail Address | | |
| | Present Address | | |
| | City, State, Zip Code | | |
| | Telephone Number | () | Fax Number: () |

FAILURE TO PROVIDE THE REQUIRED INFORMATION WITH THE SOLICITATION RESPONSE MAY AUTOMATICALLY DISQUALIFY THE RESPONSE FROM CONSIDERATION FOR AWARD.

CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor doing business with local governmental entity**

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4

Signature of vendor doing business with the governmental entity

Date



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of a Special Event Permit for the 11th Annual Leander Bull Riding Shootout to be held on May 6, 2023, with a contingency date of May 20, 2023 at the South San Gabriel River Park Property, Leander, Williamson County, Texas.

BACKGROUND:

The Broken G Rodeo Company has requested a special event permit to use the South San Gabriel River Park property for the rodeo to be held on May 6, 2023. In the event of rain or inclement weather, the contingency date is May 20, 2023. Broken G intends to access the property a few days prior to the event to set up the rodeo arena, and the two (2) days following the event, break down the arena. This event has taken place on this property since 2018 and there have been no issues. The Leander Fire Department, Police Department and Parks and Recreation Department have approved the permit.

Broken G will provide the following:

- Emergency Action Plan
- Traffic Control and Security
- EMS Medical Standby
- Texas Alcohol and Beverage Commission Special Event License to Sell Beer
- Williamson County Food Handler Permit
- Proof of Insurance Naming the City of Leander as an Insured Party

Broken G is a professional bull riding company that has produced several fundraising events for Rouse High School and Leander High School FFA. Broken G is owned and operated by Louie Garcia of Cedar Park, Texas.

PRESENTER:

Mark Tummons, Director of Parks & Recreation



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of joining the Texas Attorney General's global opioid settlement with Allergan, CVS, Walgreens, and Walmart; and authorize the City Manager to execute Settlement Participation Forms and any and all necessary documents.

BACKGROUND:

The proposed Settlements require Allergan to pay \$135 million, CVS to pay \$304 million, Walgreens to pay \$340 million, and Walmart to pay \$170 million (the "Settlement Amount") to Texas and its political subdivisions. Of the Settlement Amount, the vast majority is earmarked for use by Texas and its subdivisions to remediate and abate the impacts of the opioid crisis. The Settlements also contain injunctive relief provisions governing the opioid marketing as well as the sale and dispensing practices at the heart of the opioid claims in the lawsuits.

The subdivisions within Texas are entitled to decide whether they wish to participate in the settlement. Any subdivision that does not participate cannot directly share in any of the settlement funds.

PRESENTER:

Paige Saenz, City Attorney

Attachments

1. Settlement Information Sheet
2. Allergen Participation Form
3. CVS Participation Form
4. Walgreens Participation Form
5. Walmart Participation Form



TO LOCAL POLITICAL SUBDIVISIONS:
IMPORTANT INFORMATION ABOUT NEW OPIOID SETTLEMENTS WITH ALLERGAN, CVS,
WALMART, AND WALGREENS.
SUBDIVISIONS MUST SUBMIT SIGNED DOCUMENTATION TO PARTICIPATE.
THE DEADLINE FOR PARTICIPATION IS APRIL 18, 2023.

If your subdivision is represented by an attorney with respect to opioid claims, please immediately contact them.

Please note that this settlement is a **NEW** opioid settlement; your subdivision may have previously submitted documents for the Distributors, Janssen/J&J, Endo, and Teva settlements.

To participate in the Allergan, CVS, Walgreens, and Walmart settlements, you will need to submit new documentation.

WHY IS YOUR SUBDIVISION RECEIVING THIS NOTICE?

You are receiving this email because Texas settled with Allergan, CVS, Walgreens, and Walmart, and your subdivision may participate in these Settlements. This email is being sent directly to subdivisions who are not litigating against Allergan, CVS, Walgreens, and/or Walmart. If you are represented by an attorney with respect to opioid claims, please immediately contact them. Please note that there is no need for subdivisions to be represented by an attorney or to have filed a lawsuit to participate in the Settlements.

Your subdivision may have already signed on to the Distributor, Janssen/J&J, Endo, and/or Teva settlements and adopted the Texas Term Sheet. **If so, do not disregard this notice. These are settlements with Allergan, CVS, Walgreens, and Walmart.** If you have already signed on to the Allergan, CVS, Walgreens, and Walmart Settlements, you may disregard this notice.

HOW DO YOU PARTICIPATE IN THE SETTLEMENTS?

All required documentation must be executed and submitted to the email address: opioids@oag.texas.gov. Your subdivision will need to submit the **Subdivision Participation Form** for each settlement to opioids@oag.texas.gov. Please also be sure to include in the Form

the identity and email address of the individual who is authorized to sign formal and binding documents on behalf of your subdivision.

SETTLEMENT OVERVIEW

The proposed Settlements require Allergan to pay \$135 million, CVS to pay \$304 million, Walgreens to pay \$340 million, and Walmart to pay \$170 million (the “Settlement Amount”) to Texas and its political subdivisions. Of the Settlement Amount, the vast majority is earmarked for use by Texas and its subdivisions to remediate and abate the impacts of the opioid crisis. The Settlements also contain injunctive relief provisions governing the opioid marketing as well as the sale and dispensing practices at the heart of the opioid claims in the lawsuits.

The subdivisions within Texas are entitled to decide whether they wish to participate in the settlement. Any subdivision that does not participate cannot directly share in any of the settlement funds.

WHERE CAN YOU FIND MORE INFORMATION?

This email is intended to provide a brief overview of the Settlements. Detailed information about the Settlements may be found at the website set up by Office of the Attorney General of Texas: <https://www.texasattorneygeneral.gov/globalopioidsettlement>.

WHY YOU SHOULD PARTICIPATE

Texas, other states, and cities and counties around the country have announced support of this settlement.

Subdivision participation is strongly encouraged, for the following reasons:

First, the amounts to be paid under the Settlements, while insufficient to abate the epidemic fully, will contribute to allowing Texas and its local governments to commence with meaningful change designed to curb opioid addiction, overdose, and death, following on the Distributors and Johnson & Johnson/Janssen settlements from 2021 and the Teva and Endo settlements from 2022;

Second, time is of the essence. The opioid epidemic continues to devastate communities around the country, and it is critical that the funds begin to flow to allow governments to address the epidemic in their communities ***as soon as possible***; and

Third, you know first-hand the effects of the opioid epidemic on your community. Funds from these settlements will be used to commence abatement of the crisis and provide relief to your

citizens while litigation and settlement discussions proceed against numerous other defendants in the opioid industry.

HOW WILL SETTLEMENT FUNDS BE ALLOCATED IN TEXAS?

The Texas Term Sheet, which sets the allocation between subdivisions and the State, can be found on the Texas Attorney General's website. Any questions concerning the status or terms of the Texas Term Sheet and allocations in Texas can be directed to the Texas Attorney General's Office.

You may be contacted by the Texas Attorney General's Office with additional information regarding the allocation of settlement funds in Texas. Subdivisions with representation can expect information from their attorneys. We encourage you to review all materials and to follow up with any questions. The terms of these settlements are complex, and we want to be sure you have all the information you need to make your decision.

As with the other opioid settlements, the Texas Comptroller of Public Accounts and the Texas Opioid Council will disburse funds to participating political subdivisions in Texas.

NEXT STEPS

This settlement requires that you take affirmative steps to 'opt in' to the settlement. If you do not act, you will not receive any settlement funds.

First, have your authorizing person(s) or body begin to review the materials on the website concerning the settlement agreement terms and the Texas Term Sheet. Develop a list of questions for your counsel or the Texas Attorney General's Office. Your subdivision will need to begin the process of deciding whether to participate in the proposed settlement, and subdivisions are encouraged to work through this process well before the **April 18, 2023**, deadline. Again, the Texas Attorney General's Office, your counsel, and other contacts within the state are available to discuss the specifics of the settlements within your state and we encourage you to discuss the terms and benefits of the settlements with them.

Second, should you decide to proceed with participating, your subdivision will need to submit your signed Subdivision Participation Form to opioids@oag.texas.gov.

NOTE: If your subdivision has not already done so, your subdivision will need to adopt the Texas Term Sheet and its intrastate allocation schedule. If your subdivision has previously signed on to the Distributors, J&J/Janssen, Endo, and/or Teva settlements, you will have already adopted the Texas Term Sheet. There is no need to readopt the Texas Term Sheet. If you have NOT adopted the Texas Term Sheet, please contact opioids@oag.texas.gov.

We urge you to view the Texas Attorney General's website at your earliest convenience. Information and documents regarding the settlement can be found on the settlement website at: <https://www.texasattorneygeneral.gov/globalopioidsettlement>

Questions regarding the opioid settlements can be directed to: Stephanie Eberhardt (stephanie.eberhardt@oag.texas.gov) and opioids@oag.texas.gov.

FREQUENTLY ASKED QUESTIONS

1. My subdivision already signed up for opioid settlements. Is that good enough for these new settlements?

No, you will need to submit separate **Subdivision Participation Forms** for Allergan, CVS, Walgreens, and Walmart; opting into the other settlements does not sign you up for this one.

2. Does my subdivision need to pass a resolution to sign up for this settlement?

This depends on the specifics of what your county or city is required to do to release legal claims. If your city manager, for example, is authorized to generally enter into opioid settlements, you may not need a resolution. Consult your legal counsel for advice.

If your subdivision has already adopted the Texas Term Sheet to sign on to a previous opioid settlement, you do NOT need to adopt an additional resolution to readopt the Texas Term Sheet.

3. When will my subdivision receive funds from this settlement and/or the other settlements?

Funds for the Distributors, J&J/Janssen, Endo, and Teva settlements have been paid to the Texas Comptroller of Public Accounts, the Texas Opioid Council, and the Texas Treasury Safekeeping Trust Company. Please contact O AFC.Public@c pa.texas.gov for more details.

4. How much will my subdivision receive from the Allergan, CVS, Walgreens, and Walmart Settlements?

If you have questions about your subdivision's individual allocation amount, please contact Stephanie Eberhardt (stephanie.eberhardt@oag.texas.gov) or opioids@oag.texas.gov.

5. What are all the different Texas opioid settlements?

Here is a summary of all the opioid settlements between Texas and its political subdivisions and the various manufacturers, distributors, and retail pharmacies:

Date Announced	Company	Amount
February 2021	McKinsey	\$38.4 million
July 2021	Distributors (AmerisourceBergen, Cardinal Health, and McKesson)	\$1.271 billion
July 2021	Janssen	\$296 million
December 2021	Endo	\$63 million
February 2021	Teva	\$150 million plus \$75 million in product
June 2021	Mallinckrodt	\$74 million
December 2022	Allergan	\$135 million
December 2022	Walmart	\$170 million
December 2022	CVS	\$304 million
December 2022	Walgreens	\$340 million
Total	12 companies	\$2.919 billion

EXHIBIT K
Subdivision and Special District Settlement Participation Form

Governmental Entity: City of Leander	State: Texas
Authorized Signatory: Richard B. Beverlin, III	
Address 1: PO Box 319	
Address 2:	
City, State, Zip: Leander, TX 78646	
Phone: 512.528.2702	
Email: rbeverlin@leandertx.gov	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Allergan Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Allergan Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Allergan Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within fourteen (14) days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the MDL Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions and Special Districts as defined therein.
5. By agreeing to the terms of the Allergan Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.



7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.
8. The Governmental Entity has the right to enforce the Allergan Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of **Section V (Release)**, and along with all departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Allergan Settlement are intended to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Allergan Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Allergan Settlement.
11. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

12. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Settlement Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.



I have all necessary power and authorization to execute this Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: Richard B. Beverlin, III

Title: City Manager

Date: 04.06.2023



EXHIBIT K

Subdivision Participation and Release Form

Governmental Entity: City of Leander	State: Texas
Authorized Signatory: Richard B. Beverlin, III	
Address 1: PO Box 319	
Address 2:	
City, State, Zip: Leander, TX 78646	
Phone: 512.528.2702	
Email: rbeverlin@leandertx.gov	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 ("*CVS Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the CVS Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the CVS Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the CVS Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs' Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
3. The Governmental Entity agrees to the terms of the CVS Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the CVS Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the CVS Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the CVS Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the CVS Settlement.
7. The Governmental Entity has the right to enforce the CVS Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the CVS Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the CVS Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The CVS Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the CVS Settlement.
10. In connection with the releases provided for in the CVS Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the CVS Settlement.



11. Nothing herein is intended to modify in any way the terms of the CVS Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the CVS Settlement in any respect, the CVS Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Richard B. Beverlin, III

Title: City Manager

Date: 04.06.2023



EXHIBIT K

Subdivision Participation and Release Form

Governmental Entity: City of Leander	State: Texas
Authorized Signatory: Richard B. Beverlin, III	
Address 1: PO Box 319	
Address 2:	
City, State, Zip: Leander, TX 78646	
Phone: 512.528.2702	
Email: rbeverlin@leandertx.gov	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 (“*Walgreens Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Walgreens Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walgreens Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Walgreens Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
3. The Governmental Entity agrees to the terms of the Walgreens Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Walgreens Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walgreens Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walgreens Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Walgreens Settlement.
7. The Governmental Entity has the right to enforce the Walgreens Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walgreens Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walgreens Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walgreens Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Walgreens Settlement.
10. In connection with the releases provided for in the Walgreens Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walgreens Settlement.



11. Nothing herein is intended to modify in any way the terms of the Walgreens Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Walgreens Settlement in any respect, the Walgreens Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Richard B. Beverlin, III

Title: City Manager

Date: 04.06.2023



EXHIBIT K

Subdivision Participation Form

Governmental Entity: City of Leander	State: Texas
Authorized Official: Richard B. Beverlin, III	
Address 1: PO Box 319	
Address 2:	
City, State, Zip: Leander, TX 78646	
Phone: 512.528.2702	
Email: rbeverlin@leandertx.gov	

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated November 14, 2022 ("Walmart Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Walmart Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walmart Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Walmart Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event within 14 days of the Effective Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in In re National Prescription Opiate Litigation, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs' Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Walmart Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Walmart Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walmart Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walmart Settlement.
7. The Governmental Entity has the right to enforce the Walmart Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walmart Settlement, including but not limited to all provisions of Section X (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walmart Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walmart Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Walmart Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walmart Settlement.

10. Nothing herein is intended to modify in any way the terms of the Walmart Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Walmart Settlement in any respect, the Walmart Settlement controls.



I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: Richard B. Beverlin, III

Title: City Manager

Date: 04.06.2023





EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of an addendum to the 380 Agreement with Cangshan Cutlery Company, a California S Corporation ("Cangshan"); New Star Foodservice, Inc., a California S Corporation ("New Star"); Everware International, a California S Corporation ("Everware"); and CMHH Heritage, LLC, a Texas limited liability company ("CMHH Heritage"); (collectively hereafter referred to as "Company"). Cangshan, New Star Foodservice, and Everware merged with newly created Texas entities.

BACKGROUND:

This is being brought to the City Council as it is different from what was previously approved on February 2, 2023. To have a clean record, the Addendum has been revised to include a whereas clause that recognizes that the 380 Agreement has been assigned to the newly created Texas entities by operation of the clauses and can clean up the signature blocks to reflect the new companies. A separate assignment is not needed as there is not a material change.

PRESENTER:

Paige Saenz, City Attorney

Attachments

1. Cangshan Addendum

ADDENDUM TO CHAPTER 380 GRANT AGREEMENT PROJECT CUTTING EDGE— CANGSHAN CUTLERY COMPANY

This Addendum to the Chapter 380 Grant Agreement Project Cutting Edge – Cangshan Cutlery Company (the “Addendum”) is made and entered into, effective as of the ____ day of _____, 2023 (the “Effective Date”), by and among the **City of Leander, Texas**, a Texas home rule municipal corporation (the “City”), and **Cangshan Cutlery Company, Inc.** a Texas corporation (“Cangshan”), **New Star Foodservice, Inc.**, a Texas corporation (“New Star”), **Everware Corporation, Inc.**, a Texas corporation dba Everware International (“Everware”), and **CMHH Heritage, LLC**, a Texas limited liability company (“CMHH Heritage”) (collectively hereinafter referred to as the “Company”). The City and the Company are sometimes referred to herein as the “Parties.”

Recitals

Whereas, the City entered entered into that certain Chapter 380 Grant Agreement Project Cutting Edge – Cangshan Cutlery Company dated effective June 30, 2021 (the “380 Agreement”) with Cangshan Cutlery Company, a California S Corporation, New Star Foodservice, Inc., a California S Corporation, Everware International, a California S Corporation, and CMHH Heritage;

Whereas, Cangshan Cutlery Company, a California S Corporation, New Star Foodservice, Inc., a California S Corporation, Everware International, and a California S Corporation are herein referred to as the “Company Entities”;

Whereas, the 380 Agreement authorizes the Company to transfer and assign its rights and obligations under the Agreement to a Designated Successor and Assign;

Whereas, the Company Entities transferred and assigned their respective rights and obligations under the Agreement to the following Designated Successors and Assigns: Cangshan Cutlery Company, Inc. a Texas corporation; New Star Foodservice, Inc., a Texas corporation; and Everware Corporation, Inc., a Texas corporation dba Everware International, respectively, by merger;

Whereas, the Company has determined that the Company will be unable to perform and complete the Grant Criteria required to receive the Chapter 380 Grants set forth in the 380 Agreement;

Whereas, the Parties desire to provide for mutual termination of the 380 Agreement;

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the Parties hereto agree as follows:

I.

Termination of 380 Agreement

- A. The Parties hereby agree that the 380 Agreement is hereby terminated. The Company confirms, acknowledges and agrees that the Company will not be paid any monies or other

economic incentives by the City in relation to the 380 Agreement.

II.

Miscellaneous

- A. Conflicting Provisions and Definitions. If there is any conflict or inconsistency between this Addendum and the 380 Agreement, this Addendum will control and modify the 380 Agreement to the extent of the conflict only. Capitalized terms that are not defined in this Addendum shall have the meaning set forth in the 380 Agreement.
- B. Entire Agreement. Addendum and the 380 Agreement 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.
- C. Severability. Should any court declare or determine that any provisions of this Addendum is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Addendum shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Addendum and the remaining provisions of this Addendum 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 Addendum. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Addendum 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 Addendum.
- D. Effective Date. The Effective Date of this Addendum is the defined date set forth in the first paragraph.
- E. Statutory Verifications.
 - a. 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 Company represents that neither the Company nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Company (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.
 - b. 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, Company represents that Company nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Company is a company listed by the Texas Comptroller of Public Accounts under

Sections 2270.0201, or 2252.153 of the Texas Government Code.

- c. The Company hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, 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 on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by the preceding statement in (A).
 - d. The Company 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.
- F. Counterparts. This Addendum may be executed in any number of counterparts, including, without limitation, facsimile counterparts, with the same effect as if the Parties had signed the same document, and all counterparts will constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the Effective Date.

COMPANY

Cangshan Cutlery Company, Inc., a Texas corporation

SIGNATURE

TYPED OR PRINTED TITLE

DATE

THE STATE OF TEXAS
COUNTY OF WILLIAMSON

§
§

COMPANY
Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____ (name), known to me (or proved to me on the oath of _____ (name) or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **Cangshan Cutlery Company, Inc.**, a Texas corporation such entity duly authorized to do business in the State of Texas, and as the _____ (title) thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20_____.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME

New Star Foodservice, Inc., a Texas corporation

SIGNATURE

TYPED OR PRINTED TITLE

DATE

THE STATE OF TEXAS
COUNTY OF WILLIAMSON

§
§

COMPANY
Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____ (*name*), known to me (or proved to me on the oath of _____ (*name*) or through _____ (*description of identity card or other document*)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **New Star Foodservice, Inc.**, a Texas corporation, such entity duly authorized to do business in the State of Texas, and as the _____ (*title*) thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME

**Everware Corporation, Inc., dba Everware
International, a Texas corporation**

SIGNATURE

TYPED OR PRINTED TITLE

DATE

**THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §**

**COMPANY
Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____ (*name*), known to me (or proved to me on the oath of _____ (*name*) or through _____ (*description of identity card or other document*)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **Everware Corporation, Inc., dba Everware International**, a Texas corporation such entity duly authorized to do business in the State of Texas, and as the _____ (*title*) thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME

CMHH Heritage, LLC, a Texas limited liability company

SIGNATURE

TYPED OR PRINTED TITLE

DATE

**THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §**

**COMPANY
Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me (or proved to me on the oath of _____ or through _____ (*description of identity card or other document*) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of _____, such entity duly authorized to do business in the State of Texas, and as the _____ thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME

CITY OF LEANDER, TEXAS

By: _____

CHRISTINE DELISLE
MAYOR

Date: _____

ATTEST:

DARA CRABTREE
CITY SECRETARY

APPROVED AS TO FORM:

By: _____

PAIGE SAENZ
CITY ATTORNEY

Date: _____

THE STATE OF TEXAS

§

COUNTY OF WILLIAMSON

§

§

CITY OF LEANDER, TEXAS

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Christine DeLisle, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **CITY OF LEANDER, TEXAS**, a municipal corporation of Williamson and Travis Counties, Texas, and as the Mayor thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 20____.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES:

NOTARY'S PRINTED NAME



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Acceptance of public infrastructure improvements for Bryson Phase 4 Section 5.

BACKGROUND:

The public infrastructure improvements required for the Bryson Phase 4 Section 5 Subdivision have been installed, inspected, and are satisfactorily completed. All documentation required for acceptance of this subdivision have been received, including record drawings, statement of substantial completion prepared by a professional engineer licensed in the State of Texas, copies of all inspection reports and certified test results, electronic files of the improvements and final plat, 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 April 6, 2023 which will provide warranty and maintenance coverage for the public infrastructure improvements through April 6, 2025. The Engineering Department will perform a formal inspection of the improvements approximately thirty (30) days prior to the expiration of the maintenance bond to assure that any defects in materials, workmanship, or maintenance are corrected prior to expiration of the bond.

RECOMMENDATION:

Staff recommends City Council's formal acceptance of the public infrastructure improvements for Bryson Phase 4 Section 5.

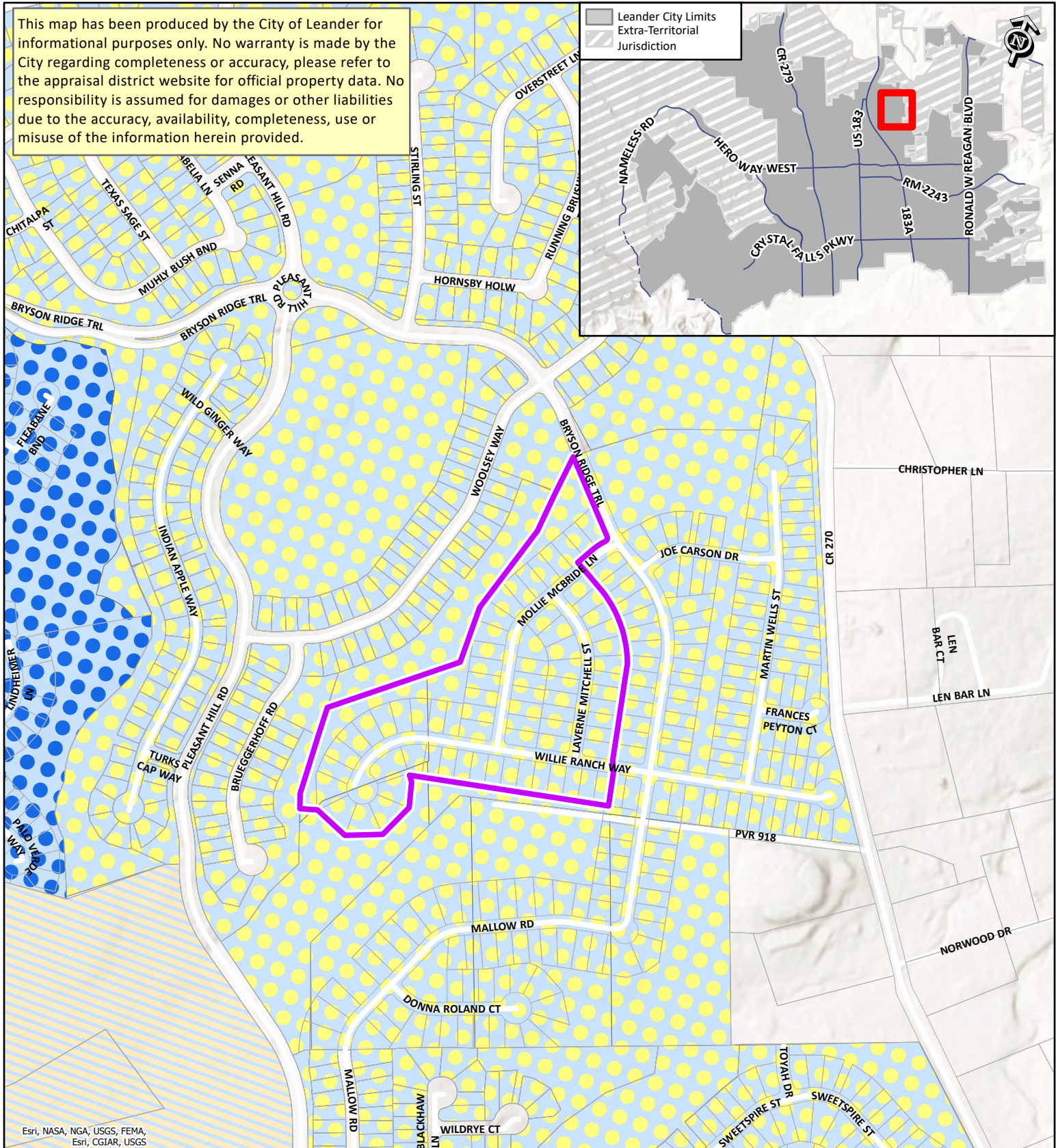
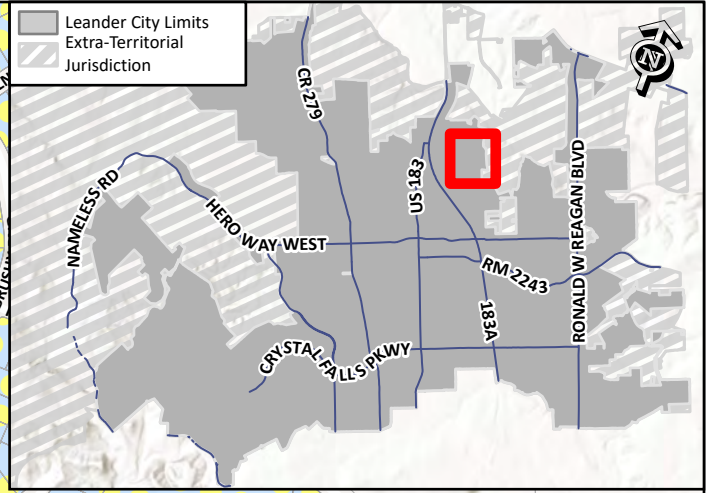
PRESENTER:

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

Attachments

1. Acceptance Documents

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

Bryson Ph 4 Sec 5 - 21-TOD-PICP-020

Accepted Subdivision

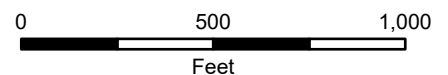
PUD LAND USE

PUD - Single-Family

PUD - Mixed Use

SECTORS

CD - Conventional Sector



ENGINEER'S CONCURRENCE
FOR PROJECT ACCEPTANCE

Project: Bryson Phase 4 Section 5 Date: February 7, 2023
City of Leander Issued Permit Number: 21-TOD-PICP-020

Owner's Name and Address

Bryson MPC Holdings LLC
5005 Riverway
Houston, TX 77056

Consultant Engineer's
Name and Address

CSF Civil Group
3636 Executive Center Drive
Suite 209
Austin, TX 78731

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 Subdivision Ordinance and Composite Zoning Ordinance.

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



Christine A Potts

Christine A. Potts, P.E.

CSF Civil Group, LLC
Engineering Firm Name

F-12377
Registered Firm Number

MAINTENANCE BOND
Subdivision Improvements

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

KNOW ALL BY THESE PRESENTS, that JKB Construction Company, LLC
as Principal, whose address is 14750 HWY 29 W, LIBERTY HILL, TX 78642 and
Harco National Insurance Company a Corporation organized under the
laws of the State of Illinois, 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 Two Hundred Thirty Nine Thousand Seven Hundred Two and 40/100 Dollars
(\$ 239,702.40) 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 Bryson Phase 4, Section 5 Public Improvements Construction Plans
Leander Todd Municipal Utility District No. 1 (City of Leander Project No. 21-TOD-PICP-020 & Floodplain Development Project No. 21-FPD-009
(insert description of subdivision improvements) (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.

POWER OF ATTORNEY
HARCO NATIONAL INSURANCE COMPANY
INTERNATIONAL FIDELITY INSURANCE COMPANY

Member companies of IAT Insurance Group, Headquartered: 4200 Six Forks Rd, Suite 1400, Raleigh, NC 27609

KNOW ALL MEN BY THESE PRESENTS: That **HARCO NATIONAL INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of Illinois, and **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

MICHAEL C. WHORTON, TOM MULANAX, DAVID M. WHORTON, JEREMY FARQUE, ROSEMARIE LOPEZ

Austin, TX

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** and is granted under and by authority of the following resolution adopted by the Board of Directors of **INTERNATIONAL FIDELITY INSURANCE COMPANY** at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of **HARCO NATIONAL INSURANCE COMPANY** at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation'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 seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** have each executed and attested these presents
on this 31st day of December, 2022



STATE OF NEW JERSEY
County of Essex

Kenneth Chapman

Executive Vice President, Harco National Insurance Company
and International Fidelity Insurance Company

STATE OF ILLINOIS
County of Cook



On this 31st day of December, 2022, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY**; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Shirelle A. Outley a Notary Public of New Jersey
My Commission Expires April 4, 2023

CERTIFICATION

I, the undersigned officer of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, December 21, 2022

A02417

Irene Martins, Assistant Secretary



Plans
Permits
Construction

CSF Civil Group, LLC
Texas Registered Firm No. F-12377
3636 Executive Center Drive, Suite 209
Austin, Texas 78731
(512) 614-4466

December 14, 2022

Brittany Johs-Gori
City of Leander
201 N. Brushy Street
Leander, TX 78641

Re: Bryson Phase 4, Section 5- Cost Summary Letter

Dear Ms. Johs-Gori

Please see Maintenance Bond calculation below. The total is based on the attached Cost and Quantities for Maintenance Bond.

Final Plat Legal Name: Bryson, Phase 4, Section 5 Final Plat

Name on Approved Construction Documents: Bryson Phase 4, Section 5

Cost Categories	Amount to Date
Bryson Phase 4 Section 5	
Drainage	\$1,174,436.88
Water	\$295,896.80
Wastewater	\$384,325.20
Streets	\$384,346.60
Streetlights	\$158,018.55
Total Phase 4 Section 5	\$2,397,024.03

Maintenance Bond Calculation:

Total Improvements = \$2,397,024.03

Maintenance Bond: (10%) = \$239,702.40

Inspection Fee Calculation:

Total Improvements = \$2,397,024.03

Currently Paid Inspection Fees = \$54,119.06

Inspection Fees (3.5%) = \$83,895.84

Remaining Insp. Fees to be Paid = \$29,776.78

* Please note that the bonds, lot grading, PEC Electric Costs and Atmos Gas costs are not included in the Total Improvements amount.

December 14, 2022

Page 2 of 2

Sincerely,

Christine A. Potts

Christine A. Potts, P.E.
CSF Civil Group, LLC
512-614-4466 x 104



JKB CONSTRUCTION COMPANY LLC
BRYSON PHASE 4, SECTION 5 - FINAL COSTS AND QUANTITIES

ITEM	DESCRIPTION OF WORK	QUANTITY	PRICE	SCHEDULED
SECTION A. MUD GRADING & DRAINAGE				
A1	MOBILIZATION, LUMP SUM	1	\$109,127.00	\$109,127.00
A2	CLEARING AND GRUBBING LIMITS OF CONSTRUCTION COMPLETE	21	\$2,728.20	\$57,619.58
A3	DRAINAGE AND ROADWAY GRADING EARTHWORK TO SUBGRADE	1	\$142,609.15	\$142,609.15
A4	DRAINAGE AND ROADWAY GRADING EARTHWORK TO SUBGRADE	1	\$24,801.60	\$24,801.60
A5	DRAINAGE AND ROADWAY GRADING IMPORT/HAULOFF	1	\$140,129.00	\$140,129.00
A7	GRAVITY RETAINING WALL COMPLETE AND IN PLACE; WALL TO H	875	\$87.45	\$76,518.75
A8	STABILIZED CONSTRUCTION ENTRANCE AS DETAILED AND SPECIF	2	\$1,116.10	\$2,232.20
A9	CURB INLET PROTECTION COMPLETE IN PLACE AS DETAILED AN	22	\$105.45	\$2,319.90
A10	SILT FENCE COMPLETE IN PLACE AS DETAILED AND SPECIFIED	2,840	\$3.15	\$8,946.00
A11	18" REINFORCED CONCRETE PIPE, CLASS 3 COMPLETE IN PLACE	660	\$71.25	\$47,025.00
A12	24" REINFORCED CONCRETE PIPE, CLASS 3 COMPLETE IN PALCE	729	\$81.45	\$59,377.05
A13	30" REINFORCED CONCRETE PIPE, CLASS 3 COMPLETE IN PLACE	299	\$106.30	\$31,783.70
A14	42" REINFORCED CONCRETE PIPE, CLASS 3 COMPLETE IN PLACE	870	\$191.70	\$166,779.00
A15	48" REINFORCED CONCRETE PIPE, CLASS 3 COMPLETE IN PLACE	145	\$240.45	\$34,865.25
A16	5' DIA MANHOLE COMPLETE IN PLACE AS DETAILED AND SPECIFIE	4	\$7,046.80	\$28,187.20
A17	6' DIA MANHOLE COMPLETE IN PLACE AS DETAILED AND SPECIFIE	4	\$9,199.15	\$36,796.60
A18	10' CURB INLET INCL. TRANSITIONS COMPLETE IN PLACE AS DETA	19	\$5,344.75	\$101,550.25
A19	4'x4' AREA INLET COMPLETE IN PLACE AS DETAILED AND SPECIFIE	1	\$5,032.70	\$5,032.70
A20	TOP SOIL FOR REVEGETATION OF RIGHT OF WAY AND GRADING AREAS (LOTS NOT INCLUDED) COMPLETE IN PLACE AS DETAILED AND SPECIFIED	26,000	\$1.15	\$29,900.00
A21	SEED FOR REVEGETATION OF RIGHT OF WAY AND GRADING AREAS (LOTS NOT INCLUDED) COMPLETE IN PLACE AS DETAILED AND SPECIFIED	26,000	\$1.90	\$49,400.00
A22	TEMPORARY IRRIGATION FOR REVEGETATED AREAS	26,000	\$0.40	\$10,400.00
A23	REVEGETATION OF VEGETATIVE FILTER STRIP COMPLETE IN PLAC	2,978	\$1.90	\$5,658.20
A24	SAFETY TRENCH COMPLETE IN PLACE AS DETAILED AND SPECIFIE	2,703	\$1.25	\$3,378.75
Subtotal SECTION A. GRADING & DRAINAGE				\$1,174,436.88
SECTION B. MUD WATER				
B1	8" C900 PVC WATER MAIN COMPLETE IN PLACE AS DETAILED AND	2,622	\$60.50	\$158,631.00
B2	8" GATE VALVE COMPLETE IN PLACE AS DETAILED AND SPECIFIE	6	\$1,821.05	\$10,926.30
B3	FIRE HYDRANT ASSEMBLY (6" VALVE, 6" DUCTILE IRON LEED, AND TEE) COMPLETE IN PLACE AS DETAILED AND SPECIFIED	7	\$6,118.95	\$42,832.65
B4	CONNECT TO EXISTING WATER LINE AND REMOVE EX. BLOWOFF VALVE COMPLETE IN PLACE AS DETAILED AND SPECIFIED	2	\$1,892.40	\$3,784.80
B5	AUTOMATIC FLUSHING VALVE TO BE REMOVED	0	\$0.00	\$0.00
B6	DOUBLE SERVICE LONG COMPLETE IN PLACE AS DETAILED AND S	17	\$2,312.15	\$39,306.55
B7	DOUBLE SERVICE SHORT COMPLETE IN PLACE AS DETAILED AND	14	\$1,935.95	\$27,103.30
B8	SINGLE SERVICE LONG COMPLETE IN PLACE AS DETAILED AND SP	3	\$1,942.25	\$5,826.75
B9	SINGLE SERVICE SHORT COMPLETE IN PLACE AS DETAILED AND S	3	\$1,402.65	\$4,207.95
B10	SAFETY TRENCH COMPLETE IN PLACE AS DETAILED AND SPECIFIE	2,622	\$1.25	\$3,277.50
Subtotal SECTION B. MUD WATER				\$295,896.80
SECTION C. MUD WASTEWATER				
C1	8" SDR 26 ASTM D3034 PVC GRAVITY WASTEWATER FROM SUBGRADE COMPLETE IN PLACE AS DETAILED AND SPECIFIED	2,480	\$65.85	\$163,308.00
C2	4' DIAMETER PRECAST CONCRETE WASTEWATER MANHOLE, 0'-8' DEEP COMPLETE IN PLACE AS DETAILED AND SPECIFIED	14	\$3,968.30	\$55,556.20
C3	4' DIAMETER PRECAST CONCRETE WASTEWATER MANHOLE, EXTRA DEPTH COMPLETE IN PLACE AS DETAILED AND SPECIFIED	46	\$264.85	\$12,183.10
C4	WASTEWATER MANHOLE STANDARD RING AND COVER, INCLUDING ADJUSTMENT TO FINISHED GRADE COMPLETE IN PLACE AS DETAILED AND SPECIFIED	14	\$1,934.55	\$27,083.70
C5	COATING FOR WASTEWATER MANHOLES COMPLETE IN PLACE AS DETAILED AND SPECIFIED	14	\$1,345.50	\$18,837.00
C6	TIE TO EXISTING WASTEWATER STUB COMPLETE AS DETAILED AN	1	\$1,334.35	\$1,334.35

JKB CONSTRUCTION COMPANY LLC
BRYSON PHASE 4, SECTION 5 - FINAL COSTS AND QUANTITIES

ITEM	DESCRIPTION OF WORK	QUANTITY	PRICE	SCHEDULED
C7	DOUBLE SERVICE LONG COMPLETE IN PLACE AS DETAILED AND SPECIFIED	16	\$2,934.15	\$46,946.40
C8	DOUBLE SERVICE SHORT COMPLETE IN PLACE AS DETAILED AND SPECIFIED	16	\$2,585.65	\$41,370.40
C9	SINGLE SERVICE LONG COMPLETE IN PLACE AS DETAILED AND SPECIFIED	5	\$2,505.75	\$12,528.75
C10	SINGLE SERVICE SHORT COMPLETE IN PLACE AS DETAILED AND SPECIFIED	1	\$2,077.30	\$2,077.30
C11	TRENCH SAFETY ALL DEPTHS, COMPLETE IN PLACE AS DETAILED AND SPECIFIED	2,480	\$1.25	\$3,100.00
Subtotal SECTION B. MUD WATER				\$384,325.20
DEVELOPER PAVING				
A1	24" CONCRETE CURB AND GUTTER EXCLUDING 30' FOR INLETS AND TRANSITIONS COMPLETE IN PLACE AS DETAILED AND SPECIFIED	4,564	\$15.20	\$69,372.80
A2	2" HMA COMPLETE IN PLACE AS DETAILED AND SPECIFIED	7,846	\$16.00	\$125,536.00
A3	8" CRUSHED STONE FLEXIBLE BASE COURSE 3' BEHIND BOC COMPLETE IN PLACE AS DETAILED AND SPECIFIED	10,674	\$12.45	\$132,891.30
A4	PREPARE SUBGRADE PREPARATION 3' BEHIND BOC COMPLETE IN PLACE AS DETAILED AND SPECIFIED	10,674	\$3.15	\$33,623.10
A5	STREET/STOP SIGN AND POST COMPLETE IN PLACE AS DETAILED AND SPECIFIED	3	\$353.45	\$1,060.35
A6	15 MPH SPEED LIMIT SIGN PER MUTCD STANDARDS	1	\$279.05	\$279.05
A7	NO OUTLET SIGN PER MUTCD STANDARDS	1	\$322.45	\$322.45
A8	4' WIDE CONCRETE SIDEWALK COMPLETE IN PLACE AS DETAILED AND SPECIFIED	0	\$0.00	\$0.00
A9	REMOVE STREET BARRICADE COMPLETE IN PLACE AS DETAILED AND SPECIFIED	2	\$372.05	\$744.10
A10	PEDESTRIAN RAMPS COMPLETE IN PLACE AS DETAILED AND SPECIFIED	12	\$1,209.10	\$14,509.20
A11	STRIPING (STOP BARS) COMPLETE IN PLACE AS DETAILED AND SPECIFIED	3	\$349.30	\$1,047.90
A12	CONCRETE VALLEY GUTTERS COMPLETE IN PLACE AS DETAILED AND SPECIFIED	1	\$4,960.35	\$4,960.35
Subtotal DEVELOPER PAVING				\$384,346.60
ELECTRICAL				
B2	STREETLIGHTS INCLUDING CONDUIT, METER AND ALL APPURTENANCES, PER EACH, COMPLETE IN PLACE AS DETAILED AND SPECIFIED	1	\$158,018.55	\$158,018.55
Subtotal DEVELOPER ITEMS				\$158,018.55

Total Improvements **\$2,397,024.03**
2 Year Maintenance Bond **City of Leander** 10% **\$239,702.40**

Submitted By: JKB CONSTRUCTION COMPANY LLC

Signature: Crystal Cortinas-Secretary

DATE

12-14-22

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

STATE OF TEXAS
COUNTY OF WILLIAMSON

Date: 3/3/2023

Developer: BRYSON MPC HOLDING LLC

Contractor/Material
Provider ("Affiant"): JKB CONSTRUCTION COMPANY, LLC

Project :BRYSON PHASE 4 SECTION 5 PUBLIC IMPROVEMENTS CONSTRUCTION
PLANS LEANDER TODD MUD NO. 1(CITY OF LEANDER PROJECT NO. 21-TOD-PICP-
020 & FLOODPLAIN DEVELOPMENT PROJECT NO. 21-FPD-009)

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.

Initialed: JS

SUBSCRIBED AND SWORN TO BY Affiant on this 3RD day of MARCH, 2023.

AFFIANT:

Signature: _____

Typed Name: JAMES BLANKENSHIP

Title: PRESIDENT

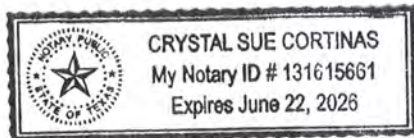
STATE OF TEXAS

COUNTY OF WILLIAMSON

BEFORE ME the undersigned authority on this day personally appeared JAMES BLANKENSHIP, 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 3RD day of MARCH, 2023.

[S E A L]



Notary in and for the State of Texas

Name: CRYSTAL CORTINAS

My commission expires:

6/22/26

Initialed: JB



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Acceptance of public infrastructure improvements for the PEC Data Center.

BACKGROUND:

The public infrastructure improvements required for the PEC Data Center have been installed, inspected, and are satisfactorily completed. All documentation required for acceptance of this subdivision have been received, including record drawings, statement of substantial completion prepared by a professional engineer licensed in the State of Texas, copies of all inspection reports and certified test results, electronic files of the improvements and final plat, 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 April 6, 2023 which will provide warranty and maintenance coverage for the public infrastructure improvements through April 6, 2025. The Engineering Department will perform a formal inspection of the improvements approximately thirty (30) days prior to the expiration of the maintenance bond to assure that any defects in materials, workmanship, or maintenance are corrected prior to expiration of the bond.

RECOMMENDATION:

Staff recommends City Council's formal acceptance of the public infrastructure improvements for the PEC Data Center.

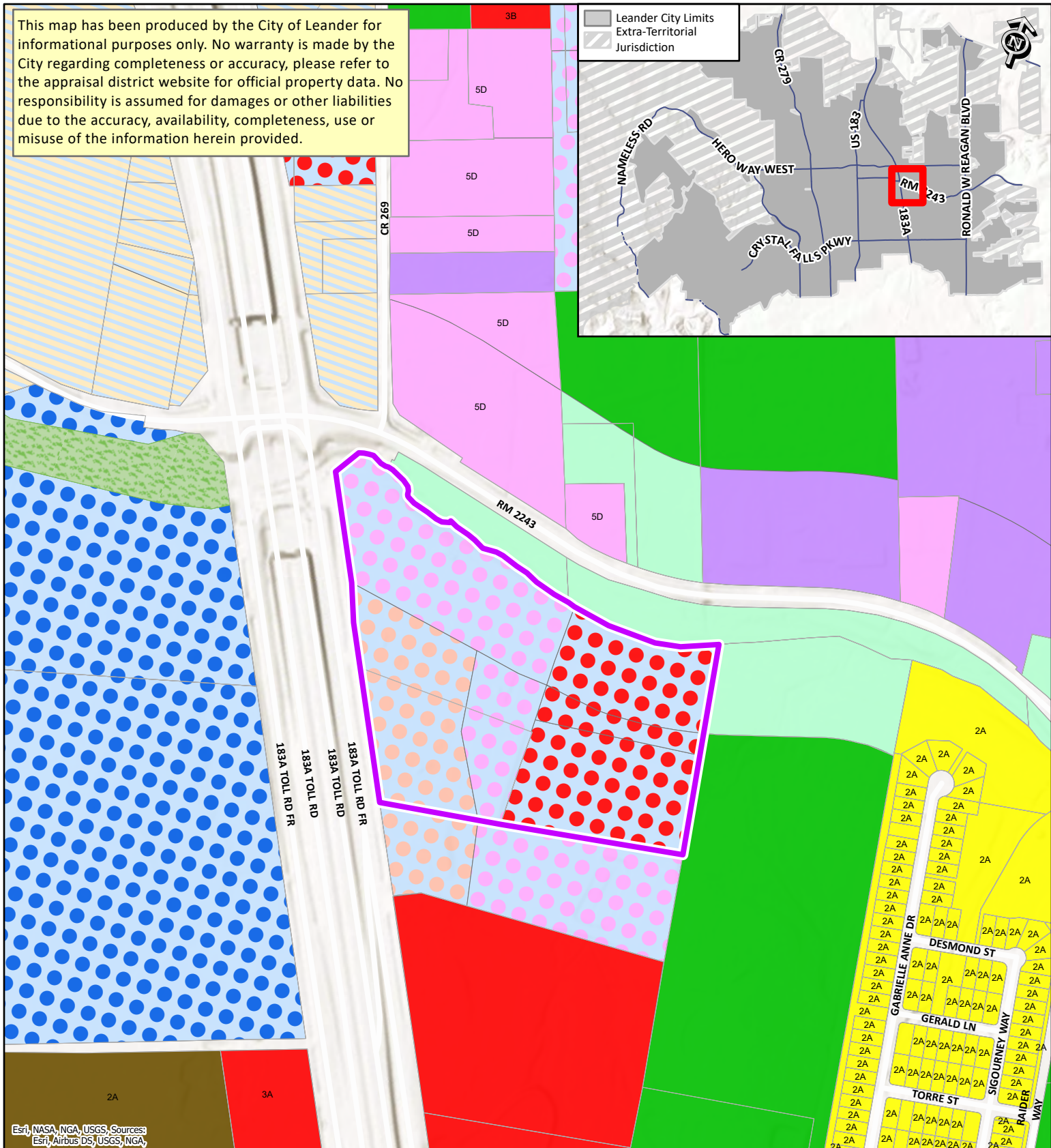
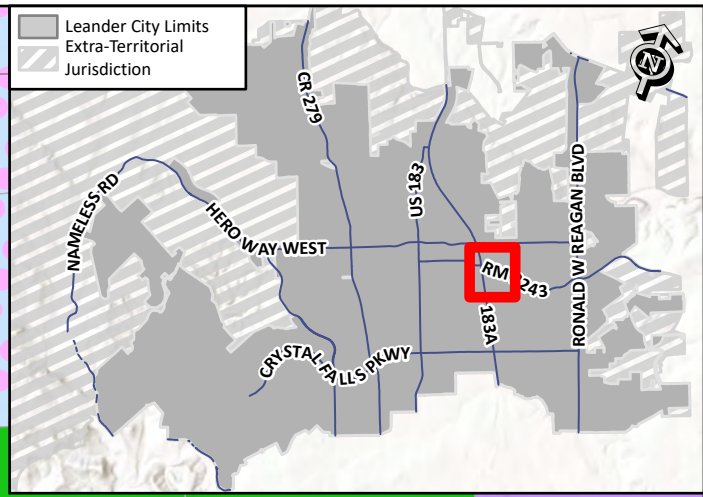
PRESENTER:

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

Attachments

1. PEC Data Center Acceptance Documents

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

PEC Data Center - 21-PICP-014

Accepted Subdivision



- RESIDENTIAL**
- SFR - Single-Family Rural
 - SFS - Single-Family Suburban
 - SFC - Single-Family Compact
 - MF - Multi-Family
- RETAIL / COMMERCIAL**
- GC - General Commercial
 - HC - Heavy Commercial
- INDUSTRIAL**
- HI - Heavy Industrial

- PUD LAND USE**
- PUD - Mixed Use
 - PUD - Local Office
 - PUD - General Commercial
 - PUD - Heavy Commercial
- SECTORS**
- OS - Open Space
 - CD - Conventional Sector



0 500 1,000
Feet



3001 Motley Drive, Suite J
Mesquite, Texas 75150
t 972.270.3100
tf 877.270.3144
rondavisconsulting.com

December 12, 2022
RDC Project: 21229

Brandon Hepburn
Corgan Associates
401 N. Houston Street
Dallas, Texas 75202

PLAN REVIEW COMPLETED – NO VIOLATIONS

PROJECT INFORMATION: PEC Control and Data Center Pedernales Electric Cooperative Control & Data Cen 8796 183A Tool Road Leander, TX 78641	OWNER INFORMATION: (person or entity that holds title to the property) Pedernales Electric Cooperative 201 South Avenue F Johnson City, TX 78636 Cody Moos
TABS: N/A	RDC Project Number: 21229
Project Scope / Description: New construction of a hiking trail.	
Report Prepared by: Ron Davis Registered Accessibility Specialist #0083 ron@rondavisconsulting.com	

PLAN REVIEW FINDINGS:

1	No deficiencies noted for the scope of this portion of the project.
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Ron Davis
Ron Davis Consulting
3001 Motley Drive, Suite J
Mesquite, Texas. 75150
972-270-3100 office | 214-686-2604 cell

12/12/2022



October 21, 2022
PK No.: 4779-20.532

Ms. Robin Griffin
CITY OF LEANDER
Executive Director - Development Services
201 N Brushy Street
Leander, Texas 78626

Re: **PEC DATA CENTER**
21-PICP-014
Leander, Williamson County, Texas

Dear Ms. Griffin:

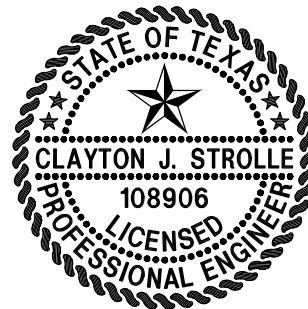
A representative of this company visited the above referenced site at 8793 183A Toll Road in Leander, Texas, at various times throughout the PICP plan installation. Based upon visual observation and pictures provided by the contractor, the PICP infrastructure is in compliance with the City of Leander approved design plans and details.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Clayton Strolle', with a small star symbol to the left.

Clayton Strolle, P.E.

CJS
4779-20.532_PEC Data Center Concurrence Letter





February 10, 2023
PK No.: 4779-20.532

Caleb Fuhrer
CITY OF LEANDER
201 North Brushy Street
Leander, Texas 78641

Re: PEC DATA CENTER
PICP Close Out
Leander, Texas

To Whom It May Concern:

The following is the information as applicable for Public Improvement Construction Plan Set of this project.

Final Plat Legal Name as Recorded: Lot 1, Block A PED Data Center
Name on Approved Construction Documents: Lot 1, Block A PED Data Center
Name on Bank Bond for Fiscal Posting: The Hartford
(Ensure that each relevant item being submitted is included above)

COSTS CATEGORIES	AMOUNT
Streets	\$214,810.23
Drainage	
Water	\$476,365.00
Wastewater	\$253,012.00
Streetlights	\$52,338.15
Landscape Improvements	\$126,272.38
TOTAL	\$1,122,797.76

Add other relevant information. For example of related items such as a maintenance bond and how much of the value is applied to said item.

Total Improvements = \$1,122,797.76
Maintenance Bond (10%) = \$112,279.76

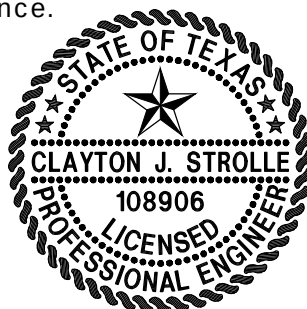
An example of related items such as the inspection fees and how much of the value is applied to said item.

Total Improvements = \$1,122,797.76
Currently Paid Inspection Fees = \$0
Inspection Fees (3.5%) = \$39,297.92
Remaining Insp. Fees to be Paid = \$39,297.92

Notes:

- All public improvements shall be summarized in the table(s) above. This must be supported with an itemized engineering cost summary and any related pay apps for the project.
- Above template applies to submittals related to the costs of the project, to include items such as the Maintenance Bond, Performance Bond, Payment Bond, Payment Bonds, Escrow, Letter of Credit, any other types of bonds, inspection fee settle up, etc.
- Of note "inspection fees" will be calculated from the total construction costs of all public improvements, outside of private improvements per Sec A3.003 (4) "Construction plan review and inspection fee: 3.5% of construction cost (paid at the time of the plan review application - verification and adjustment prior to city acceptance with project engineer's signed and sealed certified copy of the final cost of all improvements dedicated to the city or equivalent private infrastructure)."
- The original maintenance bond must be provided by the developer.
- Any bond submitted to the City must be the original.
- All change orders will be submitted as a separate document with the above details specified as if it was being submitted as a standalone document. This will be done for each change order being submitted to the City.
- The closeout packet may not be accepted, if any of the above annotated information does not match with all of the relevant supporting documents.

If you have any questions regarding the enclosed items or need any additional information, please call me at your convenience.



Sincerely,

A handwritten signature in blue ink, appearing to read "Clayton J. Strolle", with a small star symbol at the end of the signature.

Clayton J. Strolle, P.E., LEED®AP

In the event of any unintentional clerical inaccuracies or misrepresentations in this document, please contact our office at your earliest convenience.

enc.

MAINTENANCE BOND
Subdivision Improvements

Bond No. 65BSBDA8713
Premium \$607

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

KNOW ALL BY THESE PRESENTS, that Pedernales Electric Cooperative, Inc. as Principal, whose address is PO Box 1, Johnson City, TX 78636 and Hartford Casualty Insurance Company, a Corporation organized under the laws of the State of Connecticut, 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 One Hundred Twelve Thousand Two Hundred Eighty dollars and 00/100 (\$112,280) 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 **PEC DATA CENTER PUBLIC UTILITIES PUBLIC IMPROVEMENT CONSTRUCTION PLANS 21-PICP-014** (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 16th day of March, 2023.

Pedernales Electric Cooperative, Inc.

By: Cody Mose

Title: Director

Address: PO Box 1

Johnson City, TX 78636

Hartford Casualty Insurance Company

By: Jennifer J. Biehle

Title: Jennifer J. Biehle Attorney-in-Fact

Address: 143 East Austin

Giddings, TX 78942

The name and address of the Resident Agent of Surety is:
Robert James Nitsche, 143 E. Austin, Giddings, TX 78942

(Seal)



POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD

BOND, T-11

One Hartford Plaza

Hartford, Connecticut 06155

Bond.Claims@thehartford.com

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: THE NITSCHKE GROUP INC

Agency Code: 65-810640

- ☒ Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☒ Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☒ Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- ☐ Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- ☐ Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- ☐ Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of Unlimited:

Jennifer J. Biehle, Robert James Nitsche, Kenneth Nitsche, Gary Nitsche, Robert K. Nitsche, Craig Parker, Nina Smith of GIDDINGS, Texas

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle L. LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA

COUNTY OF SEMINOLE

ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.



Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of March 16, 2023.

Signed and sealed in Lake Mary, Florida.



Keith D. Dozois

Keith D. Dozois, Assistant Vice President

Some of the Companies names below are not licensed in every state



- ☒ Hartford Fire Insurance Company
☒ Hartford Casualty Insurance Company
☒ Hartford Accident and Indemnity Company
☐ Hartford Underwriters Insurance Company
☐ Twin City Fire Insurance Company
☐ Hartford Insurance Company of Illinois
☐ Hartford Insurance Company of the Midwest
☐ Hartford Insurance Company of the Southeast

(Designated Company(ies) delineated above by X in box)

One Hartford Plaza, Hartford, Connecticut 06155

Date: 2/16/2023

From:

Bond Department
Houston (61)

Subject: Power Of Attorney - Agency Code: 65-810640

To: THE NITSCHKE GROUP INC
143 EAST AUSTIN
GIDDINGS, TX 78942

POA names as of this date:

Jennifer J. Biehle, Robert James Nitsche, Kenneth Nitsche, Gary Nitsche, Robert K. Nitsche, Craig Parker, Nina Smith of GIDDINGS, Texas

Unlimited Bond Signing Authority

- ☒ A (Standard) Underwriting Authority
☐ D (None) Underwriting Authority
☐ E (Bulk Reporting) Underwriting Authority

Attached is the following:

- ☒ Original power for producing pre-printed powers
Do not attach a photocopy (Xerox) or a faxed copy to any bond.

The Power of Attorney (POA) form must be sealed prior to being attached to the bond.

Sent under separate cover directly to the Agency:

- ☐ Manually executed power(s) (Wet Powers) to the attention of
☐ Company Seal(s) to the attention of

Additional comments:

Signed Debbie Kelly

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

STATE OF TEXAS
COUNTY OF

Date: 3/13/2023

Developer: Pedernales Electric Cooperative

Contractor/Material Holder Construction Group

Provider ("Affiant"):
Pedernales Electric Cooperative Control & Data Center
8796 183A Toll Rd. Leander, TX 78641

Project: Public Improvement Construction Plans (PICP) Permit 21-PICP-014
Inclusive of public water main extension, public sanitary sewer, paving improvements at Toll 183A, lighting improvements at Toll 183A
Cost of Work: \$1,122,797.76

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 13 day of Mar, 2023.

Initialed: OR

AFFIANT:

Signature: _____

Typed Name: _____

Title: _____

STATE OF ~~TEXAS~~

COUNTY OF Georgia

BEFORE ME the undersigned authority on this day personally appeared Chris Foxhall, 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 13 day of May 2023

[S E A L]



Notary in and for the State of ~~Texas~~

Name: _____

My commission expires: _____

Initialed: _____



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of a Right of Entry Agreement by and between the City of Leander and Emogene Champion and the Albert R. Champion Exemption Equivalent Trust for the San Gabriel Parkway Phase III project (CIP T.46); and authorize the City Manager to execute any and all documents.

BACKGROUND:

The San Gabriel Parkway between County Road 270 and Ronald W. Reagan Boulevard will be constructed in three (3) phases. The first phase, between the Palmera Bluff and Palmera Ridge subdivisions was completed in late 2020. The construction documents for San Gabriel Parkway Phase II are completed and ready to put out to bid, as soon as the adjacent Elevated Storage Tank project achieves a level of completion which will allow that section of road to be constructed. Phase III of San Gabriel Parkway is waiting on the final surveying and procurement of right-of-way to begin the engineering and design for this phase. The City now requires right of entry to survey the future right-of-way of San Gabriel Parkway Phase III, currently owned by the Emogene Champion and the Albert R. Champion Exemption Equivalent Trust, to allow the City's design consultant to continue with engineering and design.

RECOMMENDATION:

Staff requests approval to acquire a Right of Entry Agreement, and authorize the City Manager to execute any and all documents.

PRESENTER:

Emily D. Truman, P.E., CFM, PMP

Attachments

1. Right of Entry Agreement

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

RIGHT OF ENTRY

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

Recitals:

1. Emogene Champion and the Albert R. Champion Exemption Equivalent Trust ("Grantor") is the fee simple owner of the real property in Williamson County, Texas, generally described in the attached **Exhibit "A"** (the "Property"), being a 60 foot wide portion along the northern boundary of the property described by the Williamson County Central Appraisal District as R031580.

2. The City of Leander, Texas ("Grantee") has requested that Grantor grant Grantee and its contractors Doucet & Associates, a Texas corporation ("Doucet") (the "Contractors") access to the Property for purposes of surveying, site review, and site analysis related to the location and siting for Grantee's proposed extension of San Gabriel Parkway on the Property (the "Work").

3. As an accommodation to Grantee, Grantor is willing to allow Grantee and its Contractors access to the Property on the terms of this Right of Entry (this "Agreement").

Agreement:

Therefore, for good and valuable consideration, Grantor, Grantee and the Contractors agree as follows:

1. Right of Entry. Following full execution of this Agreement and continuing during the term of this Agreement as specified in Paragraph 4, but subject to the terms of this Agreement, Grantee and the Contractors may enter onto the Property during the hours set forth in **Exhibit "B"** only, Monday through Friday, for the purpose of the Work. Grantee agrees to provide Grantor with the name and the phone number of the project manager for Grantee and for each Contractor before Grantee or that Contractor enters onto the Property, and to comply with and require each Contractor to comply with the provisions set forth in this Agreement.

2. Grantee's Access to the Property; Limitations.

(a) Subject to the terms of this Agreement, Grantee and the Contractors will have the nonexclusive right, within the boundaries of the Property only, to conduct the Work.

(b) Grantee and the Contractors must confine their activities to the Property and may not use or enter any surrounding property of Grantor (the "Remainder") for access or any other purpose. Grantee and the Contractor specifically covenant and agree not to remove or damage any trees on the Property without the prior written approval of Grantor nor to remove or damage any trees on the Remainder, nor to remove or damage any fencing or gates.

3. Grantee's Obligations; Liability Insurance.

(a) Grantee and each of the Contractors will be responsible, to the exclusion of any such responsibility of Grantor, for its own proportionate share of any liability for property damage, including environmental liability, as well as liability arising due to a breach of the terms of this Agreement, and personal injury or death arising out of or connected to their activities in or on the Property or connected with the Work, as determined by a court of competent jurisdiction. Grantee and each Contractor will be responsible for ensuring the safety of its employees and other persons and property during their presence and activities on the Property and performance of the Work. TO THE EXTENT PERMITTED BY LAW, GRANTEE AND EACH CONTRACTOR WILL INDEMNIFY, DEFEND AND HOLD GRANTOR HARMLESS FOR ANY CLAIM, CAUSE OF ACTION, LIABILITY, FINE OR EXPENSE, INCLUDING LEGAL FEES AND DEFENSE COSTS, ARISING OUT OF GRANTEE'S OR THE CONTRACTOR'S PRESENCE AND ACTIVITIES ON THE PROPERTY AND PERFORMANCE OF THE WORK.

(b) Prior to entering the Property or performing any Work, each Contractor must name Grantor as additional insured(s) on a commercial general liability ("CGL") insurance policy, and the Grantee shall carry and maintain risk pool coverage that complies with the limits herein that will name the Grantor on an Indemnification Under Contract endorsement; provided that the Indemnification Under Contract endorsement will exclude breach of contract from its coverage. Each policy must provide, on an occurrence basis, not less than \$1,000,000 combined single limit bodily injury and property damage coverage. Grantee must also provide or ensure that each Contractor provides workers' compensation coverage with the statutorily required limits. Prior to Grantee or any Contractor entering or performing any activity on the Property, Grantee or such Contractor must **provide Grantor a certificate of insurance** evidencing the required insurance coverages and providing that such insurance may not be terminated without at least ten days' notice to Grantor.

(c) Grantee and each Contractor must execute and deliver to Grantor the Special Conditions to Entry attached as Exhibit "B" prior to entering upon the Property or commencing the Work. The terms and conditions set forth in Exhibit "B" are incorporated herein and shall govern over any confliction provisions or terms within this Agreement.

(d) Grantee and each Contractor acknowledges that the Property and the Remainder are currently used for ranching operations and agree that **all activities related to the Work will be conducted in a manner that minimizes interference with or interruption of such ranching operations or access by Grantor and its tenant. Grantee and each Contractor agree not to cause damage to any fencing, livestock, or other property of Grantor, its tenant, or their agents or employees.**

(e) **Grantee and each Contractor must ensure that all gates and openings in the fencing to the Property are closed and secured at all times except when such gates and openings are in actual use as permitted under this Agreement.**

(f) Upon completion of the Work or termination of this Agreement, as the case may be, Grantee and the Contractors must: (i) clean up and remove all trash and debris, including stakes, tape or other markers placed on the Property; (ii) restore all areas disturbed by the activities of Grantee or the Contractors to the prior existing natural grade; (iii) re-vegetate any disturbed areas in compliance with applicable ordinances of Grantee; (iv) repair any damage to fences or gates caused by Grantee or the Contractors' activities; and (v) provide Grantor with copies of all reports, test results or written analysis derived from the Work as soon as reasonably possible following the availability of such information to Grantee.

4. Representations about Property. Grantor makes no representations or warranties concerning the Property or the condition of the Property. Grantee and its agents enter the Property at their own risk and agree to take all necessary precautions and to perform all necessary inspections to ensure Grantee's and its agents' safety.

5. Term and Termination.

(a) This Agreement will terminate upon completion of the Work or 30 days from the Effective Date, as defined below, whichever occurs first.

(b) This Agreement may be terminated by Grantor upon written notice to Grantee of a breach of this Agreement that is not cured within 30 business days of said notice. Notice may be sent via email to Tony Bettis at tbettis@leandertx.gov. Likewise, upon 24 hour written notice to Grantee, Grantor may terminate this Agreement without opportunity to cure should Grantor subsequently breach a term of this Agreement if such breach was the subject of a prior written notice of breach.

(c) Grantee and its agents shall have four (4) consecutive days to complete its Work on the Property. Unavoidable delays and interruptions for matters such as inclement weather shall not count against Grantee.

(d) At least 48 hours prior to Grantee's desired time to commence Work, Grantee shall contact Grantor at jkirk54@hotmail.com and tkirkbuilders1@gmail.com to arrange a meeting on the Property.

6. Authority. The parties each represent and warrant to the others that the signatories to this Agreement have the requisite power and authority to enter into this Agreement, to perform their respective obligations hereunder, and to complete the transactions contemplated by this Agreement. The parties have each taken all action, corporate and otherwise, necessary to authorize the execution and delivery of this Agreement and the performance of their respective obligations under this Agreement and to complete the transactions contemplated hereby.

7. Binding Effect. This Agreement will be binding upon the heirs, devisees, executors, administrators, legal representatives, successors, assigns, contractors and subcontractors of each of the parties.

8. Execution; Counterparts. This Agreement may be executed in any number of counterparts, and it will not be necessary that the signatures of all parties be contained on any one counterpart. Additionally, for purposes of facilitating the execution of this Agreement: (a) the signature pages taken from separate, individually executed counterparts may be combined to form multiple fully executed counterparts; and (b) a facsimile signature will be deemed to be an original signature for all purposes. All executed counterparts of this Agreement will be deemed to be originals, but all such counterparts, when taken together, will constitute one and the same instrument.

9. Licenses/Permits. Grantee is solely responsible for obtaining any approvals, licenses and permits required for the Work. Grantor hereby advises Grantee that the Property and the Remainder may include habitat for federally-listed endangered species. Accordingly, clearing and other activities on the Property may be prohibited during certain times of the year and may be also subject to payment of participation fees to the Williamson County Conservation Foundation ("WCCF"). Grantee and the Contractors agree to fully comply with all requirements of the WCCF and related participation agreement, if any, applicable to the Property and/or the Remainder in connection with the Work at no expense to Grantor.

10. Compliance with Applicable Laws. Grantee and each of the Contractors will comply with all applicable federal, state and local laws, and existing regulations promulgated thereunder, in its use of the Property and the activities permitted under this Agreement.

11. Applicable Law. This Agreement shall be construed under the laws of the State of Texas.

12. Exhibits. The following exhibit is attached to this Agreement, incorporated herein and made a part of this Agreement, for all purposes:

<u>Exhibit "A"</u>	-	Property
<u>Exhibit "B"</u>	-	Special Conditions to Entry

Executed on the date or dates indicated below to be effective on March 27, 2023 (the "Effective Date").

GRANTOR:

The Estate of Emogene M. Champion


By: John Kirkpatrick, Independent Executor

Date: March 27, 2023

Albert R. Champion Exemption Equivalent Trust

By: John Kirkpatrick, Co-Trustee

By: Edward Kirkpatrick, Co-Trustee

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on the 27 day of March, 2023, by John Kirkpatrick, Guardian for Emogene M. Champion, Grantor herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

NOTARY PUBLIC, State of Texas

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

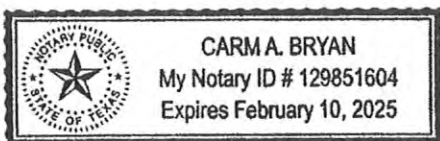
This instrument was acknowledged before me on the 27 day of March, 2023, by John Kirkpatrick, Co-Trustee, Albert R. Champion Exemption Equivalent Trust, Grantor herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

NOTARY PUBLIC, State of Texas

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on the 27th day of march, 2023, by Edward Kirkpatrick, Co-Trustee, Albert R. Champion Exemption Equivalent Trust Grantor herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.



NOTARY PUBLIC, State of Texas

GRANTEE:

CITY OF LEANDER, TEXAS

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the ____ day of _____, 2023, by _____, _____ of the City of Leander, Grantee herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

NOTARY PUBLIC, State of Texas

DOUCET:

Doucet & Associates, a Texas Corporation

By: [Signature]

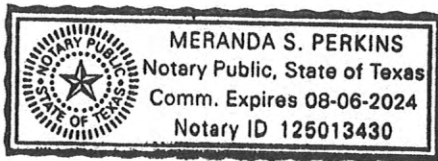
Name: JOHN BARNARD

Title: VP, GEOSPATIAL

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 29th day of March, 2023, by John Barnard, VP, Geospatial of Doucet & Associates, a Texas corporation, on behalf of said company.



[Signature: Meranda S. Perkins]

NOTARY PUBLIC, State of Texas

EXHIBIT "A"
PROPERTY

BAKER LN

MIKES WAY

FIREBUSH RD

E SAN GABRIEL PKWY

Proposed 60 foot width Right of Entry

CR 270



0 150 300

Feet

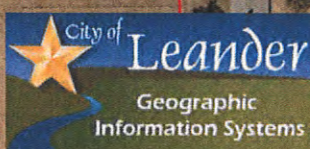


EXHIBIT "B"

SPECIAL CONDITIONS TO ENTRY

A list of contact people for Grantee, Contractors and any sub-contractors must be supplied. If requested, Grantee agrees to meet with a representative of Grantor prior to commencement of the Work.

Grantee right to enter the Property is limited to the time between 8:00 a.m. to 5:00 p.m., Monday through Friday. The Grantee will limit its entry and activities to the Property only. Grantee will call John Kirkpatrick or Edward Kirkpatrick before entering the Property. John Kirkpatrick and Edward Kirkpatrick will maintain current contact information with the City.

All posted safety rules must be obeyed.

All applicable MSHA and OSHA standards and all other legal requirements must be complied with.

Damage repair to any existing fencing or gates must be completed by a fence builder approved by Grantor at Grantee's or its Contractor's expense.

No leaks of fuels or pollutants are acceptable. Grantee and the Contractors are jointly and severally responsible for any environmental cleanup necessary due to their use of property.

The Contractors are each responsible for road repair and dust control in staging area or roads used by them.

NO HUNTING OR FISHING IS ALLOWED. Firearms will not be allowed on the Property at any time.

No paper cups, plates, ice bags, trash, etc. may be left on the Property.

Persons entering the property will be limited strictly to the boundaries of the Property; anyone entering the Remainder will be considered to be trespassing.

Gates must be kept locked, and left as found. Gates that are closed must be left closed; and open gates must be left open.

A Certificate of Insurance must be provided before entry onto the Property.

Deer hunting may occur on the Property during deer season and dove hunting during dove season. Any person entering the Property must take necessary precautions.

Grantee and the Contractors agree that these conditions will be made known to all of their employees and agents entering the Property.

GRANTEE:

CITY OF LEANDER, TEXAS

By: _____

Name: _____

Title: _____

DOUCET:

Doucet & Associates, a Texas Corporation

By: 

Name: John Baruch

Title: VP, GEOSPATIAL



EXECUTIVE SUMMARY

04/06/2023

AGENDA SUBJECT:

Approval of Second Amendment to firm water contract by and between the Lower Colorado River Authority and City of Leander for municipal uses to increase the maximum annual quantity to thirty-one thousand (31,000) acre-feet; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

The City of Leander is seeing significant water demand increase with the current City's rapid growth. Total annual water demand increased from approximately five thousand (5,000) acre-feet in 2015 to almost ten thousand (10,000) acre-feet in 2021. However, based on the current City's growth pattern, it is estimated to reach annual water demand of twenty-four thousand (24,000) acre-feet by year 2028 and reach annual water demand of thirty-one thousand (31,000) acre-feet by year 2038, assuming that the City's buildout is two hundred twenty-five thousand (225,000) population.

Raw water for the city's water use is sourced from Lake Travis using water contract for municipal uses between LCRA and City of Leander. Sourced raw water are treated using Sandy Creek and Brushy Creek Utility Authority water treatment plants and distributed to the customers.

The current water contract allows the City to divert twenty-four thousand (24,000) acre-feet raw water per year from Lake Travis. Considering current growth, any unforeseen future water demands, such as large commercial or industrial development, and to plan for the long range water demand, the City received approval from the LCRA Board to increase the Maximum Annual Quantity (MAQ) to thirty-one thousand (31,000) acre-feet through this amendment.

HISTORY/TIMELINE:

08/21/2007 - First Amendment, MAQ Increased to twenty-four thousand (24,000) acre-feet.

11/16/2012 - TCEQ Approval of Inter Basin Transfer Permit for twenty-four thousand (24,000) acre-feet.

02/02/2000 - Original Contract (Water Use Permit No. 5677), MAQ was sixty-four hundred (6,400) acre-feet.

10/2022 - LCRA Board Approved the Contract Amendment to thirty-one thousand (31,000) acre-feet per year of firm water supply.

RECOMMENDATION:

Staff recommends the authorization of the City Manager to sign the Second Amendment between LCRA and City of Leander, to increase the MAQ to thirty-one thousand (31,000) acre-feet, and authorize the City Manager to execute any and all necessary documents.

PRESENTER:

Dan Grimsbo, P.E., Executive Director of Infrastructure

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

Fiscal Impact

Amount requested: \$540,000.00

Approved in current budget (Yes / No): No

Expenditure (New / Amended): New

Recurring or one-time:

Recurring

Fund source (Operating / Utility / etc.): Utility

Attachments

1. LCRA Board Agenda
2. Leander Contract
3. LCRUA Contract Agreement
4. Amendment 1 to Contract Agreement

FOR ACTION

12. Firm Water Contract Renewal for Municipal Use – City of Leander

Proposed Motion

Authorize the general manager or his designee to negotiate and execute a renewal of a firm raw water contract with the City of Leander for municipal use of LCRA's firm water supply that also would increase the supply up to 31,000 acre-feet per year for a term of 40 years. This contract will include the addition of 7,000 acre-feet to the current contract amount of 24,000 acre-feet.

Board Consideration

Consistent with the LCRA water contract rules, all contract requests for 500 acre-feet per year or more require LCRA Board consideration.

Budget Status and Fiscal Impact

Based on an increased amount of 7,000 acre-feet compared with the existing contract, **this contract will generate additional revenues of approximately \$540,000 annually in reservation fees.** A portion of the increase will offset reduced reservation fees from LCRA's recently modified Board commitment of water for LCRA generation resources, and the remainder will result in an overall increase to revenue. Revenue will increase as water under the contract is used.

Summary

The City of Leander currently has a 24,000-acre-foot-per-year municipal raw water contract with LCRA. The City of Leander has submitted an application to increase its current contract amount by 7,000 acre-feet per year to 31,000 acre-feet per year. Leander provides treated surface water within its service area that covers about 48,700 acres of land in Travis and Williamson counties in the Colorado and Brazos river basins. Leander's 2021 population was estimated to be 86,880, and Leander expects the population to increase to 225,000 by 2042. City staff determined Leander will need 7,000 more acre-feet of water to continue providing water services to its growing community, bringing the new total contract commitment to 31,000 acre-feet per year.

Staff has reviewed and approved Leander's conservation and drought contingency plans, which include focusing on reducing water loss through leak detection and repairing water line leaks, using 300 acre-feet of reclaimed water on golf course and common areas, and promoting LCRA rebates. Under the proposed contract, Leander would continue to have the right to reuse from the existing wastewater treatment plants it solely operates. LCRA would have the first right of reuse of unused water supplied to the portion of Leander's service area that is located in the Brushy Creek Regional Wastewater Treatment System service area.

Staff recommends the Board approve the contract for 31,000 acre-feet per year of firm water supply, including specific contract terms related to reuse. This replacement contract will result in an increase of 7,000 acre-feet of LCRA total firm water commitments.

LCRA staff has determined there are sufficient firm water supplies in lakes Buchanan and Travis or other sources of supply, including LCRA run-of-river water rights, to meet the recommended amount.

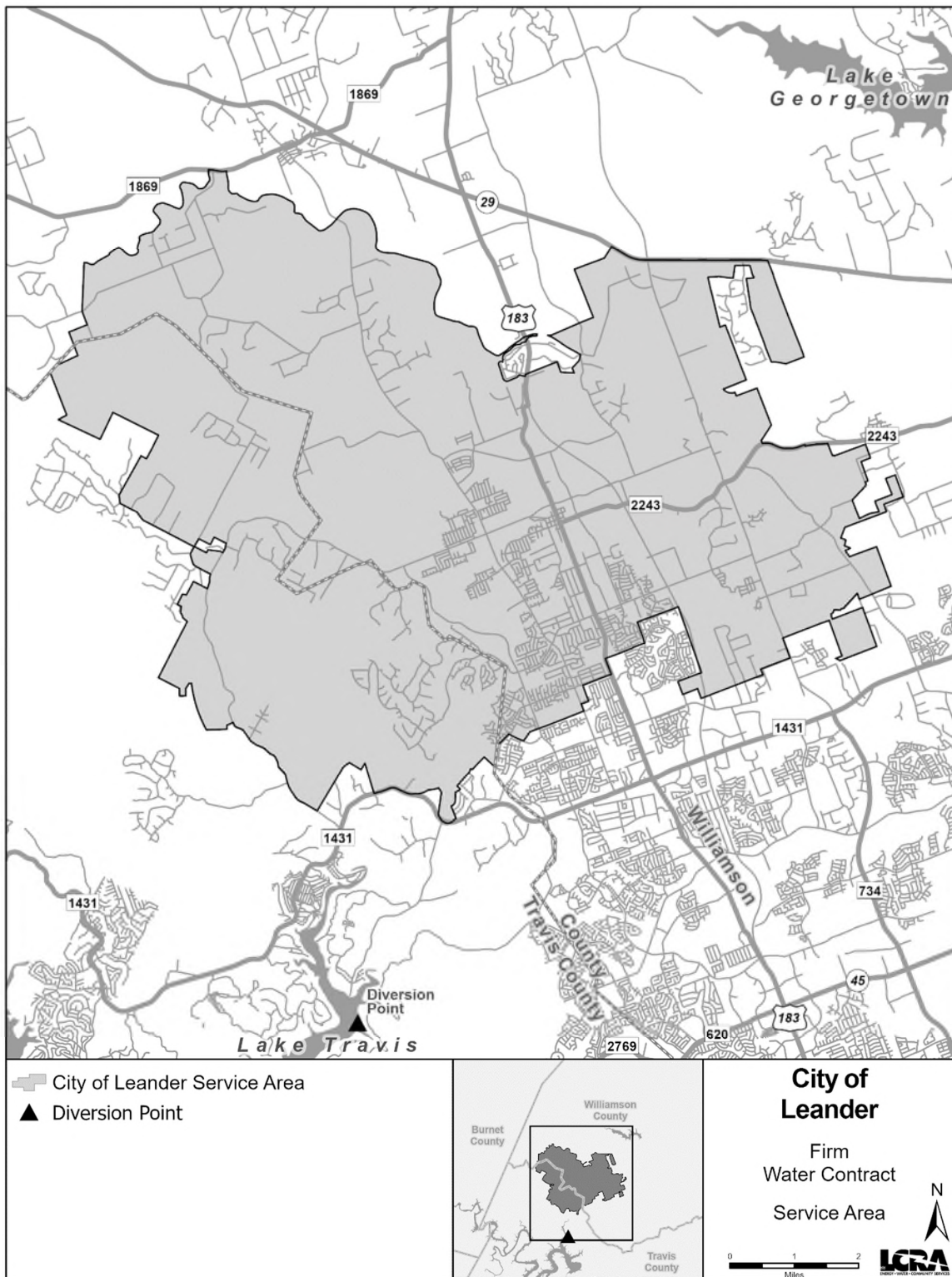
Presenter(s)

Monica Masters
Vice President, Water Resources

Exhibit(s)

A – General Location Map

EXHIBIT A



FIRM WATER CONTRACT

By and Between

LOWER COLORADO RIVER AUTHORITY

And

CITY OF LEANDER, TEXAS

FIRM WATER CONTRACT

This Contract is entered by and between the LOWER COLORADO RIVER AUTHORITY (hereinafter, together with its successors and assigns, “LCRA”) and the CITY OF LEANDER, TEXAS (hereinafter, together with its successors and assigns as provided herein, “PURCHASER”), who, in mutual consideration of the provisions herein contained, agree as follows:

CONTRACT

1. STANDARD TERMS AND CONDITIONS	1
2. GENERAL TERMS, EXCEPTIONS & SPECIAL CONDITIONS	1
2.1 INCORPORATION OF EXHIBITS.	1
2.2 MAXIMUM ANNUAL QUANTITY	1
2.3 POINTS OF AVAILABILITY	2
2.4 MAXIMUM DIVERSION RATE.	2
2.5 TYPE OF USE.	2
2.6 SERVICE AREA.	2
2.7 INTERBASIN TRANSFER PERMIT	2
2.8 DEMAND, EFFLUENT, REUSE, AND RETURN FLOW SCHEDULE	3
2.9 RIGHTS REGARDING UNUSED WATER	3
2.10 TERM OF CONTRACT.	4
2.11 PREVIOUS CONTRACT.	4
2.12 NOTICE	4

1. STANDARD TERMS AND CONDITIONS

Except as expressly provided in Section 2 of this Contract, the Parties agree to the standard terms and conditions attached hereto as Exhibit A.

2. GENERAL TERMS, EXCEPTIONS & SPECIAL CONDITIONS

2.1 Incorporation of Exhibits.

All Exhibits attached to this Contract are incorporated herein by this reference in their entirety and made a part hereof for all purposes.

2.2 Maximum Annual Quantity

The MAQ is 31,000 acre-feet per year from the Effective Date. (There is no Loss Factor applicable to this Contract.)

2.3 Points of Availability.

The Point of Availability is Lake Travis in Travis County, Texas as described and depicted in Exhibit B.

2.4 Maximum Diversion Rate.

The maximum diversion rate authorized under this Contract is 45 cubic foot per second.

2.5 Type of Use.

This Contract is authorized for municipal use consistent with Section 1.F. of Exhibit A.

2.6 Service Area.

Water supplied under this Contract shall only be used within that certain area in Travis and Williamson County as described in Exhibit C and depicted in Exhibit D, together hereinafter called the "Service Area."

2.7 Interbasin Transfer Permit.

- a) LCRA currently holds interbasin transfer permit no 5677, as amended (5677A), issued by the Texas Commission on Environmental Quality on or about March 29, 2000, as amended on or about Nov. 16, 2012 (hereinafter, the "IBTP"). LCRA shall apply to the TCEQ for amendment of the IBTP to bring the IBTP into conformance with the terms of this contract within ninety (90) days of the date of last execution of this Contract. PURCHASER shall pay or reimburse LCRA for any and all costs associated with the application and subsequent amendment, including but not limited to costs for filing and notice of the application, costs for legal and expert fees, if any, and costs for recording the issued amendment. LCRA shall invoice PURCHASER for such costs and fees consistent with the billing procedures in this Contract. Water supplied under this Contract may not be used outside of the Colorado River basin unless such use is within LCRA's water service area and is in strict compliance with the IBTP, as amended, and LCRA's enabling legislation.
- b) From and after the date of issuance of an amendment to the IBTP by TCEQ in accordance with this Contract, PURCHASER shall have the right to divert up to the MAQ of this Contract. Prior to that date, and in accordance with the current IBTP, PURCHASER shall have the right to divert a total amount up to the MAQ subject to the following limitations: (a) up to a maximum of 24,000 acre-feet (7,820,424,000 gallons) of raw water per year to use in that portion of the Service Area located in the Brazos River basin; and (b) up to the MAQ for use in that portion of the Service Area located in the Colorado River basin provided that any water used in the Brazos Basin shall be subtracted from the MAQ available for use in the Colorado Basin. In addition, PURCHASER shall develop a method for verifying compliance with the limitations set forth above if PURCHASER intends to use more than 24,000 acre-feet per year prior to issuance of the amended IBTP, with such method to be approved by LCRA's Vice President of Water Resources prior to any such use. Upon approval, PURCHASER shall be solely responsible for operating its facilities as to comply with this paragraph and the IBTP. PURCHASER further agrees to provide

LCRA and its representatives access to all property and facilities of PURCHASER during normal business hours for purposes of inspection to ensure compliance with this paragraph.

2.8 Demand, Effluent, Reuse, and Return Flow Schedule.

PURCHASER agrees that in conjunction with updates to the Demand Schedule required by Section I.K. of Exhibit A, PURCHASER shall provide PURCHASER's best estimate of actual and projected effluent, direct reuse, and return flows both in total and for the amounts associated with the Brushy Creek Regional Wastewater System, with projections at time intervals no greater than five (5) years and extending for the term of the contract.

2.9 Rights Regarding Unused Water

The rights to unused water, effluent and return flows arising from the water supplied under this Contract are as follows:

PURCHASER has the right to direct reuse resulting from up to 24,000 acre-feet per year of water supplied under this Contract that, following the initial use, is not consumed and is subsequently treated at various wastewater treatments plants servicing wastewater basins other than the wastewater basin that is or would be serviced by the Brushy Creek Regional Wastewater System as identified in Exhibit H. Direct reuse of such water shall only occur within the Service Area specified in Section 2.6. PURCHASER shall have no right to direct reuse of water initially used in the wastewater basin identified in Exhibit H as contributing to the Brushy Creek Regional Wastewater System or water that in fact is treated at the Brushy Creek Regional Wastewater System. PURCHASER may construct and operate a bypass that directs water from one or more of the other wastewater basins to the Brushy Creek Regional Wastewater System. If PURCHASER constructs and operates such a bypass, PURCHASER may later direct water from those wastewater basins to a wastewater treatment plant other than the Brushy Creek Regional Wastewater System and shall have the right to direct reuse of the water from such wastewater plant as otherwise limited herein.

LCRA has the right, but not the obligation, to use and reuse (directly and indirectly) any water remaining after PURCHASER exercises its rights to direct reuse as defined above (herein referred to as "Unused Water"). LCRA has legal rights to Unused Water under its senior water rights and/or may seek other permits specifically related to such Unused Water.

Purchaser shall not oppose LCRA's acquisition of one or more easements at any wastewater treatment and/or disposal facility owned in whole or in part by Purchaser subject to the terms and conditions described in subparagraphs a)-c) of this Section 2.9:

- a) PURCHASER shall provide to LCRA at market value any easements reasonably necessary for LCRA to locate any collection facilities for Unused Water within facilities wholly owned and controlled by PURCHASER; provided that, LCRA agrees to locate the easements and construct, operate and maintain its facilities in a manner that does not obstruct or otherwise adversely impact or impair PURCHASER's existing or planned operations;

- b) For facilities not wholly owned by PURCHASER, PURCHASER agrees not to oppose LCRA's acquisition at market value of Purchaser's easement rights and interests in the facilities for easements reasonably necessary for LCRA to locate any collection facilities for Unused Water within the facilities; provided that, LCRA agrees to locate the easements and construct, operate and maintain its facilities in a manner that does not obstruct or otherwise adversely impact or impair existing or planned operations at the facilities. The rights granted herein apply only to PURCHASER's rights to real property and/or Unused Water associated with such facilities, and do not apply to the rights of other owners of the facilities; and
- c) PURCHASER agrees not to oppose any permit application submitted by LCRA to the Texas Commission on Environmental Quality related to the Unused Water.

2.10 Term of Contract.

The term of this Contract is 40 years unless terminated earlier by either party consistent with Exhibit A.

2.11 Previous Contract.

Upon the Effective Date of this Contract, that certain Water Contract between LCRA and PURCHASER, dated August 21, 2007 (LCRA Contract No. 800 000 1719) shall be null, void, and of no further legal force and effect, provided that PURCHASER shall continue to be responsible and liable for all fees incurred under Contract No. 800 000 1719, including fees for Monthly Diversions and the Reserved Water or Reservation Charge, and fees due under the Inverted Block Rate, as such fees may be calculated and/or prorated through the Effective Date.

2.12 Notice.

All notices and invoices to PURCHASER shall be addressed to:

City of Leander
P.O. Box 319
Leander, Texas 78646

All payments to LCRA shall be made to the address on the invoices received by PURCHASER. All notices to LCRA shall be addressed to:

Lower Colorado River Authority
Attn: Raw Water Sales
P.O. Box 220
Austin, Texas 78767
firmwater@lcra.org for email transmission

and

Lower Colorado River Authority
Attn: River Operations

P.O. Box 220
Austin, Texas 78767
(512) 473-3551 for facsimile transmission

SIGNED BY:

Lower Colorado River Authority

By: _____
Monica Masters, P.E.
Vice President, Water Resources

Date: _____

City of Leander, Texas

By: _____

Name: _____

Title: _____

Date: _____

EXHIBITS

- A. Standard Contract Terms and Conditions
- B. Description of Point(s) of Availability
- C. Description of Service Area
- D. Depiction of Service Area
- E. Water Conservation Plan
- F. Drought Contingency Plan
- G. Demand Schedule
- H. Leander Wastewater Basins

Exhibit A

Standard Contract Terms and Conditions

Exhibit A

STANDARD CONTRACT TERMS AND CONDITIONS

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I. WATER SUPPLY

A. PERMIT(S) MAY BE REQUIRED.

PURCHASER may not impound, divert, or use water under this Contract unless PURCHASER, in accordance with the substantive rules of the Texas Commission on Environmental Quality (TCEQ), Army Corps of Engineers (USACE), or any other local, state, or federal regulatory authority, obtains and maintains any water rights permit, wastewater discharge permit, dredge and fill permits, or any other similar permit, that is necessary to authorize PURCHASER'S impoundment, diversion and/or consumptive use, and subsequent discharge, of water consistent with this Contract.

B. MAXIMUM ANNUAL QUANTITY.

From and after the Effective Date hereof, PURCHASER shall have the right to a Maximum Annual Quantity (MAQ) of raw or untreated water per annum made available by LCRA as set forth in the terms of the Contract. For purposes of this Contract, the term "made available" refers to the greatest of: (i) the amount of water released or supplied from LCRA firm supplies to allow for diversions by PURCHASER; or (ii) the amount of water diverted by or for PURCHASER at the Point(s) of Availability plus the Loss Factor (defined below) times such amount. PURCHASER shall designate a point or points of availability for such water as described and depicted in Exhibit "B" attached hereto (the "Point(s) of Availability"), said Exhibit depicting the location by reference to a corner of an original land survey and/or other survey point, giving course and distance and providing the latitude and longitude. In the event that the Point(s) of Availability are located on a LCRA operated-canal, PURCHASER shall also identify a point or points of diversion for such water on the Colorado River ("Point(s) of Diversion"). Such Point(s) of Diversion, if any, shall be described and depicted in Exhibit "B" in the same manner described for Point(s) of Availability.

In the event that PURCHASER'S Point(s) of Availability are located downstream of Lake Travis, the Contract will specify a Loss Factor. The Loss Factor represents LCRA's best available estimate of the conveyance, delivery, or system loss incurred to provide water under this Contract. LCRA hereby reserves the right to modify the Loss Factor and make any associated changes to the MAQ, at any time, based on

any revised estimates of conveyance, delivery, or system loss associated with the delivery of water to PURCHASER, including but not limited to changes in the source of supply LCRA uses to make water available to PURCHASER or updated and substantiated information related to river or canal losses.

PURCHASER may, at its option, conduct its own investigation of conveyance, delivery, or system losses, associated with the delivery of water by LCRA under this Contract. If PURCHASER conducts such study in accordance with LCRA's then-current Water Contract Rules, it shall provide to LCRA in a written report the results of any such investigation within sixty (60) calendar days of completion and LCRA agrees to consider whether any adjustment to the Loss Factor is appropriate under this Contract. If LCRA determines that an adjustment to the Loss Factor is appropriate, it shall provide PURCHASER written notice, by certified mail, of any change to the Loss Factor and resulting change to the Contract MAQ, within fifteen (15) business days of adopting such change. A change to the Loss Factor that results in an increase in the MAQ of 500 acre-feet per year or more shall not take effect until approved by the LCRA Board as an amendment to this Contract. Notwithstanding the foregoing or any provision in LCRA's raw water contract rules, LCRA will not require PURCHASER to obtain a new contract on the most current standard form water contract where the change to the MAQ is based solely on a change to the Loss Factor.

C. EXCEEDANCE OF MAXIMUM ANNUAL QUANTITY.

If the amount of water made available to PURCHASER for any reason exceeds the Maximum Annual Quantity stated in PURCHASER's Contract during two (2) consecutive years, or two (2) out of any four (4) consecutive years, PURCHASER shall submit an application (including the application fee) for a new standard form water contract for an adjusted MAQ, the reasonableness of which shall be determined consistent with LCRA's then effective Water Contract Rules, to the extent LCRA has water supplies available. If PURCHASER has not obtained a contract for an increased MAQ and has a subsequent exceedance within the immediately following five (5) years PURCHASER shall pay to LCRA the Recurrent Excess Use Charge described in Section II.B.5. To the extent provided by the LCRA Water Contract Rules, LCRA may allow PURCHASER to take alternate actions in lieu of submitting an application for a new standard form contract. In such event, PURCHASER shall not be subject to the Recurrent Excess Use Charge in the immediately following year, and will only be subject to such fee in the event of subsequent exceedances in two (2) out of any four (4) consecutive years.

D. MAXIMUM DIVERSION RATE.

PURCHASER may not divert water made available by LCRA under this Contract at a rate greater than as set forth in this Contract ("Maximum Diversion Rate").

E. SOURCE OF WATER SUPPLY.

1. The water made available for impoundment, diversion and/or use under this Contract will be water provided from any source available to LCRA at the time PURCHASER uses water under this Contract.
2. LCRA may make water available under this Contract in accordance with LCRA's Water Management Plan, as may be amended in accordance with state law from time to time, from storage in lakes Buchanan and/or Travis in accordance with water rights held by LCRA as set forth in Certificates of Adjudication No. 14-5478, as amended, and 14-5482, as amended.
3. LCRA may make water available under this Contract from water rights owned by LCRA based on that certain water right previously owned by the Garwood Irrigation Company and identified as Certificate of Adjudication No. 14-5434 issued by the Texas Water Commission on June 28, 1989, as amended (herein, "Garwood's Right"). That portion of Garwood's Right that is owned by LCRA (and for which reference is made to Certificate of Adjudication No. 14-5434C issued by the Texas Natural Resource Conservation

Commission) is referred to herein as “Garwood’s Remaining Right.”

- a) PURCHASER acknowledges and agrees that LCRA may make water available for impoundment, diversion and/or use under this Contract from Garwood’s Remaining Right only following approval by TCEQ, of amendments to allow use of Garwood’s Remaining Right for the type of use authorized by this Contract at the Point of Diversion and/or Point of Availability.
- b) In this event, this Contract is subject to the commitments and conditions set forth in Section 7.08 of that certain Purchase Agreement, dated July 20, 1998, between Garwood Irrigation Company, as seller, and LCRA, as buyer (the “LCRA-Garwood Purchase Agreement”), and is further subject to all terms, provisions and special conditions contained within Garwood’s Remaining Right, as amended. Copies of the LCRA-Garwood Purchase Agreement and Garwood’s Remaining Right, as amended, are available from LCRA’s website, and as of the date of execution of the contract, were specifically available at the following internet web-site address:

<https://www.lcra.org/water/permits-contracts/water-supply-contracts/agricultural-irrigation-use/>

PURCHASER also may obtain copies of the LCRA Purchase Agreement and Garwood’s Remaining Right, as amended, by request to LCRA’s address for notices herein. By executing this Contract, PURCHASER hereby acknowledges receipt of copies of the LCRA Purchase Agreement and Garwood’s Remaining Right, as amended.

F. TYPE OF USE.

PURCHASER represents to LCRA and LCRA relies on such representation that all water made available under this Contract will be impounded, diverted, and/or used by PURCHASER for the type of use as described in this Contract, as such use is defined in the LCRA Water Contract Rules or by the substantive rules for water rights of TCEQ. In accordance with state law, any part of the water that PURCHASER impounds or diverts but does not use or consume for such use in accordance with this Contract shall be returned to the Colorado River or a tributary of the Colorado River.

G. SERVICE AREA.

Water made available under this Contract shall only be used within that certain area, as described in Exhibit C attached hereto and depicted in Exhibit D, attached hereto, together hereinafter called the “Service Area.” In no event shall water supplied under this Contract be available to any area outside of LCRA’s statutory water service area. Further, water supplied under this Contract shall not be available to any area outside the Colorado River basin unless such interbasin transfer is authorized by one or more water rights.

H. WATER CONSERVATION AND DROUGHT CONTINGENCY MEASURES.

1. PURCHASER agrees to implement the water conservation program contained in the water conservation plan (the “Water Conservation Plan” or “WCP”) described in Exhibit E attached hereto. PURCHASER further agrees that the water impounded and/or diverted by PURCHASER pursuant to this Contract will be used in accordance with such WCP.
2. PURCHASER agrees to implement the drought contingency program contained in the drought contingency plan (the “Drought Contingency Plan” or “DCP”) described in Exhibit F attached hereto. PURCHASER further agrees that the water impounded and/or diverted by PURCHASER pursuant to this Contract will be used in accordance with such DCP.
3. PURCHASER shall review and update its WCP and DCP as provided in the Water Contract

Rules, with such updates to be required among other things, on a periodic basis and in response to changes in the rules of LCRA or state laws or regulations.

4. If PURCHASER fails to submit an updated WCP or DCP, or fails to implement its WCP or DCP, after thirty (30) days following notice by LCRA of an ongoing failure to comply with the requirements, PURCHASER shall pay LCRA a one-hundred dollar (\$100) administrative fee each month until an updated WCP and/or DCP is submitted or the WCP and/or DCP is implemented. The Contract is further subject to termination for failure of PURCHASER to update its WCP and/or DCP as specified in Section II.D.4.

I. AVAILABILITY OF WATER.

LCRA is committing to make available to PURCHASER under this Contract a portion of LCRA's firm water supply, as defined in LCRA's Water Contract Rules; provided, however, LCRA may interrupt or curtail the water supplied under this Contract as required by state law or in accordance with LCRA's Water Management Plan or applicable Drought Contingency Plan(s), as such Plans and any amendments thereto have been approved and may be approved in the future by TCEQ.

In the event the Point(s) of Availability are upstream of Lake Buchanan and/or on a tributary to the Colorado River, water supplied under this Contract is water that otherwise would have flowed into the Colorado River and/or lakes Buchanan and Travis and is a commitment against LCRA's firm water supply, as defined in LCRA's Water Contract Rules, subject to diversion and use rights of all senior right holders upstream and downstream of the Point(s) of Availability. Diversions and/or impoundment at such upstream Point(s) of Availability require a water right permit issued by TCEQ. In addition to the interruptions or curtailments mentioned above, availability of water is further subject to factors associated with the Point(s) of Availability, including but not limited to the flow of the river or tributary, diversions of water by senior and superior water rights, and conditions in the upstream water right permit.

J. DELIVERY OF WATER.

LCRA is responsible for making water available under this Contract only up to the MAQ. LCRA makes no guarantee that the water made available under this Contract will be available at any particular time or place or that any LCRA owned/operated reservoir or the Colorado River will be maintained at any specific elevation or flow at any particular time. Furthermore, PURCHASER acknowledges and agrees that LCRA's obligations under this Contract shall not require LCRA to make additional releases of water from LCRA firm water supplies beyond the MAQ or to make releases to raise the water elevations or flows at the Point(s) of Availability at a particular time sufficient for PURCHASER's intake and/or diversion facilities to operate.

K. DEMAND SCHEDULE.

PURCHASER has provided a Demand Schedule (Exhibit G) that reflects PURCHASER's best estimate of the scheduled initiation of diversions, initial usage, annual projected water usage, and any increases of usage over time (at intervals no greater than every five (5) years and more frequent as requested by LCRA staff), of the water to be made available by LCRA under this Contract, consistent with LCRA's Water Contract Rules. The Demand Schedule shall include any plans for direct reuse of water made available under this Contract. PURCHASER shall review, update if needed, and provide to LCRA an updated Demand Schedule not less than once every five (5) years coincident with any updated Water Conservation Plans required by this Contract or LCRA's Water Contract Rules, or following written request by LCRA consistent with any other schedule that may be required by LCRA's Water Contract Rules.

L. STATE REGULATION OF LCRA WATER SUPPLIES.

PURCHASER acknowledges and agrees that the water LCRA makes available under this Contract may be regulated in whole or in part by the State of Texas or local regulatory authorities. PURCHASER further acknowledges and agrees that LCRA's water rights are subject to regulation by the State of Texas, including

but not limited to periodic review and amendment of LCRA's Water Management Plan by TCEQ. LCRA and PURCHASER acknowledge and agree that LCRA shall be obligated to exercise due diligence to manage its water supplies within such regulatory regimes to make water available to PURCHASER in accordance with the terms of this Contract. PURCHASER acknowledges and agrees, however, that LCRA's obligations under this Contract may be affected by orders of the State of Texas, its agencies or local regulatory authorities. Orders of the State of Texas, its agencies or local regulatory authorities may constitute a "force majeure" event in accordance with this Contract.

M. OPERATIONS OF DAMS AND RESERVOIRS.

The right of LCRA to maintain and operate its several dams and their appurtenances on the Colorado River and its associated tributaries and at any and all times in the future to impound and release waters thereby in any lawful manner and to any lawful extent LCRA may see fit is recognized by PURCHASER; and, except as otherwise provided herein, there shall be no obligation upon LCRA to release or not to release any impounded waters at any time or to maintain any waters at any specified elevation or flow. PURCHASER acknowledges that the elevations of said reservoirs and the Colorado River will vary as a result of hydrologic events, or lack thereof, (e.g. floods or droughts) in the watershed and LCRA's operations of its dams on the Colorado River.

N. QUALITY OF WATER.

LCRA makes no representation as to the quality of the water made available under this Contract, and PURCHASER hereby releases LCRA and agrees to hold it harmless from any and all claims that PURCHASER or PURCHASER's customers or users have or may have against LCRA for any diminution in or impairment of the quality of water made available under this Contract.

O. INTERBASIN TRANSFER.

Any surface water made available under this Contract may not be transferred or used outside of the Colorado River basin unless such transfer or use is within LCRA's water service area and authorized by a water right issued by TCEQ. In the event that PURCHASER has indicated its intent to transfer or use surface water made available under this Contract outside of the Colorado River basin in accordance with this section, PURCHASER, by executing this Contract, authorizes LCRA to apply to the TCEQ for the necessary authorization pursuant to Texas Water Code § 11.085 and 11.122 within ninety (90) days of the Effective Date of this Contract. LCRA shall diligently pursue such authorization after it is filed. PURCHASER shall pay for any costs and fees related to such application, including, but not limited to filing and notice fees, legal fees and expert fees, after LCRA bills PURCHASER for such costs and fees in accordance with this Contract.

P. REQUIRED NOTICES.

PURCHASER shall provide notice to LCRA of certain activities specified in the Water Contract Rules throughout the term of this Contract. Such notice requirements may apply to, among other things, intent to divert, plans for and implementation of reuse, activities related to a water right permit, agreement to supply a Secondary Purchaser, and change of ownership.

II. CONTRACT ADMINISTRATION

A. TERM OF CONTRACT.

This Contract shall be for the term of years as set forth in this Contract, which shall commence on the Effective Date and end on the anniversary of the Effective Date in the last year of the contract term as set forth in this Contract, unless terminated earlier by either party as provided below.

B. PAYMENT.

1. The "Water Rate" is the rate determined by the LCRA Board of Directors to then be in effect for all sales of firm water for the same use as provided in this Contract. The "Reservation Rate" is the rate determined by the LCRA Board to then be in effect for the reservation of firm water for the same use as provided in this Contract. The "Inverted Block Rate" is the rate determined by the Board to then be in effect for diversion or use of water in amounts in excess of the MAQ.
2. The Water Rate presently in effect is \$155 per acre-foot (\$0.48 per 1,000 gallons) of water. The Reservation Rate presently in effect is \$77.50 per acre-foot. The Inverted Block Rate presently in effect is \$310 per acre-foot of water. LCRA reserves all rights that it may have under law to modify the Water Rate, the Reservation Rate, or the Inverted Block Rate. PURCHASER understands and acknowledges that the Water Rate, Reservation Rate, and the Inverted Block Rate set forth in this Contract have been approved by the LCRA Board, and that the Board may change all rates, fees and charges under the Contract from time to time.
3. Reservation Charge.
 - a) PURCHASER agrees and covenants to pay – on a monthly basis – an amount of money equal to the Reservation Rate multiplied by one-twelfth (1/12) of the MAQ (the "Monthly Reservation Charge") which shall be for the preceding billing period. However, in the event the MAQ is 250 acre-feet per year or more and PURCHASER is not an existing customer in good standing nor a governmental entity exercising taxing authority, for the period until the later of the fifth full calendar year since the Effective Date or the year in which PURCHASER's water use equals at least twenty percent (20%) of the MAQ, PURCHASER shall pre-pay on a non-refundable basis for the reservation of water as follows: PURCHASER agrees to and covenants to pay LCRA – on the first billing period after the Effective Date of this Agreement – an amount equal to the Reservation Rate multiplied by the MAQ ("Prepaid Annual Reservation Charge"), which amount shall be prorated to the end of the calendar year in which this Contract becomes effective; and thereafter, PURCHASER agrees and covenants to pay LCRA the Prepaid Reservation Charge on the first billing period of each calendar year. Following the later of the fifth full calendar year since the Effective Date or the year in which PURCHASER's water use equals at least twenty percent (20%) of the MAQ, PURCHASER shall pay the Monthly Reservation Charge described above.
 - b) In the event this Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, in lieu of subparagraph a, above, PURCHASER agrees and covenants to pay – on a semi-annual basis – an amount of money equal to the Reservation Rate multiplied by one-half of the MAQ (the "Prepaid Semi-annual Reservation Charge") which shall be for the upcoming semi-annual billing period.
4. Use Charge.
 - a) PURCHASER agrees and covenants to pay LCRA – on a monthly basis – an amount of money (the "Use Charge") equal to the Water Rate less the Reservation Rate multiplied by the amount of water made available to the PURCHASER during the previous monthly billing period ("Monthly Use").
 - b) In the event this Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, in lieu of subparagraph a, above, PURCHASER agrees and covenants to pay LCRA – on a

semi-annual basis – an amount of money (the “Semi-annual Use Charge”) equal to the Water Rate less the Reservation Rate multiplied by the amount of water made available to the PURCHASER during the previous semi-annual billing period.

- c) For purposes of this section, the term “made available” refers to the greatest of: (i) the amount of water released or supplied from LCRA firm water supplies to allow for diversions by PURCHASER; or (ii) the amount of water diverted by or for PURCHASER at the Point(s) of Availability plus the Loss Factor, if any, multiplied times such amount.
- 5. PURCHASER further agrees and covenants to pay LCRA – on a calendar year basis – an amount of money (the “Excess Use Charge”) equal to the Inverted Block Rate multiplied by any amount of water made available to PURCHASER in excess of the MAQ during the previous calendar year, less any amount PURCHASER has previously paid for the same water through use and/or reservation charges. In the event the amount of water made available to PURCHASER exceeds the MAQ on a recurrent basis as described in Section I.C., PURCHASER further agrees and covenants to pay LCRA – on a calendar year basis – an amount of money (the “Recurrent Excess Use Charge”) equal to the Inverted Block Rate multiplied by any amount of water made available to PURCHASER in excess of the MAQ during the previous calendar year. Such Recurrent Excess Use Charge shall be in addition to the Excess Use Charge. In the event the amount of water made available to PURCHASER is limited because of a curtailment imposed by LCRA or state law in accordance with this Contract to an amount less than the MAQ, then PURCHASER shall pay a surcharge, in excess of any Use or Reservation Charges, to be set by the LCRA Board, multiplied by any amount of water made available to PURCHASER in excess of the amount PURCHASER is authorized to have available during the curtailment (the “Curtailment Surcharge”).
 - 6. The term “billing period,” as used for purposes of metering and billing in this Contract, shall refer to each period between readings of the meter(s), which readings typically are performed on a monthly basis or semi-annual basis, and may be taken around the middle, rather than then end, of each month. All charges under this Contract shall be pro-rated as necessary to reflect the Effective Date or date of termination of this Contract. For purposes of metering and billing, the “calendar year” may be based upon the 12-month period from the December meter reading date to the next December reading date. If this Contract specifies semi-annual billing, the initial billing period will be pro-rated to end in either mid-June or mid-December.
 - 7. Each month, LCRA will mail an invoice to PURCHASER showing the Monthly Use. Such invoice shall also show the amount of money owed by PURCHASER to LCRA in accordance with the Pre-paid Reservation Charge, Monthly Reservation Charge and/or Use Charge and any late payment charges, as specified herein. In the event this Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, in lieu of monthly invoices, invoices will occur on a semi-annual basis and shall show the Semi-annual Use, the Prepaid Semi-annual Reservation Charge, the Semi-annual Use Charge, and any late payment charges.
 - 8. The invoice mailed by LCRA to PURCHASER in the month of January each year, in addition to showing the amount of money owed by PURCHASER to LCRA in accordance with paragraph 7, shall also show any amount of water that PURCHASER had made available to it in excess of the MAQ during the previous calendar year, as well as the corresponding Excess Use Charge and the Recurrent Excess Use Charge, if applicable.
 - 9. PURCHASER shall pay LCRA for water provided under this Contract in the amount of each invoice submitted to PURCHASER by LCRA on or before thirty (30) days from the date of

the invoice. PURCHASER shall mail checks for payments to the address indicated on the invoice. PURCHASER may pay by hand-delivery of checks or cash to LCRA's headquarters in Austin, Travis County, Texas, or by bank-wire if PURCHASER obtains LCRA's approval and makes arrangements for doing so prior to the due date. Payment may also be made by other means that may be specified on the invoice. Payment must be received at the address provided on the invoice, or, if approved, at LCRA's headquarters or bank, not later than thirty (30) days from the invoice date in order not to be considered past due or late. In the event PURCHASER fails to make payment of that invoice within thirty (30) days of the invoice date, PURCHASER shall then pay a late payment charge of five percent (5%) of the unpaid amount of the invoice. For each calendar month or fraction thereof that the invoice remains unpaid, PURCHASER shall pay interest at the rate of one and one-half percent (1.5%) per month on the unpaid portion of the invoice. In the event PURCHASER attempts to pay LCRA by check, draft, credit card or any other similar instrument, and the instrument is returned or refused by the bank or other similar institution as insufficient or non-negotiable for any reason, PURCHASER shall be assessed and must pay to LCRA, per each returned instrument, the LCRA's current returned instrument fee. If the invoice has not been paid within thirty (30) days of the invoice date, PURCHASER further agrees to pay all costs of collection and reasonable attorney's fees, regardless of whether suit is filed.

C. MEASURING WATER.

1. To measure the amount of water diverted by PURCHASER hereunder, PURCHASER agrees at PURCHASER's expense to install and provide access to such measuring and recording devices or methods as specified by the Rules. PURCHASER must repair, replace or make necessary improvements to a meter that is not in compliance with this Contract or LCRA's Rules promptly after PURCHASER becomes aware of the deficiency that causes the meter to not comply with this Contract or LCRA's Water Contract Rules.
2. Meter readings shall be taken on or about the 15th day of each month. If Contract is for recreational or irrigation use with a MAQ not exceeding 30 acre-feet per year and specifies semi-annual billing, readings shall be taken on or about June 15 and Dec. 15. PURCHASER agrees to read meter and submit meter reading to LCRA via electronic mail, online portal, or other format as specified by LCRA.
3. PURCHASER agrees that the Meter shall be tested for accuracy by qualified personnel as approved by LCRA and at the expense of PURCHASER once each calendar year at intervals of approximately twelve (12) months if the MAQ is greater than 30 acre-feet per year, and at intervals of approximately twenty-four (24) months if the MAQ does not exceed 30 acre-feet per year .
 - a) PURCHASER shall furnish to LCRA a report of such test results. Readings within five percent (5%) of accuracy shall be considered correct.
 - b) In the event PURCHASER fails to timely test the Meter and report the results to LCRA, the following shall take effect:
 - (1) Following a period of fifteen (15) months from the prior test, or a period of 27 months if the MAQ does not exceed 30 acre-feet per year, for each month that such failure to test and/or report results continues, PURCHASER shall pay a \$100 administrative fee.
 - (2) Following a period of eighteen (18) months from the prior test, or a period of thirty (30) months if the MAQ does not exceed 30 acre-feet per year, for each billing period that such failure to test and/or report continues, PURCHASER's Monthly Water Use for purposes of determining the Water

Charge will be deemed to be the greater of the metered value, one-twelfth of the MAQ, or the prior year's water use for the given month. If the Contract is for semi-annual billing, PURCHASER'S Semi-annual Water Use for purposes of determining the Semi-annual Water Charge will be deemed to be the greater of the metered value, one-half of the MAQ, or the prior year's Semi-annual Water Use for the given semi-annual period.

- (3) Following a period of twenty-one (21) months from the prior test, or a period of thirty-three (33) months if the MAQ does not exceed 30 acre-feet per year, for each billing period that such failure to test and/or report continues, PURCHASER shall be subject to a twenty five percent (25%) surcharge on all reservation charges and use charges.
- c) If, at any time, LCRA provides PURCHASER a written notice that questions the accuracy of the Meter, PURCHASER promptly shall test the Meter and, in this event, the expense of such test will be paid by LCRA if the Meter is found to be correct and by PURCHASER if it is found to be incorrect.
- d) Any party that tests the Meter shall provide written notice of the test to the other party at least five (5) business days in advance of the test and shall allow the other party to observe the test.
- e) PURCHASER shall be required to take necessary steps to correct any inaccuracy in the Meter discovered during any test. LCRA may install, at its expense, check meters in or to any of PURCHASER's Meters at any time and may leave such check meters installed for such periods as is reasonably necessary to determine the accuracy of PURCHASER's Meters.
- f) If, as a result of any test, the Meter is found to be registering inaccurately (i.e., in excess of five percent (5%) of accuracy), the readings of the Meter shall be corrected at the rate of its inaccuracy for any period which is definitely known and agreed upon or, if no such period is known and agreed upon, the shorter of the following periods shall be used as the basis for correction:
 - (1) a period extended back either sixty (60) days from the date of demand for the test or, if no demand for the test was made, sixty (60) days from the date of the test; or
 - (2) a period extending back half of the time elapsed since the last previous test; and the records of reading shall be adjusted accordingly.
- 4. In the event PURCHASER is charged based on water released from LCRA firm water supplies under this Contract rather than the actual amount withdrawn from the reservoir or stream by PURCHASER, LCRA shall include the amount of such releases in the monthly invoice provided to PURCHASER. LCRA shall make available information regarding its calculation of the amount of water released attributable to PURCHASER's actual diversions under this Contract within a reasonable period following PURCHASER's written request.

D. TERMINATION OF CONTRACT OR REDUCTION IN MAXIMUM ANNUAL QUANTITY.

This Contract may be terminated or the MAQ may be reduced as follows:

- 1. PURCHASER shall provide one year's notice of its intent to terminate this Contract or reduce the MAQ, and must be current on all payments due at the time of such notice and

the time of such termination or reduction. If the MAQ is less than 500 acre-feet, PURCHASER may terminate this Contract or reduce the MAQ following the expiration of five (5) years from the Effective Date. If the MAQ is 500 acre-feet or more, beginning with the five-year anniversary of the Effective Date of the contract, Purchaser may reduce the MAQ by no more than the greater of 250 acre-feet or twenty-five percent (25%) of the original MAQ once every 12 months. PURCHASER may pre-pay outstanding reservation fees as determined by LCRA that would be due over the projected remaining duration of the contract and terminate this Contract in lieu of maintaining the Contract in effect for the period of notice and/or stepped reductions in MAQ. In the event the Rules provide alternative provisions for early termination or reduction in MAQ, PURCHASER also may terminate or reduce consistent with the Rules.

2. Upon sixty (60) days' written notice to PURCHASER, LCRA may consider reducing the MAQ under this Contract at any time after ten year(s) after the Effective Date of this Contract if PURCHASER's maximum annual use has not been at least ten percent of the MAQ on an annual basis within the first ten years. Within thirty (30) days of LCRA's written notice that it is considering reduction of the MAQ, PURCHASER shall provide LCRA with a written assurance and updated Demand Schedule that demonstrates PURCHASER's intent to increase its diversions under this Contract within the next two (2) years to an amount that will be at least ten percent (10%) of the original MAQ secured by this Contract. If PURCHASER fails to or is unable provide such written assurance, or if at least ten percent (10%) of the MAQ is not put to use on an annual basis within the two year period, LCRA may thereafter, at its sole option, terminate the contract or reduce the MAQ to any amount LCRA deems appropriate and reasonable under LCRA's raw water contract rules in effect at the time. An adjustment to the MAQ of this Contract under this section does not require PURCHASER to obtain a new contract on the most current standard form contract.
3. LCRA at its sole option, in accordance with the terms and conditions set forth in Section II.E, "Non-Payment," may terminate this Contract without recourse should PURCHASER fail to comply with the terms and conditions of this Contract for the payment of moneys owed to LCRA pursuant to Section II.B. "Payment."
4. LCRA at its sole option, may terminate this Contract if: (a) PURCHASER fails to comply with its Water Conservation Plan or its Drought Contingency Plan; or (b) PURCHASER fails to amend its Water Conservation Plan or its Drought Contingency Plan to reflect changes in LCRA's Water Conservation Plan Rules, LCRA's Drought Contingency Plan Rules, or state law or rules. LCRA shall provide notice of default prior to terminating under this section and PURCHASER shall have ninety (90) days to cure such default (or, if the nature of such default is not susceptible of being cured within such ninety (90) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days) of PURCHASER's receipt of written notice of such default.
5. If PURCHASER fails to comply with the requirements of Sections III.A, "Nonpoint Source Pollution Abatement," III.B, "Sewage Regulations," or III.C, "Documentation of Compliance; Right of Entry," LCRA may, at its sole option, terminate this Contract without recourse unless such default is cured within thirty (30) days of the date LCRA provides written notice to PURCHASER (or if the nature of such default is not susceptible of being cured within such thirty (30) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days) of PURCHASER's receipt of written notice of such default. For purposes of this section, LCRA shall not deem PURCHASER to be in default for so long as PURCHASER is in compliance with any remedial or enforcement agreement authorized by an agency of appropriate jurisdiction.
6. If PURCHASER fails to comply with other requirements of this Contract not specifically

stated above, LCRA may, at its sole option, terminate this Contract without recourse unless such default is cured within thirty (30) days (or, if the nature of such default is not susceptible of being cured within such thirty (30) day period, such longer period of time during which PURCHASER diligently prosecutes the cure of such default, not to exceed one hundred eighty (180) days) of PURCHASER's receipt of written notice of such default.

7. Subject to the requirements of applicable bankruptcy laws, including the rights of a trustee to assume contracts under applicable bankruptcy laws, this Contract may be terminated immediately by LCRA upon the declaration of bankruptcy by PURCHASER.
8. In the event TCEQ or any other local, state, or federal regulatory agency denies to PURCHASER, or terminates for any reason, a permit required by this Contract, PURCHASER shall notify LCRA within three (3) business days and immediately cease diversions under this Contract. LCRA, at its sole option, may terminate this Contract on or after the denial or termination of any permit required by this Contract is final and non-appealable.

PURCHASER shall remain liable for all fees and charges accruing under the Contract through the date the Contract is terminated, including but not limited to a pro-rated Reservation Charge through the date of termination. In the event LCRA terminates this Contract as provided herein, PURCHASER shall suspend immediately upon such termination all withdrawal of water from the Colorado River, or any tributaries thereof, under this Contract. LCRA may exercise any rights that it may have at law or in equity to prevent unauthorized withdrawals by PURCHASER or enforce the requirements of PURCHASER's Water Permit, if any. In the event that the contract is terminated based upon the denial or termination of a permit required by this Contract, PURCHASER shall be required to pay an early termination fee equal to the Reservation Rate times the MAQ.

LCRA shall have no obligation to continue to make water available after the expiration of the Contract term, or the early termination of the Contract.

E. NON-PAYMENT.

1. If LCRA determines that PURCHASER has not paid the full amount owed for any payment due under Section II.B, "Payment", hereof within the time provided therefore, LCRA shall give written notice to PURCHASER stating the amount LCRA has determined is due and unpaid. If LCRA gives notice as provided herein and PURCHASER fails to pay within thirty (30) days the amounts claimed in such notice to be due and unpaid, LCRA may, at its sole option: (1) upon giving ten (10) days written notice to PURCHASER terminate this Contract without recourse; and/or, (2) request injunctive relief from a court of competent jurisdiction to prevent PURCHASER from impounding and/or diverting additional water pursuant to this Contract.
2. If PURCHASER should dispute PURCHASER's obligation to pay all or any part of the amount stated in any invoice or notice, PURCHASER may, in addition to all other rights that PURCHASER may have under law, pay such amount under protest in which case such amount shall be deposited by LCRA in an interest bearing account mutually acceptable to both LCRA and PURCHASER pending final resolution of such dispute in accordance with Section IV.H, "Dispute Resolution." LCRA may not terminate this Contract, or request injunctive relief to prevent additional impoundments and/or diversions for failure to pay the amount stated in any invoice or notice if PURCHASER pays such amount under protest and until there is a final resolution of such dispute in accordance with Section IV.H, "Dispute Resolution," favorable to LCRA.

F. EQUITABLE REMEDIES.

PURCHASER agrees that diversions or impoundments of water by PURCHASER without the authorization provided by this Contract will result in damages to LCRA that cannot be adequately compensated by money alone. As a result, PURCHASER agrees that LCRA shall have available to it equitable remedies, including injunctive relief against additional diversions or impoundments by PURCHASER unless PURCHASER demonstrates that it is otherwise authorized to divert or impound water. In addition, PURCHASER agrees that the provisions of Section IV.H, "Dispute Resolution," will not apply to any legal action brought by LCRA seeking equitable remedies under this Contract except as expressly provided by Section II.E.2 regarding "Non-payment."

G. NOTICE.

Any notice to LCRA shall be provided in the manner specified in the Rules and invoices to PURCHASER shall be addressed as set forth in the General Terms of this Contract.

All payments to LCRA shall be addressed as set forth in the General Terms of this Contract.

Either party may change its address by giving written notice of such change to the other party. PURCHASER is required to provide notice of change in address or contact person within ten (10) days of such change. PURCHASER shall maintain a physical address on file with LCRA.

H. ASSIGNMENT OF CONTRACT.

PURCHASER shall have the right to assign this Contract provided that: i) there is no change to the MAQ, source, type of use or Service Area provided in this Contract; ii) prior to such assignment, this Contract is amended to be consistent with all terms of LCRA's then-current standard form contract for purchase of firm water and LCRA's then-current Water Contract Rules as determined by LCRA; iii) the Water Conservation Plan and Drought Contingency Plan are updated as may be necessary in accordance with this Contract as determined by LCRA; iv) PURCHASER provides LCRA at least sixty (60) days prior written notice of such assignment; v) PURCHASER is not in default under this Contract at the time of such assignment; and vi) PURCHASER or assignee make payment of all amounts due that have, or will have, accrued through the date of assignment. In the event the Contract is not consistent with the then-current standard form contract, LCRA, at its sole option, may authorize an assignment with a requirement for a subsequent replacement contract following procedures in the Water Contract Rules.

I. COMPLIANCE WITH FILING REQUIREMENTS.

LCRA agrees to file a copy of this Contract with the TCEQ Executive Director, P.O. Box 13087, Capitol Station, Austin, Texas 78711, it being fully recognized by PURCHASER hereunder that the effectiveness of this Contract is dependent upon compliance with the substantive rules and procedural rules for water rights of TCEQ.

III. ENVIRONMENTAL, PERMITTING AND OTHER ISSUES RELATED TO WATER SUPPLY

A. NONPOINT SOURCE WATER POLLUTION ABATEMENT.

If PURCHASER will use water under this Contract to serve areas located within the jurisdictional area of LCRA Highland Lakes Watershed Ordinance, the Highland Lakes Dredge and Fill Ordinance, or any other LCRA water quality ordinance that has been adopted by the LCRA Board, PURCHASER agrees to comply with and shall comply with the provisions of that respective ordinance, which ordinance may require a permit and compliance with other applicable local, state, and federal rules and regulations pertaining to water quality protection. If PURCHASER will use water under this Contract to serve areas wholly outside the jurisdiction of an LCRA water quality ordinance, PURCHASER agrees to comply with and shall comply with any applicable local, state, and federal rules and regulations pertaining to water quality protection.

PURCHASER further agrees to distribute to its customers in its service area water quality protection educational materials that LCRA provides to PURCHASER.

B. SEWAGE REGULATIONS.

PURCHASER agrees to obtain, or cause to be obtained, all approvals required by all applicable local, state or federal agencies for any sanitary sewage system or systems that collect sewage derived from water diverted herein or any sanitary sewage system whose effluent is discharged within the boundaries of LCRA's statutory district. Failure of PURCHASER to meet any standards imposed by such agencies for sanitary sewage systems, including on-site systems, shall subject PURCHASER under this Contract to all remedies allowed by law including, without limitation, termination or suspension of this Contract by LCRA. PURCHASER further agrees that if a sewage treatment plant is located within the Service Area, LCRA shall have reasonable access to such plant for the purpose of taking samples of sewage effluent from such plant for testing by LCRA to determine whether PURCHASER is in compliance with regulatory standards imposed by such agencies.

C. DOCUMENTATION OF COMPLIANCE; RIGHT OF ENTRY.

1. In addition to notices required by Section I.P. of this Contract, PURCHASER shall provide LCRA copies of any approvals that PURCHASER has received from federal, state, or local agencies that relate to water reserved or purchased pursuant to PURCHASER's Contract or to facilities intended to impound, divert, transport, or use water provided under PURCHASER's Contract within a reasonable amount of time, not to exceed fifteen (15) business days, following a written request by LCRA staff.
2. PURCHASER agrees that LCRA employees and agents shall be entitled to enter any property where facilities impound or deliver water to the Service Area of PURCHASER at any reasonable time following a reasonable attempt at prior notification for the purpose of inspecting and investigating conditions relating to the quality of water; the compliance by PURCHASER with any rule, regulation, permit or other order of the state, its agencies, local regulatory authorities or LCRA; compliance by PURCHASER with the requirements of this Contract; or, inspection of any of PURCHASER's facilities related to the use, diversion or impoundment of water under this Contract. LCRA employees or agents acting under this Contract who enter PURCHASER's property shall observe rules and regulations concerning safety, internal security, and fire protection, and shall notify any occupant or management of their presence and shall exhibit proper credentials.

D. ANNUAL REPORTS OF DUE DILIGENCE; AS-BUILT PLANS.

1. PURCHASER shall report to LCRA, on a yearly basis, progress made toward obtaining any and all necessary authorizations (e.g. TCEQ permits, USACE permits, etc.) as well as progress towards commencing and completing construction of facilities which will be used to divert, impound, and/or convey water under PURCHASER's Contract.
2. PURCHASER shall provide to LCRA, upon request, "as-built" drawings and plans (including GPS coordinates of any intakes or impoundments) for facilities which will be used to divert, impound, and/or convey water under PURCHASER's Contract within thirty (30) days of completion of construction.

IV. GENERAL PROVISIONS

A. EFFECTIVE DATE.

"Effective Date" means the last date of execution of this Contract by the Parties; provided all of the Parties must execute this Contract for it to be effective.

B. PREVIOUS CONTRACT.

In the event of a previous contract between the Parties related to the Service Area of this Contract prior to the Effective Date, this Contract replaces such prior contract unless specified otherwise hereunder.

C. INDEMNIFICATION.

PURCHASER will indemnify and hold LCRA harmless from any and all claims and demands whatsoever to which LCRA may be subjected by reason of any injury to any person or damage to any property resulting from any and all actions and activities (or failure to act) of PURCHASER under this Contract except to the extent caused by LCRA's gross negligence or willful misconduct. PURCHASER's pumping and related facilities shall be installed, operated and maintained by PURCHASER at PURCHASER's sole risk. Nothing in this Contract shall be construed as authorizing PURCHASER, or recognizing that PURCHASER has any right, to install any equipment or improvements on property owned by LCRA or third parties.

LCRA will hold PURCHASER harmless from any and all claims or demands whatsoever to which LCRA may be subjected by reason of any injury to any person or damage to any property resulting from or in any way connected with any and all actions and activities (or failure to act) of LCRA under this Contract that are not resulting from or in any way connected with any and all actions and activities (or failure to act) of PURCHASER under this Contract.

D. FORCE MAJEURE.

The term "Force Majeure" as used herein, shall mean those situations or conditions that are beyond the control of LCRA or PURCHASER and that, after the exercise of due diligence to remedy such situation or condition, render LCRA or PURCHASER unable, wholly or in part, to carry out the covenants contained herein. Such force majeure includes, but is not limited to acts of God, strikes, lockouts, acts of the public enemy, orders of any kind of the government or agencies of the United States or of the State of Texas, excluding LCRA, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, civil disturbances, explosions, breakage or accidents to machinery, pipelines, canals, or dams, partial or entire failure of water supply insofar as each of the foregoing are beyond the reasonable control of the party in question. LCRA shall not be held liable or responsible for any damage that may be caused by its inability, after the exercise of due diligence, to make the supply of water available to PURCHASER due to any force majeure. LCRA shall use reasonable and timely diligence to repair or recondition LCRA's machinery, canals, or dams in the event such machinery, canals or dams are damaged or made unserviceable from any force majeure.

E. NO THIRD-PARTY BENEFICIARY.

The Parties hereto are entering into this Contract solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the Parties hereto.

F. NO RIGHTS OR TITLE ACQUIRED.

PURCHASER agrees and acknowledges that it acquires by this Contract no rights or title to the water that is the subject of this Contract other than those rights explicitly set forth herein.

G. REPRESENTATIONS AND WARRANTIES.

Each of LCRA and PURCHASER represents and warrants to the other that this Contract has been duly executed by an authorized officer and constitutes a valid and binding Contract, enforceable against it in accordance with its terms (except as such enforceability may be limited by bankruptcy laws or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles).

H. DISPUTE RESOLUTION.

1. Settlement by Mutual Agreement or Mediation.

In the event any dispute, controversy or claim between or among the Parties arises under this Contract or is connected with or related in any way to this Contract or any right, duty or obligation arising hereunder or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to, a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation, or enforcement of this Contract, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance with the terms of this subsection 1. In the event a Dispute or Controversy arises, any party shall have the right to notify the other party to such Dispute or Controversy that it has elected to implement the procedures set forth in this subsection 1. Within thirty (30) days after delivery of any such notice by one party to the other regarding a Dispute or Controversy, the designated representatives of the Parties shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should a mutual resolution and settlement not be obtained at the meeting of the Parties' designated representatives for such purpose or should no such meeting take place within such thirty (30) day period, then any party may by notice to the other party, as the case may be, refer the Dispute or Controversy to senior management of the Parties for resolution. Within thirty (30) days after delivery of any such notice by one party to the other referring such Dispute or Controversy to senior management of the Parties for resolution, representatives of senior management of each of the Parties shall meet at a mutually agreed upon time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy. Should mutual resolution and settlement not be obtained at the meeting of representatives of senior management of each of the Parties for such purposes or should no such meeting take place within such thirty (30) day period (unless extended by mutual agreement), then any party may by notice to the other party, as the case may be, submit the Dispute or Controversy to non-binding mediation. The Parties shall make a good-faith effort to agree on the appointment of a mediator. If the Parties cannot agree on a mediator within thirty (30) calendar days of delivery of written notice, the Parties shall promptly select a mutually acceptable mediation provider entity, which entity shall, as soon as practicable following such entity's selection, designate a mediator, who is a licensed attorney with general knowledge of law relevant to the dispute and has no ongoing business relationship with either party.

2. Choice of Law, Venue, and Waiver of Jury Trial.

This contract shall be governed in all respects by the internal laws of the State of Texas, excluding its rules regarding conflicts of law, and the jurisdiction and venue for any proceeding arising out of or relating to this Contract shall be solely in Travis County, Texas. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS CONTRACT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

3. Emergency Relief.

Notwithstanding the Parties' agreement to arbitrate Dispute and Controversies, either party may seek injunctive relief or other form of emergency relief at any time from any state court of competent jurisdiction in Austin, Texas, the federal court for such district, or any state or federal regulatory agency of competent jurisdiction.

4. Survival.

The provisions of this Section IV.H shall survive expiration or earlier termination of this Contract.

I. ACTUAL DAMAGES.

NEITHER PARTY SHALL BE LIABLE OR HAVE ANY RESPONSIBILITY TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR DELAY-RELATED OR PERFORMANCE-RELATED DAMAGES INCLUDING, WITHOUT LIMITATION, LOST EARNINGS OR PROFITS. SUCH LIMITATION ON LIABILITY SHALL APPLY TO ANY CLAIM OR ACTION, WHETHER IT IS BASED IN WHOLE OR IN PART ON CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, STATUTE OR ANY OTHER THEORY OF LIABILITY. THE PROVISIONS OF THIS SECTION IV.I SHALL HAVE NO EFFECT ON THE PARTY'S OBLIGATIONS UNDER SECTION IV.C.

J. AMENDMENT.

This Contract may not be modified or amended except by an instrument in writing signed by authorized representatives of the Parties.

K. BINDING EFFECT.

The terms of this Contract shall be binding upon, and inure to the benefit of, the Parties and their permitted successors and assigns.

L. COMPLETE CONTRACT.

This Contract, together with all Exhibits attached hereto, constitutes the entire agreement of the Parties relating to the subject matter of this Contract and supersedes all prior contracts, agreements or understandings with respect to the subject matter hereof, both oral or written.

Each party agrees that the other party (and its agents and representatives) has not made, and has not relied upon, any representation, warranty, covenant or agreement relating to the transactions contemplated hereunder other than those expressly set forth herein.

M. COUNTERPARTS.

This Contract may be executed by the Parties in any number of separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts shall together constitute one and the same agreement. All signatures need not be on the same counterpart.

N. FURTHER ASSURANCES.

Each party agrees to do all acts and things and to execute and deliver such further written instruments, as may be from time to time reasonably required to carry out the terms and provisions of this Contract.

O. GOVERNING LAW.

This Contract and the rights and duties of the Parties arising out of this Contract shall be governed by, and construed in accordance with, the laws of the State of Texas, without reference to the conflict of laws rules thereof.

P. HEADINGS; TABLE OF CONTENTS.

The headings of the Articles and Sections of this Contract and the Table of Contents are included for convenience only and shall not be deemed to constitute a part of this Contract.

Q. INCORPORATION OF WATER CONTRACT RULES.

PURCHASER acknowledges receipt of LCRA's Water Contract Rules ("Rules"), and further acknowledges that, unless expressly stated otherwise in this Contract, such Rules, as may be amended by the LCRA Board from time to time, are incorporated herein by reference in their entirety and made a part hereof for all purposes.

R. INTERPRETATION AND RELIANCE.

No presumption will apply in favor of any party in the interpretation of this Contract or in the resolution of any ambiguity of any provisions thereof.

S. RELATIONSHIP OF PARTIES.

This Contract and the transactions contemplated hereunder are based upon the active participation of all Parties.

Neither the execution nor delivery of this Contract, nor the consummation of the transactions contemplated hereunder, shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Parties, except for the contractual arrangements specifically set forth in this Contract. Except as is expressly agreed to in writing in this Contract, no party (or any of its agents, officers or employees) shall be an agent or employee of the other party, nor shall a party (or any of its agents, officers or employees) have any power to assume or create any obligation on behalf of the other party. Nothing contained in this Contract shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement among LCRA on the one hand and the PURCHASER on the other hand, except for the contractual arrangements specifically set forth herein.

T. SEVERABILITY.

In the event that any provision of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the Parties shall negotiate an equitable adjustment to the provisions of this Contract with the view to effecting, to the extent possible, the original purpose and intent of this Contract, and the validity and enforceability of the remaining provisions shall not be affected thereby.

U. NO ADDITIONAL WAIVER IMPLIED.

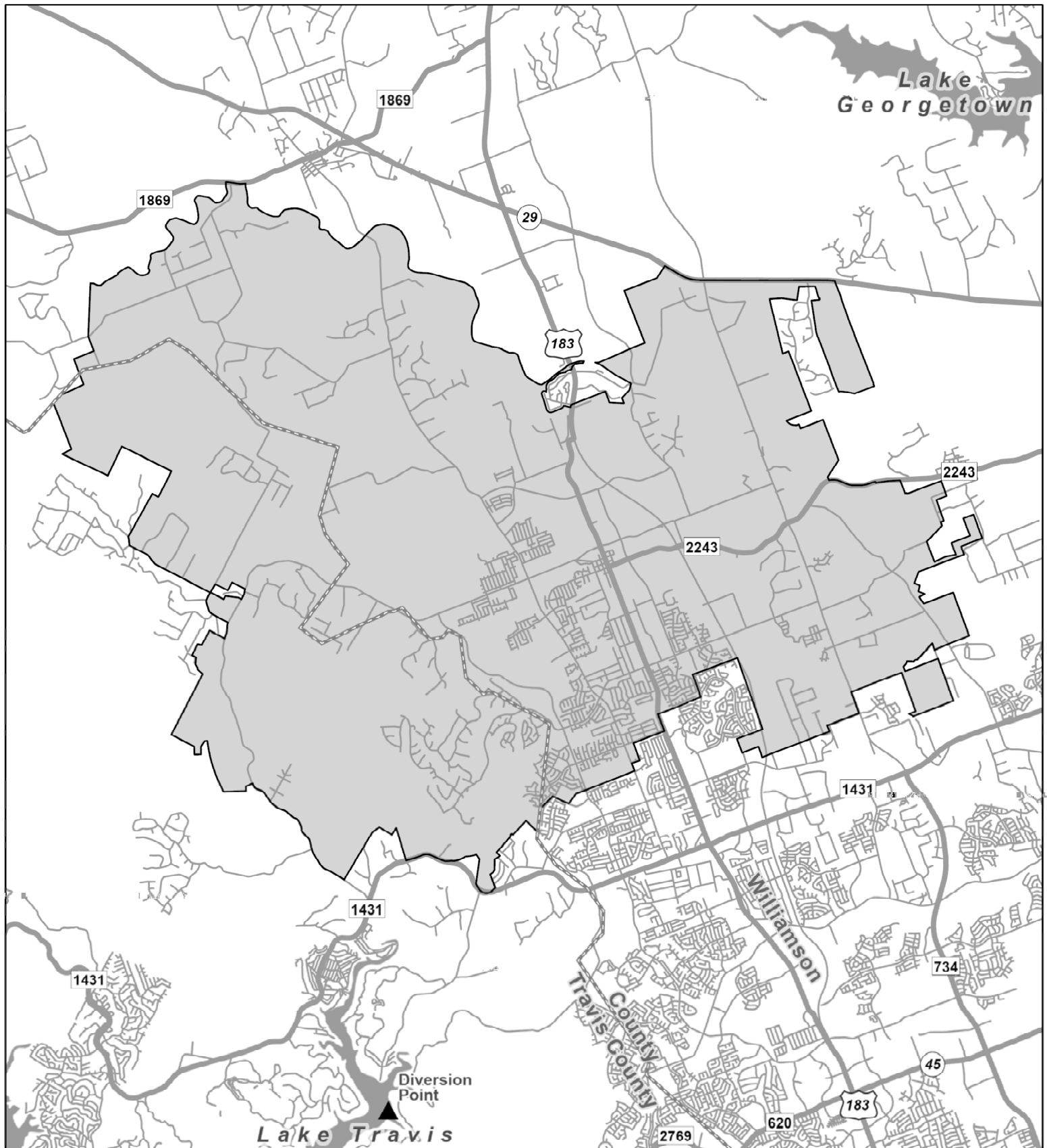
No waiver or waivers of any breach or default (or any breaches or defaults) of any term, covenant, condition or liability under this Contract, or of performance by the other party of any duty or obligation under this Contract, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

V. SHORT TERM SALES OF FIRM WATER TO THIRD PARTIES.

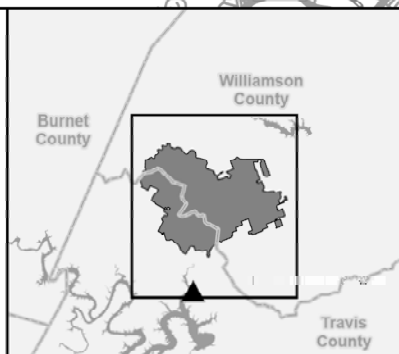
LCRA and PURCHASER agree that LCRA may market and re-sell any portion of PURCHASER's Reserved Water to third parties on a limited term basis for a management fee and under terms mutually acceptable to LCRA and PURCHASER and in accordance with LCRA Board Policies.

Exhibit B

Description of Point(s) of Availability



-  City of Leander Service Area
-  Diversion Point



City of Leander

Firm
Water Contract
Service Area

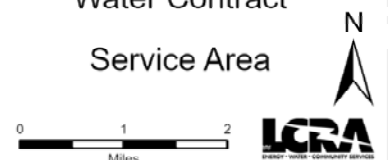


Exhibit C

Description of Service Area

TEXAS WATER COMMISSION



CERTIFICATE OF CONVENIENCE AND NECESSITY

To Provide Water Service Under Chapter 13, Texas Water Code,
and the Rules of the Texas Water Commission

Certificate No. 10302

I. Certificate Holder:

Name: City of Leander

Address: 200 West Willis
Leander, Texas 78641

II. General Description and Location of Service Area:

The City of Leander serves the City of Leander, and surrounding area which is located approximately 20 miles northwest of downtown Austin on U.S. Highway 183 and 8 miles west of Georgetown on Farm to Market Road 2243 and is generally bounded by the South Fork San Gabriel River to the north and Cedar Park to the south in Travis and Williamson Counties.

III. Certificate Maps:

The certificate holder is authorized to provide water service in the area identified on the Commission's official service area map, WRS-227 and WRS-246 maintained in the offices of the Texas Water Commission, 1700 North Congress, Austin, Texas with all attendant privileges and obligations.

This certificate is issued subject to the rules and orders of the Commission, the laws of the State of Texas, conditions contained herein and may be revoked for violations thereof. The certificate is valid until amended or revoked by the Commission.

ISSUED this day of 17th of November, 19 87.

ATTEST:

Karen A. Phillips Paul Hopkins
For the Commission

STATE OF TEXAS X
 X
COUNTY OF TRAVIS X

I, Karen A. Phillips, Chief Clerk of the Texas Water Commission, do hereby certify that the attached and foregoing is a true and correct copy of an Application (No. 6199 & 6580) of the Commission dated November 17, 1987, amending and transferring a water Certificate of Convenience and Necessity to the City of Leander (Certificate No. 10302), the original of which is on file in the office of the Commission.

Given under my hand and the seal of the Texas Water Commission, this the 2nd day of December.



Karen A. Phillips, Chief Clerk
Texas Water Commission



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

City of Leander

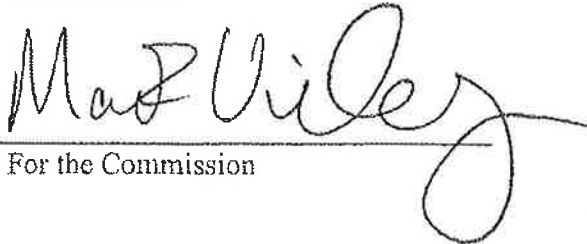
having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

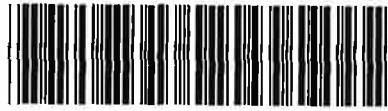
Certificate of Convenience and Necessity No. 10302

to provide continuous and adequate water utility service to that service area or those service areas in Travis and Williamson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 34787-C and 34789-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of City of Leander to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this

JUN 24 2009


For the Commission



Control Number: 45842



Item Number: 21

Addendum StartPage: 0

DOCKET NO. 45842

RECEIVED

APPLICATION OF CITY OF LEANDER §
TO AMEND A WATER CERTIFICATE §
OF CONVENIENCE AND NECESSITY, §
TO DECERTIFY SERVICE AREA §
PORTIONS, AND FOR PARTIAL DUAL §
CERTIFICATION IN WILLIAMSON §
COUNTY §

PUBLIC UTILITY COMMISSION

OF TEXAS

2016 DEC 21 PM 4:05
PUBLIC UTILITY COMMISSION
FILING CLERK

NOTICE OF APPROVAL

This Notice addresses the application of the City of Leander to amend certificate of convenience and necessity 10302, to decertify service area portions from its water service area, and to obtain partial dual certification with the City of Georgetown's certificate of convenience and necessity 12369 in Williamson County. Commission Staff recommended approval of the application. The application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. On April 11, 2016, Leander filed an application to amend certificate 10302 in Williamson County.
2. On May 25, 2016, Order No. 3 was issued, deeming the application administratively complete, requiring provision of notice by Leander, and establishing a procedural schedule for continued processing.
3. On May 11 and June 27, 2016, Leander filed supplemental application information, providing mapping data for the proposed certificated service area and evidence of agreements with Leander Municipal Utility District's (MUD) 1, 2, and 3 regarding consent to Leander providing retail water services within the MUDs' boundaries.
4. On July 5, 2016, Leander filed evidence of Williamson County MUD 12's written consent to Leander's application.

5. On July 20, 2016, Order No. 4 was issued, finding Leander's notice sufficient and establishing a procedural schedule for further processing.
6. On September 27, 2016, Leander submitted a signed consent form evidencing consent to the proposed map and revised certificate.
7. On November 29, 2016, Commission Staff recommended approval of the application, concluding that Leander meets the applicable statutes and regulations, approving the application as necessary for the service, accommodation, convenience, and safety of the public, and that Leander will be capable of providing continuous and adequate service.
8. On December 13, 2016, Leander and Commission Staff filed a joint proposed notice of approval and motion to admit evidence.

Notice

9. The Commission caused notice of this application to be published in the *Texas Register* on April 29, 2016.
10. Notice was provided by publication in the *Hill Country News* on June 9 and 16, 2016.
11. A publisher's affidavit, dated June 16, 2016 and signed by Ashley Sava, an authorized representative of the *Hill Country News*, attests to published notice.
12. Leander mailed notice of the application to neighboring systems, landowners, and cities and to neighboring utilities and affected parties on June 23, 2016.
13. On June 27, 2016, Leander filed affidavits providing proof that landowners and other entities were provided notice of the application on June 23, 2016.

Evidentiary Record

14. On December 14, 2016, Order No. 6 was issued, admitting evidence into the record of this proceeding.

Description of the Amendment

15. The total proposed service area requested to be included in this application comprises approximately 2,524 acres, no current customers, and no Leander infrastructure. The proposed service area to be released by Leander consists of 541 acres in Williamson County known as the Garey Ranch Tract.

16. The proposed service area to be added to Leander is located approximately three miles east of downtown Leander and is generally bounded on the north by TX 29; on the east by Old Creekside Road; on the south by the San Gabriel River; and on the west by CR 266. The proposed utility service area to be released by Leander is located approximately four miles east of downtown Leander and is generally bounded on the north by the San Gabriel River; on the east by Escalera Parkway and VP Ranch Road; on the south by FM 2243; and on the west by Ronald Reagan Boulevard.

Informal Disposition

17. More than 15 days have passed since completion of the notice provided in this docket.
18. There were no protests or hearing requests filed in response to the public notices. No issues of fact or law were disputed by any party; therefore, no hearing was necessary.
19. Leander and Commission Staff are the only parties to the proceeding.
20. The map and certificate referenced in finding of fact 6 are attached to this Notice.

II. Conclusions of Law

1. The Commission has jurisdiction and authority over this docket under Texas Water Code §§ 13.242- 13.250¹ and 16 Texas Administrative Code (TAC) §§ 24.101-.107.
2. Leander is a Texas municipality and a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(58).
3. Leander provided public notice of the application in compliance with TWC § 13.246 and with 16 TAC § 24.106.
4. After considering the relevant factors in TWC § 13.246(c), Leander has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.
5. Leander has demonstrated that the application meets the requirements set forth in TWC §§ 13.242-.250 and 16 TAC §§ 24.101-.102 to be granted an amendment to certificate 10302.

¹ Tex. Water Code Ann. §§ 13.242- 13.250 (West 2008 and Supp. 2016) (TWC).

6. Leander has demonstrated that an amendment of its water certificate 10302 is necessary for the service, accommodation, convenience, or safety of the public, as required in TWC § 13.246(b) and 16 TAC § 24.102(c).
7. Under TWC § 13.257(r) and 16 TAC § 24.106(f), Leander is required to record a certified copy of the approved certificate and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Leander's application is approved.
2. Leander's certificate 10302 is amended to reflect the addition of approximately 2,524 acres into its service area and the release of 541 acres from its service area in Williamson County.
3. Leander shall serve every customer and applicant for service within the approved area under certificate 10302 that request water service and meet the terms of Leander's regulations to receive water service and such service shall be continuous and adequate.
4. Leander shall comply with the recording requirements in TWC § 13.257(r) for the area in Williamson County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this notice.
5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 21st day of December 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "Irene Montelongo", is written over a horizontal line.

IRENE MONTELONGO
DIRECTOR, DOCKET MANAGEMENT

W2013

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Public Utility Commission of Texas

By These Presents Be It Known To All That
City of Leander

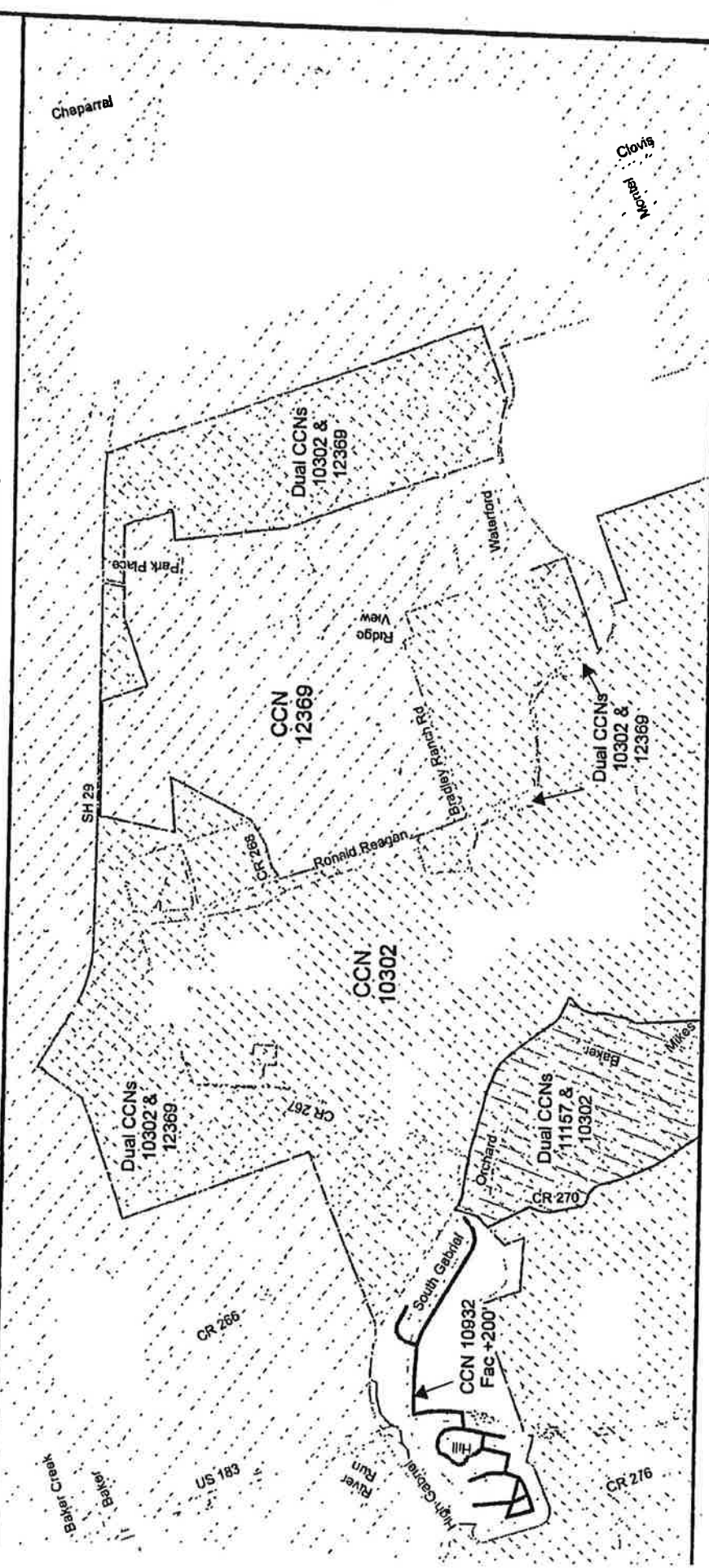
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Leander is entitled to this

Certificate of Convenience and Necessity No. 10302

to provide continuous and adequate water utility service to that service area or those service areas in Williamson County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45842 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Leander, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 21st day of December 2016.

City of Leander
Portion of Water Service Area
CCN No. 10302
PUC Docket No. 45842
Amended CCN No. 10302 and Obtained Dual Certification with
City of Georgetown, CCN No. 12369 in Williamson County

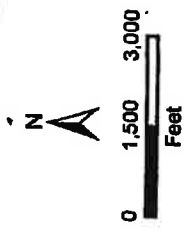


Water CCN Service Areas

-  10302 - City of Leander
-  12369 - City of Georgetown
-  11157 - Aqua Texas Inc

Water Facility CCN

-  10932 - High Gabriel WSC - Facilities +200'



Public Utility Commission of Texas
 11 N. Congress Ave
 Austin, TX 78701

Map by Kristy Nguyen
 Data created September 8, 2016
 Project Path: n:\Final Maps\45842.mxd



Control Number: 45843



Item Number: 32

Addendum StartPage: 0

DOCKET NO. 45843

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2017 MAY -1 PM 3:40

APPLICATION OF CITY OF LEANDER §
TO AMEND A WATER CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
AND FOR PARTIAL DUAL §
CERTIFICATION IN WILLIAMSON §
COUNTY (RANCHO SIENNA) §

PUBLIC UTILITY COMMISSION

OF TEXAS

PUBLIC UTILITY COMMISSION
FILING CLERK

NOTICE OF APPROVAL

This Notice addresses the application of the City of Leander to amend certificate of convenience and necessity 10302 and to obtain partial dual certification with the City of Georgetown's certificate of convenience and necessity 12369 in Williamson County. Commission Staff recommended approval of the application. The application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. On April 11, 2016, Leander filed an application to amend certificate 10302 in Williamson County.
2. On May 25, 2016, Order No. 3 was issued, deeming the application administratively complete, requiring provision of notice by Leander, and establishing a procedural schedule for continued processing.
3. On June 27, 2016, Leander filed supplemental application information, providing mapping data for the proposed certificated service area.
4. On July 5, 2016, Leander filed evidence of Williamson County Municipal Utility District's written consent to Leander's application.
5. On July 7, 2016, Order No. 4 was issued, finding Leander's notice sufficient and establishing a procedural schedule for further processing.
6. On September 27, 2016, Leander submitted a signed consent form evidencing consent to the proposed map and revised certificate prepared by Commission Staff.

32

7. On October 4, 2016, Commission Staff recommended approval of the application, concluding that Leander meets the applicable statutes and regulations, approving the application is necessary for the service, accommodation, convenience, and safety of the public, and that Leander will be capable of providing continuous and adequate service.
8. On October 12, 2016, Leander and Commission Staff filed a joint proposed notice of approval and motion to admit evidence.
9. On December 22, 2016, Leander requested abatement of this proceeding, for good cause, so that Leander, Chisolm Trail Special Utility District, and the City of Georgetown could conduct and conclude discussions regarding the eventual transition of retail water utility customers to Leander following approval of the application. Commission Staff did not oppose Leander's request.
10. On January 3, 2017, Order No. 5 was issued, granting Leander's request, abating the proceeding, and establishing a deadline for Leander to file either (a) a report regarding the status of discussions, or (b) a request that the docket be unabated and proceed to final resolution.
11. From January 18, 2017 through April 25, 2017, Leander requested and was granted further abatements in order to conclude discussions regarding the eventual transition of retail water utility customers to Leander following approval of the application.
12. On April 25, 2017, the City of Leander filed a request to unabate the docket in order to proceed to final resolution.
13. On April 28, 2017, Order No. 11 was issued, unabating the docket to proceed to final resolution.

Notice

14. The Commission caused notice of the application to be published in the *Texas Register* on April 29, 2016.
15. Notice was provided by publication in the *Hill Country News* on June 9 and 16, 2016.
16. A publisher's affidavit, dated June 16, 2016 and signed by Ashley Sava, an authorized representative of the *Hill Country News*, attests to published notice.

17. Leander mailed notice of the application to neighboring systems, landowners, and cities and to neighboring utilities and affected parties on June 23 and July 1, 2016.
18. On June 27 and July 5, 2016, Leander filed affidavits providing proof that landowners and other entities received notice of the application on June 24 and July 5, 2016.

Evidentiary Record

19. On April 28, 2017, Order No. 12 was issued, admitting evidence into the record of this proceeding.

Description of the Amendment

20. The total proposed service area requested in this application comprises approximately 610 acres, no current customers, and no Leander infrastructure.
21. The proposed water service area is located approximately four miles east of downtown Leander and is generally bounded on the north by TX 29, on the east by Ridge View and Park Place Drive, on the south by Bradley Ranch Road, and on the west by Ronald Reagan Boulevard.

Informal Disposition

22. More than 15 days have passed since completion of the notice provided in this docket.
23. There were no protests or hearing requests filed in response to the public notices. No issues of fact or law were disputed by any party; therefore, no hearing was necessary.
24. Leander and Commission Staff are the only parties to the proceeding.
25. The map and certificate are attached to this Notice.

II. Conclusions of Law

1. The Commission has jurisdiction and authority over this docket under Texas Water Code §§ 13.242- 13.250¹ and 16 Texas Administrative Code (TAC) §§ 24.101-.107.
2. Leander is a Texas municipality and a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(58).

¹ Tex. Water Code Ann. §§ 13.242- 13.250 (West 2008 and Supp. 2016) (TWC).

3. Leander provided public notice of the application in compliance with TWC § 13.246 and with 16 TAC § 24.106.
4. After considering the relevant factors in TWC § 13.246(c), Leander has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.
5. Leander has demonstrated that the application meets the requirements set forth in TWC §§ 13.242-.250 and 16 TAC §§ 24.101-.102 to be granted an amendment to its CCN.
6. Leander has demonstrated that an amendment of its water certificate 10302 is necessary for the service, accommodation, convenience, or safety of the public, as required in TWC § 13.246(b) and 16 TAC § 24.102(c).
7. Under TWC § 13.257(r) and 16 TAC § 24.106(f), Leander is required to record a certified copy of the approved certificate and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Leander's application is approved.
2. Leander's certificate 10302 is amended to reflect the addition of approximately 610 acres into its service area in Williamson County.
3. Leander shall serve every customer and applicant for service within the approved area under certificate 10302 that request water service and meet the terms of Leander's regulations to receive water service and such service shall be continuous and adequate.
4. Leander shall comply with the recording requirements in TWC § 13.257(r) for the area in Williamson County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this notice.

5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 1st day of May 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "Irene Montelongo", is written over a horizontal line.

IRENE MONTELONGO
DIRECTOR, DOCKET MANAGEMENT

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Public Utility Commission of Texas

By These Presents Be It Known To All That
City of Leander

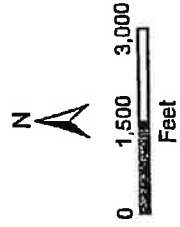
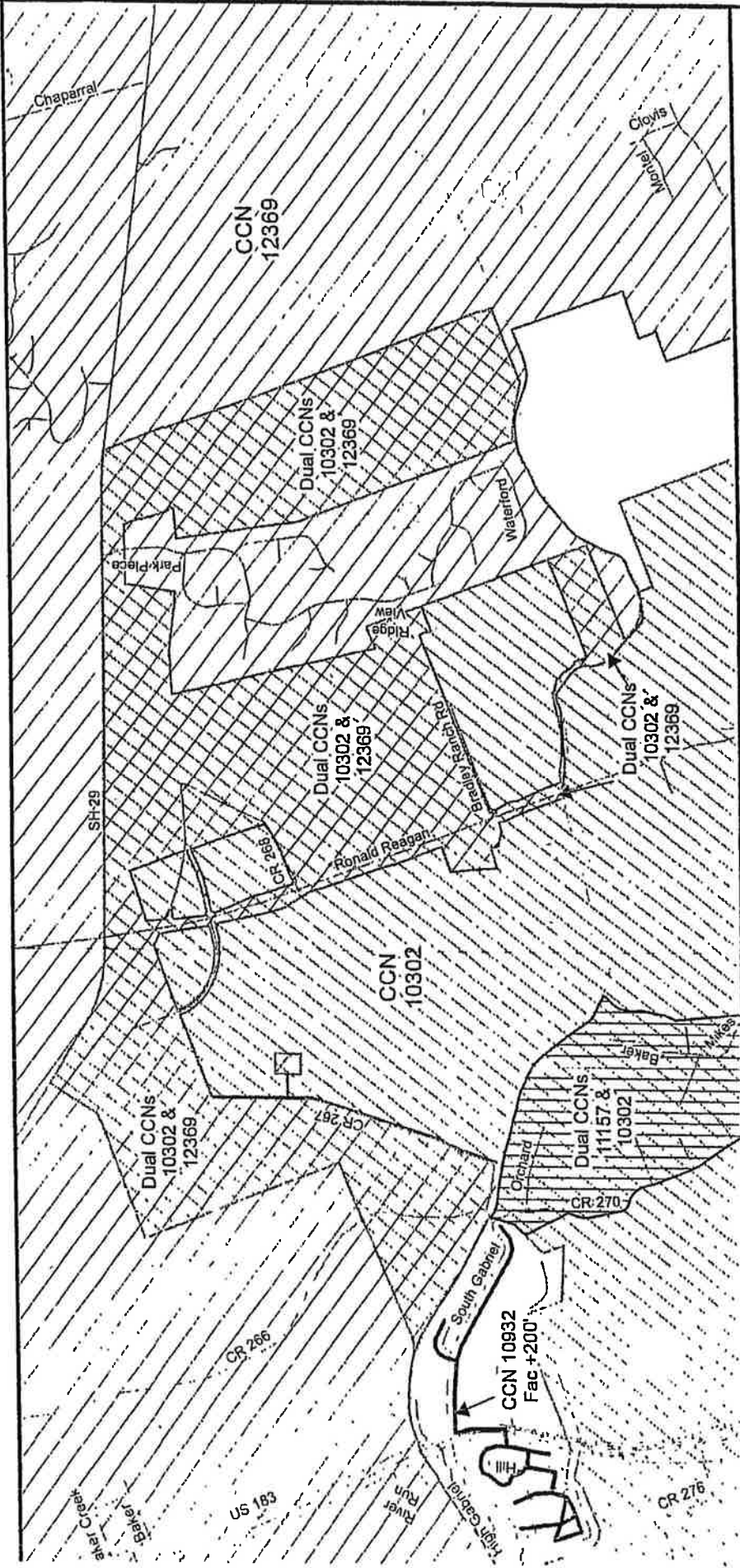
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Leander, is entitled to this:

Certificate of Convenience and Necessity No. 10302

to provide continuous and adequate water utility service to that service area or those service areas in Williamson County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45843 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Leander to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 1st day of May 2017.

City of Leander
 Portion of Water Service Area
 CCN No. 10302
 PUC Docket No. 45843
 Amended CCN No. 10302 and Obtained Dual Certification with
 City of Georgetown, CCN No. 12369 in Williamson County



- Water CCN Service Areas**
- 10302 - City of Leander
 - 12369 - City of Georgetown
 - 11157 - Aqua Texas Inc

Water Facility CCN

- 10932 - High Gabriel WSC - Facilities +200'



Map by: Kristy Nguyen
 Date created: September 8, 2018
 Project Path: n:\Final Maps\45843.mxd

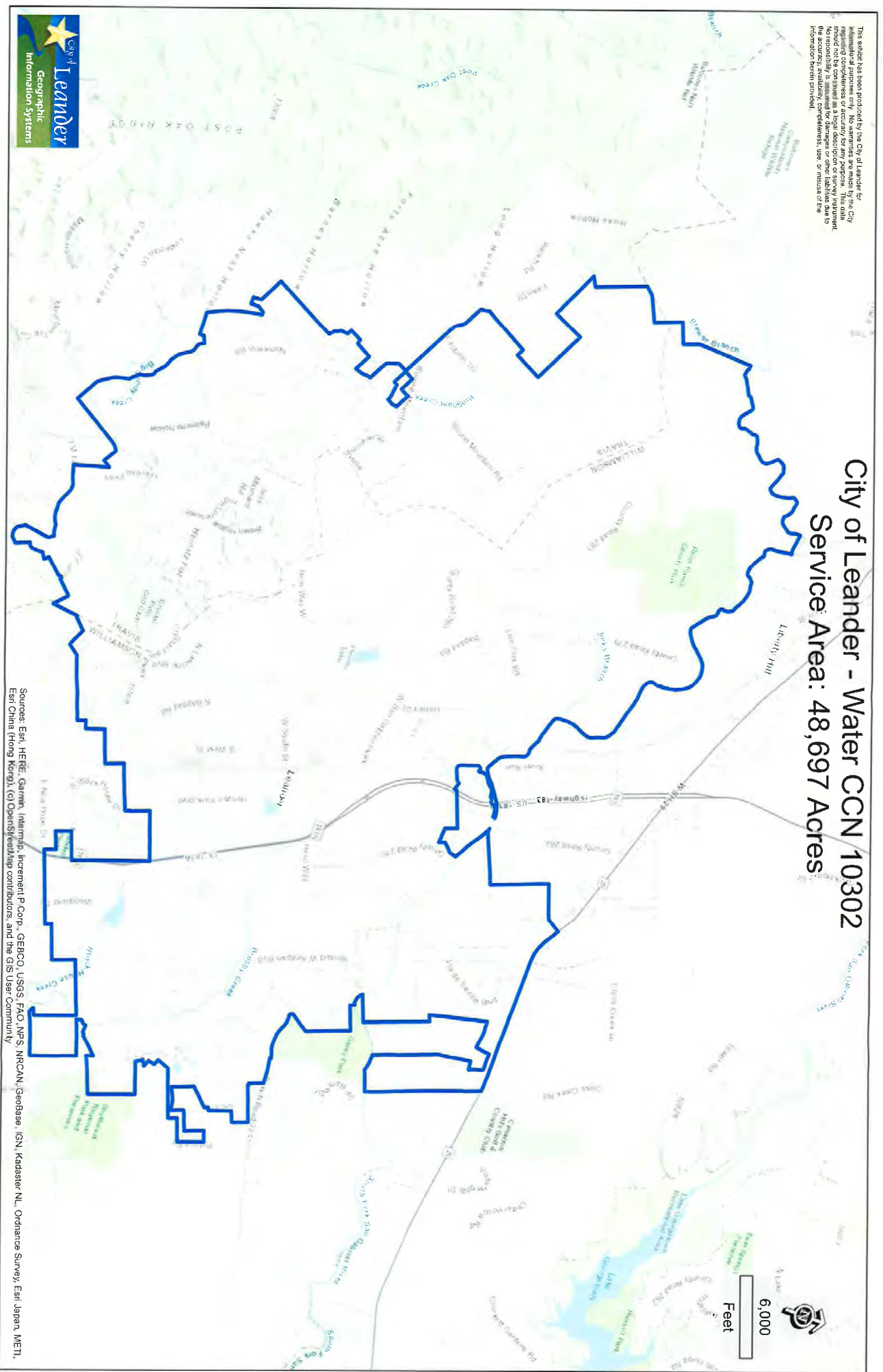
Utility Commission of Texas
 N. Congress Ave
 TX 78701

Exhibit D

Depiction of Service Area

The exhibit has been produced by the City of Leander for informational purposes only. No warranties are made by the City regarding completeness or accuracy for any purpose. This site is not intended to be used as a legal document. The City assumes no responsibility for damages or other liability arising from the use of the information herein provided.

City of Leander - Water CCN 10302 Service Area: 48,697 Acres



Sources: Esri, HERE, Garmin, Intermap, P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community



Exhibit E and F

**Water Conservation Plan
and
Drought Contingency Plan**

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO. 21-020-00

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING CHAPTER 13, ARTICLE 13.09, WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN OF THE LEANDER CODE OF ORDINANCES TO REVISE DROUGHT CONTINGENCY REGULATIONS; PROVIDING FOR ENFORCEMENT AND ESTABLISHING A PENALTY; SEVERABILITY, EFFECTIVE DATE AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, water is a scarce resource and the City of Leander, Texas (the "City") desires to continue to implement water conservation measures to help ensure adequate water supply for the current and future population of the City;

WHEREAS, the review and update of water conservation and drought contingency regulations is reasonable and necessary for the public health, safety, and welfare;

WHEREAS, as part of the overall goal to expand, protect and develop both existing and future water resources, the City undertook to review its water conservation and drought contingency measures to implement or maintain its aggressive approach to water conservation efforts;

WHEREAS, the preservation and improvement of the natural environment and maintenance of a working ecological balance are of increasing concern;

WHEREAS, City continues to experience frequent droughts and periodic shortages of adequate water supply; therefore, it is the purpose of this amendment to continue to enforce the more efficient use of routine, individual, and daily restrictions, as well as larger scale, commercial restrictions, on the use of varied quantities of water;

WHEREAS, the City Council, at a public meeting, has had the opportunity to accept public comment regarding the updated water conservation and drought contingency regulations and finds it prudent to approve the revised and updated provisions;

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 incorporated into this Ordinance as findings of fact by the City Council of Leander, Texas. The City Council hereby further finds and determines that the provisions of this ordinance are reasonable and necessary to protect the public health, safety and welfare.

Section 2. Amendment of Art. 13.09. Chapter 13, Article 13.09 Water Conservation

and Drought Contingency Plan of the Leander Code of Ordinances provided in Exhibit A to this ordinance is hereby amended to update and enhance the City's regulations to conserve the available water supply, protect the integrity of water supply facilities with particular regard for domestic water use, sanitation, and fire protection, to protect and preserve public health, welfare, and safety, and to minimize the adverse impacts of extreme drought, periods of abnormally high water usage, system contamination, or extended reduction in ability to supply water due to equipment failure, water supply shortage or other water supply emergency conditions.

Section 3. Savings Clause. All rights and remedies of the City of Leander are expressly reserved as to any and all violations of the provisions of any ordinances affecting water conservation or the subject of this Ordinance 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 4. Amendment of Ordinances. Chapter 13, Article 13.09, Leander Code of Ordinances is hereby amended as provided herein. All provisions of the Leander Code of Ordinances inconsistent with or in conflict with this ordinance are hereby amended to the extent of such inconsistency or 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 5. Severability. Should any section or part of this ordinance 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 ordinance are declared to be severable.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage.

Section 7. 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, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED on this 18 day of March 2021.

Attest:

THE CITY OF LEANDER, TEXAS


Dara Crabtree, City Secretary




Troy Hill, Mayor

EXHIBIT A

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN

Sec. 13.09.001 Declaration of policy, purpose and intent

- (a) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of extreme drought, periods of abnormally high water usage, system contamination, or extended reduction in ability to supply water due to equipment failure, water supply shortage or other water supply emergency conditions, the city hereby adopts the following regulations and restrictions on the delivery and consumption of water ("the plan").
- (b) Water uses regulated or prohibited under this article are considered to be nonessential and continuation of such uses during times of water shortage or other emergency water supply condition deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in section 13.09.014 of this article.

Sec. 13.09.002 Public Involvement

The public may have an opportunity to provide input on preparation of the plan at a regularly scheduled public meeting of the City.

Sec. 13.09.003 Public Education

The City will periodically provide the public with information about the plan, including information about the conditions under which each phase of the plan is to be initiated or terminated and the drought response measures to be implemented in each phase. This information may be provided by, but is not limited to, media releases, bill inserts, website announcements, digital platform messages, or other similar methods of mass communication.

Sec. 13.09.004 Coordination with regional water planning groups

The service area of the City is located within Regional Water Planning Group (RWPG) G, Brazos River Authority, and the City has given this plan to the Lower Colorado River Authority, and the Brazos River Authority.

Sec. 13.09.005 Authority to implement response measures

In the event of unusual operational events, catastrophic occurrences, severe weather events, or other public emergencies, the city manager or city manager's designee may implement mandatory water restrictions in addition to those set out in this article. The city manager or city manager's designee is hereby authorized and directed to implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety and welfare. The city manager or city manager's designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this article. Unless otherwise specified by the city manager, the city manager's primary designee is the public works director and the alternate designee is the city engineer.

Sec. 13.09.006 Notice of implementation of mandatory provisions

The City shall notify the executive director of the state commission on environmental quality and the LCRA general manager in writing within five (5) business days of the implementation of any mandatory provisions of the drought contingency plan.

Sec. 13.09.007 Applicability

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the city. The terms "person" and "customer" as used in the plan include individuals, corporations,

partnerships, associations and all other legal entities. The provisions of this article do not apply to: (i) persons who use water from private wells; (ii) or persons who otherwise use water from a source other than the City's water utility system.

Sec. 13.09.008 Definitions

(a) For the purposes of this plan, the following definitions shall apply:

- (1) BRA. The Brazos River Authority or successor agency.
- (2) Conservation. Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.
- (3) Customer. Any person, company or organization using water supplied by the city.
- (4) Domestic water use. Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry or institution.
- (5) Industrial water use. The use of water in processes designed to convert materials of lower value into forms having greater usability and value, including the development of power by means other than hydroelectric.
- (6) Landscape irrigation. Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, parks, rights-of-way, and medians.
- (7) LCRA. The Lower Colorado River Authority, or successor agency.
- (8) Nonessential water use. Water uses that are neither essential nor required for the protection of public health, safety, and welfare, including, but not limited to:
 - (A) Landscape irrigation, except as otherwise provided under this article;
 - (B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
 - (C) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - (D) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - (E) Flushing gutters or permitting water to run or accumulate in any gutter or street;
 - (F) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, ornamental ponds, Jacuzzi-type pools, or similar;
 - (G) Use of water in a fountain or pond for aesthetic or scenic purposes such as fountains, reflecting pools, and water gardens except where necessary to support aquatic life;
 - (H) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
 - (I) Use of water from hydrants or flush valves for construction purposes or any other purposes other than firefighting.
- (9) System. The combination of components of the water supply network that carry, store, or move potable water from a centralized treatment plant to water customers. Components include but are not limited to transmission lines, pumps, ground and elevated storage tanks.
- (10) TAC. Texas Administrative Code.
- (11) TCEQ. Texas Commission on Environmental Quality.

Sec. 13.09.009 Initiation and termination of water conservation and drought response phases

- (a) The city manager or city manager's designee shall monitor the water supply and/or demand conditions on a daily basis and determine when conditions warrant initiation or termination of each phase of the plan. The base water conservation plan, outlined in Phase 1, shall be in force at all times unless subsequent Phases are enacted. Water supply conditions will be determined by the source of supply, system capacity, and weather conditions. Water demand will be measured by the

peak daily demands on the system.

- (b) The city manager or city manager's designee shall implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety and welfare.
- (c) The triggering criteria described below are based on information provided by LCRA and BRA; and are further based on known system capacity limits.
- (d) Public notification of the initiation or termination of water conservation and drought response phases shall be by one or more combination of methods which may include, but is not limited to, media releases, bill inserts, website announcements, digital platform messages, automated telephone calls, and signs posted at service area entry points.

Sec. 13.09.010 Conservation Phase 1 – Base Conditions

- (a) Water Use Requirements: Phase 1 base conditions will be in effect year-round.

- (1) Notice(s) will be designed to increase customer awareness of water conservation and encourage the most efficient use of water. The City shall keep a copy of the current public announcement on water conservation awareness on file and available for inspection by TCEQ.

- (b) City Actions: To manage supply, the City will:

- (1) Continually review system operations, identify ways to improve system efficiency and accountability, and actively promote water conservation.
 - (2) Request water customers to voluntarily limit and reduce the use of water for nonessential purposes and to practice water conservation.
 - (3) Establish mechanisms to remind water customers to practice water conservation year-round.

- (c) Customer Actions: Under threat of penalty for violation, the following conditions shall apply to all retail water customers:

- (1) It is unlawful for any customer to waste water through use that serves no practical purpose. Such water waste includes the failure to repair a leak, either inside or outside a home, building, or facility, within a reasonable time, not to exceed 60 days from the date that a notice was provided about the leak resulting in water runoff or accumulation in a street, gutter, or parking lot.

- (2) Residential water customers who choose to use water for landscape irrigation may only do so in accordance with a twice-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section, as determined by the City:

- (A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday and/or Friday.

- (B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Wednesday and/or Saturday.

- (C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday and/or Sunday.

- (3) Commercial, multi-family, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section, as determined by the city:

- (A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday.

- (B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Saturday.

- (C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday.

- (4) Landscape irrigation by way of automatic systems or hose-end sprinklers is not allowed on Monday.

- (5) Landscape irrigation by way of automatic systems or hose-end sprinklers is limited to the hours from 12 a.m. (midnight) to 10 a.m. and from 7 p.m. to 12 a.m. (midnight), in accordance with the applicable watering schedules and designated watering days as determined by the City.

- (6) Landscape irrigation limits do not apply if the irrigation is performed:
 - (A) By means of a hand-held hose, soaker hose, or drip irrigation system.
 - (B) At a commercial plant nursery.
 - (C) During the testing of new irrigation system installation or existing irrigation system repair.
- (7) Requests for one-time exceptions to Phase 1 landscape irrigation limits would be considered by the City on a case-by-case basis and may be granted for up to 21 days for new lawn installations.

Sec. 13.09.011 Conservation Phase 2 – Water Use Reduction

- (a) Triggers: Customers shall adhere to Phase 2 conditions when one or more of the following occurs:
 - (1) Total daily water demand equals or exceeds 90% of the total operation system treatment capacity for 3 consecutive days;
 - (2) Total daily water demand equals or exceeds 90% of the firm capacity of key pump stations for 3 consecutive days;
 - (3) The combined storage of Lake Travis and Lake Buchanan reaches 900,000 acre-feet in accordance with LCRA requirements, which are subject to change.
 - (4) The city manager or city manager's designee determines that Phase 2 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand Reduction Target: Phase 2 response measures are designed to achieve a 20% reduction in water use.
- (c) City Actions: To manage supply, the City will:
 - (1) Discontinue water main and line flushing unless necessary for public health reasons.
 - (2) Visually inspect lines on a regular basis and repair leaks.
 - (3) Suspend hydrant testing.
 - (4) Suspend use of potable water for the following City operations:
 - (A) Vehicle washing.
 - (B) Street cleaning.
 - (C) Landscape irrigation in City parks except by hand-held hose or drip irrigation. The City may continue irrigation by way of automatic systems or hose-end sprinklers for up to 21 days only when necessary to salvage new installations.
 - (5) Increase efforts to inform the public on water conservation strategies including:
 - (A) Conduct a monthly review of customer use records;
 - (B) Contact customers with unusually high usage to help identify potential leaks and provide customers with water saving tips and practices to better manage water use and reduce monthly costs.
- (d) Customer Actions: Under threat of penalty for violation, the following Phase 2 response measures shall apply to all retail water customers:
 - (1) Residential water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in Section 13.09.010(c)(5), as determined by the City:
 - (A) Properties with a street address number ending in 1, 5, or 9 may water on Friday.
 - (B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Wednesday.
 - (C) Properties with a street address number ending in 0, 3, or 7 may water on Sunday.
 - (2) Commercial, multi-family, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in Section 13.09.010(c)(5), as determined by the City:
 - (A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday.
 - (B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Saturday.
 - (C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday.
 - (3) Landscape irrigation limits do not apply if the irrigation is performed:

- (A) By means of a hand-held hose, soaker hose, or drip irrigation system.
 - (B) At a commercial plant nursery.
 - (C) During the testing of new irrigation system installation or existing irrigation system repair.
- (4) Other nonessential water uses are prohibited except under the following circumstances:
 - (A) Use of water from hydrants or flush valves for construction purposes.
 - (B) The addition of water to a pool or splash pad where necessary to maintain the water purification system in service or to maintain structural integrity of the pool.
 - (C) The washing of vehicles or boats at a commercial car wash facility, or as part of a charity or fundraising event held on a commercial property during the property's designated watering day as defined in part (d) of this section.
- (e) Wholesale: The City will keep wholesale treated water customers informed about demand and current and projected supply conditions. The City will initiate discussions with wholesale treated water customers about potential curtailment and implementation of mandatory measures to reduce all nonessential water uses.
- (f) Termination: Phase 2 may be rescinded when one or more of the following occurs:
 - (1) The water treatment plant capacity conditions listed above as a triggering event have ceased to exist for 5 consecutive days.
 - (2) LCRA announces that voluntary restrictions by its firm raw water customers are no longer needed;
 - (3) The city manager or city manager's designee determines that the applicable provisions are no longer necessary to protect public health, safety, and welfare; or
 - (4) Upon termination of Phase 2, the City publicly announces to its customers the end of Phase 2 and return to Phase 1 conditions.

Sec. 13.09.012 Conservation Phase 3 – Water Emergency

- (a) Triggers: Customers shall adhere to Phase 3 conditions when one or more of the following occurs:
 - (1) Total daily water demand equals or exceeds 95% of the total operation system treatment capacity for (3) consecutive days.
 - (2) Total daily water demand equals or exceeds 95% of firm capacity of key pump stations for three consecutive days;
 - (3) LCRA general manager or board declares a water emergency.
 - (4) The city manager or city manager's designee determines that Phase 3 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand Reduction Target: Phase 3 response measures are designed to achieve a 50% reduction in water use.
- (c) City Actions: To manage supply, the City will, in addition to Phase 2 response measures:
 - (1) Discontinue water main and line flushing unless necessary for public health, safety, and welfare.
 - (2) Explore additional emergency water supply options, which may include arranging for the emergency purchase of water from utilities for which there exists proper agreements for such purchase.
 - (3) Increase efforts to inform the public on water conservation strategies;
 - (4) Increase the detection and repair of water leaks in the distribution system;
 - (5) Read water meters as necessary to ensure compliance with this program for the benefit of all the customers.
- (d) Customer Actions: Under threat of penalty for violation, Phase 2 response measures, along with the following measures which may supersede, shall apply to all retail water customers:
 - (1) Landscape irrigation is prohibited except by means of a hand-held hose.
 - (2) Industrial water uses are prohibited except for some limited uses as deemed necessary by the city manager or city manager's designee to protect public health, safety, and welfare.
- (e) Wholesale: The City will contact its wholesale treated water customers to initiate mandatory

measures to control water demand and to ensure capacity for emergency response requirements. Mandatory measures will include the curtailment of nonessential water uses in accordance with the wholesale water customer's own drought contingency plan.

- (f) **Terminations:** Phase 3 may be rescinded when one or more of the following occurs:
- (1) The water treatment plant capacity condition listed above as a triggering event has ceased to exist for five (5) consecutive days;
 - (2) The LCRA announces that mandatory restrictions by its firm raw water customers are no longer required;
 - (3) The city manager or city manager's designee determines that Phase 3 response measures are no longer necessary to protect public health, safety, and welfare; or
 - (4) Upon termination of Phase 3, the City publicly announces to its customers the end of Phase 3 and return to Phase 2 conditions.

Sec. 13.09.013 Conservation Phase 4 – Water System Failure

- (a) **Triggers:** Customers shall adhere to the Phase 4 response measures when one or a combination of the following occurs:
- (1) Major water line breaks or pump system failures that cause substantial loss of ability to provide water service;
 - (2) Natural or man-made contamination of the water supply source;
 - (3) Water demand approaches a reduced delivery capacity for all or part of the system, creating a situation in which water system demand exceeds water system capacity, for an extended length of time, as determined by the city manager or his/her designee;
 - (4) The city manager or city manager's designee determines that Phase 4 response measures are necessary to protect public health, safety, and welfare.
- (b) **Demand Reduction Target:** Phase 4 response measures are designed to limit the daily water demand to no more than 50% capacity.
- (c) **City Actions:** To manage supply, the City will:
- (1) Assess the severity of the problem and identify the actions needed and time required to resolve the problem;
 - (2) Issue applicable public notifications and messaging as to the water system or source failure;
 - (3) Severely restrict or prohibit, as appropriate, all water system uses in the affected service area;
 - (4) Read meters as often as needed to ensure program compliance for the benefit of all customers;
 - (5) Minimize flushing for dead-end mains;
 - (6) Cease allowance or approval of applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities unless project is deemed necessary to resolve the water system failure;
 - (7) Operate the distribution system according to applicable regulations;
 - (8) Initiate emergency interconnects or alternative supply arrangements.
- (d) **Customer Actions:** Under threat of penalty for violation, Phase 3 response measures, along with the following measures which may supersede, shall apply to all retail water customers:
- (1) Use of water is restricted as deemed necessary to meet the emergency.
- (e) **Wholesale:** The City will contact its wholesale treated water customers to initiate mandatory measures to control water demand and to ensure capacity for emergency response requirements. This may include ceasing water supply to the wholesale water customer.
- (f) **Termination:** Phase 4 may be rescinded when one or more of the following occurs:
- (1) The water system failure conditions listed above as a triggering event has ceased to exist for five (5) consecutive days;
 - (2) The city manager or city manager's designee determines that Phase 4 response measures are no longer necessary to protect public health, safety, and welfare.

- (3) Upon termination of Phase 4, the City publicly announces to its customers the end of Phase 4 and return to Phase 3 conditions.

Sec. 13.09.014 Enforcement; penalty; termination of water service

- (a) Compliance: No person or entity shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article, or in an amount in excess of that permitted by the drought response phase in effect at the time pursuant to action taken by the city manager, or his/her designee, in accordance with provisions of this plan.

(b) Administrative violation procedures:

- (1) Penalties: Except as otherwise stated herein, each violation of this plan within a 12-month period may be enforced as an administrative violation pursuant to the following:

Violation	Residential Customer	Commercial Customer
First offense	Courtesy warning	Courtesy warning
Second offense	\$50.00	\$200.00
Third offense	\$100.00	\$400.00
Fourth and subsequent offense(s)	\$200.00, and non-emergency disconnection	\$1,000.00, and non-emergency disconnection

- (2) Notice of first offense: If the city manager or city manager's designee reasonably believes that a person or entity has violated this plan, then a notice of first offense shall be in writing and include the name and address of the alleged offender, a location and description of the alleged offense and a description of the administrative fees for subsequent violations. This notice will be mailed to the alleged offender's utility billing address.

- (3) Notice of second and/or subsequent offense: If the city manager or city manager's designee reasonably believes that a person or entity has violated this plan again subsequent to and within a 12-month period immediately following the date of the preceding offense, then a notice of second offense [will be mailed] containing the same information as described in the preceding subsection and a description of the administrative fee for the offense. This notice will be mailed to the alleged offender's utility billing address.

(4) Appeal of administrative offense:

- (A) An alleged offender may appeal an administrative offense as set forth in this article. They request of an appeal shall not suspend or delay an alleged offender's obligation to pay current outstanding utility or administrative fees. Upon successful appeal of an offense, the City will refund administrative fees paid by the alleged offender.
- (B) At the city manager's or city manager designee's discretion, an appeal or final review hearing may be conducted by a scheduled telephone conference involving the alleged offender, pertinent City staff, and testifying witnesses. Prior to any telephone conference, each testifying witness's name, address, telephone number, and relationship to the alleged offender shall be submitted to the city manager, along with any or [other] supporting documentation or physical evidence to be considered during the conference. Any unidentified witness or supporting documents and evidence shall be considered during an appeal conference or meeting.
- (C) Within fifteen (15) business days of the date of the notice of offense, an alleged offender may appeal the administrative offense and fee by submitting a written request to the city manager or city manager's designee. Within 15 business days of the receipt of such request, the city manager or city manager's designee shall appoint one or more pertinent hearing officers and schedule an appeal hearing or telephone conference. At the appeal hearing, the alleged offender may present relevant evidence and bears the burden of proof to show by a

preponderance of the evidence why he or she should not be held in violation or assessed a fee. The hearing officers shall consider all relevant evidence as presented and render a decision within five (5) business days of the conclusion of the appeal hearing. A copy of the decision shall be mailed to the alleged offender's utility billing address.

(D) An alleged offender may appeal the hearing decision by submitting a written request to the city manager within five (5) business days of their receipt of the decision. Within five (5) business days of receiving a timely appeal, the city manager or city manager's designee shall conduct a final review hearing. At this hearing, the alleged offender may present relevant evidence as described in the preceding subsection. The city manager or designee shall consider relevant evidence and render a written decision within five (5) business days of the conclusion of the final review hearing. A copy of the decision shall be mailed to the alleged offender's utility billing address. The final review hearing decision is final and binding.

(E) Should the alleged offender fail to attend a scheduled appeal, it is their responsibility to contact the city manager or city manager's designee within five working days of the scheduled date of the appeal. Failure to do so or the attend the rescheduled appeal for any reason shall constitute a default, render final the administrative offense and associated fee, and further waive the offender's right to an appeal.

(5) Notices: All notices regarding alleged administrative offenses, including, without limitation, notices of offenses, appeal hearing and final review hearing decisions, shall be in writing and forwarded to the alleged offender via first class mail and/or certified mail, return receipt requested, to the alleged offender's current utility billing address. All notices delivered in this manner shall be deemed as received by the alleged offender within five (5) days of the mailing's postmark.

(c) Enforcement as criminal violation: Alternatively, and at the city manager's discretion, any violation of this article may be enforced as a criminal violation in accordance with subsection [(1)] below.

(1) Criminal penalty: Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the mandatory requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(d) Termination of water service; reconnection charge: The city manager or city manager's designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur in accordance with this section. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$1,000.00, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same action shall not be repeated while the plan is in effect. Compliance with this article may also be sought through injunctive relief in the district court.

(1) Emergency termination: If an officer charged with enforcement of this article determines that a violation of this article constitutes an immediate threat to the public health, safety and welfare, and the owner, occupant, or person in control of the property (the "responsible party") is absent or fails to immediately remedy the violation, the officer may terminate water services to such property. The city manager shall hold a hearing within 72 hours after termination of service to determine whether the responsible party violated this article, unless a later hearing date is requested by the responsible party or the responsible party is unable to be located, in which case the hearing shall be held as soon as possible. Promptly after terminating service, the officer charged with enforcement of this article shall give the responsible party written notice of the termination and hearing in compliance with TAC, title 30, section 291.88(b), by personal delivery or posting notice of the hearing on or near the front door of each building on the property, or at the Property Manager's door if available. If it is determined at the hearing that the responsible party did not violate this article, the responsible party's utilities shall be immediately reconnected without charge to the responsible party.

(2) Non-emergency termination: An officer charged with enforcement of this article who determines that a violation of this article is present may seek termination of wastewater [water] service to

the property at which the violation is present after notice and hearing as provided in this subsection. The officer charged with enforcement of this article shall give written notice of the violation of this article to the responsible party and the requirement that the violation be remedied within ten (10) days or water service will be disconnected, such notice to comply with TAC, title 30, section 291.88(a). If the responsible party fails to remedy the violation within the time specified in the notice, the officer charged with enforcement of this article may terminate water service. The responsible party may request a hearing by the city manager regarding termination of service. Written notice of the time and date of the hearing shall be given to the responsible party at least ten days before the hearing date. Notices required by this subsection shall be delivered to the responsible party by in- person service, [or] by letter addressed to the responsible party at his/her post office address.

- (3) Determination at hearing; appeals: If the city manager determines at a hearing held under subsection (1) or (2) above that the responsible party did not violate this article, the responsible party's utilities shall be immediately reconnected without charge to the responsible party. If it is determined that the responsible party violated this article, as appropriate, water service shall not be reconnected until the responsible party remedies the violation of this article and pays all required reconnection fees. The city manager's decision may be appealed to the city council in writing within ten days of the city manager's decision.

(e) Responsibility for violation:

- (1) For purposes of this article, the person or customer in whose name the utility billing office last billed or who is receiving the economic benefit of the water supply is presumed to have knowingly made, caused, used or permitted the use of water received from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article and proof that the violation occurred on the person's or customer's property shall constitute a rebuttal presumption that the person or customer committed the violation.
- (2) Any person, including a person classified as a water customer of the city, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children, and proof that a violation, committed by a child, occurred on property within the parent's control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this article and that the parent could not have reasonably known of the violation.
- (3) A person commits an offense if the person performs an act prohibited by this article or fails to perform an act required by this article. Each instance of a violation of this article is a separate offense.
- (4) Proof of a culpable mental state is not required for a conviction of an offense under this article.
- (5) If a person is convicted for three or more violations of this article within a 12-month period, water service may be disconnected or restricted.
- (6) During Phases 3 or 4, the City reserves the right to perform an emergency disconnection for violations of nonessential water uses, regardless of previous violations.
- (7) The city's authority to seek injunctive or other civil relief available under the law is not limited by this article.

Sec. 13.09.015 Variances

(a) The city manager or city manager's designee may grant variances:

- (1) From specific applications of the outdoor water schedule, providing that the variances do not increase the time allowed for watering but rather alter the schedule for watering; and
- (2) Allowing the use of alternative water sources (i.e., groundwater, reclaimed wastewater) that do not increase demand on potable water sources for outdoor use. Variance requests may be

submitted to staff and need not meet the requirements of subsection [(b)] below.

- (b) The city manager or city manager's designee may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:
 - (1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect
 - (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.
- (c) Persons requesting an exemption from the provisions of this article shall file a petition for variance with the city within five (5) working days after the plan or a particular drought response phase has been invoked. All petitions for variances shall be reviewed by the city manager or city manager's designee, and shall include the following:
 - (1) Name and address of the petitioner(s);
 - (2) Purpose of water use;
 - (3) Specific provision(s) of the plan from which the petitioner is requesting relief.
 - (4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with the plan.
 - (5) Description of the relief requested;
 - (6) Period of time for which the variance is sought;
 - (7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and compliance date; and
 - (8) Other pertinent information.
- (d) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the city manager or city manager's designee:
 - (1) Variances granted shall include a timetable for compliance.
 - (2) Variances granted shall expire when the specific provision of the plan from which the petitioner requested relief is no longer in effect or prior to expiration if, the petitioner has failed to meet specified requirements.
- (e) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

CHAPTER 13 UTILITIES

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.001 Declaration of policy, purpose and intent

- (a) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of extreme drought, periods of abnormally high water usage, system contamination, or extended reduction in ability to supply water due to equipment failure, water supply shortage or other water supply emergency conditions, the city hereby adopts the following regulations and restrictions on the delivery and consumption of water ("the plan").
- (b) Water uses regulated or prohibited under this article are considered to be nonessential and continuation of such uses during times of water shortage or other emergency water supply condition deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in section 13.09.014 of this article.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.002 Public involvement

The public may have an opportunity to provide input on preparation of the plan at a regularly scheduled public meeting of the city.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.003 Public education

The city will periodically provide the public with information about the plan, including information about the conditions under which each phase of the plan is to be initiated or terminated and the drought response measures to be implemented in each phase. This information may be provided by, but is not limited to, media releases, bill inserts, website announcements, digital platform messages, or other similar methods of mass communication.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.004 Coordination with regional water planning groups

The service area of the city is located within Regional Water Planning Group (RWPG) G, Brazos River Authority, and the city has given this plan to the Lower Colorado River Authority, and the Brazos River Authority.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.005 Authority to implement response measures

In the event of unusual operational events, catastrophic occurrences, severe weather events, or other public emergencies, the city manager or city manager's designee may implement mandatory water restrictions in addition to those set out in this article. The city manager or city manager's designee is hereby authorized and directed to implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety and welfare. The city manager or city manager's designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this article. Unless otherwise specified by the city manager, the city manager's primary designee is the public works director and the alternate designee is the city engineer.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.006 Notice of implementation of mandatory provisions

The city shall notify the executive director of the state commission on environmental quality and the LCRA general manager in writing within five (5) business days of the implementation of any mandatory provisions of the drought contingency plan.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.007 Applicability

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the city. The terms "person" and "customer" as used in the plan include individuals, corporations, partnerships, associations and all other legal entities. The provisions of this article do not apply to:

- (1) Persons who use water from private wells; or
- (2) Persons who otherwise use water from a source other than the city's water utility system.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.008 Definitions

For the purposes of this plan, the following definitions shall apply:

BRA. The Brazos River Authority or successor agency.

Conservation. Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer. Any person, company or organization using water supplied by the city.

Domestic water use. Water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry or institution.

Industrial water use. The use of water in processes designed to convert materials of lower value into forms having greater usability and value, including the development of power by means other than hydroelectric.

Landscape irrigation. Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, parks, rights-of-way, and medians.

LCRA. The Lower Colorado River Authority, or successor agency.

Nonessential water use. Water uses that are neither essential nor required for the protection of public health, safety, and welfare, including, but not limited to:

- (1) Landscape irrigation, except as otherwise provided under this article;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, ornamental ponds, Jacuzzi-type pools, or similar;
- (7) Use of water in a fountain or pond for aesthetic or scenic purposes such as fountains, reflecting pools, and water gardens except where necessary to support aquatic life;
- (8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (9) Use of water from hydrants or flush valves for construction purposes or any other purposes other than firefighting.

System. The combination of components of the water supply network that carry, store, or move potable water from a centralized treatment plant to water customers. Components include but are not limited to transmission lines, pumps, ground and elevated storage tanks.

TAC. Texas Administrative Code.

TCEQ. Texas Commission on Environmental Quality.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.009 Initiation and termination of water conservation and drought response phases

- (a) The city manager or city manager's designee shall monitor the water supply and/or demand conditions on a daily basis and determine when conditions warrant initiation or termination of each phase of the plan. The base water conservation plan, outlined in phase 1, shall be in force at all times unless subsequent phases are enacted. Water supply conditions will be determined by the source of supply, system capacity, and weather conditions. Water demand will be measured by the peak daily demands on the system.
- (b) The city manager or city manager's designee shall implement the applicable provisions of this article upon determination that such implementation is necessary to protect public health, safety and welfare.
- (c) The triggering criteria described below are based on information provided by LCRA and BRA; and are further based on known system capacity limits.
- (d) Public notification of the initiation or termination of water conservation and drought response phases shall be by one or more combination of methods which may include, but is not limited to, media releases, bill inserts, website announcements, digital platform messages, automated telephone calls, and signs posted at service area entry points.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.010 Conservation phase 1 - base conditions

- (a) Water use requirements. Phase 1 base conditions will be in effect year-round.
 - (1) Notice(s) will be designed to increase customer awareness of water conservation and encourage the most efficient use of water. The city shall keep a copy of the current public announcement on water conservation awareness on file and available for inspection by TCEQ.
- (b) City actions. To manage supply, the city will:
 - (1) Continually review system operations, identify ways to improve system efficiency and accountability, and actively promote water conservation.
 - (2) Request water customers to voluntarily limit and reduce the use of water for nonessential purposes and to practice water conservation.

- (3) Establish mechanisms to remind water customers to practice water conservation year-round.
- (c) Customer actions. Under threat of penalty for violation, the following conditions shall apply to all retail water customers:
- (1) It is unlawful for any customer to waste water through use that serves no practical purpose. Such water waste includes the failure to repair a leak, either inside or outside a home, building, or facility, within a reasonable time, not to exceed 60 days from the date that a notice was provided about the leak resulting in water runoff or accumulation in a street, gutter, or parking lot.
 - (2) Residential water customers who choose to use water for landscape irrigation may only do so in accordance with a twice-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section, as determined by the city:
 - (A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday and/or Friday.
 - (B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Wednesday and/or Saturday.
 - (C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday and/or Sunday.
 - (3) Commercial, multi-family, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in part (5) of this section, as determined by the city:
 - (A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday.
 - (B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Saturday.
 - (C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday.
 - (4) Landscape irrigation by way of automatic systems or hose-end sprinklers is not allowed on Monday.
 - (5) Landscape irrigation by way of automatic systems or hose-end sprinklers is limited to the hours from 12:00 a.m. (midnight) to 10:00 a.m. and from 7:00 p.m. to 12:00 a.m. (midnight), in accordance with the applicable watering schedules and designated watering days as determined by the city.
 - (6) Landscape irrigation limits do not apply if the irrigation is performed:
 - (A) By means of a hand-held hose, soaker hose, or drip irrigation system.
 - (B) At a commercial plant nursery.
 - (C) During the testing of new irrigation system installation or existing irrigation system repair.
 - (7) Requests for one-time exceptions to phase 1 landscape irrigation limits would be considered by the city on a case-by-case basis and may be granted for up to 21 days for new lawn installations.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.011 Conservation phase 2 - water use reduction

- (a) Triggers. Customers shall adhere to phase 2 conditions when one or more of the following occurs:
- (1) Total daily water demand equals or exceeds 90% of the total operation system treatment capacity for 3 consecutive days;
 - (2) Total daily water demand equals or exceeds 90% of the firm capacity of key pump stations for 3 consecutive days;
 - (3) The combined storage of Lake Travis and Lake Buchanan reaches 900,000 acre-feet in accordance with LCRA requirements, which are subject to change.
 - (4) The city manager or city manager's designee determines that phase 2 response measures are necessary to protect public health, safety, and welfare.
- (b) Demand reduction target. Phase 2 response measures are designed to achieve a 20% reduction in water use.
- (c) City actions. To manage supply, the city will:
- (1) Discontinue water main and line flushing unless necessary for public health reasons.
 - (2) Visually inspect lines on a regular basis and repair leaks.
 - (3) Suspend hydrant testing.
 - (4) Suspend use of potable water for the following city operations:
 - (A) Vehicle washing.
 - (B) Street cleaning.
 - (C) Landscape irrigation in city parks except by hand-held hose or drip irrigation. The city may continue irrigation by way of automatic systems or hose-end sprinklers for up to 21 days only when necessary to salvage new installations.
 - (5) Increase efforts to inform the public on water conservation strategies including:
 - (A) Conduct a monthly review of customer use records.
 - (B) Contact customers with unusually high usage to help identify potential leaks and provide customers with water saving tips and practices to better manage water use and reduce monthly costs.

(d) **Customer actions.** Under threat of penalty for violation, the following phase 2 response measures shall apply to all retail water customers:

(1) Residential water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in section 13.09.010(c)(5), as determined by the city:

(A) Properties with a street address number ending in 1, 5, or 9 may water on Friday.

(B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Wednesday.

(C) Properties with a street address number ending in 0, 3, or 7 may water on Sunday.

(2) Commercial, multi-family, and homeowners association water customers who choose to use water for landscape irrigation may only do so in accordance with a once-weekly watering schedule on designated days, shown below, and designated times, shown in section 13.09.010(c)(5), as determined by the city:

(A) Properties with a street address number ending in 1, 5, or 9 may water on Tuesday.

(B) Properties with a street address number ending in 2, 4, 6, or 8 may water on Saturday.

(C) Properties with a street address number ending in 0, 3, or 7 may water on Thursday.

(3) Landscape irrigation limits do not apply if the irrigation is performed:

(A) By means of a hand-held hose, soaker hose, or drip irrigation system.

(B) At a commercial plan nursery.

(C) During the testing of new irrigation system installation or existing irrigation system repair.

(4) Other nonessential water uses are prohibited except under the following circumstances:

(A) Use of water from hydrants or flush valves for construction purposes.

(B) The addition of water to a pool or splash pad where necessary to maintain the water purification system in service or to maintain structural integrity of the pool.

(C) The washing of vehicles or boats at a commercial car wash facility, or as part of a charity or fundraising event held on a commercial property during the property's designated watering day as defined in subsection (d) of this section.

(e) **Wholesale.** The city will keep wholesale treated water customers informed about demand and current and projected supply conditions. The city will initiate discussions with wholesale treated water customers about potential curtailment and implementation of mandatory measures to reduce all nonessential water uses.

(f) **Termination.** Phase 2 may be rescinded when one or more of the following occurs:

(1) The water treatment plant capacity conditions listed above as a triggering event have ceased to exist for 5 consecutive days;

(2) LCRA announces that voluntary restrictions by its firm raw water customers are no longer needed;

(3) The city manager or city manager's designee determines that the applicable provisions are no longer necessary to protect public health, safety, and welfare; or

(4) Upon termination of phase 2, the city publicly announces to its customers the end of phase 2 and return to phase 1 conditions.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.012 Conservation phase 3 - water emergency

(a) **Triggers.** Customers shall adhere to phase 3 conditions when one or more of the following occurs:

(1) Total daily water demand equals or exceeds 95% of the total operation system treatment capacity for (3) consecutive days;

(2) Total daily water demand equals or exceeds 95% of firm capacity of key pump stations for three consecutive days;

(3) LCRA general manager or board declares a water emergency.

(4) The city manager or city manager's designee determines that phase 3 response measures are necessary to protect public health, safety, and welfare.

(b) **Demand reduction target.** Phase 3 response measures are designed to achieve a 50% reduction in water use.

(c) **City actions.** To manage supply, the city will, in addition to phase 2 response measures:

(1) Discontinue water main and line flushing unless necessary for public health, safety, and welfare.

(2) Explore additional emergency water supply options, which may include arranging for the emergency purchase of water from utilities for which there exists proper agreements for such purchase;

(3) Increase efforts to inform the public on water conservation strategies;

(4) Increase the detection and repair of water leaks in the distribution system;

(5) Read water meters as necessary to ensure compliance with this program for the benefit of all the customers.

(d) Customer actions. Under threat of penalty for violation, phase 2 response measures, along with the following measures which may supersede, shall apply to all retail water customers:

- (1) Landscape irrigation is prohibited except by means of a hand-held hose.
- (2) Industrial water uses are prohibited except for some limited uses as deemed necessary by the city manager or city manager's designee to protect public health, safety, and welfare.

(e) Wholesale. The city will contact its wholesale treated water customers to initiate mandatory measures to control water demand and to ensure capacity for emergency response requirements. Mandatory measures will include the curtailment of nonessential water uses in accordance with the wholesale water customer's own drought contingency plan.

(f) Terminations. Phase 3 may be rescinded when one or more of the following occurs:

- (1) The water treatment plant capacity condition listed above as a triggering event has ceased to exist for five (5) consecutive days;
- (2) The LCRA announces that mandatory restrictions by its firm raw water customers are no longer required;
- (3) The city manager or city manager's designee determines that phase 3 response measures are no longer necessary to protect public health, safety, and welfare; or
- (4) Upon termination of phase 3, the city publicly announces to its customers the end of phase 3 and return to phase 2 conditions.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.013 Conservation phase 4 - water system failure

(a) Triggers. Customers shall adhere to the phase 4 response measures when one or a combination of the following occurs:

- (1) Major water line breaks or pump system failures that cause substantial loss of ability to provide water service;
- (2) Natural or man-made contamination of the water supply source;
- (3) Water demand approaches a reduced delivery capacity for all or part of the system, creating a situation in which water system demand exceeds water system capacity, for an extended length of time, as determined by the city manager or his/her designee;
- (4) The city manager or city manager's designee determines that phase 4 response measures are necessary to protect public health, safety, and welfare.

(b) Demand reduction target. Phase 4 response measures are designed to limit the daily water demand to no more than 50% capacity.

(c) City actions. To manage supply, the city will:

- (1) Assess the severity of the problem and identify the actions needed and time required to resolve the problem.
- (2) Issue applicable public notifications and messaging as to the water system or source failure.
- (3) Severely restrict or prohibit, as appropriate, all water system uses in the affected service area.
- (4) Read meters as often as needed to ensure program compliance for the benefit of all customers.
- (5) Minimize flushing for dead-end mains.
- (6) Cease allowance or approval of applications for new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water service facilities unless project is deemed necessary to resolve the water system failure.
- (7) Operate the distribution system according to applicable regulations.
- (8) Initiate emergency interconnects or alternative supply arrangements.

(d) Customer actions. Under threat of penalty for violation, phase 3 response measures, along with the following measures which may supersede, shall apply to all retail water customers:

- (1) Use of water is restricted as deemed necessary to meet the emergency.

(e) Wholesale. The city will contact its wholesale treated water customers to initiate mandatory measures to control water demand and to ensure capacity for emergency response requirements. This may include ceasing water supply to the wholesale water customer.

(f) Termination. Phase 4 may be rescinded when one or more of the following occurs:

- (1) The water system failure conditions listed above as a triggering event has ceased to exist for five (5) consecutive days.
- (2) The city manager or city manager's designee determines that phase 4 response measures are no longer necessary to protect public health, safety, and welfare.
- (3) Upon termination of phase 4, the city publicly announces to its customers the end of phase 4 and return to phase 3 conditions.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.014 Enforcement; penalty; termination of water service

(a) Compliance. No person or entity shall knowingly or intentionally allow the use of water from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article, or in an amount in excess of that permitted by the drought response

phase in effect at the time pursuant to action taken by the city manager, or his/her designee, in accordance with provisions of this plan.

(b) Administrative violation procedures

- (1) Penalties. Except as otherwise stated herein, each violation of this plan within a 12-month period may be enforced as an administrative violation pursuant to the following:

Violation	Residential Customer	Commercial Customer
First offense	Courtesy warning	Courtesy warning
Second offense	\$50.00	\$200.00
Third offense	\$100.00	\$400.00
Fourth and subsequent offense(s)	\$200.00, and non-emergency disconnection	\$1,000.00, and non-emergency disconnection

- (2) Notice of first offense. If the city manager or city manager's designee reasonably believes that a person or entity has violated this plan, then a notice of first offense shall be in writing and include the name and address of the alleged offender, a location and description of the alleged offense and a description of the administrative fees for subsequent violations. This notice will be mailed to the alleged offender's utility billing address.

- (3) Notice of second and/or subsequent offense. If the city manager or city manager's designee reasonably believes that a person or entity has violated this plan again subsequent to and within a 12-month period immediately following the date of the preceding offense, then a notice of second offense will be mailed containing the same information as described in the preceding subsection and a description of the administrative fee for the offense. This notice will be mailed to the alleged offender's utility billing address.

(4) Appeal of administrative offense

(A) An alleged offender may appeal an administrative offense as set forth in this article. They request of an appeal shall not suspend or delay an alleged offender's obligation to pay current outstanding utility or administrative fees. Upon successful appeal of an offense, the city will refund administrative fees paid by the alleged offender.

(B) At the city manager's or city manager designee's discretion, an appeal or final review hearing may be conducted by a scheduled telephone conference involving the alleged offender, pertinent city staff, and testifying witnesses. Prior to any telephone conference, each testifying witness's name, address, telephone number, and relationship to the alleged offender shall be submitted to the city manager, along with any or other supporting documentation or physical evidence to be considered during the conference. Any unidentified witness or supporting documents and evidence shall be considered during an appeal conference or meeting.

(C) Within fifteen (15) business days of the date of the notice of offense, an alleged offender may appeal the administrative offense and fee by submitting a written request to the city manager or city manager's designee. Within 15 business days of the receipt of such request, the city manager or city manager's designee shall appoint one or more pertinent hearing officers and schedule an appeal hearing or telephone conference. At the appeal hearing, the alleged offender may present relevant evidence and bears the burden of proof to show by a preponderance of the evidence why he or she should not be held in violation or assessed a fee. The hearing officers shall consider all relevant evidence as presented and render a decision within five (5) business days of the conclusion of the appeal hearing. A copy of the decision shall be mailed to the alleged offender's utility billing address.

(D) An alleged offender may appeal the hearing decision by submitting a written request to the city manager within five (5) business days of their receipt of the decision. Within five (5) business days of receiving a timely appeal, the city manager or city manager's designee shall conduct a final review hearing. At this hearing, the alleged offender may present relevant evidence as described in the preceding subsection. The city manager or designee shall consider relevant evidence and render a written decision within five (5) business days of the conclusion of the final review hearing. A copy of the decision shall be mailed to the alleged offender's utility billing address. The final review hearing decision is final and binding.

(E) Should the alleged offender fail to attend a scheduled appeal, it is their responsibility to contact the city manager or city manager's designee within five working days of the scheduled date of the appeal. Failure to do so or the attend the rescheduled appeal for any reason shall constitute a default, render final the administrative offense and associated fee, and further waive the offender's right to an appeal.

- (5) Notices. All notices regarding alleged administrative offenses, including, without limitation, notices of offenses, appeal hearing and final review hearing decisions, shall be in writing and forwarded to the alleged offender via first class mail and/or certified mail, return receipt requested, to the alleged offender's current utility billing address. All notices delivered in this manner shall be deemed as received by the alleged offender within five (5) days of the mailing's postmark.

(c) Enforcement as criminal violation. Alternatively, and at the city manager's discretion, any violation of this article may be enforced as a criminal violation in accordance with subsection (1) below.

- (1) Criminal penalty. Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the mandatory requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

- (d) Termination of water service; reconnection charge. The city manager or city manager's designee shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur in accordance with this section. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge, hereby established at \$1,000.00, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same action shall not be repeated while the plan is in effect. Compliance with this article may also be sought through injunctive relief in the district court.

(1) Emergency termination. If an officer charged with enforcement of this article determines that a violation of this article constitutes an immediate threat to the public health, safety and welfare, and the owner, occupant, or person in control of the property (the "responsible party") is absent or fails to immediately remedy the violation, the officer may terminate water services to such property. The city manager shall hold a hearing within 72 hours after termination of service to determine whether the responsible party violated this article, unless a later hearing date is requested by the responsible party or the responsible party is unable to be located, in which case the hearing shall be held as soon as possible. Promptly after terminating service, the officer charged with enforcement of this article shall give the responsible party written notice of the termination and hearing in compliance with TAC, title 30, section 291.88(b), by personal delivery or posting notice of the hearing on or near the front door of each building on the property, or at the Property Manager's door if available. If it is determined at the hearing that the responsible party did not violate this article, the responsible party's utilities shall be immediately reconnected without charge to the responsible party.

(2) Non-emergency termination. An officer charged with enforcement of this article who determines that a violation of this article is present may seek termination of wastewater [water] service to the property at which the violation is present after notice and hearing as provided in this subsection. The officer charged with enforcement of this article shall give written notice of the violation of this article to the responsible party and the requirement that the violation be remedied within ten (10) days or water service will be disconnected, such notice to comply with TAC, title 30, section 291.88(a). If the responsible party fails to remedy the violation within the time specified in the notice, the officer charged with enforcement of this article may terminate water service. The responsible party may request a hearing by the city manager regarding termination of service. Written notice of the time and date of the hearing shall be given to the responsible party at least ten days before the hearing date. Notices required by this subsection shall be delivered to the responsible party by in-person service, [or] by letter addressed to the responsible party at his/her post office address.

(3) Determination at hearing; appeals. If the city manager determines at a hearing held under subsection (1) or (2) above that the responsible party did not violate this article, the responsible party's utilities shall be immediately reconnected without charge to the responsible party. If it is determined that the responsible party violated this article, as appropriate, water service shall not be reconnected until the responsible party remedies the violation of this article and pays all required reconnection fees. The city manager's decision may be appealed to the city council in writing within ten days of the city manager's decision.

(c) Responsibility for violation.

(1) For purposes of this article, the person or customer in whose name the utility billing office last billed or who is receiving the economic benefit of the water supply is presumed to have knowingly made, caused, used or permitted the use of water received from the city for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provision of this article and proof that the violation occurred on the person's or customer's property shall constitute a rebuttal presumption that the person or customer committed the violation.

(2) Any person, including a person classified as a water customer of the city, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children, and proof that a violation, committed by a child, occurred on property within the parent's control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this article and that the parent could not have reasonably known of the violation.

(3) A person commits an offense if the person performs an act prohibited by this article or fails to perform an act required by this article. Each instance of a violation of this article is a separate offense.

(4) Proof of a culpable mental state is not required for a conviction of an offense under this article.

(5) If a person is convicted for three or more violations of this article within a 12-month period, water service may be disconnected or restricted.

(6) During phases 3 or 4, the city reserves the right to perform an emergency disconnection for violations of nonessential water uses, regardless of previous violations.

(7) The city's authority to seek injunctive or other civil relief available under the law is not limited by this article.

ARTICLE 13.09 WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN*

Sec. 13.09.015 Variances

(a) The city manager or city manager's designee may grant variances:

(1) From specific applications of the outdoor water schedule, providing that the variances do not increase the time allowed for watering but rather alter the schedule for watering; and

(2) Allowing the use of alternative water sources (i.e., groundwater, reclaimed wastewater) that do not increase demand on potable water sources for outdoor use. Variance requests may be submitted to staff and need not meet the requirements of subsection (b) below.

(b) The city manager or city manager's designee may, in writing, grant temporary variance for existing water uses otherwise prohibited under this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

(1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect.

(2) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(c) Persons requesting an exemption from the provisions of this article shall file a petition for variance with the city within five (5) working days after the plan or a particular drought response phase has been invoked. All petitions for variances shall be reviewed by the city manager or city manager's designee, and shall include the following:

(1) Name and address of the petitioner(s);

(2) Purpose of water use;

(3) Specific provision(s) of the plan from which the petitioner is requesting relief;

(4) Detailed statement as to how the specific provision of the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with the plan;

(5) Description of the relief requested;

(6) Period of time for which the variance is sought;

(7) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this plan and compliance date; and

(8) Other pertinent information.

(d) Variances granted by the city shall be subject to the following conditions, unless waived or modified by the city manager or city manager's designee:

(1) Variances granted shall include a timetable for compliance.

(2) Variances granted shall expire when the specific provision of the plan from which the petitioner requested relief is no longer in effect or prior to expiration if, the petitioner has failed to meet specified requirements.

(e) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.

(Ordinance 21-020-00 adopted 3/18/21)

LEANDER WATER CONSERVATION PHASES

BASE CONDITIONS

- Residential watering = **2 times per week**
- Commercial watering = **1 time per week**
- Only water **before 10 a.m.** or **after 7 p.m.**
- Repair leaks and avoid water runoff.

^ Hand-held watering allowed at any time

WATER USE REDUCTION

- Residential watering = **1 time per week**
- Commercial watering = **1 time per week**
- Only water **before 10 a.m.** or **after 7 p.m.**

WATER EMERGENCY

- Residential watering = **HAND-HELD ONLY**
- Commercial watering = **HAND-HELD ONLY**
- Only water **before 10 a.m.** or **after 7 p.m.**

WATER SYSTEM FAILURE

- If necessary, any or all nonessential uses of water may be restricted.



Your RESIDENTIAL ADDRESS NUMBER ends in

- | | |
|---------------|---------------------------------------|
| 1, 5, or 9 | Water on Tuesday & Friday* |
| 2, 4, 6, or 8 | Water on Wednesday* & Saturday |
| 0, 3, or 7 | Water on Thursday & Sunday* |

Your COMMERCIAL ADDRESS NUMBER ends in

- | | |
|---------------|---------------------------|
| 1, 5, or 9 | Water on Tuesday* |
| 2, 4, 6, or 8 | Water on Saturday* |
| 0, 3, or 7 | Water on Thursday* |

**Once-a-week watering day*

PHASE 1

PHASE 2

PHASE 3

PHASE 4

- Other nonessential uses prohibited except for fire hydrants, pool care, and commercial washes.

^ Hand-held watering allowed at any time

- Other nonessential uses prohibited except for fire hydrants, pool care, and commercial washes.
- Industrial uses prohibited except for public health, safety and welfare needs

- No new, additional, expanded, or larger water service connections, meters, service lines, pipeline extensions, mains, or water facilities unless needed to resolve the system failure.



Learn more about our water conservation phases and overall plan at leandertx.gov/waterplan.

Do you have a water or wastewater emergency? Call 512-259-2640 or 512-528-2800 (after hours).

Exhibit G

Demand Schedule

CITY OF LEANDER - POPULATION AND WATER DEMAND PROJECTIONS

End of Year		Population/Connections/LUEs					Internal Leander Demand			Total Leander Demand with Wholesale			
		No. of Domestic Units	Population	No. of Water Connections	Connection Growth Rate	No. of LUEs	Projected Average Day Internal Leander Demand (MGD)	Projected Max Day Internal Leander Demand (MGD)	Projected Average Flow per Person per Day (gpcd)	Total Wholesale Contracts - Max Day Demand (MGD)	Projected Average Day Demand with Wholesale (MGD)	Projected Max Day Demand with Wholesale (MGD)	Projected Yearly Demand With Wholesale (AC-FT) *1000
2015	Historical/Actual	12,922	43,418	13,092		15,449	4.75	11.90	109.46	0.00	4.75	11.90	6.00
2016		14,729	49,489	14,703	12.3%	17,350	5.50	11.50	111.19	0.00	5.50	11.50	7.00
2017		16,420	55,171	16,463	12.0%	19,426	6.16	10.90	111.57	0.00	6.16	10.90	7.00
2018		18,120	60,883	18,063	9.7%	21,314	6.89	12.42	113.13	0.32	7.05	12.74	8.00
2019		19,999	67,197	19,887	10.1%	23,467	7.87	14.94	117.07	0.35	8.16	15.29	10.00
2020		22,760	76,474	22,971	15.5%	27,106	9.77	17.63	127.74	0.52	9.49	16.79	11.00
2021		25,857	86,880	26,026	13.3%	30,711	8.34	14.44	96.00	0.64	8.66	14.74	10.00
2022	Projected	28,960	96,726	29,149	12.0%	34,396	11.66	21.86	120.54	4.00	13.79	25.86	16.00
2023		31,856	106,398	32,064	10.0%	37,836	12.83	24.05	120.54	4.00	14.96	28.05	17.00
2024		35,041	117,038	35,270	10.0%	41,619	14.11	26.45	120.54	4.00	16.24	30.45	19.00
2025		38,546	128,742	38,797	10.0%	45,781	15.52	29.10	120.54	4.00	17.65	33.10	20.00
2026		41,436	138,398	41,707	7.5%	49,215	16.68	31.28	120.54	4.00	18.82	35.28	22.00
2027		44,544	148,778	44,835	7.5%	52,906	17.93	33.63	120.54	4.00	20.07	37.63	23.00
2028		47,885	159,936	48,198	7.5%	56,874	19.28	36.15	120.54	4.00	21.41	40.15	24.00
2029		50,279	167,933	50,608	5.0%	59,717	20.24	37.96	120.54	1.00	20.78	38.96	24.00
2030		52,793	176,329	53,138	5.0%	62,703	21.26	39.85	120.54	1.00	21.79	40.85	25.00
2031		55,433	185,146	55,795	5.0%	65,838	22.32	41.85	120.54	1.00	22.85	42.85	26.00
2032		57,096	190,700	57,469	3.0%	67,813	22.99	43.10	120.54	1.00	23.52	44.10	27.00
2033		58,809	196,421	59,193	3.0%	69,848	23.68	44.39	120.54	1.00	24.21	45.39	28.00
2034		60,573	202,314	60,969	3.0%	71,943	24.39	45.73	120.54	1.00	24.92	46.73	28.00
2035		61,784	206,360	62,188	2.0%	73,382	24.88	46.64	120.54	1.00	25.41	47.64	29.00
2036		63,020	210,487	63,432	2.0%	74,850	25.37	47.57	120.54	1.00	25.91	48.57	30.00
2037		64,281	214,697	64,701	2.0%	76,347	25.88	48.53	120.54	1.00	26.41	49.53	30.00
2038		65,566	218,991	65,995	2.0%	77,874	26.40	49.50	120.54	1.00	26.93	50.50	31.00
2039		66,222	221,181	66,655	1.0%	78,653	26.66	49.99	120.54	1.00	27.20	50.99	31.00
2040		66,884	223,393	67,321	1.0%	79,439	26.93	50.49	120.54	1.00	27.46	51.49	31.00
2041		67,218	224,510	67,658	0.5%	79,836	27.06	50.74	120.54	1.00	27.60	51.74	31.00
2042		67,365	225,000	67,806	0.2%	80,011	27.12	50.85	120.54	1.00	27.66	51.85	31.00

1. Population = 3.34 people/Domestic Unit for 2022 and beyond, 3.36 people/Domestic Unit for before 2022
2. No. of LUEs = 1.18 x No. of Water Connections (based on 2020 review of actual connections/meters)
3. Assume Average Day Demand = 400 gpd/Connection (~340 gpd/LUE)
4. Max Day Demand = 750 gpd/Connection (~635 gpd/LUE)
5. For population and water projections, utilizing a modified growth rate that is more aggressive than Comp Plan
6. Projections are based on demands with no watering restrictions, impacts of new irrigation and tiered rate ordinances are not factored in currently, pending data
7. Assume buildout of City is 225,000 population
8. Projected Yearly Demand (AC-FT) = Projected Average Day Demand*365*/325851

Exhibit H

Leander Wastewater Basins

AGREEMENT FOR ASSIGNMENT OF CONTRACTS

THIS AGREEMENT FOR ASSIGNMENT OF CONTRACTS (the "Agreement") is made and entered into as of the 2ND day of MARCH, 1998 (the "Effective Date"), by and between the LOWER COLORADO RIVER AUTHORITY, a conservation and reclamation district and political subdivision of the State of Texas ("Assignee"), and the CITY OF LEANDER, a Texas general law municipal corporation ("Assignor").

R E C I T A L S

A. Assignor is a party to that certain "Water Sales and Purchase Contract dated June 18, 1984 between Assignor and Chisholm Trail Utility District (formerly the Chisholm Trail Water Supply Corporation) ("Chisholm Trail Contract"), a copy of which is attached as **Exhibit A**.

B. Assignor is also a party to that certain Interlocal Agreement for Water Supply dated December 15, 1995, but effective February 9, 1996 between Assignor and the City of Cedar Park, Texas ("Cedar Park Contract"), a copy of which is attached as **Exhibit B**.

C. Assignor desires to assign to Assignee and Assignee desires to accept from Assignor the Chisholm Trail Contract and the Cedar Park Contract upon the terms and conditions more particularly set forth in this Agreement.

D. Contemporaneously with entering into this Agreement Assignor and Assignee together with the Brazos River Authority have also entered into that certain Wholesale Potable Water Service Agreement and that certain Agreement for Transfer of Water System Assets. Assignor is entering in this Agreement pursuant to the Wholesale Potable Water Service Agreement.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

ARTICLE I AGREEMENT TO ASSIGN CONTRACTS

Section 1.1. Cooperation. Assignor and Assignee agree to diligently pursue implementation of the Wholesale Potable Water Service Agreement and Agreement for Transfer of Water System Assets.

Section 1.2. Agreement. After the Effective Date of this Agreement, Assignor, using its best efforts to obtain required consents, agrees, after acquiring such consents to promptly transfer, assign and set over the Chisholm Trail Contract and the Cedar Park Contracts to Assignee, subject to the terms, conditions, and requirements of the Wholesale Potable Water Service Agreement and, without recourse upon Assignor, and Assignee agrees to accept the assignment and assume and perform all obligations of Assignor thereunder.

ARTICLE II GENERAL PROVISIONS

Section 2.1. Notices. All notices and other communications hereunder shall be in writing and shall be delivered by hand delivery, expedited courier delivery or mailed (if mailed, by registered or certified mail, return receipt requested, postage prepaid) addressed as follows, and shall be effective upon actual delivery if delivered by hand or by expedited courier delivery or, if mailed, three days after deposit in the United States mail:

(a) If to Assignee, to:

Joseph J. Beal, P.E.
Manager, WaterCo
LCRA
P. O. Box 220
Austin, Texas 78767-0220
(512) 473-3586
Fax: (512) 473-3551

(b) If to Assignor, to:

Mr. Charles Eaton
Mayor
City of Leander
P.O. Box 319
Leander, Texas 78641
Fax: (512) 259-1605

Any party may change its address for receiving notice by giving notice of a new address in the manner herein provided; however, if mailed, notice of such new address will be effective only upon actual receipt by the other party.

Section 2.2. Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

Section 2.3. Assignment. Assignments of this Agreement by the parties are prohibited without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. This Agreement shall be binding upon and inure to the benefit of the parties thereto, their successors and assigns.

Section 2.4. Governing Law and Forum. THIS AGREEMENT SHALL BE CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS AND THE OBLIGATIONS OF THE PARTIES HERETO ARE AND SHALL BE PERFORMABLE IN WILLIAMSON COUNTY, TEXAS. BY EXECUTING THIS AGREEMENT, EACH PARTY HERETO EXPRESSLY (a) CONSENTS AND SUBMITS TO PERSONAL JURISDICTION AND VENUE CONSISTENT WITH THE PREVIOUS SENTENCE, (b) WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL CLAIMS AND DEFENSES THAT SUCH JURISDICTION AND VENUE ARE NOT PROPER OR CONVENIENT, AND (c) CONSENTS TO THE SERVICE OF PROCESS IN ANY MANNER AUTHORIZED BY TEXAS LAW.

Section 2.5. No Oral Modification. This Agreement may not be modified or amended, except by an agreement in writing signed by both the Assignor and the Assignee.

Section 2.6. No Oral Waiver. The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such conditions or obligations.

Section 2.7. Time of Essence. Time is of the essence of this Agreement.

Section 2.8. Total Agreement. This Agreement, including the Exhibits hereto, constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. No representation, warranty, covenant, agreement or condition not expressed in this Agreement shall be binding upon the parties hereto or shall affect or be effective to interpret, change or restrict the provisions of this Agreement.

Section 2.9. Partial Invalidity. If any clause or provision of this Agreement is or should ever be held to be illegal, invalid, or unenforceable under any present or future law applicable to the terms hereof, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that in lieu of each such clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable such that the intention of the parties is effected as closely as is possible.

Section 2.10. Counterpart Execution. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of all persons required to bind any party, appear on each counterpart. All

counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto.

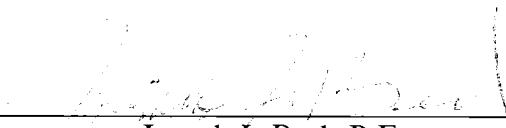
Section 2.11. Holidays. In the event that the date upon which any duties or obligations hereunder to be performed shall occur upon a Saturday, Sunday or legal holiday, then, in such event, the due date for performance of any duty or obligation shall thereupon be automatically extended to the next succeeding business day.

Section 2.12. Effective Date. The Effective Date of this Agreement shall be the date set forth on the first page hereof.

IN WITNESS WHEREOF, each party hereto has signed this Agreement or caused this Agreement to be signed in its corporate name by its officer thereunto duly authorized, all as of the date first above written.

Assignee:

LOWER COLORADO RIVER AUTHORITY

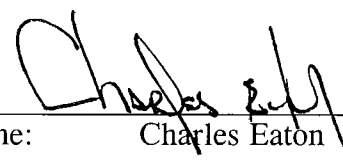
By: 

Name: Joseph J. Beal, P.E.

Title: Manager, WaterCo

Assignor:

CITY OF LEANDER, TEXAS

By: 

Name: Charles Eaton

Title: Mayor

ATTEST:


Assistant City Secretary

APPROVED AS TO FORM:

City Attorney

WATER SALE AND PURCHASE CONTRACT

BY AND BETWEEN

CHISHOLM TRAIL WATER SUPPLY CORPORATION

AND

LEANDER WATER SUPPLY CORPORATION

1984

WATER SALE AND PURCHASE CONTRACT

This Contract for the sale and purchase of potable water is made and entered into as of the 18th day of JUNE, 1984, between the LEANDER WATER SUPPLY CORPORATION, whose address is P. O. Box 319, Leander, Texas, 78641, referred to herein as "PURCHASER", and the CHISHOLM TRAIL WATER SUPPLY CORPORATION, whose address is P. O. Box 249, Florence, Texas, 76527, referred to as "SELLER", each acting by and through the undersigned officers, duly authorized to execute these presents by approving resolutions of their governing boards and bodies:

WITNESSETH:

WHEREAS, the PURCHASER is organized and established under Article 1434a, R.C.S. of Texas 1924, as amended Supplemented by the Texas Non-Profit Corporation Act, Artical 101, et seq., as amended, and owns and operates a water distribution system with a present capacity capable of serving the present customers of PURCHASER'S system and PURCHASER desires to secure a supplemental supply of potable water and does require a supplemental supply of potable water to serve its present customers; and

WHEREAS, SELLER is organized and established under Article 1434a, R.C.S. of Texas, 1924, as amended, supplemented by the Texas Non-Profit

Corporation Act, Article 1.01 et seq., as amended, for the purposes of constructing and operating a water supply distribution and transmission system for domestic purposes to serve water users; and

WHEREAS, by Resolution adopted on the 29th day of July, 1983; by SELLER, the sale of water to the PURCHASER in accordance with the provisions hereof was approved, and the execution of this contract by the President and attested by the Secretary, was duly authorized; and

WHEREAS, by Resolution, adopted on the 18th day of June, 1984 by PURCHASER the purchase of water from the SELLER in accordance with the terms set forth herein was approved, and the execution of this contract by the President, and attestation by the Secretary was duly authorized;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth,

A. THE SELLER AGREES:

1. QUALITY AND QUANTITY: To furnish the PURCHASER at the point or points of delivery hereinafter specified, during the term of this contract, or any renewal or extension thereof, potable water meeting applicable purity standards of State and Federal Health Agencies, in such quantity as may be required by the PURCHASER, but not to exceed the amount which the SELLER has in excess of the requirements of the SELLER'S retail customers during said day. The SELLER is obligated to furnish a minimum of 50,000 gallons per day.

2. POINT OF DELIVERY AND PRESSURE: To furnish water into PURCHASER'S distribution lines at points mutually agreed on by the parties upon recommendation of their respective engineers.

3. METERING EQUIPMENT: To furnish, install, and maintain at its own expense at the point or points of delivery, the necessary metering and pressure reducing equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the PURCHASER and to calibrate such measuring equipment in accordance with A.W.W.A. standards and procedures whenever requested by the PURCHASER, but not more frequently than once every twelve (12) months. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the six (6) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless SELLER and PURCHASER shall agree upon a different amount. The metering equipment shall be read on the 1st day of each month. An appropriate official of the PURCHASER at all reasonable times shall have access to the meter for the purpose of verifying its readings.

4. BILLING PROCEDURE: To furnish the PURCHASER at the above address, not later than the 5th day of each month, with an itemized statement of the amount of water furnished the PURCHASER during the preceding month.

B. THE PURCHASER AGREES:

1. To purchase a minimum of - 0 - gallons per day.
2. To pay a service availability charge of \$4336.00 per month for the ability to be able to receive water from the SELLER.
3. To pay for all water delivered by the SELLER at the rate determined as follows.
4. The initial rate (not less than \$.60) per thousand gallons shall be determined as follows:
 - a. The purchase price from the supplier to Chisholm Trail WSC. In the event that Chisholm Trail WSC purchases water from more than one entity, the purchase price shall be a weighted average.
 - b. The cost of lifting to the Chisholm Trail WSC pressure plane at \$0.04 per 1000 gallons per 100 ft. lift.
 - c. A charge for transportation to cover amortization of facilities, maintenance and repair, water loss, etc., of \$0.25 per 1000 gallons.

C. RESERVE:

PURCHASER shall have the right and SELLER shall have the duty to provide water service without further request or action by PURCHASER, other than payment for water delivered and service availability charge referenced in B.2. above.

D. IT IS FURTHER MUTUALLY AGREED BETWEEN THE SELLER AND THE PURCHASER

AS FOLLOWS:

1. TERM OF CONTRACT: That this Contract shall extend for a term of ninety-nine (99) years from the date of the initial delivery of any water as shown by the first bill submitted by the SELLER to the PURCHASER and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the SELLER and PURCHASER.

2. DELIVERY OF WATER: That ninety (90) days prior to the estimated date of completion of construction of SELLER'S water supply transmission system, SELLER will notify PURCHASER in writing of the date for the initial delivery availability for delivery of water.

3. FAILURE TO DELIVER: That the SELLER will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the PURCHASER with quantities of water required by the PURCHASER. Temporary or partial failure to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the SELLER is otherwise diminished over an extended period of time, the supply of water to PURCHASER shall be reduced or diminished in the same ratio or proportion as the supply to SELLER'S consumers is reduced or diminished.

4. MODIFICATION OF CONTRACT: That the provisions of this contract pertaining to the schedule of rates to be paid by the PURCHASER for water delivered are subject to modification at the end of every one (1) year period. Any increase or decrease in the rates shall conform to those cost elements set below and the formula in B.4. above, and shall be based

MODIFICATION OF CONTRACT, Cont.:

on a demonstrable increase or decrease in those elements. The cost elements include an item for the amortization of the initial capital cost incurred by SELLER to provide service to PURCHASER. The only capital cost or expenditures which shall be considered in any redetermination of the rates are those capital costs and expenditures which are directly attributable to additional service to PURCHASER by SELLER. Before such additional capital expenditures are made by SELLER, they must be approved by PURCHASER.

The cost elements to be considered in the rate determination in this contract are as follows:

(1) Capital Costs (these costs consist of the initial capital expenditures directly attributable to PURCHASER amortized over a forty (40) year period, the life of the loan, plus a fee for administration and organization of SELLER'S system, which may be correctly attributable to PURCHASER): and,

(2) Operation and Maintenance Expenses and Costs which can be directly attributable to PURCHASER.

Provided, however, and it is specifically agreed that the PURCHASER will continue to pay SELLER at least the minimum service availability charge initially prescribed herein to the extent required for debt service and reserve so long as the loan made by the Farmers Home Administration of the United States Department of Agriculture for financing the construction of PURCHASER'S transmission line and storage capacity portion of the water distribution system of the SELLER remains outstanding and unpaid.

5. REGULATORY AGENCIES: SELLER and PURCHASER agree that it shall be the duty of SELLER to obtain all permits, certificates and the like to the point of delivery to PURCHASER. PURCHASER shall aid SELLER in obtaining such permits and certificates as may be possible. PURCHASER shall be responsible for obtaining all permits, certificates and the like from the point of delivery to PURCHASER by SELLER to PURCHASER'S retail customers.

6. MISCELLANEOUS: That the construction of the water supply transmission system by the SELLER is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the SELLER are conditioned upon the approval, in writing, of the State Director of the Farmers Home Administration.

* 7. PURCHASED CAPACITY: By signing this document, both PURCHASER and SELLER agree that the monthly service availability charge referenced in B.2. above is to pay for pipeline capacity reserved exclusively for PURCHASER, to the extent generally shown on Exhibit "A" attached hereto. The exact routing of the purchased capacity will be agreed to when actual construction bids for the project are received. The pipeline capacity being reserved is 700 gpm.

8. SUCCESSOR TO THE SELLER OR PURCHASER: That in the event of any occurrence rendering the SELLER incapable of performing under this contract, any successor of the SELLER, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the SELLER hereunder. That in the event of any occurrence rendering the PURCHASER incapable of performing under this contract, any successor of the PURCHASER, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the PURCHASER hereunder.

9. ASSIGNMENT: This contract is assignable to the United States of America, Farmers Home Administration, as security for the loan made or to be made or insured by it.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this contract and agreement to be duly executed in five (5) counterparts, each of which shall constitute an original.

SELLER:

CHISHOLM TRAIL WATER SUPPLY CORPORATION

BY: Robert B. Chisholm
President

ATTEST:

Charles H. Rose
Secretary

PURCHASER:

LEANDER WATER SUPPLY CORPORATION

BY: Charles R. Ricketts
President

ATTEST:

B. W. Pruitt, Jr.
Secretary

This contract is approved on behalf of the Farmers Home Administration

this _____ day of _____, 1984.

BY: _____

TITLE: _____

THE STATE OF TEXAS

I
I
I

COUNTY OF WILLIAMSON

BEFORE ME, the undersigned authority, on this day personally appeared Robert Chambers, President of CHISHOLM TRAIL WATER SUPPLY CORPORATION, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 19 day of

June, 1983.

[Signature]
NOTARY PUBLIC IN AND FOR
WILLIAMSON COUNTY, TEXAS

My commission expires: 3-12-88

THE STATE OF TEXAS

I
I
I

COUNTY OF WILLIAMSON

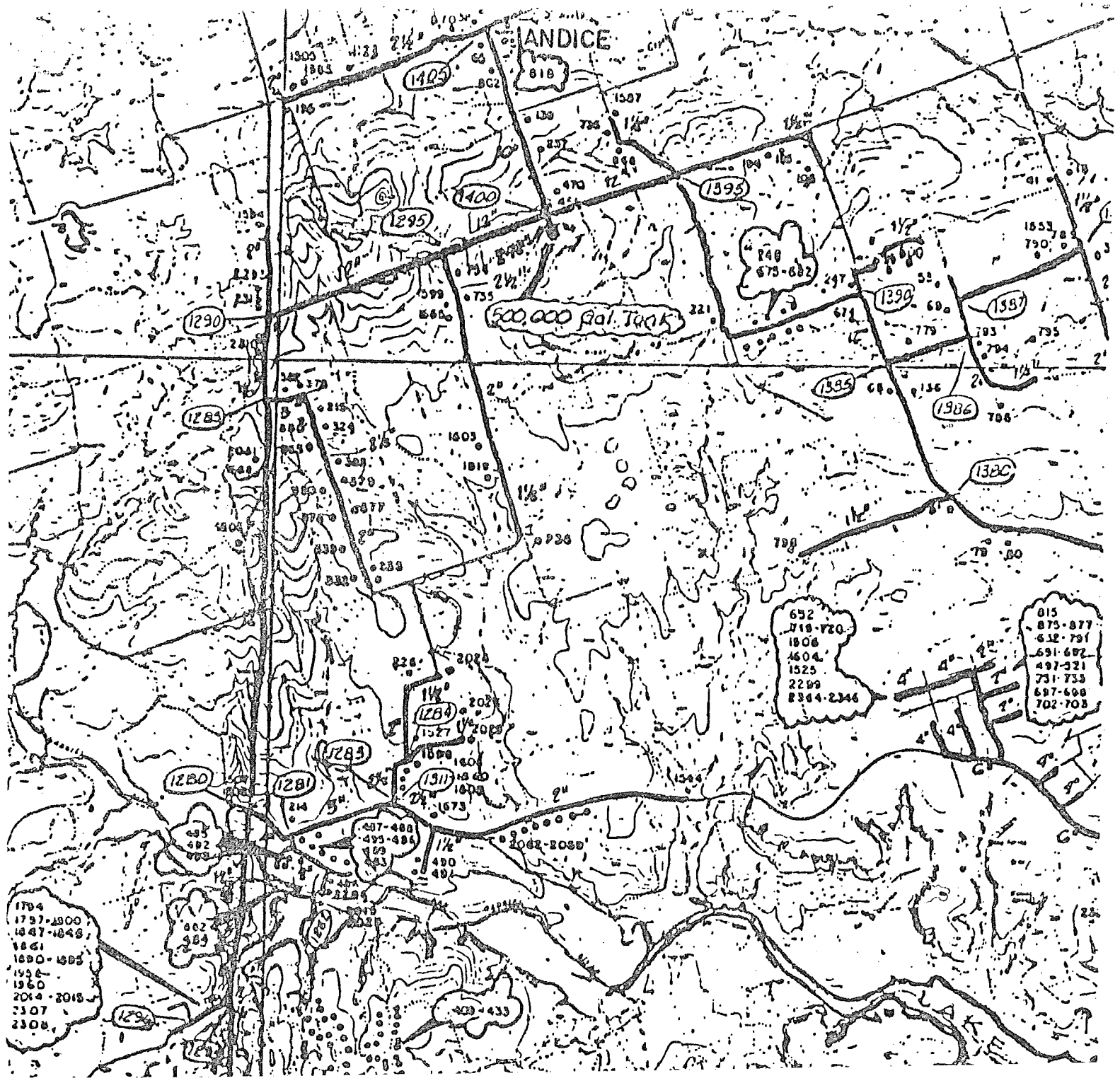
BEFORE ME, the undersigned authority, on this day personally appeared Charles Hutto, President of LEANDER WATER SUPPLY CORPORATION, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 19 day of

June, 1984.

[Signature]
NOTARY PUBLIC IN AND FOR
WILLIAMSON COUNTY, TEXAS

My commission expires: 3-12-88



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INTERLOCAL AGREEMENT FOR WATER SUPPLY

THE STATE OF TEXAS }}
 }} KNOW ALL BY THESE PRESENTS:
COUNTY OF WILLIAMSON }}

THIS INTERLOCAL AGREEMENT is made and entered into by and between the City of Cedar Park, a Texas home rule municipal corporation ("Cedar Park") acting by and through its duly authorized Mayor, and the City of Leander, a general law municipal corporation ("Leander") acting through its duly authorized Mayor.

RECITALS:

1. Cedar Park and Leander each own and operate extensive water and wastewater utility systems providing utility service to customers in Williamson and Travis Counties.
2. Leander currently receives its water supplies through a wholesale services contract with Chisolm Trail Special Utility District (CTSUD) and from water wells located throughout the city, however, due to shortages in the water supply provided to Leander by CTSUD and limited water well production, Leander desires to contract with Cedar Park for additional water supplies.
3. Cedar Park currently owns and operates a water treatment plant on Lake Travis from which it purchases raw water from the Lower Colorado River Authority (LCRA) to treat and distribute to its retail and wholesale customers.
4. Subject to construction of certain capital improvements, Cedar Park has determined that it will, for a period of five (5) years, have varying amounts of water capacity available in its treatment, storage and distribution facilities.
5. Leander acknowledges that Cedar Park only has a raw water supply sufficient to provide Leander water service for five (5) years and that Cedar Park or Leander will have to obtain an additional source of raw water to continue to supply the amount of water that Cedar Park has committed to supply Leander in this Agreement.
6. Cedar Park will use due diligence to remain in a position to furnish water sufficient to meet Leander's needs as established in this Agreement.

7. Cedar Park and Leander are currently participating with the cities of Austin, Round Rock, Georgetown and other area water suppliers in a regional water study (i.e., North Central Area Water Study: Trans-Texas Water Program) whose purpose is to identify water supply alternatives to meet the water demands of Williamson and Travis Counties through the year 2050.

8. Cedar Park and Leander desire to set forth in writing the terms and conditions for the sale of water from Cedar Park to Leander.

NOW THEREFORE, in consideration of the foregoing premises and the mutual promises and undertakings set forth below, Cedar Park and Leander hereby contract and agree as follows:

ARTICLE ONE DEFINITIONS

1.01. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth below:

(a) Agreement: this "Interlocal Agreement for Water Supply."

(b) As Available Service: means that increment of wholesale water service in excess of Firm Service as defined below to be provided to Leander by Cedar Park under this Agreement only if Cedar Park determines that such additional increment of potable water service is available from the Cedar Park system after meeting the potable water service requirements of its customers as hereinafter more particularly set forth.

(c) Emergency: means an Act of God or similar unforeseen and unpreventable catastrophic circumstance or disaster that significantly affects Leander's ability to provide potable water to its customers. The term shall not include service interruptions for scheduled maintenance, lapse of raw water supply contracts or other legal impediments, overcommitment of supply, or replacement or construction of facilities or similar events that are preventable by the exercise of due diligence, foresight and planning.

(d) Emergency Service: means potable water service to be provided to Leander for a temporary period only in the event of and for the duration of an emergency pursuant to the terms and conditions more particularly set forth in Section 2.14.

(e) Firm Service: means the minimum assured level of potable water service, that Cedar Park determines it is capable of providing to Leander on a consistent basis from its water system; provided that Cedar Park has determined it is capable of providing on a consistent basis the volume of water set forth as the maximum levels of Firm Service in Section 2.11.

(f) Interim Service: means potable water service to be provided to Leander prior to Leander's completion of the water storage tank portion of the Project.

(g) LUE: means a Living Unit Equivalent, a development unit that consumes four hundred fifty (450) gallons per day of water on average.

(h) MGD: means million gallons per day.

(i) Point of Delivery: means one or more locations determined by mutual agreement of the parties where Leander's water facilities are connected to Cedar Park's water facilities and from which Leander may withdraw water from the Cedar Park water system.

(j) Project: means the design, acquisition and construction by Leander, at its sole expense, of the following water facilities, appurtenances and documents:

(1) a water line of a size to be mutually agreed upon by both Parties and appurtenances (the "Water Line") in and along the right-of-way of Bagdad Road to transport potable water from Cedar Park's water system at the northeast corner of the intersection of New Hope Road and Bagdad Road to Leander's planned ground storage tank within Leander or its extraterritorial jurisdiction ("ETJ") near the ETJ boundary of Cedar Park and Leander;

(2) a meter vault, master meter and appurtenances to measure water service provided to Leander hereunder, the same to be located at a mutually agreed point in or near the right-of-way of Bagdad Road at or near the extraterritorial boundary of Cedar Park and Leander, and;

(3) a rate-of-flow controller and appurtenances to monitor and control the rate of potable water flows from Cedar Park to Leander in accordance with this Agreement, the same to be located with the master meter and appurtenances at a mutually agreed point in or near the right-of-way of Bagdad Road at or near the extraterritorial boundary of Cedar Park and Leander;

(4) an air gap separation or a backflow prevention device of a size, design, configuration and capacity approved by the Director of Cedar Park's Public Works Department (the "Director") and sufficient to meet the requirements of all regulatory agencies having jurisdiction with respect to same, the same to be located with the master meter and appurtenances at a mutually agreed point in or near the right-of-way of Bagdad Road at or near the extraterritorial boundary of Cedar Park and Leander;

(5) a water storage tank with a minimum capacity of 500,000 gallons and relay pump station to be located within Leander or its extraterritorial boundary prior to any other connection to Leander's water system, and;

(6) acquisition of all easements, bonds, permits, rights, consents, inspections, and approvals required for the lawful completion of the Project with standard warranties, guaranties and other assurances of performance no less stringent than those secured in the ordinary course of business for other public works projects of Leander.

(k) Raw Water: means an untreated water supply that may lawfully be withdrawn from Lake Travis at Cedar Park's current raw water intake location on Lake Travis, treated in Cedar Park's treatment plant on Lake Travis and supplied to Cedar Park and Leander service areas as permitted in this Agreement.

(l) Water: means potable water meeting those requirements for human consumption and other domestic uses promulgated by the Texas Department of Health, Texas Natural Resource Conservation Commission and other agencies of competent jurisdiction.

ARTICLE TWO TERMS AND CONDITIONS FOR WATER SERVICE

2.01. Agreement to Provide Water Service. Subject to the terms and conditions of this Agreement and the requirements of applicable law, Cedar Park agrees to provide wholesale water service to Leander for the term(s) of this Agreement. The respective maximum levels of Firm Service, Interim Service, As Available Service and Emergency Service to be provided by Cedar Park to Leander under this Agreement shall be determined in accordance with the procedures set forth below.

2.02. Term of Agreement. This Agreement shall be for an initial term of twenty-five (25) years beginning on the effective date of this Agreement unless the Term is modified in accordance with this Section or the Agreement is terminated sooner because Cedar Park's raw water supply contract(s) terminate, Cedar Park and Leander both agree to terminate this Agreement or this Agreement is terminated pursuant to its terms. Five (5) years after the effective date of this Agreement, Cedar Park, at its sole option, may terminate this Agreement if neither Cedar Park nor Leander has obtained any additional quantities of Raw Water as defined in this Agreement in excess of the current 7,000 acre-feet per year Cedar Park is authorized to purchase from LCRA. If this Agreement is terminated pursuant to the preceeding sentence, Leander shall discontinue taking water from Cedar Park or its facilities within one hundred and eighty (180) days after delivery of written notice of termination of the contract.

If during the five (5) year period from the effective date of the Agreement, Cedar Park obtains a minimum of an additional 10,000 acre-feet per year of Raw Water supplies, then the Agreement shall extend for the full twenty five (25) year period unless terminated pursuant to its terms. If during the five (5) year period from the effective date of the Agreement, Leander obtains a minimum of 2,400 acre-feet per year of Raw Water

supplies, then the Agreement shall extend for the full twenty five (25) year period unless terminated pursuant to its terms.

If at the end of the five (5) year period from the effective date of the agreement Cedar Park has obtained less than 10,000 acre-feet of Raw Water supplies and Leander has obtained less than 2,400 acre-feet of Raw Water supplies, then the contract term shall be modified using the following methodology:

The Modified term in years is to be calculated by dividing the total of the quantity of additional Raw Water supplies obtained by both Cedar Park and Leander expressed in acre-feet per year by 10,000, multiplying by 20 and adding the resultant to 5.

For example, if Cedar Park obtains 4,000 acre-feet and Leander obtains 1,000 acre-feet, the modified term would be calculated as follows:

$$\text{Modified Term} = \frac{(4,000+1,000)}{10,000} \times 20 + 5 = 15 \text{ yrs}$$

If the resultant is greater than 25 then the Agreement term shall extend for the full twenty five (25) years unless terminated pursuant to its terms.

The quantity of water taken by Leander shall at all times be subject to the right of Cedar Park to reduce said quantity as in its sole judgment may be necessary in order to comply with any final and non-appealable order of a court or administrative body having appropriate jurisdiction, protect public health or to prevent injury. If Cedar Park must ration water to its customers, such rationing shall, within the limits permitted by law, be done on a pro rata basis among its customers.

After expiration of the initial term, the Agreement shall be subject to renegotiation based upon terms and conditions agreeable to the parties.

2.03. Commencement of Service. Cedar Park shall commence providing Firm Service to Leander under this Agreement upon substantial completion of the expansion of Cedar Park's water treatment plant from 5 to 9 MGD (estimated to be complete in May of 1996) and upon completion of the Project to be designed and constructed by Leander. Cedar Park shall commence providing Interim Service under the terms of this Agreement upon completion of all portions of the Project excluding the water storage tank. In the event the water storage tank portion of the Project is not completed and placed into service within one hundred eighty (180) days of the date of commencement of any type of service under this Agreement, Cedar Park shall have the right to terminate water service to Leander until such time that the storage tank is completed.

2.04. Ownership, Operation and Maintenance of the Project. The parties agree that:

(a) following construction and final acceptance thereof, Leander shall own, operate and maintain those portions of the Project and appurtenances located within Leander or its ETJ as established on the effective date hereof; and

(b) following construction and final acceptance thereof, Leander shall dedicate and convey to Cedar Park for ownership, operation and maintenance those portions of the Project located in Cedar Park or its ETJ as established on the effective date hereof together with all easements, warranties, guarantees or other contract rights or assurances of performance appertaining to such facilities;

(c) following construction and final acceptance thereof, Leander shall dedicate and convey to Cedar Park for ownership, operation and maintenance the master meter, rate-of-flow controller, backflow prevention device and Supervisory Control and Data Acquisition system (SCADA) component for metering and related appurtenances and the vault(s) housing the same (described above as components of the Project) together with all easements, warranties, guarantees or other contract rights or assurances of performance appertaining to such facilities.

For those portions of the Project to be conveyed to Cedar Park, Leander agrees to execute and deliver to Cedar Park such deeds, bills of sale, assignments or other instruments as are necessary to transfer good and marketable title to the facilities to Cedar Park with general warranty along with all easements, warranties, guarantees or other contract rights or assurances of performance appertaining to such facilities as hereinabove provided.

2.05. Cedar Park's Payment For Portions of "Project."

(a) During the design of the Project by Leander, Cedar Park shall determine any oversizing in the portion of the line within Cedar Park's ETJ that is necessary to serve Cedar Park's water customers and Leander shall oversize the pipe as directed by Cedar Park up to a maximum of twelve (12) diameter inches over that which is necessary to meet Leander's Firm Service commitments. Cedar Park shall pay Leander an amount equal to \$3.50 per diameter inch per foot of pipe installed within Cedar Park's ETJ for any diameter inches in excess of that needed by Leander to meet their Firm Service commitment. The \$3.50 per diameter inch per foot of installed pipe shall be deemed adequate to reimburse Leander for all costs incurred by Leander to oversize the line for Cedar Park. Payment by Cedar Park to Leander shall be made within thirty (30) days of final acceptance of the Project by Leander.

(b) During the design of the Project by Leander, Cedar Park shall determine any facilities necessary to connect the water supply master meter and pumps to Cedar Park's SCADA system and Leander shall incorporate these facilities into the design of the Project as a separate bid item(s) of the construction contract. Cedar Park shall reimburse Leander for the amount bid on these items as they appear in the construction contract approved by Leander plus an additional fifteen percent (15%) of the bid item(s) to account for all costs incurred by Leander to incorporate these items into the Project.

2.06. Agreements Concerning Easements. Leander agrees that easements secured for the Project or any component thereof shall not contain any provision requiring Cedar Park or Leander to provide water or wastewater service to the property owner nor any other provision requiring Cedar Park to expend funds or provide any other service or performance as a condition of the grant of such easement. In addition, easements for the project shall not contain a provision causing the termination of the easement or other adverse impact if any other political subdivision acquires the Project or any portion or interest therein from Leander. Easements for the master meter, rate-of-flow controller and backflow prevention device and appurtenances and the vault(s) to house the same and those portions of the Water Line located in Cedar Park or its ETJ shall be secured by Leander in the name of both Cedar Park and Leander so as to allow Cedar Park to own, operate and maintain those portions of the Project to be transferred to Cedar Park following construction thereof by Leander as contemplated above.

2.07. Requirement for Cedar Park's Approval for Plans for Certain Components of the Project. Leander agrees to submit for review and approval by Cedar Park the plans and specifications for those portions of the Project located in Cedar Park or its ETJ as described above together with the plans and specifications for the master meter, rate-of-flow controller and backflow prevention device and appurtenances, and the vault(s) to contain such devices, to the Director for review and approval prior to the installation of same by Leander. For those portions of the Project located within Cedar Park's ETJ, Leander agrees to comply in all respects with Cedar Park ordinances and construction standards applicable to the construction, inspection and approval of the Project. Cedar Park will review and comment on such plans in a prompt and timely manner and approval will not be unreasonably withheld.

2.08. Inspection of the Project. Cedar Park shall have the right during regular business hours to observe the Project during all phases of construction and Leander shall provide access to Cedar Park's authorized representatives for this purpose.

2.09. Operation and Maintenance and Other Improvements to Leander System. Leander shall be solely responsible for operating and maintaining its water system in good working order, as well as for design and construction of such other and further improvements to the Leander water system as are necessary for the safe transportation, storage and distribution of potable water received from the Cedar Park water system hereunder. Cedar Park shall not be liable to Leander or any of its customers for discontinuance of service or other actions arising from the distribution of potable water.

2.10. Effect of Water Conservation Measures. Cedar Park's obligation under this agreement shall be subject to Leander imposing on its customers and enforcing at a minimum, all voluntary and mandatory conservation measures and use restrictions imposed by Cedar Park on its own customers pursuant to applicable City Ordinances. Cedar Park shall give written notice to Leander of the implementation and termination of

any conservation measures or use restrictions. Leander may impose conservation measures and use restrictions that are more stringent than those of Cedar Park.

If Leander resells, on a wholesale basis, water supplied by Cedar Park, Leander shall require through a contract condition that any successive user of Cedar Park water must implement water conservation measures that comply with the State's, Cedar Park's and Leander's water conservation plans, programs and rules.

2.11. Establishment of Maximum Level of Firm Service. Subject to Force Majeure, Cedar Park has determined that it can and will provide the following volumes of water to Leander on a consistent basis as Firm Service for the years listed. The Parties acknowledge that the following volumes are also the maximum assured level of potable water service expressed in MGD that will be supplied by Cedar Park to Leander during any twenty-four (24) hour period during a calendar year:

<u>YEAR</u>	<u>MGD</u>
1996	0.87
1997	1.19
1998	1.51
1999	1.85
2000	2.18

2.12. As Available Service. To the extent potable water service is available from the Cedar Park system in excess of the amount of Firm Service, Leander may request and, to the extent Cedar Park determines such additional water service is available from the Cedar Park system, Cedar Park has agreed to provide As Available Service to Leander subject to the conditions set forth in this Section.

All water service that exceeds the approved level of Firm Service shall be considered as Available Service. Cedar Park may terminate or reduce such As Available Service at any time during the term of this Agreement by providing Leander with two (2) hours oral notice of such termination or reduction, with subsequent written confirmation. Such notice shall be transmitted by contacting via telephone, telefax or written notice any representative of the Leander parties listed in the Notice Section of this Agreement.

2.13. Interim Service: To the extent potable water service is available from the Cedar Park system prior to Leander's completion of the water storage facility portion of the Project, Leander may request and, to the extent Cedar Park determines such additional water service is available from the Cedar Park system, Cedar Park has agreed to provide Interim Service to Leander subject to the conditions set forth in this Section.

All water service prior to Leander's completion of the water storage facility portion of the Project shall be considered as Interim Service. Cedar Park may terminate or reduce such Interim Service at any time during the term of this Agreement by providing Leander with two (2) hours oral notice of such termination or reduction, with subsequent written confirmation. Such notice may be transmitted via telephone, with subsequent telefax or

written notice to Leander's designated director or manager, and absent such person the City Administrator.

2.14. Provision of Service During Emergency. In the event of an emergency as defined hereinabove, Leander may request that Cedar Park provide emergency water service in excess of the maximum level of Firm Service for that year or what was agreed to be provided under Interim Service for a temporary period to assist Leander in meeting the needs of such emergency. The provision of emergency water service shall be subject to the following conditions:

(a) the availability of water in the Cedar Park water system in excess of that required to service the requirements of Cedar Park's water system customers;

(b) a determination by the Director that a bona fide emergency as defined above exists and that delivery of emergency water service to Leander will not endanger the public health, safety or welfare of Cedar Park customers;

(c) emergency water service will be provided only for the shorter of the following periods:

(1) the reasonable duration of the emergency giving rise to the request for emergency water service;

(2) the reasonable duration needed to repair damage to the Leander water system occasioned by such emergency;

(3) the duration of Cedar Park's ability to provide emergency water service to Leander as determined by the Director; or

(4) two (2) weeks.

In the event that the emergency exceeds the shorter of the foregoing periods, Leander may make written request to the Director to continue emergency water service beyond said initial period. The Director may continue or resume such emergency water service for an additional period up to two (2) weeks, or such shorter period as the Director shall determine appropriate and necessary, but only if the Director determines that the emergency giving rise to the initial request for emergency service has not been abated, that Leander has exercised reasonable diligence in attempting to remove the disability giving rise to the initial request for Emergency Service, and that water in excess of the needs of Cedar Park's other customers continues to be available in the Cedar Park water system to provide emergency water service to Leander.

2.15. Rates For Water Service.

(a) Cedar Park and Leander agree that the initial rate to be charged for water supplied up to the maximum daily amount specified for Firm Service under this Agreement

shall be \$2.12 per 1,000 gallons. In the event Leander obtains its own Raw Water supply in accordance with this Agreement, the rate charged by Cedar Park to Leander shall be reduced by \$0.33 per 1,000 gallons for billing period quantities passing through the master meter up to and including the quantity permitted under Leander's Raw Water supply arrangement. The rate shall be subject to adjustment by Cedar Park from time to time as needed to maintain a just and reasonable rate, provided that such adjustments shall be based upon a cost of service study. Cedar Park shall give Leander sixty (60) days notice before raising the rate hereunder.

Commencing on the date that is three (3) years from the date service is commenced under this Agreement, either Party may request a cost of service study for the water service provided pursuant to this Agreement by giving written notice ("Notice") to the other party. No new cost of service study may be requested until at least three (3) years has elapsed from the date the last study was completed. The Notice shall include the name of the independent consultant that the party giving the Notice proposes to conduct the cost of service study. The party receiving the Notice shall have thirty (30) days to either approve the consultant proposed, or to propose another independent consultant to perform the study. If the party receiving the notice does not respond within this thirty (30) day period, it shall be deemed to have approved the consultant proposed in the Notice. The parties agree to use good faith efforts to agree on a consultant to perform the cost of service study, but if they are unable to do so, then the consultants proposed by each of the parties shall select a third consultant to perform the study, and the expenses of the consultants for making the selection shall be borne by the party requesting the study. The expense of any cost of service study performed under this Section shall be borne by the party requesting the study. If Cedar Park requests a study, the cost shall be considered a cost of operating Cedar Park's water utility system and shall be allocated accordingly in the cost of service study.

(b) Cedar Park and Leander agree that the rate to be charged for As Available Service and Emergency Service (i.e., quantities in excess of the Firm Service) following completion of the Project under this Agreement shall be \$3.71 per 1,000 gallons. This rate shall be applied to billing period consumption quantities in excess of the monthly consumption using the daily Firm Service allowed for that year.

(c) Cedar Park and Leander agree that the rate to be charged for Interim Service under this Agreement shall be \$2.12 per 1,000 gallons. This rate shall be applied to all billing period consumption quantities.

2.16. Minimum Payment for Availability. If, based on a calculation of daily average flow during any monthly billing period, Leander takes less than one-third (1/3) of the Firm Service commitment specified above, Leander agrees nonetheless to pay to Cedar Park without offset or counterclaim an amount equivalent to the charge for one-third (1/3) of the amount of said Firm Service commitment for each day of said monthly billing period as consideration for the availability of Firm Service from Cedar Park hereunder.

2.17. Payment and Dispute. The metering equipment shall be read by Cedar Park at least once each month and a bill issued once per month. Payment of each bill rendered shall be received within thirty (30) days of the billing date as printed on the bill. If Leander, at any time, disputes the amount to be paid by it to Cedar Park, Leander shall nevertheless promptly make the disputed payment or payments, but if it is subsequently determined by agreement or court decision that the disputed amount paid by Leander should have been less, or more, Cedar Park shall promptly revise Leander's bill in a manner that Leander, or Cedar Park, will recover the amount due. If Leander initiates or participates in any proceeding regarding Cedar Park's rates and policies under this Agreement and advocates a position that is adverse to Cedar Park and Cedar Park prevails, Leander shall pay Cedar Park for its expenses including attorneys' fees in the proceeding within fifteen (15) days after Cedar Park's demand for payment. Leander stipulates and agrees that the rates and policies specified in this Agreement are just, reasonable, and without discrimination.

2.18. Measurement. During the term water is being provided under this Agreement, Cedar Park shall at its own expense operate and maintain the metering equipment and related facilities and shall calibrate the metering equipment every twelve (12) months or more frequently upon request; however, the cost of calibrating the metering equipment shall be borne by the Leander if requested more frequently than once every twelve (12) months. Any meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate.

If upon any test of the master meter(s), the percentage of inaccuracy of such metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then registration thereof shall be corrected for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If the master meter(s) is out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meter(s) are out of service or out of repair shall be estimated and agreed upon by Cedar Park and Leander upon the basis of the best data available. If Cedar Park and Leander fail to agree on the amount of water delivered during such period, Cedar Park may estimate the amount of water delivered by:

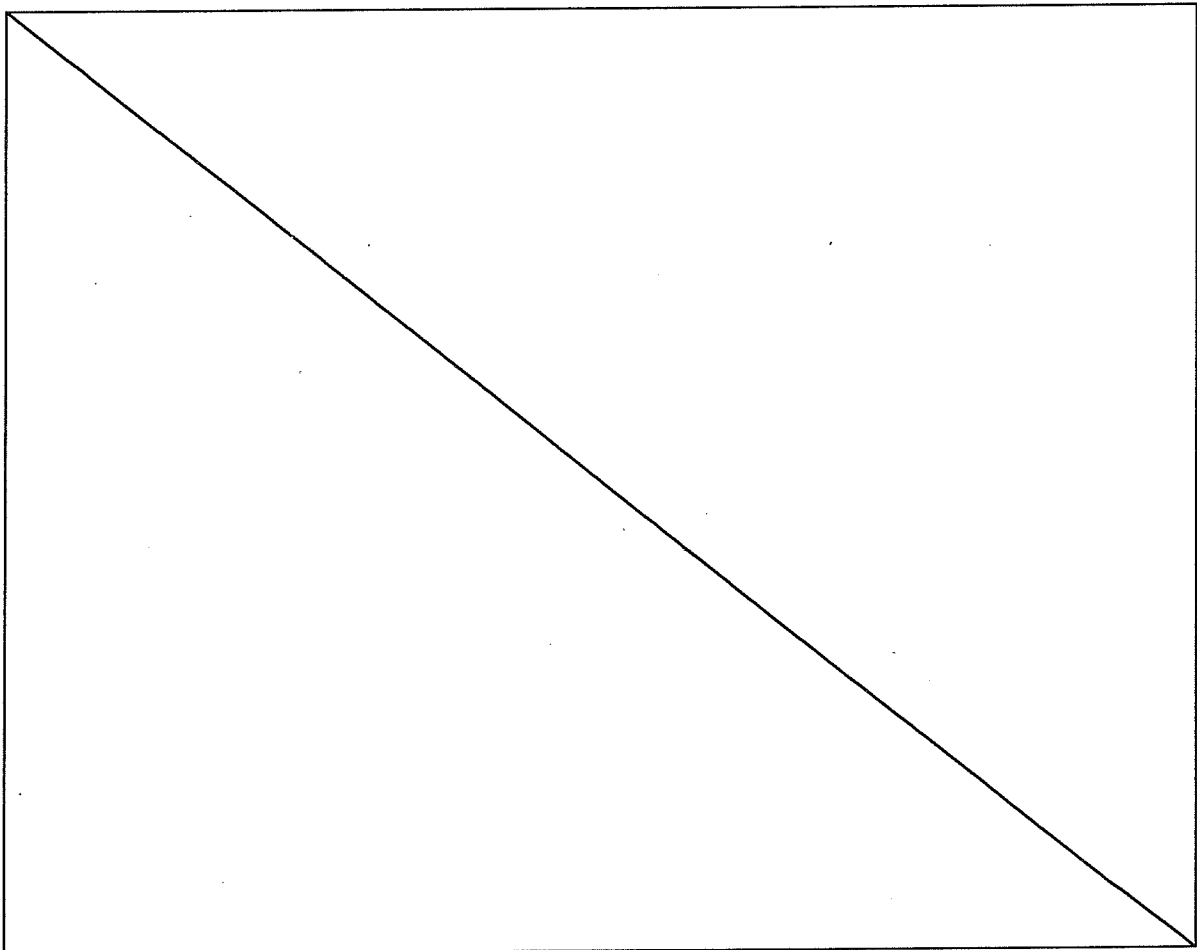
(1) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or

(2) estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter or meters were registering accurately.

2.19. Community Impact Fees. Leander agrees to pay Cedar Park community impact fees as set forth below for the purchase of Firm Service commitment to serve the land within Leander's service area.

(a) within thirty (30) days of the date of execution by both Parties of this Agreement, Leander shall pay to Cedar Park community impact fees in the amount of \$1,198,708 to account for existing connections who will make use of existing capital facilities. This amount is calculated as follows: the maximum day commitment during the first year of 0.87 MGD is divided by two (2) to get the average day demand of 0.435 MGD. The average day demand is divided by 450 gallons per day per LUE as defined by Cedar Park's Utility Ordinance resulting in 966.7 LUEs. The number of LUEs is multiplied by \$1,240 for a total initial cost of \$1,198,708.

(b) Within thirty (30) days of the date of the passage of each subsequent year following either (1) the date of commencement of Firm Service under this Agreement or (2) November 30, 1996, whichever date comes sooner, community impact fees shall be paid by Leander to Cedar Park in an amount calculated by taking the difference between the maximum level of Firm Service for the previous year and the maximum level of Firm Service of the current year and converting this to an LUE equivalent using the following methodology and multiplying by the current impact fee charge per LUE as stipulated in the Cedar Park Ordinance in effect at that time to arrive at the resulting annual impact fee amount: Take the difference of the previous and current year firm service amounts and convert to gallons per day by multiplying by 1,000,000 and divide difference by two (2) to get the average day demand and divide by 450 gallons per day per LUE as defined by Cedar Park's Utility Ordinance to obtain the resulting number of increase in LUEs and multiply by the cost per LUE as defined by the the City Ordinance in effect for that year.



2.20. Community Impact Fee Reimbursement. If at the end of five (5) years, neither Cedar Park nor Leander have obtained additional Raw Water supplies to continue supplying water service to Leander, Cedar Park shall reimburse Leander fifty-one (51) percent of the community impact fees paid by Leander pursuant to this Agreement. If the term of the agreement is modified in accordance with Section 2.02 and is less than 20 years, Cedar Park shall reimburse Leander at the end of the modified term the impact fees paid during that time using the following methodology:

Reimbursement in percent of total paid is calculated by subtracting the modified term (if less than 20 years) from twenty (20), dividing by fifteen (15) and multiplying by 51 percent.

For example, if the modified term is 10 years, the resultant reimbursement percentage would be calculated as follows:

$$\text{Reimbursement Percentage} = \frac{20 - 10}{15} \times 51 = 34 \text{ percent.}$$

If the term of the Agreement is modified and the resultant term is twenty (20) years or more, no reimbursements will be made.

2.21. Reimbursement to Cedar Park For Agreement Preparation Costs: Within thirty (30) days of the date of execution of this Agreement by both Parties, Leander shall reimburse Cedar Park for their actual cost in preparing this Agreement. Such reimbursement shall not exceed \$10,000.

ARTICLE THREE GENERAL PROVISIONS

3.01. Purpose and Place of Use. Leander shall use water purchased from Cedar Park under this Agreement for municipal purposes only within Leander's certificated service area as defined by their Certificate of Convenience and Necessity (CCN) and their Extraterritorial Jurisdiction (ETJ), excluding the portion of the Block House Creek Municipal Utility District which lies within their CCN and ETJ, which areas as currently existing are shown by the vicinity map attached to this Agreement.

3.02. Authority. This Agreement is an interlocal governmental agreement and is made pursuant to the authority conferred by Tex. Government Code, Chapter 791 (Vernon 1994), and Tex. Local Government Code §§ 402.001 and 402.017 791 (Vernon 1988).

3.03. Pledge of Revenues. Excluding the payment of community impact fees and the project contributions, Leander represents and covenants that all payments to be made by it

under this Agreement shall constitute reasonable and necessary "operating expenses" of its system as defined in Tex. Rev. Civ. Stat. art. 1113 (Vernon 1963), and that all such payments will be made from the revenues of its water system. Leander represents and has determined that the water supply to be obtained from the Project is absolutely necessary and essential to the present and future operation of its water system and is the only available and adequate source of supply of water therefor, and, accordingly, except as provided above, all payments required by this Agreement to be made by Leander shall constitute reasonable and necessary operating expenses of Leander's system or systems as described above with the effect that the obligation to make such payments from revenues of such system or systems shall have priority over any obligation to make any payments from such revenues, whether of principal, interest, or otherwise, with respect to all bonds heretofore or hereafter issued by Leander.

Leander agrees throughout the term of this Agreement to continuously operate and maintain its water system and to fix and collect such rates and charges for water services to be supplied by its water system as will produce revenues in an amount equal to at least (i) all of its payments under this Agreement, and (ii) all other amounts as required by the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding.

Unless otherwise specifically provided in writing by subsequent agreement between Cedar Park and Leander, Cedar Park shall never have the right to demand payment by Leander of any obligation assumed or imposed on it under this Agreement from funds raised or to be raised by taxation, it being expressly understood by Cedar Park and Leander that, except as provided above, all payments due by Leander are to be made from the revenues and income received by Leander from the ownership and operation of its water system.

3.04. Insurance. Leander and Cedar Park both agree to carry fire, casualty, public liability, public official, and other insurance (including self-insurance to the extent deemed advisable by each City) on their respective water systems for purposes and in amounts that ordinarily would be carried by a privately owned utility company owning and operating such facilities, except that neither City shall be required to carry liability insurance except to insure itself against risk of loss due to claims for which it can, in the opinion of the respective City's legal counsel, be liable under the Texas Tort Claims Act or any similar law or judicial decision. Such insurance will provide, to the extent feasible and practicable, for the restoration of damaged or destroyed properties and equipment, to minimize the interruption of the services of such facilities. All premiums for such insurance shall constitute an operation and maintenance expense of each system. Both Cities agree to cooperate on obtaining any insurance to avoid overlapping coverage of each City's water system.

3.05. Force Majeure. If, by reason of Force Majeure (as hereinafter defined), any party shall be rendered wholly or partially unable to carry out its obligations under this

Agreement after its effective date, then such party shall give written notice of the particulars of such Force Majeure to the other party or parties within a reasonable time after the occurrence thereof.

The obligations of the party giving such notice, to the extent affected by such Force Majeure, shall be suspended during the continuance of the inability claimed and for no longer period, and any such party shall in good faith exercise its best efforts to remove and overcome such inability. Payment obligations shall not be considered to be affected by Force Majeure.

The term "Force Majeure" as utilized 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 other civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; storms; floods; washouts; or other natural disasters; 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.

3.06. Title and Liability. Title to all water supplied hereunder shall be in Cedar Park up to each Point of Delivery, at which point title shall pass to Leander. Cedar Park and Leander hereby agree to save and hold each other harmless from all claims, demands, and causes of action that may be asserted by anyone on account of the transportation and delivery of said water while title remains in the other party. Leander has satisfied itself that water supplied by Cedar Park will be suitable for its needs.

No provision of this Agreement shall be construed to create any type of joint or equity ownership of any property or any partnership or joint venture. Neither this Agreement nor any actions of the parties hereunder or Leander's payments (whether past, present, or future) shall be construed as granting to or otherwise vesting in Leander any right, title or interest in capacity, or equity in the City's System or any element thereof.

3.07. Indemnity. To the fullest extent permitted by law, Leander, on behalf of itself and its successors and assigns shall, defend, protect, indemnify and hold harmless Cedar Park and Cedar Park's councilmen, employees, agents and consultants from and against all claims, losses, expenses, costs, damages, demands, judgments, causes of action, suits, and liability in tort, contract or any other basis and of every kind and character whatsoever (including, but not limited to, all reasonable costs of defense, such as fees and charges of attorneys, expert witnesses, and other professionals incurred by Cedar Park and all court or arbitration or other dispute resolution costs) arising out of or incident to, directly or indirectly, this Agreement including, but not limited to, any such claim for bodily injury, death, property damage, consequential damage or economic loss and any claim that may arise in connection with the quality, quantity, use, misuse, impoundment, diversion, transportation and measurement of water provided pursuant to this Agreement and any claim that may arise as a result of installation, inspection, adjusting, or testing of measuring and recording equipment involving Leander's use of Cedar Park water provided

by Cedar Park pursuant to this Agreement, as well as any claim that may arise from any condition of Leander's facilities, separate operations being conducted on Leander's facilities, or the imperfection or defective condition, whether latent or patent, of any material or equipment sold, supplied or furnished by Cedar Park to Leander pursuant to this Agreement. The indemnity provisions of this paragraph are applicable for the protection of Cedar Park only if the claims, losses, expenses, damages, demands, judgments, causes of action, suits and liability in tort, contract or any other basis are not caused by the negligence, gross negligence, or willful misconduct of Cedar Park or any Cedar Park City councilman agent, employee or consultant. This indemnification and release shall survive termination or expiration of the Agreement. Notwithstanding the foregoing, this indemnity shall not apply to, and Leander shall not indemnify Cedar Park for any costs, fees, expenses and/or damages incurred by Cedar Park in any suit or cause of action for mandamus or declaratory judgement, between Leander and Cedar Park, in which Leander is the prevailing party.

3.08. Permit Support. Leander shall actively support and assist Cedar Park in obtaining permits, approvals or contracts from governmental agencies in order to repair, maintain, replace, add to and/or enlarge Cedar Park's water system for the purposes of this Agreement. Upon Cedar Park's request, such support and assistance shall include, but not be limited to: providing information in order to facilitate any permit or approval; providing written and oral statements of support and assistance or testimony, information and evidence, if appropriate and taking all such other action as may be appropriate to support and assist Cedar Park in obtaining any permit, contract or approval. Any cost incurred by Cedar Park associated with obtaining permits, contracts or approvals shall be costs of Cedar Park's water system.

3.09. Regulatory Requirements. This Agreement is subject to all applicable federal, state, and local laws and any applicable ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having jurisdiction. However, nothing contained in this Agreement shall be construed as a waiver of any right to question or contest any law, ordinance, order, rule or regulation in any forum having jurisdiction, and Cedar Park and Leander each agree to make a good faith effort to support proposed laws and regulations that would be consistent with the performance of this Agreement in accordance with its terms.

3.10. Other Charges. In the event the state, county, state or federal agency, or regional authority imposes any sales or use taxes, or taxes, assessments, or charges of any similar nature are imposed on diverting, storing, delivering, gathering, impounding, taking, selling, using, or consuming the water received by Leander from Cedar Park, the amount of the tax, assessment, or charge shall be included in the cost of service studies and rates for water service to be paid by Leander, and whenever Cedar Park shall be required to pay, collect, or remit any tax, assessment, or charge on water received by Leander, then Leander shall promptly pay or reimburse Cedar Park for the tax, assessment, or charge in the manner directed by Cedar Park.

3.11. Default in Payments. All amounts due and owing to Cedar Park by Leander shall, if not paid when due, bear interest at the Texas post-judgment interest rate as set out in Tex. Rev. Civ. Stat. art. 5069-1.05 (Vernon Supp. 1995) or any successor statute from the date when due until paid, provided that such rate shall never be usurious or exceed the maximum rate as permitted by law. If any amount due and owing by Leander to Cedar Park is placed with an attorney for collection, Leander shall pay to Cedar Park, in addition to all other payments provided for by this Agreement, including interest, Cedar Park's collection expenses, including court costs and attorneys' fees. Cedar Park shall, to the extent permitted by law, suspend delivery of water from the Project to Leander if Leander remains delinquent in any payments due hereunder for a period of sixty (60) days, and shall not resume delivery of water while Leander is so delinquent. Cedar Park shall pursue all legal remedies against Leander to enforce and protect the rights of Cedar Park, the other parties, and the holders of Cedar Park's bonds. It is understood that the foregoing provisions are for the benefit of the holders of Cedar Park's bonds.

3.12. Waiver and Amendment. Failure to enforce or the waiver of any provision of this Agreement or any breach or nonperformance by Cedar Park or Leander shall not be deemed a waiver by Leander or Cedar Park of the right in the future to demand strict compliance and performance of any provision of this Agreement. Regardless of any provision contained in this Agreement to the contrary, any right or remedy or any default under this Agreement, except the right of Cedar Park to receive payment that shall never be determined to be waived, shall be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within two (2) years plus one (1) day after the occurrence of the default.

No officer or agent of Cedar Park or Leander is authorized to waive or modify any provision of the Agreement. No modifications to, or rescission of, this Agreement may be made except by a written document signed by Cedar Park's and Leander's authorized representatives.

3.13. Remedies. It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination) existing at law or in equity may be availed of by any party hereto and shall be cumulative. Recognizing, however, that failure in the performance of any party's obligations hereunder could not be adequately compensated in money damages alone, each party agrees in the event of any default on its part that each party shall have available to it the equitable remedy of mandamus and specific performance, in addition to any other legal or equitable remedies (other than termination) that also may be available to Cedar Park.

3.14. Entire Agreement. This Agreement contains the entire Agreement of the parties and supersedes all prior or contemporaneous understandings and representations, whether oral or written, respecting the subject matter hereof.

3.15. No Amendment of Other Agreements. Unless otherwise expressly stipulated herein, this Agreement is separate from and shall not constitute an amendment or modification of any other agreement between the parties.

3.16. Severability. The provisions of this Agreement are severable and if, for any reason, any one or more of the provisions contained in the Agreement shall be held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal or unenforceable provision had never been contained in the Agreement.

3.17. Caption. The sections and captions contain herein are for convenience and reference only and are not intended to define, extend or limit any provision of this Agreement.

3.18. No Third Party Beneficiaries. This Agreement does not create any third party benefits to any person or entity other than the signatories hereto, and is solely for the consideration herein expressed. No existing or potential user of Leander's water system shall have any right, title, or interest in and to this Agreement except as a customer of Leander as if the Agreement did not exist.

3.19. Assignment. Leander understands and agrees that any assignment of rights or delegation of duties under this Agreement is void without written prior consent of Cedar Park.

3.20. Applicable Law. This Agreement shall be construed under and in accordance with Texas law.

3.21. Venue. Venue for any action arising hereunder shall be in Williamson County.

3.22. Notices. Except where expressly stated otherwise in this Agreement, notices provided hereunder shall be sufficient if forwarded to the other party by hand-delivery or via U.S. Postal Service, postage prepaid, to the address of the other party shown below:

CITY OF LEANDER:

Mayor
City of Leander
P. O. Box 319
Leander, Texas 78641

CITY OF CEDAR PARK

Director of Public Works
City of Cedar Park
600 N. Bell Blvd.
Cedar Park, Texas 78613

Notice deposited in the mail in the previously described manner shall be conclusively deemed to be effective from and after the expiration of three (3) days after the notice is deposited in the mail. Either party may change its address by giving written notice of the change to the other party at least fifteen (15) days before the change becomes effective.

3.23. Duplicate Originals. Leander and Cedar Park, acting under authority of their respective governing bodies, shall authorize the execution of this Agreement in several counterparts, each of which shall be an original. Leander shall submit written evidence in the form of bylaws, charters, resolutions or other written documentation specifying the authority of Leander's representative to sign this Agreement that evidence shall be attached to this Agreement as an Exhibit to this Agreement.

3.24. Effective Date. This Agreement shall be effective from and after the date of due execution by the authorized representative of each party to this Agreement and after LCRA's agreement to provide an additional 2,400 acre-feet of water for use in the Colorado River Basin to meet part of Leander's water needs under the same terms and conditions as contained in LCRA's Water Sale Contract with Cedar Park.

IN WITNESS WHEREOF, the authorized representatives of Cedar Park and Leander have executed this Agreement as of the date(s) shown below.

ATTEST:

CITY OF CEDAR PARK:

Nancy M. Faulkner
City Secretary

By: Dorothy L. Duckett

Name: DOROTHY DUCKETT

Title: MAYOR

Date: 12-15-95

APPROVED AS TO FORM AND LEGALITY:

BY: [Signature]
ATTORNEY FOR CEDAR PARK

ATTEST

CITY OF LEANDER:

Delia M. Luna
City Secretary

By: Kenneth D. Craven

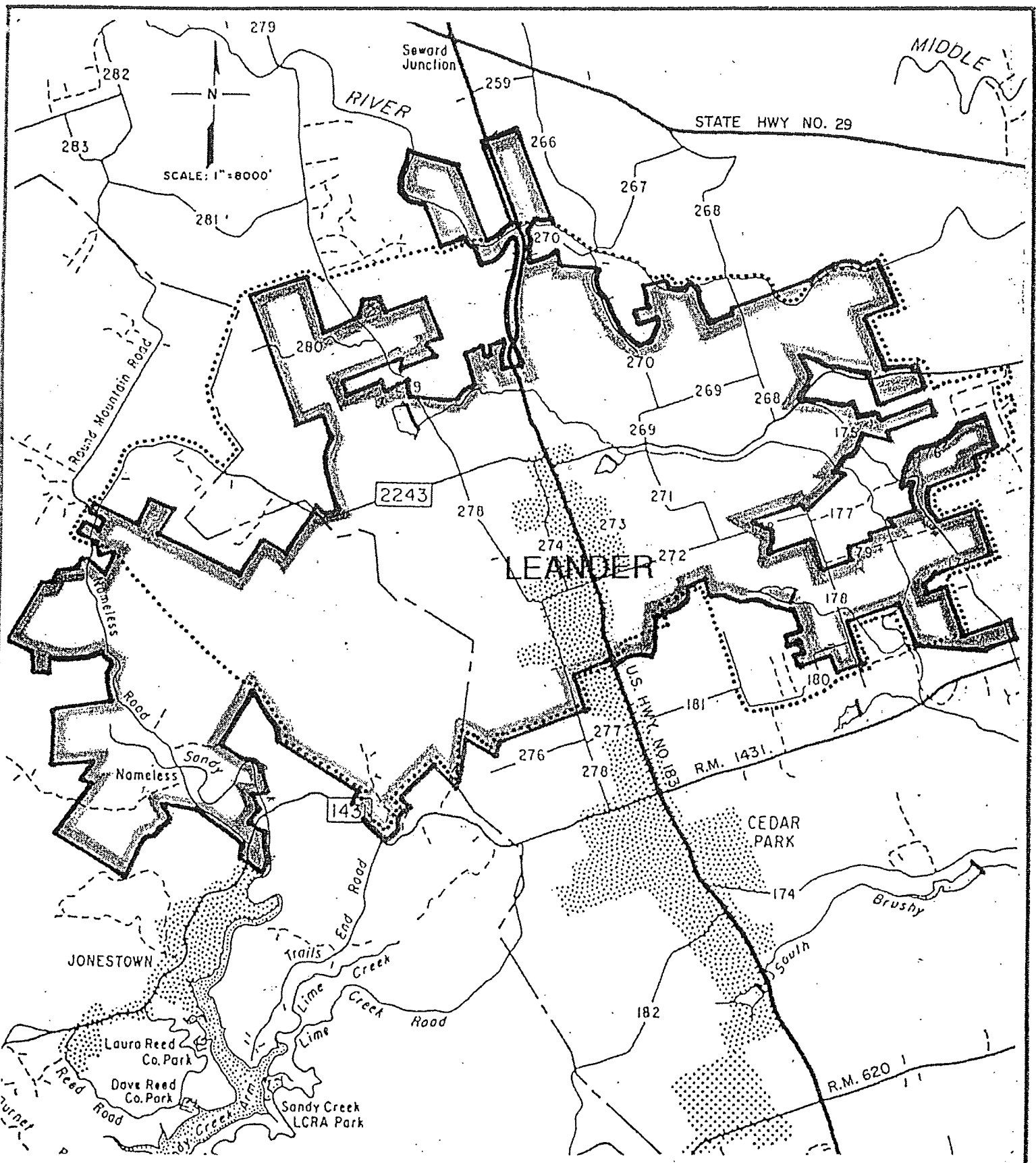
Name: Kenneth D. Craven

Title: Mayor

Date: December 18, 1995

APPROVED AS TO FORM AND LEGALITY:

BY: [Signature]
ATTORNEY FOR LEANDER



LEGEND

- CITY OF LEANDER E.T.J. LIMIT
- CITY OF LEANDER SERVICE AREA

VICINITY MAP

FIRST AMENDMENT TO WATER CONTRACT FOR MUNICIPAL USES
BETWEEN LCRA AND CITY OF LEANDER, TEXAS

This First Amendment ("Amendment") to that certain Water Sale Contract for Municipal Use, dated August 21, 2007 (the "Agreement"), is made by and between the Lower Colorado River Authority (hereinafter, together with its successors and assigns, called "LCRA") and City of Leander, Texas (hereinafter, together with its successors and assigns as provided herein, "Purchaser"), who, in mutual consideration of the provisions herein contained agree as follows:

1. The Agreement is hereby amended in section "I. WATER SUPPLY," subsection "A. INTERBASIN TRANSFER PERMIT AND MAXIMUM ANNUAL QUANTITY," paragraph "(2)," so that the last sentence of that paragraph is deleted and the following is added in its place:

"Prior to that date, and in accordance with the current IBTP, PURCHASER shall have the right to divert: (a) up to a maximum of 24,000 acre-feet (7,820,424,000 gallons) of raw water per annum from Lake Travis in Travis County, Texas, at the Point of Diversion for use in that portion of the Service Area located in the Colorado River basin; and, (b) up to a maximum of 6,400 acre-feet (2,085,446,400 gallons) of raw water per annum from Lake Travis in Travis County, Texas, at the Point of Diversion for use in that portion of the Service Area located in Brazos River basin, provided that any water used in the Brazos River basin shall be subtracted from the MAQ available for use in the Colorado River basin. In addition, PURCHASER shall develop a method for verifying compliance with the limitations set forth above if PURCHASER intends to use more than 6,400 acre-feet per annum prior to issuance of the amended IBTP, which such method shall be reviewed and approved by the LCRA's Manager of River Services prior to any such water use. Upon approval, PURCHASER shall be solely responsible for operating its facilities in such manner as to comply with this paragraph and the IBTP. PURCHASER further agrees to provide LCRA and its representatives access to all property and facilities of PURCHASER during normal business hours for purposes of inspection to ensure compliance with this paragraph."

2. The Agreement is hereby amended in section "II. CONTRACT ADMINISTRATION," subsection "B. PAYMENT," paragraph "(8)," to insert prior to the "." at the end of that paragraph: ", in accordance with Texas Local Government Code section 271.159."
3. The Agreement is hereby amended in section "II. CONTRACT ADMINISTRATION," subsection "F. EQUITABLE REMEDIES," to insert the following sentence at the end of that section: "In the event LCRA prevails in a legal action seeking equitable remedies in accordance with this section, LCRA shall be entitled to receive its reasonable and necessary court costs and attorney fees in accordance with Texas Local Government Code section 271.159. PURCHASER ACKNOWLEDGES AND AGREES THAT THIS CONTRACT IS SUBJECT TO THE TERMS OF CHAPTER 271, INCLUDING SUBCHAPTER I, TEXAS LOCAL GOVERNMENT CODE, AS THAT CHAPTER IS IN EFFECT AS OF THE EFFECTIVE DATE. LCRA ACKNOWLEDGES AND

AGREES THAT THIS CONTRACT IS SUBJECT TO THE TERMS OF CHAPTER 271, INCLUDING SUBCHAPTER I, TEXAS LOCAL GOVERNMENT CODE, AS THAT CHAPTER IS IN EFFECT AS OF THE EFFECTIVE DATE."

4. Except as amended hereby, the Agreement remains in full force and effect and is ratified and affirmed by LCRA and the City.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies caused this Amendment to be duly executed in several counterparts, each of which shall constitute an original, all as of the 18th day of January, 2008 ("Effective Date").

CITY OF LEANDER

By: John D. Cowman
John Cowman, Mayor

ATTEST:

By: Debbie Haile
Name: Debbie Haile
Title: City Secretary

LOWER COLORADO RIVER AUTHORITY

By: Karen Bondy
Karen Bondy, P.E.
Manager, River Services





EXECUTIVE SUMMARY

04/06/2023

AGENDA SUBJECT:

Approval of reimbursable expenses of the Devine Lake Phase 4 Development Agreement for oversize of utility lines requested by the City in the amount of \$90,162.00; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

In July 2016, City Council approved a development agreement with Sixth Street Capital Investors, LP for the Devine Lake subdivision. The agreement was assigned to Devine Land Investments, LLC and Lennar Homes of Texas Land and Construction, LTD for Phase 1 of the project in September 2019 and March 2020, Phase 2 in June 2020 and Phase 3 and 4 in December 2020. The development agreement specifies that the City will reimburse the cost to oversize utility lines requested by the City.

For Phase 4, the reimbursable expenses are for the incremental cost of oversizing an eight (8)- inch wastewater line to a twenty-one (21)- inch wastewater line. The oversized lines are needed to provide future service to areas west of the Devine Lake development.

The engineer is required to submit the bid tabs for the reimbursable expenses in accordance with Article IV of the development agreement with each phase. Phase 1 and Phase 2 reimbursement expenses were submitted and approved in 2021. Phase 3 reimbursement expenses were submitted and approved in March 2023.

The submitted reimbursable expenses for Phase 4 low bids is \$90,162.00 for the wastewater line. City staff has reviewed the bids and found them acceptable for reimbursement.

The reimbursement for this expense will be made by rebating sixty (60%) percent of the wastewater impact fees as future users connect to the lines until the full reimbursable expenses are paid as outlined in the development agreement.

HISTORY/TIMELINE:

October 2021 - Phase 1 Reimbursement - water: \$264,253.71 wastewater: \$240,815.54

October 2021 - Phase 2 Reimbursement - water: \$49,420.00 wastewater: \$23,340.00

March 2023 - Phase 3 Reimbursement - water: \$306,150.00 wastewater: \$190,220.00

RECOMMENDATION:

Staff recommends the approval of the reimbursable amount of \$90,162.00 for Devine Lake Phase 4 for the wastewater line by rebating the impact fees at a sixty (60%) percent rate until the total amounts are reached and authorize the City Manager to execute any and all necessary documents.

PRESENTER:

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

Fiscal Impact

Amount requested: \$90,162.00

Approved in current budget (Yes / No): Yes

<u>Expenditure (New / Amended):</u>	New
<u>Recurring or one-time:</u>	One-Time
<u>Fund source (Operating / Utility / etc.):</u>	Wastewater Impact Fees

Attachments

1. Bid Tab Devine Lake Phase 4
2. Development Agreement

DEVINE LAKE - PHASE FOUR
PUBLIC IMPROVEMENTS: STREET, DRAINAGE, WATER, WASTEWATER
Bids Received: Monday, February 27, 2023 at 5:00 p.m. @ LJA Engineering, Inc.

Joe Bland Construction
Steve Fuquay

Liberty Civil
Ace Dickehut

DNT
Anthony Segura

5 Star Civil
Michael Hoge

JL Gray
Ignacio Rios

CC Carlton
Jose Rubio

CASH Construction
David Renfro

Item No.	Estimated Quantity	Unit	Brief Item Description	Unit Price	Total	Unit Price	Total	Unit Price	Contractor Quantity	AdjustedTotal Price	Unit Price	Total	Unit Price	Contractor Quantity	AdjustedTotal Price	Unit Price	Total	Unit Price	Total	AVERAGE	
				In Figures	Price	In Figures	Price	In Figures			In Figures	Price	In Figures			Price	In Figures	Price	In Figures	Price	In Figures
WASTEWATER IMPROVEMENTS - ALT 1																					
1	1	EA	Connect to Existing Wastewater System at Stub...	\$6,000.00	\$6,000.00	\$1,500.00	\$1,500.00	\$2,379.00		\$2,379.00	\$2,005.00	\$2,005.00	\$2,150.00		\$2,150.00	\$2,700.00	\$2,700.00	\$5,050.00	\$5,050.00		\$3,386.80
2	265	LF	8" WWL, 0-8' Depth, SDR 26 PVC, including ...	\$53.00	\$14,045.00	\$41.00	\$10,865.00	\$42.00 *	390 *	\$16,380.00	\$41.40	\$10,971.00	\$52.25	347 *	\$18,130.75	\$55.00	\$14,575.00	\$59.00	\$15,635.00		\$13,579.20
3	258	LF	8" WWL, 8-10' Depth, SDR 26 PVC, including ...	\$55.00	\$14,190.00	\$44.00	\$11,352.00	\$44.00 *	253 *	\$11,132.00	\$41.40	\$10,681.20	\$58.75	266 *	\$15,627.50	\$60.00	\$15,480.00	\$63.00	\$16,254.00		\$12,721.84
4	203	LF	8" WWL, 10-12' Depth, SDR 26 PVC, including ...	\$56.00	\$11,368.00	\$47.00	\$9,541.00	\$47.00 *	200 *	\$9,400.00	\$58.90	\$11,956.70	\$66.25	188 *	\$12,455.00	\$65.00	\$13,195.00	\$67.00	\$13,601.00		\$11,173.34
5	223	LF	8" WWL, 12-14' Depth, SDR 26 PVC, including ...	\$57.00	\$12,711.00	\$50.00	\$11,150.00	\$54.00 *	256 *	\$13,824.00	\$67.60	\$15,074.80	\$75.50	258 *	\$19,479.00	\$75.00	\$16,725.00	\$77.00	\$17,171.00		\$13,986.16
6	257	LF	8" WWL, 14-16' Depth, SDR 26 PVC, including ...	\$59.00	\$15,163.00	\$52.00	\$13,364.00	\$65.00 *	588 *	\$38,220.00	\$83.00	\$21,331.00	\$85.00	303 *	\$25,755.00	\$80.00	\$20,560.00	\$89.00	\$22,873.00		\$22,190.20
7	168	LF	8" WWL, 16-18' Depth, SDR 26 PVC, including ...	\$61.00	\$10,248.00	\$53.00	\$8,904.00	\$67.00 *	464 *	\$31,088.00	\$101.00	\$16,968.00	\$100.00	40 *	\$4,000.00	\$95.00	\$15,960.00	\$109.00	\$18,312.00		\$17,104.00
8	568	LF	18" WWL, 16-18' Depth, SDR 26 PVC, including ...	\$65.00	\$36,920.00	\$55.00	\$31,240.00	\$129.00 *	277 *	\$35,733.00	\$171.00	\$97,128.00	\$105.00	848 *	\$89,040.00	\$95.00	\$53,960.00	\$109.00	\$61,912.00		\$52,586.60
9	673	LF	18" WWL, 18-20' Depth, SDR 26 PVC, including ...	\$73.00	\$49,129.00	\$57.00	\$38,361.00	\$143.00 *	708 *	\$101,244.00	\$184.00	\$123,832.00	\$115.00	434 *	\$49,910.00	\$120.00	\$80,760.00	\$125.00	\$84,125.00		\$79,338.20
11	372	LF	8" WWL, 18'-20' Depth, SDR 26 PVC...	\$78.00	\$29,016.00	\$57.00	\$21,204.00	\$0.00 *	0 *	\$0.00	\$125.00	\$46,500.00	\$115.00	406 *	\$46,690.00	\$165.00	\$61,380.00	\$125.00	\$46,500.00		\$28,644.00
12	335	LF	8" WWL, 20'-22' Depth, SDR 26 PVC...	\$84.00	\$28,140.00	\$60.00	\$20,100.00	\$77.00 *	462 *	\$35,574.00	\$185.00	\$61,975.00	\$145.00	307 *	\$44,515.00	\$225.00	\$75,375.00	\$144.00	\$48,240.00		\$38,805.80
13	8	EA	4-Foot Diameter, WWMH, 0-8' Depths, including ...	\$5,100.00	\$40,800.00	\$4,900.00	\$39,200.00	\$4,888.00		\$39,104.00	\$6,085.00	\$48,680.00	\$5,225.00		\$41,800.00	\$5,500.00	\$44,000.00	\$6,050.00	\$48,400.00		\$43,236.80
14	10	EA	4-Foot Diameter (8-Inch WWL), WWMH,...	\$5,100.00	\$51,000.00	\$4,900.00	\$49,000.00	\$4,888.00		\$48,880.00	\$6,085.00	\$60,850.00	\$5,220.00		\$52,200.00	\$5,500.00	\$55,000.00	\$6,050.00	\$60,500.00		\$54,046.00
15	4	EA	4-Foot Diameter (8-Inch WWL), WWMH,...	\$5,100.00	\$20,400.00	\$4,900.00	\$19,600.00	\$4,888.00		\$19,552.00	\$6,085.00	\$24,340.00	\$5,200.00		\$20,800.00	\$5,500.00	\$22,000.00	\$6,250.00	\$25,000.00		\$21,778.40
16	23	VF	4-foot Dia (8-inch WWL) WWMH Extra Depth,...	\$1,000.00	\$23,000.00	\$420.00	\$9,660.00	\$382.00		\$8,786.00	\$619.00	\$14,237.00	\$450.00		\$10,350.00	\$645.00	\$14,835.00	\$485.00	\$11,155.00		\$13,367.60
17	98	VF	4-foot Dia (8-inch WWL) WWMH Extra Depth,...	\$1,000.00	\$98,000.00	\$420.00	\$41,160.00	\$382.00		\$37,436.00	\$488.00	\$47,824.00	\$450.00		\$44,100.00	\$645.00	\$63,210.00	\$485.00	\$47,530.00		\$54,390.00
18	50	VF	4-foot Dia (8-inch WWL) WWMH Extra Depth,...	\$1,000.00	\$50,000.00	\$420.00	\$21,000.00	\$382.00		\$19,100.00	\$543.00	\$27,150.00	\$450.00		\$22,500.00	\$645.00	\$32,250.00	\$485.00	\$24,250.00		\$28,300.00
19	20	EA	Double Wastewater Service on 8-inch WWL...	\$3,000.00	\$60,000.00	\$3,500.00	\$70,000.00	\$2,843.00		\$56,860.00	\$1,730.00	\$34,600.00	\$3,100.00		\$62,000.00	\$3,450.00	\$69,000.00	\$2,750.00	\$55,000.00		\$55,292.00
20	15	EA	Double Wastewater Service on 8-inch WWL...	\$3,000.00	\$45,000.00	\$3,500.00	\$52,500.00	\$2,843.00		\$42,645.00	\$1,740.00	\$26,100.00	\$3,375.00		\$50,625.00	\$3,450.00	\$51,750.00	\$3,050.00	\$45,750.00		\$42,399.00
21	1	EA	Single Wastewater Service on 8-inch WWL...	\$2,600.00	\$2,600.00	\$2,200.00	\$2,200.00	\$2,296.00		\$2,296.00	\$1,545.00	\$1,545.00	\$2,700.00		\$2,700.00	\$3,000.00	\$3,000.00	\$2,350.00	\$2,350.00		\$2,198.20
22	240	LF	16" Steel Encasement, Complete in place per...	\$215.00	\$51,600.00	\$145.00	\$34,800.00	\$133.00		\$31,920.00	\$139.00	\$33,360.00	\$145.00		\$34,800.00	\$135.00	\$32,400.00	\$155.00	\$37,200.00		\$37,776.00
23	3,322	LF	Trench Safety, Complete in place per linear ...	\$3.00	\$9,966.00	\$1.00	\$3,322.00	\$1.00 *	3,385 *	\$3,385.00	\$1.10	\$3,654.20	\$2.25	3,397 *	\$7,643.25	\$1.00	\$3,322.00	\$1.00	\$3,322.00		\$4,729.84
24	380	CY	Gravel for Ground Water Mitigation, Assumes...	\$200.00	\$76,000.00	\$50.00	\$19,000.00	\$33.40		\$12,692.00	\$35.50	\$13,490.00	\$28.50		\$10,830.00	\$45.00	\$17,100.00	\$63.00	\$23,940.00		\$29,024.40
25	60	LF	6" PVC for Ground Water Mitigation, includes ...	\$125.00	\$7,500.00	\$27.00	\$1,620.00	\$32.00		\$1,920.00	\$45.40	\$2,724.00	\$28.50		\$1,710.00	\$50.00	\$3,000.00	\$51.00	\$3,060.00		\$3,364.80

TOTAL AMOUNT: WASTEWATER IMPROVEMENTS - ALT 1				\$762,796.00	\$540,643.00	*	*	\$619,550.00		\$756,976.90	*	*	\$689,810.50		\$781,537.00		\$737,130.00		\$683,419.18
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DEVINE LAKE - PHASE FOUR
PUBLIC IMPROVEMENTS: STREET, DRAINAGE, WATER, WASTEWATER
Bids Received: Monday, February 27, 2023 at 5:00 p.m. @ LJA Engineering, Inc.

Joe Bland Construction
Steve Fuquay

Liberty Civil
Ace Dickehut

DNT
Anthony Segura

5 Star Civil
Michael Hoge

JL Gray
Ignacio Rios

CC Carlton
Jose Rubio

CASH Construction
David Renfro

Item No.	Estimated Quantity	Unit	Brief Item Description	Unit Price In Figures	Total Price	Unit Price In Figures	Total Price	Unit Price In Figures	Contractor Quantity	AdjustedTotal Price	Unit Price In Figures	Total Price	Unit Price In Figures	Contractor Quantity	AdjustedTotal Price	Unit Price In Figures	Total Price	Unit Price In Figures	Total Price	AVERAGE Unit Price In Figures	Total Price
WASTEWATER IMPROVEMENTS - ALT 2																					
1	1	EA	Connect to Existing Wastewater System at Stub,...	\$6,000.00	\$6,000.00	\$2,800.00	\$2,800.00	\$2,670.00		\$2,670.00	\$2,005.00	\$2,005.00	\$3,125.00		\$3,125.00	\$4,000.00	\$4,000.00	\$3,200.00	\$3,200.00		\$3,335.00
2	265	LF	8" WWL, 0-8' Depth, SDR 26 PVC, including ...	\$53.00	\$14,045.00	\$43.00	\$11,395.00	\$35.00 *	390 *	\$13,650.00	\$41.40	\$10,971.00	\$52.25	347 *	\$18,130.75	\$55.00	\$14,575.00	\$59.00	\$15,635.00		\$13,139.20
3	258	LF	8" WWL, 8-10' Depth, SDR 26 PVC, including ...	\$55.00	\$14,190.00	\$46.00	\$11,868.00	\$43.00 *	253 *	\$10,879.00	\$41.40	\$10,681.20	\$58.75	266 *	\$15,627.50	\$60.00	\$15,480.00	\$63.00	\$16,254.00		\$12,774.44
4	203	LF	8" WWL, 10-12' Depth, SDR 26 PVC, including ...	\$56.00	\$11,368.00	\$49.00	\$9,947.00	\$47.00 *	200 *	\$9,400.00	\$58.90	\$11,956.70	\$66.25	188 *	\$12,455.00	\$65.00	\$13,195.00	\$69.00	\$14,007.00		\$11,335.74
5	223	LF	8" WWL, 12-14' Depth, SDR 26 PVC, including ...	\$57.00	\$12,711.00	\$52.00	\$11,596.00	\$54.00 *	256 *	\$13,824.00	\$67.60	\$15,074.80	\$75.50	258 *	\$19,479.00	\$75.00	\$16,725.00	\$77.00	\$17,171.00		\$14,075.36
6	257	LF	8" WWL, 14-16' Depth, SDR 26 PVC, including ...	\$59.00	\$15,163.00	\$54.00	\$13,878.00	\$105.00 *	303 *	\$31,815.00	\$83.00	\$21,331.00	\$85.00	303 *	\$25,755.00	\$80.00	\$20,560.00	\$89.00	\$22,873.00		\$21,012.00
7	168	LF	8" WWL, 16-18' Depth, SDR 26 PVC, including ...	\$61.00	\$10,248.00	\$57.00	\$9,576.00	\$119.00 *	285 *	\$33,915.00	\$101.00	\$16,968.00	\$100.00	40 *	\$4,000.00	\$95.00	\$15,960.00	\$109.00	\$18,312.00		\$17,803.80
8	568	LF	18" WWL, 16-18' Depth, SDR 26 PVC, including ...	\$165.00	\$93,720.00	\$134.00	\$76,112.00	\$129.00 *	277 *	\$35,733.00	\$171.00	\$97,128.00	\$180.00	848 *	\$152,640.00	\$230.00	\$130,640.00	\$203.00	\$115,304.00		\$83,599.40
9	673	LF	18" WWL, 18-20' Depth, SDR 26 PVC, including ...	\$175.00	\$117,775.00	\$138.00	\$92,874.00	\$143.00 *	708 *	\$101,244.00	\$184.00	\$123,832.00	\$200.00	434 *	\$86,800.00	\$320.00	\$215,360.00	\$225.00	\$151,425.00		\$117,430.00
11	372	LF	21" WWL, 18'-20' Depth, PS115 ASTM F679 PVC, ...	\$210.00	\$78,120.00	\$173.00	\$64,356.00	\$223.00 *	187 *	\$41,701.00	\$236.00	\$87,792.00	\$240.00	406 *	\$97,440.00	\$435.00	\$161,820.00	\$292.00	\$108,624.00		\$76,118.60
11A		LF	21" WWL, 16-18'-20' Depth, PS115 ASTM F679 PVC, ...					\$226.00	334	\$75,484.00											
12	335	LF	21" WWL, 20'-22' Depth, PS115 ASTM F679 PVC, ...	\$225.00	\$75,375.00	\$176.00	\$58,960.00	\$230.00 *	192 *	\$44,160.00	\$261.00	\$87,435.00	\$285.00	307 *	\$87,495.00	\$495.00	\$165,825.00	\$334.00	\$111,890.00		\$75,564.00
13	8	EA	4-Foot Diameter, WWMH, 0-8' Depths, including ...	\$5,100.00	\$40,800.00	\$5,300.00	\$42,400.00	\$4,888.00		\$39,104.00	\$6,085.00	\$48,680.00	\$5,220.00		\$41,760.00	\$5,500.00	\$44,000.00	\$6,250.00	\$50,000.00		\$44,196.80
14	10	EA	4-Foot Diameter (18-Inch WWL), WWMH,...	\$5,100.00	\$51,000.00	\$5,600.00	\$56,000.00	\$5,493.00		\$54,930.00	\$6,170.00	\$61,700.00	\$5,825.00		\$58,250.00	\$5,600.00	\$56,000.00	\$6,450.00	\$64,500.00		\$57,626.00
15	4	EA	4-Foot Diameter (21-Inch WWL), WWMH,...	\$5,100.00	\$20,400.00	\$5,800.00	\$23,200.00	\$5,500.00		\$22,000.00	\$6,275.00	\$25,100.00	\$5,825.00		\$23,300.00	\$5,700.00	\$22,800.00	\$6,450.00	\$25,800.00		\$23,300.00
16	23	VF	4-foot Dia (8-inch WWL) WWMH Extra Depth,...	\$1,000.00	\$23,000.00	\$465.00	\$10,695.00	\$382.00		\$8,786.00	\$619.00	\$14,237.00	\$450.00		\$10,350.00	\$645.00	\$14,835.00	\$485.00	\$11,155.00		\$13,574.60
17	98	VF	4-foot Dia (18-inch WWL) WWMH Extra Depth,...	\$1,000.00	\$98,000.00	\$465.00	\$45,570.00	\$382.00		\$37,436.00	\$488.00	\$47,824.00	\$450.00		\$44,100.00	\$645.00	\$63,210.00	\$485.00	\$47,530.00		\$55,272.00
18	50	VF	4-foot Dia (21-inch WWL) WWMH Extra Depth,...	\$1,000.00	\$50,000.00	\$465.00	\$23,250.00	\$382.00		\$19,100.00	\$619.00	\$30,950.00	\$450.00		\$22,500.00	\$645.00	\$32,250.00	\$485.00	\$24,250.00		\$29,510.00
19	20	EA	Double Wastewater Service on 8-inch WWL,...	\$3,000.00	\$60,000.00	\$3,000.00	\$60,000.00	\$2,843.00		\$56,860.00	\$1,730.00	\$34,600.00	\$3,100.00		\$62,000.00	\$3,500.00	\$70,000.00	\$2,750.00	\$55,000.00		\$53,292.00
20	15	EA	Double Wastewater Service on 18-inch WWL,...	\$3,000.00	\$45,000.00	\$4,600.00	\$69,000.00	\$4,429.00		\$66,435.00	\$1,740.00	\$26,100.00	\$4,950.00		\$74,250.00	\$5,000.00	\$75,000.00	\$4,750.00	\$71,250.00		\$55,557.00
21	1	EA	Single Wastewater Service on 18-inch WWL,...	\$2,600.00	\$2,600.00	\$2,200.00	\$2,200.00	\$3,823.00		\$3,823.00	\$1,545.00	\$1,545.00	\$2,700.00		\$2,700.00	\$3,500.00	\$3,500.00	\$2,350.00	\$2,350.00		\$2,503.60
22	240	LF	30" Steel Encasement, Complete in place per...	\$215.00	\$51,600.00	\$325.00	\$78,000.00	\$133.00		\$31,920.00	\$214.00	\$51,360.00	\$350.00		\$84,000.00	\$310.00	\$74,400.00	\$340.00	\$81,600.00		\$58,896.00
23	3,322	LF	Trench Safety, Complete in place per linear ...	\$3.00	\$9,966.00	\$1.00	\$3,322.00	\$1.00 *	3,385 *	\$3,385.00	\$1.10	\$3,654.20	\$2.25	3,397 *	\$7,643.25	\$1.00	\$3,322.00	\$1.00	\$3,322.00		\$4,729.84
24	380	CY	Gravel for Ground Water Mitigation, Assumes...	\$200.00	\$76,000.00	\$50.00	\$19,000.00	\$33.40		\$12,692.00	\$35.50	\$13,490.00	\$28.50	29	\$10,830.00	\$45.00	\$17,100.00	\$63.00	\$23,940.00		\$29,024.40
25	60	LF	6" PVC for Ground Water Mitigation, includes ...	\$125.00	\$7,500.00	\$27.00	\$1,620.00	\$32.00		\$1,920.00	\$45.40	\$2,724.00	\$28.50	29	\$1,710.00	\$50.00	\$3,000.00	\$51.00	\$3,060.00		\$3,364.80
TOTAL AMOUNT: WASTEWATER IMPROVEMENTS - ALT 2					\$984,581.00		\$797,619.00	*	*	\$772,866.00		\$847,138.90	*	*	\$966,340.50		\$1,253,557.00		\$1,058,452.00		\$877,034.58

DEVINE LAKE - PHASE FOUR
BID SUMMARY
Bids Received: Monday, February 27, 2023 at 5:00 p.m. @ LJA Engineering, Inc.

BID SUMMARY		Joe Bland Construction	Liberty Civil	DNT	5 Star Civil	JL Gray	CC Carlton	CASH Construction	
Bids Received: Monday, February 27, 2023 at 5:00 p.m. @ LJA Engineering, Inc.		Steve Fuquay	Ace Dickehut	Anthony Segura	Michael Hoge	Ignacio Rios	Jose Rubio	David Renfro	
									AVERAGE
TOTAL AMOUNT: WASTEWATER IMPROVEMENTS - ALT 1	\$762,796.00	\$540,643.00	*	\$619,550.00	\$756,976.90	* \$689,810.50	\$781,537.00	\$737,130.00	\$698,349.06
TOTAL AMOUNT: WASTEWATER IMPROVEMENTS - ALT 2	\$984,581.00	\$797,619.00	*	\$772,866.00	\$847,138.90	* \$966,340.50	\$1,253,557.00	\$1,058,452.00	\$954,364.91

TOTAL AMOUNT ALT 1	*	\$762,796.00	#	\$540,643.00	*	\$619,550.00	\$756,976.90	*	* \$689,810.50	\$781,537.00	\$737,130.00	\$698,349.06
TOTAL AMOUNT ALT 2	*	\$984,581.00	#	\$797,619.00	*	\$772,866.00	\$847,138.90	*	* \$966,340.50	\$1,253,557.00	* \$1,058,452.00	\$954,364.91
Delta Alt 1 and Alt 2		\$221,785.00	#	\$256,976.00	#	\$153,316.00	\$90,162.00		\$276,530.00	\$472,020.00	\$321,322.00	\$256,015.86

PLACE

2

1

NOTES: RED = Error or amount/quantity submitted does not match bid form



DEVELOPMENT AGREEMENT FOR THE DEVINE LAKE SUBDIVISION

This Development Agreement for the Devine Lake Subdivision (the "Agreement") is made and entered into, effective as of the 1st day of July, 2016, by and between the **City of Leander, Texas**, a Texas home rule municipal corporation (the "City"), **Sixth Street Capital Investors, LP**, a California Limited Partnership, and **Devine Land Investments, LLC**, a Nevada limited liability company (the "Developers"). The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

Article I. Purpose; Consideration.

1.01. Purpose. The Developer owns or has under contract the right to purchase that certain 208 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 as a mixed use development containing residential units and commercial uses (the "Subdivision"). The Developer desires to provide for the construction, operation and maintenance of certain water, wastewater, and drainage improvements as described herein. The Developer further desires to modify certain development standards applicable to the Subdivision as provide in Article V. The City desires that Developer oversize the water and wastewater facilities described herein so that such facilities may serve customers located outside the Property.

1.02. Benefits. Developer will benefit from the certainty and assurance of the obligations related to the construction, operation, and maintenance of water, wastewater, and drainage facilities provided for herein, and from the modification of certain development standards as provided in Article V. The City will benefit from this Agreement by virtue of the oversizing of water and wastewater infrastructure as provided herein.

1.03. Consideration. The benefits to the Parties set forth in this Article I, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

Article II. Term; Termination.

2.01. Term. The term of this Agreement shall be ten (10) years from the Effective Date hereof, subject to earlier termination as provided in this Agreement.

2.02. Termination. 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 fails to comply with this Agreement or fails to meet any deadlines imposed by this Agreement or the City's ordinances, after expiration of the cure period set forth in Section 9.01.

Article III. Right-of-Way Dedications and Improvements

3.01. San Gabriel Parkway. The Developer will dedicate right-of-way for the portions of San Gabriel Parkway (the "SGP ROW") located within the boundaries of the Property along the route generally shown in the City's Transportation Plan and **Exhibit "B"** and as will be more particularly shown on the approved construction plans and final plat for each phase of the Subdivision. Where one-half of the SGP ROW is located on the Property and one-half is located on the abutting property, the SGP ROW dedication shall not exceed 55 feet in width. For the remaining portions of the SGP ROW located on the Property, the SGP ROW dedication shall not exceed 110 feet in width. The SGP ROW right-of-way will be dedicated at the time right-of-way dedications are required to be made under Chapter 10 of the City's Code of Ordinances (the "Subdivision Ordinance"). The Developer shall further design and construct San Gabriel Parkway, at Developer's sole cost and expense, in accordance with this Agreement, the Subdivision Ordinance, the approved construction plans, applicable local, state, and federal regulations and good design and engineering practices; provided, that Developer is not obligated to construct more than one-half of the full roadway section of San Gabriel Parkway; provided that the Developer will be responsible for the full cost of the design and construction of the full width of San Gabriel Parkway at its intersection with Bagdad Road and the transition to the one-half of the full roadway section of San Gabriel Parkway.

3.02. Bagdad Road ROW Dedication. The Developer will dedicate the property described in **Exhibit "C"** attached hereto and incorporated herein for all purposes for right-of-way for Bagdad Road within thirty (30) days of written request by the City.

3.03. Signal Improvements. The Developer shall pay a fee in lieu of performing a traffic impact analysis for the Subdivision in the amount of \$126 per residential dwelling unit (the "TIA Fee"). The TIA Fee shall satisfy any obligation the Developer may have to construct or pay for construction of signal improvements for the intersection of San Gabriel Parkway and Bagdad Road (the "Signalization Improvements") and any other off-site traffic improvements. The TIA Fee shall be paid prior to the time of recording of the final plat for each phase of the Subdivision. The TIA Fee shall be deposited in a city account that will be specifically dedicated for transportation improvements and shall be used for the Signalization Improvements and for other transportation improvements in the general vicinity of the Subdivision as determined appropriate by the director of public works.

Article IV. Developer's Water and Wastewater Utility Projects

4.01. Water Line Project. The Water Line Project consists of the construction, installation, and extension of an eight inch (8") water line, oversized to a twenty inch ("20") water line, from the eastern right-of-way line of Bagdad Road to the western property line of the property as shown in **Exhibit "D"** (the "Water Line Project"). Where the Water Line Project is located

through the two lots of the Subdivision as shown in **Exhibit "D"** (the "Water Line Lots") and under San Gabriel Parkway, the water line will be encased in steel encasement. The Developer shall grant the City a ten foot wide water line easement (the "Easement") upon, over, and across the Water Line Lots, with five feet of the Easement being located on each lot, on the final plat that includes the Water Line Lots. The Water Line Project includes the water line and those facilities and equipment required for the water line to function efficiently, to provide service to the Property, and to comply with all applicable state and local rules, regulations and standards and good design and engineering practices.

4.02. Wastewater Line Project. The Wastewater Line Project consists of the construction, installation, and extension of an eight inch (8") wastewater gravity line, oversized to a twenty-one inch (21") wastewater gravity line, along the route approved by the City and generally shown in **Exhibit E**. The Wastewater Line Project includes the wastewater gravity line and those facilities and equipment required for the wastewater gravity line to function efficiently, to provide service to the Property, and to comply with all applicable state and local rules, regulations and standards and good design and engineering practices.

4.03. Standards for Utility Project. The Water Line Project or a phase thereof and the Wastewater Project or a phase thereof shall be referred to collectively as the "Utility Project". Developer shall contract for, fund, and pay for the design, construction and installation the Utility Project in accordance with this Agreement, the approved construction plans, applicable local, state, and federal regulations, and good design and engineering practices. The Developer may construct the Utility Project in one or more phases. Each phase of the Utility Project shall be completed by Developer and Developer shall obtain City acceptance of the Utility Project in accordance with the procedures and time frames set forth in the Subdivision Ordinance. The Developer shall be entitled to water and wastewater impact fee rebates and if applicable City Cost Participation, as provided in Section 4.05, Section 4.06, 4.10 and Article VII, subject to the provisions and limitations set forth in this Agreement.

4.04. Utility Project Engineer. Developer will retain a licensed professional engineer to prepare the design, construction plans and specifications, and supporting documentation for the Utility Project in accordance with good engineering practices, the design and construction standards of all applicable state and local regulations and this Agreement ("Utility Project Engineer"). The Utility Project Engineer will work and coordinate with the City Engineer to obtain the timely review and approval by Developer, the City Engineer and the Director of Development Services of the design, plans, specifications and construction of the Utility Project or a phase thereof. The Developer shall obtain City Council approval of the Reimbursable Costs of the Utility Project or a phase thereof (defined in Section 4.06) before the Developer commences work on the Utility Project. Developer shall be responsible for ensuring that the Utility Project Engineer complies with the terms of this Agreement, including with regard to the responsibilities assigned to the Utility Project Engineer herein.

4.05. Bidding of the Utility Project.

(a) The Project Engineer will advertise the Utility Project for sealed competitive bids in compliance with the Texas Local Government Code based on the City Engineer approved design, plans and specifications, and recommend the lowest qualified bidder/contractor to Developer and the City. The Project Engineer will provide the City Engineer and the City's purchasing agent with: (i) prior written notice of the dates for solicitation of the bids and the opening of the responses to the bid; and (ii) a copy of the notice. Notwithstanding anything contained herein to the contrary, the Developer is responsible for bidding the Utility Project in compliance with Chapter 252, Texas Local Government Code. The Developer will utilize a unit price contract for the Utility Project. The Utility Project will be advertised for bids with alternate bids being required as follows:

- (1) For each phase of the Water Line Project will be advertised for bids with an alternate bid being required for a eight-inch water line ("Water Line Alternate #1") and an alternate bid being required for a twenty inch (20") waterline ("Water Line Alternate #2"), together with all equipment and related facilities and structures shown on the City approved plans and specifications for the Water Line Project.
- (2) Each phase of the Wastewater Line Project will be advertised for bids with an alternate bid being required for an eight inch (8") wastewater gravity line ("Wastewater Line Alternate #1") and an alternate bid being required for a twenty-one inch (21") wastewater gravity line ("Wastewater Line Alternate #2"), together with all equipment and related facilities and structures shown on the City approved plans and specifications for the Wastewater Line Project.
- (3) The responsive bids must clearly and separately demonstrate the amount bid for the Subdivision Improvements not being oversized that will be conveyed to the City upon completion and amounts bid for the Water Line Project (Alternates #1 and #2) and the amounts bid for the Wastewater Line Project (Alternates #1 and #2).

(b) The City Engineer shall evaluate the bids for the Utility Project to determine whether the bids are fair and balanced prior to accepting a recommendation of bid award. Any unbalanced or skewed bids, as determined by bid tabulations may be appropriately corrected or rejected by the City.

(c) Within ten (10) business days of the City's receipt of the bids described in subsection 4.05(a), the City Engineer will notify Developer of his/her decision on whether to recommend to the City Council approval or rejection of the bids and whether the City elects to proceed with the oversizing of the Utility Projects. If the City Engineer recommends approval of the bid, then the approval of the bid will be placed on the next available City Council agenda for action, not to exceed sixty (60) business days from the date the City received the bids.

- (d) Developer will contract for the construction of each Utility Project; provided, however, that Developer may, at Developer's sole discretion, elect to not proceed with awarding the construction contract or with the construction of the Utility Project; provided further that at such time that the Developer intends to proceed with design, bidding, and construction of Water Line Alternate #1 or Wastewater Line Alternate #1, the Developer will design, bid, contract for the construction of the Utility Project and cause the Utility Project to be completed and accepted by the City. The City will rebate Water Impact Fees and Wastewater Impact Fees as provided in Article VII below that are paid by: (a) Developer and third parties for retail water and wastewater service to lots and tracts within the Property; and (b) by third parties that obtain City water and wastewater utility service for other land and developments by utilizing the Utility Project. The aggregate total of such rebates shall be up to but shall not exceed the Reimbursable Costs for the Utility Project as competitively bid and constructed by Developer; provided that: (i) Water Impact Fees may only be used to reimburse the Developer for the Reimbursable Costs of the Water Line Project and Wastewater Impact Fees may only be used to reimburse the Developer for the Reimbursable Costs of the Wastewater Project; (ii) if the City elects in its sole discretion to make one or more lump sum payments to the Developer for Reimbursable Costs of the Utility Project as provided in Article VII, the aggregate total of such rebates plus said lump sum payment(s) from the City shall not exceed the Reimbursable Costs for the Utility Project; and (iii) if the City pays for a portion of the Wastewater Line Project with a lump sum payment as set forth in Section 4.10, the sum of such lump sum payment and the Wastewater Impact Fee Rebates shall not exceed the Reimbursable Costs for the Wastewater Line Project.

4.06. Reimbursable Costs. The "Reimbursable Costs" for the Utility Project, shall be:

- (a) The Reimbursable Costs for the Water Line Project, which shall be the difference between the dollar amount of the approved bid for Water Line Alternate #1 and the dollar amount of the approved bid for Water Line Alternate #2; and
- (b) The Reimbursable Costs for the Wastewater Line Project, which shall be the difference between the dollar amount of the approved bid for the Wastewater Line Alternate #1 and the dollar amount of the approved bid for the Wastewater Line Alternate #2.

provided that all such sums and amounts shall have been approved by the City Council prior to the Developer commencing work on the bid Utility Project and paid by Developer and are reasonable, necessary and documented to and approved by the City Engineer and Director of Development Services, or the City Council, as applicable. Developer shall not receive or be entitled to receive any rebates or reimbursements for any of the costs attributable to any portion of the Utility Project that is not oversized and installed and constructed by Developer.

4.07. Construction Plan Review and Inspection Fees. The City's construction plan review and

inspection fees will not be applied to the portion of construction costs for the Utility Project that constitutes the Reimbursable Costs for the Utility Project.

4.08 Easement Acquisition. As shown on **Exhibit E**, a segment of the wastewater gravity line along Bagdad Road must be constructed on an adjacent parcel of land to connect to the City's existing 15 inch wastewater line in Brushy Creek ("Off-site Wastewater Line"). The Developer is primarily responsible for acquiring a permanent wastewater line easement, a temporary working space easement or similar rights ("Off-site Wastewater Line Easements"); however, the Parties agree to work cooperatively toward acquiring the Off-Site Wastewater Line Easements. As an example and not a limitation, in conjunction with the Bagdad Road capital improvement project, the City will take into consideration a possible assignment for the Off-site Wastewater Line within any easements or Bagdad right of way acquired by the City on the adjacent parcel of land. If Developer desires to proceed with the construction of the Off-site Wastewater Line prior to the City's acquisition of easements and Bagdad Road right of way on the adjacent parcel or the City determines that the Off-site Wastewater Line cannot be constructed within the available City easements and Bagdad Road right of way, then Developer will undertake commercially reasonable efforts to negotiate and acquire the Off-Site Wastewater Line Easements. The City agrees to cooperate and support Developers' acquisition of necessary easements from third parties.

4.09 Eminent Domain. The Offsite Wastewater Line and related easements are necessary and required by the City for the City to provide wastewater service to the Property, and for Developer to comply with the City Rules and obtain approval for the development of the Property. The Developer shall pay costs of the acquisition (including the City's costs of such acquisition by condemnation or conveyance in lieu thereof) of any easements or land necessary for the construction of the Offsite Wastewater Line. The City Council has found the development of Property in compliance with this Agreement will serve a public purpose and benefit the economy of the City and the public welfare. Therefore, if Developer determines that it may be necessary for the City to use its eminent domain powers to acquire property or an interest in property to install the Offsite Wastewater Line required by the City pursuant to this Agreement, Developer will make a request to the City to proceed with the acquisition of the easement in compliance with applicable law. In any such event, the City proceeding to acquire such easement shall be subject to a finding by the City Council that such easement is required by the City and is necessary to accomplish a public purpose. The Parties agree to work cooperatively toward allowing the initiation of construction of the Offsite Wastewater Line on an easement being acquired by the City at the earliest time lawfully permitted. Developer shall be responsible for all costs incurred, and for security and deposits required by the City, for or with respect to any such acquisition.

4.10 City Cost Participation. If the City elects to proceed with the construction of the Wastewater Line Alternate #2 pursuant to Section 4.05(c) and if the Reimbursable Costs for the Wastewater Line Project exceeds thirty percent (30%) of the approved bid for Wastewater Line Alternate #1, then the City will pay the Reimbursable Costs for the Wastewater Line Project as

follows: (i) Reimbursable Costs for the Wastewater Line equal to an amount that is thirty percent (30%) of the approved bid for Wastewater Line Alternate #1 shall be paid through rebates of Wastewater Impact Fees as provided in Article VII; and (ii) the portion of the Reimbursable Costs for the Wastewater Line Project that exceed thirty percent (30%) of the approved bid for Wastewater Line Alternate #1 shall be paid by the City in lump sum payment within thirty days after the City's acceptance of the Wastewater Line Alternate #2, or phase thereof, as appropriate. If the Reimbursable Costs for the Wastewater Line Project are equal to or less than thirty percent (30%) of the approved bid for Wastewater Line Alternate #1, then the Reimbursable Costs for the Wastewater Line Project will be paid through rebates of Wastewater Impact Fees as provided in Article VII.

Article V. Development of the Subdivision

5.01. Subdivision Improvements. Developer will finance, design, construct and install all required water facilities, streets, drainage facilities and other amenities and improvements within the Property, or outside the boundaries of the Property, at Developer's sole cost and expense (collectively the "**Subdivision Improvements**"), except as otherwise provided in this Agreement. Developer shall plan, plat, build-out, and complete development and construct and install the Subdivision Improvements in compliance with good design and engineering practices, the applicable local, state, and federal regulations, the City Charter, Code of Ordinances and the rules and regulations of the City as amended by this Agreement, this Agreement, and the environmental regulations otherwise applicable to the Property, as amended from time to time.

5.02. Riparian Corridor. The riparian corridor setback for the Subdivision is shown in the attached **Exhibit "F"**.

Article VI. Additional Agreements and Performance

6.01. The City hereby agrees:

- (a) to coordinate with the Utility Project Engineer on specific design requirements and specifications; and to review, and to approve and sign the plans and specifications for the Utility Project in a timely manner, as appropriate;
- (b) to review and approve the plans, specifications and bids for construction of the Utility Project as obtained for and on behalf of the City by Engineer and Developer, as appropriate;
- (c) during the course of the Utility Project, to review, approve and sign necessary and appropriate change orders in a timely manner; to perform all inspections of the Utility Project in a timely manner; and to approve the Utility Project in a timely manner if constructed in accordance with the City approved plans and specifications;
- (d) after completion and final acceptance by the City of the Utility Project as constructed, to accept the Utility Project as part of the City's water and wastewater utility systems, as appropriate;

- (e) after Developer completes construction and obtains City acceptance of the Utility Project and upon Developer completing construction of a phase or section of the Subdivision in compliance with this Agreement and the City giving final acceptance of that phase or section, the City will approve connections to the water system and the wastewater system, as appropriate, and provide such services within the completed phase or section of the Subdivision on the same terms and conditions as then provided within other areas of the City;
- (f) to review and process the applications made, and the plans and specifications submitted, by Developer with respect to the Subdivision in accordance with City regulations; and
- (g) to timely take such actions as necessary to comply with Chapter 395, Texas Local Government Code to make the Water Impact Fee Rebate and Wastewater Impact Fee Rebate payments.

6.02. Developer hereby agrees:

- (a) to contract with the Utility Project Engineer for the design, preparation of the plans and specifications, and the provision of the services anticipated to be performed by the Utility Project Engineer for the Utility Project pursuant to and in compliance with Article IV;
- (b) to review and approve the plans and specifications for the Utility Project (including the estimated cost of the Utility Project), identify any design errors, defects or insufficiencies, and to advise the City Engineer as to any perceived error, defect or insufficiency prior to approving any such plans and specifications;
- (c) to work and coordinate with the City, and to assure the improvements constituting the Utility Project are eligible for funding with capital impact fees pursuant to the City's capital impact fee ordinance, prior to the execution of any contract for construction;
- (d) to enter into a contract with an appropriate contractor approved by the City pursuant to competitive bids approved by the City and Developer for construction of the Utility Project;
- (e) that any construction or development within the Subdivision shall comply with the City's standards, rules, regulations and ordinances, or better;
- (f) for itself and its grantees, successors and assigns, to pay the water and wastewater capital recovery/impact fees the City establishes by ordinance for each lot, tract, parcel or building site in the Subdivision prior to utility service being provided to such lot, tract, parcel or building site, unless the City has elected instead to credit some or all of the amount of the unreimbursed Reimbursable Costs, as herein defined, against the amount of such fees that would otherwise be owed to the City, in which event Developer, its grantees, successors and assigns shall pay the amount of such fees not credited;
- (g) to pay to the City all fees and charges provided for or established by the codes, ordinances, rules and regulations of the City, as amended from time to time, for or with respect to the development of the Property, including, but not limited to, zoning and subdivision application fees, building permit fees, water and wastewater tap and use fees

- and capital recovery/impact fees (subject to the other terms of this Agreement), except as otherwise provided by this Agreement; and
- (h) to pay to the City all legal fees incurred by the City in negotiating and drafting of this Agreement.

Article VII. Collection and Payment of Impact Fees

7.01. Payment of Impact Fees. Developer, its grantees, successors, assigns, and subsequent purchasers of any portion of the Property, agree that each lot, tract, parcel or building site within the Property that will be provided water service or wastewater service by the City shall be required to pay the City's water impact fee (the "Water Impact Fee") and wastewater impact fee (the "Wastewater Impact Fee"), established pursuant to Chapter 395 of the Texas Local Government Code, in the amount that is established by the City Capital Improvements Plan and City ordinance, as amended, from time to time, and that is in effect when the fee is paid. The Water Impact Fee and Wastewater Impact Fee are referred to collectively as the "Impact Fees." The Impacts Fee shall be payable with respect to a lot, tract, parcel, or building site at the time the building permit for each building or structure is applied for or, if no building permit is required, then upon the first to occur of the following: (a) the date construction of the building or structure is first commenced, (b) the date an application is made to the City for a water connection to serve the building or structure, or (c) the date water service is requested for the lot, tract or parcel of land.

7.02. Impact Fee Rebates.

- (a) Subject to the terms, conditions and limitations of this Agreement, during the Term of this Agreement Developer shall receive a rebate of sixty percent (60%) of the Water Impact Fees paid to the City for connections to the City water utility system within: (i) the Property; and (ii) within land or developments that connect to the Water Line Project by a direct connection or by a water line that is not listed and included in the City Capital Improvements Plan and ordinance that establishes the Water Impact Fees (the "**Water Impact Fee Rebates**"). The Water Impact Fee Rebates will terminate upon the Developer receiving Water Impact Fee Rebates, or a combination of Water Impact Fee Rebates and one or more payments from the City, equal to the Reimbursable Costs for the Water Line Project. The City may at any time, in its sole discretion, pay the Developer all or a portion of the Reimbursable Costs for the Water Line Project from any source of funds available to the City in one or more lump sum payments.
- (b) Subject to the terms, conditions and limitations of this Agreement, during the Term of this Agreement Developer shall receive a rebate of sixty percent (60%) of the Wastewater Impact Fees paid to the City for connections to the City wastewater utility system within: (i) the Property; and (ii) within land or developments that connect to the Wastewater Project by a direct connection or by a wastewater line that is not listed and included in the City Capital Improvements Plan and ordinance that establishes the Wastewater Impact Fees (the "**Wastewater Impact Fee Rebates**"). The Wastewater Impact Fee Rebates will

terminate upon the Developer receiving Wastewater Impact Fee Rebates, or a combination of Wastewater Impact Fee Rebates and one or more payments from the City. The City may at any time, in its sole discretion, pay the Developer all or a portion of the Reimbursable Costs for the Wastewater Project from any source of funds available to the City in one or more lump sum payments.

- (c) Upon the City's acceptance for ownership, operation and maintenance of a Water Line Project or a phase thereof or a Wastewater Line Project or a phase thereof that is eligible an Impact Fee Rebate, the City's obligation to pay the applicable Water Impact Fee Rebate for the accepted Water Line Project or Wastewater Impact Fee Rebate and, if applicable, the City Cost Participation Amount for the accepted Wastewater Line Project will survive the City's termination of this Agreement pursuant to Section 2.01 or 2.02.

7.03. Escrow Accounts.

(a) Commencing on the Effective Date and continuing until the Water Impact Fee Rebates are terminated pursuant to this Agreement, the City will maintain a separate escrow account for the Water Impact Fees (the "Water Escrow Account"). The City will deposit into the Water Escrow Account sixty percent (60%) of the Water Impact Fees paid to and received by the City for connections listed in this Article. The Water Escrow Account will be held by the City and the Water Impact Fee Rebates paid out to Developer as provided in this Agreement. Payments of Water Impact Fee Rebates to Developer shall begin after Developer completes and obtains City acceptance of the Water Line Project.

(b) Commencing on the Effective Date and continuing until the Wastewater Impact Fee Rebates are terminated pursuant to this Agreement, the City will maintain a separate escrow account for the Wastewater Impact Fees (the "Wastewater Escrow Account"). The City will deposit into the Wastewater Escrow Account sixty percent (60%) of the Wastewater Impact Fees paid to and received by the City for connections listed in this Article. The Wastewater Escrow Account will be held by the City and the Wastewater Impact Fee Rebates paid out to Developer as provided in this Agreement. Payments of Wastewater Impact Fee Rebates to Developer shall begin after Developer completes and obtains City acceptance of the Wastewater Project.

7.04. Payment of Rebates. Impact Fee Rebates will be paid by the City to Developer quarterly in arrears. Impact Fee Rebates will be paid on or before the 15th day of each April, July, October and January following the date the City receives the Impact Fees. The payments will be in an amount equal to sixty percent (60%) of the Impact Fees collected by City during the three (3) calendar months preceding the month the scheduled payment is due and payable. Notwithstanding any other term or provision of this Agreement, the City will discontinue rebating: (a) Water Impact Fees at such time, if any, as Developer, its grantees, successors and assigns, have been paid Water Impact Fees, or a combination of Water Impact Fee Rebates and one or more payments from the City, in an amount equal to the Reimbursable Costs of the Water Line Project; and (b) Wastewater Impact Fees at such time, if any, as Developer, its grantees, successors and assigns, have been paid Wastewater Impact Fees, or a combination of Wastewater Impact Fee Rebates and one or more

payments from the City, in an amount equal to the Reimbursable Costs of the Wastewater Project.

Article XIII. Assignment of Commitments and Obligations; Binding Agreement.

8.01. Assignment. The Developer's rights and obligations under this Agreement may be assigned in whole or part, to persons purchasing all of the Property or a part of the Property but not to an individual purchaser of lots within a recorded final plat. In the event Developer(s) assign all of their respective rights under this Agreement in conjunction with the conveyance of any unplatted portion of the Property, a written assignment of developer status must be filed of record in the Official Public Records of Williamson County, Texas in order to be effective. Any assignment of Developer's rights and obligations hereunder will not release Developer(s) of their respective obligations under this Agreement for the assigned portion of the Property until the City has approved the written assignment; provided, however, the City shall not unreasonably deny, delay, or condition its approval of the assignment. Notwithstanding the foregoing, the Developer may assign to a third party or otherwise encumber its rights to receive the City Cost Participation Amount, Water Impact Fee Rebates and Wastewater Impact Fee Rebates without the approval of the City; provided Developer must notify the City of the assignment and any change in the name and addressee of the payee.

8.02. Binding Obligations. This Agreement shall be binding upon and inure to the benefit of the parties, their successors, and assigns. A fully executed copy of this Agreement shall be recorded in the Official Public Records of Williamson County, Texas within ninety days after the Effective Date. Nothing in this Agreement is intended to impose the Developer's obligations on individual owners that purchase lots for their personal use.

Article IX. Default and Related Provisions

9.01. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other party. Upon the passage of thirty (30) 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 thirty (30) 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 or legal remedy not inconsistent with this Agreement or applicable state law. 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.

9.02. 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.

9.03. Attorney's Fees. A party shall not be liable to the other party for attorney fees or costs incurred in connection with any litigation between the parties, in which a party seeks to obtain a remedy from the other party, including appeals and post judgment awards.

9.04. 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.

9.05. 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, Williamson County, the City of Leander 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. Any force majeure attributable to the City shall extend the term of this Agreement one day for each day of the force majeure delay.
- (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.

Article X. Notices

10.01. Notice. Any notice to be given hereunder by any party to another party shall be in writing and may be affected 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
200 West Willis
P.O. Box 319
Leander, Texas 78646-0319

with copy to:

Knight & Partners
Paige H. Saenz
223 W. Anderson Lane, Suite A105
Austin, Texas 78752

Any notice mailed to the Developer shall be addressed:

Devine Land Investments, LLC
Attn: Gary Blackwell
12345 Ventura Boulevard, Suite H
Studio City, California 91604

With copy to:

Sneed, Vine & Perry, PC
Attn: Robert Kleeman
900 Congress Ave., Suite 300
Austin, Texas 78701

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

Article XI. Miscellaneous Provisions

11.01. The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. The Parties further acknowledge the City and Developer voluntarily elected the benefits and obligations of this Agreement, as opposed to the benefits available were Developer to have elected to develop the Property without the benefits and obligations of this Agreement, pursuant to and in compliance

with the applicable City ordinances. 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.

11.02. 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.

11.03. 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. With respect to the construction of the Utility Project or any phase thereof and the payment of the Impact Fee Rebates and the City Cost Participation Amount, this Agreement is subject to Subchapter I, Chapter 271, Texas Local Government Code.

11.04. 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.

11.05. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

11.06. This Agreement or a memorandum of Agreement acceptable to the City and Developer shall be recorded in the Official Public Records of Williamson County, Texas.

11.07. 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.

11.08. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

11.09. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A – Property Description

Exhibit B – San Gabriel Parkway Right of Way
Exhibit C – Bagdad Road Right of Way
Exhibit D – Water Line Project
Exhibit E – Wastewater Line Project
Exhibit F – Riparian Corridor

EXECUTED in multiple originals this the 7 day of July, 2016.

CITY:

City of Leander, Texas

a Texas home-rule municipal corporation

Attest:

By: Debbie Haile

Name: Debbie Haile

Title: City Secretary

By: Christopher Fielder

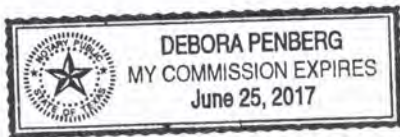
Name: Christopher Fielder

Title: Mayor

THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on this 7th day of July, 2016, by Christopher Fielder, Mayor of the City of Leander, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)



Debora Penberg
Notary Public, State of Texas

DEVELOPER/OWNER:

Devine Land Investments, LLC, a Nevada

limited

liability company

By: GARY BLACKWELL

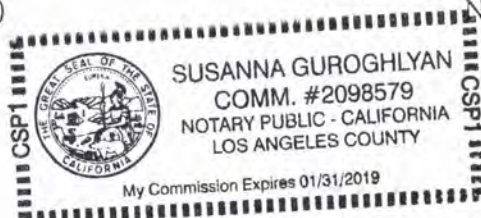
Name: GARY BLACKWELL

Title: MANAGING MEMBER

THE STATE OF CA §
COUNTY OF Los Angeles §

This instrument was acknowledged before me on this 06th day of July, 2016, by GARY BLACKWELL of Devine Land Investments, LLC, a Nevada limited liability company, on behalf of said company.

(SEAL)



Susanna Guroghlyan
Notary Public, State of California

Limited

Sixth Street Capital Investors, LP, a California

Partnership

By: [Signature]

Name: GARY BLACKWELL

Title: GENERAL PARTNER

THE STATE OF CA §
COUNTY OF Los Angeles §

This instrument was acknowledged before me on this 06th day of July, 2016, by
GARY BLACKWELL of Sixth Street Capital Investors, LP, a California Limited
Partnership, on behalf of said company.

(SEAL)

[Signature]
Notary Public, State of CA

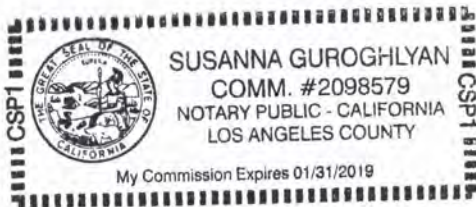


EXHIBIT "A"

Description of Property



**Professional Land Surveying, Inc.
Surveying and Mapping**

Office: 512-443-1724
Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

**LEGAL DESCRIPTION
119.952 ACRES**

DESCRIPTION OF 119.952 ACRES (APPROXIMATELY 5,225,088 S.F.) OF LAND OUT OF THE CHARLES COCHRAN SURVEY, ABSTRACT 134, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A 61.72 ACRE TRACT (TRACT TWO) AND A 141.07 ACRE TRACT (TRACT ONE) OF LAND CONVEYED TO SIXTH STREET CAPITAL INVESTORS, LP, BY GENERAL WARRANTY DEED, DATED JANUARY 10, 2008, RECORDED IN DOCUMENT NO. 2008003820, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 119.925 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with "Chaparral" cap set in the south line of said 141.07 acre tract, being also in the north line of a 247.90 acre tract recorded in Volume 2335, Page 849, of the Deed Records of Williamson County, Texas, from which a 1/2" rebar found bears for reference North 68°15'24" East, a distance of 817.17 feet;

THENCE South 68°15'24" West, with the common line of the 141.07 acre tract and the 247.90 acre tract, a distance of 2,952.36 feet to a cotton spindle found for the southwest corner of the 141.07 acre tract, being also the northwest corner of the 247.90 acre tract, and in a east line of a 245 acre tract recorded in Volume 465, Page 326, of the Deed Records of Williamson County, Texas;

THENCE North 21°14'34" West, with the common line of the 141.07 acre tract and the 245 acre tract, a distance of 1,372.54 feet to a point 1/2" rebar found for a northeast corner of the 245 acre tract, being also a southeast corner of a 327 acre tract recorded in Document No. 9859224, of the Official Records of Williamson County, Texas;

THENCE North 21°02'17" West, with the common line of the 141.07 acre tract and the 327 acre tract, a distance of 458.09 feet to a 1/2" rebar with cap stamped set, from which a 1/2" rebar found bears North 21°02'17" West, a distance of 6.92 feet;

THENCE leaving the east line of the 327 acre tract, over and across the 141.07 acre tract and the 61.72 acre tract the following nine (9) courses & distances:

1. North 68°53'35" East, a distance of 1,148.61 feet to a 1/2" rebar with "Chaparral" cap set;
2. South 21°01'59" East, a distance of 126.50 feet to a 1/2" rebar with "Chaparral" cap set;

3. North 68°58'01" East, a distance of 1,560.68 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of curve to the left;
4. 9.04 feet along the arc of said curve to the left, having a radius of 188.00 feet, and through a central angle of 02°45'23", the chord of which bears North 40°00'52" East, a distance of 9.04 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a compound curve to the left
5. 19.60 feet along the arc of said compound curve to the left, having a radius of 18.00 feet, and through a central angle of 62°22'44", the chord of which bears North 07°26'48" East, a distance of 18.64 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a reverse curve to the right;
6. 91.42 feet along the arc of said reverse curve to the right, having a radius of 77.00 feet, and through a central angle of 68°01'23", the chord of which bears North 10°16'08" East, a distance of 86.14 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a compound curve to the right;
7. 362.87 feet along the arc of said compound curve to the right, having a radius of 305.00 feet, and through a central angle of 68°10'03", the chord of which bears North 89°41'53" East, a distance of 341.85 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a reverse curve to the left;
8. 184.16 feet along the arc of said reverse curve to the left, having a radius of 155.00 feet, and through a central angle of 68°04'33", the chord of which bears North 89°44'17" East, a distance of 173.52 feet to a 1/2" rebar with "Chaparral" cap set;
9. North 55°41'57" East, a distance of 225.12 feet to a 1/2" rebar with "Chaparral" cap set in the west right-of-way of Bagdad Road (CR 279)(right-of-width varies), same being in the east line of said 61.72 acre tract, from which a 1/2" rebar found bears North 29°18'31" West, a distance of 500.69 feet;

THENCE with the east line of 61.72 acre tract, the east line 114.07 acre tract and the west right-of-way line of Bagdad Road, the following two (2) courses and distances:

1. South 29°18'31" East, a distance of 115.16 feet to a 1/2" rebar found;
2. South 31°47'11" East, a distance of 35.32 feet to a 1/2" rebar with "Chaparral" cap set;

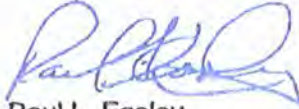
THENCE leaving the west right-of-way line of Bagdad Road over and across the 61.72 acre tract and the 114.07 acre tract, the following four (4) courses and distances:

1. South 55°41'57" West, a distance of 213.55 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a curve to the right;

2. 362.40 feet along the arc of said curve to the right, having a radius of 305.00 feet, and through a central angle of $68^{\circ}04'45''$, the chord of which bears South $89^{\circ}44'21''$ West, a distance of 341.46 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a reverse curve to the left;
3. 44.63 feet along the arc of said reverse curve to the left, having a radius of 155.00 feet, and through a central angle of $16^{\circ}29'48''$, the chord of which bears North $64^{\circ}27'59''$ West, a distance of 44.47 feet to a 1/2" rebar with "Chaparral" cap set;
4. South $21^{\circ}44'53''$ East, a distance of 1,588.35 feet to the **POINT OF BEGINNING**, containing an area of 119.925 acres of land, more or less.

Surveyed on the ground February 18, 2009 and April 10, 2013. Bearing basis is Grid Azimuth for Texas Central Zone, NAD1983 values based on GPS solutions from The National Geodetic Survey (NGS) On-line Positioning User Service (OPUS).

Attachments: 954-001-Base.dwg


Paul L. Easley
Registered Professional Land Surveyor
State of Texas No. 4432

04/24/2013
Date





**Professional Land Surveying, Inc.
Surveying and Mapping**

Office: 512-443-1724
Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

**LEGAL DESCRIPTION
22.597 ACRES**

DESCRIPTION OF 22.597 ACRES (APPROXIMATELY 984,340 S.F.) OF LAND OUT OF THE CHARLES COCHRAN SURVEY, ABSTRACT 134, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A 61.72 ACRE TRACT (TRACT TWO) AND A 141.07 ACRE TRACT (TRACT ONE) OF LAND CONVEYED TO SIXTH STREET CAPITAL INVESTORS, LP, BY GENERAL WARRANTY DEED, DATED JANUARY 10, 2008, RECORDED IN DOCUMENT NO. 2008003820, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 22.597 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with "Chaparral" cap set in the west right-of-way of Bagdad Road (CR 279)(right-of-width varies), for the northeast corner hereof, being a southeast corner of that tract of land called 199.952 acres in a deed to Devine Land Investments, LLC, recorded in Document No. 2009044349 of the Official Public Records of Williamson County, Texas, from which a 1/2" rebar with "Chaparral" cap set for the southeast corner of said 61.72 acre tract, being the northeast corner of said 141.07 acre tract, bears North 31°47'11" West, a distance of 35.32 feet;

THENCE, South 31°47'06" East, with the west line of said Bagdad Road, being the east line of said 141.07 acre tract, a distance of 85.90 feet to a 1/2" rebar with "Chaparral" cap set for the northernmost corner of that tract of land called 0.4954 acres in a deed to the City of Leander, Texas, recorded in Document No. 2010031348 of the Official Public Records of Williamson County, Texas;

THENCE, crossing said 141.07 acre tract, with the west line of said 0.4954 acre tract, the following three (3) courses and distances:

1. South 29°02'35" East, a distance of 262.00 feet to a 1/2" rebar with "Chaparral" cap set at the beginning of a curve to the left;
2. With said curve to the left, having a radius of 1055.14 feet, a delta angle of 02°29'14", an arc length of 45.80 feet, and a chord which bears South 30°09'48" East, a distance of 45.80 feet to a 1/2" rebar with "Chaparral" cap set;
3. South 31°24'25" East, a distance of 1102.94 feet to a calculated point for the southwest corner of said 0.4954 acre tract, being in the south line of said 141.07 acre tract, and being in the north line of a 247.90 acre tract recorded in Volume 2335, Page 849, of the Deed Records of Williamson County, Texas, for the southeast corner hereof;

THENCE, South $68^{\circ}15'24''$ West, with the common line between said 61.72 acre tract and said 247.90 acre tract, at a distance of 20 feet passing a 1/2" rebar with "Chaparral" cap set for reference, and continuing on, a total distance of 796.34 feet to a 1/2" rebar with "Chaparral" cap set for the southeast corner of said 199.952 acre tract, for the southwest corner hereof, from which a cotton spindle found for the southwest corner of said 199.952 acre tract, being the southwest corner of said 141.07 acre tract, bears South $68^{\circ}15'24''$ West, a distance of 2,952.36 feet;

THENCE, crossing said 141.07 acre tract and said 61.72 acre tract, with the east line of said 199.952 acre tract, the following four(4) courses and distances:

1. North $21^{\circ}44'53''$ West, a distance of 1588.34 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a curve to the right;
2. With said curve to the right, having a radius of 155.00 feet, a delta angle of $16^{\circ}29'48''$, an arc length of 44.63 feet, and a chord which bears South $64^{\circ}27'59''$ East, a distance of 44.47 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a curve to the left;
3. With said curve to the left, having a radius of 305.00 feet, a delta angle of $68^{\circ}04'45''$, an arc length of 362.40 feet, and a chord which bears North $89^{\circ}44'21''$ East, a distance of 341.46 feet to a 1/2" rebar with "Chaparral" cap set;
4. North $55^{\circ}41'57''$ East, a distance of 213.55 feet to the **POINT OF BEGINNING**, containing an area of 22.597 acres of land, more or less.

Surveyed on the ground February 18, 2009 and April 10, 2013. Bearing basis is Grid Azimuth for Texas Central Zone, NAD1983 values based on GPS solutions from The National Geodetic Survey (NGS) On-line Positioning User Service (OPUS).

Attachments: 954-001-Base.dwg.


Paul L. Easley
Registered Professional Land Surveyor
State of Texas No. 4432

Date

04/24/2013





**Professional Land Surveying, Inc.
Surveying and Mapping**

Office: 512-443-1724
Fax: 512-389-0943

3500 McCall Lane
Austin, Texas 78744

**LEGAL DESCRIPTION
59.788 ACRES**

DESCRIPTION OF 59.788 ACRES (APPROXIMATELY 2,604,349 S.F.) OF LAND OUT OF THE CHARLES COCHRAN SURVEY, ABSTRACT 134, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF A 61.72 ACRE TRACT (TRACT TWO) AND A 141.07 ACRE TRACT (TRACT ONE) OF LAND CONVEYED TO SIXTH STREET CAPITAL INVESTORS, LP, BY GENERAL WARRANTY DEED, DATED JANUARY 10, 2008, RECORDED IN DOCUMENT NO. 2008003820, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 59.788 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with "Chaparral" cap set in the west right-of-way of Bagdad Road (CR 279)(right-of-width varies), for the southeast corner hereof, being the northeast corner of that tract of land called 199.952 acres in a deed to Devine Land Investments, LLC, recorded in Document No. 2009044349 of the Official Public Records of Williamson County, Texas, from which a 1/2" rebar with "Chaparral" cap set for the southeast corner of said 61.72 acre tract, being the northeast corner of said 141.07 acre tract, bears South 29°18'31" East, a distance of 115.16 feet;

THENCE, leaving said Bagdad Road, with the north line of said 199.952 acre tract, the following nine (9) courses and distances:

1. South 55°41'57" West, a distance of 225.12 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a curve to the right;
2. With said curve to the right, having a radius of 155.00 feet, a delta angle of 68°04'33", an arc length of 184.16 feet, and a chord which bears South 89°44'17" West, a distance of 173.52 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a reverse curve to the left;
3. With said curve to the left, having a radius of 305.00 feet, a delta angle of 68°10'03", an arc length of 362.87 feet, and a chord which bears South 89°41'53" West, a distance of 341.85 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a compound curve to the left;
4. With said curve to the left, having a radius of 77.00 feet, a delta angle of 68°01'23", an arc length of 91.42 feet, and a chord which bears South 10°16'08" West, a distance of 86.14 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a reverse curve to the right;

5. With said curve to the right, having a radius of 18.00 feet, a delta angle of $62^{\circ}22'44''$, an arc length of 19.60 feet, and a chord which bears South $07^{\circ}26'48''$ West, a distance of 18.64 feet to a 1/2" rebar with "Chaparral" cap set for the beginning of a compound curve to the right;
6. With said curve to the right, having a radius of 188.00 feet, a delta angle of $02^{\circ}45'23''$, an arc length of 9.04 feet, and a chord which bears South $40^{\circ}00'52''$ West, a distance of 9.04 feet to a 1/2" rebar with "Chaparral" cap set;
7. South $68^{\circ}58'01''$ West, a distance of 1,560.68 feet to a 1/2" rebar with "Chaparral" cap set;
8. North $21^{\circ}01'59''$ West, a distance of 126.50 feet to a 1/2" rebar with "Chaparral" cap set;
9. South $68^{\circ}53'35''$ West, a distance of 1,148.61 feet to a 1/2" rebar with "Chaparral" cap set for the northwest corner of said 119.952 acre tract, being on the west line of said 141.07 acre tract, being the east line of that tract of land called 327 acres in a deed to Lackey Holdings Ltd., recorded in Document No. 9859224, of the Official Records of Williamson County, Texas, for the southwest corner hereof;

THENCE, North $21^{\circ}02'19''$ West, a distance of 6.92 feet to a 1/2" rebar with cap stamped "CCC 4835" found for the northwest corner of the said 141.07 acre tract, being the southwest corner of said 61.72 acre tract, and being the southernmost corner of that Boundary Line Agreement of record in Document No. 2005082460 of the Official Public Records of Williamson County, Texas;

THENCE, crossing said 327 acre tract, with said Boundary Line Agreement line, as found fenced, occupied and used upon the ground, the following sixteen (16) courses and distances:

1. North $23^{\circ}20'13''$ West, a distance of 26.71 feet to a fence post;
2. North $22^{\circ}52'36''$ West, a distance of 13.98 feet to a fence post;
3. North $22^{\circ}17'39''$ West, a distance of 88.86 feet to a fence post;
4. North $22^{\circ}26'48''$ West, a distance of 52.03 feet to a fence post;
5. North $21^{\circ}15'55''$ West, a distance of 70.96 feet to a fence post;
6. North $20^{\circ}33'30''$ West, a distance of 72.26 feet to a fence post;
7. North $21^{\circ}04'08''$ West, a distance of 45.44 feet to a fence post;

8. North 21°46'10" West, a distance of 63.47 feet to a fence post;
9. North 20°53'03" West, a distance of 51.82 feet to a fence post;
10. North 20°42'22" West, a distance of 50.78 feet to a fence post;
11. North 20°47'55" West, a distance of 51.29 feet to a fence post;
12. North 20°25'12" West, a distance of 48.41 feet to a fence post;
13. North 21°08'02" West, a distance of 48.92 feet to a fence post;
14. North 20°48'52" West, a distance of 55.84 feet to a fence post;
15. North 20°33'04" West, a distance of 55.58 feet to a fence post;
16. North 20°07'44" West, a distance of 54.97 feet to a metal fence post for the end of said Boundary Agreement Line, being the northwest corner of said 61.72 acre tract, and being the southwest corner of that tract of land called 150 acres in a deed to Lackey Holdings Ltd. recorded in Document No. 9859224, of the Official Records of Williamson County, Texas, for the northwest corner hereof;

THENCE, North 68°59'23" East, with the common line between said 61.72 acre tract and said 150 acre tract, a distance of 2174.73 feet to a 1/2" rebar with cap stamped "CS LTD" found for the northernmost northeast corner of said 61.72 acre tract, being the northwest corner of a portion of those tracts of land called 74.0 acres in a deed to A. L. Alley et ux, recorded in Volume 487, Page 318 of the Deed Records of Williamson County, Texas, for the northernmost northeast corner hereof;

THENCE, with the east line of said 61.72 acre tract, the following three (3) courses and distances:

1. South 21°40'45" East, a distance of 209.19 feet to a 1/2" rebar with cap stamped "CCC 4835" found;
2. South 83°24'43" East, a distance of 547.29 feet to a 1/2" rebar with cap stamped "CCC 4835" found for the beginning of a curve to the left;
3. With said curve to the left, having a radius of 2185.00 feet, a delta angle of 17°40'01", an arc length of 673.74 feet, and a chord which bears North 87°45'52" East, a distance of 671.07 feet to a 1/2" rebar with cap stamped "CS LTD" found for the southwest corner of that tract of land called 1.01 acres in a deed to Larry G. Coop ET UX, recorded in Document No. 199846793 of the Official Public Records of Williamson County, Texas;

THENCE, North 50°00'08" East, with the common line between said 61.72 acre tract and said 1.01 acre tract, a distance of 113.48 feet to a calculated point at the intersection of a north line of said 61.72 acre tract and the west line of that tract of land called 0.0473 acres in a deed to the City of Leander, Texas, recorded in Document No. 2010031348 of the Official Public Records of Williamson County, Texas, for a northeast corner hereof, from which a 1/2" rebar with cap stamped "BWR" found for the northwest corner of said 0.0473 acre tract bears North 28°54'19" West, a distance of 2.18 feet;

THENCE, crossing said 61.72 acre tract, with the west line of said 0.0473 acre tract, the following two (2) courses and distances:

1. South 28°54'19" East, a distance of 130.71 feet to a 1/2" rebar with cap stamped "BWR" found;
2. North 61°18'20" East, a distance of 15.99 feet to a 1/2" rebar with "Chaparral" cap set on the west line of said Bagdad Road, for the easternmost northeast corner hereof;

THENCE, South 29°18'31" East, with the west line of said Bagdad Road, a distance of 251.82 feet to the **POINT OF BEGINNING**, containing an area of 59.788 acres of land, more or less.

Surveyed on the ground February 18, 2009 and April 10, 2013. Bearing basis is Grid Azimuth for Texas Central Zone, NAD1983 values based on GPS solutions from The National Geodetic Survey (NGS) On-line Positioning User Service (OPUS).

Attachments: 954-001-Base.dwg


Paul L. Easley
Registered Professional Land Surveyor
State of Texas No. 4432

4/24/2013
Date



EXHIBIT "B"
San Gabriel Parkway Right-of-Way

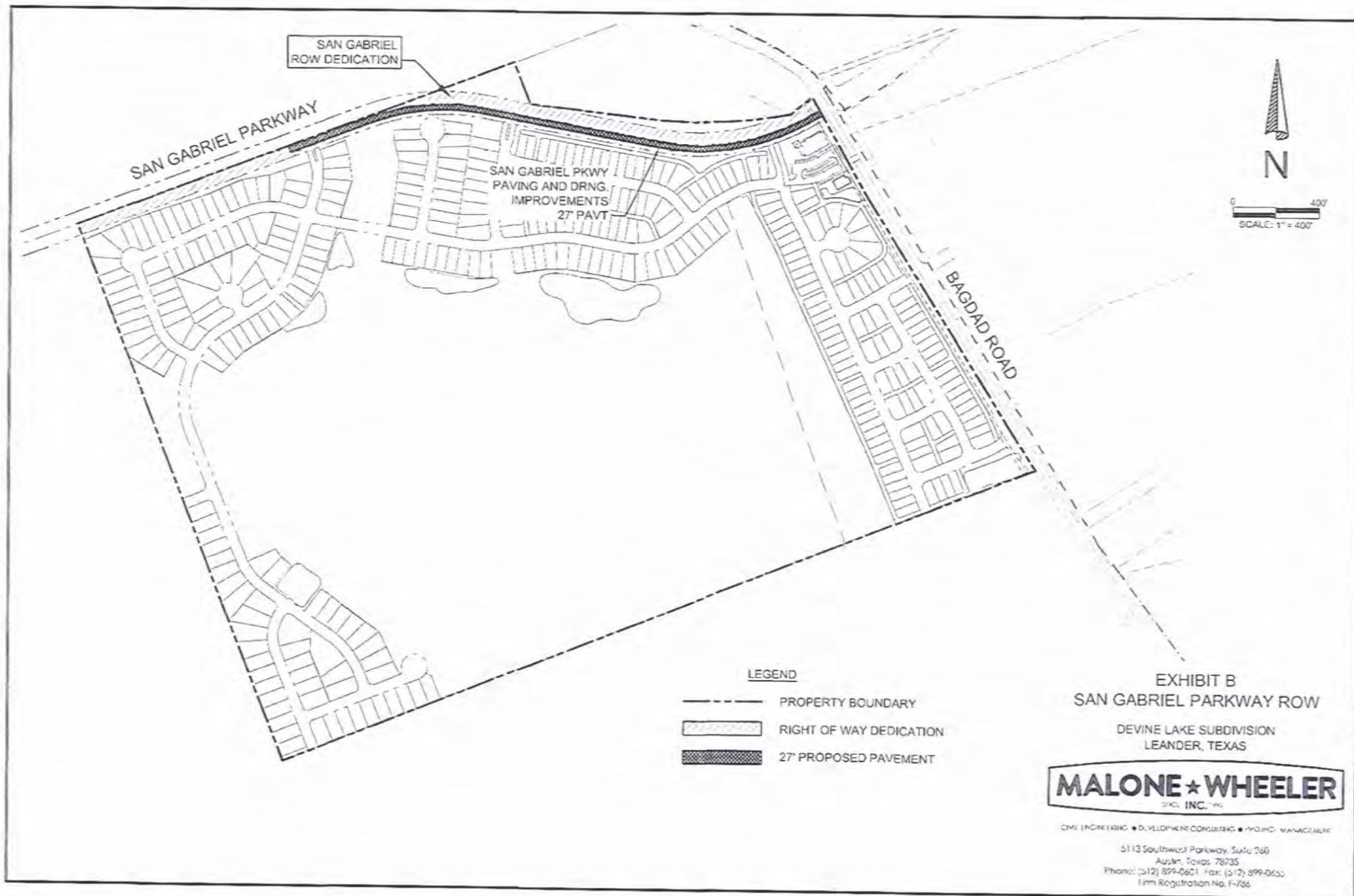


EXHIBIT "C"
Bagdad Road Right of Way



0 200'
SCALE: 1" = 200'

BAGDAD ROAD

EXISTING
PROPERTY
LINE

BAGDAD
ROW DEDICATION

SAN GABRIEL
PARKWAY

LEGEND

-  PROPERTY BOUNDARY
-  RIGHT OF WAY DEDICATION

EXHIBIT C-
BAGDAD RIGHT OF WAY
DEVINE LAKE SUBDIVISION
LEANDER, TEXAS

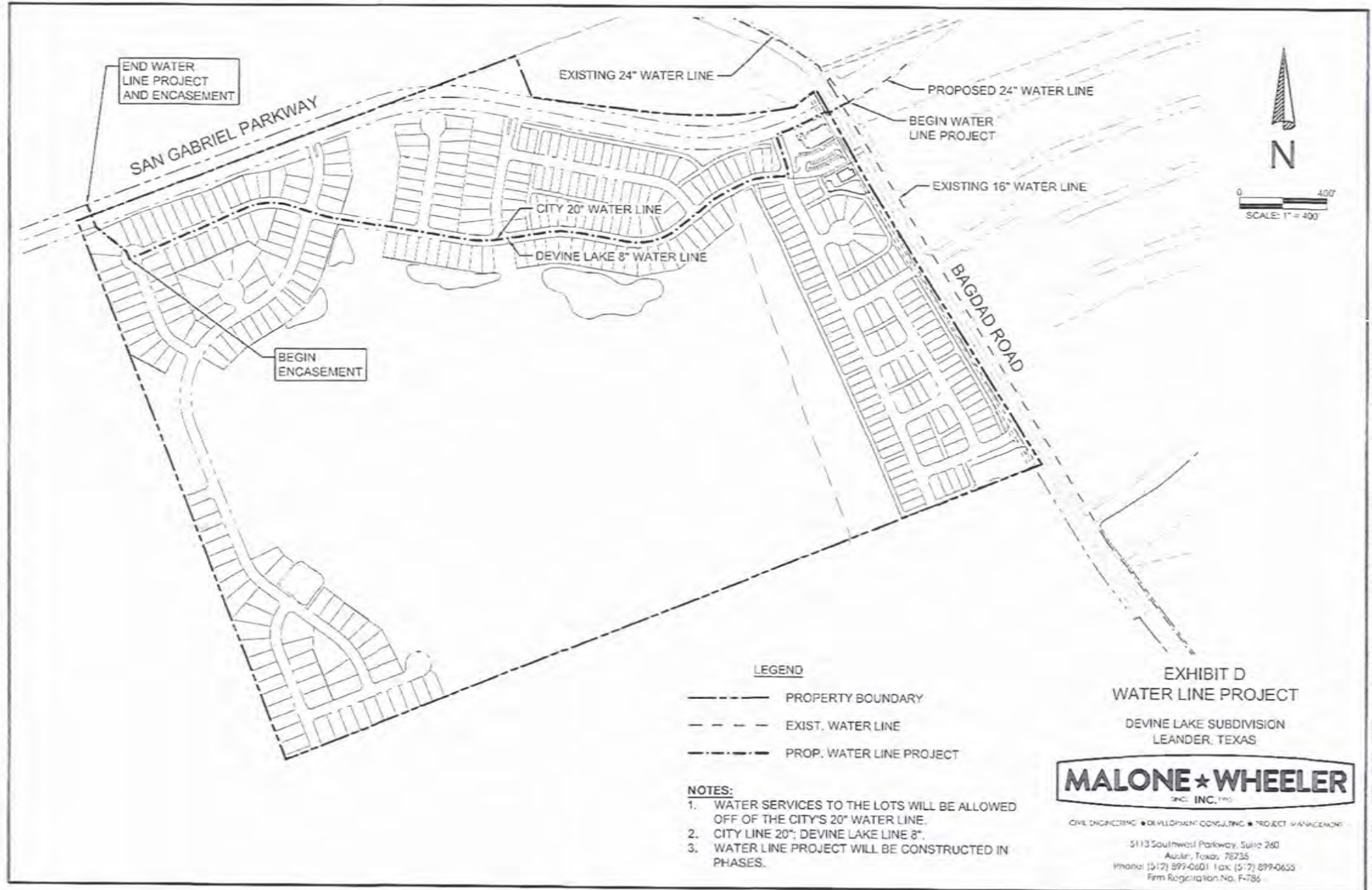
MALONE ★ WHEELER
INC. P.C.

CIVIL ENGINEERING • DEVELOPMENT CONSULTING • PROJECT MANAGEMENT

5113 Southwest Parkway, Suite 260
Austin, Texas 78735

Phone: (512) 899-0601 Fax: (512) 899-0655
Firm Registration No. F-7386

EXHIBIT "D"
Water Line Project



FOX/PARK MASTER FILES/PROJECTS/13-01/EXHIBITS/Devine Lake/Exhibit D WATER.dwg, 4/11/2016 10:24:34 AM, MW

EXHIBIT "E"
Wastewater Line Project

MALONE + WHEELER

EXHIBIT E
WASTEWATER LINE PROJECT
DEVINE LAKE SUBDIVISION
LEANDER, TEXAS

LEGEND
 --- PROPERTY BOUNDARY
 --- PROP. WASTEWATER LINE PROJECT

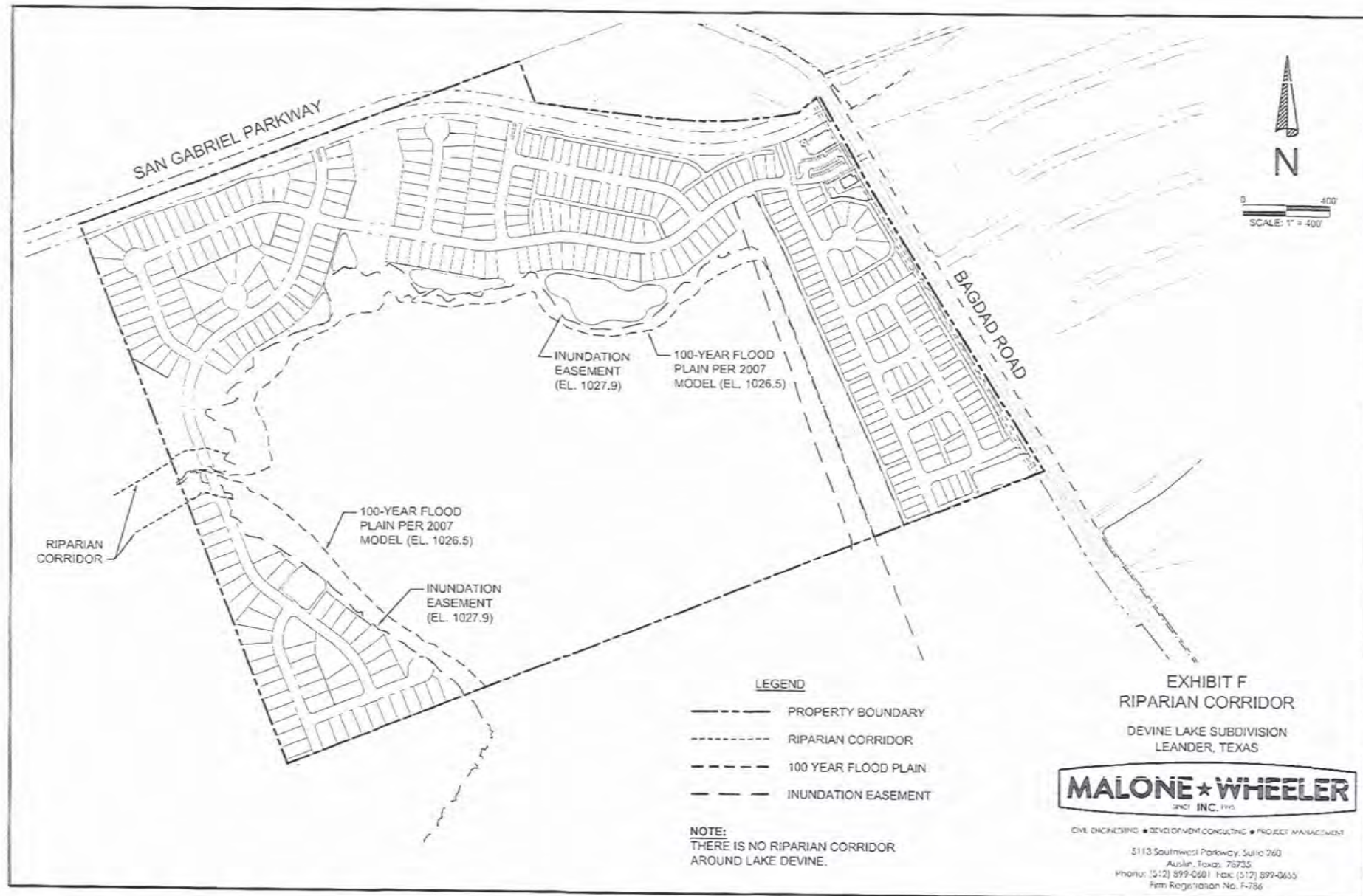
NOTES:
 1. CITY LINE 24" DEVINE LAKE LINE 8"
 2. WASTEWATER LINE PROJECT WILL
 BE CONSTRUCTED IN PHASES.

ONE EXCHANGING & DESIGN CONSULTING & PROJECT MANAGEMENT
 INC. (M.C.)
 5112 Southwest Parkway, Suite 200
 Austin, Texas 78735
 Phone: (512) 679-0401 Fax: (512) 679-0455
 E-mail: info@malonewheeler.com



P:\WPARK MASTER FILES\PROJECTS\WHEATON\504\Agreement\EXHIBIT E & WASTEWATER.dwg, 01/20/2018 8:39:18 AM, RWV

EXHIBIT "F"
Riparian Corridor





EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Award of Solicitation S23-002 to Gage and Cade Construction, LLC, for the installation of a new temporary construction access road along the future San Gabriel Parkway East in the Palmera Ridge neighborhood (CIP W.41), in the amount of \$92,475.35; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

In response to feedback from bidders and non-bidders, in the difficulty to access and reach the San Gabriel Elevated Storage Tank site other than the Azul Lagoon Drive access through the neighborhood or through a sharp incline to overcome a steep slope coming from Ronald W. Reagan Boulevard, the City Engineering staff reviewed the possibility of creating a temporary construction access road through the San Gabriel Parkway east section. The clearing and grading a portion of the 20-CIP-007 San Gabriel Parkway Phase 2 project ahead of the main San Gabriel Parkway Phase 2 project would prepare an area for construction staging and equipment/material laydown, as well as, assisting the 21-CIP-005 San Gabriel Elevated Storage Tank project with access for heavy equipment and materials. Based on best judgement to expedite the elevated storage tank, City Staff chose to proceed with this clearing and access road task at this time.

Bids for this project were received on February 9, 2023, with three (3) bids received. The lowest qualified bid is from Gage and Cade Construction, LLC, in the amount of \$92,475.35. Gage and Cade Construction, LLC has several years of successful service in similar construction, and is deemed highly qualified for this project. City staff recommends awarding the construction contract agreement to Gage and Cade Construction, LLC, in the amount of \$92,475.35.

RECOMMENDATION:

Staff recommends approval of Construction Contract agreement, for the CIP project W.41, in the amount of \$92,475.35 to Gage and Cade Construction, LLC, and authorize the City Manager to execute any and all documents.

PRESENTER:

Emily Truman, P.E., CFM, PMP

Fiscal Impact

<u>Amount requested:</u>	\$92,475.35
<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>	Water Impact Fee

Attachments

1. Contract Agreement
2. Invitation for Bids
3. Bid Recommendation

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between **CITY OF LEANDER, a Texas Municipal Corporation** ("Owner") and **GAGE & CADE CONSTRUCTION, LLC** ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **the necessary labor, materials, equipment and supervision to construct a new construction access road extending from the existing east end of San Gabriel Parkway to the San Gabriel East Elevated Storage Tank, and to include erosion controls, approved site clearing and grubbing, site grading, and site improvements**

ARTICLE 2—THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **21-CIP-005: SAN GABRIEL PARKWAY EST - CONSTRUCTION ACCESS ROAD.**

ARTICLE 3—ENGINEER

- 3.01 The Owner has utilized its own Engineering staff ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by **The City of Leander.**

ARTICLE 4—CONTRACT TIMES

- 4.01 *Time is of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Days*
- A. The Work will be substantially complete within **[50]** calendar days after the date of Commencement of Contract Times as provided in Paragraph 4.01.A of the Standard General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the Standard General Conditions within **[80]** calendar days after the date of Commencement of Contract Times.
- 4.05 *Liquidated Damages*
- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also

recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion*: Contractor shall pay Owner **\$1,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$1,000.00** for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.06 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, a total lump sum of **[\$92,475.35]**.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

- B. For all Work, at the prices stated in Contractor's Bid, including the **Base Bid** in the amount of **\$[95,475.35]** and Alternate 2 in the amount of **\$[-3,000.00]**.
- C. Alternate 1, if taken by Owner at a later date and before completion of this contract, to be the added amount of **\$[6,500.00]**.
- D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6—PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Owner and Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the **30th** day from Owner approval of Application for Payment of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions or, as may be provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. **Ninety-Five (95)** percent of the value of the Work completed (with the balance being retainage).
 - b. **Eighty (80)** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **Ninety-Five (95)** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **Five (5)** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 Consent of Surety

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the rate of **4.25%** percent per annum.

6.06 *Force Majeure*

- A. Force Majeure Event means an event caused by any of the following conditions: act of God; fire; flood; labor strike; sabotage; material shortages or unavailability or other delay in delivery of services not resulting from the responsible Party's failure to timely provide services therefor; power blackouts; lack of or delay in transportation; changes in government codes, ordinances, laws, rules, regulations, permits, or restrictions; war or civil disorder; or any other cause beyond the reasonable control of such Party. Neither Party shall be liable to the other for any delay or failure in performance of any part of this Contract to the extent that a Force Majeure Event causes such delay or failure. Any party claiming a Force Majeure event has an obligation to attempt to mitigate the impact of the Force Majeure event and find alternate means of performance. The Party additionally must notify the opposing party in writing of the event, the consequence of the event, the impact on performance, steps to mitigate, and the timeframe for resuming compliance.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 - 3. Evidence of Insurance
 - 4. City of Leander Standard Definitions, Terms and Conditions
 - 5. Standard General Conditions. Edits highlighted.
 - 6. Supplementary Conditions
 - 7. Specifications as listed in the table of contents of the project manual (copy of list attached).
 - 8. Drawings listed on the attached sheet index.
 - 9. IFB Bid documents.
 - 10. Addenda No. 1
 - 11. Form 01-339 Texas Sales and Use Tax Exemption Certification
 - 12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.

- b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Project Schedule
 - f. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above) and the terms and conditions of the Contract Documents are incorporated by reference and made part of this Agreement.
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 - 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
 - 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

- B. Although drawn by Owner, both parties hereto expressly agree and assert that in the event of any dispute over its meaning or application, this Agreement shall be interpreted reasonably and fairly, and neither more strongly for nor against either party.
- C. This Agreement is to be governed by and shall be construed in accordance with the laws of the State of Texas without regard to conflicts of law principles, thereof. Proper venue for any dispute or litigation shall be only in Williamson County, Texas.
- D. This Agreement and all rights and obligations contained herein may not be assigned by Contractor without the prior written approval of the City. However, Contractor shall have the right to employ such assistance as may be required for the performance of the project, including the use of subcontractors, which employment shall not be deemed an assignment of the Contractors' rights and duties hereunder.
- E. 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, Contractor represents that neither Contractor nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor (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.
- F. 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, Contractor represents that Contractor nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.
- G. Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. 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 on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by the preceding statement in (A).
- H. Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not 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.

- I. Texas law requires that business entities, as defined in Texas Government Code, Section 2252.908, who contract with the City complete the on-line of Form 1295 "Certificate of Interested Parties" as promulgated by the Texas Ethics Commission (<https://www.ethics.state.tx.us/filinginfo/1295/>). Form 1295 is also required for any and all contract amendments, extensions or renewals. Prior to any payment to Contractor hereunder, Contractor shall provide proof of submission to the City Secretary that the appropriate Form 1295 documentation has been submitted.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on **[April 6, 2023]** (which is the Effective Date of the Contract).

Owner:

CITY OF LEANDER

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: Richard B. Beverlin III

(typed or printed)

Title: City Manager

(typed or printed)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name: Russell Alabastro

(typed or printed)

Title: CIP Project Manager

(typed or printed)

Address:

Pat Bryson Municipal Building

201 N. Brushy Street

Leander, TX 78641

Phone: (512) 528-2713

Email: ralabastro@leandertx.gov

(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

Gage & Cade Construction, LLC

(typed or printed name of organization)

By:

(individual's signature)

Date:

3/27/2023

(date signed)

Name: Kennth Warr

(typed or printed)

Title: President

(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

1107 County Rd 264

Bertram, TX 78605

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone: 512-379-8176

Email: accounting@gageandcadeconstruction.com

License No.:

(where applicable)

State: Texas



City of Leander

INVITATION FOR BID

San Gabriel Construction Access Road

ADDENDUM #1

REFERENCE: IFB No: S23-002

Alternate 2 Bid Form

Note Change Below

This Addendum forms a part of Contract and clarifies, corrects or modifies original Bid Documents

Revisions/Clarifications:

1. Bid form updated for the addition of the alternate base bid pricing item

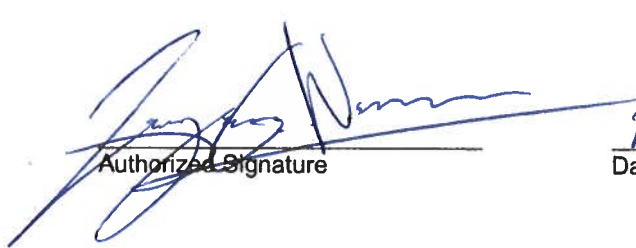
Approved by _____

Kay Johnson, Purchasing Agent

By the signatures affixed below, Addendum No. 1 is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED

Vendor



Authorized Signature

2/9/2023

Date

BID FORM

San Gabriel Parkway East - Construction Access Road

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Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we

Gage and Cade, LLC, 1107 County Road 264, Bertram, Texas 78605

(Here insert full name and address or legal title of Contractor)

as Principal, hereinafter called Principal, and,

FCCI Insurance Company, 6300 University Parkway, Sarasota, FL 34240-8424

(Here insert full name and address or legal title of Surety)

a corporation duly organized under the laws of the State of Florida

as Surety, hereinafter called the Surety, are held and firmly bound unto

City of Leander, 105 N Brushy Street, Leander, Texas 78642

(Here insert full name and address or legal title of Corporation)

as Obligor, hereinafter called the Obligor, in the sum of

Five Percent of The Total Amount Bid

Dollars (\$ 5%),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

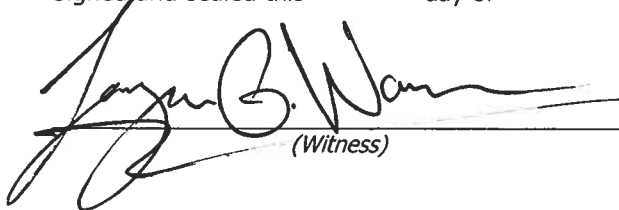
WHEREAS, the Principal has submitted a bid for

Construction Services for San Gabriel Parkway East - Construction Access Road

(Here insert full name and address description of project)

NOW THEREFORE, if the obligor shall accept the bid of the principal and the principal shall enter into Contract with the Obligor in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligor the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the obligor may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 9th day of February, 20 23


(Witness)

Gage and Cade, LLC

(Principal)

(Seal)

Estimator

(Title)


(Witness)

FCCI Insurance Company

(Surety)

(Seal)

James F Siddons

Attorney-in-Fact

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call FCCI Insurance Group's (FCCI)* toll-free telephone number for information or to make a complaint at 1-800-226-3224.

You may also write to FCCI Insurance Group Compliance Department e-mail at StateComplaints@fcci-group.com.

For Claims, you may write to FCCI Insurance Group Claim Department e-mail at newclaim@fcci-group.com.

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at 1-800-252-3439.

You may write the Texas Department of Insurance:

PO Box 149104

Austin TX 78714-9104

Fax: 1-512-490-1007

Web: <http://www.tdi.texas.gov>

E-mail: ConsumerProtections@tdi.texas.gov

PREMIUM OR CLAIM DISPUTES

Should you have a dispute concerning your premium or about a claim you should contact FCCI first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND

This notice is for information only and does not become a part or condition of the attached documents.

*The FCCI Insurance Group includes the following insurance carriers: Brierfield Insurance Company, FCCI Advantage Insurance Company, FCCI Commercial Insurance Company, FCCI Insurance Company, Monroe Guaranty Insurance Company, and National Trust Insurance Company.



GENERAL POWER OF ATTORNEY

Know all men by these presents: That the FCCI Insurance Company, a Corporation organized and existing under the laws of the State of Florida (the "Corporation") does make, constitute and appoint:

James F Siddons; April M Terbay; Patrick L Watkins; Rodney Watkins; Andrew Webb;
Robert J Guyton; Hanna Ogle; Sheila Pennington Noxon

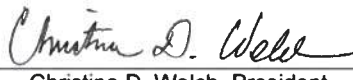
Each, its true and lawful Attorney-In-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed in all bonds and undertakings provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed the sum of (not to exceed \$20,000,000.00): \$20,000,000.00

This Power of Attorney is made and executed by authority of a Resolution adopted by the Board of Directors. That resolution also authorized any further action by the officers of the Company necessary to effect such transaction.

The signatures below and the seal of the Corporation may be affixed by facsimile, and any such facsimile signatures or facsimile seal shall be binding upon the Corporation when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.

In witness whereof, the FCCI Insurance Company has caused these presents to be signed by its duly authorized officers and its corporate Seal to be hereunto affixed, this 23rd day of July, 2020.

Attest:



Christina D. Welch, President
FCCI Insurance Company





Christopher Shoucair,
EVP, CFO, Treasurer, Secretary
FCCI Insurance Company

State of Florida
County of Sarasota

Before me this day personally appeared Christina D. Welch, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027



PEGGY SNOW
Commission # HH 326536
Expires February 27, 2027



Notary Public

State of Florida
County of Sarasota

Before me this day personally appeared Christopher Shoucair, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027



PEGGY SNOW
Commission # HH 326536
Expires February 27, 2027



Notary Public

CERTIFICATE

I, the undersigned Secretary of FCCI Insurance Company, a Florida Corporation, DO HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked; and furthermore that the February 27, 2020 Resolution of the Board of Directors, referenced in said Power of Attorney, is now in force.

Dated this 9th day of February, 2023



Christopher Shoucair, EVP, CFO, Treasurer, Secretary
FCCI Insurance Company

ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

Kay Johnson
Assistant Purchasing Agent
City of Leander Office
Phone (512) 528-2730
kjohnson@leandertx.gov

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>1/31/2023</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in Supplementary Conditions 4.02.

E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- K. Bidder will submit written evidence of its authority to do business in the state where the Project is located not later than the date of its execution of the Agreement.

ARTICLE 4 – FURTHER REPRESENTATIONS

4.01 Bidder further represents that:

- A. this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

ARTICLE 5 – BASIS OF BID

5.01 Either Base Bid or Alternate Bid may be used in awarding the Contract.

5.02 Base Bid - Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

San Gabriel Parkway East - Construction Access Road

The undersigned, in compliance with the Invitation for Bids for construction of the following Project for the City of Leander, Texas:

Solicitation No.:	IFB #S23-002
CIP Project No.:	20-CIP-007
Project:	San Gabriel Parkway East – Construction Access Road

Having examined the Project Manual, Drawings and Addenda, the site of the proposed Work and being familiar with all of the conditions surrounding construction of the proposed Project, having conducted all inquiries, tests and investigations deemed necessary and proper; hereby proposes to furnish all labor, permits, material, machinery, tools, supplies and equipment, and incidentals, and to perform all Work required for construction of the Project in accordance with the Project Manual, Drawings and Addenda within the time indicated.

BASE BID		\$95,475.35
Base Bid includes erosion control maintenance for the duration of this project.		

- The “Base Bid” amount becomes the Bidder’s “TOTAL BID” if allowances and/or alternates are not included.

ALTERNATES:

Alternative No. 1	The purpose of Alternate-01 is to determine the construction cost for this Bidder’s cost to continue maintenance of the erosion controls for an additional 13 months after Final Completion acceptance of this project	\$
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TOTAL BID		\$ 9500.00
Includes Base Bid plus Subtotal Allowances and Alternate 1, (if accepted at Contract Execution)		

Alternative No. 2 (Alternate Base Bid)	The purpose of Alternate-02 is to adjust the base bid based on the following assumption: that 75% of the trees indicated in the drawings to be cleared are already knocked down by the time the Notice to Proceed on this contract is issued.	\$
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TOTAL ALTERNATE BID		\$ ~3,000.00
Includes Alternate Base Bid plus Subtotal Allowances and Alternate 1, (if accepted at Contract Execution)		

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are attached to and made a condition of this Bid:

- A. Bid security;
- B. Bidder qualifications as required in the Instruction to Bidders;
- C. complete responses to information required in Bid;
- D. the entire Bid with all blanks filled in completely.

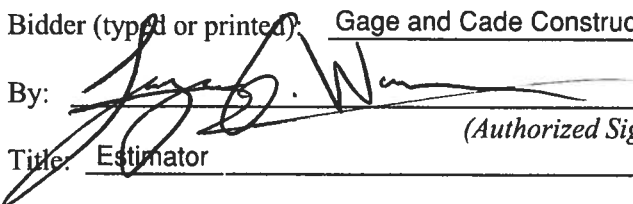
ARTICLE 8 – DEFINED TERMS

- 8.01 Not Used.

ARTICLE 9 – BID SUBMITTAL

- 9.01 This Bid submitted by:

Bidder (typed or printed): Gage and Cade Construction

By: 

(Authorized Signature)

Title: Estimator

Date: 2/9/2023

Business Address: 1107 county road 264 Bertram TX 78605

Telephone Number: 281-330-9769

Fax Number: NA

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

NA

1 Name of vendor who has a business relationship with local governmental entity.

NA

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

NA

3 Name of local government officer about whom the information is being disclosed.

NA

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☐

No

NA

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐

Yes

☐

No

NA

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

NA

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

NA

Signature of vendor doing business with the governmental entity

NA

Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/1/2023

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

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

PRODUCER Watkins Insurance Group-Austin 3834 Spicewood Springs Rd, Ste. 100 Austin TX 78731		CONTACT NAME: Madison Hemphill PHONE (A/C, No, Ext): 512-637-3932 FAX (A/C, No): E-MAIL ADDRESS: mhempill@watkinsinsurancegroup.com		
INSURED Gage & Cade Construction, LLC 1107 County Road 264 Bertram TX 78605		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: Westchester Surplus Lines Insurance Company		10172
		INSURER B: National Fire Insurance Company of Hartford		20478
		INSURER C: The Continental Insurance Company		35289
		INSURER D: Continental Casualty Company		20443
		INSURER E: American Casualty Company of Reading,		20427
INSURER F:				

COVERAGES**CERTIFICATE NUMBER:** 98681834**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:		7018110459	2/1/2023	2/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
D	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY		7018110462	2/1/2023	2/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000		7018110493	2/1/2023	2/1/2024	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A		7018110476	2/1/2023	2/1/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A D	Pollution Liability Scheduled Equipment		G7438562A 001 7018298450	12/21/2022 2/1/2023	12/21/2023 2/1/2024	Limit/Deductible Limit/ Deductible Limit/Deductible \$1,000,000 \$2,694,500 / \$1 K

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
7018298450 - Rented/Leased Equipment - 02/01/22 - 02/1/23 - Limit - \$500,000 / Deductible - \$1,000

CERTIFICATE HOLDER**CANCELLATION**

* For Information Only
Gage & Cade Construction, LLC
4400 County Road 201
Liberty Hill TX 78642

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Gage & Cade Construction Equipment List

Equip #	Equipment	VIN End
JDT-001	6115D John Deere Tractor	EM052757
SKL-401	2021 Kubota SVL97 Track Loader	M1A60864
SKL-402	2020 Kubota SVL95 Track Loader	L1D51077
SKL-405	2019 Kubota SVL95 Track Loader Reece	46589
SKL-406	2021 Kubota SVL97 Track Loader 2C	M1D62387
MX-403	2020 Kubota KX040 Mini Excavator	HL3D37193
MX-404	2020 Kubota KX040 Mini Excavator	L3F37388
BL-501	Cat 420E Backhoe	HLS05270
DZ-502	2015 Komatsu D61PXi-23 Dozer	31630
DZ-503	2019 Komatsu D61PXi-24 Dozer Rippers	B60947
DZ-512	2021 Komatsu D71PXi-24 Dozer	70276
EX-504	2016 Komatsu PC290-11 Excavator	A27189
EX-505	2019 Komatsu PC360LCi-11 Excavator	A38218
EX-506	2020 Komatsu PC240LC-11 Excavator	85423
MG-509	2019 Komatsu GD655 Motor Grader	60553
MG-513	2019 Komatsu GD655-6 Motor Grader	60584
WL-507	2018 Komatsu WA270 Wheel Loader	83618
WL-508	2015 Komatsu WA320 Wheel Loader	A36709
WL-514	2019 Komatsu WA270 Wheel Loader	84597
BR-510	2018 Bomag Roller BW211DH-5	86091025
BR-511	2018 Bomag Roller BW211DH-5	86091093
MR-806	Mini Roller We don't own	
ADT-603	2013 Deere 410E Artic Dump Truck	DE655410
ADT-608	2013 Komatsu HM300-3 Dump Truck	29003331
WPT-701	Gorman Rupp 4" Pump Trailer Blue	1476672
WPT-702	Pioneer Green Pump	PP31808
FL-801	2008 Dieci Telehandler	1900650
SW-802	2014 Lay-Mor SM300 8' Sweeper	34999
SSL-803	2012 SkyJack 30' Scissor Lift	34002195
FL-804	2012 SkyTrak 6036 36' Forklift	60044289
SSL-805	2006 Genie Scissor Lift GS2032	81118

Equipment definition #
Utility Trailers (UT) 101
Goosenecks (GT) 201
Pick ups (PU): 301
Kubota: 401 (Skid loader = SKL) (Mini X = MX)
Komatsu/ CAT : 501 (Excavator EX) (Dozer DZ)
Big Trucks 601
Water Pump on wheels: 701 (WPT)
801 Scissor lift (SSL), Forklift (FL), Sweeper (SW)

Equip #	Equipment	Plate #	VIN End
PU-001	2011 Ford F350 001 The Spirits	BF29707	BEC51636
PU-301	2012 Dodge Ram Truck	PPG7058	CG315057
PU-302	2018 Ford F350 Kyle	LDY9295	JEC78386
PU-303	2018 Ford F350 Dually Nobody	KSD9509	JEB08274
PU-304	2019 Ford F350 Gary	MKV5547	KEE82855
	2019 Lincoln Navigator	MTX6713	KEL17374
PU-305	2012 Ford F250 Robbie	LGH5416	CEC72315
PU-306	2017 Ford F550 Rafa	NFN6017	HEB52669
PU-307	2017 Ford F550 Concrete	NFN6016	HEC41942
PU-308	2020 Ford F350 Kenny	NYT9713	LEE74952
PU-309	2018 Ford F150 Jason	KNP5642	JKD04370
PU-310	2019 Ford F350 Yankee	PJM1325	KEC39182
PU-311	2018 Ford F350 Dayton	PWF3386	JEB18626
PU-312	2011 GMC 1500 ?	NXH7408	BZ413601
PU-313	2004 Ford F150	BA87326	4KC66486
PU-314	2014 GMC 1500 Fernando	SGZ8739	EZ195153

Repaired

Large Trucks / Water Trucks:

Equip #	Equipment	Plate #	VIN End
HT-604	2015 Peterbilt 389 Truck	1M42577	FD259911
WT-601	2005 Osh Kosh 5k Water Trk	N/A	5S084417
WT-609	Peterbilt Water Truck	N/A	SN362882
CS-610	2023 Peterbilt-Rosco Oil Trk		MD678845
CSS-611	2002 Etnyre Chip Spreader	N/A	K5887
XT4	Kodiak Dump Truck	N/A	RJ103492
FST-602	2004 Ford F-650 Serv Truck	PGF5274	4V678532

Trailers

Equip #	Equipment	Plate #	VIN End
UT-101	2015 Top Hat Bumper Trailer 20' Gar	930566K	FT144516
UT-102	2018 Cand 20X Trailer bumper Side	987471K	JT198347
UT-103	30' Enclosed Trailer Concrete-Rafa	864161K	YA004456
UT-104	2022 16' C&M Utility Trailer	284226M	NT233524
UT-105	2022 Carr 6x8 Trailer Yankee	211493M	NT010294
UT-106	Water Trailer Shop Made		
UT-107	2016 Top Hat Fuel Trailer	308825J	GT152935
PWT-108	Small Trailer-Pressure Washer		N/A
GT-201	2001 PJ Gooseneck Trailer White	30846N	11040285
GT-202	2019 Load 30' Gooseneck Recovered	968296K	K1182118
GTT-203	2020 26' Delco Tilt Trailer Gooseneck	930565K	L6010287
GT-204	2020 Load Trail 30' Gooseneck Reece	781068K	L1210068
GTD-205	2021 Load Trail 16' Dump Trailer Ree	370619M	M1237862
EHT-605	2020 Fontaine Magnitude 55' Trailer	170B585	L3576782
EHA-606	2020 Fontaine Flip Axle	170B585	L3577128



Gage & Cade Construction, LLC

Mailing and Physical Address: 1107 County Road 264
Bertram, TX 78605

Phone: (512) 379-8176

State of Incorporation: Texas

Year of Inception: 2016

Federal Tax ID # 81-1182912

Type of Business: Site Work, Utilities, Asphalt Paving, Concrete Work, Metal Fabrication, Land Clearing and Chip Seal

Recent Project History:

Project Name	Contractor/Owner	Description	Project Size
Sprint Reagan Landfill	Sprint Energy	Excavation, Concrete, Bldg Erection	\$ 5,050,000
Seven Springs Ranch	Premier Land	Site, Utilities, Concrete, Asphalt Streets	\$ 4,850,000
Mesa Vista Ranch Subdivision	Warr-Swinbank LLC	Site, Utilities, Concrete, Wilco Spec, Asphalt Streets	\$ 4,450,000
Sprint Pecos Landfill	Sprint Energy	Excavation, Concrete, Bldg Erection	\$ 4,400,000
Business Park Improvements	Lampasas EDC	Site, Utilities, Concrete, Asphalt Streets	\$ 2,747,000
Starlight Ranch	Premier Land	Site, Utilities, Concrete, Asphalt Streets	\$ 2,520,000
Great Sky / Tortuga Ranch	Premier Land	Site, Utilities, Concrete, Asphalt Streets	\$ 2,480,000
Lakeline Park Phase 1	JKB Construction	Site work, Concrete, Bldg Erection	\$ 2,285,000
Mystic Ridge Estates	Mystic Ridge LLC	Site, Utilities, Concrete, Asphalt Streets	\$ 1,745,000
Sprint Kenedy Landfill	Sprint Energy	Excav, Concrete, Asphalt, Bldg Erection, 2,400 SF Build Out	\$ 1,550,000
Madbucks Trophy Ranch	Madbucks Trophy Ranch	Concrete & Metal work	\$ 1,500,000
Delaware Springs Sec 24	Delaware Springs Ranch Investments	Site, Utilities, Concrete, Asphalt Streets	\$ 1,480,000
281 South Commercial Park	City of Burnet	Site, Utilities, Concrete, Asphalt Streets	\$ 1,150,000
Shin Oak Bend	Hometown Renovations	Site, Utilities, Concrete, Asphalt Streets	\$ 1,050,000
Dancing Bear Ranch	Premier Land	Site, Utilities, Concrete, Asphalt Streets	\$ 1,040,000
Family Power Sports	Fromberg Construction	Site work, Concrete, Bldg Erection	\$ 1,035,000
McCoys Burnet Reload 359	Bennett Paving Inc	Site, Cement Stabilization	\$ 1,020,000
The Overlook at Salado	Premier Land Investment	Site, Utilities, Concrete, Asphalt Streets	\$ 970,000
Upper East End	Carr Utility Contracting	Site, Utilities, Concrete, City of Austin Spec, Asphalt Streets	\$ 725,000
Ewald Kubota Fredericksburg	Fromberg Construction	Site work, Concrete, Bldg Erection	\$ 715,000
Park at Bee Cave	Fromberg Construction	Site, Utilities, Concrete	\$ 710,000
2022 Street Improvements	City of Elgin	Site, Utilities, Asphalt, Chip Seal	\$ 574,000
Oak Bend Estates	Prince Development	Site, Utilities, Concrete, Wilco Spec, Asphalt Streets	\$ 430,000
Main Street Social	Prince Development	Site, Utilities, Concrete, Asphalt	\$ 350,000
Liberty Hill Pediatrics	Jaxland Investments	Site, Utilities, Concrete	\$ 350,000
Lakeside WCID #2D Pedestrian Trails	JKB Construction	Site, Concrete, Storm Sewer	\$ 310,000

SH 29 Driveway at Landfill	City of Mason	Install TX DOT Turn Lane	\$ 100,000
Mason East Landfill	Hammett Excavation	Install Concrete Headwalls & Outflow Structures	\$ 100,000

References:

- > Fromberg Construction - Chase Fromberg 512-402-4705
- > Madbucks Trophy Ranch - Jeff Madison 512-569-2078
- > Risers International - Max Goodman 713-203-3718
- > Premier Land Investments - James Blamey 512-844-0748
- > Carr Utility Contracting - David Renfro 512-680-7164
- > Hometown Renovations, LLC - Todd Cox 512-914-5095
- > Prince Development - James Prince 512-228-1931
- > Sprint Energy - Chris Swinbank 713-299-6819
- > JKB Construction - Justin Bryn 512-917-4791
- > Bennett Paving Inc - Bryan Bennett 512-450-3186
- > Premier Land - Ben Vanhook 828-342-3071

Kenny Warr

President

4400 CR 201, Liberty Hill, TX 78642



Expertise

- Site work
- Utilities
- Concrete
- Metal erection

Education

- B.F. Terry High School

Certifications

- OSHA 10

Total Years Experience

26

Years with Gage and Cade Construction, LLC

7

Start Date

January 2015

Position Title: President

2015-Present

Gage and Cade Construction, LLC

Projects:

Enchanted Oaks - \$5.7M

- Dirt, concrete, drainage, asphalt

Brushy Mountain - \$4.6M

- Dirt, concrete, drainage, asphalt

Mesa Vista Ranch Subdivision - \$4.45M

- Dirt, concrete, wet utilities, dry utilities, asphalt

Sprint Pecos Landfill - \$4.4M

- Dirt, concrete, building erection

Lampasas Business Park - \$2.7M

- Dirt, concrete, utilities, asphalt

Sprint Kenedy Landfill - \$1.55M

- Dirt, concrete, 30,000 SF building erection, asphalt, 2,400 SF office build out

Mystic Ridge Estates - \$1.5M

- Dirt, concrete, drainage, asphalt

Delaware Springs - \$1.4M

- Dirt, concrete, wet utilities, dry utilities, asphalt

City of Burnet - 281 South Commercial Park - \$1.1M

- Dirt, concrete, wet utilities, asphalt

Shin Oak Bend Subdivision - \$1.05M

- Dirt, concrete, drainage, asphalt

The Overlook at Salado - \$970k

- Dirt, concrete, wet utilities, dry utilities, asphalt

Blessing Ranch Estates - \$750K

- Dirt, concrete, wet utilities, dry utilities, asphalt

McCoy's Burnet Reload 359 - \$530k

- Dirt, cement stabilization

Lakeside WCID #2D Pedestrian Trails - \$310k

- Dirt, concrete, storm sewer

City of Mason - SH-29 Driveway at Landfill - \$100k

- Installation of TXDOT Turn Lane

Other Experience

Position Title: VP of Operations (Co-Founder)

2011-2015

Sprint Energy

Manage daily operations for 300+ employees at 7 branches in 3 states.

Jason Reeves

Executive Vice President

208 West Fifth Street, Lampasas, TX 76550



Expertise

- Estimating
- Management

Education

- Bachelors of Science in Construction Science at Texas A&M University
- Liberty Hill High School

Certifications

- OSHA 30

Total Years Experience

2

Years with Gage and Cade Construction, LLC

2

Start Date

February 2021

Position Title: Executive Vice President

2022-Present

Gage and Cade Construction, LLC

Projects:

Enchanted Oaks - \$5.7M

- Dirt, concrete, drainage, asphalt

Brushy Mountain - \$4.6M

- Dirt, concrete, drainage, asphalt

Lampasas Business Park - \$2.7M

- Dirt, concrete, utilities, asphalt

Mystic Ridge Estates - \$1.5M

- Dirt, concrete, drainage, asphalt

Shin Oak Bend Subdivision - \$1.05M

- Dirt, concrete, drainage, asphalt

Position Title: Estimator

2021-Present

Gage and Cade Construction, LLC

Projects:

JKB – City of Cedar Park - Lakeline Park - \$2.3M

- Dirt, concrete, metal erection

Delaware Springs - \$1.4M

- Dirt, concrete, wet utilities, dry utilities, asphalt

City of Burnet - 281 South Commercial Park - \$1.1M

- Dirt, concrete, wet utilities, asphalt

The Overlook at Salado - \$970k

- Dirt, concrete, wet utilities, dry utilities, asphalt

Blessing Ranch Estates - \$750K

- Dirt, concrete, wet utilities, dry utilities, asphalt

USCG – Port Aransas - \$440k

- Metal erection

Other Experience

Position Title: Estimator

2020-2021

Russell Marine, LLC

Projects:

Union Pacific – Liberty Bridge - \$20M

- Pile driving, concrete, bridge change out, dirt work

MODA Dock 5-6 - \$15M

- Pile driving, concrete

Port Lavaca Fishing Pier - \$2.5M

- Demolition, pile driving, wood pier construction, concrete, electrical

Port of Corpus Christi – Bulk Dock 1 Repairs - \$430K

- Pile driving, steel, concrete

Wade Jones

Vice President of Operations

2932 Brundrett Road, Simonton, TX 77476



Expertise

- Management

Education

- BF Terry High School
- Sam Houston State University

Certifications

- OSHA 10

Total Years Experience

2

Years with Gage and Cade Construction, LLC

2

Start Date

February 2021

Position Title: VP of Operations

2022-Present

Gage and Cade Construction, LLC

Projects:

Lakeline Park - \$2.3M

- Dirt, concrete, metal erection

Shin Oak Bend Subdivision - \$1.05M

- Dirt, concrete, asphalt, storm drainage

Capital Metro Railway – Cedar Park - \$705K

- Dirt, box culverts, concrete, utilities

Palms Car Wash - \$1.1M

- Dirt, concrete, wet utilities

Position Title: Project Manager

2021-2022

Gage and Cade Construction, LLC

Projects:

281 South Commercial Park - \$1.1M

- Dirt, concrete, utilities, asphalt

Ewald Kubota – La Grange - \$715K

- Dirt, concrete, utilities, asphalt

Family Power Sports - \$1.04M

- Dirt, concrete, utilities, asphalt, building erection

Liberty Hill Pediatrics - \$350K

- Dirt, concrete, utilities, asphalt

Other Experience

Position Title: Logistics/Safety Manager

2015-2021

Coca-Cola Enterprises

Manage and coordinate with 250 employees and a fleet of 100 trucks

Kyle Butts

General Superintendent

101 Lone Mott Ct., Liberty Hill, TX 78642



Expertise

- Utilities
- Site Work

Education

- Lampasas High School
- Eastern Utah

Certifications

- OSHA 30
- Confined Space
- Forklift
- CPR
- Competent Person

Total Years Experience

21

Years with Gage and Cade Construction, LLC

2

Start Date

January 2021

Position Title: General Superintendent

2021-Present

Gage and Cade Construction, LLC

Projects:

Lampasas Business Park - \$2.7M

- Dirt, concrete, utilities, asphalt

JKB – City of Cedar Park - Lakeline Park - \$2.3M

- Dirt, concrete, metal erection

Delaware Springs - \$1.4M

- Dirt, concrete, wet utilities, dry utilities, asphalt

City of Burnet - 281 South Commercial Park - \$1.1M

- Dirt, concrete, wet utilities, asphalt

Shin Oak Bend Subdivision - \$1.05M

- Dirt, concrete, asphalt, storm drainage

Johnny Morris Truck Lot – \$975K

- Dirt, concrete, utilities, 7,000 SF building erection

The Overlook at Salado - \$970K

- Dirt, concrete, wet utilities, dry utilities, asphalt

Blessing Ranch Estates - \$750K

- Dirt, concrete, wet utilities, dry utilities, asphalt

City of Austin – Upper East End - \$725K

- Dirt, concrete, metal erection

Capital Metro Railway – Cedar Park - \$705K

- Dirt, box culverts, concrete, utilities

Lakeside WCID #2D Pedestrian Trails - \$310K

- Dirt, concrete, drainage, handrails

HEB – Bore for Waterline - \$127K

- Dirt, bore underneath HWY 29

Other Experience

Position Title: Superintendent

2017-2020

JKB Construction Company, LLC

Projects:

Larkspur Subdivision Phases 2, 3, 5, 7 (750 units) - \$13M

- Dirt, concrete, wet utilities, dry utilities, asphalt

Relocate and CIP LH Utilities for Loop & Toll Exp. - \$1.2M

- Wet utilities

KB Homes – Ross Road Subdivision (140 units) - \$4.1M

- Dirt, concrete, wet utilities, dry utilities, asphalt

KB Homes – Bastrop Subdivision (150 units) - \$6M

- Dirt, concrete, wet utilities, dry utilities, asphalt

Pearce Lane Wastewater Plant - \$3.1M

- Wet utilities

Dayton Harrell

Superintendent

506 CR 206 Liberty Hill, Tx 78642



Expertise

- Project Management

Education

- Crandall High School

Certifications

- OSHA 10

Total Years Experience

3

Years with Gage and Cade Construction, LLC

2

Start Date

May 2021

Position Title: Executive Vice President

2022-Present

Gage and Cade Construction, LLC

Projects:

Mesa Vista Ranch Subdivision - \$4.45M

- Dirt, concrete, wet utilities, dry utilities, asphalt

City of Burnet - 281 South Commercial Park - \$1.1M

- Dirt, concrete, wet utilities, asphalt

Lampasas Business Park - \$2.7M

- Dirt, concrete, utilities, asphalt

Family Power Sports - \$1.04M

- Dirt, concrete, utilities, asphalt, 30,000 SF building erection

Park at Bee Cave - \$715K

- Dirt, concrete, asphalt

Johnny Morris Truck Lot - \$975K

- Dirt, concrete, utilities, 7,000 SF building erection

Capital Metro Railway - Cedar Park - \$705K

- Dirt, box culverts, concrete, utilities

HEB - Bore for Waterline - \$127K

- Dirt, bore underneath HWY 29

JKB - City of Cedar Park - Lakeline Park - \$2.3M

- Dirt, concrete, metal erection

Delaware Springs - \$1.4M

- Dirt, concrete, wet utilities, dry utilities, asphalt

Other Experience

Position Title: Ranch Manager

2018-2019

Horizon Underground

Projects:

Worked installing fiber lines

Gary Holland

VP of Operations

17602 W580, Lometa, TX 76853



Expertise

- Concrete
- Site Work
- Metal Erection

Education

- Goldthwaite High School

Certifications

- Forklift
- Ariel Lift

Total Years Experience

25

Years with Gage and Cade Construction, LLC

6

Start Date

January 2016

Position Title: VP of Operations

2016-Present

Gage and Cade Construction, LLC

Projects:

Sprint Reagan Landfill - \$5.05M

- Dirt, concrete, 30,000 SF building erection

Mesa Vista Ranch Subdivision - \$4.45M

- Dirt, concrete, wet utilities, dry utilities, asphalt

Sprint Pecos Landfill - \$4.4M

- Dirt, concrete, 30,000 SF building erection

JKB - City of Cedar Park - Lakeline Park - \$2.3M

- Dirt, concrete, metal erection

Sprint Kenedy Landfill - \$1.55M

- Dirt, concrete, building erection, asphalt, 2,400 SF office build out

Delaware Springs - \$1.4M

- Dirt, concrete, wet utilities, dry utilities, asphalt

City of Burnet - 281 South Commercial Park - \$1.1M

- Dirt, concrete, wet utilities, asphalt

Family Power Sports - \$1.04M

- Dirt, concrete, utilities, asphalt, 30,000 SF building erection

The Overlook at Salado - \$970k

- Dirt, concrete, wet utilities, dry utilities, asphalt

Blessing Ranch Estates - \$750K

- Dirt, concrete, wet utilities, dry utilities, asphalt

Park at Bee Cave - \$715K

- Dirt, concrete, asphalt

Lakeside WCID #2D Pedestrian Trails - \$310k

- Dirt, concrete, storm sewer

Benmark Building Supply - \$110K

- 2,000 SF interior build out

City of Mason - SH-29 Driveway at Landfill - \$100k

- Installation of TXDOT Turn Lane

Other Experience

Position Title: Superintendent

2014-2016

Metal Workz, LLC

Projects:

Lampasas Fire Department

- Metal erection

Hill Country Fellowship

- Metal erection

Fort Hood - Barracks

- Metal erection

Preston Reeves

Estimator

208 West Fifth Street, Lampasas, TX 76550



Expertise

- Estimating
- Management

Education

- Bachelors of Science in Corporate Finance at Angelo State University
- Burnet High School

Start Date

May 2022

Position Title: Estimator

2022-Present

Gage and Cade Construction, LLC

Projects:

Brushy Mountain - \$4.6M

- Dirt, concrete, drainage, asphalt

Shin Oak Bend Subdivision - \$1.05M

- Dirt, concrete, drainage, asphalt

Elgin City Streets - \$595k

- Dirt, concrete, Chip seal

Brushy Mountain - \$4.6M

- Dirt, concrete, wet utilities, asphalt

Other Experience

Position Title: Sales Development Representative

2019-2020

Time Clock Plus

Duties:

Developed Sales opportunities and handle customer service for time and attendance management software company.



March 1, 2023

Ms. Kay Johnson
Assistant Purchaser
City of Leander
105 N. Brushy St.
Leander, Texas 78641

RE: San Gabriel East Elevated Storage Tank Temporary Construction Access Road

Dear Kay,

Sealed bids were received for the above-referenced project on February 9, 2023 at 2:00 pm, with a total of three bids being received. The project includes the construction of temporary access road which will serve construction traffic for San Gabriel Elevated Storage Tank construction as part of a separate construction project. The bid form requested that two alternative bids. Alternative bid No. 1 was addition to maintain erosion control for additional 13 months and Alternative bid No. 2 was adjustment assuming 75% of the trees were already knocked down before Notice to Proceed for contract is issued.

The summary of bid for the three qualified bidders from lowest to highest based on Base Bid is below:

- | | |
|-------------------------------------|--------------|
| 1. Gage and Cade Construction | \$95,475.35 |
| 2. JKB Construction Company, LLC | \$225,000.00 |
| 3. Austin Engineering Company, Inc. | \$271,300.00 |

The summary of bid for the three qualified bidders from lowest to highest based on Alternative Bid No. 1 is below:

- | | |
|-------------------------------------|--------------|
| 1. Gage and Cade Construction | \$101,975.35 |
| 2. JKB Construction Company, LLC | \$253,000.00 |
| 3. Austin Engineering Company, Inc. | \$291,300.00 |

The summary of bid for the three qualified bidders from lowest to highest based on Alternative Bid No. 2 is below:

- | | |
|-------------------------------------|--------------|
| 1. Gage and Cade Construction | \$92,475.35 |
| 2. JKB Construction Company, LLC | \$229,000.00 |
| 3. Austin Engineering Company, Inc. | \$276,300.00 |

After reviewing the Base and Alternative bids, per the designer for the project, the low bidder is Gage and Cade Construction and is recommended to be chosen to proceed with the award of this construction contract.

Should you have any questions, please feel free to contact me.

Sincerely,

Sarvesh Dhakal, PE, CFM
Assistant City Engineer

Attachments: Bid Tabulation





EXECUTIVE SUMMARY

04/06/2023

AGENDA SUBJECT:

Approval of Amendment No. 1 to Task Order KFA-58 to K Frieze & Associates, Inc. for capital improvement water update as part of the Water Masterplan in the amount of \$25,000.00 for a new total contract amount of \$123,354.00; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

The original KFA-58 task order was executed in April 2022 to provide preparation of population, growth estimates, water system modelling, and preparation of the Water System Capital improvement Plan as part of our Water Masterplan effort. As part of the scope, the system modelling with added growth and the addition of new infrastructure, requires additional efforts to keep the system modelling up-to-date, and also additional water CIP project coordination. The original task order, KFA-58, was in the amount of \$98,354.00. With this additional \$25,000.00 for Amendment No. 1 of KFA-58, the total contract amount will be \$123,354.00.

HISTORY/TIMELINE:

04/21/2022 - Council approved Task Order KFA-58

RECOMMENDATION:

Staff recommends approval of Amendment No. 1 to Task Order KFA-58, for \$25,000.00, for a total contractual amount of \$123,354.00, and authorizing the City Manager to execute all appropriate documentation.

PRESENTER:

Emily Truman, P.E., CFM, PMP

Fiscal Impact

<u>Amount requested:</u>	\$25,000.00
<u>Approved in current budget (Yes / No):</u>	Yes
<u>Expenditure (New / Amended):</u>	Amended
<u>Recurring or one-time:</u>	One-Time
<u>Fund source (Operating / Utility / etc.):</u>	Water Impact Fee

Attachments

1. Amendment to KFA-58
2. Scope and Fee for Amendment 1 to KFA-58
3. Task Order KFA-58

TASK ORDER AMENDMENT FOR PROFESSIONAL SERVICES

TASK ORDER AMENDMENT NO. 1 TO TASK ORDER KFA-58

This will constitute authorization by the City of Leander, Texas (Owner), for K Friese & Associates, Inc., Austin, Texas (Engineer), to proceed with the following described engineering services.

CITY OF LEANDER LEANDER 2022 WATER CIP UPDATE

A. AMENDMENT DESCRIPTION

Additional services to provide as-needed professional services related to the City of Leander water system.

B. SCOPE OF SERVICES

KFA will provided the Scope of Services described in the attached Scope document.

C. BASIS OF COMPENSATION

KFA will perform this work on an hourly basis not to exceed \$25,000.00 without prior authorization.

D. TIME FOR COMPLETION

KFA will begin work as soon as authorized and as services are requested.

APPROVED:

CITY OF LEANDER, TEXAS

By _____

Title _____

Attest _____

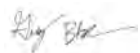
Date _____

ACCEPTED:

K FRIESE & ASSOCIATES, INC.

By  _____

Dale Murphy, P.E.
Vice-President

Attest  _____

Date 03/15/2023 _____

SCOPE OF SERVICES
LEANDER WATER CAPITAL IMPROVEMENTS PLAN UPDATE – 2022
AMENDMENT 1

SCOPE OF SERVICES

Water System Support

1. KFA will provide general water system support for modeling specific elements of the CIP as required for coordination with design teams for various elements. KFA will participate in meetings and tasks as requested by City Staff on overall water system modeling and planning, including meetings/coordination with Leander Public Works, Leander Engineering, LCRA, BCRUA, wholesale cities, developers, rate consultants, etc. KFA will provide these water system support services on an as requested basis.

**KFA MANPOWER/BUDGET ESTIMATE
CITY OF LEANDER WATER CIP UPDATE - 2022
AMENDMENT 1**

Task		Principal Hours	Project Manager Hours	Project Engineer Hours	EIT Hours	CADD Technician Hours	Clerical Hours	Total Labor Hours	Total Labor Cost	Sub- Consultant Cost	Expenses Cost	Total Cost
		\$ 260.00	\$ 230.00	\$ 178.00	\$ 110.00	\$ 118.00	\$ 88.00					
Water System Support												
1	Water System Support (Hourly NTE Budget)							0	\$25,000		\$0	\$25,000
	Water System Support Subtotal	0	0	0	0	0	0	0	\$25,000	\$0	\$0	\$25,000
PROJECT TOTALS		0	0	0	0	0	0	0	\$25,000	\$0	\$0	\$25,000

SCOPE OF SERVICES

LEANDER WATER CAPITAL IMPROVEMENTS PLAN UPDATE - 2022

With the City of Leander's tremendous growth, changing development patterns, and changing system demands, the Water Capital Improvements Plan (CIP) needs an update to plan for the next 20 years. This project will update the existing water model with the 2022 system and demands, and will project future growth and the needed improvements to the water system to meet that anticipated growth.

The 2022 Water CIP will include evaluation of the system, raw and treated water supply sources, and infrastructure needs. Growth rates and patterns will be discussed and agreed to with City Staff, and models will be prepared for the current, 5-year, 10-year, and 20-year systems. From these updated models, sizing of future infrastructure elements will be determined. The CIP will include cost estimates and a summary of recommendations for the system for a 20-year period.

SCOPE OF SERVICES

1. Project Management/Meetings - This task includes monitoring budgets and schedules, communications, and other tasks directly associated with the project. Coordination with the City will be a key component, including several in person meetings. Anticipated meetings include:
 - a. Project Kick-Off – One (1) with City Staff
 - b. Population Projections & Known Developments Meeting – One (1) with City Staff
 - c. Project Status Meetings – Two (2) with City Staff
 - d. CIP Summary Meeting/Presentation – One (1) with City Staff
2. Data Collection and System Inventory - With the assistance of City Staff, KFA will develop an updated inventory of major system components including pumps, tanks, large diameter pipelines, and treatment facilities. City Staff will forward updated GIS data representing current water system pipeline alignments, plat information, and existing/proposed land use mapping. KFA will compile the GIS data for use in preparing the CIP.
3. Planning and Design Criteria - KFA will work with the City to review and update the water system planning and design criteria, including demands per LUE, fire flow requirements, pressure requirements, diurnal curves, etc.
4. Population Projections & Projected System Demands - KFA will work with City Staff to determine population projections based on historical growth rates, future land use plans, expected growth in specific areas of the City, and other population/growth source data. KFA will rely on input from City Staff regarding existing and future land use plans, and anticipated growth and development patterns. Based on the population projections, KFA will develop overall projected system demands and apply them to the system model for each of the 5, 10, and 20 year models.

SCOPE OF SERVICES
LEANDER WATER CAPITAL IMPROVEMENTS PLAN UPDATE - 2022

5. Water System Modeling - Utilizing Bentley WaterCAD, KFA will update the existing City water model for use in static, extended period, and fire flow scenarios, including:
 - a. Update existing water system infrastructure based on GIS data provided by the City.
 - b. Assign existing demands to nodes within the system based on existing meter data and locations. Run model of existing system and compare to City provided pumping system data.
 - c. Make demand projections at nodes based on future anticipated growth, for 5-, 10-, and 20-year planning periods.
 - d. Analyze the existing system for static, extended period, and fire flow model runs to determine existing deficiencies in the system.
 - e. Size future system components and settings for 5-, 10-, and 20-year planning periods.
6. Water System CIP List - KFA will develop 5-, 10-, and 20-year water system CIP lists based on the approved system criteria and modeled system. The CIP lists will be depicted in graphical and tabular format with estimated costs.
7. Cost Estimating - KFA will develop cost estimates for each of the infrastructure elements identified in the Water System CIP List. Cost estimates will include anticipated engineering and land acquisition costs.
8. CIP Summary Report - KFA will document criteria, assumptions, demands, model results and recommended improvements in a Water System CIP - 2022 summary report. KFA will issue a draft for final City review, address comments and then issue a final report. KFA will distribute five (5) hard copies of the draft and final reports, along with an electronic (PDF) file to the City.
9. QA/QC - KFA will perform QA/QC of deliverables at the various stages of progress.

Water System Support

1. KFA will provide general water system support for modeling specific elements of the CIP as required for coordination with design teams for various elements. KFA will participate in meetings and tasks as requested by City Staff on overall water system modeling and planning, including meetings/coordination with Leander Public Works, Leander Engineering, LCRA, BCRUA, wholesale cities, developers, rate consultants, etc. KFA will provide these water system support services on an as requested basis.

SCOPE OF SERVICES
LEANDER WATER CAPITAL IMPROVEMENTS PLAN UPDATE - 2022

PROJECT ASSUMPTIONS

KFA has made the following assumptions in preparing this Scope and Fee:

1. The City of Leander will provide GIS files and data showing the existing water system, existing and future land use maps, historical water usage, and meter billing data.
2. The City of Leander will assist KFA in assembling data on existing infrastructure elements, including pump curves, treatment units, etc.
3. KFA and the City of Leander will work together to determine future growth patterns and densities.
4. Only the preparation of a Summary CIP Report is included, it is not a full Master Plan update.
5. No surveying of existing infrastructure is included.
6. No public meetings or presentations to City Council or other Commissions are anticipated.

**KFA MANPOWER/BUDGET ESTIMATE
CITY OF LEANDER WATER CIP UPDATE - 2022**

Task		Principal Hours	Project Manager Hours	Project Engineer Hours	EIT Hours	CADD Technician Hours	Clerical Hours	Total Labor Hours	Total Labor Cost	Sub- Consultant Cost	Expenses Cost	Total Cost
		\$ 260.00	\$ 230.00	\$ 178.00	\$ 110.00	\$ 118.00	\$ 88.00					
Leander Water CIP Update												
1	Project Management/Meetings		16	16	8		8	48	\$8,112		\$250	\$8,362
2	Data Collection and System Inventory Update		4	8	16	12		40	\$5,520		\$100	\$5,620
3	Planning and Design Criteria		4	8	4			16	\$2,784			\$2,784
4	Population Projections & System Demand Updates		4	16	16			36	\$5,528			\$5,528
5	Water System Modeling - 5, 10, 20 Year		16	72	40			128	\$20,896			\$20,896
6	Water System CIP Update		4	16	32			52	\$7,288			\$7,288
7	Cost Estimating		4	16	24			44	\$6,408			\$6,408
8	Reporting		12	24	32	24	8	100	\$14,088		\$300	\$14,388
9	QA/QC	8						8	\$2,080			\$2,080
Water CIP Subtotal		8	64	176	172	36	16	472	\$72,704	\$0	\$650	\$73,354
Water System Support												
1	Water System Support (Hourly NTE Budget)							0	\$25,000		\$0	\$25,000
Water System Support Subtotal		0	0	0	0	0	0	0	\$25,000	\$0	\$0	\$25,000
PROJECT TOTALS		8	64	176	172	36	16	472	\$97,704	\$0	\$650	\$98,354

TASK ORDER FOR PROFESSIONAL SERVICES

TASK ORDER NO. KFA-58

This will constitute authorization by the City of Leander, Texas (Owner), for K Friese & Associates, Inc., Austin, Texas (Engineer), to proceed with the following described engineering services.

CITY OF LEANDER LEANDER 2022 WATER CIP UPDATE

A. PROJECT DESCRIPTION

Professional services to provide preparation of population and growth estimates, water system modeling, and preparation of an updated Water System Capital Improvement Plan.

B. SCOPE OF SERVICES

KFA will provided the Scope of Services described in the attached Scope document.

C. BASIS OF COMPENSATION

KFA will perform this work on an hourly basis not to exceed \$98,354.00 without prior authorization.

D. TIME FOR COMPLETION

KFA will begin work as soon as authorized and as services are requested. Pending availability of information, a Draft Summary CIP Report would be anticipated to be completed within 90 days of notice to proceed and a final report 30 days after comments are received.

APPROVED:

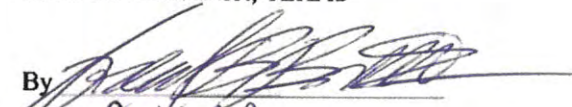
CITY OF LEANDER, TEXAS

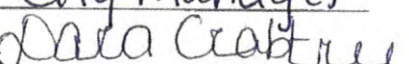
By

Title

Attest

Date


City Manager

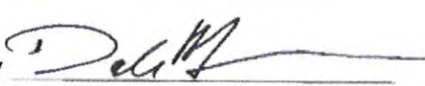

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04.21.2022

ACCEPTED:

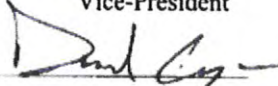
K FRIESE & ASSOCIATES, INC.

By


Dale Murphy, P.E.
Vice-President

Attest

Date


4-7-22



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of a Resolution appointing the Planning & Zoning Commission as members of the Water and Wastewater Capital Improvements Advisory Committee; appointing an additional member who resides within the City's extraterritorial jurisdiction (ETJ); making findings of fact; and providing for related matters.

BACKGROUND:

The Land Use Assumptions, Capital Improvements Plan, and Impact Fees must be periodically updated at least every five (5) years. The last update was on September 21, 2017.

As part of the update process, the City Council, through a resolution, will create a Community Impact Fee Advisory Committee (Advisory Committee) in accordance with Chapter 395 of the Texas Local Government Code.

The Advisory Committee is composed of the Planning and Zoning Commission (Commission) and must have one (1) representative from the real estate, development, or building community and one (1) representative of the City of Leander's extraterritorial jurisdiction (ETJ).

The Commission currently does not have a representative from the ETJ. In order for the Commission to act as the Advisory Committee, a representative from the ETJ must be appointed as an ad hoc voting member of the Commission when it acts as the Advisory Committee. Genny Kercheville has agreed to serve as the ETJ representative. Ms. Kercheville currently serves on the Historical Preservation Commission.

The proposed updates of the City's water and wastewater impact fees will generate revenue for a portion of the funding for water and wastewater capital improvements and/or facilities expansions necessitated by and attributed to new development.

RECOMMENDATION:

Staff requests approval for the resolution appointing the Planning and Zoning Commission and the additional member from the City's ETJ as members of the Water and Wastewater Capital Improvements Advisory Committee.

PRESENTER:

Dan Grimsbo, Executive Director of Infrastructure

Attachments

1. Resolution

A RESOLUTION OF THE CITY OF LEANDER, TEXAS

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, APPOINTING THE PLANNING & ZONING COMMISSION AS MEMBERS OF THE WATER AND WASTEWATER CAPITAL IMPROVEMENTS ADVISORY COMMITTEE; APPOINTING AN ADDITIONAL MEMBER WHO RESIDES WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION; MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.

Whereas, the Texas Local Government Code, Title 12, Chapter 395, authorizes a governmental entity or political subdivision to enact or impose water and wastewater impact fees on land within their corporate boundaries or extraterritorial jurisdictions ("ETJ"); and,

Whereas, a governmental entity or political subdivision may enact or impose such water and wastewater impact fees within their corporate boundaries or extraterritorial jurisdictions only by compliance with the requirements as outlined in Chapter 395 of the Local Government Code; and,

Whereas, Sec. 398.058 (a) of Chapter 395 of the Local Government Code requires the governmental entity or political subdivision to appoint a capital improvements advisory committee; and,

Whereas, Sec. 398.058 (b) of Chapter 395 of the Local Government Code allows the Planning & Zoning Commission of a governmental entity or political subdivision to act as the Advisory Committee provided it includes at least one representative of the real estate, development, or building industry and, if the impact fee is to be applied in the extra territorial jurisdiction of the political subdivision, the committee must include a representative from that area; and

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

Section 1. Findings; Advisory Committee Established.

- A. 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.
- B. In addition, the City Council of the City of Leander finds that the Water and Wastewater Capital Improvements Advisory Committee appointed herein serves in an advisory capacity and is established to:
 - i) Advise and assist the City Council in adopting land use assumptions for water and wastewater impact fees,

- ii) Review the capital improvements plan for the water and wastewater impact fees and file written comments,
- iii) Monitor and evaluate implementation of the capital improvements plan for the water and wastewater impact fees,
- iv) File semiannual reports with respect to the progress of the capital improvements plan for the water and wastewater impact fees and report to City Council any perceived inequities in implementing the plan or imposing the impact fee, and
- v) Advise the City Council of the need to update or revise the land use assumptions for water and wastewater impact fees, capital improvements plan for water and wastewater impact fees, and water and wastewater impact fees.

Section 2. Appointment of Advisory Committee.

- A. The City Council hereby appoints the members of the City's Planning & Zoning Commission to act as the Water and Wastewater Capital Improvements Advisory Committee for the Water and Wastewater Impact Fee Study (the "Advisory Committee"). Genny Kercheville, a resident of the City's ETJ, is hereby appointed as a member of the Advisory Committee.
- B. The Advisory Committee shall meet at such times determined by the Advisory Committee.

Section 3. Effective Date. This Resolution shall take effect from and after the date of its passage.

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 the said meeting was given as required by the Open Meetings Act, Chapter 551, Local Government Code.

FINALLY PASSED AND APPROVED on this the 6 day of April, 2023.

THE CITY OF LEANDER, TEXAS

Christine DeLisle, Mayor

ATTEST:

Dara Crabtree, City Secretary



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of a Resolution authorizing the BCRUA Board President to award the Phase 1D water treatment plant expansion construction contract to Excel Construction Services, LLC.

BACKGROUND:

The construction of Phase 1D will increase the treatment capacity of the BCRUA WTP from 32.5 million gallons per day (MGD) to 42 MGD. Leander will receive approximately 5 MGD from this expansion for a total BCRUA treatment capacity of 20 MGD. This will bring Leander's overall treatment capacity to 30 MGD; 20 MGD from BCRUA and 10 MGD from Sandy Creek Water Treatment Plant.

Bids were opened for this project on February 28, 2023. Responsive Competitive Sealed Proposals (bids) were received from Excel Construction and Peabody General Construction. The rank order of the base price proposal was as follows:

Excel Construction	\$16,836,100.00
Peabody	\$21,242,631.00

Based on the recommendation of the design engineer, Walker Partners, the lowest responsive, qualified bid was from Excel Construction.

Staff and the Operating Committee met with Walker Partners on March 8, 2023, and agreed unanimously to recommend award of this contract to Excel Construction Services, LLC in the amount of \$16,836,100.00

RECOMMENDATION:

Staff recommends authorizing the BCRUA Board President to award the Phase 1D Water Treatment Plant Expansion Construction Contract to Excel Construction Services, LLC.

PRESENTER:

Dan Grimsbo, PE, Executive Director of Infrastructure

Fiscal Impact

<u>Amount requested:</u>	\$7,857,407.87
<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>	2021 & 2022 TWDB SWIFT

Attachments

1. BCRUA Resolution
2. BCRUA Recommendation Letter

RESOLUTION NO. R-23-03-22-6C

WHEREAS, the Brushy Creek Regional Utility Authority, Inc. (“BCRUA”) has previously adopted Resolution No. R-21-12-15-6B approving the Engineering Services contract with Walker Partners, LLC regarding the Phase 1D Water Treatment Plant Expansion Project (the “Project”); and

WHEREAS, said Engineering Services contract included Exhibit B which directed Walker Partners, LLC to prepare the construction contract for the Project using the “Competitive Sealed Proposal” alternative delivery method; and

WHEREAS, the BCRUA Board approved the foregoing language in said Exhibit B because the Board determined that “Competitive Sealed Proposal” is the delivery method which provides the best value for the Project; and

WHEREAS, after advertising for and receiving proposals from offerors, the BCRUA determines that Excel Construction Services, LLC is the offeror which offers the best value for the Project; and

WHEREAS, the BCRUA now wishes to enter into a “Standard Form of Agreement between Owner and Contractor” with Excel Construction Services, LLC, Now Therefore

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BRUSHY CREEK REGIONAL UTILITY AUTHORITY:

That, after advertising for and receiving proposals from offerors, the BCRUA hereby finds that Excel Construction Services, LLC is the offeror which offers the best value for the BCRUA.

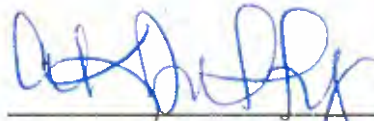
BE IT FURTHER RESOLVED

That, subject to the approval of the Participating Cities, the Board President is hereby authorized and directed to execute on behalf of the BCRUA a “Standard Form of Agreement

between Owner and Contractor” with Excel Construction Services, LLC for the BCRUA Phase 1D Water Treatment Plant Expansion Project.

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

RESOLVED this 22nd day of March, 2023.



ANNE DUFFY, President
Brushy Creek Regional Utility Authority

ATTEST:


NA'COLE THOMPSON, Secretary

March 7, 2023

Brushy Creek Regional Utility Authority (BCRUA)
221 E. Main St.
Round Rock, TX 78664

Attn: Karen Bondy, General Manager

Re: BCRUA Phase 1D Water Treatment Plant (WTP) Expansion
Project No.: 03-00809

Dear Ms. Bondy:

On February 28, 2023, Walker Partners assisted the BCRUA in opening competitive sealed proposals for the above referenced project. Two responsive, competitive sealed proposals were submitted by Excel Construction Services, LLC (Excel) of Leander, TX and Peabody General Contractors, LLC (Peabody) of Austin, TX. Neither of the proposals included any deviations from the contract documents. The proposals were evaluated and ranked based on the following selection criteria: 30% for Contractor Relevant Experience and References, 60% for Cost Proposal, and 10% for Proposed Schedule. Based on evaluation of the proposals, Excel is the highest ranked proposer offering the best value, as determined by the selection criteria and ranking assessment.

Evaluation of Excel's proposal included a review of their technical qualifications and experience, including major subcontractors. A background check was performed based on feedback from owners and engineering firms for similar projects Excel has completed over the past several years. The overall impression from this review is that Excel provides quality work in a timely and professional manner. Also, our Walker Partners/BCRUA team has recently completed successful projects with Excel, including the BCRUA Phase 1C WTP Expansion.

Based on the information presented and evaluation of the proposals, Walker Partners recommends that the BCRUA award a contract to Excel for the total Base Proposal amount of **\$16,836,100.00** for the Phase 1D WTP Expansion. (The proposal did not include any alternate proposal items.) We will prepare the Notice of Intent to Award Letter and other contract documents for transmittal to Excel, pending final acceptance and direction from the BCRUA.

Sincerely,



Jason Christensen, PE
Project Manager

Electronic Delivery

Cc: Project File



EXECUTIVE SUMMARY

04/06/2023

AGENDA SUBJECT:

Award of Solicitation S22-036B to Grapevine Dodge Chrysler Jeep, Grapevine, Texas, for the purchase of three (3) fleet vehicles in the amount of \$166,695.00; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

Solicitation #S22-036B for City-wide Fleet Vehicles was released on March 2, 2023 and bids were opened on Thursday, March 23, 2023. Grapevine DCJ was the only bidder. (This was the second attempt to solicit vehicle bids. On the first attempt, the City did not receive any responses.)

At the March 16, 2023 City Council meeting, Council approved seven (7) vehicles to be purchased from Gunn Buick GMC, utilizing the Buyboard Purchasing Cooperative. Outstanding vehicles to be purchased include; Engineering, one (1); Public Works-Utilities, four (4); Building Permits, one (1); and Parks, one (1).

The bids received from Grapevine DCJ would meet the needs for the Engineering and Building Inspections vehicles as well as two of the four needed by Public Works - Utilities. One of the remaining vehicles for Public Works, also on this agenda, is to be purchased using the Buyboard Cooperative. City staff will continue to search for the remaining special purpose truck budgeted for Public Works-Utilities and the transit van budgeted for the Parks Department.

Attached are the base prices for the various vehicles bid by Grapevine DCJ. In addition, Grapevine DCJ, included with their bid, a three (3%) percent discount on additional options selected above the base model. If approved by Council, any additional options that might be selected by staff would have to be within the City Manager's purchasing authority to go twenty-five (25%) above the amount approved by City Council.

In addition to the purchase of these three (3) vehicles, City staff is requesting Council approval to utilize Grapevine DCJ for future purchases during the remainder of this fiscal year plus FY 2024 and FY 2025 as long as the purchases are approved by the City Council and priced no greater than twenty-five (25%) percent above the base bid as submitted by Grapevine DCJ in response to this solicitation S22-036B. The desire to have a longer term contractual relationship with the successful bidder was outlined in the Solicitation Document. As we have seen over the past year, vehicles are difficult to obtain and often require a long lead time.

RECOMMENDATION:

Recommend approval to purchase three (3) vehicles from Grapevine DCJ as requested by City staff and authorize the purchase of future vehicles through FY 2025 from Grapevine DCJ contingent upon future pricing being within twenty-five (25%) percent of the bids submitted with S22-036B and with approval by City Council.

PRESENTER:

Robert G. Powers, Executive Finance Director

Fiscal Impact

Amount requested: \$83,565.00

Approved in current budget (Yes / No): Yes

Expenditure (New / Amended): New
Recurring or one-time: One-time
Fund source (Operating / Utility / etc.): Vehicle Reserve Fund

Amount requested: \$83,130.00
Approved in current budget (Yes / No): Yes
Expenditure (New / Amended): New
Recurring or one-time: One-time
Fund source (Operating / Utility / etc.): Utility Fund

Attachments

- 1. Bid Tab
- 2. S22-036B

S22-036B

CITY-WIDE FLEET VEHICLES BID

Bid Openning: 3/23/2023

Award: 4/6/2023

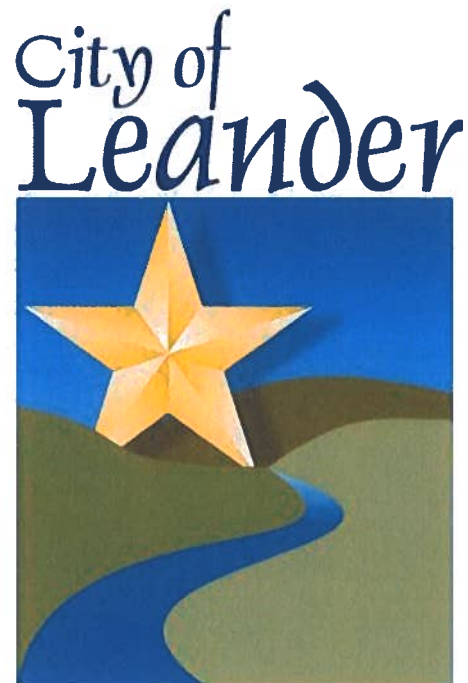
<u>Make</u>	<u>Dodge</u>	<u>Dodge</u>	<u>Dodge</u>	<u>Dodge</u>	<u>Dodge</u>	<u>Dodge</u>	<u>Dodge</u>	<u>Dodge</u>	<u>Dodge</u>
Model	Durango 2WD	Durango 4WD	Ram 1500 2WD	Ram 1500 4WD	Ram 1500 2WD	Ram 1500 4WD	Ram 1500 2WD	Ram 1500 4WD	Ram 2500
Type	SUV	SUV	Regular Cab	Regular Cab	Extended Cab	Extended Cab	Crew Cab	Crew Cab	Crew Cab
Year	2023	2023	2023	2023	2023	2023	2023	2023	2023
Bidder	Grapevine DCJ	Grapevine DCJ	Grapevine DCJ	Grapevine DCJ	Grapevine DCJ	Grapevine DCJ	Grapevine DCJ	Grapevine DCJ	Grapevine DCJ
Base Price	\$40,000	\$42,000	\$31,654	\$37,729	\$35,932	\$39,032	\$38,437	\$41,565	\$51,970 - \$54,300

Department(s)

Engineering (1)

Water (2)

Bldg Inspection (1)



***Purchasing Division
105 N. Brushy Street
Leander, TX 78641
www.leandertx.gov***

Solicitation #S22-036B

INVITATION FOR BID CITY-WIDE FLEET VEHICLES

Responses Due: March 23, 2023 at 2:00 p.m.

**CITY OF LEANDER
INVITATION FOR BID
CITY-WIDE FLEET VEHICLES
#S22-036**

GENERAL INSTRUCTIONS TO BIDDERS

The City of Leander seeks competitive bids for various fleet vehicle types.

All vehicles must be new and not previously owned. Model years 2022 and 2023 are acceptable.

The City is seeking pricing on multiple vehicle types. Successful bidders must guarantee to hold their proposed pricing for a minimum of 180 days from the date of the award.

In addition to any vehicles purchased as a result of this Solicitation, it is the City's intent to utilize pricing from this Solicitation as the basis for future vehicle purchases in years 2024 and 2025. The City desires to be able to purchase vehicles beyond the initial 180 day price guarantee period, subject to availability, as long as the future purchase price does not exceed 25% above the price proposed in this Solicitation. For example, if the City awards the bid for Ford F-150 trucks to Bidder A and the base price, plus options is \$35,000, then the City desires the option **after the initial 180 day price guarantee period**, to purchase additional F-150s plus options as long as the price does not exceed $\$35,000 \times 1.25 = \$43,750$. Successful bidders are not required to maintain or offer any specific pricing beyond the initial 180 day price guarantee period.

Bidders must propose a guaranteed delivery date. If accepted by the City, and the bidder subsequently misses the delivery date, the late delivery charge shall be \$50 per day. The City in its sole discretion may agree to waive or modify this penalty prior to the bid award if doing so is necessary to achieve a sufficient quantity of available vehicles over the term of this Solicitation. A bidder may choose to not accept the late delivery penalty in his bid, but the City reserves the right to award the bid to another bidder.

In order to secure vehicle availability over the next two years, the City intends to award bids to multiple bidders. Award of bid does not guarantee that the City will place an order for the vehicle(s) or when. However, successful bidders are under no obligation to provide vehicles or honor pricing beyond the initial 180 day price guarantee period.

Each bidder may submit multiple vehicle makes and models subject to meeting the minimum specifications. Each bidder shall specify on the bid form the base vehicle price and list all options that are included or available to be included at no extra cost. Each bidder shall also provide a detailed pricing list for other options available. The City will analyze the bids and decide which options it wishes to include in the bid award. Bids will be based upon a combination of overall cost (including the options chosen, if any) and the extent to which the proposed vehicle exceeds the minimum specifications required.

PART I

GENERAL

1. **PURPOSE:** The City of Leander, herein after "City", seeks to purchase from a qualified Individual, Firm or Corporation, (Respondent), various vehicles as specified herein.

Respondent is not required to bid on all items.

Alternate equivalent makes and models will be considered.

The City will accept bids on new 2022 and 2023 vehicles.

The City seeks to maintain quality, reliability and efficiency within its vehicle fleet. With this goal in mind several manufacturer's products have been specified herein to establish the City's minimum critical requirements and performance standards of each vehicle. Any example shown is listed to show type and class of equipment desired only. Alternate equivalent items will be considered and are noted as "or equal" on item descriptions.

Respondents are cautioned that any vehicle specified or delivered which does not meet specifications in every aspect will not be considered or accepted.

2. **DEFINITIONS, TERMS AND CONDITIONS:** By submitting a response to this solicitation, the Respondent agrees that the City's standard Definitions, Terms and Conditions, in effect at the time of release of the solicitation, shall govern but shall be superseded by those terms and conditions specifically provided for otherwise within this solicitation, in a separate agreement or on the face of a purchase order. The City's Definitions, Terms and Conditions are herein made a part of this solicitation and can be found on the City's website by visiting <http://www.leandertx.gov/finance/page/purchasing>.

2.1. Any exception to or additional terms and conditions attached to the response will not be considered unless Respondent specifically references them on the front of the Solicitation Document. WARNING: Exception to or additional terms and conditions may result in disqualification of the response.

3. **ATTACHMENTS:** Attachment A is herein made a part of this solicitation:

- 3.1. Attachment A: Bid Form
- 3.2. Attachment C: Conflict of Interest Questionnaire (CIQ Form)
- 3.3. Attachment D: Reference Form

4. **CLARIFICATION:** For questions or clarifications of specifications, you may contact:

Kay Johnson
Purchasing Agent
City of Leander
Telephone: 512-528-2730
kjohnson@leandertx.gov

The individual listed above may be contacted by telephone or visited for clarification of the specifications only. No authority is intended or implied that specifications may be amended or alterations accepted prior to solicitation opening without written approval of the City of Leander through the Purchasing Department.

5. **RESPONDENT REQUIREMENTS:** The opening of a solicitation shall not be construed as the City's acceptance of such as qualified and responsive.

5.1. Respondents shall be firms, corporations, individuals or partnerships normally engaged in the sale and distribution of the commodity specified herein.

5.2. Respondent warrants and agrees that all materials supplied herein shall be manufactured and produced in compliance with the laws, regulations, codes, terms, standards, and requirements of Underwriters Laboratories Incorporated, all Federal, State, and local authorities, and all other authorities having jurisdiction, and that performance of goods shall be in accordance with the above laws, regulations, codes, terms, standards, and requirements, and agrees upon request, to furnish the City a certificate of compliance upon request.

6. **GOODS:** Respondent warrants and agrees that all materials supplied hereunder shall be **NEW** and manufactured and produced in compliance with the laws, regulations, codes, terms, standards,

and/or requirements of all Federal, State, and local authorities, and all other authorities having jurisdiction, and that performance of goods shall be in accordance with the above laws, regulations, codes, terms, standards, and/or requirements, and agrees upon request, to furnish the City a certificate of compliance therewith in such forms as the City may require.

7. **ALTERNATE EQUIVALENT:** The City seeks to maintain quality, reliability and efficiency within its vehicle fleet. With this goal in mind several manufacturer's products have been specified herein to establish the City's minimum critical requirements and performance standards of each vehicle. Any example shown is listed to show type and class of equipment desired only. Alternate equivalent items will be considered and are noted as "Or equal". "Or equal" is intended to establish a level of quality and is not to be interpreted as a preference for a particular brand. The items offered must be equivalent as to function, basic design, type and quality of material, method of construction and any required dimensions.
8. **MODIFICATION AND WITHDRAWAL OF BID:** A bid may be withdrawn if written notice is provided to the Purchasing Agent prior to the date and time for the opening of the bids.
 - 8.1. If within 24 hours after bids are opened any Respondent files written notice with Purchasing Agent and promptly demonstrates to the reasonable satisfaction of Purchasing Agent that there was a material and substantial mistake in the preparation of the bid, that Respondent may withdraw the bid. In this event, if the solicitation is re-issued, that Respondent may be disqualified from rebidding the solicitation.
9. **AWARD:** The City reserves the right to enter into an Agreement or a Purchase Order with a single award, split awards, non-award, or use any combination that best serves the interest and at the sole discretion of the City. Award announcement will be made upon City Council approval of staff recommendation and executed agreement. Award announcement will appear on the City's website at <http://www.leandertx.gov/rfps>.
 - 9.1. The City reserves the right to reject any or all responses, or delete any portion of the response, or to accept any response deemed most advantageous, or to waive any irregularities or informalities in the response received that best serves the interest and at the sole discretion of the City.
 - 9.2. Chapter 176, Texas Local Government Code requires that disclosures of certain relationships be made in relation to certain contracts with the City. Local government officers are the members of the City Council, the City Manager, and other City employees or agents who exercise discretion in planning, recommending, selecting and contracting of a vendor. Please contact the City Secretary for a list of additional City employees and agents who may qualify as local government officers. Click here **Chapter 176, Texas Local Government Code**, to review this requirement.
 - 9.3. A completed CIQ Form, herein Attachment C, is required with each response.
 - 9.3.1. Once a selection is made and the City has the intent to award, the successful Respondent will be required to submit Form 1295 to the State of Texas electronically prior to executing the agreement or purchase order.
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
10. **DELIVERY AND ACCEPTANCE:** Acceptance inspection should not take more than fifteen (15) working days. The vendor will be notified within this time frame if the goods delivered are damaged or not in full compliance with the specifications. Successful Respondent shall repair any minor damages noted during this inspection period. If any agreement or purchase order is canceled for non-acceptance, the needed good may be purchased elsewhere. Return of the non-accepted vehicle shall be at the expense of the Respondent.

11. **QUANTITIES:** The quantities shown on the solicitation are estimates only. No guarantee of any minimum or maximum volume is made or implied. The City shall only order the goods needed to satisfy operating requirements within budgetary constraints, which may be more or less than indicated.
12. **PROMPT PAYMENT POLICY:** Payments will be made in accordance with the Texas Prompt Payment Law, Texas Government Code, Subtitle F, Chapter 2251. The City will pay Vendor within thirty days after the acceptance of the supplies, materials, equipment, or the day on which the performance of services was completed or the day, on which the City receives a correct invoice for the supplies, materials, equipment or services, whichever is later. The Vendor may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply to payments made by the City in the event:
- 12.1. There is a bona fide dispute between the City and Vendor concerning the supplies, materials, services or equipment delivered or the services performed that causes the payment to be late; or
- 12.2. The terms of a federal agreement, grant, regulation, or statute prevent the City from making a timely payment with Federal Funds; or
- 12.3. There is a bona fide dispute between the Vendor and a subcontractor or between a subcontractor and its suppliers concerning supplies, material, or equipment delivered or the services performed which caused the payment to be late; or
- 12.4. The invoice is not mailed to the City in strict accordance with instructions, if any, on the purchase order or agreement or other such contractual agreement.

PART II

SCHEDULE

1. **SOLICITATION SCHEDULE:** It is the City's intention to comply with the following solicitation timeline:

Event	Date
Solicitation Released	March 2 nd , 2023
Deadline for Vendor Questions Submitted to the City of Leander	March 17th, 2023 5:00pm
Questions and Answers to be posted on the City of Leander website on or before	March 21st, 2023 5:00pm
Bid Opening (last day to submit Responses)	March 23rd, 2023 at 2:00 p.m.
Anticipated Award Date	April , 2023

Respondents may be required to make an oral presentation to the selection team to further present their qualifications. These presentations will provide the Respondent the opportunity to ensure a mutual understanding of the services to be provided and the approach to be used.

All questions regarding the solicitation shall be submitted in writing at or before 5:00PM on the due date noted above. A copy of all the questions submitted and the City's response to the questions shall be posted on our web page <http://www.leandertx.gov/rfps>. Questions shall be submitted to the City contact named herein.

The City reserves the right to modify these dates. Notice of date change will be posted to the City's website.

2. **SOLICITATION UPDATES:** Respondents shall be responsible for monitoring the City's website at <http://www.leandertx.gov/rfps> for any updates pertaining to the solicitation described herein. Various updates may include addenda, cancelations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.
3. **RESPONSE DUE DATE:** Signed and sealed responses are due at or before **2:00 PM**, on the date noted above to the Purchasing Department. Ship via FedEx, UPS or other carrier or carry sealed responses to:

Shipping Address (FedEx, UPS or hand delivery):

Kay Johnson
City of Leander
Purchasing Department
105 N. Brushy Street
Leander, TX 78641

Mailing Address:

Kay Johnson
Purchasing Agent
City of Leander
P.O. Box 319
Leander, TX 78646

- 3.1. Responses received after this time and date shall not be considered.
 - 3.2. Sealed responses shall be clearly marked on the outside of packaging with the Solicitation Title, Number, due date and "**DO NOT OPEN**".
 - 3.3. Facsimile or electronically transmitted responses are not acceptable.
 - 3.4. Late responses will be returned to Respondent unopened if return address is provided.
 - 3.5. Responses cannot be altered or amended after opening.
 - 3.6. No response can be withdrawn after opening without written approval from the City for an acceptable reason.
 - 3.7. The City will not be bound by any oral statement or offer made contrary to the written specifications.
4. **COSTS INCURRED:** Respondent shall acknowledge that the issuance of a solicitation shall in no way obligate the City to award a contract or to pay any costs associated with the preparation of a response to said solicitation. The costs in developing and submitting proposals, preparing for and participating in oral presentations or any other similar expenses incurred by a Respondent are the sole responsibility of the Respondent and shall not be reimbursed by the City.

PART III

SPECIFICATIONS

1. **SCOPE**: The intent of these specifications is to secure the purchase of various vehicles as specified herein. Attachment A: Bid Form includes additional specifications specific to each vehicle type.
2. **YEAR OF MANUFACTURE**: The City will accept bids on new 2022 and 2023 model vehicles.
3. **SHIPPING**: Shipment will be made FOB to City of Leander, Attention Purchasing Agent, 105 N. Brushy Street, Leander, TX 78641.
4. **DELIVERY**: Delivery of vehicle(s) shall be made to City of Leander within 180 days of award unless otherwise agreed upon by the City and Successful bidder.
5. **VEHICLE CONDITION**: Respondent certifies that the vehicle purchased under this solicitation shall be new and unused. In the event the vehicle requires two (2) or more repairs in the first 30-day period, except those caused by negligence or through the fault of City employees, the successful Respondent agrees to remove and replace the defective vehicle without delay and at their expense.
6. **WARRANTY**: **Manufacturer's standard warranty shall apply. Warranty documentation shall be included with each item bid.** The successful Respondent shall warrant that the vehicle shall conform to the specifications and/or all warranties as stated in the Uniform Commercial Code and be free from all defects in material, workmanship and title. All warranty repairs will be performed without accessing the City's warranty deductibles. The successful Respondent shall be responsible for any warranty deductibles required for warranty repairs.

6.1. City desires a 3-year Bumper to Bumper Warranty and a 5-year, 100,000 mile Powertrain Warranty. Respondents shall provide pricing, or alternate options as necessary, to provide this warranty level.
7. **REPLACEMENT PARTS**: Replacement parts shall be available for vehicles for no less than ten (10) years. City reserves right to purchase replacement parts from any source.
8. **PRE-DELIVERY SERVICE**: The following services will be performed by successful Respondent before the vehicles are delivered to the City:
 - 8.1. All fluid levels checked and maintained with the proper grade and type of fluids;
 - 8.2. Pre-delivery inspection and service on chassis;
 - 8.3. Interior and exterior of each vehicle shall be cleaned;
 - 8.4. Fuel tank shall be at least 1/2 full.
9. **DELIVERY DOCUMENTATION**: Successful Respondent shall provide the following documents with each vehicle delivered:
 - 9.1. One (1) owner's manual;
 - 9.2. One (1) operator's manual;
 - 9.3. One (1) shop repair manual.
 - 9.4. Manufacturer's Statement of Origin (MSO). The successful Respondent shall furnish the City with a MSO and the Certificate of Title. MSO will be furnished at the time of vehicle delivery or

within forty-eight (48) hours of vehicle delivery to the City. MSO will be made out in the name of the City of Leander, providing the following information:

- 9.4.1. GVWR for the particular model specified, or;
- 9.4.2. GVWR required for the entity's written exception, or;
- 9.4.3. A greater GVWR required by extra equipment;
- 9.4.4. Nominal weight rating (in tons), and
- 9.4.5. Odometer Disclosure Statement.

10. **TECHNICAL SPECIFICATIONS**: Unless otherwise specified, all units will be furnished complete with standard equipment and factory-installed accessories as listed in the manufacturer's printed literature for the models specified. The following items are minimum requirements for the models specified.

The City seeks maintain quality, reliability and efficiency within its vehicle fleet. With this goal in mind several manufacturer's products have been specified herein to establish the City's minimum critical requirements and performance standards of each vehicle. Any example shown is listed to show type and class of equipment desired only. Alternate equivalent items will be considered and are noted as "Or equal". "Or equal" is intended to establish a level of quality and is not to be interpreted as a preference for a particular brand. The items offered must be equivalent as to function, basic design, type and quality of material, method of construction, and any required dimensions.

Unless specifically exempted or excluded on the Bid Form, the following are requirements for all vehicles:

- 1. Transmission on each vehicle specified shall be automatic.
- 2. A/C, heat and power windows and locks shall be included with each vehicle.

Successful Respondents are cautioned that any vehicle specified or delivered which does not meet specifications in every aspect will not be accepted.

PART IV

RESPONSE REQUIREMENTS

The City of Leander makes no warranty that this checklist is a full comprehensive listing of every requirement specified in the solicitation. This list is only a tool to assist participating Respondents in compiling their final responses. Respondents are encouraged to carefully read the entire solicitation.

Respondent shall submit:

- One (1) executed (signed) original and two (2) copies of each response; and

- One (1) flash drive, each containing a complete copy of Respondent's submission in an acceptable electronic format (PDF, RTF, TXT, DOC, XLS). A complete copy of the Response includes all documents required by this Solicitation. The flash drive shall be titled: "S22-036b CITY-WIDE FLEET VEHICLES - Complete copy of [Name of Respondent]'s submission." Failure to provide a flash drive may result in disqualification for award.

If supplemental materials are included with the Response, each flash drive must include such supplemental materials. The Response and accompanying documentation are the property of the City and will not be returned.

For your bid to be responsive, all required attachments identified below shall be submitted with your proposal. The Samples and/or copies shall be provided at the Respondent's expense, and shall become the property of the City.

1. Responses shall be submitted on itemized, signed Solicitation Document provided herein. Failure to itemize or sign solicitation may result in disqualification. Submission of responses on forms other than the City's Solicitation Document may result in disqualification of the response.
 - 1.1. ALL FEES shall be included in price to include delivery to Leander, Texas. No additional fees shall be permitted.
 - 1.2. Line item price sheet and specification sheet shall accompany each item bid.
2. Warranty documentation.
3. Specification documentation and brochures.

PART V

1. **CONFIDENTIALITY OF CONTENT:** All documents submitted in response to a solicitation shall be subject to the Texas Public Information Act. Following an award, responses are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. Pricing is not considered to be confidential under any circumstances.
 - 1.1 Information in a submittal that is legally protected as a trade secret or otherwise confidential must be clearly indicated with stamped, bold red letters stating "CONFIDENTIAL" on that section of the document. The City will not be responsible for any public disclosure of confidential information if it is not clearly marked as such.
 - 1.2 If a request is made under the Texas Public Information Act to inspect information designated as confidential, the Respondent shall, upon request from the City, furnish sufficient written reasons and information as to why the information should be protected from disclosure. The matter will then be presented to the Attorney General of Texas for final determination.
2. **ETHICS ORDINANCE AND DISCLOSURE STATEMENTS:** The City's Ethics Ordinance requires persons seeking to enter discretionary contracts with the City or appearing before the City Council or another City board or body to disclose certain conflicts of interest. The relevant sections of the Ethics Ordinance are set forth below. The Ethics Ordinance can be found in Article 9.05, Chapter 9 of the City's Code of Ordinances at the following link: <https://ecode360.com/LE6383>.

Sec. 9.05.007 Persons doing business with the City of Leander

- (a) **Persons seeking discretionary contracts.**
 - (1) For the purpose of assisting the city in the enforcement of provisions contained in this article, an individual or business entity seeking a discretionary contract from the city is required to disclose in connection with a proposal for a discretionary contract any conflict of interest. This is set forth in [sections 9.05.004](#) and [9.05.005](#) of this article. Further, the individual or business entity agree to abide by the same ethical standards as set forth for public servants in this article.
 - (2) Subsection (a) of this section will become a permanent footnote on documents contained in city bid packets for discretionary contracts.

- (b) Disclosure of conflicts of interest by persons appearing before a board or city body. A person appearing before any city board or other city body for the purpose of doing business with the city shall disclose to that board or body any facts known to such person which may show or establish that:
- (1) An employee or officer of the city that advises or makes presentations to the board or city body; or
 - (2) Any member of the board or city body; has or may have a conflict of interest pursuant to chapter 171, Tex. Loc. Gov't. Code, or an interest which would violate the ethical standards set forth in this article, if he or she were to participate in the processing or consideration of the subject matter.

Sec. 9.05.009(f) Disclosure by persons appearing before a city body. Any person who appears before any city body who has had business dealings within the preceding 12-month period involving one or more transactions of five hundred dollars (\$500.00) or more each quarter, or for a total of twenty-five hundred dollars (\$2,500.00) or more, within the preceding 12-month period with a councilmember, commissioner, or business entity in which a councilmember or commissioner has a substantial interest, shall disclose such business dealings at the time of the appearance. Any person who shall intentionally or knowingly fail to make the aforesaid disclosure shall be guilty of a misdemeanor and shall be fined in accordance with this article.



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of a purchase of a 2022 Ford F-350 from Rush Truck Center, Dallas, Texas, for the Public Works Department utilizing Buyboard Contract 601-19 in the amount of \$118,500.00; and authorize the City Manager to execute any and all necessary documents.

BACKGROUND:

In the FY 2023 budget, a new Valve & Hydrant Crew team was approved in the Public Works Water Department (Utility Fund). Approved along with the two (2) positions, was a specialized heavy-duty vehicle, City staff requests authorization to utilize Buyboard contract 601-19 to purchase a 2022 Ford F-350 from Rush Truck Center in Dallas, Texas.

RECOMMENDATION:

Recommend approval of request to purchase a 2022 Ford F-350 from Rush Truck Center, Dallas, Texas in the amount of \$118,500.00, utilizing Buyboard contract #601-19.

PRESENTER:

Robert G. Powers, Executive Finance Director
Kay Johnson, Interim Purchasing Agent
Gina Ellison, Public Works Director

Fiscal Impact

<u>Amount requested:</u>	\$118,500.00
<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>	Utility Fund

Attachments

1. Vehicle Quote

2022 F-350 Chassis 4x4 SD Crew Cab 179" WB DRW XL (W3H)

Price Level: 280



Client Proposal

Prepared by:

Ryan Galbreath

Office: 214-678-5966

Email: galbreathr@rushenterprises.com

Date: 11/07/2022



Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd., Dallas, Texas, 752475816

Office: 214-631-2050



Prepared by: Ryan Galbreath

11/07/2022

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816

2022 F-350 Chassis 4x4 SD Crew Cab 179" WB DRW XL (W3H)

Price Level: 280

Warranty

Standard Warranty

Basic Warranty

Basic warranty	36 months/36,000 miles
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Powertrain Warranty

Powertrain warranty	60 months/60,000 miles
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Corrosion Perforation

Corrosion perforation warranty	60 months/unlimited
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Roadside Assistance Warranty

Roadside warranty	60 months/60,000 miles
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Additional Warranty

Diesel Engine Warranty

Diesel engine warranty	60 months/100,000 miles
------------------------	-------------------------



Prepared by: Ryan Galbreath

11/07/2022

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816

2022 F-350 Chassis 4x4 SD Crew Cab 179" WB DRW XL (W3H)

Price Level: 280

As Configured Vehicle

Code	Description
Base Vehicle	
W3H	Base Vehicle Price (W3H)
Packages	
640A	Order Code 640A <i>Includes:</i> - Transmission: TorqShift 10-Speed Automatic 10R140 with neutral idle and selectable drive modes: normal, tow/haul, eco, deep sand/snow and slippery. - 3.73 Axle Ratio - GVWR: 14,000 lb Payload Package - Wheels: 17" Argent Painted Steel Hub covers/center ornaments not included. - HD Vinyl 40/20/40 Split Bench Seat Includes center armrest, cupholder, storage and driver's side manual lumbar. - Radio: AM/FM Stereo w/MP3 Player Includes 6 speakers. - SYNC Communications & Entertainment System Includes enhanced voice recognition, 911 Assist, 4.2" LCD center stack screen, AppLink, 1 smart-charging USB port and steering wheel audio controls.
Powertrain	
99T	Engine: 6.7L 4V OHV Power Stroke V8 Turbo Diesel B20 <i>Includes Diesel Exhaust Fluid (DEF) tank, intelligent oil-life monitor and manual push-button engine-exhaust braking.</i> <i>Includes:</i> - Dual 78-AH 750 CCA Batteries - Transmission Power Take-Off Provision Includes mobile and stationary PTO modes.
44G	Transmission: TorqShift 10-Speed Automatic <i>10R140 with neutral idle and selectable drive modes: normal, tow/haul, eco, deep sand/snow and slippery.</i>
X37	3.73 Axle Ratio
STDGV	GVWR: 14,000 lb Payload Package
Wheels & Tires	
TBM	Tires: LT245/75R17E BSW A/T <i>Spare may not be the same as road tire.</i>
64K	Wheels: 17" Argent Painted Steel <i>Hub covers/center ornaments not included.</i>

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.



Prepared by: Ryan Galbreath

11/07/2022

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816

2022 F-350 Chassis 4x4 SD Crew Cab 179" WB DRW XL (W3H)

Price Level: 280

As Configured Vehicle (cont'd)

Code	Description
Seats & Seat Trim	
A	HD Vinyl 40/20/40 Split Bench Seat <i>Includes center armrest, cupholder, storage and driver's side manual lumbar.</i>
Other Options	
PAINT	Monotone Paint Application
179WB	179" Wheelbase
STDRD	Radio: AM/FM Stereo w/MP3 Player <i>Includes 6 speakers.</i> <i>Includes:</i> - SYNC Communications & Entertainment System <i>Includes enhanced voice recognition, 911 Assist, 4.2" LCD center stack screen, AppLink, 1 smart-charging USB port and steering wheel audio controls.</i>
90L	Power Equipment Group <i>Deletes passenger side lock cylinder. Includes upgraded door-trim panel.</i> <i>Includes:</i> - Accessory Delay - Advanced Security Pack <i>Includes SecuriLock Passive Anti-Theft System (PATS) and inclination/intrusion sensors.</i> - Folding Trailer Tow Mirrors w/Power Heated Glass <i>Includes manual telescoping, heated convex spotter mirror and integrated clearance lamps/turn signals.</i> - MyKey <i>Includes owner controls feature.</i> - Power Front & Rear Side Windows <i>Includes 1-touch up/down driver/passenger window.</i> - Power Locks - Remote Keyless Entry
67H	Heavy-Service Front Suspension Package <i>Includes pre-selected heavy-service front springs (see Order Guide Supplemental Reference for springs/FGAWR of specific vehicle configurations). Recommended only on vehicles which will permanently utilize aftermarket equipment such as heavy-duty winches, brush guards or other apparatus which loads the front axle to the specified Gross Axle Weight Rating (GAWR). Note 1: May result in a deterioration of ride quality. Note 2: Vehicle ride height will increase with the addition of this package.</i>
41H	Engine Block Heater
62R	Transmission Power Take-Off Provision <i>Includes mobile and stationary PTO modes.</i>
67B	397 Amp Alternators

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Price Level: 280

As Configured Vehicle (cont'd)

Code	Description
63A	Utility Lighting System <i>Includes LED side-mirror spotlights.</i>
52B	Trailer Brake Controller <i>Includes smart trailer tow connector. Verified to be compatible with electronic actuated drum brakes only.</i>
872	Rear View Camera & Prep Kit <i>Pre-installed content includes cab wiring and frame wiring to the rear most cross member. Upfitters kit includes camera with mounting bracket, 20' jumper wire and camera mounting/aiming instructions.</i>
43C	110V/400W Outlet <i>Includes 1 in-dash mounted outlet.</i>
19Z	4G LTE Wi-Fi Hotspot Removal
Fleet Options	
525	Steering Wheel-Mounted Cruise Control (LPO) Requires valid FIN code.
942	Daytime Running Lamps (DRL) (LPO) Requires valid FIN code. <i>The non-controllable 942 Daytime Running Lamps (DRL) replace the standard Daytime Running Lamps (DRL) on/off cluster controllable.</i>
17F	XL Decor Group (LPO) Requires valid FIN code. <i>Includes:</i> <i>- Chrome Front Bumper</i>
WARANT	Fleet Customer Powertrain Limited Warranty Requires valid FIN code. <i>Ford is increasing the 5-year 60,000-mile limited powertrain warranty to 5-years, 100,000 miles. Only Fleet purchasers with a valid Fleet Identification Number (FIN code) will receive the extended warranty. When the sale is entered into the sales reporting system with a sales type fleet along with a valid FIN code, the warranty extension will automatically be added to the vehicle. The extension will stay with the vehicle even if it is subsequently sold to a non-fleet customer before the expiration. This extension applies to both gas and diesel powertrains. Dealers can check for the warranty extension on eligible fleet vehicles in OASIS. Please refer to the Warranty and Policy Manual section 3.13.00 Gas Engine Commercial Warranty. This change will also be reflected in the printed Warranty Guided distributed with the purchase of every new vehicle.</i>
96V_	XL Value Package (Fleet) <i>Includes:</i> <i>- XL Decor Group (LPO)</i> <i>- Chrome Front Bumper</i> <i>- Steering Wheel-Mounted Cruise Control (LPO)</i>

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Price Level: 280

As Configured Vehicle (cont'd)

Code	Description
Emissions	
425	50-State Emissions System
Exterior Color	
Z1_01	Oxford White
Interior Color	
AS_01	Medium Earth Gray w/HD Vinyl 40/20/40 Split Bench Seat

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PAL Pro 20-9

PO Number: Your PO # Here

Distributor: RUSH

Account No:

Contact:

Address:

Market:

Date: August 11, 2022

Ship VIA:

Requested Delivery Date:

Special Instructions:

		QTY	WEIGHT (LBS)
Distributor Net Sub-Totals			3,941
PSC3216	Palfinger model PSC 3216 telescopic service crane, 12,500 ft. lbs., 16' reach capability, one hydraulic / one manual extension, 4,000 Lb. vertical lift capacity, - 5 to +80 degree boom elevation, double acting cylinders with load holding valves on all cylinders, overload shutdown system, wireless radio remote controller pistol grip and toggle controller with 36' pendant, decals, crane hook, load line block, Ecoat prime, finish paint white topcoat and crane tie down bolt kit. Available for use on vehicles above 10,001 GVW. Consult factory for other applications.		
PSC3216 E	Model PSC 3216 electric telescopic service crane Continuous rotation, three-spool single proportional control valve, electric planetary drive winch and two-block damage prevention system, 12V power unit	1	688.00
OS5060004	CRANE OPTIONS Third Wrap Limit System	1	
KMG04787AS	Crane installation kit - electric (25ft. Battery cable, breaker/disconnect)	1	7.00
	CRANE ACCESSORIES		
	BOOM SUPPORT OPTION		
OS5030022	Boom support - Adjustable Position 16.5" High to 25.5" High - Mounting brackets Available (Installation Accessories Section) - Refer to 'Boom Rest Application Guide' Tab for Selection Assistance	1	35.00
9' BODY OPTION	PCB 20 Series 9' heavy duty galvanized steel crane body with standard right rear crane mounting compartment, compartment tops reinforced with structural angle, six (6) recessed cargo tie downs (6,000 lb. capacity), two (2) grab handles, 40" high side compartments (optional compartments may be raised to 60" high with additional structural gusseting), a fully integrated and sealed automotive style harness kit, FMVSS 108 LED light and reflector kit, mudflap brackets, entire body electro coat (E-Coat) primer, understructure and bottom of compartments undercoated, Body installation kit for Class 3-5 chassis cab with 60" CA included for Ford, GM, and RAM. Designed to accept up to 20,000 ft./lbs. rated crane.		
PCB20-9CS	9' CS Raised - 40"H Sidepacks, Curbside 1st Raised to 60"H FLOOR WIDTH OPTION (REQUIRED)	1	2,125.00
54X108	54.5" W X 108" L Floor Without Wheelboxes (Dual Wheel Chassis) TAILSHELF-BUMPER OPTION (BOLT ON TO CHASSIS FRAME)	1	
OSCB9904	20" Workbench Bumper With 1/4" Top Plate Work Surface and Integrated 16,000 lb. Rated 2" Hitch Receiver Tube (Not Compatible with Vise Mount Options)	1	369.00
	OUTRIGGER OPTION		
OSCB9702	Crank Down Stabilizers, 20" Work Bench Tailshef and 17" Bumper	1	82.00
	CRANE MOUNTING PATTERN		
OSSB6902	PSC Curb Side Crane Mounting (12" X 12")	1	
	MASTERLOCK, CRANE BODY		
OSSB2202 209	Master Locking System Installed - 9' PCB 20 Body	1	15.00
	TAILGATE OPTIONS		
OSSB2301	PALFINGER Stamped Tailgate	1	286.00
	HEADACHE RACK		
OSCB9101	49" Rack Height (Measured Top of Headache Rack to Top of Frame Rail) - Installed Only Not Compatible With Low Sliding Roof (LSR)	1	42.00
	INSTALLATION ACCESSORIES		
OSSB0703	Rear Fuel Fill Cutout - Includes (1) Aluminum Fuel Fill Cup OS3450331	1	
OSCB8102	Boom Support Mounting Bracket for PSC Cranes - (Weld-On Threaded Plate in Lieu of Thru-Bolts in Compartment)	1	13.00
OSCB8105	Welder Mounting Bracket (Weld-On Bars and Mounting Adapter Plate) Left Rear Sidepack Top - Miller Adapter Plate Included	1	20.00
	INTERIOR COMPARTMENT OPTIONS		
LEFT FRONT	PCB20-9FT BODY - Streetside front vertical compartment (LV1)		
OS5020201	Aluminum Drawer Unit 3-3", 2-5", 1-7" X 26"W (6 drawers)	1	90.00
LH HORIZONTAL	PCB20-9FT BODY - Streetside horizontal compartment (LH)		
OSPSB108MK12	Adjustable Aluminum divider tray - 16" x 45.5" x 3" LH / RH compartment (includes 4 adjustable dividers) (MAX QTY OF 2)	1	12.00
LEFT REAR	PCB20-9FT BODY - Streetside rear vertical compartment (LR), No Options Available if Crane Reinforcement is Streetside		

1. Availability for shipment to be determined after receipt of written purchase order.
2. Quoted prices do not include F.E.T. or any other tax which may be applicable.
3. Quantity and cash discounts do not apply.



PAL Pro 20-9

PO Number:	Your PO # Here		
OSPSB108MK11	Adjustable Aluminum divider tray - 16" x 28.5" x 3" LR compartment (includes 4 adjustable dividers) (MAX QTY OF 2)	2	16.00
RIGHT FRONT	PCB20-9FT BODY - Curbside front vertical compartment (RV1)	-	-
OSSB4914	Tank bracket - Oxy / Acet for 2 tanks - Cargo area wall mounted, compartment vented when this option is picked	1	6.00
RH HORIZONTAL	PCB20-9FT BODY - Curbside horizontal compartment (RH)	-	-
OSPSB108MK12	Adjustable Aluminum divider tray - 16" x 45.5" x 3" LH / RH compartment (includes 4 adjustable dividers) (MAX QTY OF 2)	1	12.00
RIGHT REAR	PCB20-9FT BODY - Curbside rear vertical compartment (RR). No Options Available if Crane Reinforcement is Curbside	-	-
	TAILSHELF WORKBENCH ACCESSORIES	-	-
OS5030046	Flexible tailshelf mounted step (installation is not available)	2	10.00
OS5030550	Bolt On Aluminum Rear Access Hand Rail - Powder Coated Safety Yellow - 27"	1	2.00
	LIGHT KIT OPTIONS	-	-
OS5030112	Install tail lights and harness	1	-
OS5030131	Body Control System (BCS) and Installation (Front and Rear Power Distribution Boxes and Control Panel)	1	10.00
OS5030065	Body Interior LED strip lighting in 6 compartments (BCS recommended with installation)	1	4.00
OS5030171	LED flood light kit (four lights) - includes harnesses for up to 6 lights (BCS recommended with installation)	1	8.00
	CHASSIS RELATED OPTIONS	-	-
OS3287058	Ford Super Duty chassis cab tail light adapter	1	1.00
KMG10727A	Ford Mudflap Mounting Kit - (Exhaust Offset)	1	6.00
	PAINT OPTIONS	-	-
OS5050037	Standard coating - outside/inside E-coat prime only	1	-
OS5050038_209	Body finish topcoat - PCB 20 exterior/interior (Single Stage Common Whites: codes only include Ford Z1, Ford YZ, or Dodge PW7)	1	-
	Z1	1	-
OS5050043_209	Add LUltimate Bedliner on load space, tops, front panels, rear panels behind the outriggers and bumper to a top coated body	1	82.00

1. Availability for shipment to be determined after receipt of written purchase order.
2. Quoted prices do not include F.E.T. or any other tax which may be applicable.
3. Quantity and cash discounts do not apply.



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of the Second Reading of an Ordinance regarding Zoning Case Z-22-0048 to amend the current zoning of TF-2-B (Two-Family) to adopt the Lion Drive Minor PUD (Planned Unit Development) with a base zoning district of SFT-2-A (Single-Family Townhouse) on three (3) parcels of land approximately 1.14 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R619654, R619653, and R61952; and more commonly known as 507-519 Lion Drive, Leander, Williamson County, Texas.

BACKGROUND:

This request is the final step in the zoning process. Staff recommends approval of this request. The amendment does not change the density of the project; it updates the setbacks and design standards. The Planning & Zoning Commission unanimously recommended approval of the request on February 23, 2023.

HISTORY/TIMELINE:

01/20/1969 – Final Plat- Leander Heights, Sec 2
01/20/1978 – Annexation
04/03/2018 – Replat- Leander Heights, Sec 2, Lots 6A & 6B, Blk A Amended Replat
09/20/2021 – Replat- Leander Heights, Sec 2, Lots 6A-1, 6B-1 & 6C-1, Blk A Amended Replat
02/23/2023 – Planning & Zoning Commission, 1st Public Hearing
03/16/2023 – City Council, 2nd Public Hearing

APPLICANT/AGENT:

Linda and Del Ray Sudderth

RECOMMENDATION:

The City Council approved the request during the March 16, 2023 meeting.

PRESENTER:

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

Attachments

1. Planning Analysis
2. Current Zoning Map
3. Future Land Use Map
4. Public Notification Map
5. Proposed Zoning Map
6. Aerial Map
7. PUD Notes and Conceptual Site Layout & Land Use Plan
8. Letter of Intent
9. Neighborhood Outreach
10. Ordinance
11. P&Z Minutes



PLANNING ANALYSIS

ZONING CASE Z-22-0048
LION DRIVE MINOR PUD

GENERAL INFORMATION

Owner/Agent: Linda and Del Ray Sudderth.

Current Zoning: TF-2-B (Two-Family)

Proposed Zoning: Lion Drive Minor PUD (Planned Unit Development) with the following base district:
SFT-2-A (Single-Family Townhouse)

Size and Location: The property is located 507 & 509, 511 & 513, 515 & 517 Lion Drive, including 3.44 acres.

Staff Contact: Justin Hunt
Planner

APPLICANT REQUEST

The applicant has submitted a request to change the designated zoning district of their property in order to develop Townhouses along Lion Drive with no more than two attached per lot. The allowable uses shall include duplexes, and the development will be limited to 6 units. This case also includes a request to allow for 3:12 roof pitches.

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 proposal will not increase the density of the project. Changing from the TF base district to the SFT base district will reduce the setback requirements.

SITE INFORMATION:

ABUTTING ZONING AND LAND USE:

	ZONING	LAND USE
NORTH	LO-2-A	Kepler Stem School
EAST	TF-2-B	Single-Family Home
SOUTH	MF-2-B	Church
WEST	TF-2-B	Single-Family Home

SURROUNDING AREA:

This Local Office is located to the north of the subject properties (Kepler Stem School), and to the east and west of the site are single-family homes under a Two-Family zoning. The property to the south is currently a church, and zoned Multi-Family.

PHYSICAL AND NATURAL FEATURES:

This property contains minimal tree cover and is mostly open land.

PROPERTY HISTORY:

This property was annexed into the City of Leander before 1992.

PREVIOUS ZONING CASES:

The following zone cases were previously submitted for this property:

- This property was rezoned before 2004.

MAJOR CORRIDORS:

This property has access onto Lion Drive.

SUBDIVISIONS:

The following subdivision cases were previously submitted for this property:

- Leander Heights, Sec 2 Final Plat
- Leander Heights, Sec 2, Lot 6-A & 6-B, Blk A Short Form Final Plat
- Leander Heights, Sec 2, Lots 6A & 6B, Blk A Amended Replat
- Leander Heights, Sec 2, Lots 6A-1, 6B-1 & 6C-1, Blk A Amended Replat

EXISTING UTILITIES:

There is a six inch (6") water line to the south of the property and a four inch (4") waterline running across the frontage of the property. There is a six inch (6") wastewater line the property will have available access.



Figure 1 Wastewater



Figure 2 Water

CURRENT LAND USES:

This property is currently has a single-family home located on the property along with other accessory structures.

PROPOSED ZONING DISTRICT:**USE COMPONENT****SFT – SINGLE FAMILY TOWNHOUSE:**

Features: 2,000 sq. ft. lot min; 700 sq. ft. living area min.

Intent: Development of single-family attached dwellings on very small sized lots and for other uses that are compatible and complimentary to attached residential development. A variety of lot sizes shall be provided within one half mile of major intersections such as arterials or collectors and along residential collectors. The higher density residential shall be located closest to major intersections such as arterials or collectors and transition to lower density uses further away from the major intersections. This component provides for higher density lots and serves as a transition between moderate size lots and higher density areas. This component is generally intended as follows:

- (1) To provide an orderly transition and serve as a buffer between larger lot neighborhoods and more intensive uses such as multi-family or commercial uses or arterial roadways.
- (2) To create more variety in housing opportunities and in the fabric of the neighborhoods.
- (3) To include or be located within six hundred feet of parkland or other recreational open space.
- (4) To be located in planned communities of greater than 100 acres and comprising less than ten percent (10%) of the lots, or to provide infill opportunities in appropriate areas of the City such as in areas under transition.
- (5) Lots may provide access to garages from a rear alley.

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 B:**

Features: 4 or more architectural features.

Intent:

- (1) The Type B architectural component is intended to be utilized for the majority of residential development except that which is intended as a Type A architectural component.
- (2) Combined with appropriate use and site components, this component is intended to help provide for harmonious land use transitions.
- (3) This component may be utilized to raise the building standards and help ensure compatibility for non-residential uses adjacent to property that is more restricted.
- (4) This component is intended for the majority of the LO and LC use components except those meeting the intent of the Type A or C architectural components.

COMPREHENSIVE PLAN:**Applicable Comprehensive Plan goal statements**

- Guide future growth and development following the comprehensive plan to achieve a more balanced, diverse economy.

Applicable Future Land Use categories**NEIGHBORHOOD RESIDENTIAL**

- The Neighborhood Residential land use category is intended to be developed primarily as new single-family detached residential subdivisions with associated amenities, such as parks, trails, open space areas, and elementary schools. These areas are intended to have a mix of suburban and auto-oriented development character which are primarily found in the form of detached residential lots.
- Architectural styles, building height and massing are relatively uniform in this type of land use. Most streets are considered to be local and low-volume with curb and gutter, sidewalks, consistent speeds and highly accessible driveways. Strategically located parks are essential and in some cases a school or other institutional use are integrated or in close proximity. Some neighborhood-serving retail and office uses are permitted in these areas with highly-restrictive use, site and design requirements. These type of uses are residential in scale and architectural design and are walkable in nature, though auto-serving. These uses are not shown on the Future Land Use Map as commercial and are supported when integrated into a development with appropriate site and zoning compatibility considerations.

Allowed Uses: SFR, SFE, SFS, SFU, SFC, SFL, SFT, TF, CH, NR, PUD

INTERGOVERNMENTAL/INTERDEPARTMENTAL REVIEW:

This proposal was reviewed by all applicable departments within the City of Leander. All plats submitted will be reviewed by City Staff.

SCHEDULE:**DEVELOPMENT MEETING**

A development meeting was held with Staff on 09/12/2022. The following changes were made to the project since the development meeting was held:

- A request to change from TF (Two-family) to a minor PUD with a base zoning of SFT (Single-Family Townhouse). Additional requests are to allow for a max of two attached units and a roof pitch of 3:12.

The following ordinance changes occurred following the development meeting which may have impacted this project.

- The Water Resolution 22-031-00 and was approved on 10/20/2022

NOTIFICATION

02/03/2023 - Public Notice on Hill Country News

02/08/2023 - Mail Notification to Property Owners within 200'

02/08/2023 - Public Hearing Signage Posted on Property

02/23/2023 - Planning and Zoning Commission Public Hearing

03/16/2023 - City Council Public Hearing & First Reading of the Ordinance

04/06/2023 - 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 reached 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' were also contacted.

Please see attachment 9 for more detail.

APPROVAL CRITERIA:

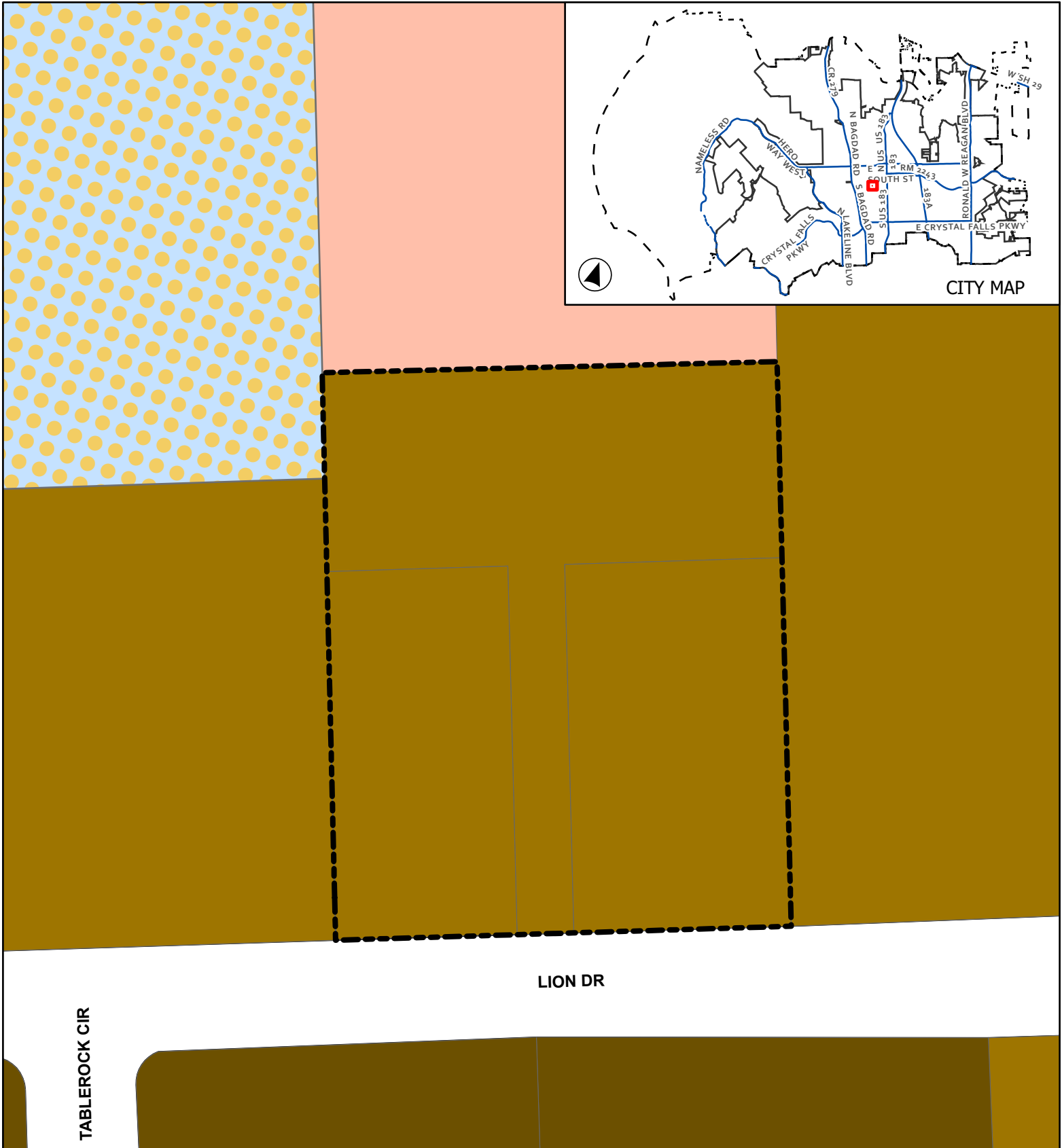
Staff recommends approval of the zoning request. The intent of Single-Family Townhouse use component is to provide more variety in housing types along with serving as a buffer between moderate size lots and higher density areas. This property is located in a neighborhood Residential which does allow for Single-Family Townhouse development. The property does allow for the two-family currently, but this zoning change will allow for less restrictive setbacks.

BUILDING / STRUCTURE					
SINGLE-FAMILY RESIDENTIAL DISTRICTS					
	Use Component	Front	Side	Street Side	Rear
Standard Setback	SFR	25'	7'	15'	15'
	SFE, SFS, SFU, SFU/MH, TF	20'	5'	15'	15'
	SFC, SFL	15' *	5' or 0' & 10'	15'	15'
	CH*****	15'	5'	15'	15'
	TH	10'*	5'	10'	10'
	SFT	10' *	0 or 10'	15'	15'
Garage Setback	SFR, SFE, SFS, SFU, SFU/MH. SFC, SFL, CH, SFT, TF	See Article VIII, Section 5 (i)			

* In no case shall the garage be closer to the ROW than 18'

This Planned Unit Development includes the following higher standards and is requesting the following waivers.

HIGHER STANDARDS	WAIVERS
	Allow a 3:12 roof pitch
	Only two units can be attached per lot.



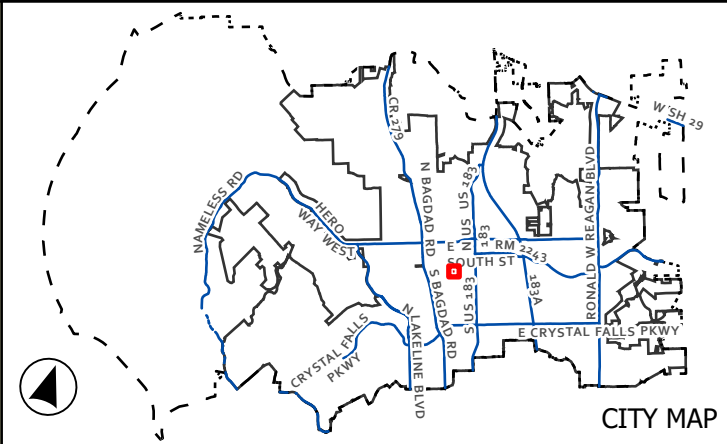
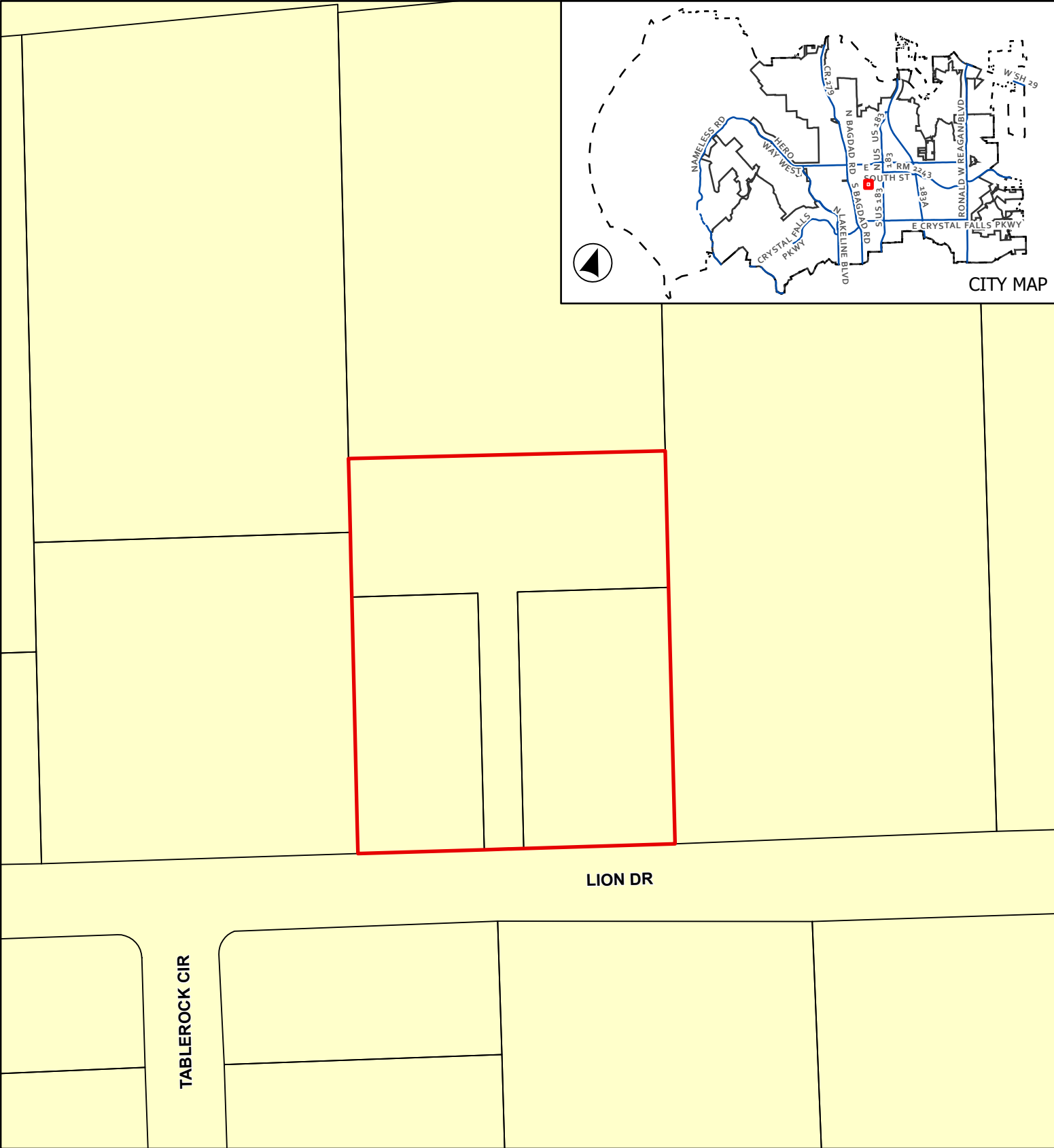
CASE: Z-22-0048 ATTACHMENT 2 LION DRIVE MINOR PUD

Current Zoning

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- Leander City Limits
- TF - Two Family
- MF - Multi-Family
- LO - Local Office
- PUD-CH
- Subject Boundary
- Extra-Territorial Jurisdiction

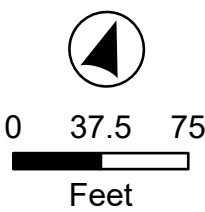
0 20 40
Feet



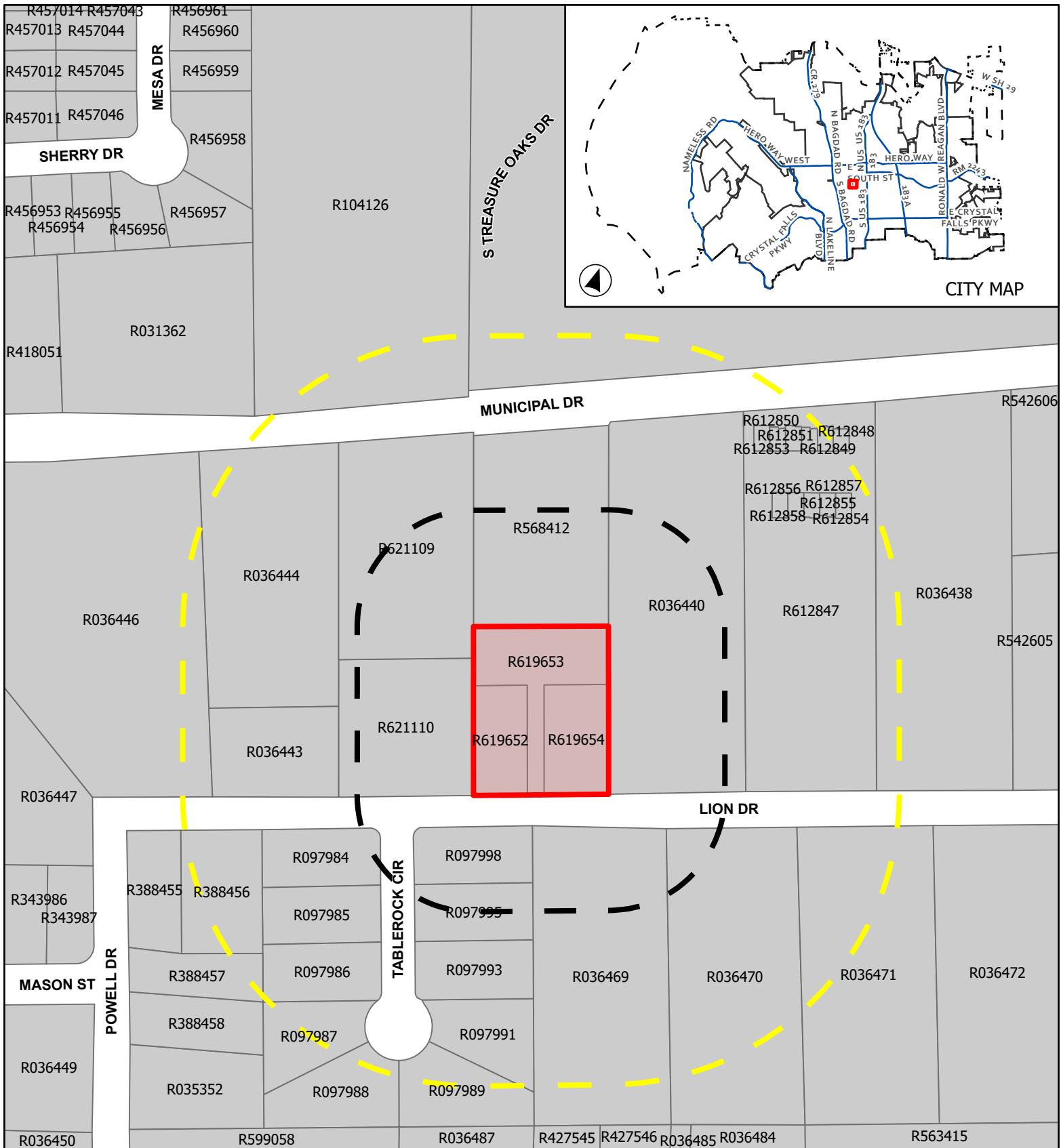
CASE: Z-22-0048 ATTACHMENT 3 LION DRIVE MINOR PUD

Future Land Use Map

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- Leander City Limits
- ETJ Boundary
- Subject Boundary
- Future Land Use: Neighborhood Residential



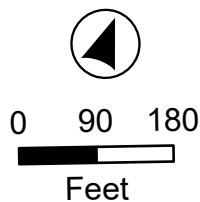
CASE: Z-22-0048

ATTACHMENT 4

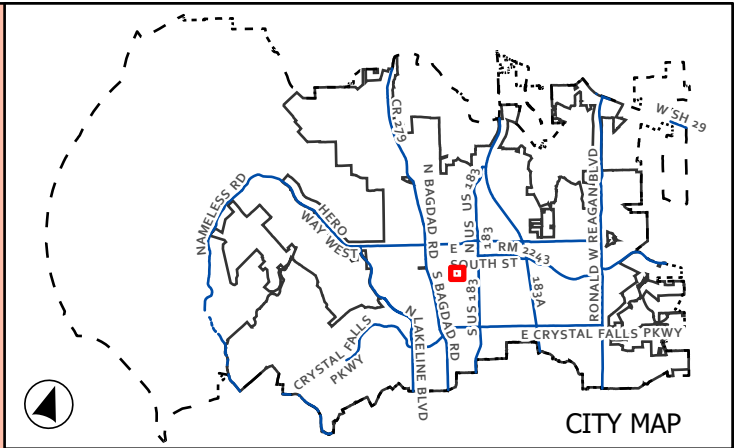
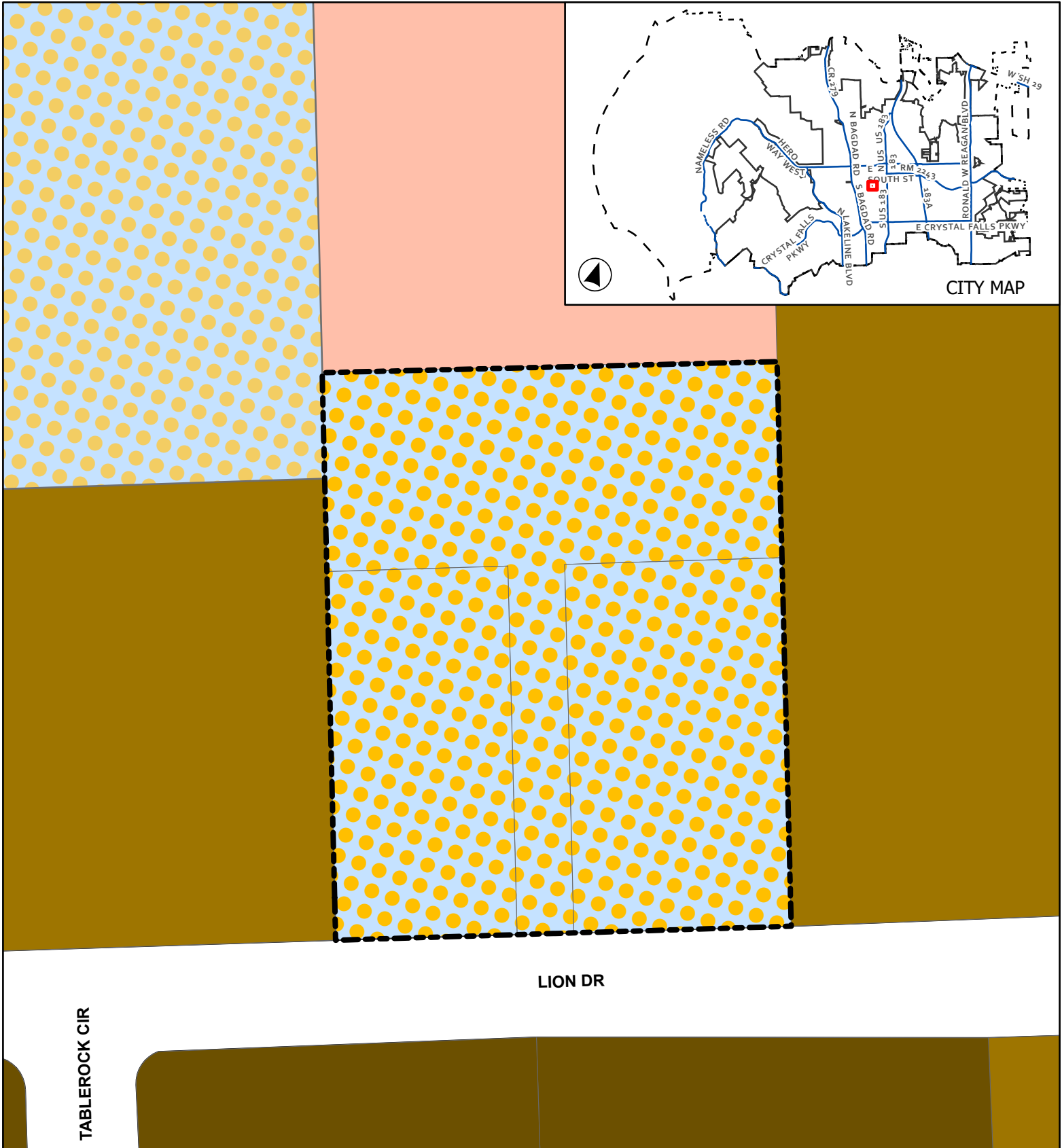
LION DRIVE
MINOR PUD

Public Notification

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
- Subject Boundary
- ETJ Boundary
- Notification Buffer**
 - 200'
 - 500'



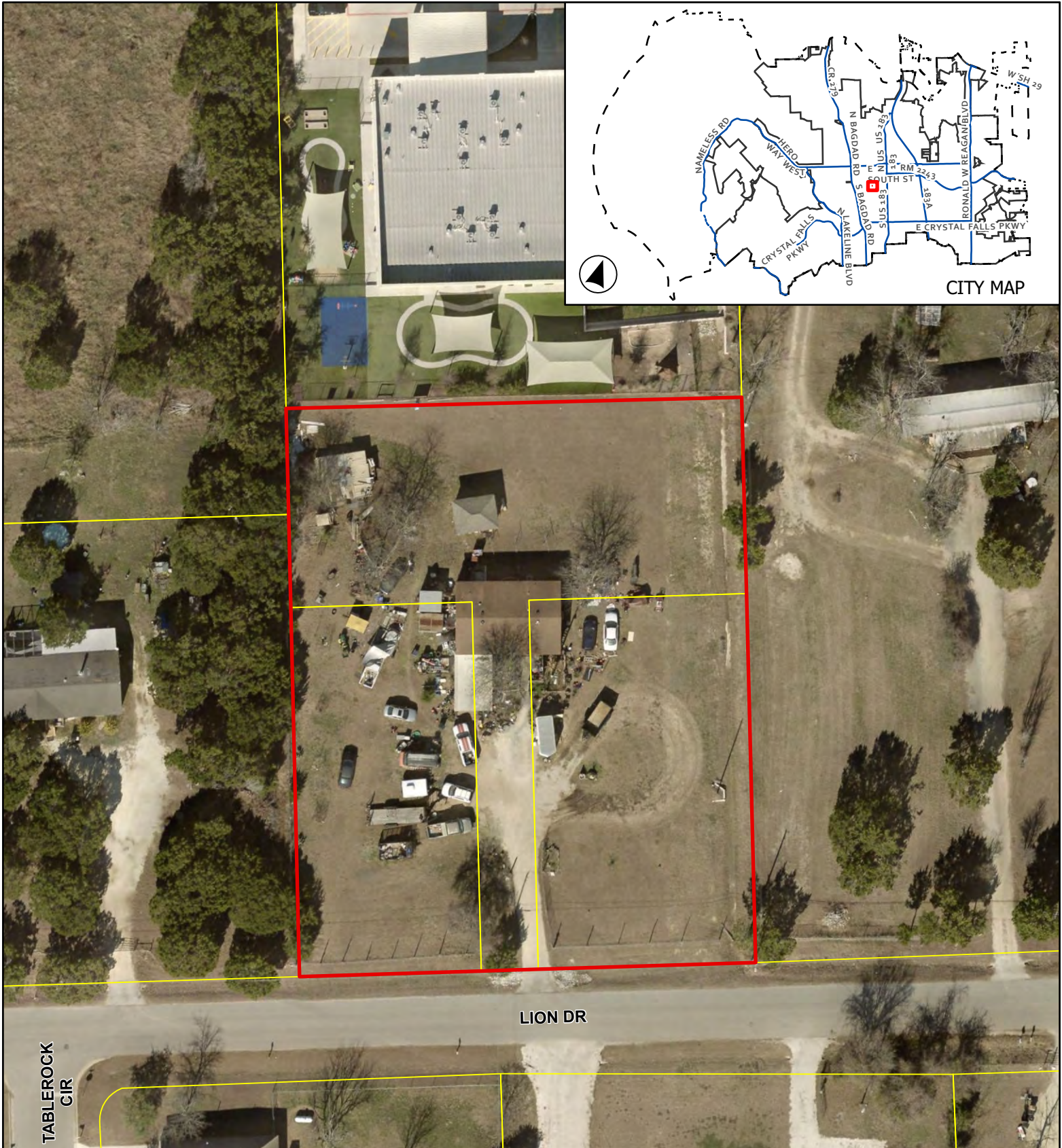
CASE: Z-22-0048 ATTACHMENT 5 LION DRIVE MINOR PUD

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
- TF - Two Family
- MF - Multi-Family
- LO - Local Office
- PUD-CH
- PUD - Townhomes
- Subject Boundary
- Extra-Territorial Jurisdiction

0 20 40
Feet



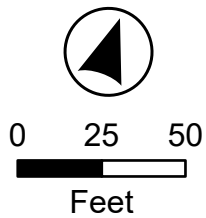
CASE: Z-22-0048

ATTACHMENT 6

LION DRIVE
MINOR PUD

Aerial Map

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- Leander City Limits
- Subject Boundary

EXHIBIT A

Lion Drive Minor Planned Unit Development

A. Purpose and Intent

1. The Lion Drive PUD is comprised of approximately 1.14 acres, as shown in **Exhibit B**. The development of this property includes a duplex development.

B. Applicability and Base Zoning

1. All aspects regarding the development of this Minor 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 Minor PUD, the following base zoning districts have been selected from the Leander Composite Zoning Ordinance.

SFT-2-B (Single Family Townhouse)

C. Allowable/Prohibited Uses

1. The allowable uses shall include duplexes.
2. The development shall be limited to six units
3. No more than two structures may be attached

D. Architectural

1. The roof pitch may be reduced to 3-12.

EXHIBIT B

Lots 6-B1A, 6-B1B, and 6-B1C, Block “A” of the Leander heights Section Two Replat of Lot 6, Block “A” amended.

October 24, 2022

City of Leander Planning Department
P.O. Box 319
Leander, Texas 78646-0319

Ref: Minor PUD Intent Statement for 4S Duplex Project Located at
507-519 Lion Drive Leander, Texas

To whom it may concern,

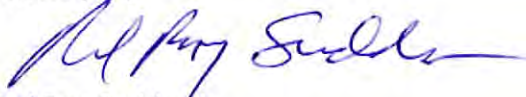
The 4S Duplex project is a 1.14-acre tract located in the 500 block of Lion Drive. The site is bordered by the Kepler Stem School to the north and mobile homes to the east and west. The property is currently zoned 2F. We are requesting a minor PUD and zoning change to SFT-2-B.

The reason for the change is to take advantage of the SFT-2-B setbacks versus the 2F setbacks. There is a 25-foot PUE to the east that restricts our building footprint. Our plan is to build three duplexes with six total units. The zoning change will allow us the space needed to complete the project.

The Minor PUD will allow for the flexibility in land use and development densities to meet the need of the owner and comply with the City of Leander's expectations.

We look forward to working with the City of Leander on this project.

Thank you,



Del Ray Sudderth
Owner

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.

Del Ray Sudderth and Susan Anderson were involved in the communication process. Certified letters were mailed to surrounding residents. See attachments

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.

Property owners. No HOA exists. See attachments

3. What concerns were raised during these communications?

No concerns were raised

4. What specific conditions were added to or modified within the zoning request in response to the concerns raised at the meeting?

We offered a meeting for October 18, 2022 at 7:00 pm. No one attended.

The above information is deemed to be true to the best of my knowledge.

Signature: _____

Date 10/24/2022

October 24, 2022

City of Leander Planning Department
P.O. Box 319
Leander, Texas 78646-0319

Ref: Minor PUD Intent Statement for 4S Duplex Project Located at
507-519 Lion Drive Leander, Texas

To whom it may concern,

The 4S Duplex project is a 1.14-acre tract located in the 500 block of Lion Drive. The site is bordered by the Kepler Stem School to the north and mobile homes to the east and west. The property is currently zoned 2F. We are requesting a minor PUD and zoning change to SFT-2-B.

The reason for the change is to take advantage of the SFT-2-B setbacks versus the 2F setbacks. There is a 25-foot PUE to the east that restricts our building footprint. Our plan is to build three duplexes with six total units. The zoning change will allow us the space needed to complete the project.

The Minor PUD will allow for the flexibility in land use and development densities to meet the need of the owner and comply with the City of Leander's expectations.

We look forward to working with the City of Leander on this project.

Thank you,



Del Ray Sudderth
Owner

WCAD #	Owner	Address
R031362	City of Leander	609 Municipal Drive
R104126	City of Leander	607 Municipal Drive
R542819	City of Leander	607 Municipal Drive
R036438	Sky Heights LLC	415 Lion Drive
R612847	Castlerock Communities LLC	
R036440	Tovar, Jose C & Jose & Maria Isidra Becerra	505 Lion Drive
R568412	Siddhu Real Estate LLC	508 Municipal Drive
R621109	Hoch Construction LLC	Municipal Drive
R621110	Stahl, Gary L & Auburn Myriah Stahl	603 Lion Drive
R036443	607 703 Lion Drive LLC	607 Lion Drive
R036444	607 703 Lion Drive LLC	607 Lion Drive
R036446	607 703 Lion Drive LLC	703 Lion Drive
R036471	Rizvi, Syed Raza	500 Lion Drive
R036470	Madhira, Venkatapurna Parthasarathy & Lakshmi Surekha	506 Lion Drive
R036469	House of Everlasting Prayer	508 Lion Drive
R427546	Vazquez, Hector M & Maria Del Rosario Romo	509 Horseshoe Drive
R427545	Bernal, Ignacio & Consecpcion	601 Horseshoe Drive
R036487	Short, Jimmie	605 Horseshoe Drive
R097989	Pettit, Robert A	508 Tablerock Circle
R097991	Tamez, Donna	506 Table Rock Circle
R097993	Li-Diaz, Kened	504 Table Rock Circle
R097995	Davis, Stephen Ray	502 Table Rock Circle
R097998	Weil, Matthew E	500 Table Rock Circle
R097984	Polu, Kiran	501 Table Rock Circle
R097985	Castillo Aaron & Jessica Trustees of 503 Table Rock Cir Trust	503 Table Rock Circle
R097986	Judge, Melinda K & Okley Macon Cooper	505 Table Rock Circle
R097987	Dinata, Andre & Lili Suryanni Lin	507 Table Rock Circle
R097988	Kazmi, Zain H & Saeed H Kazmi	509 Table Rock Circle
R388458	Sanchez, Megan	508 Powell Drive
R388457	Taylor, Robin Dawn	502 Powell Drive
R388456	Rivera, Sergio & Maribel	700 Lion Drive
R388455	Umstattd Thomas G & James A &	500 Powell Drive

Mailing Address	City	State	Zip
PO Box 319	Leander	TX	78646
PO Box 319	Leander	TX	78641
PO Box 319	Leander	TX	78641
9801 Nepal Cove	Austin	TX	78717
2401 Fountain View Drive	Houston	TX	77057
1703 Timberwood Drive	Cedar Park	Tx	78613
1508 Sirius Cove	Austin	TX	78732
7209 Celebration Court	Jonestown	TX	78645
603 Lion Drive	Leander	TX	78641
6 Miller Drive	Hillsborough	NJ	,08844
6 Miller Drive	Hillsborough	NJ	,08844
6 Miller Drive	Hillsborough	NJ	,08844
500 Lion Drive	Leander	TX	78641
213 Southern Cross Drive	Austin	Tx	78717
PO Box 1234	Leander	TX	78646
509 Horseshoe Drive	Leander	TX	78641
1405 Pecan Street	Cedar Park	TX	78613
605 Horseshoe Drive	Leander	TX	78641
508 Table Rock Circle	Leander	TX	78641
506 Table Rock Circle	Leander	TX	78641
103 N Rainbow Bridge Drive	Cedar Park	TX	78613
502 Table Rock Circle	Leander	TX	78641
119 Simmons Way	Flosom	CA	95630
4004 Tordera Drive	Austin	TX	78738
2400 E Cesar Chavez St #208	Austin	TX	78702
505 Table Rock Circle Apt B	Leander	TX	78641
103 Lodestone Cove	Austin	TX	78738
2211 Falkirk Drive	Round Rock	TX	78681
508 Powell Drive	Leander	TX	78641
506 Powell Drive	Leander	TX	78641
700 Lion Drive	Leander	TX	78641
Madelaine Umstattd Morris	Austin	TX	78750-3225
13276 N Highway 183 #101			

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 LION DRIVE MINOR PUD (PLANNED UNIT DEVELOPMENT) WITH THE BASE ZONING DISTRICT OF SFT-2-A (SINGLE-FAMILY TOWNHOUSE); 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 1.14 acres, ±; being more particularly described in Exhibit "B"; and identified by tax identification number R619654, R619653, and R61952; more particularly described in Instrument Number 2021142735 recorded in the Official Public Records of Williamson County, Texas.

SECTION 4. Property Rezoned. The Zoning Ordinance is hereby amended by creating the Lion Drive Minor PUD (Planned Unit Development) with the base zoning district of SFT-2-A (Single-Family Townhouse). 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 16th day of March, 2023.
FINALLY PASSED AND APPROVED on this the 6th day of April, 2023.

ATTEST:

THE CITY OF LEANDER, TEXAS:

Dara Crabtree, City Secretary

Christine DeLisle, Mayor



**MINUTES
PLANNING & ZONING COMMISSION
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas

February 23, 2023 at 6:00 PM



Place 1 – Donnie Mahan, *Chair*
Place 2 – John Cosgrove
Place 3 – Ron May
Place 4 – Deirdre Moss

Place 5 – James Oliver
Place 6 – Laura Lantrip, *Vice-Chair*
Place 7 – Rick Carpenter

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

1. Call to Order at 6:00 p.m.

2. Roll Call.

All Commissioners were present except Commissioner Cosgrove.

3. Director's report to the Planning & Zoning Commission on actions taken by the City Council at the February 16, 2023, meeting

4. Review of meeting protocol.

5. Citizen Comments: Three (3) minutes allowed per speaker.
[Please turn in speaker request form before the meeting begins.]

CONSENT AGENDA: ACTION

6. Approval of Subdivision Case SFP-21-0014 regarding Lenox Hill Townhomes Short Form Final Plat on one parcel of land approximately 16.43 acres ± in size, more particularly described by Williamson Central Appraisal District parcel R514458; generally located at the south terminus of Republic Trails and to the west of Ronald W Reagan Blvd, Leander, Williamson County, Texas.

7. Approval of Minutes.

Motion made by Vice Chair Lantrip to approve the Consent Agenda Items 6 and 7, seconded by Commissioner May.

6 - 0 Passed

PUBLIC HEARING: ACTION

8. Conduct a Public Hearing and consider action regarding Zoning Case Z-22-0048 to amend the current zoning of TF-2-B (Two-Family) to adopt the Lion Drive Minor PUD (Planned Unit Development) with a base zoning district of SFT-2-A (Single-Family Townhouse) on three parcels of land approximately 1.14 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R619654, R619653, and R61952; and more commonly known as 507-519 Lion Drive, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-22-0048 as described above.

Motion made by Commissioner Rick Carpenter, seconded by Commissioner James Oliver to approve the zoning request.

AYE: Commissioner Deirdre Moss, Vice Chair Laura Lantrip, Commissioner Rick Carpenter, Chair Donnie Mahan, Commissioner James Oliver, Commissioner Ron May

6 - 0 Passed

9. Discuss and consider action regarding Concept Plan Case CP-22-0013 to adopt the LC Hero Way Concept Plan on two parcels of land approximately 21.86 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R031600 & R457677; generally located to the northwest of the intersection of Hero Way and Main Street, Leander, Williamson County, Texas.

- Discuss and consider action regarding Subdivision Case CP-22-0013 as described above.

Motion made by Vice Chair Laura Lantrip, seconded by Commissioner Deirdre Moss to approve the Concept Plan request.

AYE: Commissioner Deirdre Moss, Vice Chair Laura Lantrip, Commissioner Rick Carpenter, Chair Donnie Mahan, Commissioner James Oliver, Commissioner Ron May

6 - 0 Passed

REGULAR AGENDA

10. Receive a presentation regarding the parkland dedication ordinance requirements.

Carlos St. James spoke in favor of parkland dedication.

11. Adjournment at 7:20 p.m.

APPROVED:

CHAIRMAN MAHAN

ATTEST:

VERONICA TOVAR
PLANNING & ZONING COMMISSION SECRETARY



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Approval of the extension of the application expiration for Subdivision Case FP-21-0023 Lively Tract Ph 4 Final Plat; more particularly described by Williamson Central Appraisal District Parcels R544675 and R021695; generally located to the south of the southern terminus of Lively Ranch Road; Leander, Williamson County, Texas.

BACKGROUND:

This request is for an extension of the expiration date of the Lively Tract Ph 4 Final Plat form final plat application. Article II, Section 24 (g) includes the following provisions.

g. Application Expiration.

1. The Final Plat application shall expire nine (9) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the final plat is not approved due to the applicant's failure to cause the application to comply with applicable city regulations.
2. The Planning Department may grant one six (6)- month extension if the applicant can show substantial progress in obtaining approval of the final plat. Substantial progress shall consist of, at a minimum, a resubmission of the final plat and all relevant materials by the applicant that address all initial staff review comments from all reviewing departments.

HISTORY/TIMELINE:

06/10/2022 - Final Plat Application Expired
12/10/2022 - Final Plat Application Staff Extension Expired

APPLICANT/AGENT:

Pape-Dawson Engineers, Inc (Travis Krause, PE)

RECOMMENDATION:

The Subdivision Ordinance includes timelines for application approvals. The timeline/history section of this summary above includes the key dates for this request. The final plat application expires nine (9) months after the first review comment letter for the final plat is sent to the applicant.

Staff recommends approval of an additional six (6)- month extension. Approving this extension would grant an extension to June 10, 2023 and will allow the developer to finalize the plat requirements and schedule the plat for review by the Planning & Zoning Commission.

PRESENTER:

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

Attachments

1. Request Letter
2. Location Map
3. Ordinance

February 24, 2023

Robin Griffin
Executive Director of Development Services
City of Leander
P.O. Box 319
Leander, TX 78646-0319

RE: 21-FP-023 Lively Tract Phase 4 Final Plat
Application Extension Request

Dear Ms. Griffin:

Pursuant to Article II, Section 24(h)(2) of the Subdivision Ordinance, I am requesting an administrative extension to the Lively Tract Phase 3 Final Plat (20-FP-021) application. The initial staff review comment letter was issued on September 10, 2021 and a subsequent staff review comment letter was issued on March 17, 2022.

Substantial progress has been made on this project as construction plans were approved and the site is currently under construction. A plat application second comment response is accompanied by this letter and includes the information on the requested Preliminary Plat Minor Revision under review by the City that was holding up this resubmittal of the plat and to clear remaining comments.

Upon receipt of this letter, please confirm staff issuance of the requested application extension.

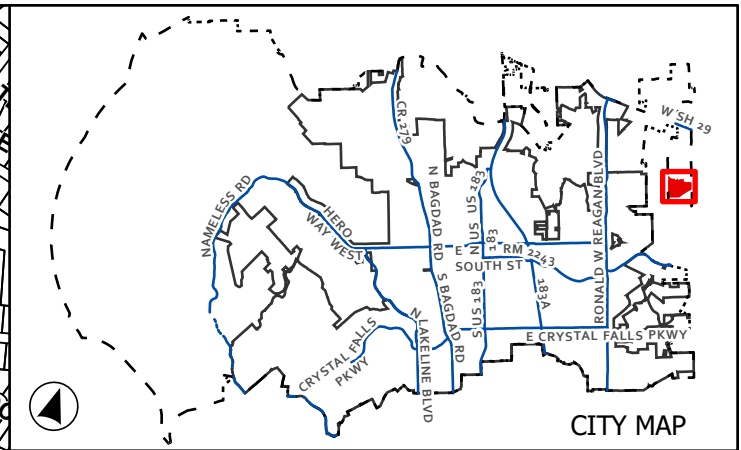
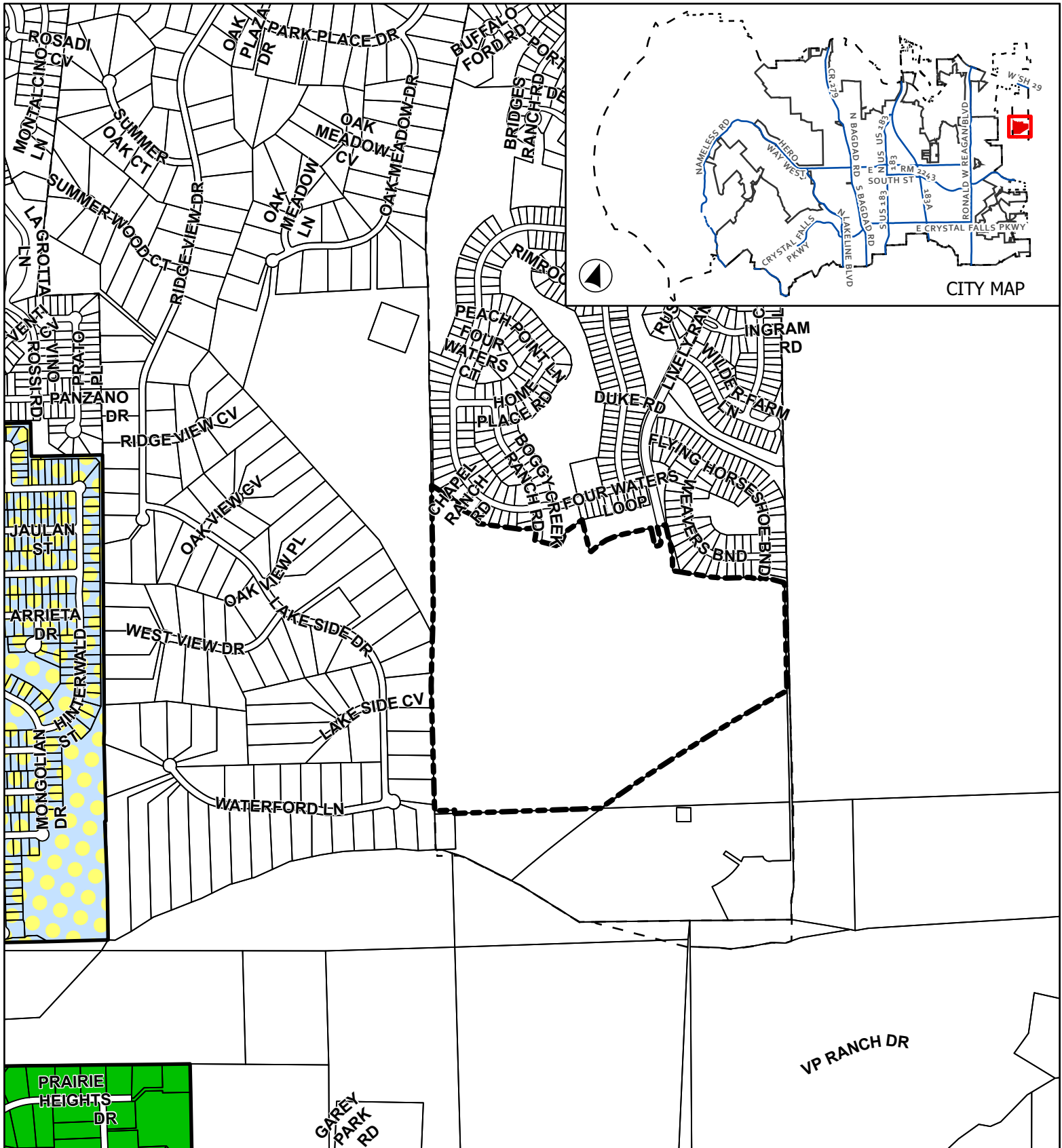
Please contact me if you have any questions or need additional information concerning this request.

Sincerely,
Pape-Dawson Engineers, Inc.



Travis Krause, P.E.
Project Engineer

H:\Projects\508\16\23\216 Final Plat\Documents\Plan Processing\City\Comment Response 2\Lively Tract Ph 4 Extension Request 21-FP-023.docx



CASE: FP-21-0023 ATTACHMENT 2 LIVELY TRACT PH 4

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.

- Leander City Limits
- SFR - Single-Family Rural
- PUD - Single-Family
- Subject Boundary
- Extra-Territorial Jurisdiction

0 345 690
Feet

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF LEANDER, TEXAS
GRANTING AN EXTENSION OF THE EXPIRATION OF THE
FINAL PLAT APPLICATION FOR THE LIVELY TRACT PHASE 4
SUBDIVISION.**

WHEREAS, Section 24 (g) (1) of the City's Subdivision Ordinance provides that the final plat application expires nine (9) months after the date that all initial staff review comments from all reviewing departments have been issued on the application if the final plat are not approved due to the applicant's failure to cause the application to comply with applicable city regulations;

WHEREAS, Section 24 (g) (2) of the City's Subdivision Ordinance provides that the Planning Department may grant one six (6) month extension if the applicant can show substantial progress in obtaining approval of the final plat;

WHEREAS, the Planning Department granted one six (6) month extension for the Lively Tract Phase 4 final plat application (the "Final Plat Application") which expired on or about December 10, 2022;

WHEREAS, the City Council of the City of Leander, Texas (the "City") finds that there is good reason to grant an extension of the expiration date for the Final Plat Application because the applicant is actively working to address the final plat comments and move forward with final plat within a reasonable timeframe;

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

SECTION 1. Findings of Fact. The forgoing recitals are incorporated into this Ordinance as true and correct findings of fact.

SECTION 2. Extension Granted. The City hereby grants an extension of the expiration date for the Final Plat Application to June 10, 2023. In the event that the Final Plat Application is not approved by the Planning and Zoning Commission on or before June 10, 2023, the Final Plat Application shall expire.

SECTION 3. Effective Date. This Ordinance shall take effect immediately from and after its passage in accordance with the City Charter.

SECTION 4. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance was considered 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, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED on this the 6th day of April, 2023.

ATTEST:

THE CITY OF LEANDER, TEXAS

Dara Crabtree, City Secretary

Christine DeLisle, Mayor



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Conduct a Public Hearing regarding Zoning Case Z-22-0052 to amend the current zoning of PUD/TOD-CD (Planned Unit Development/Transit Oriented Development – Conventional Development Sector) to adopt the 183A Plaza Minor PUD (Planned Unit Development) with a base zoning district of GC-3-A (General Commercial) on one (1) parcel of land approximately 9.61 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District parcel R461862; and generally located approximately 700 feet southeast of the intersection of 183A Toll Road and Aven Way, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-22-0052 as described above.

BACKGROUND:

This request is the second step in the zoning process. Staff recommends approval of the zoning request. The proposed GC-3-A (General Commercial) district is a compatible use in the Employment Center land use category.

HISTORY/TIMELINE:

03/09/2023 - Planning & Zoning Commission, 1st Public Hearing

APPLICANT/AGENT:

Mathias Company (Richard Mathias) on behalf of 183A RE Investments, LLC (Shakeel Badarpura).

RECOMMENDATION:

The Planning & Zoning Commission unanimously recommended approval during the March 9, 2023 meeting.

PRESENTER:

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

Attachments

1. Planning Analysis
2. Current Zoning
3. FLU Map
4. Public Notice
5. Proposed Zoning
6. Aerial Map
7. Minor PUD Notes
8. Letter of Intent
9. Neighborhood Outreach
10. Ordinance
11. P&Z Minutes



PLANNING ANALYSIS

ZONING CASE Z-22-0052
183A PLAZA MINOR PUD

GENERAL INFORMATION

Owner/Agent: Mathias Company (Richard Mathias) on behalf of 183A RE Investments, LLC (Shakeel Badarpura).

Current Zoning: PUD/TOD-CD (Planned Unit Development/Transit Oriented Development – Conventional Development Sector)

Proposed Zoning: 183A Plaza Minor Planned Unit Development
Base zoning of GC-3-A (General Commercial)

Size and Location: The property is located approximately 700 feet southeast of the intersection of 183A Toll Road and Aven Way, including approximately 9.61 acres.

Staff Contact: Cory Dale, Planner

APPLICANT REQUEST

This property is located within the CD (Conventional Development) Sector of the TOD (Transit Oriented Development) district. The next step in the process is for the applicant to request an amendment to the PUD to establish a base zoning district. The applicant has requested the GC-3-A (General Commercial) base zoning district that allows for regional commercial uses. Applicant has also proposed a list of prohibited uses within the requested zoning to further strength the request.

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 3*
- ☐ ☒ Does the proposal warrant any other special considerations?

SITE INFORMATION:

ABUTTING ZONING AND LAND USE:

	ZONING	LAND USE
NORTH	PUD-GC	Undeveloped
EAST	PUD-GC	Undeveloped
SOUTH	PUD-GC	Undeveloped
WEST	PUD-T6	Northline PUD

SURROUNDING AREA:

This property is located southeast of the intersection of 183A Toll Road and Aven Way. The tract is surrounded to the north, east and south by the undeveloped San Gabriel Industrial Minor PUD. To the east and across 183A Toll Road is the Northline PUD development.

PHYSICAL AND NATURAL FEATURES:

This property contains no floodplain and sites undeveloped. The lot contains tree cover which will be subject to the City of Leander tree protection requirements and mitigation at time of site development.

MAJOR CORRIDORS:

This property has access onto 183A Toll Road.

TRANSPORTATION PLAN REQUIREMENTS:

Driveways along 183A Toll Road will be reviewed and receive permitting through CTRMA. The driveway spacing along 183A Toll Road will be dictated by the TxDOT Access Management Manual. At the time of Concept Plan submittal, the applicant will submit either a Traffic Impact Analysis (TIA) or a fee in lieu of TIA as determined by the City Engineer. A ten foot sidewalk along 183A Toll Road will be required at time of site plan submittal.

SUBDIVISIONS:

Property is currently unplatted.

EXISTING UTILITIES:

This property has access to both water and wastewater within the ROW of 183A Toll Road.

CURRENT LAND USES:

This property is currently undeveloped

PROPOSED ZONING DISTRICT:

MINOR PUD – MINOR PLANNED UNIT DEVELOPMENT:

The purpose and intent of the Minor Planned Unit Development (PUD) district is to allow for minor deviations from the permitted uses allowed in the Composite Zoning Ordinance. The intent of this zoning request is to allow for an assisted living center. 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 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 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**EMPLOYMENT CENTER**

- The Employment Center future development category is for primary jobs and business in strategic locations. These areas are intended for regional-serving employment in planned campus-like environments for office, research, medical, manufacturing, light industrial, warehouse, and heavy commercial uses. To remain competitive in today's corporate marketplace, contemporary workforce-supporting elements such as amenities, retail and high-density residential are also encouraged in an integrated development pattern.

The Employment Center area is focused on meeting the plan goals of an attractive, high-quality business environment for investors to bring to Leander and grow/diversify the tax base. It complements other nearby regional mixed-use areas, but provides opportunities for larger-footprint, single-tenant buildings that can accommodate numerous employees. These areas may be developed with an auto-oriented, traditional character, or in a mixed-use urban design. In a planned environment, upper-story vertical mixed-residential is encouraged along with limited, integrated high-density residential-only buildings. Such scenarios should be tightly regulated to ensure the proper mix.

Desired Mix: 80-100% Non-Residential, 0-20% Residential. Existing zoning suitability: LO, LC, GC, HC and PUD.

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 11/15/2021. No significant changes were made to the project post development meeting.

NOTIFICATION

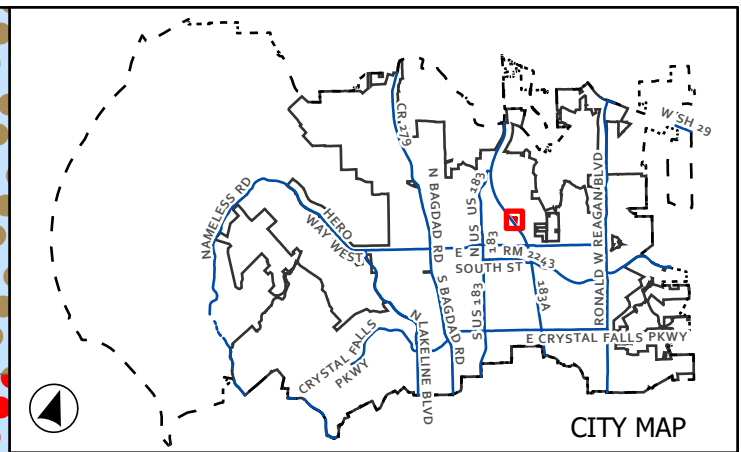
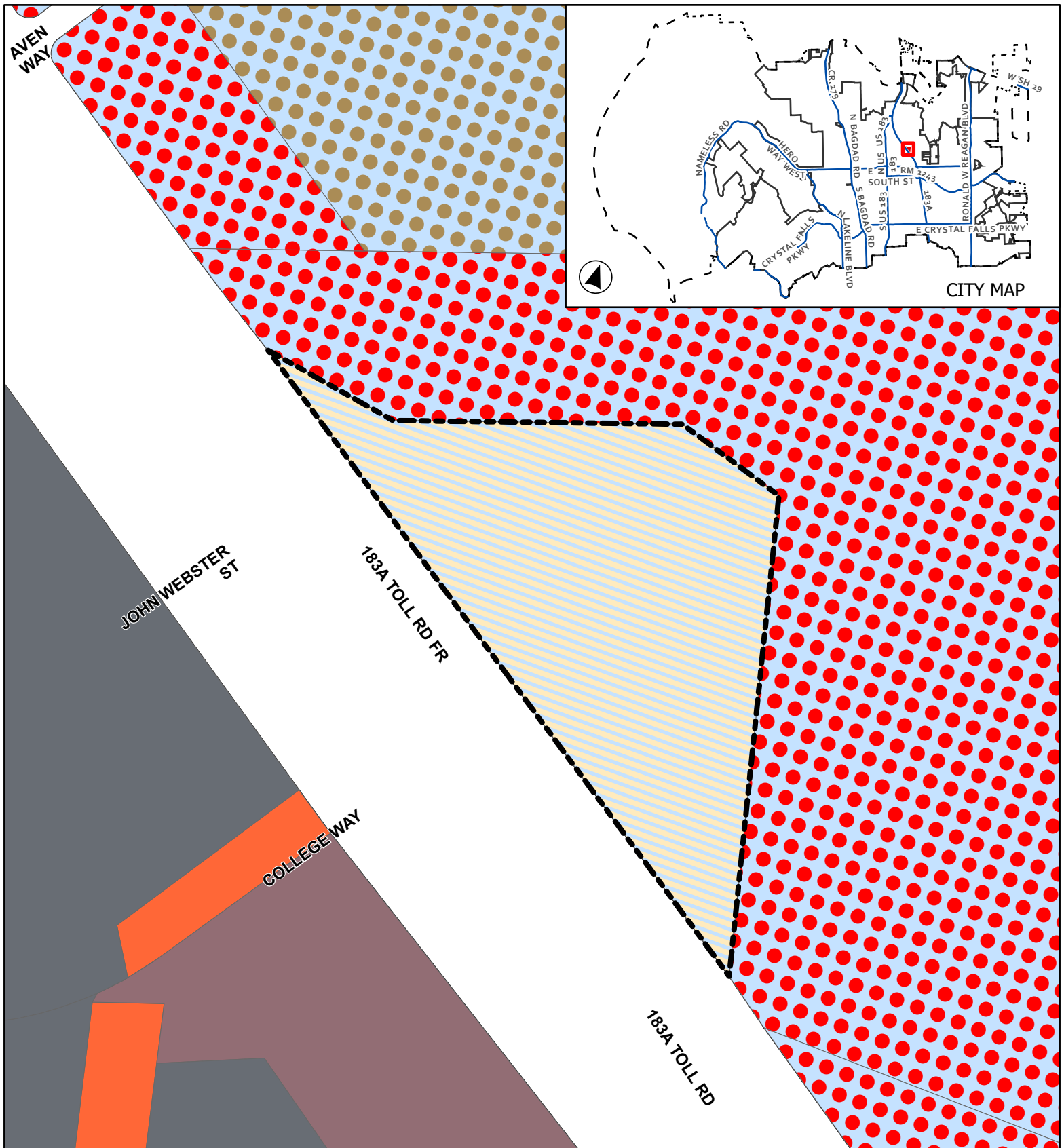
02/16/2023 - Public Notice on Hill Country News
 02/22/2023 - Mail Notification to Property Owners within 200'
 02/22/2023 - Public Hearing Signage Posted on Property
 03/09/2023 - Planning and Zoning Commission Public Hearing
 04/06/2023 - City Council Public Hearing & First Reading of the Ordinance
 04/20/2023 - City Council Second & Final Reading of the Ordinance

SITE SIGNAGE**PUBLIC NOTIFICATION:**

Notice was mailed by the City to all property owners within 200 feet of the subject tract. Being that no residential properties or HOAs were within 500 feet of property subject to rezone, no additional neighborhood outreach was required.

APPROVAL CRITERIA:

This request is proposing a Minor PUD in order to allow for the development of the site commercially through the establishment of a base-zoning request of GC-3-A (General Commercial). The applicant has also prohibited several uses within the GC base district such as animal hospital, funeral home, office/warehouse and equipment sales/repair service. The requested base zoning is in line with both the current zoning designation and Future Land Use map.



CASE: Z-22-0052

ATTACHMENT 2

183A PLAZA
MINOR PUD

Current Zoning

- | | |
|--------------------------|--------------------------------|
| Leander City Limits | Civic Building |
| PUD - Single-Family | T5 - Urban Center |
| PUD - Multi-Family | T6 - Urban Core |
| PUD - General Commercial | Subject Boundary |
| CD - Conventional Sector | Extra-Territorial Jurisdiction |

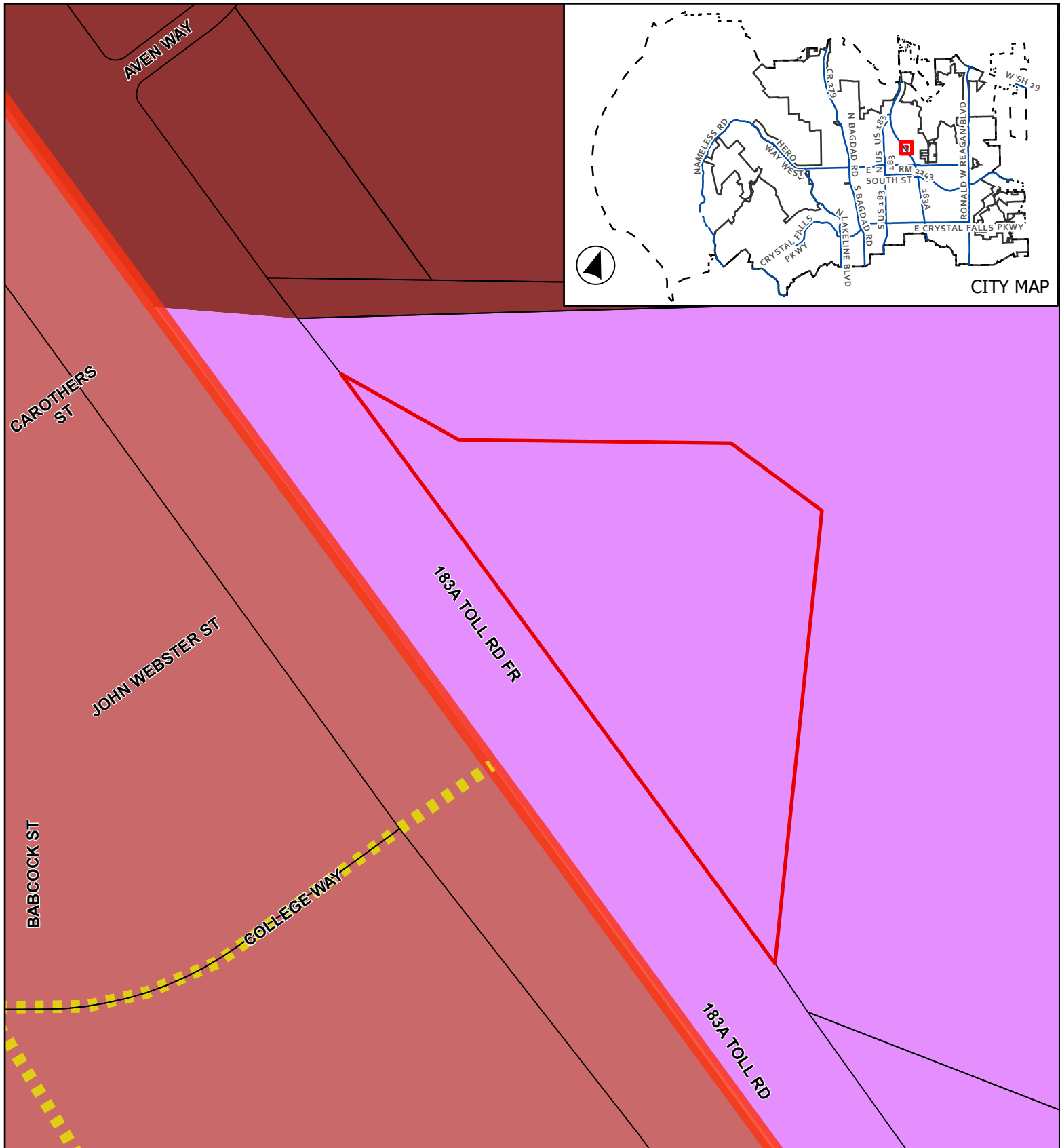
This map has been produced by the City of Leander for informational purposes only. No warranty is made by the City regarding completeness or accuracy. This data should not be construed as a legal description or survey instrument. No responsibility is assumed for damages or other liabilities due to the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



0 80 160



Feet



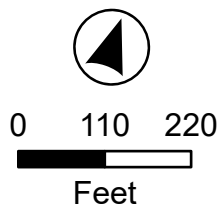
CASE: Z-22-0052

ATTACHMENT 3

183A PLAZA
MINOR PUD

Future Land Use 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.

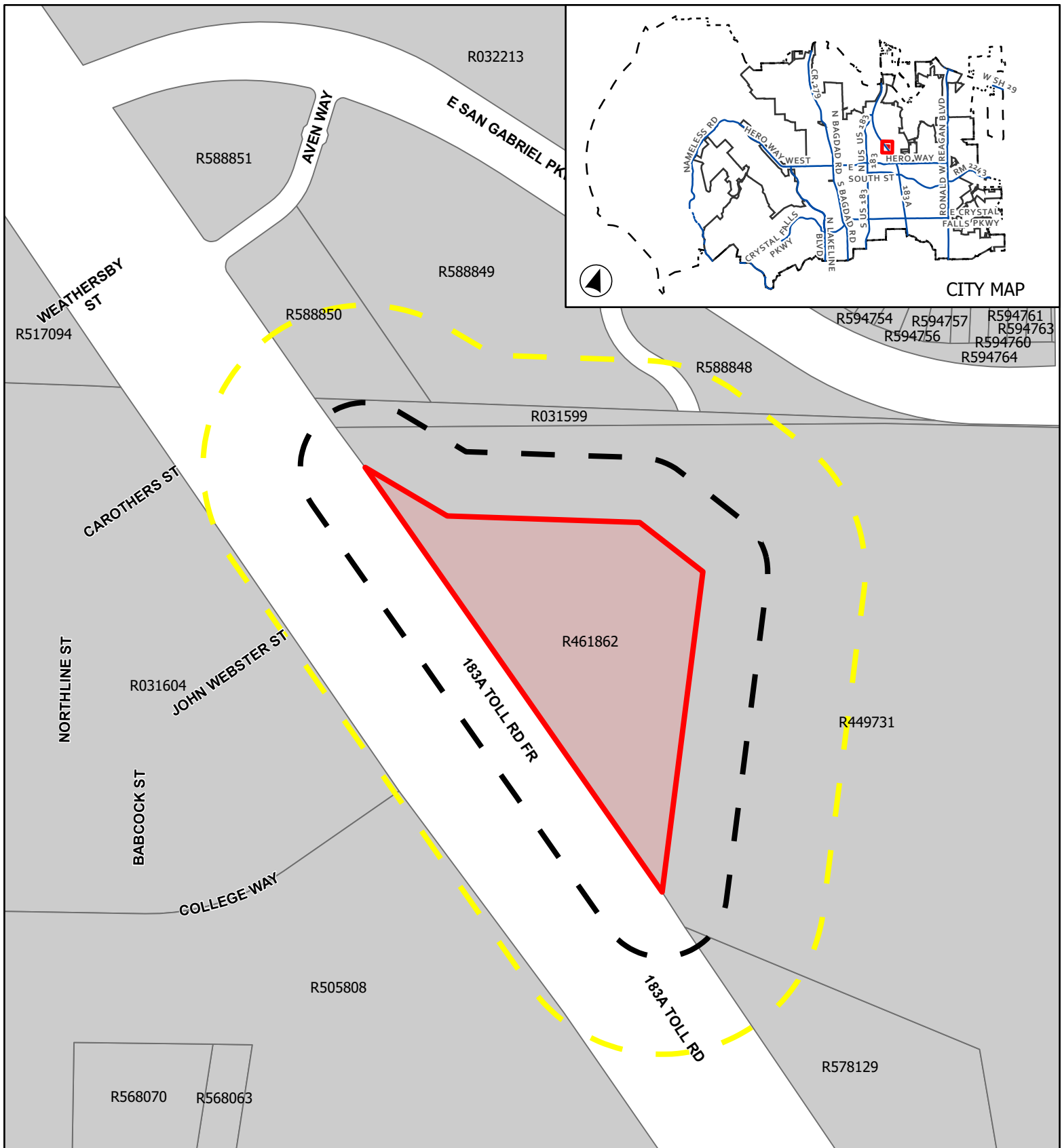


- Leander City Limits
- ETJ Boundary
- Subject Boundary
- Access Controlled, Existing
- Arterial 4 Lane, Existing
- Collector, Existing

Thoroughfare Plan

- Collector, Proposed
- Multi-Use Corridor
- Activity Center
- Employment Center
- Leander Central

Future Land Use



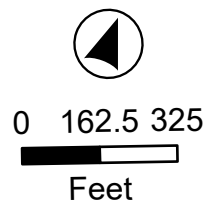
CASE: Z-22-0052

ATTACHMENT 4

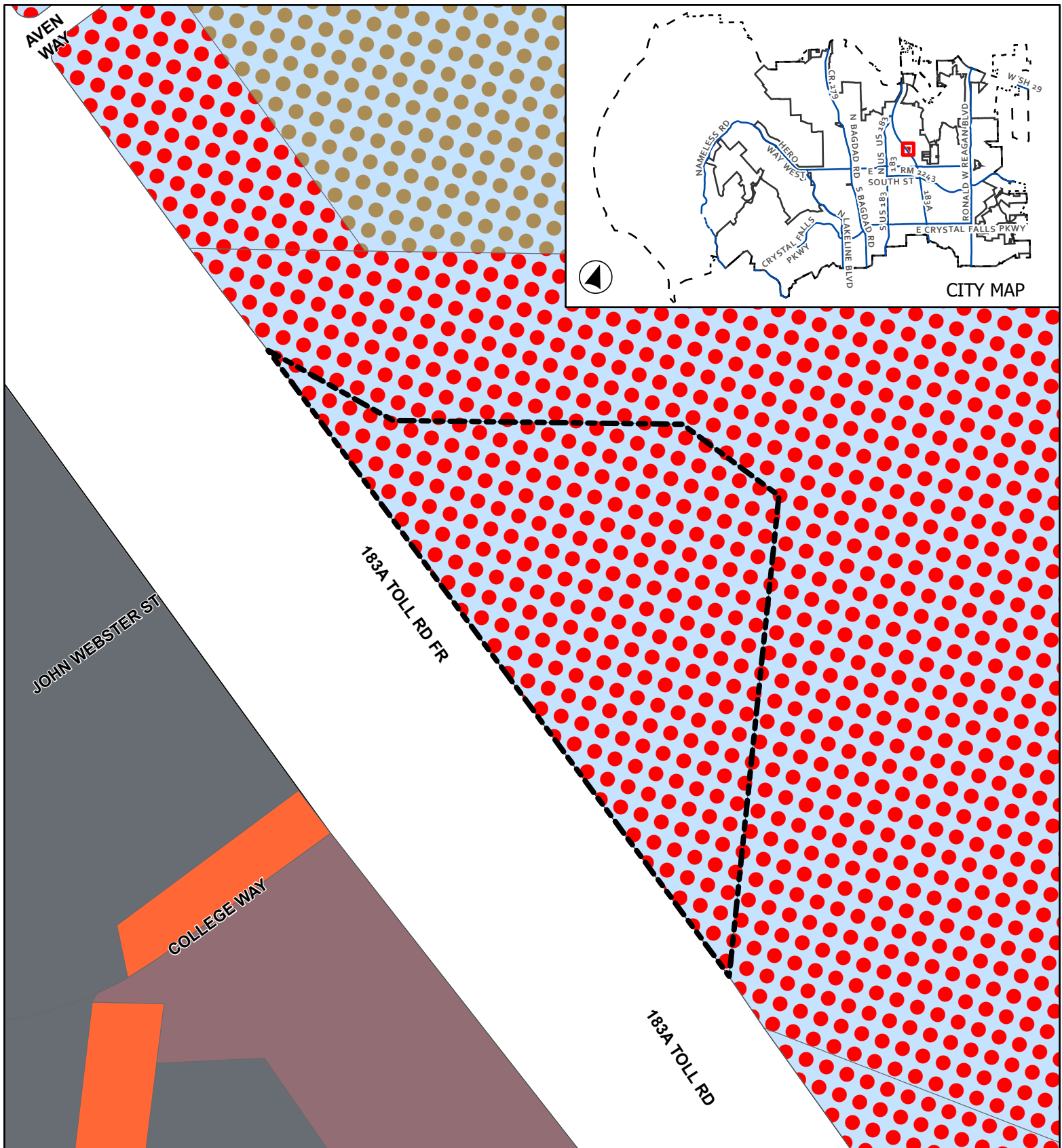
183A PLAZA
MINOR PUD

Public Notification

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
- Subject Boundary
- ETJ Boundary
- Notification Buffer**
 - 200'
 - 500'



CASE: Z-22-0052

ATTACHMENT 5

183A PLAZA
MINOR PUD

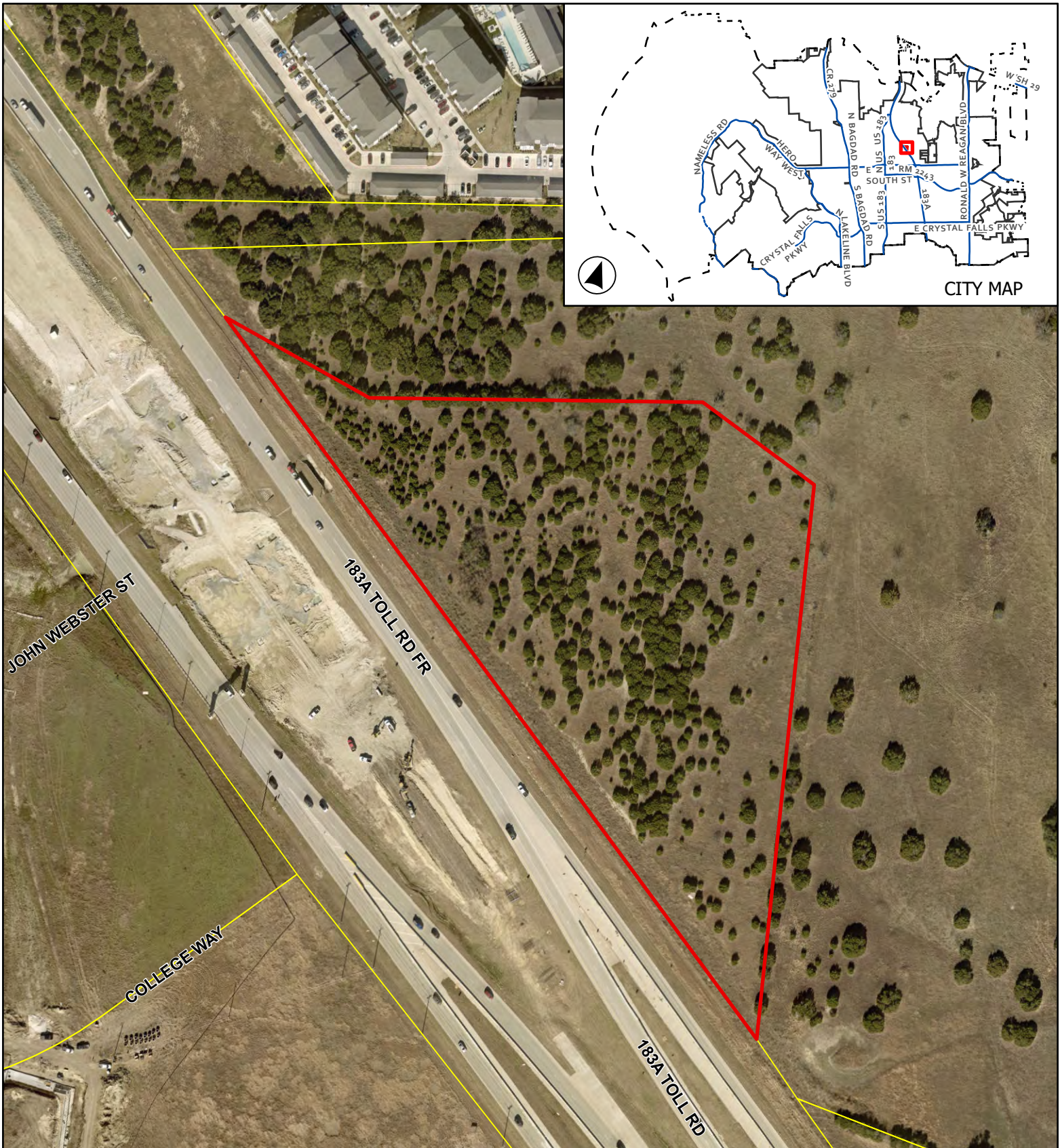
Proposed Zoning

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 | T5 - Urban Center |
| PUD - Single-Family | T6 - Urban Core |
| PUD - Multi-Family | Subject Boundary |
| PUD - General Commercial | Extra-Territorial Jurisdiction |
| Civic Building | |



0 80 160
Feet



CASE: Z-22-0052

ATTACHMENT 6

183A PLAZA
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.



0 85 170



Feet

-  Leander City Limits
-  Subject Boundary

EXHIBIT A

183A Plaza Minor Planned Unit Development

A. Purpose and Intent

1. The 183A Plaza PUD is comprised of approximately 9.61 acres, as shown in **Exhibit B**. The development of this property includes the development of a mixed-use commercial/retail project.

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-3-A (General Commercial)

C. Allowable / Prohibited Uses

1. The allowable uses shall include all those allowed in the GC base district.
2. The following uses shall be prohibited:
 - Animal hospital or animal boarding, including a crematory associated with such use on site, or a crematory associated with a cemetery.
 - Equipment sales, repair and service.
 - Farms or truck gardens, limited to the propagation and cultivation of plants and provided further that no poultry or livestock.
 - Funeral home, including embalming and crematory facilities associated with an on-site funeral home or cemetery.
 - Manufactured housing sales and accessory building sales.
 - Office/warehouse including painting, plumbing or other similar commercial service.
 - Transportation related facilities including commercial parking lots, passenger terminals, taxi cab stations and mass transit terminals.
 - New vehicle and major equipment sales, rental or leasing, repair of new or used vehicles, body shop, except that repair of new or used vehicles and body shops shall be permitted if they are national/regional brands, and no buildings are placed so that garage doors are visible from US 183A.
 - Wholesale activities with less than 3,500 square feet of gross area of the business.

EXHIBIT B

ABRAM DASHNER, RPLS, LLC

TEXAS REGISTERED PROFESSIONAL LAND SURVEYOR 5901

TBPLS FIRM NO. 10194420

rpls5901@gmail.com

512-905-4369

TRACT 2 – 9.614 ACRES
TALBOT CHAMBERS SURVEY, ABSTRACT NO. 125
WILLIAMSON COUNTY, TX

FILE NO. 2021.133
PROJECT: 140-03
DATE: 1/6/2022

DESCRIPTION

TRACT 2: 9.614 ACRES, MORE OR LESS, OUT OF THE TALBOT CHAMBERS SURVEY, ABSTRACT NO. 125 IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 269.836 ACRE TRACT CONVEYED TO RB 270 PARTNERSHIP, BY DEED OF RECORD IN DOCUMENT NO. 2004036768, OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 9.614 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2-inch iron rod found in the north right-of-way line of 183-A Toll Rd. (400' r.o.w.), also being in the east line of said 269.836 acre tract, also being in the west line of that certain 88.30 acre tract conveyed to RFHDAH, LP, by Deed of record in Document No. 2009090590, of said Official Public Records, for the northwesterly corner and **POINT OF BEGINNING** hereof;

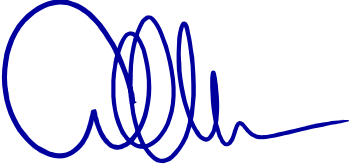
THENCE, leaving said north right-of-way line, along the east line of said 269.836 acre tract, being the west line of said 88.30 acre tract, the following four (4) courses and distances:

1. S80°37'57"E, a distance of 255.42 feet to a 1/2-inch iron rod found, for an angle point;
2. N70°59'51"E, a distance of 540.48 feet to a 1/2-inch iron rod found, for the most northerly corner hereof;
3. S73°01'52"E, a distance of 211.65 feet to a 1/2-inch iron rod found for the northeasterly corner hereof;
4. S12°06'49"E, a distance of 864.04 feet to a 1/2- inch iron rod found in said north right-of-way line, for the most southerly corner hereof;

THENCE, N56°02'49"W, along said north right-of-way line, over and across said 269.836 acre tract, a distance of 1382.53 feet to the **POINT OF BEGINNING**, and containing 9.614 acres (418,778 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.

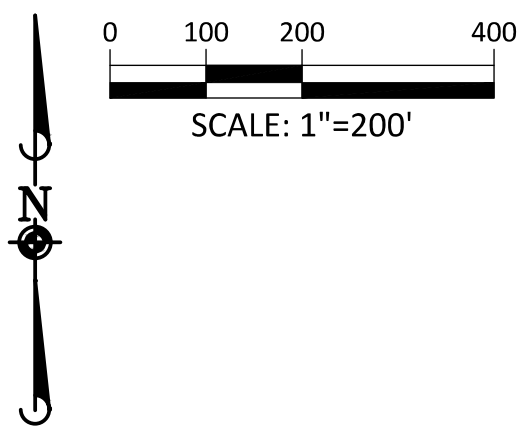
I HEREBY CERTIFY THAT THE ABOVE DESCRIPTION WAS PREPARED BASED UPON A FIELD SURVEY PERFORMED UNDER MY SUPERVISION DURING THE MONTH OF NOVEMBER, 2021, AND IS TRUE AND CORRECT TO THE BEST OF MY ABILITIES.



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



Dwg Name: P:\617.0\5 Shokel Badarpura\005 CR 269 & SH 183A\dwg\Surv\Final Drawings\Exhibits Surv\617.015005 CR 269 Zone Exhibit.dwg Updated By: TYanez 17:27

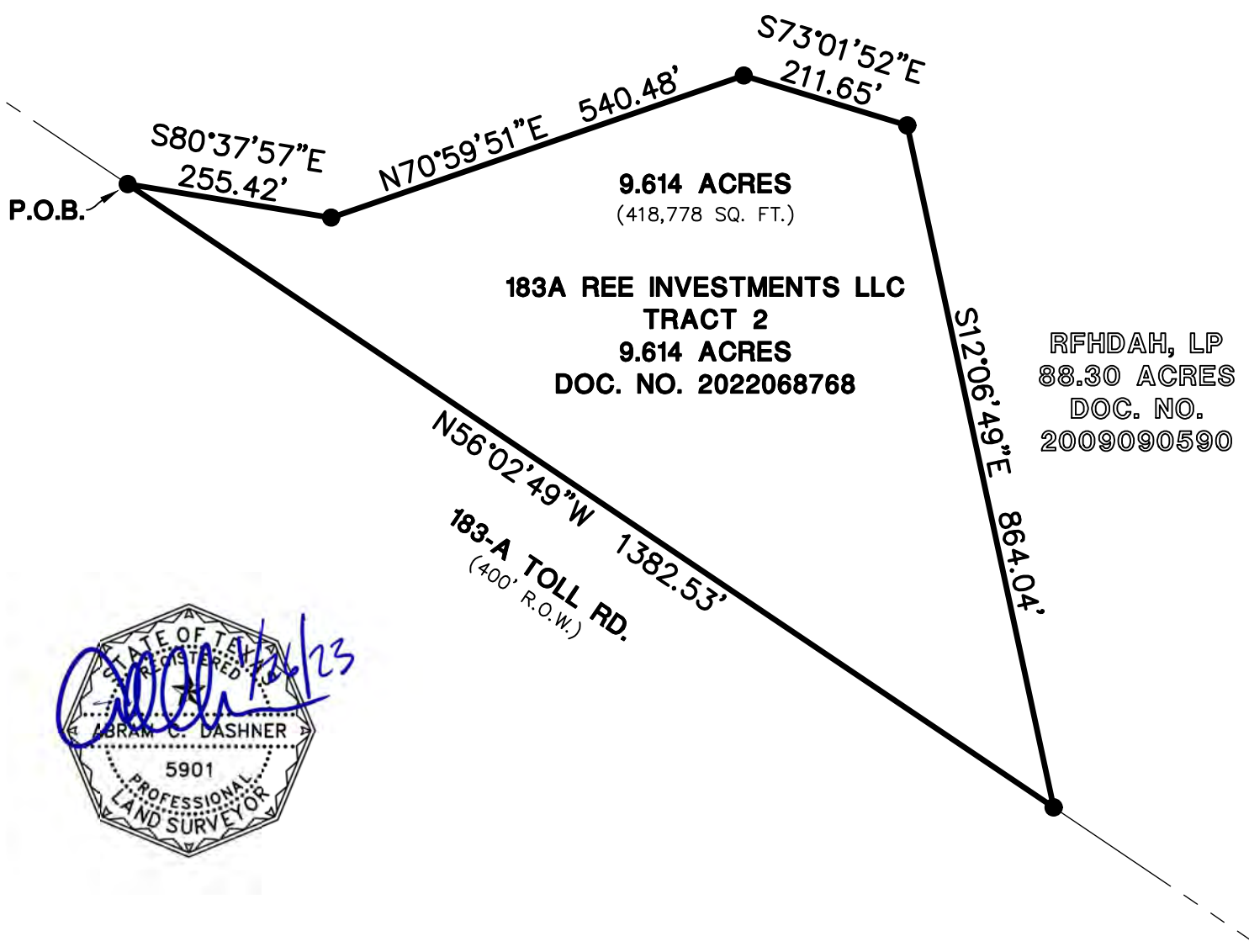


COORDINATES AND BEARINGS ARE BASED UPON THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE (NAD 83)

LEGEND

- P.O.B. = POINT OF BEGINNING
● = FOUND 1/2-INCH IRON ROD (UNLESS OTHERWISE NOTED)

RFHDAH, LP
88.30 ACRES
DOC. NO. 2009090590



RFHDAH, LP
88.30 ACRES
DOC. NO. 2009090590

183A REE INVESTMENTS LLC
TRACT 2
9.614 ACRES
DOC. NO. 2022068768

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6448 E Highway 290, Ste. B-105, Austin, TX 78723 ph:512.244.3395 manhard.com
Civil Engineers | Surveyors | Water Resource Engineers | Water & Waste Water Engineers
Construction Managers | Environmental Scientists | Landscape Architects | Planners
Texas Board of Professional Engineers & Land Surveyors Reg. No. F-10194754 (Surv), F-21732 (Eng)

9.614 Acres - 183A RE Investments LLC - Tract 2
CR 269, LEANDER, Williamson County, TX

Zoning Exhibit

DATE:	DRAWN BY:	SCALE:	FIELD NOTE FILE NO:
01/25/23	T.Y.	1"=300'	2021.133



December 29, 2022

City of Leander
Planning Department
P.O. Box 319
Leander, Texas 78646

**RE: 183A Plaza Minor PUD Application
Letter of Intent
US 183A Toll North, Leander, TX**

The 183A Plaza PUD is a proposed 9.61-acre commercial development with approximately 1,381 feet of frontage on the east side of US 183 Toll North. This application is a Minor PUD to establish a zoning base district. The subject property is surrounded by commercial and multifamily zoned parcels that are either developed or vacant. The subject property is triangular in shape with topography that is flat.

The subject property is currently undeveloped and zoned PUD-TOD-CD. This application is intended to establish a zoning base district of GC-3-C (General Commercial) and is consistent with the city's Comprehensive Plan and FLUM. The Future Land Use is Employment Center.

Attached are the PUD application and all of the requested and required documents shown on the application checklist.

Please feel free to contact our office if you have any questions or need any additional information.

Sincerely,

Richard Mathias

**183A Plaza Minor Planned Unit Development
Neighborhood Outreach Documentation**

There are no residentially zoned properties within 500 feet of the subject property and therefore no outreach sent.

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 183A PLAZA MINOR PUD (PLANNED UNIT DEVELOPMENT) WITH THE BASE ZONING DISTRICT OF GC-3-A (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 9.61 acres, ±; being more particularly described in Exhibit "B"; and identified by tax identification number R461862; more particularly described in Instrument Number 2022068768 recorded in the Official Public Records of Williamson County, Texas.

SECTION 4. Property Rezoned. The Zoning Ordinance is hereby amended by creating the 183A Plaza Minor PUD (Planned Unit Development) with the base zoning district of GC-3-A (General 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 6th day of April, 2023.
FINALLY PASSED AND APPROVED on this the 20th day of April, 2023.

ATTEST:

THE CITY OF LEANDER, TEXAS:

Dara Crabtree, City Secretary

Christine DeLisle, Mayor



**MINUTES
PLANNING & ZONING COMMISSION
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas

March 9, 2023 at 6:00 PM



Place 1 – Donnie Mahan, *Chair*
Place 2 – John Cosgrove
Place 3 – Ron May
Place 4 – Deirdre Moss

Place 5 – James Oliver
Place 6 – Laura Lantrip, *Vice-Chair*
Place 7 – Rick Carpenter

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

1. Call to Order at 6:00 p.m.
2. Roll Call.
All Commissioners were present.
3. Director's report to the Planning & Zoning Commission on actions taken by the City Council at the March 2, 2023 meeting.
4. Review of meeting protocol.
5. Citizen Comments: Three (3) minutes allowed per speaker.

Carlos St. James
Spoke in favor of Parkland Dedication Fees.

CONSENT AGENDA: ACTION

6. Approval of Subdivision Case FP-22-0035 regarding Cantwell Tract Final Plat on one parcel of land approximately 2.249 acres ± in size, more particularly described by Williamson Central Appraisal District Parcel R553026; more commonly known as 10743 E Crystal Falls Pkwy, Leander, Williamson County, Texas.
7. Approval of Minutes.

Motion made by Commissioner James Oliver to approve the Consent Agenda Items 6 and 7, seconded by Commissioner Ron May.

AYE: Chair John Cosgrove, Commissioner Deirdre Moss, Commissioner Laura Lantrip,
Commissioner Rick Carpenter, Commissioner James Oliver, Commissioner Ron May,
Vice Chair Donnie Mahan

7 - 0 Passed

PUBLIC HEARING: ACTION

8. Conduct a Public Hearing regarding Zoning Case Z-22-0052 to amend the current zoning of PUD/TOD-CD (Planned Unit Development/Transit Oriented Development – Conventional Development Sector) to adopt the 183A Plaza Minor PUD (Planned Unit Development) with a base zoning district of GC-3-A (General Commercial) on one parcel of land approximately 9.61 acres ± in size, more particularly described by Williamson Central Appraisal District parcel R461862; and generally located approximately 700 feet southeast of the intersection of 183A Toll Road and Aven Way, Leander, Williamson County, Texas.

- Discuss and consider action regarding Zoning Case Z-22-0052 as described above.

Motion made by Vice Chair Laura Landtrip, seconded by Commissioner Deidre Moss to approve the zoning request.

AYE: Chair John Cosgrove, Commissioner Deirdre Moss, Commissioner Laura Lantrip,
Commissioner Rick Carpenter, Commissioner James Oliver, Commissioner Ron May,
Vice Chair Donnie Mahan

7 - 0 Passed

REGULAR AGENDA

9. Discuss and consider action on Tree Removal Case TRP-22-0011 regarding removal of a two Significant Trees associated with the Prime Office Warehouse Site Development Project located at 15901 Ronald Reagan Blvd., Leander, Williamson County, Texas.

Motion made by Commissioner James Oliver, seconded by Commissioner Ron May to approve the Tree Removal Permit.

AYE: Chair John Cosgrove, Commissioner Rick Carpenter, Commissioner James Oliver,
Commissioner Ron May, Vice Chair Donnie Mahan

NAY: Commissioner Deirdre Moss, Commissioner Laura Lantrip

5 - 2 Passed

10. Adjournment at 6:24 p.m.

APPROVED:

CHAIRMAN COSGROVE

ATTEST:

ELLEN COUFAL
PLANNING & ZONING COMMISSION SECRETARY



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Conduct a Public Hearing regarding Subdivision Case CP-22-0013 to adopt the LC Hero Way Concept Plan on two (2) parcels of land approximately 21.86 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R031600 & R457677; generally located to the northwest of the intersection of Hero Way and Main Street, Leander, Williamson County, Texas.

- Discuss and consider action regarding Subdivision Case CP-22-0013 as described above.

BACKGROUND:

This request is the first step in the subdivision process. The City Council previously approved this concept plan on December 2, 2021. The applicant has proposed changes to the concept plan to include removing the following warrants:

1. The maximum building setback along Hero Way per SmartCode, Table 7E, is twelve (12') feet at the primary frontage. The previous concept plan included increasing the building setback to eighty (80') feet due to sites topography and location of detention and water quality pond.
2. The previous concept plan allowed for limited parking to be placed in the 2nd layer of the mixed use block at the northwest corner of Main Street and Hero Way.
3. The previous concept plan included a waiver to the minimum eighty (80%) percent frontage buildout for the northeast block of the site.

The proposal includes 15.84 acres of Multi-Family a reduction from 17.99 acres previously approved, 2.35 acres of mixed use to be ninety (90%) percent commercial, a reduction in area from 2.57 acres, and an increase in civic space from 1.3 acres to 3.31 acres.

The applicant is proposing to create updated street thoroughfares for this project. This request is permitted as a warrant through the SmartCode. Below, please find the proposal and the update street sections which are part of the agenda back up materials. Below, please find the additional warrants:

1. Permit the Creation of thoroughfare assembly types CS-68-46 and RA-32-32
 - a. CS-68-46 to allow wider sidewalks and public on street diagonal parking for commercial uses. The 4x4 tree well will be modified to allow for a four (4)-foot continuous planter to promote greater tree viability.
 - b. RA-32-32 to allow an alley type thoroughfare which includes an eight (8')- foot parking lane on one side of the alley to act as a buffer between the development and the railroad.
 - c. Applicant request private streets to qualify as roads creating blocks. This would allow private streets throughout the site, aside from East Street which is a required collector per the Transportation Master Plan.
2. Permit a structure to cover a stoop along private frontages no deeper than seven (7') feet to allow variation in building design at the pedestrian level and safety from the elements.

Staff recommends approval of the concept plan with the above referenced warrants concurrent with this application.

HISTORY/TIMELINE:

11/06/2002 – Annexation of northern portion
03/16/2005 – Annexation of southern portion
09/22/2005 – Zoning Approved (Leander Station PUD)
12/02/2021 – Concept Plan Approved.
02/23/2023 – Concept Plan Amendment 1st discussed at P&Z.
03/23/2023 – Planning & Zoning Commission, 1st Public Hearing

APPLICANT/AGENT:

Drenner Group (Leah Bojo) on behalf of LC Leander, LLC (T. Robert Brownlee).

RECOMMENDATION:

The Planning & Zoning Commission unanimously recommended approval of the request during the March 23, 2023 agenda.

PRESENTER:

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

Attachments

1. Concept Plan
2. Location Exhibit
3. P&Z Draft Minutes

OWNER:

CIVIL ENGINEER:
WANTMAN GROUP, INC
2021 E. 5TH STREET, SUITE 20
AUSTIN, TX 78702
(512) 669-5560
CONTACT: IAN WILLIAMS

DEVELOPER:
LIFESTYLE COMMUNITIES, LLC
230 WEST STREET, SUITE 200
COLUMBUS, OH 43215
(512) 987-3805
CONTACT: JUSTIN SCOTT

LEANDER CENTRAL:
TRANSIT SUPPORTIVE MIXED USE
PER FUTURE LAND USE MAP
NUMBER OF UNITS: 430

LOT	AREA (AC)	PROPOSED USE
1	15.84	MULTIFAMILY
1	3.31	CIVIC SPACE
1	2.35	MIXED USE
TOTAL	21.49	-

NOTE:
TOTAL LOT ACREAGE INCLUDES A SECTION OF EAST STREET ROW.
THIS ACREAGE IS BASED ON TITLE SURVEY PERFORMED BY 4WARD LAND SURVEYING, LLC (PROJECT #: 00934)

THOROUGHFARES; PERMIT THE CREATION OF THOROUGHFARE ASSEMBLY TYPES CS-68-46 AND RA-32-32 AS REQUESTED. (CHAPTER 3.2.I)

1.1. THOROUGHFARE ASSEMBLY "CS-68-46" IS A HYBRID COMMERCIAL STREET AND STREET TYPE THOROUGHFARE WITH AN OVERALL RIGHT OF WAY WIDTH OF 68 FEET, AND A PAVEMENT WIDTH OF 48 FEET. THE CROSS-SECTION IS SHOWN IN THE "THOROUGHFARE ASSEMBLIES LAYOUT" EXHIBIT.

1.1.1. THE INTENT OF THIS THOROUGHFARE IS BASED ON ASSEMBLY CS-80-54. THE 4X4 TREE WELL WOULD BE MODIFIED TO A 4-FOOT CONTINUOUS PLANTER TO ALLOW FOR LARGER SOIL VOLUMES THAT PROMOTE GREATER TREE VIABILITY AND DIAGONAL PARKING WOULD BE HEAD-IN PARKING WITH A 12-FOOT TRAVEL LANE.

1.1.2. THIS THOROUGHFARE ASSEMBLY AT THE CENTERLINE MEETS THE INTENT OF THE SMARTCODE BY PROVIDING WIDER SIDEWALKS AND PUBLIC ON-STREET DIAGONAL PARKING FOR THE COMMERCIAL USES ON THE EAST SIDE AND NEARBY CIVIC SPACE AND PROVIDES SIDEWALK WIDTHS AND PUBLIC PARALLEL PARKING FOR THE ADJACENT RESIDENTIAL USES ON THE WEST SIDE OF THE STREET, AS WELL AS CONSISTENTLY SCALED PLANTERS ON EACH SIDE OF THE THOROUGHFARE.

1.2. THOROUGHFARE ASSEMBLY "RA-32-32" IS A MODIFICATION OF ALLEY TYPE THOROUGHFARE RA-24-24 WITH AN OVERALL RIGHT OF WAY WIDTH OF 32 FEET, AND A PAVEMENT WIDTH OF 32 FEET. THE CROSS-SECTION IS SHOWN IN THE "THOROUGHFARE ASSEMBLIES LAYOUT" EXHIBIT.

1.2.1. THE MODIFICATION OF THE THOROUGHFARE TYPE IS TO ALLOW FOR AN 8-FOOT MARKED PARKING LANE ON ONE SIDE OF THE ALLEY. THE ADDITION OF PARKING LANE INCREASES THE BUFFER OF RESIDENTIAL STRUCTURES TO THE ADJACENT PARKING, RAILROAD, AND BACK OF HOUSE COMMERCIAL ACTIVITIES TO THE NORTH, WEST AND SOUTH OF BLOCK F.

1.2.2. THE LOCATION OF THE REAR ALLEY ALONG THE PERIMETER OF BLOCK F MAINTAINS THE INTENT OF INTERCONNECTED AND GRID-LIKE THOROUGHFARE NETWORKS WITHIN THE LEANDER SMARTCODE, WHILE PROVIDING RESIDENTS AND VISITORS IN CLOSE PROXIMITY TO OPEN SPACE WITHIN THE BLOCK.

1.3. THE INTERIOR DRIVES WITHIN THE PROJECT WILL COMPLY WITH THE SMARTCODE TO CREATE A "GRID" WITHIN THE PROPERTY THAT WILL NOT BE GATED SO AS TO PROVIDE CONNECTIVITY THROUGH THE PROPERTY.

2. PRIVATE FRONTAGES: PERMIT THAT A STRUCTURE MAY COVER A STOOP NO DEEPER THAN 7 FEET ALONG THE PRIVATE FRONTAGES IN BLOCKS A, C AND F. (TABLE 6C.E)

2.1. THE ADDITION OF STRUCTURES OVER THE STOOPS IN THE IDENTIFIED BLOCKS WILL ALLOW FOR A VARIATION IN BUILDING DESIGN THROUGHOUT THE PROJECT AND WILL REINFORCE THE INTENT THE SMARTCODE TO PROVIDE A SAFE ENVIRONMENT FOR ALL OF PROVIDING SPACES FOR RESIDENTS TO GATHER ALONG PRIVATE FRONTAGES ENCOURAGING SAFETY THROUGH EYES ON THE STREET.

PROJECT NUMBER: 22-TOD-CP-013
FILING DATE: 08/09/2022



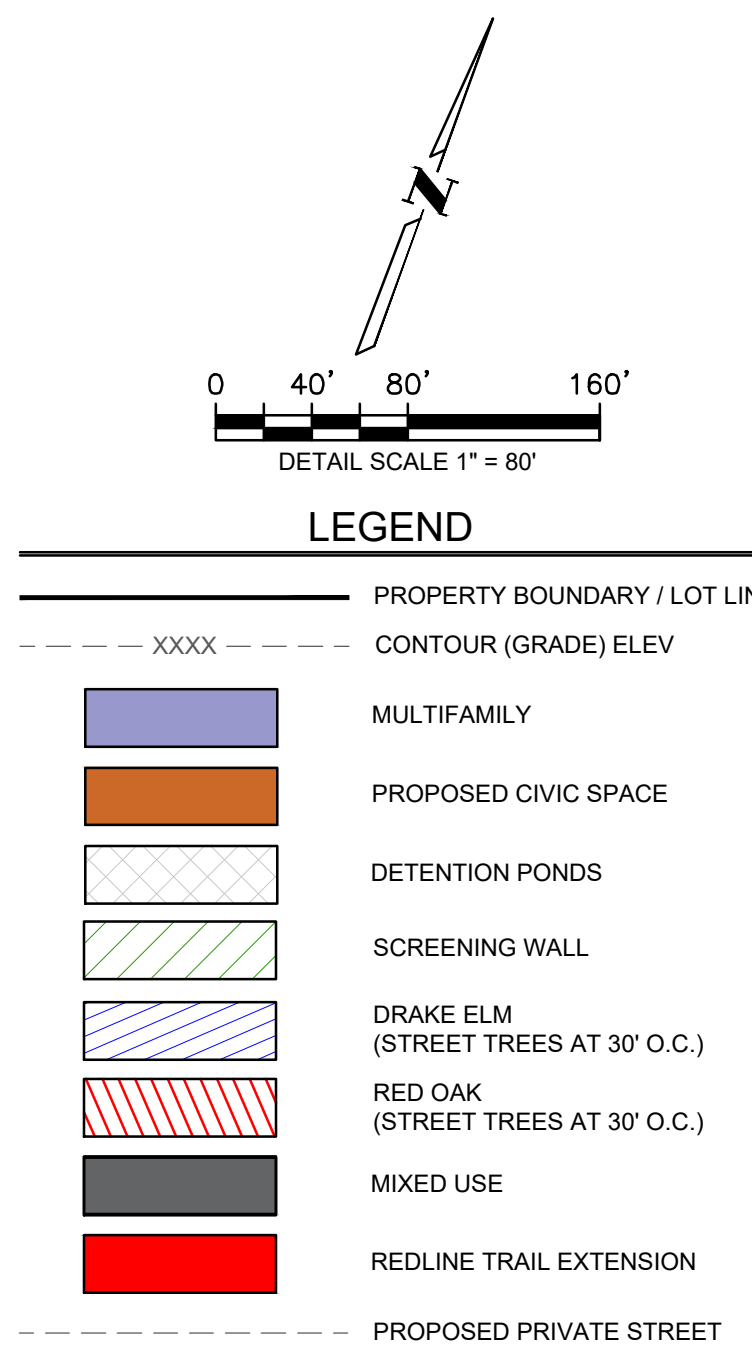
ABSTRACT NO. 125, WILLIAMSON COUNTY, TEXAS, AND BEING A PART OF LOT 2, SAN GABRIEL PARK, A SUBDIVISION IN WILLIAMSON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET Y, SLIDE 364 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS (O.P.R.W.C.).

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WAS ACUTALLY MADE UPON THE GROUND UNDER MY DIRECTION AND SUPERVISION ON 2/25/2021.

JASON WARD, RPLS #5811
4WARD LAND SURVEYING, LLC
PO BOX 90876
AUSTIN, TX 78709
537-8384
TBPLS FIRM NO. 10174300

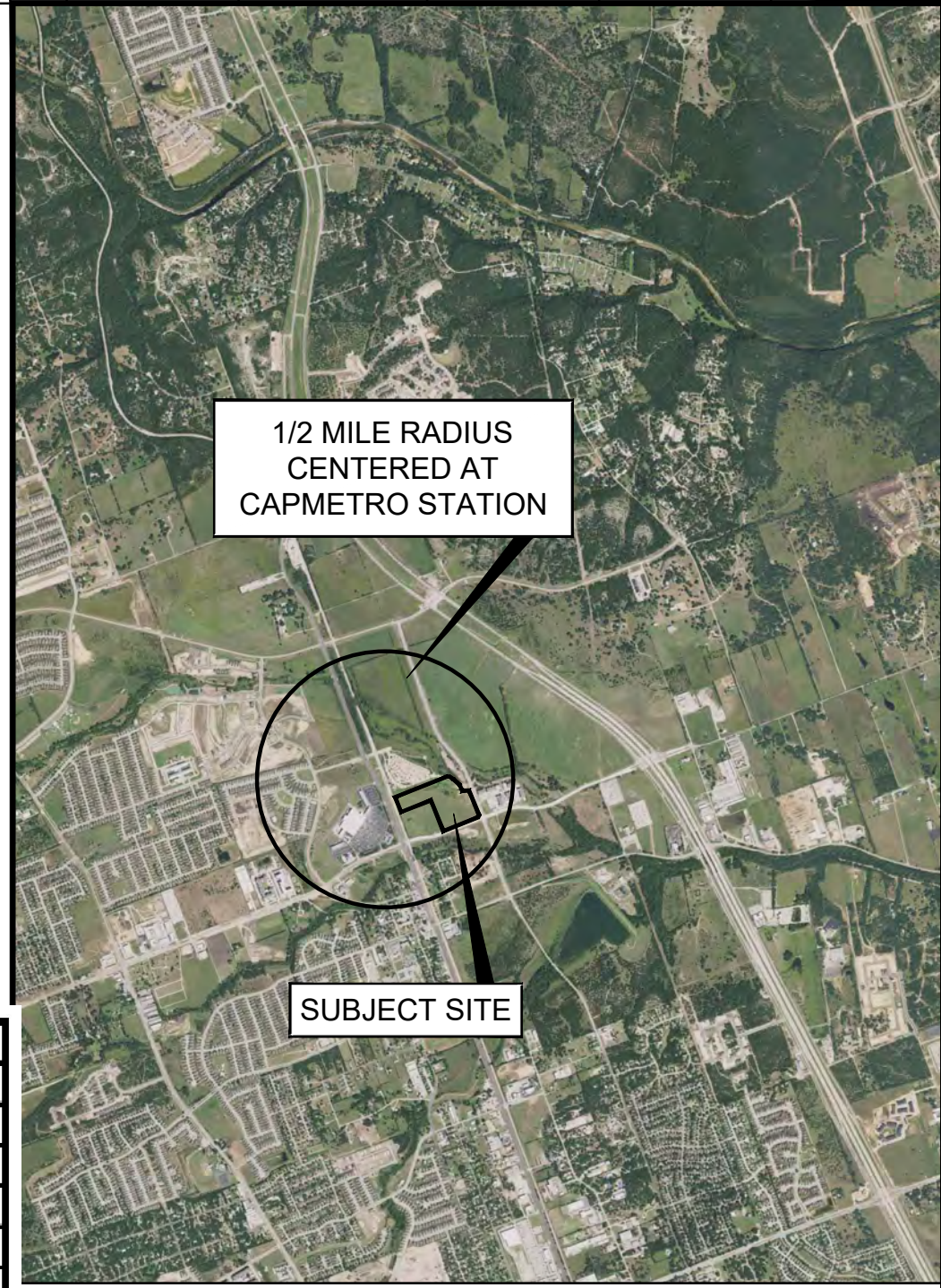
SHEET INDEX	
Sheet Number	SHEET TITLE
1	COVER SHEET
2	CONCEPT PLAN
3	PARKS PLAN
4	THROUGHFARE ASSEMBLIES LAYOUT
5	CONCEPTUAL RENDERING

01	SHEET	OF	05
PROJECT: LC HERO WAY CONCEPT PLAN & PLAT NW CORNER OF HERO WAY AND MAIN STREET, LEANDER, WILLIAMSON COUNTY, TEXAS 78641		FIRM NO. F-16085 512.669.5600  WGInc.com 2021 EAST 5TH STREET, SUITE 200 AUSTIN, TEXAS 78702	
SHEET TITLE: COVER SHEET		1 6/3/2022 NO. DATE UPDATE CONCEPT PLAN DESCRIPTION	
		BY	



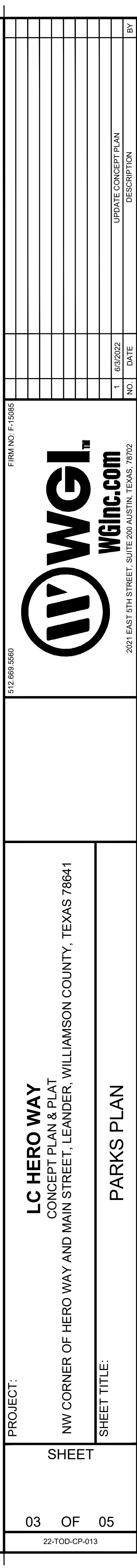
Site Data Table	
MULTIFAMILY AREA (AC)	15.840
TOTAL UNITS	430
UNITS/ACRE	28

LOT	AREA (AC)	PROPOSED USE	PHASING	DAILY TRAFFIC VOLUME	TRANSECT	LUES
1	15.84	MULTIFAMILY	PHASE 1 (2022)	3904	T-6	245
1	2.35	MIXED USE	PHASE 1 (2022)	302	T-6	11
					TOTAL	357

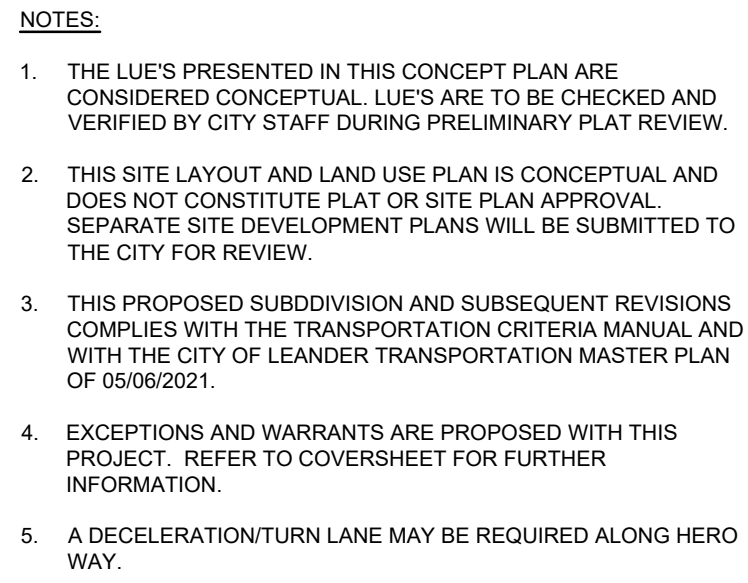


Adjacent Properties		
County Number	Owner	Owner Address
R457676	CAPITAL METRO TRANSPORTATION AUTH	2910 E 5TH ST AUSTIN, TX 78702
R518894	CITY OF LEANDER	PO BOX 319 LEANDER, TX 78646
R538086	HERO WAY TRUST	7887 SAN FELIPE ST STE 237 HOUSTON, TX 77063
R538087	TRANSIT VILLAGE INVESTMENTS LTD	2216 WESTLAKE DR #5TE 300 AUSTIN, TX 78746
R566425	NORTHLINE LEANDER DEVELOPMENT COMPANY LLC	3305 BOWMAN AVE AUSTIN, TX 78703
R568060	AUSTIN COMMUNTY COLLEGE DISTRICT	5930 MIDDLE FISKVILE RD, AUSTIN, TX 78752
R606492	TRANSIT VILLAGE INVESTMENTS LTD	2215 WESTLAKE DR #5TE 300 AUSTIN, TX 78746
R619565	HW MEDICAL OFFICE INVESTORS LP	1301 CAPITAL OF TEXAS HWY STE C110 AUSTIN, TX 78746
R619566	HERO WAY PARTNERS LP	1301 CAPITAL OF TEXAS HWY STE C110 AUSTIN, TX 78746
R619567	TRANSIT VILLAGE INVESTMENTS LTD	2215 WESTLAKE DR #5TE 300 AUSTIN, TX 78746

FILE NAME: 30104487.00 - CS-100 CONCEPT PLAN DWG
LAST MODIFIED BY: THOMAS LOMBARDI
LAST MODIFIED ON: 10/17/2019 3:28:09 PM
PLOTTED BY: THOMAS LOMBARDI
PLOTTED ON: 9/22/2019 7:46:50 PM
PLOTTED WITH: DWG TO PDF PC3
PLOT SCALE: 1"=10'-0" (30.48 CM)



FILE NAME: 30794487.00 - CS100 CONCEPT PLAN DWG
LAST MODIFIED BY: THOMAS LOMBARDI
LAST MODIFIED ON: 10/17/2018 3:25:18 PM
PLOTTED BY: THOMAS LOMBARDI
PLOTTED ON: 9/22/2019 7:46:30 PM
PLOTTED WITH: DWG TO PDF PC3
PLANKBY: C:\USERS\ADMINISTRATOR\...



BLOCK	PRINCIPLE STREET
A	MAIN ST (MEL MATHIS)
B	MAIN ST (MEL MATHIS)
C	PRIVATE STREET D
D	PRIVATE STREET D
E	PRIVATE STREET D
F	EAST STREET

PROJECT: **LC HERO WAY**
CONCEPT PLAN & PLAT
NW CORNER OF HERO WAY AND MAIN STREET, LEANDER, WILLIAMSON COUNTY, TEXAS 78641

SHEET TITLE: **THOROUGHFARE ASSEMBLIES LAYOUT**

SHEET
04 OF 05
22-TOD-CP-013

[illegible]

30

FIRM NO. F-15085

 **WGL™**
WGLinc.com

2021 EAST 8TH STREET SUITE 200 AUSTIN TEXAS 78702

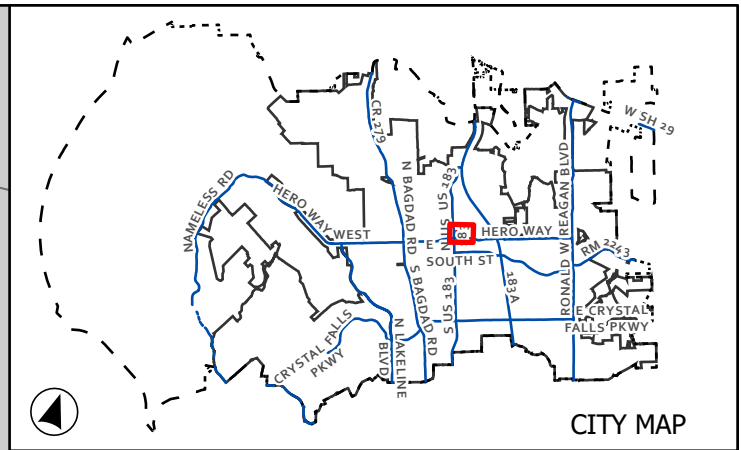
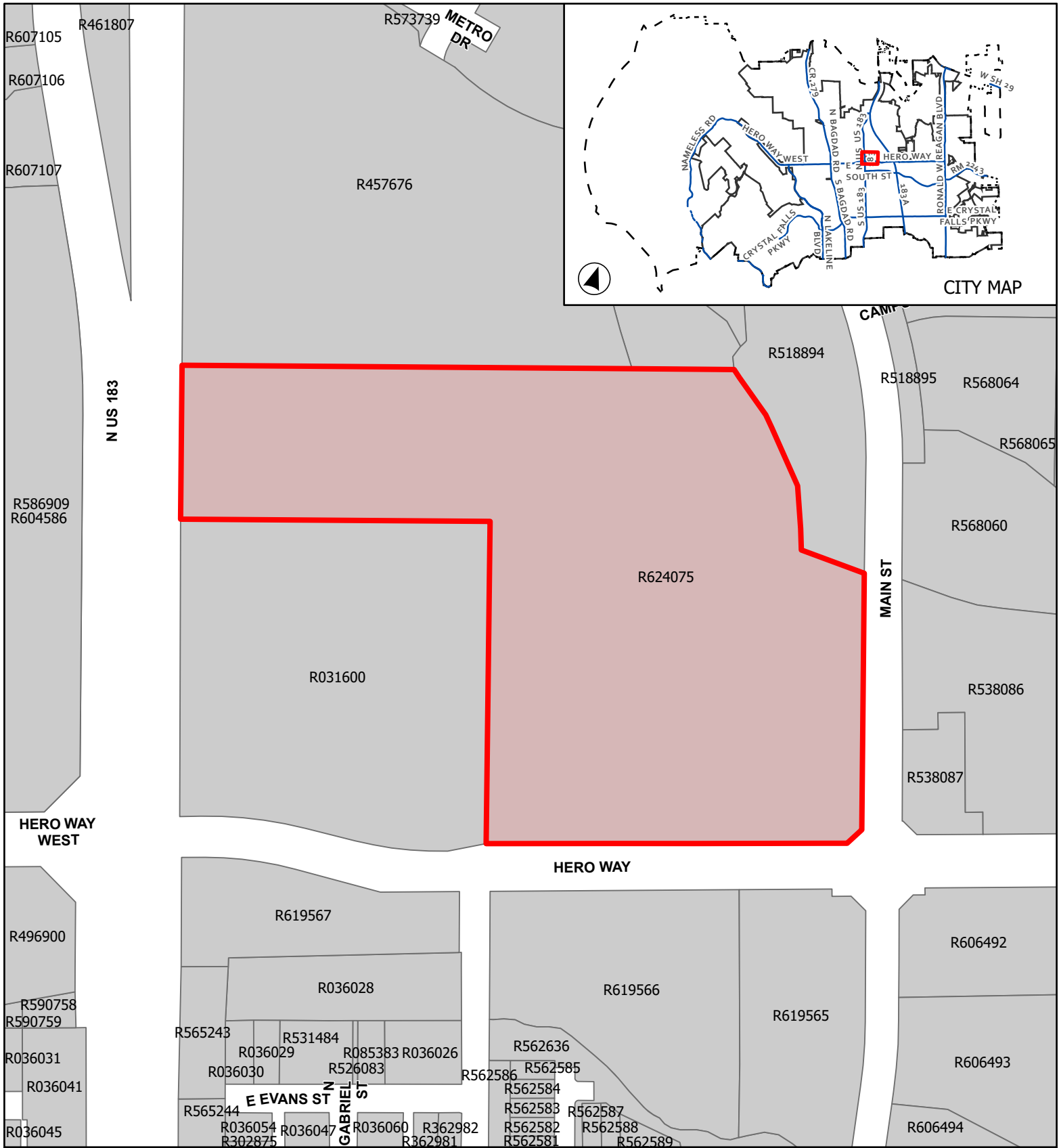


EXISTING



PROPOSED





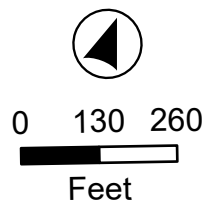
CASE: CP-22-0013

ATTACHMENT 2

LC HERO WAY

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
- Subject Boundary
- ETJ Boundary



**MINUTES
PLANNING & ZONING COMMISSION
CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street - Leander, Texas

March 23, 2023 at 6:00 PM



Place 1 – Donnie Mahan, *Chair*
Place 2 – John Cosgrove
Place 3 – Ron May
Place 4 – Deirdre Moss

Place 5 – James Oliver
Place 6 – Laura Lantrip, *Vice-Chair*
Place 7 – Rick Carpenter

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

1. Call to Order at 6:00 p.m.

2. Roll Call.

All Commissioners were present.

3. Director's report to the Planning & Zoning Commission on actions taken by the City Council at the March 16, 2023 meeting.

4. Review of meeting protocol.

5. Citizen Comments: Three (3) minutes allowed per speaker.
[Please turn in speaker request form before the meeting begins.]

6. *[Scriveners' error: this consent agenda item appeared before the header box. Announced in meeting it was a part of the consent agenda and voted on with the consent agenda.]*

Approval of Subdivision Case PP-21-0007 regarding Hawkes Landing North Phase 1 Preliminary Plat on one parcel of land approximately 49.94 acres ± in size, more particularly described by Williamson Central Appraisal District R616492; generally located to the west of the intersection of N. Bagdad Road and Halsey Drive, Leander, Williamson County, Texas.

CONSENT AGENDA: ACTION

7. Motion made by Vice Chair Lantrip to pull the draft 3/9/2023 P & Z Minutes from the consent agenda for discussion.

Motion made by Commissioner May to approve consent agenda Item #6, second by Commissioner Oliver.

7-0

Approval of Minutes.

Vice Chair Lantrip commented on items 7, 8 & 9 of the 3/9/2023 draft P & Z agenda which showed the previous Chair and Vice Chair titles which needed to be updated.

Motion made by Vice Chair Lantrip to approve the 3/9/2023 P & Z Minutes with corrections, seconded by Commissioner Moss.

7- 0

PUBLIC HEARING: ACTION

8. Conduct a Public Hearing regarding Subdivision Case CP-22-0013 to adopt the LC Hero Way Concept Plan on two parcels of land approximately 21.86 acres ± in size, more particularly described by Williamson Central Appraisal District Parcels R031600 & R457677; generally located to the northwest of the intersection of Hero Way and Main Street, Leander, Williamson County, Texas.

- Discuss and consider action regarding Subdivision Case CP-22-0013 as described above.

Motion made by Vice Chair Laura Lantrip, seconded by Commissioner James Oliver to approve the Concept Plan with the warrants.

AYE: Commissioner John Cosgrove, Commissioner Deirdre Moss, Vice Chair Laura Lantrip, Commissioner Rick Carpenter, Chair Donnie Mahan, Commissioner James Oliver, Commissioner Ron May

7 - 0 Passed

9. Conduct a Public Hearing and consider action on Subdivision Case FP-22-0020 and Variance Case VA-22-0008 to approve the Freehill Addition Short Form Final Plat and Variance on one parcel of land approximately 16.85 acres ± in size, more particularly described by Williamson County Central Appraisal District Parcel R327784; approximately 1,000 feet to the west of the intersection of W Broade Street and Hero Way West on the south side of Hero Way West, Leander, Williamson County, Texas.

- Discuss and consider action on Subdivision Case FP-22-0020 and Variance Case VA-22-0008 as described above.

Rick Bickling did not speak, just had his question read into the record.

Motion made by Vice Chair Laura Lantrip, seconded by Commissioner John Cosgrove to approve the Short Form Plat and Variance.

AYE: Commissioner John Cosgrove, Commissioner Deirdre Moss, Vice Chair Laura Lantrip, Commissioner Rick Carpenter, Chair Donnie Mahan, Commissioner James Oliver, Commissioner Ron May

7 - 0 Passed

10. Conduct a Public Hearing and consider action on Subdivision Case FP-22-0033 and Variance Case VA-22-0009 to approve the Live Oak Ranch, Lot 19 Replat Short Form Final Plat and Variance on one parcel of land approximately 8.54 acres $\pm$ in size, more particularly described by Williamson County Central Appraisal District Parcel R023978; generally located at 1304 Spivey Road, Leander, Williamson County, Texas.
- Discuss and consider action on Subdivision Case FP-22-0033 and Variance Case VA-22-0009 as described above.

Motion made by Commissioner James Oliver, seconded by Commissioner Deirdre Moss to approve the Short Form Plat and Variance.

AYE: Commissioner John Cosgrove, Commissioner Deirdre Moss, Vice Chair Laura Lantrip, Commissioner Rick Carpenter, Chair Donnie Mahan, Commissioner James Oliver, Commissioner Ron May

7 - 0 Passed

11. Conduct a Public Hearing and consider action regarding Zoning Case Z-22-0001 to amend the current zoning of SFT-2-B (Single-Family Townhouses) to adopt the Hero Way Townhouses PUD (Planned Unit Development) with the base zoning district of SFT-2-A (Single-Family Townhouses) on two parcels of land approximately 5.58 acres $\pm$ in size, more particularly described by Williamson Central Appraisal District Parcels R031386 and R031387; and more commonly known as 11675 Hero Way West, Leander, Williamson County, Texas.
- Discuss and consider action regarding Zoning Case Z-22-001 as described above.
- Kat Howell had concerns.

Motion made by Commissioner Rick Carpenter, seconded by Commissioner James Oliver to approve the Zoning request with the condition that they build an 8 foot masonry wall between the townhouses and the cemetery.

Commissioner Carpenter withdrew his motion.

Motion made by Commissioner Rick Carpenter, seconded by Commissioner Ron May to approve the Zoning request with the condition that they build an 8 foot masonry wall comprised of brick, stone, or stucco between the townhouses and the cemetery.

AYE: Commissioner Deirdre Moss, Vice Chair Laura Lantrip, Commissioner Rick Carpenter, Chair Donnie Mahan, Commissioner James Oliver, Commissioner Ron May

NAY: Commissioner John Cosgrove

6 - 1 Passed

REGULAR AGENDA

12. Adjournment at 6:41 p.m.

APPROVED:

CHAIRMAN COSGROVE

ATTEST:

VERONICA TOVAR
PLANNING & ZONING COMMISSION SECRETARY



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Discuss the dissolution of the Leander Library Foundation.

BACKGROUND:

The Leander Library Foundation was incorporated in 2009 for the purpose of promoting reading and literacy and raising funds for the benefit of City of Leander public library services. The bylaws of the Leander Library Foundation vested the ability to appoint and remove the directors of the Foundation to the City Council of the City of Leander and made the actions of the Foundation subject to various statutory requirements of the Texas Local Government Code.

The Leander Library Foundation seeks to dissolve the Foundation so that they may pursue more robust fundraising activities. Due to the entanglement of Foundation bylaws and articles of incorporation with the City of Leander, the Foundation also is requesting permission from the City of Leander to dissolve. This action is being taken due to the City Council currently appoints the Board of Directors.

All the funds held by the City of Leander for the Leander Library Foundation were expended in fiscal year 2022. Assets of the Leander Library Foundation, consisting of donated books to the used bookstore located at the Leander Public Library facility, will be transferred to the City of Leander as part of winding up the Leander Library Foundation affairs.

The Board has been talking through the process and what they need to do to form their own Foundation for the past 10 months. They are requesting ninety (90) days to finalize their paperwork and update their financial accounts. The City is recommending sixty (60) days. At Foundation's January meeting, Eric Lashley, Executive Director of Central Texas Library System and Deron Henry from the city attorney's office met with the Foundation to advise them of the process in creating their own Foundation as well as the next steps. Staff has confirmed with the city attorney's office, that the City taking action to dissolve the Foundation has no impact on the creation of the new Foundation or their financial records.

PRESENTER:

Mark Tummons, Parks and Recreation Director



EXECUTIVE SUMMARY

04/06/2023

AGENDA SUBJECT:

Discuss and consider action on a Resolution supporting the City of Leander's request to U.S. Representative John Carter to receive Community Project Funding assistance for Community Oriented Policing Services (COPS) Technology & Equipment projects.

BACKGROUND:

The City of Leander is requesting \$236,000.00 in Fiscal Year 2024 for Federal Community Project Funding assistance within the category of "Community Oriented Policing Services (COPS) Technology and Equipment" for projects supporting Leander Police Department operations.

The House Committee on Appropriations announced that it will accept Community Project Funding (CPF) requests from members of the House of Representatives, and Leander is within U.S. Rep. John Carter's congressional district. Members may request funding for specific projects in their communities, as long as the projects have a federal nexus and meet other requirements established by federal law, House Rules, and the Committee.

COPS Technology and Equipment projects support state, local, and Tribal law enforcement efforts to develop and procure the technology and equipment needed to respond more quickly and effectively improve officer safety, increase transparency and enhance community relations. Funding must be aligned with the purposes of section 1701(b)(8) of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10381(b)(8)).

- Approximately \$175,000.00 is requested to purchase a Dispatch Radio Console to facilitate emergency dispatching of public safety resources. The purpose of this request is to expand the capabilities of the City's emergency communications division, which will allow Leander Police Department to improve public safety operations for a rapidly growing population.

After recent improvements to the Leander Police Department communications center, the facility can now support up to four (4) workstations. However, only three (3) workstations are fully equipped. Funding for an additional Dispatch Radio Console will provide the equipment needed to outfit the City's emergency communications center with four (4) functional workstations.

- Approximately \$50,000.00 is requested to purchase License Plate Recognition Cameras in support of police investigations. These specialty cameras will give investigators real-time information about vehicles moving around the city, which will assist officers from all police divisions with investigation of criminal activity occurring within or around our community. If acquired, cameras could be strategically placed near high-traffic intersections or areas of known criminal activity.
- Approximately \$11,000.00 is requested to purchase a Forensic Computer Workstation in support of police detective work involving analysis of data collected from mobile phones, tablets, and similar devices used to gather information for ongoing police investigations. This purchase will replace an older computer workstation with an expiring maintenance life. Since more and more pertinent data is stored and shared on personal technology devices, this type of equipment is becoming a critical resource for community law enforcement officials to use in the prevention and prosecution of crime.

If awarded, the above described technology and equipment will be purchased sometime in fiscal year 2024, which starts October 1, 2023, and ends September 30, 2024.

PRESENTER:

Mike Neu, Chief of Staff

Attachments

1. Resolution

A RESOLUTION OF THE CITY OF LEANDER, TEXAS

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, IN SUPPORT OF “COMMUNITY PROJECT FUNDING” ASSISTANCE AUTHORIZED BY THE U.S. CONGRESS FOR THE PURCHASE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) TECHNOLOGY & EQUIPMENT IN FISCAL YEAR 2024.

WHEREAS, to meet urgent needs of communities across the United States, the House Appropriations Committee has invited Members of Congress to request funding for projects in their communities; and

WHEREAS, to build upon the successful return of earmarks in fiscal year 2023 via the Community Project Funding (CPF) process, members of Congress in fiscal year 2024 will again solicit requests for earmarks to support specific community projects as part of the annual appropriations process; and

WHEREAS, the City of Leander is responsible for law enforcement within its jurisdiction, and COPS Technology and Equipment projects support local law enforcement efforts to develop and procure the technology and equipment needed to respond more quickly and effectively, improve officer safety, increase transparency, and enhance community relations; and

WHEREAS, requested CPF funding in the amount of \$236,000 would enable the City of Leander to purchase technology and equipment in support of Leander Police Department operations within its Communications and Criminal Investigation divisions.

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

Leander City Council hereby supports the request for \$236,000 in CPF funding assistance for the purchase of a Dispatch Radio Console, License Plate Recognition Cameras, and a Forensic Computer Workstation in support of Leander Police Department operations within its Communications and Criminal Investigation divisions.

PASSED AND APPROVED on this the ____ day of _____, 2023, at a regular meeting of the City Council of the City of Leander, Texas.

APPROVED:

Christine DeLisle, Mayor

ATTEST:

Dara Crabtree, City Secretary



EXECUTIVE SUMMARY
04/06/2023

AGENDA SUBJECT:

Discuss and consider action on an agreement to terminate an Interlocal Agreement by and between the Brushy Creek Regional Utility Authority and City of Leander regarding water treatment plant superintendent and operator services.

BACKGROUND:

On April 20, 2011 BCRUA entered into an Interlocal Agreement (ILA) with the City of Leander to employ the Water Treatment Plant Superintendent and the Plant Operators for the BCRUA. While the City of Leander employs these plant personnel, the ILA states that these positions will be recruited, selected, managed and supervised by the BCRUA General Manager. However, the BCRUA General Manager is employed by the City of Round Rock through an April 21, 2010 Interlocal Agreement between BCRUA and the City of Round Rock.

As the BCRUA facilities and staffing have expanded, the Operations Committee has decided that it will provide a more effective operation to have all BCRUA staff reporting directly to the General Manager.

This will be accomplished by terminating the existing April 20, 2011 ILA between BCRUA and the City of Leander and executing a new ILA between BCRUA and the City of Round Rock to allow Round Rock to employ these BCRUA employees.

Additional steps will be handled at the City Manager level regarding the transfer of employee's vacation and sick leave balances and benefits. The employees directly impacted are agreeable to this change.

RECOMMENDATION:

Staff recommends authorizing the BCRUA President to finalize a resolution to execute a Termination Agreement of the Interlocal Agreement regarding Water Treatment Plant Superintendent and Operation Services with the City of Leander.

PRESENTER:

Dan Grimsbo, PE, Executive Director of Infrastructure

Attachments

1. BCRUA-Leander ILA Termination

**AGREEMENT TO TERMINATE THE
INTERLOCAL AGREEMENT REGARDING PLANT
SUPERINTENDENT AND OPERATOR SERVICES**

THIS AGREEMENT TO TERMINATE THE INTERLOCAL AGREEMENT REGARDING PLANT SUPERINTENDENT AND OPERATOR SERVICES (this "Termination Agreement") is entered into and effective as of the 22nd date of March 2023, by and between the Brushy Creek Regional Utility Authority ("BCRUA"), and the City of Leander, Texas ("Leander"). BCRUA and Leander are sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

WHEREAS, the Parties entered into that one certain **INTERLOCAL AGREEMENT REGARDING WATER TREATMENT PLANT SUPERINTENDENT AND OPERATOR SERVICES** (the "ILA"), as of the 29th day of April, 2011; and

WHEREAS, the Parties now wish to terminate the ILA;

NOW THEREFORE, the Parties agree as follows:

- 1.01 The Parties mutually agree to terminate the ILA as of the 16th day of April, 2023; provided that Section 5.03 shall survive termination of the ILA, and Sections 4.04, 5.01, and 5.02 of the Agreement shall survive termination of the ILA until payment of the final Invoice submitted by Leander to BCRUA pursuant to the ILA.
- 1.02 The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Termination Agreement.
- 1.03 This Termination Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

CITY OF LEANDER, TEXAS

Christine DeLisle, Mayor
Date: _____

Attest:

Dara Crabtree, City Secretary

**BRUSHY CREEK REGIONAL
UTILITY AUTHORITY**

Anne Duffy, President
Date: 22 MAR 2023