



**Mayor | John Wright**  
**Mayor Pro-Tem | Travis Townsend**  
**Council Members | Cecil Booth, Christiene Daniel, Terry Roberts, Tanner Sartin**  
**City Manager | Chris Whittaker**  
**City Secretary | Michelle Perez**

**NOTICE IS HEREBY GIVEN PURSUANT TO V.T.C.A., GOVERNMENT CODE, CHAPTER 551, THAT THE CITY COUNCIL FOR THE CITY OF ANGLETON WILL CONDUCT A WORKSHOP MEETING AT 5:30 P.M., AND A REGULAR MEETING AT 6:00 P.M., ON TUESDAY, AUGUST 27, 2024, AT THE CITY OF ANGLETON COUNCIL CHAMBERS LOCATED AT 120 S. CHENANGO STREET ANGLETON, TEXAS 77515.**

**DECLARATION OF A QUORUM AND CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

**WORKSHOP - 5:30 P.M.**

- 1.** Discussion on Angleton Park amenity assessment for Concert in the Park events.
- 2.** Discussion on Angleton Parks & Recreation program and event cost recovery model.

**REGULAR MEETING - 6:00 P.M.**

**CITIZENS WISHING TO ADDRESS CITY COUNCIL**

*The Presiding Officer may establish time limits based upon the number of speaker requests, the length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Citizens may speak at the beginning or at the time the item comes before council in accordance with Texas Government Code Section 551.007. No Action May be Taken by the City Council During Public Comments.*

**CEREMONIAL PRESENTATIONS**

- 3.** Presentation of Certificates of Appreciation.
- 4.** Ceremonial Presentation of the August 2024 Keep Angleton Beautiful Yard of the Month and Business of the Month.

**CONSENT AGENDA**

*All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless requested by*

*the Mayor or a Council Member; in which event, the item will be removed from the consent agenda and considered separately.*

- [5.](#) Discussion and possible action to approve the Buy Board proposal from Techline Sports Lighting for seventy-two (72) LED sports lighting fixtures from the Angleton Better Living Corporation fund balance and authorize the City Manager to execute the proposal.
- [6.](#) Discussion and possible action to execute a donation agreement for certain real property in the City of Angleton, by and between Angleton ISD, a Texas Independent school district and political subdivision of the State, and the City of Angleton, a home-rule municipal corporation and political subdivision of the state.
- [7.](#) Discussion and possible action to approve the Energy and Construction Services Contract for the Expedited Wastewater Treatment Plant Investment Grade Audit with Schneider Electric.

## **PUBLIC HEARINGS AND ACTION ITEMS**

- [8.](#) Conduct a public hearing, discussion and possible action on a recommendation regarding a request for approval of the Tropoli Townhomes Replat. The proposed final replat consists of 1.886 ACRES, 12 LOTS, 1 BLOCK, and is zoned Single Family Attached (SFA) and is located on the Northeast of the Intersection of N. Valderas St. and E. Henderson Rd.

## **REGULAR AGENDA**

- [9.](#) Discussion and possible action to approve Ordinance No. 20240827-009 2024 Annual Service Plan Update for the public improvements in the Greystone Public Improvement District (PID), and approving the updates to the 2024 Assessment Roll, in accordance with Chapter 372 of the Texas Local Government Code.
- [10.](#) Discussion and possible action to approve Ordinance No. 20240827-010 2024 Annual Service Plan Update for the public improvements in the Green Trails Public Improvement District (PID), and approving the updates to the 2024 Assessment Roll, in accordance with chapter 372 of the Texas Local Government Code.
- [11.](#) Discussion and possible action to approve Ordinance No. 20240827-011 2024 Annual Service Plan Update for the public improvements in the Kiber Reserve Public Improvement District (PID), and approving the updates to the 2024 Assessment Roll, in accordance with chapter 372 of the Texas Local Government Code.
- [12.](#) Discussion and possible action on the Austin Colony Development, located on CR 44, Anchor Road and Tigner St. regarding proposed changes to the Development Agreement for the Public Improvement District (PID) and the approved Land Plan, previously established by Tejas Angleton Development LLC and the City of Angleton.
- [13.](#) Discussion and possible action on Resolution No. 20240813-005; Resolution by the City Council of the City of Angleton, Texas, Authorizing Publication of Notice of Intention to Issue Certificates of Obligation; and Approving Other Matters Incidental Thereto.

- [14.](#) Discussion and possible action to approve the Construction Manager at Risk Contract for King Municipal Operations Center Project.
- [15.](#) Update on the Henderson Roadway Project.
- [16.](#) Discussion and possible action to install a speed hump on Piney Way.
- [17.](#) Update and discussion on the Brazosport Water Authority rate increase and water quality by Morris Massingill.
- [18.](#) Discussion and possible action on a request for a Preliminary Plat extension for a period of one year as requested by the applicant's agent for Windrose Green Section 5.
- [19.](#) Discussion and possible action on a request for Plat extensions for a period of one year as requested by the applicant's agent for the Ashland Development for Street Dedication 1, 2 and 3 Plats, Coral Haven Street Dedication Plat and the Ashland Water Plant Plat.
- [20.](#) Update, discussion and possible action on the damaged business signs.
- [21.](#) Update, discussion and possible action on post Hurricane Beryl.
- [22.](#) Discussion and possible action to approve adding three 3/4-ton pickups to the Enterprise lease.
- [23.](#) Update and discussion on the Fiscal Year 2024-2025 Budget.
- [24.](#) Discussion and possible action to approve Resolution No. 20240813-004 setting the proposed 2024 tax rate and setting the date(s) and time(s) for the required public hearing(s) for the 2024 Proposed Tax Rate and the 2024-2025 Fiscal Year Proposed Budget. (Tabled 8/13/24)

## COMMUNICATIONS FROM MAYOR AND COUNCIL

### ADJOURNMENT

*If, during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive Session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Section 551.071 - consultation with attorney; Section 551.072 - deliberation regarding real property; Section 551.073 - deliberation regarding prospective gift; Section 551.074 - personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; Section 551.076 - deliberation regarding security devices or security audit; Section 551.087 - deliberation regarding economic development negotiations; Section 551.089 - deliberation regarding security devices or security audits, and/or other matters as authorized under the Texas Government Code. If a Closed or Executive Session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session in order to take action, if necessary, on the items addressed during Executive Session.*

### CERTIFICATION

I, Michelle Perez, City Secretary, do hereby certify that this Notice of a Meeting was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times and to the City's website, [www.angleton.tx.us](http://www.angleton.tx.us), in compliance with Chapter 551, Texas Government Code. The said Notice was posted on the following date and time: Friday, August 23, 2024, by 6:00 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

/S/ Michelle Perez  
Michelle Perez, TRMC  
City Secretary

*Public participation is solicited without regard to race, color, religion, sex, age, national origin, disability, or family status. In accordance with the Americans with Disabilities Act, persons with disabilities needing special accommodation to participate in this proceeding, or those requiring language assistance (free of charge) should contact the City of Angleton ADA Coordinator, Colleen Martin, no later than seventy-two (72) hours prior to the meeting, at (979) 849-4364 ext. 2132, email: [cmartin@angleton.tx.us](mailto:cmartin@angleton.tx.us).*



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Megan Mainer, Director of Parks & Recreation

**AGENDA CONTENT:** Discussion on Angleton Park amenity assessment for Concert in the Park events.

**AGENDA ITEM SECTION:** Workshop

**BUDGETED AMOUNT:** NA **FUNDS REQUESTED:** NA

**FUND:** NA

### EXECUTIVE SUMMARY:

Parks and Recreation staff were directed to assess park amenity requirements for Concert in the Park events to determine which parks are best suited for the Concert in the Park series. Park amenity requirements for Concert in the Park include:

- Space for a stage if one is not built-in (the contract with entertainment requires the stage to be 20' to 24' wide x 16' deep x 18-24" height or a fixed stage)
- Green room for the band to utilize before the concert, during intermission, and after to change if needed
- Restrooms (prefer to have a separate restroom for the entertainers to eliminate having to wait in possible lines)
- Parking
- Place for food vendors to park
- Open space for seating
- Electrical to power the stage, lights, speakers, and instruments

Enclosed in your packet is an assessment of available and unavailable amenities, additional information about the park including annual activities, and an aerial map of each park and the proximity from proposed stage locations to residents. Stage locations can be modified based on directions provided by the City Council.

### RECOMMENDATION:

Staff recommends the City Council consider amenities needed for Concerts in the Park, park amenities available in Angleton parks, and the proximity from proposed stage locations to residents.

# LAKESIDE PARK

1234 Enchanted Oaks Drive, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep)
- ✓ Green Room (Concession area)
- ✓ Restrooms
- ✓ Parking
- ✓ Vendor parking
- ✓ Open space for seating
- ✓ Lighting

## UNAVAILABLE AMENITIES

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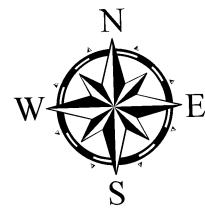
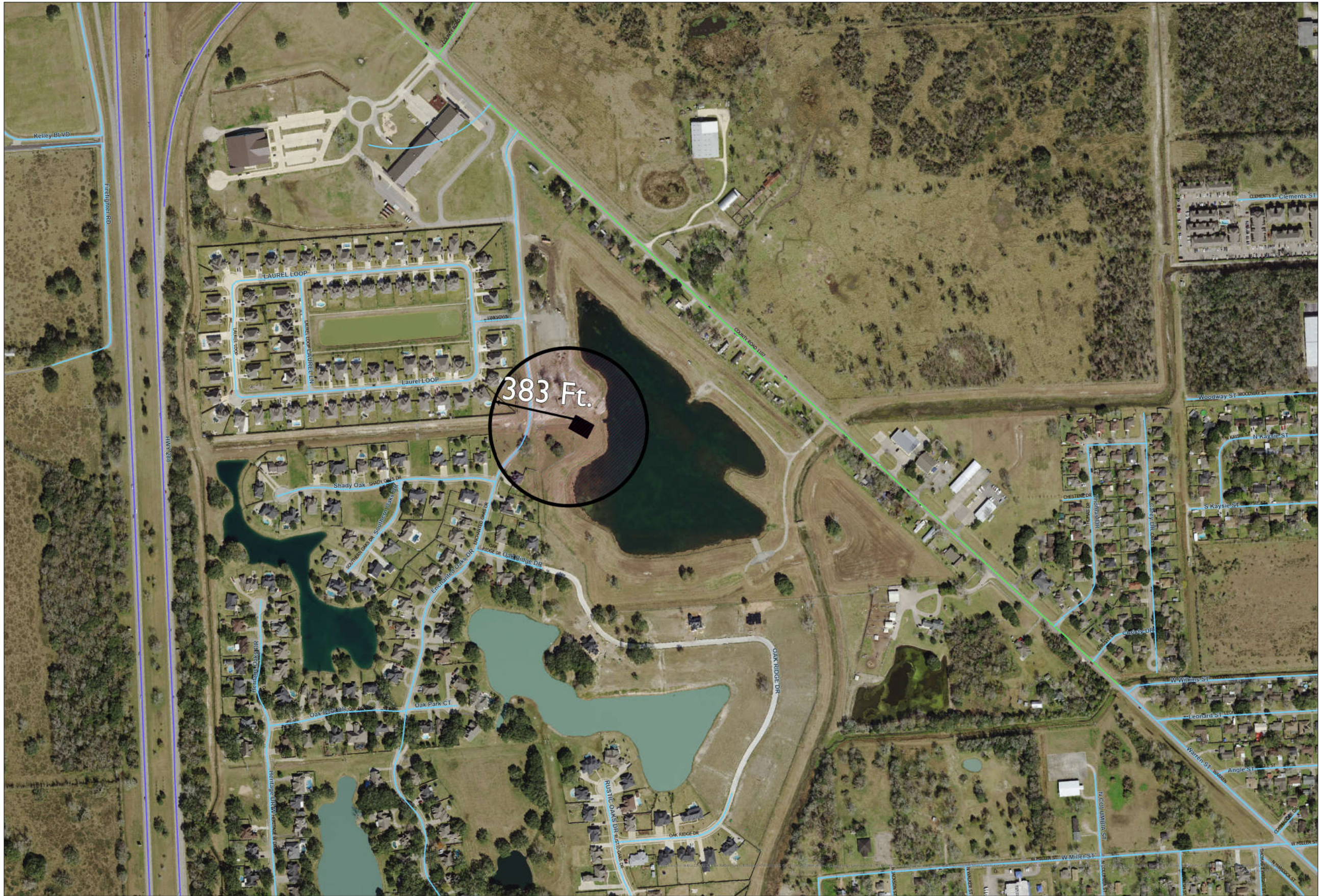
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments
- ✗ Stage height requirements are 18-24' and the Lakeside Park stage is 13'6"; this may not be a concern since the stage at Lakeside Park has existing lighting

## ADDITIONAL INFORMATION

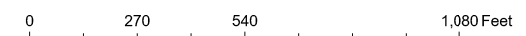
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- Green space
- Parking (65 spaces)
- ADA parking (4 spaces)
- Stage
- Stage lighting
- ADA compliant park
- Playground
- Food truck hookups
- Proximity to closest residential development = 383 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



# LAKESIDE PARK



# DICKEY PARK

813 West Mulberry, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Restrooms
- ✓ Lighting
- ✓ Meets the stage requirements (20' to 24' wide x 16' deep x 18-24' height)

## UNAVAILABLE AMENITIES

---

- ✗ Adequate electrical – need a mobile electrical board for high-arcing instruments
- ✗ Green Room
- ✗ Open Space for seating
- ✗ Parking is limited for concertgoers and vendors

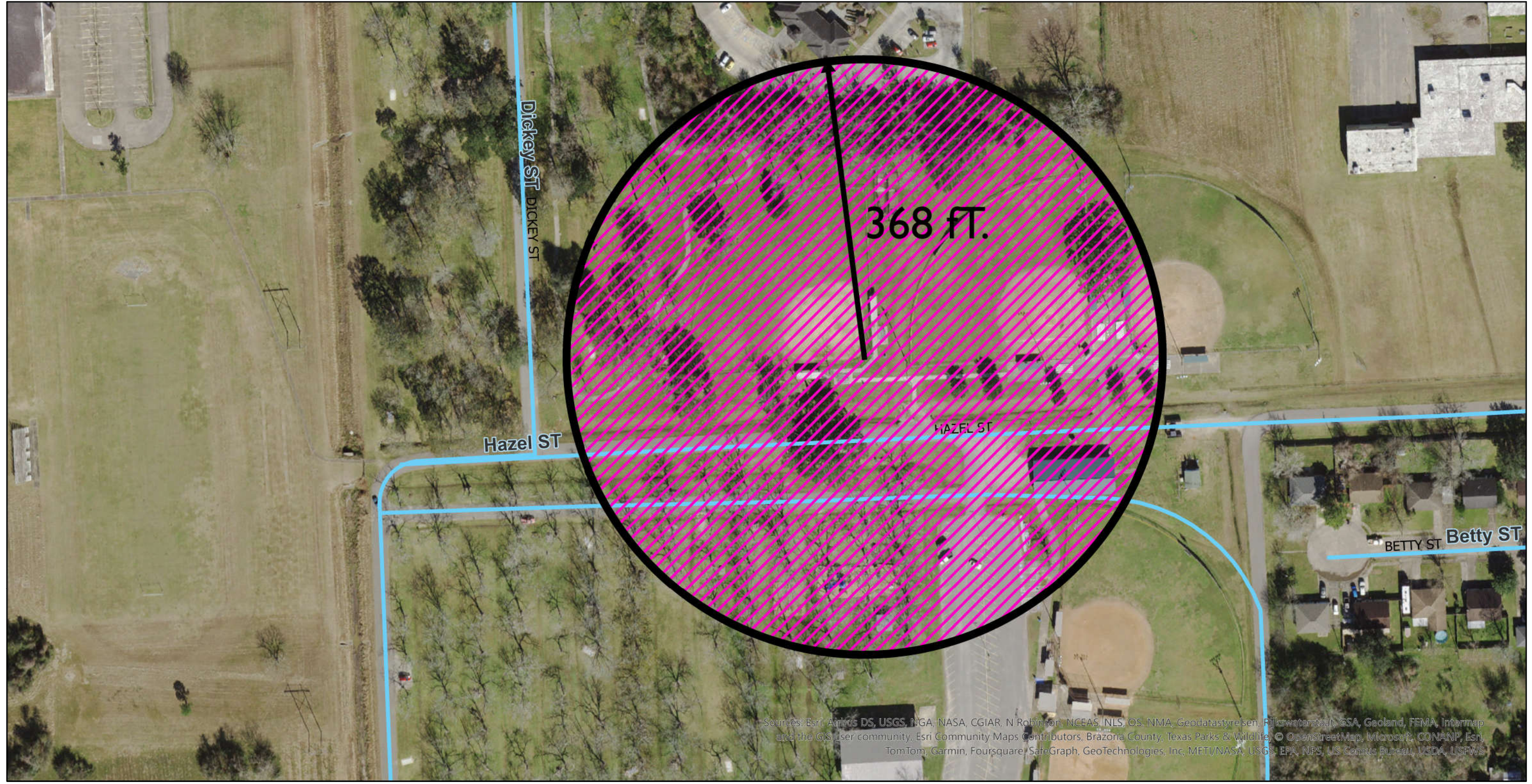
## ADDITIONAL INFORMATION

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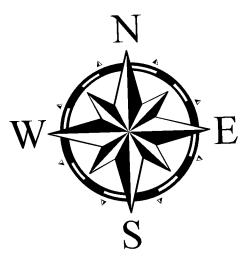
- Parking (23 spaces)
- ADA parking (2 spaces)
- Stage would need to be rented
- Additional stage lighting may be required
- Additional power may need to be for sound and staging
- Heavily wooded park
- Proximity to closest residential development = 368 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.

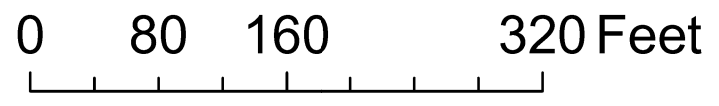




Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodastystreben, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Brazoria County, Texas Parks & Wildlife, © OpenStreetMap, Microsoft, CONANP, Esri, TomTom, Garmin, Foursquare, SafeGraph, GeoTechnologies, Inc, MET/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS



# DICKEY PARK



# BATES PARK

700 Bates Park Road, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Green Room (Concession area)
- ✓ Restrooms
- ✓ Open space for seating
- ✓ Lighting

## UNAVAILABLE AMENITIES

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- ✗ Parking is limited for concertgoers and vendors
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments

## ADDITIONAL INFORMATION

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- Green space
- Parking (115 spaces)
- ADA parking (5 spaces)
- Stage (covered pavilion)
- Stage lighting (covered pavilion)
- Heavily wooded park
- Green space and picnic areas are not ADA accessible
- Playground
- Conflicts with existing AGSA programs
- Proximity to closest residential development = 600 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



# BG PECK SOCCER COMPLEX

709 Kelly Boulevard, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep)
- ✓ Green Room (Concession area)
- ✓ Restrooms
- ✓ Open space for seating
- ✓ Lighting
- ✓ Parking
- ✓ Vendor Parking

## UNAVAILABLE AMENITIES

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- ✗ Adequate electrical – need a mobile electrical board for high-arcing instruments
- ✗ Stage requirements are x 18-24' height; BG Peck Soccer Complex Pavilion does not meet these requirements

## ADDITIONAL INFORMATION

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- Green space
- Parking (347 spaces)
- ADA parking (11 spaces)
- Stage (covered pavilion)
- Stage lighting (covered pavilion)
- Heavily wooded park
- Green space and picnic areas are not ADA accessible
- Playground
- Conflicts with existing AGSA programs
- Proximity to closest residential development = 2800 feet\*

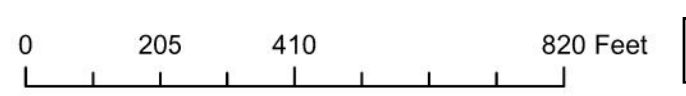
\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



2,800 Ft.



# BG PECK SOCCER COMPLEX



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N. Robinson, NCEAS, NLS, OS, NOAA, GeoEye, GeoEye, Rijkswaterstaat, GSA, Googland, FEMA, Intermap, and the GIS user community, Esri Community Maps Contributors, Brazoria County, Texas, Esri, DeLorme, GeoEye, (GeoEye), IGN, IntelMap, Intermap, (Intermap), Intermap, Inc., OpenStreetMap, Microsoft, CONANP, Esri, TomTom, Garmin, GeoSquare, SafeGraph, GeoTechnology, Inc, METI, NGA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

# VETERANS PARK

115 E Magnolia, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Green Room (Concession area)
- ✓ Restrooms
- ✓ Parking
- ✓ Vendor parking
- ✓ Open space for seating
- ✓ Adequate electricity
- ✓ Lighting

## UNAVAILABLE AMENITIES

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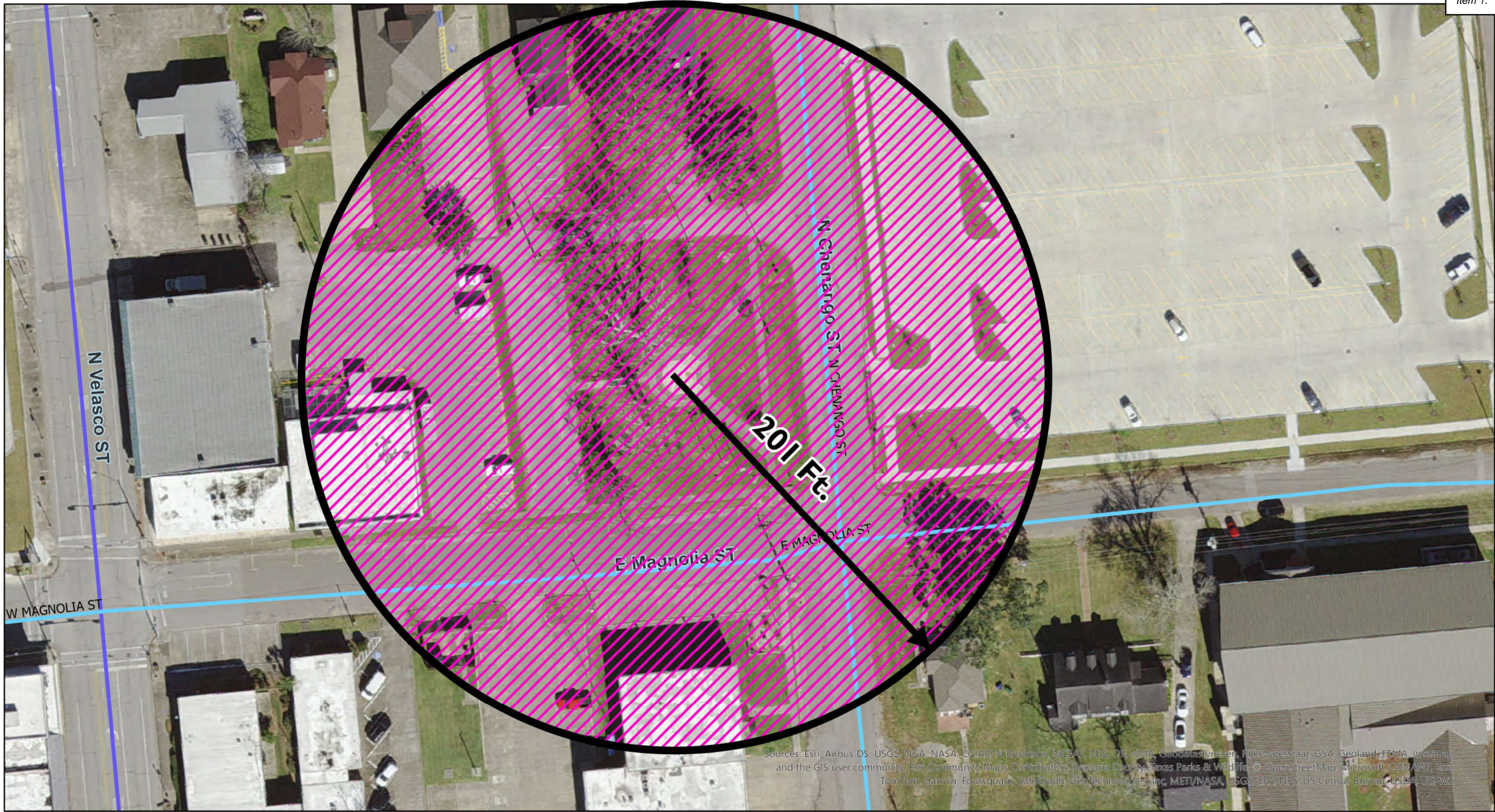
- ✗ NA – All Concert in the Park requirements met

## ADDITIONAL INFORMATION

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- Small green space
- Parking (203 county spaces)
- No ADA parking
- Proximity to closest residential development = 201 feet\*

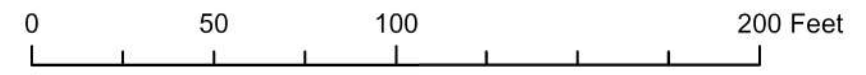
\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Brazoria County, Texas Parks & Wildlife, © OpenStreetMap, Microsoft, CONANP, Esri, TomTom, Garmin, Foursquare, SafeGraph, Geotechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS



# VETERANS PARK



# MASTERSON PARK

101 South Arcola Street, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Restrooms
- ✓ Open space for seating
- ✓ Lighting

## UNAVAILABLE AMENITIES

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- ✗ Green Room
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments
- ✗ Parking is limited for concertgoers and vendors

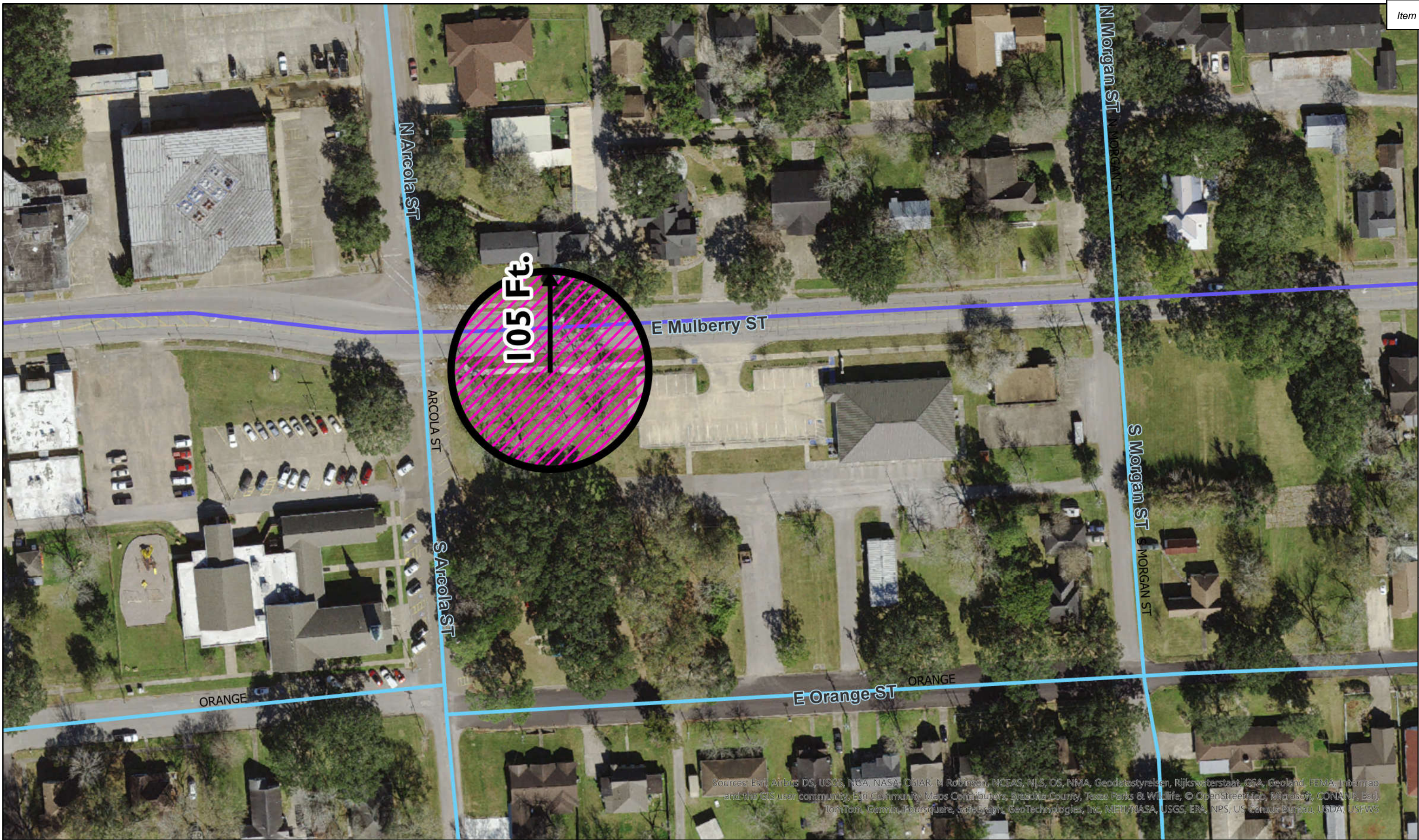
## ADDITIONAL INFORMATION

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- Green space is limited and wooded
- Park is along a TxDOT roadway
- Parking (20 spaces)
- ADA parking (1 space)
- Playground
- Proximity to closest residential development = 105 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.

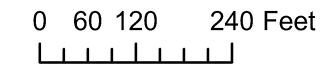




Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Brazoria County, Texas Parks & Wildlife, © OpenStreetMap, Microsoft, CONANP, Esri, TomTom, Garmin, Foursquare, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS



# MASTERSON PARK



# OFFICER CASH MEMORIAL DOG PARK

535 South Anderson, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Open space for seating

## UNAVAILABLE AMENITIES

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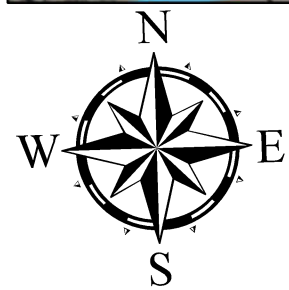
- ✗ Green Room (Concession area)
- ✗ Limited lighting
- ✗ Restrooms
- ✗ Parking is limited for concertgoers and vendors
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments

## ADDITIONAL INFORMATION

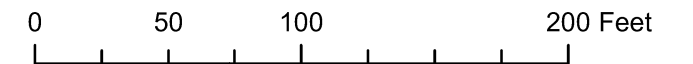
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- Green space
- The park is open until 11 pm to park users with dogs
- Parking (12 spaces)
- No ADA parking or accessible routes
- Stage
- Directly adjacent to Animal Control Center and residential development
- Proximity to closest residential development = 100 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



# OFFICER CASH MEMORIAL DOG PARK



# FREEDOM PARK

3105 North Downing, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Green Room (Concession area)
- ✓ Restrooms
- ✓ Parking
- ✓ Vendor parking
- ✓ Open space for seating
- ✓ Lighting

## UNAVAILABLE AMENITIES

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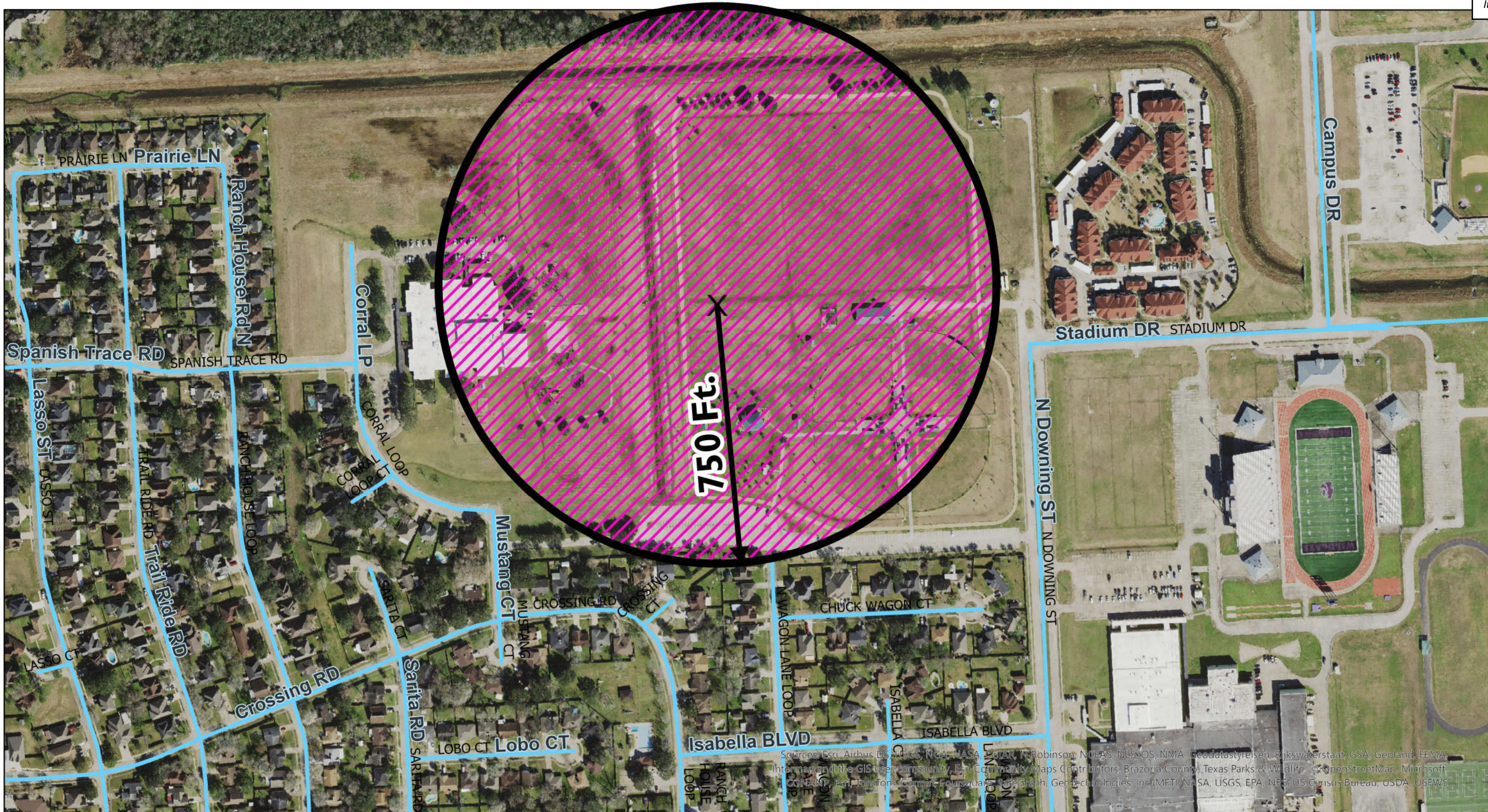
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments

## ADDITIONAL INFORMATION

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- Large green space
- Parking (300 spaces)
- ADA parking (10 spaces)
- Playground
- Conflicts with existing ALL programs
- Proximity to closest residential development = 750 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



Sources: Esri, Airbus DS, Bing, NGA, NASA, IGNAR, Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Brazoria County, Texas Parks & Wildlife, © OpenStreetMap, Microsoft, COMNAV, Esri, TomTom, Garmin, FourSquare, SafeGraph, GeoTechnologies, Inc./MET/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USEWS



# FREEDOM PARK



# BRUSHY BAYOU PARK

100 Meadow Creek Road, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Open space for seating

## UNAVAILABLE AMENITIES

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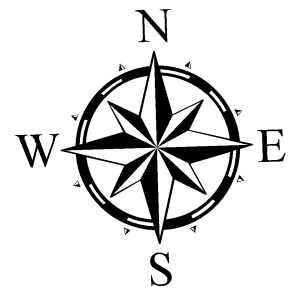
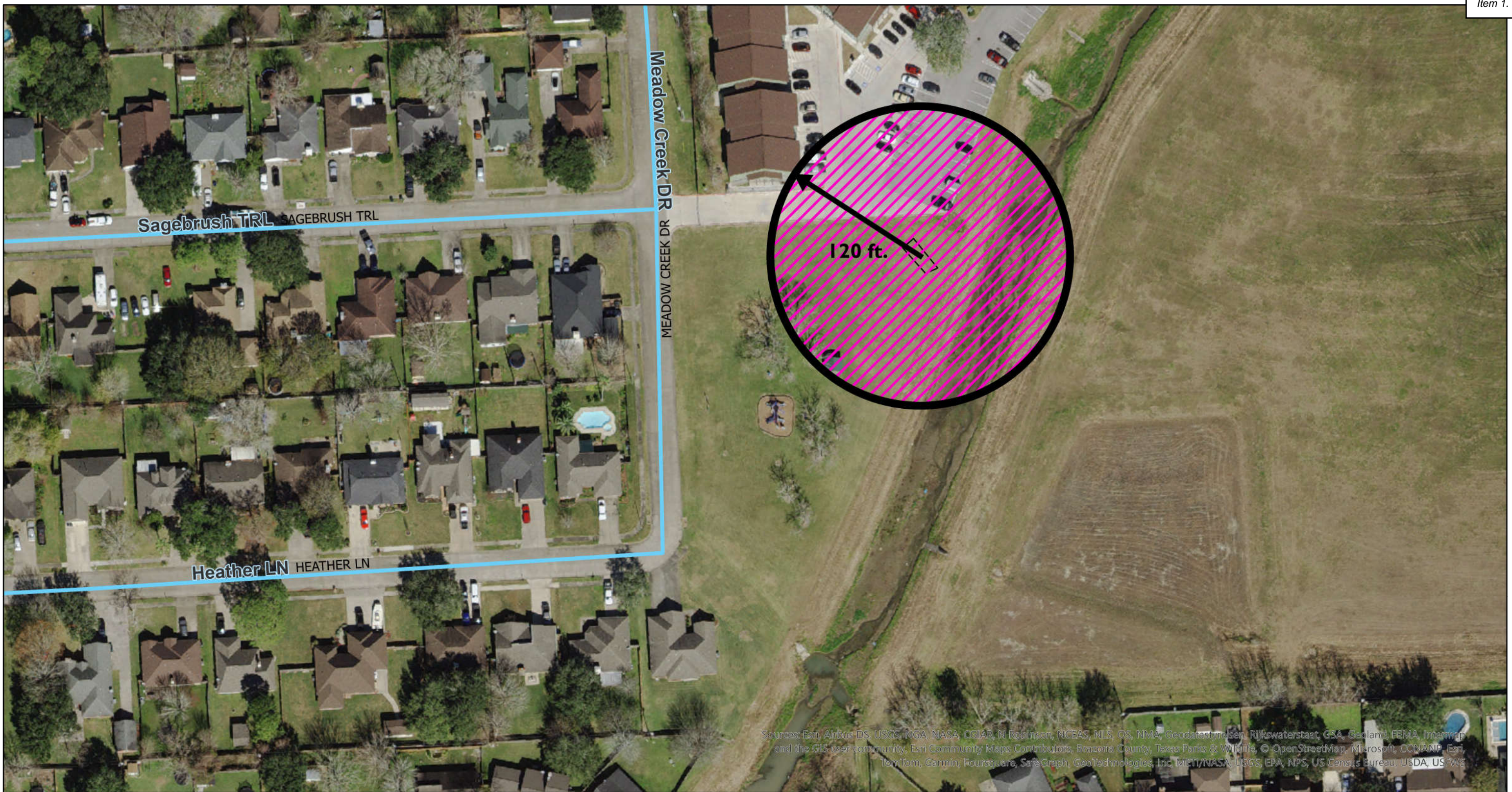
- ✗ Green Room
- ✗ Restrooms
- ✗ Parking
- ✗ Vendor parking
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments
- ✗ Lighting

## ADDITIONAL INFORMATION

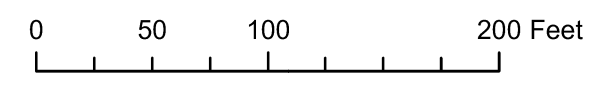
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- Parks is located within a residential development
- Small green space
- Parking (0 spaces)
- Not an ADA-accessible park
- Playground
- Proximity to closest residential development = 120 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



# BRUSHY BAYOU PARK



# RUEBEN WELCH PARK

2198 East Kiber Street, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Open space for seating

## UNAVAILABLE AMENITIES

---

- ✗ Green Room
- ✗ Restrooms
- ✗ Parking
- ✗ Vendor parking
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments
- ✗ Lighting

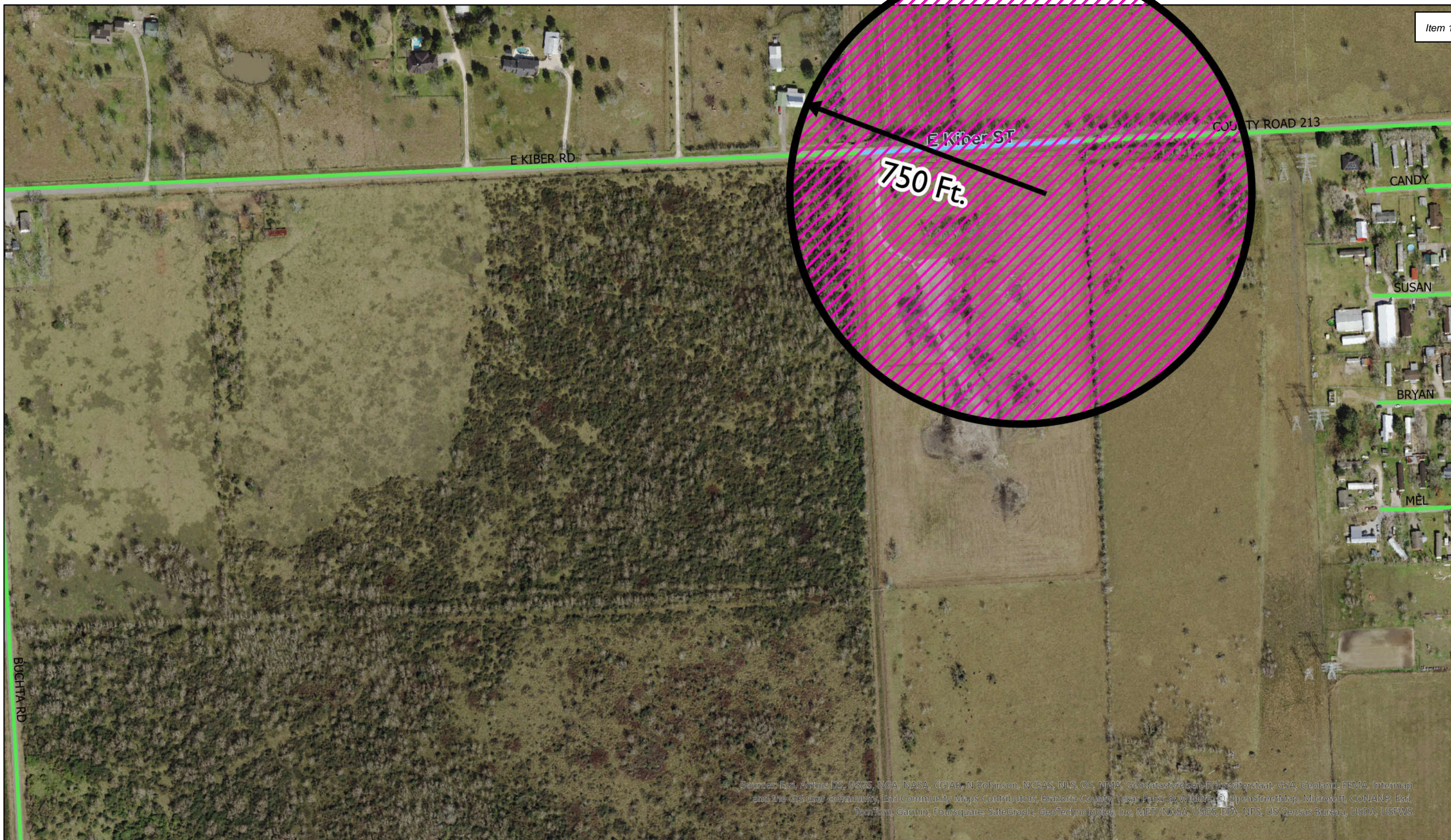
## ADDITIONAL INFORMATION

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- Undeveloped park
- Large green space
- No parking
- Not an ADA-accessible park
- Proximity to closest residential development = 750 feet\*

\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.

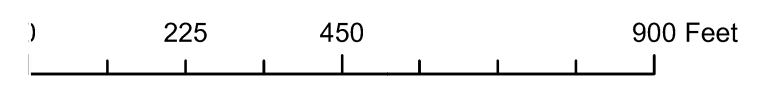




Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Brazoria County, Texas Parks & Wildlife, © OpenStreetMap, Microsoft, CONANP, Esri, TomTom, Garmin, Foursquare, SafeGraph, GeoTechnologies, Inc, MET/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS



# RUEBEN WELCH PARK



# ABIGAIL ARIAS PARK

301 Cemetery Road, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Open space for seating

## UNAVAILABLE AMENITIES

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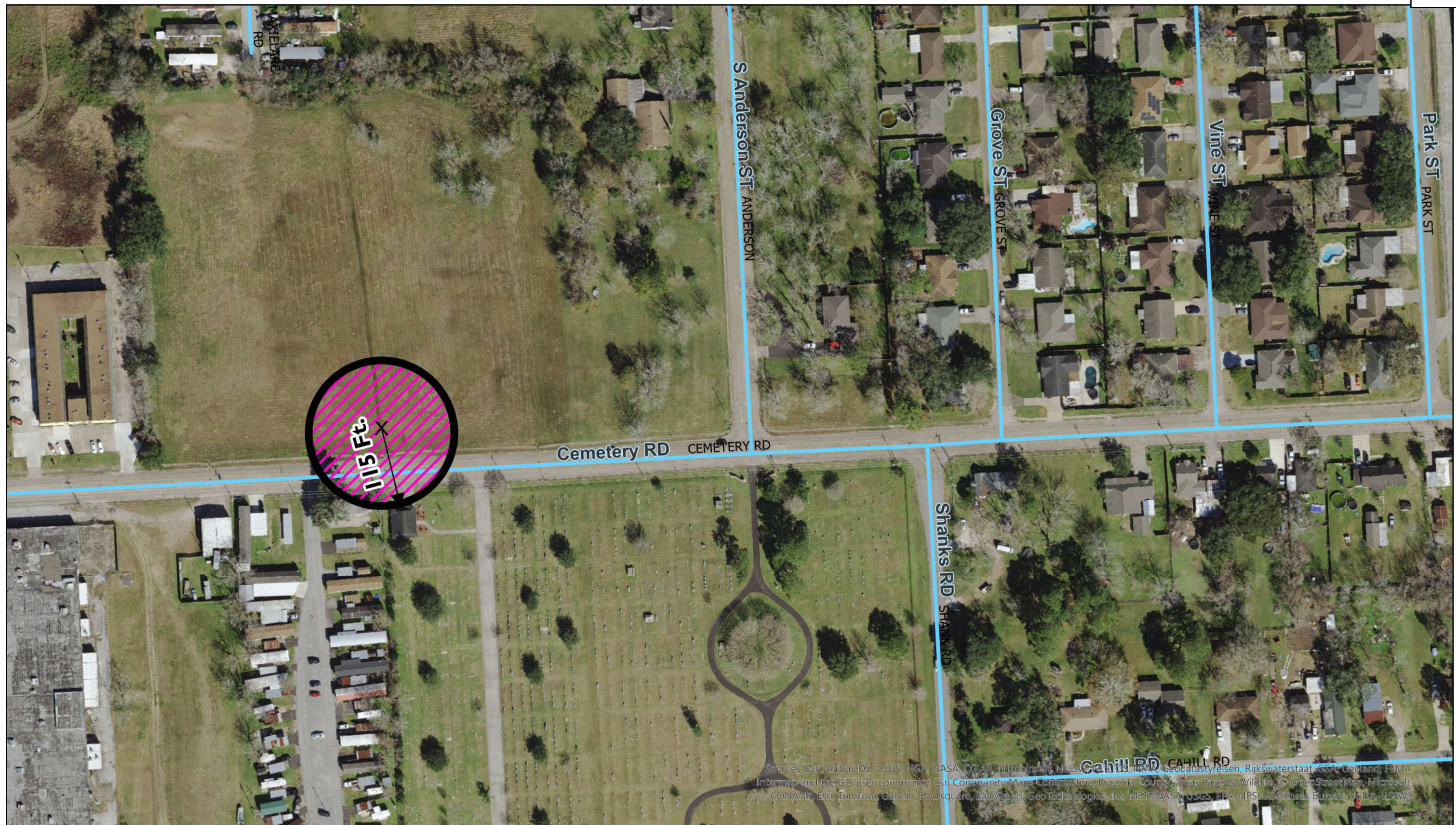
- ✗ Green Room
- ✗ Restrooms
- ✗ Parking
- ✗ Vendor parking
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments
- ✗ Lighting

## ADDITIONAL INFORMATION

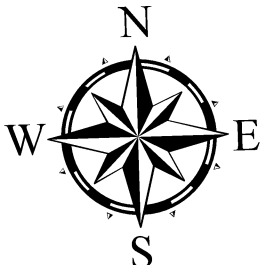
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- Undeveloped park
- Large green space
- No parking
- Not an ADA-accessible park
- Proximity to closest residential development = 115 feet\*

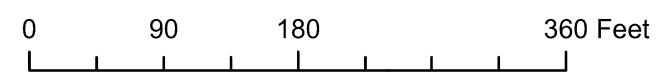
\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N. Robinson, NEEA, USGS, NOAA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Brazoria County, Texas Parks & Wildlife, © OpenStreetMap, Microsoft, CONANP, Esri, TomTom, Garmin, Foursquare, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USEWS



# ABIGAIL ARIAS PARK



# MUNICIPAL POOL

121 Dwyer, Angleton, TX 77515

## AVAILABLE AMENITIES

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- ✓ Meets stage requirements (20' to 24' wide x 16' deep x 18-24' height)
- ✓ Open space for seating

## UNAVAILABLE AMENITIES

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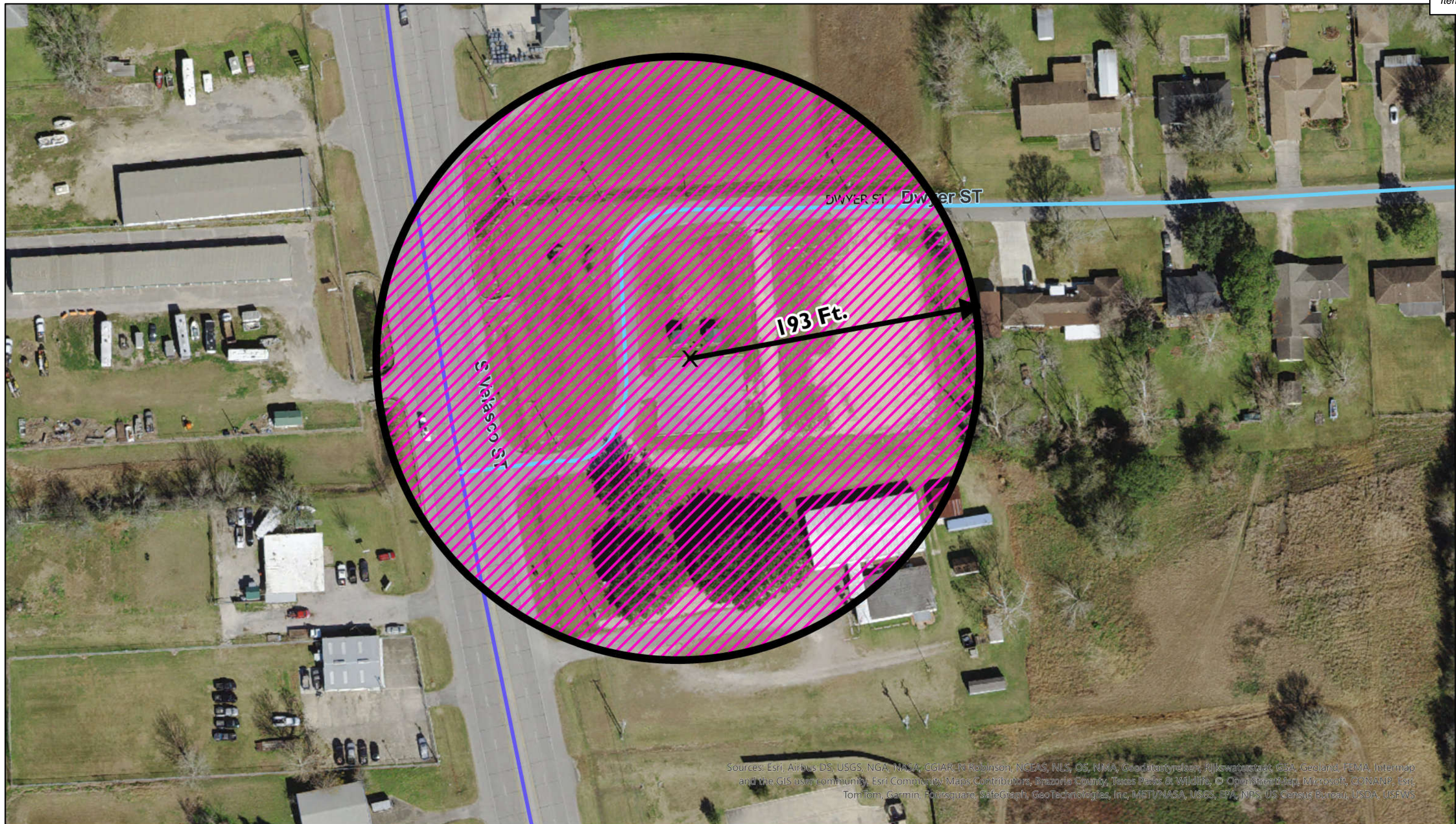
- ✗ Green Room
- ✗ Restrooms
- ✗ Parking
- ✗ Vendor parking
- ✗ Adequate electrical - need a mobile electrical board for high-arcing instruments
- ✗ Lighting

## ADDITIONAL INFORMATION

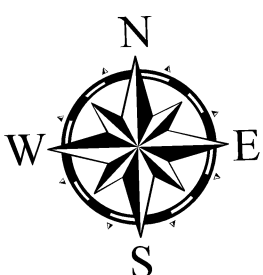
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- Undeveloped park
- Small green space
- Parking (14 spaces)
- ADA parking (2 spaces)
- Not an ADA-accessible park
- Proximity to closest residential development = 193 feet\*

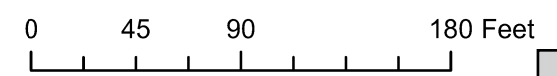
\*For noise complaints, decibels shall be measured from the residential property line and must remain constant for a specified period before enforcement is pursued.



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# MUNICIPAL POOL





## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/24/2024

**PREPARED BY:** Megan Mainer, Director of Parks & Recreation

**AGENDA CONTENT:** Discussion on Angleton Parks & Recreation program and event cost recovery model.

**AGENDA ITEM SECTION:** Workshop

**BUDGETED AMOUNT:** NA **FUNDS REQUESTED:** NA

**FUND:** NA

### EXECUTIVE SUMMARY:

Parks & Recreation staff were directed to present the current Angleton Parks & Recreation program and event cost recovery model and discuss opportunities for revisions.

### Cost Recovery Model History

One of the goals outlined in the Parks & Recreation Strategic Plan FY 19-20 action plan was to develop a policy that consistently guides pricing for programs and special events. With the guidance of GreenPlay's Cost Recovery Methodology, FY 18-19 performance measures, and cost recovery analysis, staff assessed where programs and events should fall in GreenPlay's Cost Recovery Model Pyramid. Staff held two town hall meetings on February 6, 2020 from 6 pm – 7:30 pm and February 10 from 1 pm – 2:30 pm to engage the community regarding where programs and events should fall on the cost recovery pyramid.

On April 6, 2020, staff presented the Parks and Recreation Board with a recommendation of utilizing GreenPlay's cost recovery methodology and model for determining cost recovery in parks and recreation programming and event pricing, and the model was approved. Subsequently, staff met with the Angleton Better Living Corporation on April 13, 2020, with the same recommendation which was approved.

On July 27, 2020, Geri Gonzales, Recreation Superintendent, presented the information to the City Council and City Council asked for additional information concerning the number of members located outside of the City limits, the number of seniors that participate in senior programs and trips as well as overall costs associated with seniors on a monthly average. Staff compiled this information and presented it to City Council in more detail on August 11, 2020.

On August 11, 2020, the City Council requested additional information concerning the communities that offer resident and non-resident pricing as well as examples of cost differentials

for programs and services. Per City Council's direction, staff made revisions to the Angleton Parks & Recreation Cost Recovery policy.

On September 8, 2020, staff presented the revised Angleton Parks & Recreation Cost Recovery policy which included changes that benefit seniors (i.e. senior trips to a tier 4 without and charting at cost for participants), as well as basing price differentials on Angleton Recreation Center member and non-member status. The Angleton Parks & Recreation Cost Recovery policy was approved.

**RECOMMENDATION:**

Staff recommend the Parks & Recreation Cost Recovery Model for programs and events remain the same but include indirect costs and a 20%+ cost differential for member and non-member program and event registration. Senior programs are currently at zero percent cost recovery on programs and events. Staff recommends no changes be made to senior programs' cost recovery expectations. After one year of implementation of accounting for indirect costs for recreational programs and events, staff recommends the Parks & Recreation Cost Recovery Model tier percentages be evaluated and revised as needed.



# **COST RECOVERY POLICY**

City of Angleton Parks & Recreation Department



In February 2019, The City of Angleton retained the services of GreenPlay LLC, a national parks, recreation, and open space consulting firm, to assist with a Comprehensive Parks and Recreation Master and Strategic Plan Study. The Comprehensive Plan looked at existing parks and open space recreational facilities and amenities to determine current and future level of service for the community based on public input. The plan prioritized needs and desires for upgrading and improving parks and open space recreational facilities and amenities.

In December 2019, city council approved the parks and recreation comprehensive and strategic plan, which included short term, mid term and long term goals over a period of ten years. One short term goal was to develop a policy that consistently guides pricing for program, special events, rentals and public/private partnerships.

## PURPOSE

The purpose of this policy is to serve as a guide and to promote transparency and accountability to the public and policy makers for why and how Angleton Parks and Recreation develops and implements fees for its programming, special events and facility rentals. The development of this policy is based on the following factors:

- Guiding principles
- Pyramid Methodology
- Direct costs

## GUIDING PRINCIPLES

The following statements were used to guide the development of this policy:

- Fees are based on direct costs only and do not include indirect costs
- Fees will reflect the level of benefit and exclusivity a user receives based on pyramid methodology
- Ensure that, at a minimum, impacts to facilities, programs, and services are covered through fair and reasonable fees
- Provide equitable access to facilities, programs, and services to all users
- Fees will reflect market value for similar facilities, programs, and services
- Fees will be evaluated every year and policy goals every two years by Angleton Parks and Recreation staff

# PYRAMID METHODOLOGY

The 'Cost Recovery Pyramid Methodology', developed by GreenPlay, LLC, represents industry standard "best practices" and is used as a guide for developing cost recovery guidelines for facilities, programs, and services provided by Parks and Recreation departments. One of the core values of the City of Angleton is stewardship. This is the responsible management of something entrusted to one's care. In regards to tax payer and city funds, it is the responsibility of parks and recreation staff to make sure such funds are strategically utilized. As a resource allocation model, the Pyramid Methodology ultimately becomes a management tool that can help an agency make decisions about its financial resources and the establishment of fees for the services it provides.

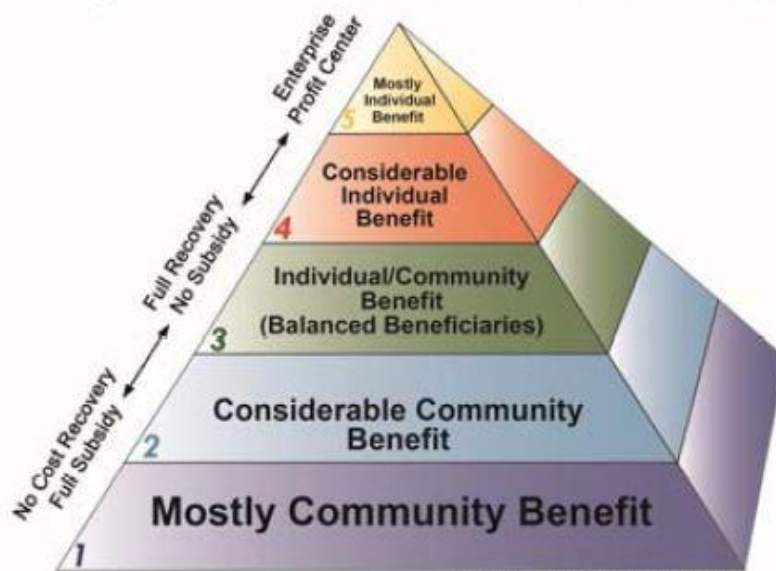
The model (Figure 1) is a continuum of cost recovery and resource allocation targets with a majority of an agency's services assigned to the appropriate pyramid level. The basic purpose of the methodology is that as programs, events, services, and facility use become more specialized, exclusive, and of individual benefit, fees will increase accordingly. Alternatively, as programs, events, services, and facility use become more general, inclusive, and beneficial to the greater community, fees will decrease or be ultimately subsidized by city funding. The model provides an easy way to understand an agency's cost recovery and resource allocation policy. It is a tool that provides transparency, accountability and guidance.

Utilizing a 'Benefits Filter' is the foundation of the Pyramid Methodology. This methodology is based on answering the question "who benefits from the service?" coupled with the agency's resource allocation philosophy. It attempts to determine if the community in general or the individual or group receiving the service is the beneficiary of the provision. It asks the question who is generating the need for the service and therefore, the cost of providing it? Finally, how the level of the fee will affect the demand and the public's ability to pay for the service is considered.

FIGURE 1



## The Pyramid Methodology



## BENEFITS FILTERS

The benefits filters are the five tiers that make up the pyramid methodology . This foundation and upward progression is intended to represent public parks and recreation’s core mission, while also reflecting the growth and maturity of an organization as it enhances its service offerings.

- **Tier 1: Mostly Community Benefit** - Programs, facilities and services that benefit the community as a whole. They increase property value, provide safety and enhance quality of life for residents. Generally paid for through taxes and are offered to agency residents at minimal to no fee.
- **Tier 2: Considerable Community Benefit** - Programs, facilities and services that promote individual physical and mental well-being and provide recreational skill development. Traditionally expected services and beginner instructional levels. Assigned fees based on a specified percentage of direct costs to represent a tax subsidy for the community benefit and a participant fee based on individual benefit.
- **Tier 3: Balanced Individual/Community Benefit** - Services that promote individual physical and mental well-being and provide intermediate level of recreation skill development. Fees reflect how the level provides more individual benefit and less community benefit.
- **Tier 4: Considerable Individual Benefit** - Represents specialized services generally for specific groups. Groups tend to have a competitive focus. Programs and services at this level should be priced to recover full costs.
- **Tier 5: Mostly Individual Benefit** - Represents specialized services generally for specific groups. Groups tend to have a competitive focus. Programs and services at this level should be priced to recover full costs.

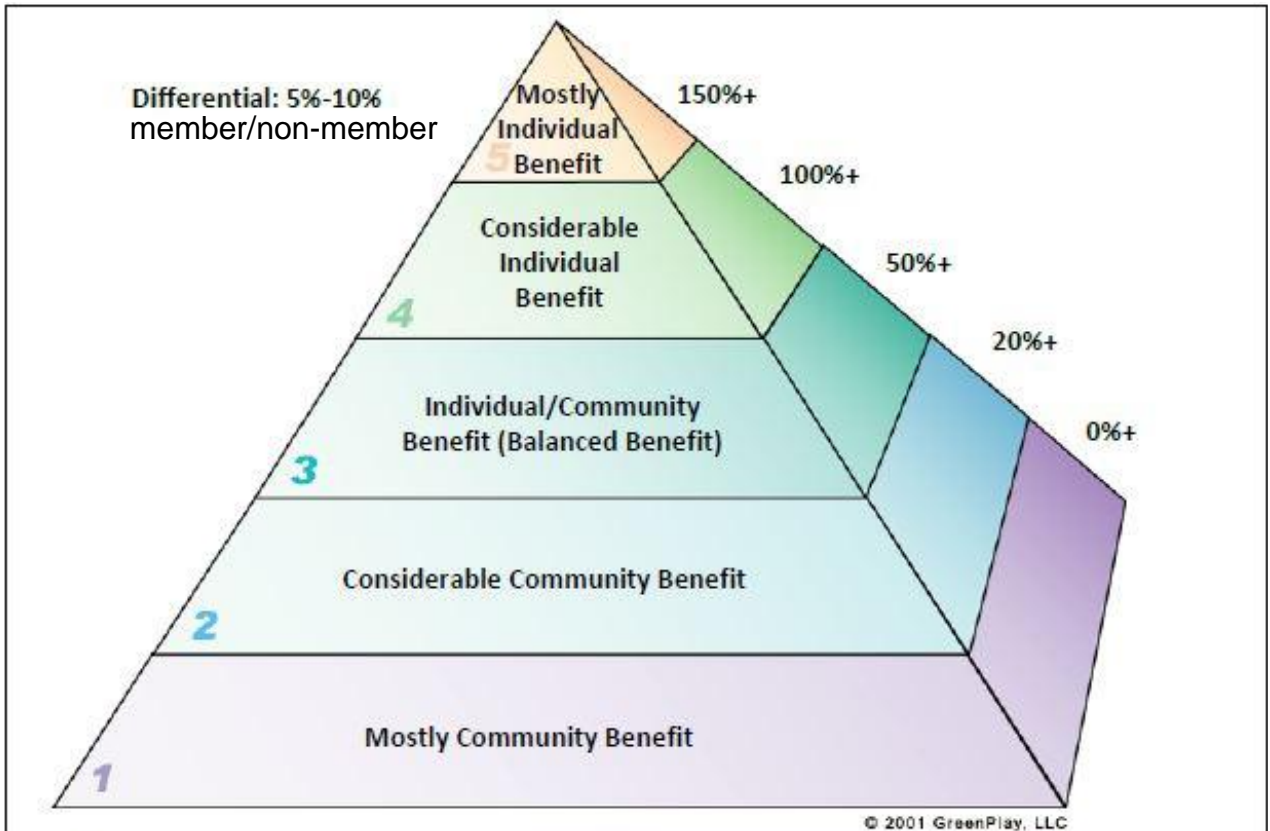
## DIRECT COSTS

These are costs that are directly related to a program, event or service. Direct costs typically include all the specific, identifiable expenses (fixed and variable) associated with providing a service. These expenses would not exist without the service and may be variable costs. Defining these costs for all of an agencies programs, events and services is important in determining fees once tier placement is determined.

# POLICY & COST RECOVERY GOALS

Item 2.

Angleton Parks & Recreation has analyzed data of expenses and revenues for its programs, events, facilities, and services held over a year's time. This information has aided in Angleton Parks & Recreation creating a Pyramid model for the agency to use to develop transparent and accountable user fees. The chart in Figure 2 represents Angleton Parks & Recreation's fee policy with the application of this policy along with examples of currently offered events, programs, services and services.



Level
<p><b>5 – HIGHLY INDIVIDUAL /Mostly Individual Benefit</b>                      Examples: Father daughter dance and private rentals within park and rec facilities.</p>
<p><b>4 – MOSTLY INDIVIDUAL/Considerable Individual Benefit</b>                      Examples: Adult leagues, 5k runs, senior trips and certification courses.</p>
<p><b>3 – INDIVIDUAL / Community Benefit (Balanced Benefit)</b>                      Examples: Youth camps, programs and leagues, start smart sports and swimming lessons.</p>
<p><b>2 – COMMUNITY / Individual / Considerable Community Benefit</b>                      Examples: Senior Movie Day, Tea &amp; Talk, Senior Christmas and Birthday Party.</p>
<p><b>1 – COMMUNITY / Mostly Community Benefit</b>                      Examples: Local Parks, Fall Family Festival and Heart of Christmas.</p>

The cost recovery goals set for each tier express a balance of community and individual benefits. Prices are to be set by recreation staff under the authority of the Director of Angleton Parks & Recreation. In setting prices, the agency will balance the goals of program availability and affordability within the constraints of budget allocations, market economics, and cost recovery goals outlined herein.

- **Tier 1: Mostly Community Benefit** - 0% and up
- **Tier 2: Considerable Community Benefit** - 20% and up
- **Tier 3: Balanced Individual/Community Benefit** - 50% and up
- **Tier 4: Considerable Individual Benefit** - 100% and up
- **Tier 5: Mostly Individual Benefit** - 150% and up

## UPDATING & FUTURE GOALS

Cost recovery in parks and recreation will be analyzed annually. Staff will utilize future annual data on programs, events, services and facilities to update pricing as needed. Cost recovery goals should be reviewed and updated, if needed, at least every two years after review of past years expense, revenues and market value comparisons.

# RESOURCES

Item 2.

- GreenPlay, LLC Pyramid Methodology
- Coconino County, Arizona Parks & Recreation Cost & Fee Recovery Policy
- Town of Brookline Parks & Recreation Cost Recovery Policy for Town Recreation Programs
- Angleton Parks & Recreation cost recovery meetings public and staff input
- Angleton Parks & Recreation program, event, service and facility revenue and expense data



# AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Brandy Follin

**AGENDA CONTENT:** Presentation of Certificates of Appreciation.

**AGENDA ITEM SECTION:** Ceremonial Presentation

**BUDGETED AMOUNT:** **FUNDS REQUESTED:**

**FUND:**

**EXECUTIVE SUMMARY:**

Presentation of Certificates of Appreciation to staff for their contribution to the Hurricane Beryl efforts.

**RECOMMENDATION:**

Presentation of Certificates of Appreciation.



# AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Jason O'Mara, Assistant Director of Parks and Recreation

**AGENDA CONTENT:** Ceremonial Presentation of the August 2024 Keep Angleton Beautiful Yard of the Month and Business of the Month.

**AGENDA ITEM SECTION:** Ceremonial Presentation

**BUDGETED AMOUNT:** NA

**FUNDS REQUESTED:** NA

**FUND:** NA

**EXECUTIVE SUMMARY:**

Tracy Delesandri, Keep Angleton Beautiful Chairwoman, will present Yard of the Month to Jan Shimek at 1032 Grove Drive and Business of the Month to Wild West BBQ at 1205 E Mulberry Street.

**RECOMMENDATION:**

Staff recommends City Council acknowledge the YOM with a plaque, picture, and KAB gift for their beautification efforts.





## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Megan Mainer, Director of Parks & Recreation

**AGENDA CONTENT:** Discussion and possible action to approve the Buy Board proposal from Techline Sports Lighting for seventy-two (72) LED sports lighting fixtures from the Angleton Better Living Corporation fund balance and authorize the City Manager to execute the proposal.

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** \$0

**FUNDS REQUESTED:** \$116,000

**FUND:** 40-400-999

### EXECUTIVE SUMMARY:

Currently, the Parks & ROW Division has spent \$1200 for light repairs on fields 10 and 11 and is estimated to spend an additional \$2900 for repairs to get all field lights 10 and 11 in working order. Due to the added load from the new LED lights on field nine, staff requested Texas New Mexico replace the transformers but there are costs associated. Until transformers are replaced, the city will not be able to operate all lights on fields nine, 10, and 11 simultaneously. Due to the added load from the new LED lights on field nine (ABLC 2024 bond project), the current infrastructure will only allow a combination of two fields at once.

The Director of Parks & Recreation and Parks Superintendent discussed purchasing LED sports lighting and completing field 10 and 11 retrofit in-house to save \$60,000 in professional labor cost.

On June 17, 2024, the Angleton Better Living Corporation (ABLC) approved funding a Buy Board proposal from Techline Sports Lighting for seventy-two (72) LED sports lighting fixtures from the ABLC fund balance.

Randall Law Office reviewed and approved the materials proposal from Techline Sports Lighting. Enclosed in your agenda packet is the proposal from Techline Sports Lighting for seventy-two (72) LED sports lighting fixtures.

### RECOMMENDATION:

Staff recommends the City Council approve the Buy Board proposal from Techline Sports Lighting for seventy-two (72) LED sports lighting fixtures from the Angleton Better Living Corporation fund balance and authorize the City Manager to execute the proposal.



Purchasing Co-Op / Contract #:

BuyBoard Contract #: 677-22 (Expires 9/30/24)

Project Name:

B.G. Peck Soccer Complex

Project City-State:

Angleton, TX

Quote Date:

**\*\* UPDATED \*\* - 8/8/2024**

Type of Field(s):

**(2) EXISTING SOCCER FIELDS - (New LED Fixtures ONLY)**

Photometrics Per Design #:

**38FC Avg. Light Level BOTH FIELDS / Design #23-9240**

Warranty:

**Includes Our 10 Year Maintenance FREE Product Warranty**

Quantity	Description
72	TSL800W LED w/ Standard Visor
72	TSL800W 20" Extended Visor
1	Using same Synapse Controls that were installed on Field #13
72	New Fuse/Disconnect Boxes for these two fields (Pricing Per Fixture)

Sports Lighting System Materials = **\$116,000.00****Project Notes:**

- Price includes all materials listed above (excluding adders & deducts).
- Price includes delivery to jobsite.
- Price firm for 30 days.
- Allow 4-6 weeks for delivery.
- Price does **NOT** include SALES or USE taxes.
- All work to be performed that requires a license, including but not limited to electrical & plumbing will be performed by individuals currently licensed in the proper jurisdiction.

**This Proposal includes a unit cost of \$1,611.00 per fixture, which includes the new LED Fixtures, also includes adding (2)-Dim10-220 receivers to the existing contactor cabinet to engage the contactors for each of these 2 fields and be able to operate these two fields independently. And also includes (6) new fuse/disconnect boxes on these (6) poles.**

**As for payment terms, we will not require a down payment for this project. We will submit an invoice for 100% of this material/equipment once it is delivered to the site, with a Net-30 payment term.**

**Warranty Notes:**

- Seller warrants that Equipment furnished or manufactured by Seller will be free from defects in material and workmanship for a period - of **10 years** from date of shipment.
- Seller will replace any defective material for the entire **10 year** period.
- Techline will make every effort to maintain any component of our sports lighting system for the entirety of the warranty period.

**( + ) ADD ALTERNATE:**

- To INCLUDE Complete Installation by Safe-T-Lighting (Kirk Brenner)

**\*\*ADD = \$45,000.00**



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Megan Mainer, Director of Parks & Recreation

**AGENDA CONTENT:** Discussion and possible action to execute a donation agreement for certain real property in the City of Angleton, by and between Angleton ISD, a Texas Independent school district and political subdivision of the State, and the City of Angleton, a home-rule municipal corporation and political subdivision of the state.

**AGENDA ITEM SECTION:** Consent Agenda

**BUDGETED AMOUNT:** \$0

**FUNDS REQUESTED:** \$0

**FUND:** NA

### EXECUTIVE SUMMARY:

On Tuesday, July 23, 2024, the Angleton ISD Board of Trustees approved a land gift to the City of Angleton. The piece of land, approximately 320,906 square feet, is located behind CATS/PACE Academy near the intersection of Walker Street and Hazel Street. The City will use the land as an addition to Bates Park for public use. The Angleton ISD Board of Trustees unanimously approved the item.

Pursuant to the Due Diligence provision of the agreement found in Section 3.4, the City will conduct an environmental survey assessment before closing on the property to determine the suitability of the Real property and Property for the City's purposes. On August 5, 2024, staff provided a notice to proceed to Terracon for the environmental survey assessment.

### RECOMMENDATION:

Discussion and possible action to execute a donation agreement for certain real property in the City of Angleton, by and between Angleton ISD, a Texas Independent school district and political subdivision of the State, and the City of Angleton, a home-rule municipal corporation and political subdivision of the state.

### RECOMMENDED MOTION:

I move we execute a donation agreement for certain real property in the City of Angleton, approximately 320,906 square feet located behind CATS/PACE Academy near the intersection of Walker Street and Hazel Street, by and between Angleton ISD and the City of Angleton.

**DONATION AGREEMENT**

This DONATION AGREEMENT (“Agreement”) for certain real property in the City of Angleton, Texas dated as of the 23 day of July 2024 (“Effective Date”), is made by and between **ANGLETON ISD**, a Texas independent school district and political subdivision of the State, hereinafter collectively referred to as “Donor”, and the **CITY OF ANGLETON**, a home-rule municipal corporation and political subdivision of the State, hereinafter referred to as “Donee.”

**RECITALS**

This Donation Agreement is made and entered into on the basis of the following facts and understandings of the parties hereto:

- A. Donor owns certain real property in Brazoria County, Texas described in Exhibit A (“Real property”).
- B. Donor desires to donate the real property to Donee, and Donee desires to accept from Donor the real property. Both parties agree that the Real property will be used by Donee in a manner that continues the public purpose of Donor, by making more recreational and athletic space available to support the educational and extracurricular programs of Donor.
- C. In consideration of the mutual promises set out in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Donor and Donee agree to be bound by the terms of this Agreement.

**AGREEMENT**

**1. DEFINITIONS, INTERPRETATION AND EXHIBITS**

1.1 Definitions. As used in this Agreement, these words or expressions have the following meanings:

“Agreement” has the meaning given in the introductory paragraph.

“Claim” means any claim, liability, loss, demand, damages, Lien, cause of action of any kind, obligation, costs, judgment, interest and award (including legal counsel fees and costs of litigation, if recoverable under applicable law, of the Person asserting the Claim), whether arising by law, contract, tort, voluntary settlement or otherwise.

“Closing” means the date Donor transfers title to Donee as set forth in Section 3.6.

“Deed” means the instrument by which Donor will transfer or convey the Real property to Donee, the form of which is attached.

“Dispute” means any dispute or controversy arising out of this Agreement, including a dispute or controversy regarding the existence, construction, validity, interpretation, enforceability, termination, or breach of this Agreement, whether based in contract, tort, or otherwise by rule, regulation, statute or common law.

“Donee” means the Person defined as Donee in the introductory paragraph of this Agreement.

“Donor” means the Person defined as Donor in the introductory paragraph of this Agreement.

“Due Diligence” means the Donee’s investigation of the Real property and Property, including, the state of the title, the environmental conditions, the condition of the improvements located on the Real property, and any other due diligence and investigation deemed necessary or advisable by Donee during the Due Diligence Period.

“Due Diligence Period” means the time between the Effective Date and Closing during which the Donee may perform its Due Diligence.

“Effective Date” means the date/time defined as “Effective Date” in the introductory paragraph of this Agreement.

“Exhibit” means a document referred to in Section 1.3.

“Real property” has the meaning assigned to it in Recital A. above.

“Lien” means charge, encumbrance or similar right available to creditors at law to secure debts owed to them.

“Party” means Donee or Donor and “Parties” mean both of them.

“Person” means an individual, corporation, company, state, statutory corporation, partnership, trust, unincorporated organization, association, government entity or any other legal entity.

“Property” of a Person means property owned, leased or furnished by that Person or in which that Person has an economic interest.

“Released Party” or “Released Parties” means Donor or any of Donor’s heirs, successors, assigns, partners, agents, trustees or other affiliates.

“Title Company” means Alamo Title.

1.2 **Interpretation.** As used in this Agreement, these words or expressions have the following meaning:

(A) The plural and singular words each include the other.

- (B) The word “or” is not exclusive.
- (C) The words “includes” and “including” are not limiting.
- (D) The headings in this Agreement are included for convenience and do not affect the construction or interpretation of any provision of, or the rights or obligations of a Party under, this Agreement.

### 1.3 Exhibits.

- (A) All of the Exhibits that are attached to this Agreement are an integral part of this Agreement and are incorporated by reference, including:
  - (1) Exhibit–A - Legal Description with Graphic depiction
  - (2) Exhibit–B - Form of Deed
- (B) If a conflict exists between the body of this Agreement and the Exhibits, the body prevails to the extent of the conflict.

## 2. DONATION OF PROPERTY

- 2.1 **Grant.** For and in consideration of the mutual covenants and conditions contained in this Agreement, Donor agrees to donate to Donee and Donee agrees to accept from Donor, on the terms and conditions set forth herein, the Real property located in Brazoria County, State of Texas more fully described on Exhibit A – Legal Description and as graphically shown on Exhibit A-1, both attached to this Agreement, and any and all buildings and improvements, if any, located on said Real property; and all rights and privileges thereto, including all of Donor’s right, title and interest, if any, in and to all easements and rights of way appurtenant to said Real property.
- 2.2 **PUBLIC PURPOSE. IN ACCEPTING THIS GRANT OF THE PROPERTY, GRANTEE EXPRESSLY AGREES TO USE THE PROPERTY FOR THE SPECIFIC PUBLIC PURPOSE OF DEVELOPING AND MAINTAINING RECREATIONAL AND ATHLETIC SPACE THAT BENEFITS THE PUBLIC INTEREST OF GRANTOR WITH SUBSTANTIAL CONSTRUCTION TO BEGIN ON OR BEFORE FIVE (5) YEARS FROM THE DATE OF THIS DEED, AND WHENEVER SUCH PROPERTY SHALL CEASE TO BE USED FOR SAID PUBLIC PURPOSE BY THE GRANTEE OR SUCH SUBSTANTIAL CONSTRUCTION DOES NOT BEGIN ON OR BEFORE THE BEFORE MENTIONED DATE, THEN AND THEREUPON GRANTEE’S INTEREST IN THE REAL PROPERTY, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE, SECTION 272.001(L) WILL REVERT TO GRANTOR WITHOUT ANY NECESSITY FOR SUIT TO THE GRANTEE HEREIN, ITS SUCCESSORS OR ASSIGNS.**

### 3. CONSIDERATION

- 3.1 There shall be no monetary consideration payable by Donee to Donor for the donation of the Real property. Donee's consideration for receiving the Real property shall be Donee's release of the Donor as set forth in Section 4 and agreement to other terms of this Agreement.
- 3.2 **Taxes and Assessments.** The parties are both tax exempt governmental entities and no property taxes shall be due on the property, provided that Donee shall be responsible for any taxes, if any, that are assessed for the period following the exchange of the Real property, including any rollback taxes for any change in use.
- 3.3 **Recordation.** Donee will be responsible for the filing and recording the Deed, conveyances, or other instruments required to convey title of the Real property to Donee, and Donee will bear all required documentary, filing and recording fees and expenses incurred in connection with same.
- 3.4 **Due Diligence.** Within the Due Diligence Period, in its sole discretion, Donee will have the opportunity to conduct Due Diligence and inspect the Real property and Property to determine if it is suitable for the Donee's use. Upon execution of this Agreement, Donor hereby grants Donee and its designated representatives the continual right to access and enter the Real property for purposes of its inspection and Due Diligence, including, without limitation, conducting a new survey, soil tests, environmental and engineering studies, asbestos inspections, antiquities studies, topographical surveys, and any such other tests and studies as Donee deems necessary to determine the suitability of the Real property and Property for Donee's purposes. **DURING THE DUE DILIGENCE PERIOD, DONEE IN ITS SOLE DISCRETION MAY TERMINATE THIS AGREEMENT FOR ANY REASON OR NO REASON AT ALL WITHOUT PENALTY OR BEING IN BREACH OF THIS AGREEMENT.**
- 3.5 **Closing; Transfer of Real property by Donee.** Unless this Agreement is terminated by Donee during the Due Diligence Period, Closing of this transaction will take place in the offices of the Title Company or otherwise as the Parties may agree, on or before ninety (90) days from the Effective Date. At Closing, Donor will cooperate with Donee and the Title Company in executing documents as may be required or requested by the Title Company, including a closing statement and affidavits of debts and liens and possession, to issue a title policy to Donee for the Real property. Donee shall pay the premium for any Title Policy and all other closing expenses and title company charges (e.g., escrow fees, tax certificates, etc.) associated with the transfer of the property.

### 4. CLAIMS, LIABILITIES, ABSENCE OF WARRANTIES, AND RELEASES

- 4.1 **DONEE ACQUIRING REAL PROPERTY IN "AS IS" CONDITION. DONEE IS ACQUIRING THE REAL PROPERTY IN AN "AS IS AND WHERE IS" CONDITION, AND DONOR IS NOT RESPONSIBLE FOR**

**THE REMOVAL OF, OR ANY LIABILITY RESULTING FROM, THE EXISTENCE OF ANY KNOWN OR UNKNOWN FIXTURES, EQUIPMENT, CHEMICALS, OR OTHER SUBSTANCES ON OR UNDER THE REAL PROPERTY. TO THE EXTENT PERMITTED BY LAW, DONEE RELEASES DONOR FROM RESPONSIBILITY FOR THE PRESENCE OF HYDROCARBONS, NORM, ASBESTOS, AND OTHER SUBSTANCES, POLLUTANTS, OR CONTAMINANTS, KNOWN AND UNKNOWN, ON OR ASSOCIATED WITH THE REAL PROPERTY. This provision will survive the Closing.**

- 4.2 **Donee's Environmental Review.** Donee may, at Donee's expense, perform an environmental review of the Real property as part of its Due Diligence and Donor agrees to give Donee reasonable access to the Real property, for such purpose. Donee shall complete its environmental review of the Property on or before the end of the Due Diligence Period.

## 5. GOVERNING LAW, RESOLUTION OF DISPUTES

- 5.1 **Governing Law.** This Agreement is governed by and interpreted under the laws of the State of Texas, without regard to its choice of law rules.
- 5.2 **Resolution of Disputes.** If any Dispute cannot be settled by direct negotiations within 30 Days, either Party may initiate mediation. If the Parties fail to settle the Dispute within thirty (30) Days of notice of mediation, either Party may initiate litigation, provided that nothing herein shall limit a Party's ability to pursue litigation as they deem appropriate to protect their rights and interests.

## 6. NOTICES, REPRESENTATIVES AND CONTACT INFORMATION

- 6.1 **Notices.** All notices, demands, and requests and other communications required or permitted hereunder shall be in writing, shall be sent by certified mail, return receipt requested; by courier; by telephonic facsimile; or by electronic transmission and shall be deemed to be delivered (i) upon first attempted delivery if sent by mail or by courier, and (ii) upon transmittal if sent by telephonic facsimile or electronic mail. All communications pertaining to this Agreement or the transaction contemplated by this Agreement between the Parties or any third party to this transaction may be by electronic mail. Donor's and Donee's respective addresses for purposes of this Agreement, and to which all notices required hereunder shall be sent, are as follows:

If to the Donee:           City of Angleton  
                                   Attn: Chris Whittaker, City Manager  
                                   121 S Velasco  
                                   Angleton, Texas 77515  
                                   Email: cwhittaker@angleton.tx.us

With copy to:             Judith El Masri



Randle Law Office, LLP  
 820 Gessner, Suite 1570  
 Houston, Texas 77024  
 Email:judith@jgradyrandlepc.com  
 (attorney for Donee)

If to the Donor: Angleton ISD  
 Attn: Phil Edwards, Superintendent  
 1900 N. Downing St.  
 Angleton, Texas 77515  
 Email: phil.edwards@angletonisd.net

With copy to: John Hopkins  
 Thompson & Horton LLP  
 3200 Southwest Freeway, Suite 2000  
 Houston, Texas 77027  
 Email: jhopkins@thompsonhorton.com  
 (attorney for Donor)

## 7. GENERAL PROVISIONS

- 7.1 **Entire Agreement.** This Agreement supersedes any prior agreement, oral or written, and contains the entire agreement between Donor and Donee as to the subject matter hereof. No subsequent agreement, representation or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party shall be of any effect unless it is in writing and executed by the party to be bound thereby.
- 7.2 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original and which together will constitute one and the same instrument; provided that neither Party will be bound to this Agreement unless and until both Parties have executed a counterpart.
- 7.3 **Time.** Time is of the essence of this Agreement; provided, however, that if the date on which any action is required to be taken hereunder shall fall on a day on which the party to perform is not open for business, such action shall be taken on the next business day on which it is open for business.
- 7.4 **Further Assurances.** Donee and Donor agree to execute all instruments and documents and to take all actions reasonably necessary and appropriate to consummate the transfer and donation of the Property and shall use their best efforts to close in a timely manner.
- 7.5 **Immunity.** No party, by entering into this Agreement, shall waive immunity from suit.

*[Signatures on following page]*

The parties have executed this Agreement in duplicate as evidenced by the following signatures of authorized representatives of the parties:

**DONOR:**

**DONEE:**

**ANGLETON ISD**

**CITY OF ANGLETON**



\_\_\_\_\_  
Phil Edwards  
Superintendent

\_\_\_\_\_  
John Wright  
Mayor

### EXHIBIT A – Legal Description



County: Brazoria County  
Project: 7.367 Acres  
Job No.: 15721

#### FIELD NOTES FOR 7.367 ACRES

Being a 7.367 acre tract of land located within the H.H. Cornwall Survey, Abstract No. 180, Brazoria County, Texas, being a portion of that certain tract in the name of Angleton Independent School District, as recorded in Volume 867, Page 240 and Volume 866, Page 615, also being a portion of the vacated and abandoned street, as recorded in Vol. 866, Pg. 848 and Volume 1159, Page 125 of the Deed Records, Brazoria County, Texas (D.R.B.C.T.), referred to hereafter as the above referenced tract of land, said 7.367 acre tract being more particularly described by metes and bounds as follows (bearings are based on the Texas Coordinate System of 1983, (NAD83) South Central Zone, per GPS observations):

**BEGINNING** at 5/8-inch capped iron rod, stamped "Baker & Lawson" set for corner, being on the East line of the above referenced tract, same being on the West Right-of-Way (R.O.W.) line of Walker Street, same being the North R.O.W. line of Hazel Street, per 60' road easement as recorded in Volume 997, Page 120 of the D.R.B.C.T., from which a 1-inch iron rod found at the Southeast corner of the above referenced tract bears South 02°20'43" East, a distance of 65.00 feet;

**THENCE** South 87°39'17" West, over and across the above referenced tract of land, along the North R.O.W. line of said Hazel Street, a distance of 825.00 feet to a 5/8-inch capped iron rod, stamped "Baker & Lawson" set for corner, being on the West line of the above referenced tract;

**THENCE** North 02°20'43" West, along the West line of the above referenced tract, same being the East line of a called 18.89 acre tract, as recorded in C.C.F.N. 2004059990 of the O.P.R.B.C.T. and the East line of a called 9.063 acre tract as recorded in C.C.F.N. 2023027183 of the O.P.R.B.C.T., a distance of 805.00 feet to a 5/8-inch capped iron rod, stamped "Baker & Lawson" set for corner, from which a concrete monument found bears North 02°20'43" West, a distance of 401.15 feet;

**THENCE** North 87°39'17" East, along the South line of a called 3.802 acre tract, as recorded in C.C.F.N. 2003022228 of the O.P.R.B.C.T., a distance of 298.93 feet to a 5/8-inch capped iron rod, stamped "Baker & Lawson" set for corner;

**THENCE** South 02°20'43" East, over and across the above referenced tract of land, a distance of 652.40 feet to a 5/8-inch capped iron rod, stamped "Baker & Lawson" set for corner;

**THENCE** North 87°39'17" East, over and across the above referenced tract of land, a distance of 526.07 feet to a 5/8-inch capped iron rod, stamped "Baker & Lawson" set for corner, being on the East line of the above referenced tract, same being the West R.O.W. line of said Walker Street;

**THENCE** South 02°20'43" East, along the East line of the above referenced tract, same being the West R.O.W. line of said Walker Street, a distance of 152.60 feet to the **POINT OF BEGINNING** of the herein described tract of and containing 7.367 acres of land, more or less.

The field notes of the herein described tract of land, have been prepared along with a survey plat of the subject tract.

*Darrel Heidrich* 01/24/2025  
Darrel Heidrich  
Registered Professional Land Surveyor  
Texas Registration No. 5378



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4005 Technology Drive, Suite 1530, Angleton, Texas 77515 • Phone: (979) 849-6681  
Texas Firm Registration No. 10052500

**EXHIBIT B – Form of Deed**

**SPECIAL WARRANTY DEED**

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

**DEED**

**THE STATE OF TEXAS                   §  
  §       **NOW ALL PERSONS BY THESE PRESENTS:**  
COUNTY OF BRAZORIA               §**

That, **ANGLETON ISD**, Texas independent school district and political subdivision of the State, (“Donor” or “Grantor”) for and in consideration of the mutual considerations set forth in the Donation Agreement, dated \_\_\_\_\_, between Donor and Donee (defined below) (“Donation Agreement”) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Donor, has GRANTED, BARGAINED, DONATED and CONVEYED, and by these presents does GRANT, BARGAIN, DONATE and CONVEY unto and the **CITY OF ANGLETON**, a political subdivision of the State, (“Donee” or “Grantee”) and Donee’s successors and assigns, all of that certain tract of real property containing approximately 320,906 square feet, located near the intersection of Walker Street and Hazel Street in Angleton, Brazoria County, Texas as more particularly described on the attached Exhibit “A” (“Real property”), together with all singular rights and appurtenances pertaining to such, including, without limitation, (i) all improvements located thereon and thereunder; (ii) all ownership and property rights associated with such Real property; and (iii) all easements, tenements, hereditaments, privileges and appurtenances in any way benefitting such Real property, including, but not limited to: (a) any real property to the midpoint of the bed of any highway, street, alley, road or avenue, open or proposed, in front of, abutting, or adjoining such Real property; (b) any real property lying in or under the bed of any creek, stream, bayou or river running through, abutting or adjacent to such Real property; (c) any riparian, appropriative or other water rights of Donor appurtenant to such Real property and relating to surface or subsurface waters; (d) the present or future use of wastewater (sewer) capacity, drainage, water capacity or other utility facilities to the extent same pertain to or benefit such Real property; (e) any strips, gores or pieces of property abutting, bounding or which are adjacent or contiguous to such Real property; (f) any reversionary interests benefitting such Real property; (g) any rights-of-way, rights of ingress or egress, or other interests in, on or to any real property, highway, street, road or avenue, open or proposed, in, on, across, in front of, abutting or adjoining such Real property, and any awards made, or to be made in lieu thereof, and in and to any unpaid awards for damage thereto by reason of a change of grade of any such highway, street, road or avenue; (h) any easement across, adjacent to or benefitting the such Real property, existing or abandoned; and (i) all oil, gas, or any other minerals or mineral rights relating to the Real property or to the surface or subsurface thereof of any kind or character lying in, on, under, or relating to, the Real property (collectively, “Property”).

This conveyance is made by Donor and accepted by Donee subject to Permitted Exceptions, if any, described in Exhibit "B" attached hereto and incorporated herein, to the extent such matters are valid, legal, currently existing and in effect, and affect or pertain to the Property ("Permitted Exceptions").

**IN ACCEPTING THIS GRANT OF THE PROPERTY, GRANTEE EXPRESSLY AGREES TO USE THE PROPERTY FOR THE SPECIFIC PUBLIC PURPOSE OF DEVELOPING AND MAINTAINING RECREATIONAL AND ATHLETIC SPACE THAT BENEFITS THE PUBLIC INTEREST OF GRANTOR WITH SUBSTANTIAL CONSTRUCTION TO BEGIN ON OR BEFORE FIVE (5) YEARS FROM THE DATE OF THIS DEED, AND WHENEVER SUCH PROPERTY SHALL CEASE TO BE USED FOR SAID PUBLIC PURPOSE BY THE GRANTEE OR SUCH SUBSTANTIAL CONSTRUCTION DOES NOT BEGIN ON OR BEFORE THE BEFORE MENTIONED DATE, THEN AND THEREUPON GRANTEE'S INTEREST IN THE REAL PROPERTY, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE, SECTION 272.001(L) WILL REVERT TO GRANTOR WITHOUT ANY NECESSITY FOR SUIT TO THE GRANTEE HEREIN, ITS SUCCESSORS OR ASSIGNS. GRANTEE FURTHER ACCEPTS THE PROPERTY IN "AS IS" CONDITION, WITH ALL ITS FAULTS AND PENALTIES, IF ANY. GRANTEE RELEASES ALL CLAIMS AND CAUSES OF ACTION, AT LAW OR IN EQUITY, GRANTEE MAY HAVE AGAINST GRANTOR AND GRANTOR'S TRUSTEES, DIRECTORS, OFFICERS, AGENTS, ATTORNEYS AND EMPLOYEES ("RELEASED PARTIES"), IN CONNECTION WITH THIS TRANSACTION. FURTHER, GRANTEE RELEASES RELEASED PARTIES FROM ANY AND ALL CLAIMS AND CAUSES OF ACTION IN CONNECTION WITH ANY BIDDING, TERMS, CONDITIONS, SALE OR TRANSFER OF THIS PROPERTY. THIS RELEASE IS BINDING ON GRANTEE'S SUCCESSORS, HEIRS, AND ASSIGNS. GRANTEE IS NOT RELYING ON ANY REPRESENTATIONS OR DISCLOSURES BY GRANTOR IN CONNECTION WITH THE PURCHASE OF THE PROPERTY. GRANTEE EXPRESSLY ASSUMES RESPONSIBILITY FOR ANY ENVIRONMENTAL, HAZARDOUS OR REGULATED MATERIAL PROBLEMS ON OR WITH THE PROPERTY AND ANY PUBLIC NUISANCES OR HEALTH, SAFETY OR FIRE HAZARDS.**

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Donee, its successors and assigns forever, subject to the Permitted Exceptions, and Donor does by these presents bind itself, its respective heirs, administrators, successors and assigns to WARRANT and FOREVER DEFEND, all and singular, the Property unto Donee, its successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Donor, but not otherwise.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**DONOR:**

**ANGLETON ISD**

By: NOT FOR EXECUTION  
Phil Edwards, Superintendent

THE STATE OF TEXAS     §  
  §  
COUNTY OF BRAZORIA   §

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_  
2024, by Phil Edwards, Superintendent of ANGLETON ISD on behalf of said entity.

\_\_\_\_\_  
NOTARY PUBLIC in and for  
STATE OF TEXAS

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires: \_\_\_\_\_

**DONEE:**

**CITY OF ANGLETON**

By: NOT FOR EXECUTION  
John Wright, Mayor

THE STATE OF TEXAS     §  
  §  
COUNTY OF BRAZORIA   §

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_  
2024, by John Wright, Mayor of the City of Angleton, on behalf of said entity.

\_\_\_\_\_  
NOTARY PUBLIC in and for  
STATE OF TEXAS

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires: \_\_\_\_\_

DONEE'S ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PLEASE RETURN DEED TO DONEE AFTER RECORDING**

# EXHIBIT A TO DEED

[Legal Description]



County: Brazoria County  
Project: 7.367 Acres  
Job No.: 15721

### FIELD NOTES FOR 7.367 ACRES

Being a 7.367 acre tract of land located within the H.H. Cornwall Survey, Abstract No. 180, Brazoria County, Texas, being a portion of that certain tract in the name of Angleton Independent School District, as recorded in Volume 867, Page 240 and Volume 866, Page 615, also being a portion of the vacated and abandoned street, as recorded in Vol. 866, Pg. 848 and Volume 1159, Page 125 of the Deed Records, Brazoria County, Texas (D.R.B.C.T.), referred to hereafter as the above referenced tract of land, said 7.367 acre tract being more particularly described by metes and bounds as follows (bearings are based on the Texas Coordinate System of 1983, (NAD83) South Central Zone, per GPS observations):

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**THENCE** North 87°39'17" East, over and across the above referenced tract of land, a distance of 526.07 feet to a 5/8-inch capped iron rod, stamped "Baker & Lawson" set for corner, being on the East line of the above referenced tract, same being the West R.O.W. line of said Walker Street;

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The field notes of the herein described tract of land, have been prepared along with a survey plat of the subject tract.

  
Darrel Heidrich  
Registered Professional Land Surveyor  
Texas Registration No. 5378



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4005 Technology Drive, Suite 1530, Angleton, Texas 77515 • Phone: (979) 849-6681  
Texas Firm Registration No. 10052500



**EXHIBIT B**  
**TO DEED**  
*[Permitted Exceptions]*



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Debra Jones

**AGENDA CONTENT:** Expedited Investment Grade Audit WWTP design

**AGENDA ITEM SECTION:** Discussion and possible action for final approval to move forward with the Expedited WWTP Investment Grade Audit with Schneider Electric.

**BUDGETED AMOUNT:** \$500,000

**FUNDS REQUESTED:** \$500,000

**FUND:** \_\_\_\_\_

### EXECUTIVE SUMMARY:

The completed Technology Assessment Phase of the Investment Grade Audit for the Wastewater Plant improvements were presented to the City Manager, Public Works Director and Assistant Public Works Director on February 14, 2024. Discussion and go/no go decisions were made in that meeting of which projects should be priority for further development that would occur in the next development phase.

The critical needs identified by Schneider Electric and in tandem with input from city personnel and are as follows:

1. Aeration Blowers
2. Aeration Diffusers
3. Plant Water Reuse

For budgeting purposes, the total recommended project implementation cost was estimated in April 2024 at approximately \$6M to \$8M. The final scope will vary dependent on the preference of City Leadership.

### RECOMMENDATION:

Council voted unanimously to proceed with the Expedited (Phase 2 and Phase 3) final development of the WWTP improvements on April 9, 2024 for \$500,000. The contract has been negotiated and accepted by both parties. Requesting council move to proceed with the Expedited IGA contract.

**ENERGY AND CONSTRUCTION SERVICES CONTRACT**

This Energy and Construction Services Contract is entered into as of August \_\_\_\_\_, 2024 (the “Effective Date”) by and between Schneider Electric Buildings Americas, Inc. (“ESCO”) and the City of Angleton, TX (“Owner”).

**ARTICLE 1 – DEFINITIONS**

- 1.1. “Change Order” means a written document executed by both parties for purposes of modifying the Scope of Work, the Procurement Phase Amendment, Construction Phase Amendment, the Design Fee, the Preliminary Design Schedule, the Project Price, the Project Time, the PASS Services, the PASS Fees, or the Performance Guarantee, as applicable.
- 1.2. “Contract” means this Energy and Construction Services Contract, together with the following schedules, exhibits, and other documents, and any Amendments issued by the parties after the Effective Date, each of which is attached hereto and incorporated herein by this reference:

- SCHEDULE I: Scope of Design Work
  - Schedule I(A) Design Fee and Payment Schedule

- SCHEDULE II: Energy Services Schedules:
  - Schedule II(A): Energy Services Definitions
  - Schedule II(B): Performance Assurance Support Services Plan
  - Schedule II(C): Performance Guarantee
  - Schedule II(D): Measurement & Verification Plan
  - Schedule II(E): Customer Responsibilities for Performance Guarantee]<sup>1</sup>

- Procurement Phase Amendment (effective as of effective date of the Procurement Phase Amendment if issued and executed by the parties

- Construction Phase Amendment (effective as of effective date of the Construction Phase Amendment if issued and executed by the parties)

- 1.3. “Construction Phase” shall mean the portion of the Project commencing as of the effective date of the Construction Phase Amendment and concluding upon final completion of the Project.
- 1.4. “Construction Work” shall mean all labor, equipment, materials and goods necessary to complete the Scope of Construction Work set forth in the Construction Phase Amendment.
- 1.5. “Date of Commencement” means the later of the Effective Date and the date on which ESCO receives payment of the Project Development Costs
- 1.6. “Deliverables” means the Products (as defined herein), Software (as defined herein), documents, and services provided under this Contract, together with the information and technologies included therein or therewith.
- 1.7. “Design Fee” shall mean the dollar amount set forth on Schedule I(A) attached hereto, which shall be payable to ESCO as compensation for the Design Work in the manner set forth in Schedule I(A).

- 1.8. “Design Phase” shall mean the portion of the Project commencing as of the effective date of this Contract and concluding immediately prior to the effective date of the Construction Phase Amendment.
- 1.9. “Design Portfolio” shall mean designs, plans, drawings, and renderings produced by ESCO depicting available conservation measures and related improvements that may be made to the Owner’s Facilities, ESCO’s recommendations to the Owner thereon, and the estimated costs to Owner for each design option.
- 1.10. “Design Work” shall mean all labor, equipment, materials and goods necessary to complete the Scope of Design Work set forth in Schedule I.
- 1.11. “Energy Services Schedules” means Schedules II(A) – II(E) to this Contract.
- 1.12. “Facilities” shall mean any structure, building, facility, or work which the Owner is authorized to construct or use, and automobile parking lots, landscaping, and other improvements, including furnishings and equipment, incidental to the use of any structure, building, facility, or work, and also includes the site thereof, and any easements, rights-of-way appurtenant thereto, or necessary for its full use that the Owner has made available to the ESCO for the performance of the Work.
- 1.13. “Final Completion” means that Substantial Completion of the Project has been achieved and all Punch List Items have been completed.
- 1.14. “Final Completion Letter” means a letter notifying Customer that Final Completion has been achieved with respect to the portion of the Work described in the Construction Phase Amendment.
- 1.15. “Notice” means written notice delivered in accordance with Section 12.1.
- 1.16. “PASS Fee” has the meaning set forth in Schedule II(A).
- 1.17. “PASS Plan” has the meaning set forth in Schedule II(A).
- 1.18. “PASS Services” has the meaning set forth in Schedule II(A).
- 1.19. “Performance Guarantee” has the meaning set forth in Schedule II(A).
- 1.20. “Procurement Phase Amendment” has the meaning set forth in Section 2.4 hereof.
- 1.21. “Project” shall mean the improvement to Owner’s facilities to be constructed by ESCO in accordance with and subject to the terms and conditions of this Contract, as more specifically set forth in the Procurement Phase Amendment and Construction Phase Amendment, as applicable. For the avoidance of doubt, notwithstanding the original scope of the Project as contemplated by this Contract or any exhibit or attachment hereto, the Procurement Phase Amendment and Construction Phase Amendment issued by Owner shall represent the entirety of the intended and agreed upon scope for the Project.
- 1.22. “Project Development Costs” means, collectively, (i) all costs and expenses incurred by ESCO in connection with designing, developing, or engineering the Project, along with costs and expenses incurred by ESCO for procurement of equipment, materials, bonds, and other project start-up and mobilization expenses.
- 1.23. “Project Price” shall mean total dollar amount payable to ESCO under the Contract as compensation for ESCO’s performance of the Construction Work. The Project Price shall be determined at the conclusion of the Design Phase and shall be set forth in the Construction Phase

Amendment.

- 1.24. "Project Site(s)" means the facilities of the Customer on or at which Work is to be performed, as identified in the Scope of Work and the Construction Phase Amendment if applicable.
- 1.25. "Scope of Work" means Schedule I and the contents thereof and any Amendments issued hereto.
- 1.26. "State" means the State of Texas.
- 1.27. "Substantial Completion" (as used with respect to the Project as a whole or any discrete portion(s) of the Work, as appropriate) means the point at which such Work is operational, ready for use by Customer, and fully complete except for minor adjustments or corrections ("Punch List Items").
- 1.28. "Substantial Completion Letter" means a letter notifying Customer that Substantial Completion has been achieved with respect to the portion of the Work described therein.
- 1.29. "Warranty Period" means one (1) year from the date set forth in the applicable Substantial Completion Letter, unless a different period is stated in the Scope of Work.
- 1.30. "Work" means the Design Work, the Procurement of equipment, and the Construction Work, collectively.

## ARTICLE 2 – DESIGN PHASE OF THE PROJECT

- 2.1 Scope of Design Work. The scope of the Design Work to be performed by ESCO under this Contract is described in Schedule I attached hereto.
- 2.2 Design Schedule. The Preliminary Design Schedule set forth in Schedule I sets forth a preliminary schedule for the Design Phase milestones.
- 2.3 Design Portfolio Submission. Upon completion of the design services as described in the "Scope of Design Work" in accordance with the "Design Schedule", ESCO shall provide to Owner the completed "Design Portfolio". Upon Owner's request, ESCO shall meet with Owner staff to discuss the designs and drawings provided, the Owner's available options, and ESCO's recommendations.
- 2.4 Option to Proceed with Procurement of Materials and Equipment. If during the performance of the Design Work, but prior to completion of the Design Work, ESCO has developed guaranteed savings costs that are able to be reviewed and verified by a third-party engineer, the Owner may choose to issue a Procurement Phase Amendment to this Contract authorizing ESCO to order certain materials and equipment specified in the Procurement Phase Amendment ("Procurement Phase Amendment") . Cost and payment for said materials and equipment will be as set forth in the Procurement Amendment.
- 2.5 Option to Proceed into Construction Phase. Within thirty (30) days of submission of the Design Portfolio, Owner shall either (i) terminate this Contract pursuant to Section 2.4.1 below, or (ii) execute the Construction Phase Amendment/Notice to Proceed in accordance with Section 2.4.2 below.
  - 2.5.1 Early Termination and Payment of Design Fee. If Owner does not wish to proceed into the Construction Phase, Owner may terminate this Contract for convenience immediately upon providing ESCO with written notice of termination and payment in full of the Design Fee.
  - 2.5.2 Execution of Construction Phase Amendment/Notice to Proceed. If Owner wishes to authorize ESCO to proceed with the construction of any improvements to the Owner's Facilities, the Owner shall unilaterally issue the Construction Phase Amendment reflecting the

Construction Work that Owner desires ESCO to complete in accordance with the terms set forth in the Amendment and the terms of this Contract. ESCO will have no obligation to commence performance of the Construction Work until the Design Fee has been paid in full.

### ARTICLE 3 - CONSTRUCTION PHASE

- 3.1 Commencement of Construction Phase. Upon Owner's issuance of the Construction Phase Amendment, ESCO shall commence and perform the Construction Work in accordance with the terms set forth in the Amendment and the terms set forth in this Contract.
- 3.2 Construction Scope of Work. The scope of the construction services to be performed by ESCO pursuant to this Contract shall be determined by Owner and ESCO at the conclusion of the Design Phase and set forth in the Construction Phase Amendment.
- 3.3 Construction Schedule. The scheduled date of Substantial Completion of the Construction Work and any applicable milestone dates shall be determined in accordance with the Construction Phase Amendment.
- 2.6. Project Price. The total price of the Construction Work to be performed by ESCO shall be set forth in the Construction Phase Amendment.
- 2.7. Schedule of Values. As applicable for the Procurement Phase Amendment and the Construction Phase Amendment, ESCO will develop a schedule that delineates the items to be completed pursuant to the Scope of Work and apportions the Project Price among such items ("Schedule of Values") and shall endeavor to provide such Schedule of Values to Owner within thirty (30) days of the Effective Date. Within ten (10) business days of receipt, Owner shall review the Schedule of Values and shall advise ESCO if Owner identifies any items requiring correction or clarification.
- 2.8. Payment of Project Development Costs. Within thirty (30) days of the Effective Date, Owner shall make payment to ESCO for the Project Development Costs, as defined above.
- 2.9. Invoicing and Payment. ESCO shall invoice Owner monthly for progress payments based on the completion to date of items delineated on the Schedule of Values. Amounts invoiced must be paid or disputed by written Notice within thirty (30) days of the applicable invoice date. If ESCO has not received payment of all undisputed amounts within thirty (30) days of the applicable invoice date, then a late penalty equal to one percent (1%) or the late penalty imposed by applicable law will be applied to the overdue amounts each month until paid. Final Payment shall be paid in accordance with Section 7.4 (Final Payment).
- 2.10. Payment of PASS Fees. The PASS Fee and payment of the PASS Fee shall be as set forth in Schedule II(B).
- 2.11. Withholding of Payment. Upon providing written Notice of a payment dispute, Owner may withhold payment of amounts otherwise due hereunder (i) if ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under this Contract, and (ii) Owner has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and the failure, refusal, or neglect has not yet been cured.
- 2.12. Taxes. ESCO and Owner agree to take all necessary measures to comply with all tax laws and regulations that apply to this Contract. ESCO shall be responsible for and pay when due all taxes for which ESCO is liable by reason of the performance of this Contract. Owner shall be responsible for and pay when due all taxes, if any, for which Owner is liable by reason of the performance of this Contract.

## ARTICLE 4 – ESCO’S PERFORMANCE OF THE WORK

- 4.1 Standard of Performance. ESCO shall supervise and direct the Work using such degree of care, skill and attention as is reasonably expected of professionals providing similar services within the State under similar circumstances (such circumstances to include, for example, conditions present at the Project Site(s) and any financial or other constraints applicable to the Project). ESCO shall be solely responsible for coordinating and performing all portions of the Work and shall have control over the means, methods, techniques, sequences and procedures used in the performance of the Work, unless the Scope of Work gives other specific instructions concerning these matters. All construction documents that are required to be prepared by ESCO in connection with the Work shall be prepared by qualified personnel and shall be in accordance with applicable codes, regulations, and laws. The ESCO shall remain responsible for all Work performed, whether performed by the ESCO or its Subcontractors.
- 4.2 Labor and Materials. Unless otherwise provided in the Scope of Work and the Construction Phase Amendment, ESCO shall provide and pay for all labor, materials, tools, equipment, machinery, and transportation necessary for the proper execution and completion of the Work. In the event of a delay in acquiring materials or equipment or an increase in the price of materials or equipment occurs during the performance of the Contract by no fault of ESCO, the parties shall in good faith negotiate such changes (if any) as the parties deem equitable and appropriate under the circumstances and shall memorialize any agreed changes in a Change Order.
- 4.3 Licenses and Compliance with Law. ESCO currently has or shall timely obtain, and shall maintain, all such licenses, permits, qualifications and approvals as it is legally required to hold for performance of the Work. ESCO shall comply with all applicable laws and regulations bearing ESCO’s performance of the Work.
- 4.4 Regular Working Hours. Work will be performed during normal working hours (meaning 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding ESCO holidays) unless the parties specifically agree otherwise in writing. ESCO will use commercially reasonable efforts to minimize disturbances to Owner’s operations while performing the Work.
- 4.5 Safety. Contractor shall comply with OSHA safety standards and regulations. ESCO shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to, (1) employees performing the Work and other persons who may be affected thereby, (2) the Work and materials and equipment to be incorporated therein, and (3) other property at the Project Site(s) or adjacent thereto.
- 4.6 Clean-Up. ESCO shall keep the Project Site(s) free from accumulation of waste materials and rubbish caused by its performance of the Work. Upon completion of the Work, ESCO shall remove from the Project Site(s) all waste materials and rubbish caused by its performance of the Work, all of ESCO’s tools, equipment, machinery, and any surplus materials.
- 4.7 Employees.
- 4.7.1 Responsibility for Employees. ESCO is responsible for the supervision, direction, and control of its employees performing Work on the Project. ESCO shall pay all wages, salaries, and other amounts due its employees in compliance with applicable law.
- 4.7.2 No Unlawful Discrimination. ESCO represents and warrants that it is an equal opportunity employer and agrees that it shall not discriminate in violation of any applicable federal, state, or other law, rule, or regulation, including, but not limited, to discrimination against any employee or applicant for employment on account of such person’s race, religion, color, national origin, ancestry, sex, or age.

- 4.8 Subcontractors. A “Subcontractor” is a person or entity that has a written contract with ESCO to perform a portion of the Work at the Project Site(s) (such written contract, a “Subcontract”).
- 4.8.1 Use of Subcontractors. ESCO may use one or more Subcontractors to perform portions of the Work. If requested in writing by Owner, ESCO shall furnish in writing to Owner the names of the Subcontractors to whom ESCO plans to award Work.
- 4.8.2 ESCO’s Responsibility for Subcontractors. ESCO shall remain ultimately responsible for the performance of its obligations under this Contract and shall be responsible for the acts and omissions of its Subcontractors (and any persons and entities employed by such Subcontractors) in their performance of the Work.
- 4.8.3 Subcontracts. Each Subcontract shall be consistent with the terms and conditions of this Contract and shall require the Subcontractor, to the extent applicable to the scope, quality, character, and manner of the Work to be performed by the Subcontractor, to be bound to ESCO by the terms and conditions of this Contract and to assume all the obligations and responsibilities that ESCO assumes toward Owner thereunder. No Subcontractor is intended to be or shall be deemed a third-party beneficiary of this Contract. All sub-contractors shall comply with OSHA safety standards and regulations. ESCO will ensure all subcontractors provide proof of insurance coverage as outlined in the contract or ESCO agrees to cover contractor as an additional insured by endorsement.
- 4.8.4 Payment of Subcontractors. ESCO shall timely pay each of its Subcontractors in accordance with their respective Subcontracts and in compliance with applicable law.
- 4.9 Unforeseen Conditions. “Unforeseen Conditions” means and includes any subsurface, concealed, latent or other physical conditions, including without limitation the presence of hazardous materials, that differ materially from those conditions contemplated in the Scope of Work, the Construction Phase Amendment or known by ESCO. In the event ESCO encounters Unforeseen Conditions that impact the Project, ESCO shall inform Owner of such conditions promptly and before such conditions are further disturbed. To the extent ESCO incurs additional costs or delays as a result of Unforeseen Conditions, the parties shall execute a Change Order reflecting an equitable adjustment to the Scope of Work, the Design Fee, the Construction Phase Amendment, the Project Price, or the Project Time, as appropriate.
- 4.10 Hazardous Materials.
- 4.10.1 Exclusion for Hazardous Materials. The Work to be performed by ESCO pursuant to this Contract, and the compensation to be paid to ESCO hereunder, expressly excludes any Work of any nature associated or connected with the identification, abatement, cleanup, control or removal of environmentally hazardous materials, unless and except to the extent the Scope of Work provides otherwise. As used herein, “hazardous materials” shall be understood to include, but not be limited to, asbestos, lead, polychlorinated biphenyls (PCBs), mold, petroleum products, and any other material or substance known to have adverse health risks. Owner agrees that all duties and obligations in connection with any hazardous materials located at the Project Site(s) or affecting the Work are strictly the responsibility of Owner, unless and except to the extent ESCO expressly assumes such duties and obligations pursuant to the Scope of Work. Owner will provide any hazardous materials testing documentation and reports, and information from previous sources or vendors used in hazardous materials testing. Owner warrants and represents that, to the best of Owner’s knowledge, there are no hazardous materials at the Project Site(s) that will or would reasonably be expected to affect, be affected by, come in contact with, or otherwise impact or interfere with the Work, unless and except to the extent the Scope of



Work provides otherwise.

- 4.10.2 Responsibilities Upon Encounter. If, in performing or preparing to perform the Work, ESCO encounters or has reason to suspect the presence of hazardous materials of a different type or in a different amount or location than described in the Scope of Work, ESCO is authorized to immediately cease any and all Work that may be affected thereby, and ESCO will promptly notify Owner of the conditions discovered. Should ESCO stop Work because of the discovery or suspicion of hazardous materials, the time for performance of ESCO's Work or service will be extended to cover the period required for abatement, cleanup, or removal of the hazardous materials. ESCO will not be held responsible for any claims, damages, costs, or expenses of any kind associated with the period during which ESCO has stopped Work as a result of hazardous materials. If appropriate, ESCO will be entitled to an equitable adjustment of the Project Price for any increased costs or other charges incurred by ESCO in connection with the exercise of its rights under this paragraph. Owner will be responsible for taking all necessary steps to correct, abate, clean up, or control hazardous materials in accordance with all applicable statutes and regulations. Owner specifically agrees, to the extent allowed by State law, to indemnify and to hold ESCO, its officers, agents and employees harmless from and against any and all claims, demands, damages, or causes of action in any way arising out of the release of hazardous materials into the air, soil, or any water system or water course, or any actions taken in connection with same, or any failure to act.
- 4.11 Ownership and Use. The Work and the PASS Services may include the sale to Owner of materials, goods, equipment or other tangible personal property ("Products"). Except as otherwise set forth in the Scope of Work, any Products that are included in the Work shall be owned by Owner upon Owner's full payment of the invoice covering such Products. The Work and the PASS Services may also involve the licensing of software or software-as-a-service products, subscriptions or other digital content ("Software") to Owner. Except as otherwise set forth in the Scope of Work or Energy Services Schedules, ESCO grants Owner a limited, personal and non-exclusive license to use Software that is included in the Work and/or PASS Services, subject to Owner's timely payment of the Project Price and PASS Fees, as applicable, and subject to ESCO's and its supplier's standard license agreement(s) for such Software, the terms and conditions of which are hereby incorporated by reference. ESCO shall be under no obligation to provide updates or revisions to such Software except to the extent expressly provided in the Scope of Work or Energy Services Schedules. Notwithstanding the foregoing, nothing in this Contract shall be deemed or construed to result in the Owner acquiring any ownership interest or rights in any intellectual property of ESCO or any third parties.
- 4.12 Infringement. Except as otherwise specified, ESCO shall pay all royalties and license fees required for the manufacture, sale /or use of the designs, processes, devices, and other Products and Software provided by ESCO pursuant to the Scope of Work and the Construction Phase Amendment ("IP Products"). ESCO shall defend Owner from suits or claims for infringement of patent rights caused by the manufacture, sale or use of any such IP Products and shall hold Owner harmless from loss on account thereof. In the event any IP Product is found to infringe a third party's intellectual property rights, ESCO shall, at its expense and at its sole option, either: (i) procure the right for Owner to continue using such IP Product, (ii) modify such IP Product to render it non-infringing (provided such modification does not materially degrade the performance or operation of the IP Product), (iii) replace such IP Product with functionally equivalent, compatible, non-infringing IP Product, or (iv) refund or credit the amount paid for the infringing IP Product. Notwithstanding the foregoing, ESCO's obligations hereunder shall not apply to the extent (1) the alleged infringement is based upon or caused by ESCO's IP Products being modified or combined with any other design, process, device, material, Product or Software without ESCO's prior written approval, or (2) ESCO provided the allegedly infringing IP Product subject to specific requirements of Owner, unless ESCO knew of the alleged infringement and failed to inform Owner.

- 4.13 Warranty. ESCO warrants to Owner that, for the applicable Warranty Period: (i) the Work to be performed hereunder will conform to the requirements of the Contract and will be performed in accordance with applicable industry standards, (ii) any Products manufactured by ESCO and sold hereunder will be free of defects in workmanship and material, and (iii) any Software licensed hereunder will perform its essential functions (however, for the avoidance of doubt, ESCO does not warrant that the Software will operate uninterrupted or error-free, nor does ESCO warrant that the Software will meet any compatibility requirements not specified in the Scope of Work and the Construction Phase Amendment). Work, Products and Software that fail to comply with such standards may be deemed defective. If any Work, Product, or Software is proven to be defective within the Warranty Period, ESCO shall re-perform such defective Work, repair or replace such defective Product, and update or replace such defective Software, as ESCO deems appropriate. The foregoing warranties do not apply to the extent any Work, Product or Software has been: (i) subject to abuse, misuse, neglect, or accident, (ii) subject to improper operation, maintenance, storage or repair, (iii) subject to damage caused by circumstances beyond ESCO's control, or (iv) manufactured, programmed, installed, modified, or repaired other than by ESCO, on ESCO's behalf, or with ESCO's prior written approval. If a defect is found not to be ESCO's responsibility, standard rates for repair, replacement and labor shall apply. With respect to Products not manufactured by ESCO, ESCO will pass on any warranties provided to ESCO by its supplier(s). NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION 4.13 (WARRANTY) ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES AND REMEDIES, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

#### ARTICLE 5 – OWNER'S ROLE AND RESPONSIBILITIES

- 5.1 Cooperation Generally. Owner acknowledges and agrees that timely and proper performance of the Scope of Work and the Construction Phase Amendment, if applicable, is dependent on Owner's full and prompt cooperation in reviewing documentation and submittals, issuing approvals, attending meetings, providing facility access (including, without limitation and as appropriate, by providing sufficient keys, access cards, or escort services to facilitate timely execution of Work at multiple locations with multiple trades), relocating personnel, furniture, and equipment, and taking such other actions as may be reasonably requested by ESCO in furtherance of ESCO's performance of the Work.
- 5.2 Submittals. Within fifteen (15) business days of receiving any design, construction or other ESCO submittals, Owner shall review such documentation to confirm acceptance and consistency with the Contract and shall promptly advise ESCO of any issues or questions that are identified.
- 5.3 Project Meetings. Owner shall ensure that the appropriate Owner representatives attend Project meetings coordinated by ESCO. At ESCO's request, Owner shall provide commercially reasonable cooperation and assistance in scheduling and coordinating Project meetings.
- 5.4 Filings and Permits. Except for permits and fees that are to be obtained and paid for by ESCO as expressly stated in the Scope of Work and the Construction Phase Amendment, Owner shall make all such filings as are required by the State or other government authorities in connection with the Work and shall obtain and pay for all permits, approvals, inspections, easements, assessments and charges as are required for the use, occupancy or modification of the real property or structures at and around the Project Site(s), including (without limitation) inspections for concrete or earthen compaction, where applicable.
- 5.5 Repairs. Except to the extent the Construction Phase Amendment specifically contemplates the repair or replacement by ESCO of any existing system, equipment or other property, all such systems, equipment and other property are assumed to be in normal working order, and any defect(s) in the same that could adversely impact the Work or the energy and efficiency savings expected to be generated thereby shall be promptly repaired or replaced by Owner.

- 5.6 Owner Information. Owner agrees that it has provided and shall continue to provide ESCO with all such information, documentation, access, knowledge and history as is available to Owner and as is relevant to ESCO's timely and successful completion of the Scope of Work and the Project and performance of its other obligations under the Contract, including, without limitation, the following:
- 5.6.1 Drawings, Specifications and Surveys. Owner shall provide ESCO with copies of or access to (i) all such working drawings, specifications, surveys and "As-Built" drawings as it may have relating to the Project Site(s), to the Work, or to work being performed by other companies at the Project Site(s), and (ii) all such surveys as it may have describing the physical characteristics, legal boundaries and restrictions, and utility locations at and around the Project Site(s). All drawings, specifications, and surveys furnished to ESCO by Owner are and shall remain the property of Owner.
- 5.6.2 Energy Usage Data. Owner shall make available to ESCO, on a monthly basis or as ESCO may otherwise request, copies of all energy bills, energy usage data, and all other such documentation maintained by Owner.
- 5.6.3 Facilities Information. Owner shall promptly provide information and documentation relating to Owner's facilities, systems, and equipment and to its maintenance and operations practices. Owner has disclosed or will disclose as promptly as possible upon learning of, all known or suspected deficiencies, defects, and malfunctions of or affecting its facilities, systems or equipment and any components thereof, as well as any conditions of the Project Site(s) that should be considered in planning and executing the Work. To facilitate the exchange of relevant facilities information, Owner shall provide ESCO with access to Owner's key facilities personnel and, at ESCO's reasonable request, shall designate an Owner representative to ensure the timely and correct transfer of information requested by ESCO.
- 5.7 Operations. Owner shall operate all Work installed under this Contract in accordance with the manufacturer's recommendations and the manuals supplied to Owner by ESCO. Owner agrees to protect the Work and operating conditions thereof, and Owner shall promptly notify ESCO in the event of any malfunction in the operation of the Work. Except in the case of emergency, Owner shall not remove, move, turn off or otherwise significantly alter the operation of any Work performed hereunder without ESCO's prior written approval, which approval shall not be unreasonably withheld. Upon receipt of such approval, Owner shall closely follow any instructions provided by ESCO in connection with the same. If, due to an emergency, it is not reasonable to obtain ESCO's approval prior to taking action, Owner shall protect the Work from damage or loss and shall notify ESCO of all actions taken as soon as reasonably possible thereafter. For purposes of this Section, a significant alteration would include, without limitation, any alteration that might cause a reduction in the level of energy or efficiency savings generated by the Work or any alteration to any measurement and verification system installed in connection with the Work.

## 5.8 Cybersecurity.

- 5.1 Definitions. For purposes of Section 5.8 (Cybersecurity) only: (i) “Cyber Threat” means any circumstance with the potential to adversely impact Owner’s Systems or that may result in any unauthorized access, acquisition, loss, misuse, destruction, disclosure, or modification of the Systems, including through malware, hacking, or similar attacks, (ii) “Patch” means an Update that fixes a vulnerability in a Deliverable, (iii) “Systems” means Owner’s computer network, systems, machines, and data, and (iv) “Update” means software that contains a correction of errors in a Deliverable or minor enhancements or improvements for a Deliverable but does not contain significant new features.
- 5.8.2 Owner’s Obligations for Its Systems. Owner is solely responsible for the implementation and maintenance of a comprehensive security program that contains reasonable and appropriate security measures and safeguards to protect its Systems against Cyber Threats, including those Systems on which it runs the Deliverables. Without limiting the foregoing, Owner shall at a minimum:
- (a) have qualified personnel with appropriate expertise in cybersecurity maintain Owner’s security program and regularly monitor cyber intelligence feeds and security advisories applicable to Owner’s Systems or Owner’s industry;
  - (b) promptly update or patch its Systems or implement other appropriate measures based on any reported Cyber Threats and in compliance with any security notifications or bulletins, whether publicly disclosed on ESCO’s security notification webpage at <https://www.se.com/ww/en/work/support/cybersecurity/security-notifications.jsp> or otherwise provided to Owner;
  - (c) regularly monitor its Systems for possible Cyber Threats;
  - (d) regularly conduct vulnerability scanning, penetration testing, intrusion scanning, and other cybersecurity testing on its Systems; and
  - (e) meet the recommendations of ESCO’s Recommended Cybersecurity Best Practices, available at <https://www.se.com/us/en/download/document/7EN52-0390/> and then-current industry standards.
- 5.9 Owner’s Use of the Deliverables. ESCO may release Updates and Patches for its Deliverables from time to time. Owner shall promptly install any Updates and Patches for such Deliverables as soon as they are available in accordance with ESCO’s installation instructions and using the latest version of the Deliverables, where applicable. Owner understands that failing to promptly and properly install Updates or Patches for the Deliverables may result in the Deliverables or Owner’s Systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and ESCO shall not be liable or responsible for any losses or damages that may result.
- 5.10 Identification of Cyber Threats. If Owner identifies or otherwise becomes aware of any vulnerabilities or other Cyber Threats relating to the Deliverables for which ESCO has not released a Patch, Owner shall promptly notify ESCO of such vulnerability or other Cyber Threat(s) via the ESCO Report a Vulnerability page (<https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers>) and further provide ESCO with any reasonably requested information relating to such vulnerability (collectively, “Feedback”). ESCO shall have a non-exclusive, perpetual and irrevocable right to use, display, reproduce, modify, and distribute the Feedback (including any confidential information or intellectual property contained therein) in whole or part, including to analyze and fix the vulnerability, to create Patches or Updates for its customers, and to otherwise modify its Deliverables, in any manner without restrictions, and without any obligation of attribution or compensation to Owner; provided, however, ESCO shall not publicly disclose Owner’s name in connection with such use or the Feedback (unless Owner consents otherwise). By submitting Feedback, Owner represents and warrants to ESCO that Owner has all necessary rights in and to such Feedback and all information it contains, including to grant the rights to ESCO described herein, and that such Feedback does not infringe

any proprietary or other rights of third parties or contain any unlawful information.

- 5.11 Export Control. The Deliverables provided by ESCO under this Contract may contain components and technologies from the United States of America (“US”), the European Union (“EU”) or other nations. Owner acknowledges and agrees that the supply, assignment or usage of Deliverables under this Contract must fully comply with applicable US, EU and/ or other national or international export control laws and regulations (“Export Laws”). Unless applicable export licenses have been obtained from the relevant authority and ESCO has approved, the Deliverables shall not (i) be exported or re-exported to any destination or party restricted by applicable Export Laws; or (ii) be used for those purposes or fields restricted by any Export Laws. Owner also agrees that the Deliverables will not be used either directly or indirectly in any rocket systems, unmanned air vehicles, nuclear weapons delivery systems, or in any design, development, production or use of or related to weapons (which may include, without limitation, chemical, biological or nuclear weapons). ESCO shall be excused from performing any obligations under this Contract that would, in ESCO’s judgment, violate any Export Laws or expose ESCO to a risk of liability thereunder.

## ARTICLE 6 – PROJECT TIME

- 6.1 Project Time. The number of days from the Date of Commencement of the Construction Phase to achieve Substantial Completion of the Project will be set forth in the Construction Phase Amendment (as the same may be adjusted from time to time in accordance with the terms and conditions of the Contract) referred to herein as “Project Time”.
- 6.2 Excusable Delay. If ESCO’s performance of Work is at any point delayed or obstructed by circumstances beyond ESCO’s reasonable control (including, without limitation, acts or omissions of Owner, epidemic, pandemic, quarantine restrictions, changes in applicable law, labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, unusually severe shortages in the available supply of or unusually severe increases in the cost of materials or equipment needed for performance of the Work, or delays of common carriers) then the parties agree to execute a Change Order allowing for an equitable extension of time for performance of ESCO’s Work to cover such delay.

## ARTICLE 7 – COMPLETION AND FINAL PAYMENT

- 7.1 Substantial Completion of Work. ESCO will issue Owner one or more Substantial Completion Letters upon achieving Substantial Completion of discrete portion(s) of Work. Owner shall provide ESCO with written Notice within ten(10) business days of ESCO’s issuance of a Substantial Completion Letter if Owner disputes the assertion that ESCO has achieved Substantial Completion of the applicable Work, and such Notice shall explain the basis for Owner’s dispute and the portion of the applicable Work to which it pertains. The parties shall meet promptly following Owner’s issuance of any such Notice of dispute and shall in good faith attempt to resolve the dispute and align on a path forward (i.e. any corrections or adjustments to be made to the Work, Scope of Work, or Project schedule, etc.). Unless timely disputed by Owner, the date on which ESCO issues any such Substantial Completion Letter shall be the “Date of Substantial Completion” with respect to the applicable Work.
- 7.2 Substantial Completion of the Project. ESCO will issue Owner a Substantial Completion Letter upon achieving Substantial Completion of the Project (the “Project Substantial Completion Letter”). Promptly following ESCO’s delivery of a Project Substantial Completion Letter, ESCO will compile a Punch List of items that remain to be completed, if any.
- 7.3 Final Completion of the Project. When all Punch-List Items have been completed, ESCO shall issue a Final Completion Letter informing Owner that the applicable Work is ready for inspection and shall provide an invoice for the outstanding balance of the Project Price along with a conditional release of all liens arising out of the Contract. Within thirty (30) days of receiving the Final Completion Letter, Owner shall execute an acknowledgment stating that Final Completion has been

achieved as of the date set forth therein (the “Project Completion Date”). Notwithstanding anything to the contrary contained herein, if the Owner fails to issue said acknowledgement, or fails to provide in writing a justifiable basis for denying the achievement of Final Completion within said thirty (30) days, then the Project Completion Date shall be the 31st day from the date the Owner received the Final Completion Letter.

- 7.4 Final Payment. Payment of the final invoice amount (“Final Payment”) shall be due within thirty (30) days of the Project Completion Date. The making of Final Payment shall constitute a waiver of claims by the Owner except those arising from: (a) unsettled liens, security interests, or encumbrances arising out of the Contract; (b) the failure of the Work to comply with the requirements of the Contract; or (c) the terms and conditions of warranties expressly provided in the Contract. Upon receipt of Final Payment, ESCO shall deliver an unconditional and final release of all liens arising out of the Contract.

## ARTICLE 8 – CHANGES

- 8.1 Change Request. Owner may request changes to the Scope of Work or the Construction Phase Amendment, if applicable, by submitting a description of the requested changes to ESCO in writing. In response to any such request, ESCO shall provide Owner a written proposal (the “Change Proposal”) that describes, in reasonable detail, the proposed changes to the Scope of Work or the Construction Phase Amendment, as applicable, and any corresponding adjustments that would need to be made to the Design Fee, Preliminary Design Schedule, the Project Time, the Project Price, the PASS Services, the PASS Fees, and the Performance Guarantee, as applicable. ESCO may also submit a Change Proposal to Owner in the event that this Contract authorizes or requires the parties to negotiate and execute a Change Order or in the event that ESCO otherwise wishes to request a Change Order in good faith, in which case such Change Proposal shall describe the proposed changes in reasonable detail, along with the contractual, legal or other basis for requesting such changes.
- 8.2 Change Order Process. Within ten (10) business days following receipt of the Change Proposal, the parties shall meet and confer, acting reasonably and in good faith, to negotiate a mutually acceptable Change Order in accordance with the principles set forth herein. Promptly following agreement on the terms and conditions of the Change Order, the parties shall execute the same. If the parties do not agree upon the terms and conditions of the Change Order and the proposed change relates to circumstances in which a party is entitled to a Change Order under this Contract, then either party may submit the matter to dispute resolution pursuant to Section 12.6 (Disputes and Choice of Law).
- 8.3 Owner Delays. In the event of any failure by Owner to timely fulfill its obligations under Article 5 (Owner’s Role and Responsibilities) or in the event of any other delay or Work stoppage due to the acts or omissions of Owner or Owner’s agents, the Project Time shall be equitably adjusted to reflect such period of interruption and the Project Price shall be equitably adjusted to cover reasonable costs incurred by ESCO due to the delay or Work stoppage, including, without limitation, any demobilization and remobilization costs. ESCO will use commercially reasonable efforts to mitigate such costs.

## ARTICLE 9 – SUSPENSION AND TERMINATION

- 9.1 Non-Appropriation. If Owner is a governmental entity, any applicable State or local law entitling Owner to terminate the Contract due to insufficient appropriation of funds is hereby incorporated in this Section 9.1 by reference. In the event of a termination pursuant to this Section 9.1, Owner shall provide ESCO written Notice of termination as soon as is reasonably possible, and in no event later than the effective date of termination.

- 9.2 ESCO Default. Owner may terminate the Contract or suspend the performance of Work by providing written Notice to ESCO if: (i) ESCO repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract, (ii) Owner has provided written Notice of default to ESCO detailing the alleged failure, refusal, or neglect, and (iii) within thirty (30) days of ESCO's receipt of such written Notice, ESCO has neither cured nor commenced and diligently continued efforts to cure such default.
- 9.3 Owner Default. ESCO may terminate the Contract or suspend the performance of Work or PASS Services, as applicable, by providing written Notice to Owner if: (i) Owner repeatedly or materially fails, refuses or neglects to fulfill its obligations under the Contract or fails to make any payment(s) to ESCO as and when due hereunder, (ii) ESCO has provided written Notice of default to Owner detailing the alleged failure, refusal, neglect, or payment default, and (iii) within thirty (30) days of Owner's receipt of such written Notice, Owner has neither cured nor commenced and diligently continued efforts to cure such default.
- 9.4 Prolonged Stoppage of Work. ESCO may terminate the Contract by providing ten(10) days' written Notice to Owner if: (i) Work is stopped due to an act, omission, or request of Owner, other than pursuant to Section 9.2 (ESCO Default), (ii) the Work stoppage is not due to Contractor's negligence, misconduct, or breach of the Contract, and (iii) the Work stoppage is for more than ninety (90) consecutive days or one hundred twenty (120) aggregate days.
- 9.5 Insolvency. Either party may terminate the Contract by providing written Notice to the other party if the other party: (i) becomes insolvent, (ii) is generally unable to pay, or fails to pay, its debts as they become due, (iii) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, (iv) makes or seeks to make a general assignment for the benefit of its creditors, or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.
- 9.6 Payment upon Termination. In the event of any termination other than a termination for cause by Owner pursuant to Section 9.2 (ESCO Default), Owner shall compensate ESCO: (i) in accordance with the Schedule of Values for Work performed and in progress prior to the effective date of termination, and (ii) for reasonable costs and expenses incurred by reason of the termination, such as demobilization costs, termination fees, and restocking fees.
- 9.7 Effect of Termination. Subject to Section 12.7 (Survival; Statute of Limitations), termination of the Contract shall release ESCO of all remaining obligations under the Contract as of the effective date of such termination.
- 9.8 Other Remedies. Any remedies provided for in this Article 9 shall not be exclusive of any additional remedies available to a party pursuant to this Contract, in equity or in the law. Nothing in this Contract shall be deemed or construed as a waiver by either party of any rights it may have with respect to a wrongful termination by the other party.

## ARTICLE 10 – INDEMNIFICATION AND ESCO LIABILITY

- 10.1 Indemnity. ESCO shall, at its own cost and expense, indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents ("Indemnified Parties") from and against all damages, penalties, losses, costs and expenses (including reasonable attorneys' fees) arising out of any third-party claim for personal injury or tangible property damage, but only to the extent caused by the negligence or misconduct of ESCO or any of ESCO's agents (including Subcontractors of any tier) in connection with this Contract, and provided that the Indemnified Parties (i) give ESCO prompt written notice of any such claim, and (ii) provide such cooperation and information as ESCO may reasonably require in the defense or handling of any such claim. ESCO shall not be responsible for any settlement or consent to judgment made by or on behalf of an Indemnified Party without ESCO's prior written consent.

## 10.2 Limitations of Liability.

- 10.2.1 In no event shall either party or its officers, directors, affiliates, or employees be liable for any form of indirect, special, consequential, or punitive damages, whether such damages arise in contract or tort, and irrespective of fault, negligence or strict liability or whether such party has been advised in advance of the possibility of such damages.
- 10.2.2 The remedies of Owner set forth in the Contract are exclusive unless stated otherwise and ESCO's total liability with respect to damages arising out of this Contract shall not exceed (i) the Design Fee, if the Construction Phase Amendment is not issued by the Owner, or (ii) the Project Price if the Construction Phase Amendment is issued by the Owner and accepted by ESCO. However, the foregoing sentence shall not limit ESCO's liability with respect to (i) damages caused by ESCO's gross negligence or intentional misconduct, (ii) third-party claims for personal injury or tangible property damage to the extent caused by ESCO's negligence or misconduct, or (iii) any other claims or damages for which ESCO's liability cannot be limited pursuant to applicable law.
- 10.2.3 The provisions of this Section 10.2 apply only to the extent permitted by the Constitution and laws of the State and shall supersede any contrary provisions of the Contract.

## ARTICLE 11 – INSURANCE AND BONDS

- 11.1 Required Insurance. ESCO shall, at its own cost and expense, maintain in effect the following policies of insurance (each a “Policy”, and collectively the “Policies”) for the applicable period(s) set forth in Section 12.2:
- 11.1.1 Commercial General Liability Insurance. A policy of commercial general liability insurance, written on an “occurrence” basis, with a liability limit of two million dollars (\$2,000,000) per occurrence (“General Liability Policy”).
- 11.1.2 Automobile Liability Insurance. A policy of automobile liability insurance, written on an “occurrence” basis, with a combined single limit of one million dollars (\$1,000,000) per accident for bodily injury and property damage (“Auto Liability Policy”). The Auto Liability Policy must include coverage for owned, hired and non-owned automobiles.
- 11.1.3 Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance as required by State law, and employer's liability insurance, written on an “occurrence” basis, with a liability limit of two million dollars (\$2,000,000).
- 11.1.4 Professional Liability Insurance. Professional liability insurance, written on a claims-made (and reported) basis, with a liability limit of two million dollars (\$2,000,000) per claim (“Professional Liability Policy”).
- 11.2 Duration of Insurance. The Policies shall be procured by ESCO prior to ESCO's commencement of the Project and, except for the Professional Liability Policy, shall be maintained in effect for at least one year following the earlier of the Project Completion Date or termination of this Contract. ESCO shall maintain the Professional Liability Policy in effect for at least three years following the earlier of the Project Completion Date or termination of this Contract.
- 11.3 Insurer Rating Standards. The insurance policies required pursuant to this Article must be issued by one or more insurers that are (i) licensed to do business in the State and (ii) have an A.M. Best Company rating of not less than “A-” and a financial size category of not less than “VII.”



- 11.4 Additional Insureds. At Owner's request, ESCO shall include Owner and Owner's directors, officers, employees, and agents as additional insureds on ESCO's General Liability Policy and Auto Liability Policy. The additional insured endorsements will be on ESCO's most current versions of ISO Form CG 2010 and ISO Form CG 2037 or their substantial equivalents.
- 11.5 Waiver of Subrogation. Each of the General Liability Policy and the Auto Liability Policy shall provide a waiver of transfer of rights of recovery in favor of Owner.
- 11.6 ESCO Insurance is Primary. The General Liability Policy and the Auto Liability Policy shall be endorsed to provide that they are primary and non-contributory.
- 11.7 Premiums, Deductibles and Self-Insured Retentions. ESCO shall be solely responsible for paying deductibles and self-insured retentions applicable to the Policies.
- 11.8 Evidence of Coverage. At Owner's request, ESCO shall provide to Owner a duly authorized and executed certificate of insurance evidencing that the required Policies and endorsements are in effect (each a "Certificate of Insurance").
- 11.9 Notice of Change in Policies. ESCO shall notify Owner within thirty (30) days of its receipt of written notice from an applicable insurer that a Policy will expire without renewal or will be canceled, terminated, or materially reduced in coverage.
- 11.10 Review of Coverage. Owner's failure to identify any non-compliance with the requirements of this Article shall not be deemed as a waiver of such requirements.
- 11.11 Subcontractor Insurance. ESCO shall require each Subcontractor to maintain such levels and types of insurance coverage as are appropriate for the Work to be performed by such Subcontractor.
- 11.12 Bonds. ESCO shall provide payment and performance bonds for 100% of the Project Price to secure the faithful performance of the Work and to ensure the satisfaction of ESCO's payment obligations to its Subcontractors and suppliers related to the Work as required by Chapter 2253 of the Texas Government Code. Notwithstanding any provision to the contrary herein, any payment and performance bonds associated with this Contract guarantee only the performance of the installation portion of the Contract and shall not be construed to guarantee the performance of: (1) any efficiency or energy savings guarantees, (2) any support or maintenance service agreement, or (3) any other guarantees or warranties with terms beyond one (1) year in duration from Substantial Completion Date.]

## ARTICLE 12 – MISCELLANEOUS

12.1 Notices. All written Notices required to be delivered pursuant to the Contract must be in writing and addressed to the other party at its address set forth below (or to such other address as the receiving party may designate from time to time by providing written notice to the other party in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Contract, a Notice is effective only (a) on receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

(a) If to ESCO, to:

Schneider Electric Buildings Americas, Inc.  
1650 W. Crosby Rd.  
Carrollton, TX 75006  
Attention: Corey Newby  
E-mail: corey.newby@se.com

with copies to:

Schneider Electric Legal Department  
70 Mechanic Street  
Foxboro, MA 02035  
Attention: Time-Sensitive Legal Notice for SEBA

(b) If to the Owner, to:

Chris Whittaker, Angleton City Manager  
121 S. Velasco  
Angleton, Texas 77515  
E-mail: cwhittaker@angleton.tx.us

12.2 Relationship of Parties. Nothing in this Contract creates any agency, joint venture, partnership or other form of joint enterprise, employment, or fiduciary relationship between the parties. ESCO is an independent contractor pursuant to this Contract. Neither party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.

12.3 Public Statements. Owner acknowledges that ESCO may provide information pertaining to this Project and this Contract when responding to requests for proposals, requests for qualifications, requests for references, and other requests from prospective customers or government agencies. However, ESCO will not disclose Owner information that has been marked confidential without Owner's prior written consent.

12.4 Ethics and Compliance with Law. Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party. In the event Owner has concerns related to ESCO's ethics or any potential violations of ESCO's Trust Charter (code of conduct), Owner is welcome to make use of ESCO's Trust Line. The Trust Line is a confidential channel through which customers can ask questions and raise concerns. Reports can be made using the following link:  
<https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>.

- 12.5 Applicable Law Deemed Included. Each and every provision required by applicable law to be included in this Contract is hereby deemed to be so included, and this Contract shall be construed and enforced as if all such provisions are so included. If, for any reason, any provision required by any applicable law is not expressly included herein, or is not correctly included herein, then, upon request of either Owner or ESCO, the parties shall amend this Contract to include or incorporate, or to correctly include or incorporate, such provision.

Without limiting the generality of the foregoing, the following provisions are hereby included at Owner's direction, to the extent legally required:

- 12.5.1 To the extent Owner is funding the Project or a portion of the Project with a Federal award, the "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards" set forth under Appendix II to Part 200 of Title 2 of the Code of Federal Regulations are hereby incorporated in this Contract and shall apply to such portion of the Project as if set forth in full herein.
- 12.6 Disputes and Choice of Law. To the extent allowed by applicable law, the parties shall attempt to resolve any controversy or claim arising out of or relating to this Contract or an alleged breach hereof by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim may be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules should the parties agree to arbitration, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Contract shall be governed by the laws of the State, and any litigation or arbitration proceeding shall take place in either Harris County, Texas or the county in which the Project is located.
- 12.7 Survival; Statute of Limitations. The obligations and rights of the parties under this Contract that by their nature would continue beyond expiration, termination, or cancellation of this Contract (including, without limitation, the warranties, indemnification obligations, limitation of liability, effect of suspension or termination, payment upon termination, and ownership and property rights) shall survive any such expiration, termination, or cancellation. For the avoidance of doubt, ESCO's obligations regarding the Performance Guarantee shall not continue beyond the expiration, termination, or cancellation of this Contract or the PASS Plan.
- 12.8 Entire Contract. This Contract, inclusive of the schedules, exhibits, and other documents attached hereto and expressly incorporated herein, constitutes the sole and entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous written and verbal understandings, agreements, representations, warranties, and covenants with respect to such subject matter.
- 12.9 Further Assurances. Upon either party's reasonable request, the other shall execute and deliver all such further documents and instruments, and take all such further acts, as are necessary to give full effect to this Contract and applicable legal requirements.
- 12.10 Amendment and Modification. No amendment to or modification of this Contract is effective unless it is in writing and signed by an authorized representative of each party.
- 12.11 Waiver. No waiver under this Contract is effective unless it is in writing and signed by an authorized representative of the party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated and does not operate as a waiver on any future occasion.

- 12.12 Assignment. Owner may not assign any of its rights or delegate any of its obligations under this Contract without the prior written consent of ESCO. ESCO may assign its rights and delegate its obligations to any affiliate or to any person acquiring all or substantially all of ESCO's assets. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Contract.
- 12.13 Third-Party Beneficiaries. This Contract benefits solely the parties to this Contract and their respective permitted successors and assigns, and nothing in this Contract confers on any other person any express or implied legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Contract.
- 12.14 Interpretation. Unless the context otherwise requires, references in this Contract: (i) to articles, sections, exhibits, schedules, and attachments mean the articles and sections of, and exhibits, schedules, and attachments attached to, this Contract; (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Contract is the result of negotiations between, and has been reviewed by, the parties and their respective legal counsel. This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
- 12.15 Headings. The headings in this Contract are for convenience only and do not affect the interpretation of this Contract.
- 12.16 Severability. If any term or provision of this Contract is deemed invalid, illegal, or unenforceable pursuant to applicable law, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Contract to affect the original intent of the parties to the greatest extent possible.
- 12.17 Counterparts. This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Contract delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Contract.
- 12.18 Due Authority of Signatories. Each party represents and warrants that this Contract constitutes the legal, valid, binding, and enforceable obligation of such party, and that neither the execution nor performance of this Contract constitutes a breach of any agreement that such party has with any third party or violates any law, rule, regulation, or legal duty applicable to such party. Each party further represents and warrants that the execution of this Contract is within such party's legal powers, and that each individual executing this Contract on behalf of such party is duly authorized to do so by all necessary and appropriate action and does so with full legal authority.

[Signature Page Follows]

**IN WITNESS WHEREOF**, each of the parties has caused this Energy and Construction Services Contract to be executed as of the Effective Date by its duly authorized representative below.

**The City of Angleton, Texas**

**Schneider Electric Buildings Americas, Inc.**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## SCHEDULE I SCOPE OF DESIGN WORK

Owner hereby acknowledges and agrees that the scope of work shall be limited to, and ESCO shall only perform, the following:

### Scope of Design Work

#### **Mid-Term (“Phase 2”)**

Phase 2 scope of services will focus on the development of the Customer selected scope of work as described in IGA Phase 1 deliverables, including the Technology Assessment report. Any additional scope to be developed must be by mutual agreement between Customer and ESCO.

During Phase 2, engineering documents will be created to outline the basis of design for each Energy Conservation Measure, including the technologies selected by the Customer at the conclusion of the Technology Assessment. Upon kickoff of Phase 2, the following site evaluations have been identified to be conducted by the ESCO, subject to Customer scope of work selection:

- Scope for Phase 2 is determined to be:
  - Aeration Blower Improvements - to provide electrical and operational cost savings, as well as improved process and blower reliability, with cost estimate
  - Aeration Basin Process Improvements – to provide electrical and operation cost savings, as well as improved process, with cost estimate
  - Plant Water Re-Use – to provide water cost savings, with cost estimate

The site evaluations determined at the completion of Phase 1 will be used in the development of the engineering documents during Phase 2. The engineering documents will be of a level of completeness to establish a budget approval level, improved cost estimate (AACE Class 3), and for early procurement of long lead equipment and materials. The documents shall include, but not be limited to, the following:

- General Specifications (Preliminary)
- Major Equipment Specification Sections (Preliminary)
- Major Equipment List(s) (Preliminary)
- Datasheets for Major Equipment (Preliminary)
- General Drawing Index, Notes, Symbols and Legends Sheets (Preliminary)
- Process Flow Diagram(s) (Preliminary)
- Piping and Instrumentation Diagram(s) (Preliminary)
- Overall Site Plan/Location Key (Preliminary)
- General Civil and Piping Layout(s) (Preliminary)
- General Structural Plan(s) (Preliminary)
- Mechanical Plans, Sections, and Details (Preliminary)
- Electrical Single Line Diagram(s), Schematic(s) and Plan(s) (Preliminary)
- TCEQ Design Report containing the above information, for Regulatory review and approval

A Customer review of key deliverables will be conducted during a Phase 2 Review Meeting to gain stakeholder alignment on project scope and direction before continuing into the Final Phase. The review will be critical to ensure all expectations are being met and key considerations satisfied. The intent of this stage is to advance the options down using AACE Class 3 estimates to establish the final scope that will be engineered during the Final phase of pre-contract design development.

#### **Financial Commitment**

- A. If ESCO fulfills responsibilities of Phase 2, then Customer agrees to pay ESCO the “IGA Phase 2 Fee” of Three-Hundred Thousand Dollars and No Cents (\$300,000.00), subject to the terms of this Agreement. The parties agree that after the Mid-Term meeting for the IGA Phase 2, ESCO

will submit an invoice to the Customer, and the Customer agrees to pay, for half of the IGA Phase 2 Fee per the payment terms set forth herein.

- B. Payments are due and payable thirty (30) days from invoice date. Amounts unpaid thirty (30) days after the invoice date shall bear an interest rate of 1.5% per month (18% per annum).
- C. Customer agrees that until Customer has paid the Phase 2 Fee, the documents, engineering information, data, and recommendations developed by ESCO are the intellectual property of ESCO and may not be shared with any third parties (except to the extent as required by law) without the written permission of ESCO. This provision is waived and inapplicable to any application, project plan, or other document Customer may be required to submit in order to obtain or reserve any financing or funding mechanisms utilized by the Customer to pay for the partial or entire performance of ESCO under this Agreement, including but not limited to applications, project planning reviews, audits, proofs of performance, requests for financing, requests for reimbursements, and requests for obligation of funds.

### **Procurement Phase Amendment**

If, after completion of the Mid-Term (Phase 2) Design, Customer intends to proceed with early procurement per the Article 2.4 (above), ESCO shall provide Customer with a proposal for said materials and equipment to include payment and delivery schedule, suitable to be set forth in a Procurement Phase Amendment.

### **Final Phase (“Phase 3”)**

Phase 3 will continue to refine the level of completeness of preliminary-level deliverables listed above from Phase 2. Phase 3 documents will be produced for the purpose of establishing a detailed control and bidding level cost estimate (AACE Class 2). During Phase 3, subcontractors will be qualified. Qualified subcontractors will review design documents, walk the site, and provide proposals. In addition to final-level versions of the engineering documents listed above, the following will also be included in Phase 3 deliverables:

- Mechanical Piping Schedules
- Electrical Conduit and Wire Schedules
- Construction Phasing Plan and Preliminary Construction Schedule
- Inspection, Testing, and Commissioning Plan
- Measurement and Verification Plan
- A Guaranteed Energy Savings Contract

At completion of Phase 3, a Final Review Meeting will be conducted. This review will be critical to ensure all expectations are being met and key considerations satisfied. It is expected that this stage will produce the details necessary to provide contract grade scope, pricing, and savings (if applicable) consistent with a AACE Class 2 grade design.

### **Financial Commitment**

- A. If ESCO fulfills responsibilities of Phase 3, then Customer agrees to pay ESCO the “IGA Phase 3 Fee” of Two-Hundred Thousand Dollars and No Cents (\$200,000.00), subject to the terms of this Agreement. The parties agree that after the Mid-Term meeting for the IGA Phase 3, ESCO will submit an invoice to the Customer, and the Customer agrees to pay, for half of the IGA Phase 3 Fee per the payment terms set forth herein.
- B. Payments are due and payable thirty (30) days from invoice date. Amounts unpaid thirty (30) days after the invoice date shall bear an interest rate of 1.5% per month (18% per annum).
- C. Customer agrees that until Customer has paid the Phase 3 Fee, the documents, engineering information, data, and recommendations developed by ESCO are the intellectual property of ESCO

and may not be shared with any third parties (except to the extent as required by law) without the written permission of ESCO. This provision is waived and inapplicable to any application, project plan, or other document Customer may be required to submit in order to obtain or reserve any financing or funding mechanisms utilized by the Customer to pay for the partial or entire performance of ESCO under this Agreement, including but not limited to applications, project planning reviews, audits, proofs of performance, requests for financing, requests for reimbursements, and requests for obligation of funds.

Design Schedule

**City of Angleton WWTP - Preliminary Phasing and Funding Plan**

Task Name	Duration	Date
Invoice - IGA Phase 1 - \$125k	0 days	July 2024
City Council Approves Agreement	0 days	August 2024
Execute Agreement and Subcontracts	4 days	
<b>Design Phase</b>	<b>280 days</b>	
<b>IGA Phase 2</b>	<b>140 days</b>	
Complete 30-50% Design for Procurement Amendment Price Proposal & Target Construction Price	120 days	
Invoice - Design - IGA Phase 2 50% - \$150k	0 days	November 2024
Client Review and Approval	20 days	
Invoice - Design - IGA Phase 2 100% - \$150k	0 days	February 2025
<b>IGA Phase 3</b>	<b>140 days</b>	
Complete 100% Design for Construction Amendment Price Proposal	120 days	
Invoice - Design - IGA Phase 3 50% - \$100k	0 days	April 2025
Client Review and Approval	20 days	
Invoice - Design - IGA Phase 3 100% - \$100k	0 days	August 2025



**SCHEDULE II  
ENERGY SERVICES SCHEDULES**

See attached Schedules:

- Schedule II-A: Energy Services Definitions
- Schedule II-B: Performance Assurance Support Services Plan
- Schedule II-C: Performance Guarantee
- Schedule II-D: Measurement & Verification Plan
- Schedule II-E: Owner Responsibilities for Performance Guarantee

**SCHEDULE II(A)  
ENERGY SERVICES DEFINITIONS**

The terms listed in this Schedule II(A) shall have the respective meanings assigned to them below. Any other capitalized terms used but not defined in the Energy Services Schedules shall have the respective meanings assigned to them in the Contract.

- 1.1. "Actual Savings" means the total savings realized or stipulated to by Owner during a specified period of time, as determined in accordance with the provisions of Schedules II(C)-II(E).
- 1.2. "Excess Savings" means the amount (if any) by which Actual Savings exceed the Guaranteed Cumulative Savings to date[, including any Actual Savings achieved prior to the Savings Guarantee Commencement Date].
- 1.3. "Guaranteed Annual Savings" means the amount of savings guaranteed by ESCO for a given Guarantee Year, as set forth in the Savings Table under Schedule II(C).
- 1.4. "Guaranteed Cumulative Savings" means, with respect to the entire Performance Period or any other specified period, the total amount of savings guaranteed by ESCO for such period, as set forth in the Savings Table under Schedule II(C).
- 1.5. "Guarantee Year" means any twelve (12) month period that begins on the Savings Guarantee Commencement Date or any anniversary thereof and that occurs during the Performance Period.
- 1.6. "Initial Term" has the meaning set forth in Schedule II(B).
- 1.7. "M&V" means measurement and verification.
- 1.8. "M&V Plan" means the Measurement & Verification Plan set forth in Schedule II(D).
- 1.9. "PASS Fee" means the annual dollar amount to be paid by Owner under the PASS Plan.
- 1.10. "PASS Plan" means the Performance Assurance Support Services Plan set forth in Schedule II(B).
- 1.11. "PASS Services" means the services to be provided by ESCO under the PASS Plan.
- 1.12. "Performance Guarantee" has the meaning set forth in Section 1 of the Contract. means ESCO's guarantee to Owner as set forth in Schedule II(C), as supplemented and modified by the terms and conditions of the Energy Services Schedules applicable thereto.
- 1.13. "Performance Period" has the meaning set forth in Schedule II(C).
- 1.14. "Renewal Term" has the meaning set forth in Schedule II(B).
- 1.15. "Savings Guarantee Commencement Date" means the first day of the Owner's first utility billing period following ESCO's issuance of the Project Final Completion Letter, unless the parties agree in writing to a different Savings Guarantee Commencement Date.
- 1.16. "Savings Reconciliation" has the meaning set forth in Schedule II(C).
- 1.17. "Savings Shortfall" means the difference between the Guaranteed Annual Savings and the Actual Savings for a given Guarantee Year.

**SCHEDULE II(B)  
PERFORMANCE ASSURANCE SUPPORT SERVICES PLAN**

**1. TERM AND TERMINATION:**

The PASS Plan described in this Schedule II(B) will commence on the Savings Guarantee Commencement Date and will continue for an initial term of [2]² year(s) (the “Initial Term”). Upon expiration of the Initial Term and upon commencement of each Guarantee Year thereafter, the PASS Plan will automatically renew for additional one-year periods (each, a “Renewal Term”) unless Owner terminates the PASS Plan by giving ESCO written Notice of termination at least thirty (30) days prior to the end of the then-current term.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT THE PASS PLAN EXPIRES OR IS CANCELED OR TERMINATED BY CUSTOMER FOR ANY REASON, THE PERFORMANCE GUARANTEE SET FORTH IN SCHEDULE II(C) OF THE CONTRACT SHALL BE DEEMED TO HAVE BEEN SATISFIED AND FULFILLED AS OF THE EFFECTIVE DATE OF EXPIRATION, CANCELLATION OR TERMINATION OF THE PASS PLAN, AND ESCO SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES ASSOCIATED WITH SUCH PERFORMANCE GUARANTEE.

**2. SERVICE SCOPE:**

a. **Initial Term (Guarantee Years 1-2):**

- i. **PASS Services for Guarantee Year 1.** ESCO shall provide the following PASS Services during Guarantee Year 1:
- ii. **PASS Services for Guarantee Year 2.** ESCO shall provide the following PASS Services during the Guarantee Year 2:

b. **Renewal Terms:**

- i. **PASS Services for Guarantee Year 3.** Unless Owner terminates the PASS Plan pursuant to Section 1 above or selects a change in the PASS Plan pursuant to Section 2(c) below, the first Renewal Term (Guarantee Year 3) shall include the following PASS Services:
  - ii. **PASS Services for Later Guarantee Years:** Unless Owner terminates the PASS Plan pursuant to Section 1 above or selects a change in the PASS Plan pursuant to Section 2(c) below, each Renewal Term shall include the same PASS Services included with the PASS Plan in the immediately prior Renewal Term.
- c. **Change in PASS Plan for Renewal Term.** Approximately 90 days prior to the end of the then-current Renewal Term, ESCO and Owner will discuss any recommended and requested changes in the PASS Services for the upcoming Renewal Term. Any agreed changes to the PASS Plan will be documented in writing and signed by both parties at least thirty days prior to the end of the then-current term, and such changes shall take effect upon commencement of the upcoming Renewal Term.

### 3. PASS FEES AND PAYMENT:

- a. **PASS Fee for Initial Term.** The PASS Fee for the Initial Term is included in the Project Price.
- b. **PASS Fees for Renewal Terms.** Unless Owner terminates the PASS Plan pursuant to Section 1 above or selects a change in the PASS Plan pursuant to Section 2(c) above, the PASS Fee for the first Renewal Term (Guarantee Year 3) shall be \$[\_\_\_\_\_], and such PASS Fee shall be adjusted upwards for each Renewal Term thereafter in accordance with the increase in Consumer Price Index ("CPI").
- c. **Payment.** After the Initial Term, the PASS Fee for each Renewal Term shall be paid within thirty (30) days of the commencement of such Renewal Term. If ESCO has not received payment of all undisputed amounts within thirty (30) days of the applicable invoice date, then a late penalty equal to one percent (1%) or the late penalty imposed by applicable law will be applied to the overdue amounts each month until paid.

### 4. OTHER:

- a. **[Third-Party Licenses or Services.** If applicable, insert a table or list of any third-party licenses or services that are critical to the Guarantee/PASS, specify whether they are SE or Owner's responsibility, and if appropriate state that PASS/Guarantee will terminate if Owner fails to maintain those third-party licenses/subscriptions through the Performance Period.]

## SCHEDULE II(C) PERFORMANCE GUARANTEE

Subject to the terms and conditions of this Schedule II(C) and the other Energy Services Schedules, ESCO hereby provides the Performance Guarantee described below.

### 1. TERM AND TERMINATION:

The Performance Guarantee shall commence on the Savings Guarantee Commencement Date and shall continue in effect for a period of [ ] years thereafter, unless sooner terminated in accordance with the Contract Documents (the "Performance Period").

NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT THE CONTRACT OR THE PASS PLAN EXPIRES OR IS CANCELED OR TERMINATED FOR ANY REASON, THE PERFORMANCE GUARANTEE SET FORTH IN THIS SCHEDULE II(C) SHALL BE DEEMED TO HAVE BEEN SATISFIED AND FULFILLED AS OF THE EFFECTIVE DATE OF SUCH EXPIRATION, CANCELLATION OR TERMINATION, AND ESCO SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES ASSOCIATED WITH SUCH PERFORMANCE GUARANTEE.

### 2. SAVINGS RECONCILIATION:

Owner shall send ESCO all utility and energy data in accordance with the requirements of Schedule II(E). Within sixty (60) days of receipt of such information for the previous Guarantee Year, ESCO will determine the Actual Savings for such Guarantee Year in accordance with the M&V Plan set forth in Schedule II(D) (such determination, the "Savings Reconciliation").

If the Actual Savings for a Guarantee Year are less than the Guaranteed Annual Savings for such Guarantee Year, ESCO will pay Owner the Savings Shortfall[, less any Excess Savings,] within thirty (45) days of completing that year's Savings Reconciliation.

Except as set forth in this Performance Guarantee, ESCO makes no express or implied representations, warranties, guarantees or covenants concerning the potential energy efficiency or cost savings benefits of the Work, and payment by ESCO for any Savings Shortfall(s) in accordance with this Performance Guarantee shall be Owner's sole and exclusive remedy for any alleged energy efficiency or cost savings deficiencies.

**3. GUARANTEE:**

<b>SAVINGS TABLE</b>				
<b>Guarantee Year #</b>	<b>Measured Savings</b>	<b>Non-Measured Savings</b>	<b>Guaranteed Annual Savings</b>	<b>Guaranteed Cumulative Savings</b>
0				
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
Total				

**NOTES & CLARIFICATIONS:**

1.

**SCHEDULE II(D)  
MEASUREMENT & VERIFICATION PLAN**

**SCHEDULE II(E)  
OWNER RESPONSIBILITIES FOR PERFORMANCE GUARANTEE**





# AGENDA SUMMARY/STAFF REPORT

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Otis T. Spriggs, AICP, Director of Development Services

**AGENDA CONTENT:** Conduct a public hearing, discussion and possible action on a recommendation regarding a request for approval of the Tropoli Townhomes Replat. The proposed final replat consists of 1.886 ACRES, 12 LOTS, 1 BLOCK, and is zoned Single Family Attached (SFA) and is located on the Northeast of the Intersection of N. Valderas St. and E. Henderson Rd.

**AGENDA ITEM SECTION:** Public Hearing Item.

**BUDGETED AMOUNT:** None.

**FUNDS REQUESTED:** None.

**FUND:** None

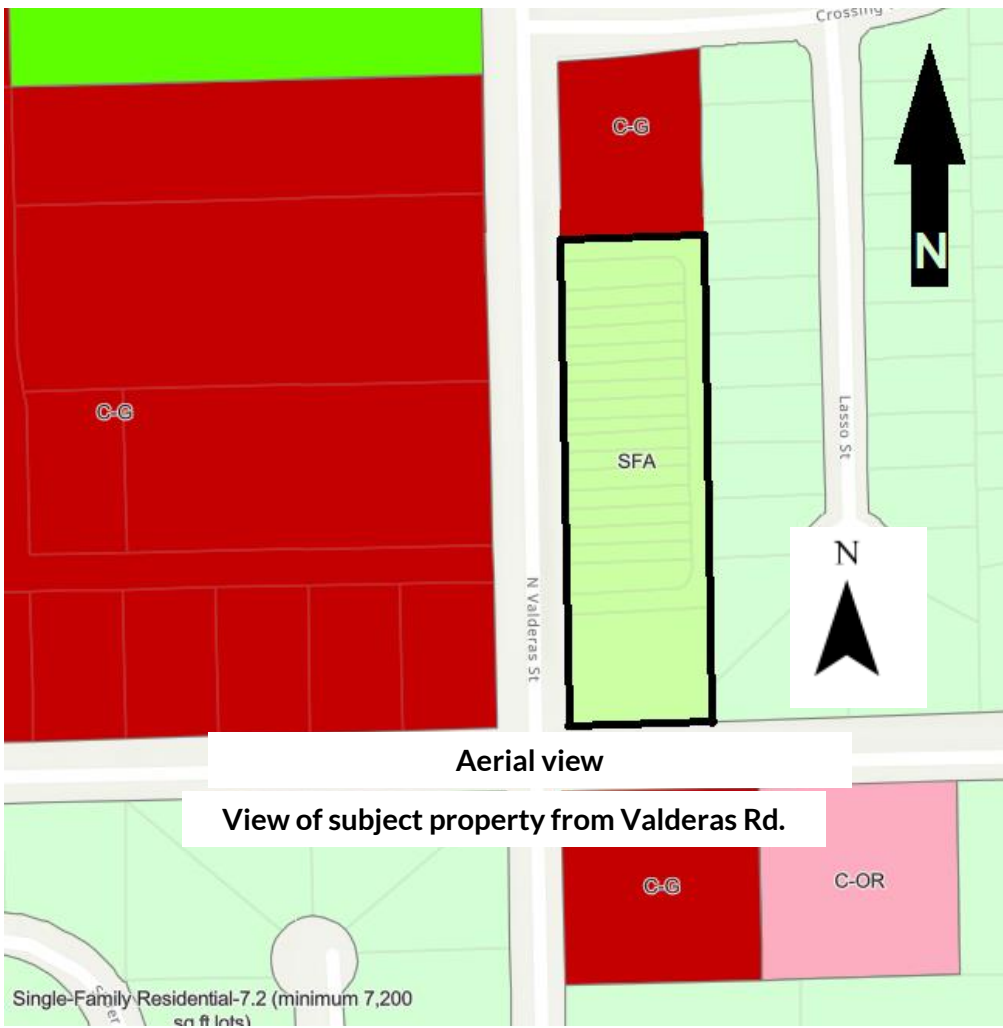
### EXECUTIVE SUMMARY:

City Council is asked to conduct a public hearing, hold discussion and take possible action on a recommendation regarding a request for approval of the Tropoli Townhomes Replat, BEING THE REPLAT OF THE TRIPOLI TOWNHOMES SUBDIVISION AS RECORDED IN C.C.F.N. 2016032880 OF THE O.P.R.B.C.T. The proposed final replat consists of 1.886 ACRES, 12 LOT 1 BLOCK, is zoned Single Family Attached (SFA) and is located on the Northeast of the Intersection of N. Valderas St. and E. Henderson Rd.

The subject property is located on the northeast corner of N. Valderas Street and E. Henderson Road, consists of 1.886 acres, and is in the Single Family Attached (SFA) zoning district. This project is the replat of the Tropoli Townhomes Subdivision as recorded in C.C.F.N. 2016032880 and consists of 12 lots, 1 block. Down from 17 lots to increase drainage detention.

### SURROUNDING CONDITIONS:

Location	Current Use	Zoning Classification/Use
North	Happy Faces Daycare	C-G General Commercial
South	Warehouse	C-G General Commercial
West	Vacant	C-G General Commercial
East	Single Family Homes	SF 7.2 - Single Family 7.2



**STAFF REVIEW:**

The City Engineer has reviewed the submitted Tropoli Townhomes Subdivision Minor Plat and offered (10) textual comments. All comments have been cleared and City Engineering has no objections to the Tropoli Townhomes Replat.

**Public Notification**

Staff sent public notices to the local newspaper, and to the property owners within 200 feet of the subject property under consideration for the Rezoning and SUP application.

**Opposition to or Support of Proposed Request**

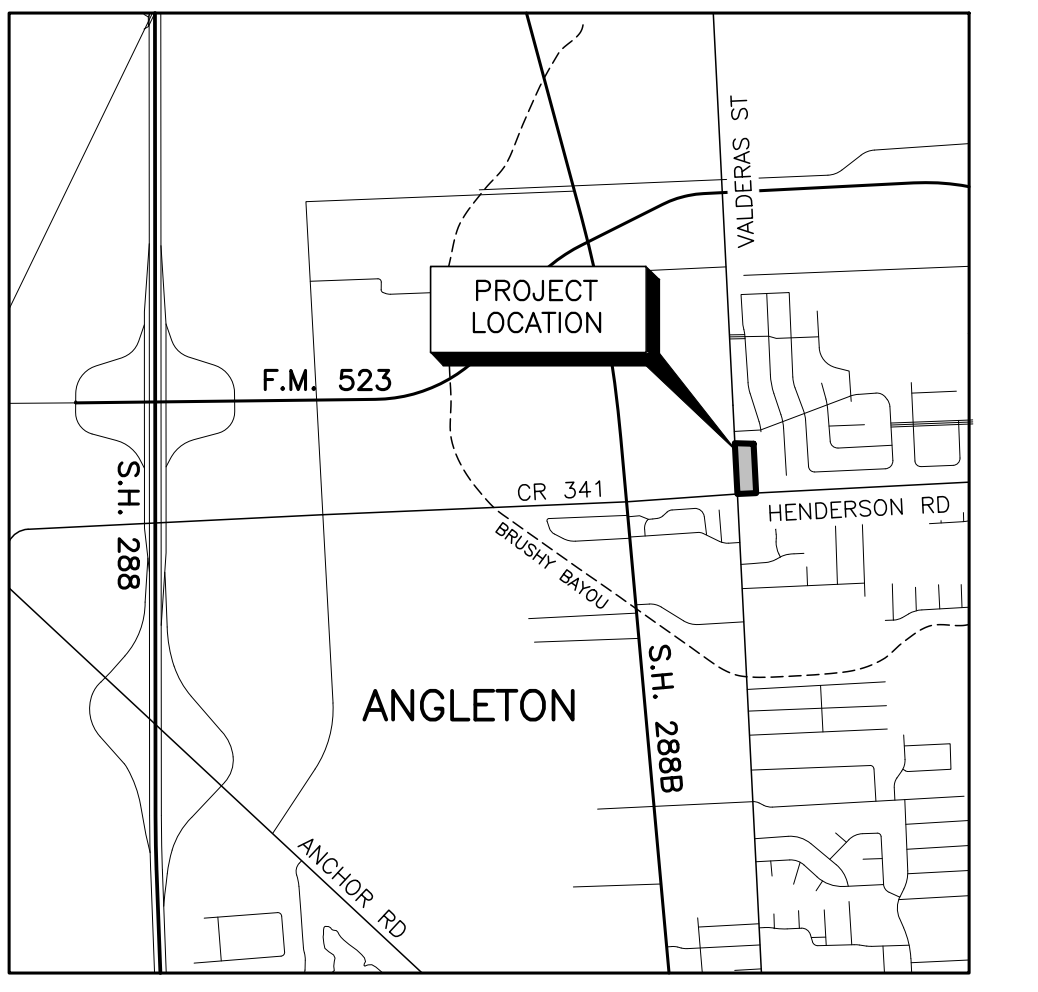
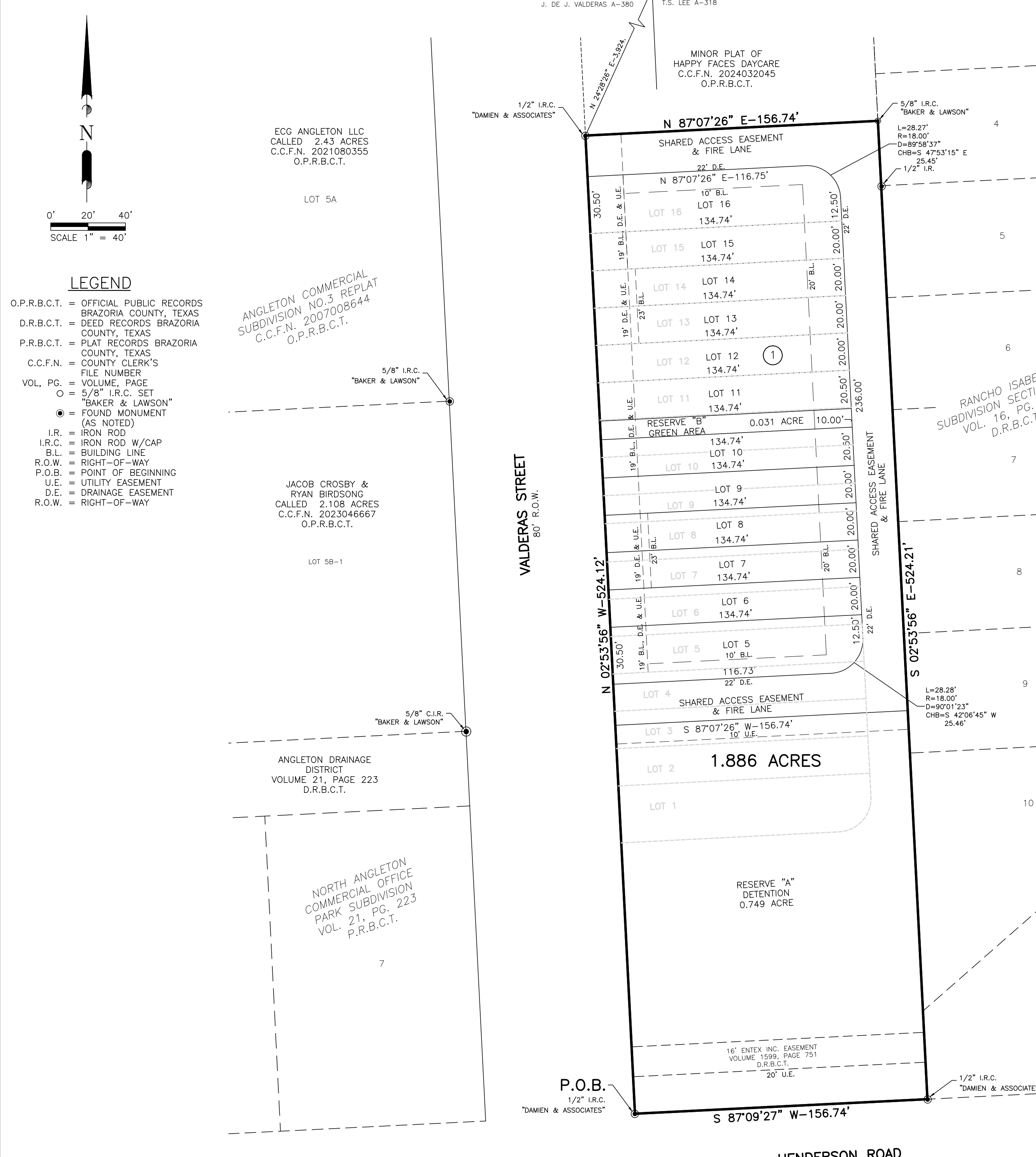
To-date, Staff has not received any notices in support or in opposition of the replat request.

The Planning and Zoning Commission held the public hearing on August 1, 2024 and voted 6-0 to forward this replat to the City Council with a positive recommendation of approval. (Record of Proceedings are attached).

**RECOMMENDATION:**

The Planning and Zoning Commission and Staff recommends approval of the Tropoli Townhomes Replat and to forward it to City Council for final consideration and approval.

BRAZORIA COUNTY, TEXAS
J. DE J. VALDERAS SURVEY
ABSTRACT NO. 380



- LEGEND
O.P.R.B.C.T. = OFFICIAL PUBLIC RECORDS BRAZORIA COUNTY, TEXAS
D.R.B.C.T. = DEED RECORDS BRAZORIA COUNTY, TEXAS
P.R.B.C.T. = PLAT RECORDS BRAZORIA COUNTY, TEXAS
C.C.F.N. = COUNTY CLERK'S FILE NUMBER
VOL. PG. = VOLUME, PAGE
5/8" I.R.C. SET = 5/8" I.R.C. SET
BAKER & LAWSON = BAKER & LAWSON
FOUND MONUMENT (AS NOTED) = FOUND MONUMENT (AS NOTED)
I.R. = IRON ROD
I.R.C. = IRON ROD W/CAP
B.L. = BUILDING LINE
R.O.W. = RIGHT-OF-WAY
P.O.B. = POINT OF BEGINNING
U.E. = UTILITY EASEMENT
D.E. = DRAINAGE EASEMENT
R.O.W. = RIGHT-OF-WAY

DESCRIPTION OF 0.732 ACRE

DESCRIPTION OF A 1.886 ACRE TRACT OF LAND, LOCATED WITHIN THE J. DE J. VALDERAS SURVEY, ABSTRACT NO. 380, BRAZORIA COUNTY, TEXAS, BEING ALL OF THE TROPOLI TOWNHOMES SUBDIVISION (TROPOLI S/D) AS RECORDED IN COUNTY CLERK'S FILE NO. (C.C.F.N.) 2016032880 OF THE OFFICIAL PUBLIC RECORDS BRAZORIA COUNTY TEXAS (O.P.R.B.C.T.), SAID 1.886 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: (BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, (NAD83) SOUTH CENTRAL ZONE, PER GPS OBSERVATIONS):

BEGINNING AT A 1/2-INCH CAPPED IRON ROD, STAMPED "DAMIEN AND ASSOCIATES", FOUND FOR THE SOUTHWEST CORNER OF SAID TROPOLI S/D, SAME BEING LOCATED AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY (R.O.W.) LINE OF VALDERAS STREET (80' WIDE) AND THE NORTH R.O.W. LINE OF HENDERSON ROAD (80' WIDE);

THENCE NORTH 02°53'56" WEST, ALONG THE WEST LINE OF SAID TROPOLI S/D, SAME BEING THE EAST R.O.W. LINE OF SAID VALDERAS STREET, A DISTANCE OF 524.12 FEET TO A 1/2-INCH IRON ROD WITH CAP, STAMPED "DAMIEN & ASSOCIATES", FOUND FOR THE NORTHWEST CORNER OF SAID TROPOLI S/D, SAME BEING THE SOUTHWEST CORNER OF A CALLED 0.1799 ACRE TRACT AS RECORDED IN C.C.F.N. 2023003633;

THENCE NORTH 87°07'26" EAST, ALONG THE NORTH LINE OF SAID TROPOLI S/D, SAME BEING THE SOUTH LINE OF SAID 0.1799 ACRE TRACT, A DISTANCE OF 136.74 FEET TO A 5/8-INCH CAPPED IRON ROD WITH CAP, STAMPED "BAKER & LAWSON", FOUND FOR THE NORTHEAST CORNER OF SAID TROPOLI S/D, SAME BEING IN THE WEST LINE OF THE RANCHO ISABELLA SUBDIVISION SECTION TWO (RANCHO ISABELLA S/D) AS RECORDED IN VOLUME 16, PAGE 151 OF THE DEED RECORDS BRAZORIA COUNTY TEXAS FOR THE SOUTHWEST CORNER OF SAID 0.1799 ACRE TRACT;

THENCE SOUTH 02°53'56" EAST, ALONG THE EAST LINE OF SAID TROPOLI S/D ACRE TRACT, SAME BEING THE WEST LINE OF SAID RANCHO ISABELLA S/D, A DISTANCE OF 524.21 FEET TO A 1/2-INCH IRON ROD WITH CAP, STAMPED "DAMIEN & ASSOCIATES", FOUND FOR THE SOUTHWEST CORNER OF SAID TROPOLI S/D, SAME BEING THE SOUTHWEST CORNER OF SAID RANCHO ISABELLA S/D;

THENCE SOUTH 87°09'27" WEST, ALONG THE SOUTH LINE OF SAID TROPOLI S/D, SAME BEING THE NORTH LINE OF SAID HENDERSON ROAD, A DISTANCE OF 156.74 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT, CONTAINING 1.886 ACRE OF LAND, MORE OR LESS.

DRAINAGE AND DETENTION EASEMENT

THIS PLAT IS HEREBY ADOPTED BY THE OWNERS AND APPROVED BY THE CITY OF ANGLETON (CALLED "CITY") SUBJECT TO THE FOLLOWING CONDITIONS WHICH SHALL BE BINDING UPON THE OWNERS, THEIR HEIRS, GRANTEES AND SUCCESSORS: THE PORTION OF BLOCK 1, AS SHOWN ON THE PLAT IS CALLED "DRAINAGE AND DETENTION EASEMENT." THE DRAINAGE AND DETENTION EASEMENT WITHIN THE LIMITS OF THIS ADDITION, WILL REMAIN OPEN AT ALL TIMES AND WILL BE MAINTAINED IN A SAFE AND SANITARY CONDITION BY THE OWNERS OF THE LOT OR LOTS THAT ARE TRAVERSED BY OR ADJACENT TO THE DRAINAGE AND DETENTION EASEMENT. THE CITY WILL NOT BE RESPONSIBLE FOR THE MAINTENANCE AND OPERATION OF SAID EASEMENT OR FOR ANY DAMAGE TO PRIVATE PROPERTY THAT RESULTS FROM CONDITIONS IN THE EASEMENT, OR FOR THE CONTROL OF EROSION, NO OBSTRUCTION TO THE NATURAL FLOW OF STORMWATER RUN-OFF SHALL BE PERMITTED BY CONSTRUCTION OF ANY TYPE OF BUILDING, FENCE, OR ANY OTHER STRUCTURE WITHIN THE DRAINAGE AND DETENTION EASEMENT AS HEREINAFTER DEFINED, UNLESS APPROVED BY THE CITY ENGINEER. PROVIDED, HOWEVER, IT IS UNDERSTOOD THAT IN THE EVENT IT BECOMES NECESSARY FOR THE CITY TO ERECT OR CONSIDER ERECTING ANY TYPE OF DRAINAGE STRUCTURE IN ORDER TO IMPROVE THE STORM DRAINAGE THAT MAY BE OCCASIONED BY THE CITY SHALL HAVE THE RIGHT TO ENTER UPON THE DRAINAGE AND DETENTION EASEMENT AT ANY POINT, OR POINTS, TO INVESTIGATE, SURVEY OR TO ERECT, CONSTRUCT AND MAINTAIN ANY DRAINAGE FACILITY DEEMED NECESSARY FOR DRAINAGE PURPOSES. EACH PROPERTY OWNER SHALL KEEP THE DRAINAGE AND DETENTION EASEMENT CLEAN AND FREE OF DEBRIS, SLT, AND ANY SUBSTANCE WHICH WOULD RESULT IN UNSANITARY CONDITIONS OR OBSTRUCT THE FLOW OF WATER, AND THE CITY SHALL HAVE THE RIGHT OF INGRESS AND EGRESS FOR THE PURPOSE OF INSPECTION AND SUPERVISION OF MAINTENANCE WORK BY THE PROPERTY OWNER TO ALLEVIATE ANY UNDESIRABLE CONDITIONS WHICH MAY OCCUR. THE NATURAL DRAINAGE THROUGH THE DRAINAGE AND DETENTION EASEMENT IS SUBJECT TO STORM WATER OVERFLOW AND NATURAL BANK EROSION TO AN EXTENT WHICH CANNOT BE DEFINITELY DEFINED. THE CITY SHALL NOT BE HELD LIABLE FOR ANY DAMAGES OF ANY NATURE RESULTING FROM THE OCCURRENCE OF THESE NATURAL PHENOMENA, OR RESULTING FROM THE FAILURE OF ANY STRUCTURE, OR STRUCTURES, WITHIN THE EASEMENT

FIRE LANE AND FIRE EASEMENT

THAT THE UNDERSIGNED DOES HEREBY COVENANT AND AGREE THAT THEY SHALL CONSTRUCT UPON THE FIRE LANE EASEMENTS, A HARD ALL-WEATHER SURFACE AND THAT THEY SHALL MAINTAIN THE SAME IN A STATE OF GOOD REPAIR AT ALL TIMES AND KEEP THE SAME FREE AND CLEAR OF ANY STRUCTURES, FENCES, TREES, SHRUBS, OR OTHER IMPROVEMENTS OR OBSTRUCTION, INCLUDING BUT NOT LIMITED TO THE PARKING OF MOTOR VEHICLES, TRAILERS, BOATS, OR OTHER IMPEDIMENTS TO THE ACCESS OF FIRE APPARATUS. THE MAINTENANCE OF PAVING ON THE FIRE LANE EASEMENTS IS THE RESPONSIBILITY OF THE OWNER, AND THE OWNER SHALL POST AND MAINTAIN APPROPRIATE SIGNS IN CONSPICUOUS PLACES ALONG SUCH FIRE LANES, STATING "FIRE LANE, NO PARKING." THE POLICE OR HIS DULY AUTHORIZED REPRESENTATIVE IS HEREBY AUTHORIZED TO CAUSE SUCH FIRE LANES AND UTILITY EASEMENTS TO BE MAINTAINED FREE AND UNOBSTRUCTED AT ALL TIMES FOR FIRE DEPARTMENT AND EMERGENCY USE.

DEDICATION STATEMENT

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: THAT CHRISTI BEARD, OWNERS OF 1.886 ACRE TRACT, DOES HEREBY ADOPT THIS PLAT DESIGNATING THE HEREIN ABOVE DESCRIBED PROPERTY AS THE REPLAT OF TROPOLI TOWNHOMES, A SUBDIVISION IN THE JURISDICTION OF THE CITY OF ANGLETON, TEXAS, AND DOES HEREBY DEDICATE, IN FEE SIMPLE, TO THE PUBLIC USE FOREVER, THE STREETS, ALLEYS AND PUBLIC PARKLAND SHOWN THEREON, THE STREETS, ALLEYS AND PARKLAND ARE DEDICATED FOR STREET PURPOSES, THE EASEMENTS AND PUBLIC USE AREAS, AS SHOWN, ARE DEDICATED FOR THE PUBLIC USE FOREVER, FOR THE PURPOSES INDICATED ON THIS PLAT. NO BUILDINGS, FENCES, TREES, SHRUBS, OR OTHER IMPROVEMENTS OR GROUNTS SHALL BE CONSTRUCTED OR PLACED UPON, OVER, OR ACROSS THE EASEMENTS AS SHOWN, EXCEPT THAT LANDSCAPE IMPROVEMENTS MAY BE PLACED IN LANDSCAPE EASEMENTS, IF APPROVED BY THE CITY OF ANGLETON. IN ADDITION, UTILITY EASEMENTS MAY ALSO BE USED FOR THE MUTUAL USE AND ACCOMMODATION OF ALL PUBLIC UTILITIES DESIRING TO USE OR USING THE SAME UNLESS THE EASEMENT LIMITS THE USE TO PARTICULAR UTILITIES; SAID USE BY PUBLIC UTILITIES BEING SUBORDINATE TO THE PUBLIC'S AND CITY OF ANGLETON'S USE THEREOF. THE CITY OF ANGLETON AND PUBLIC UTILITY ENTITIES SHALL HAVE THE RIGHT TO REMOVE AND KEEP REMOVED ALL OR PARTS OF ANY BUILDINGS, FENCES, TREES, SHRUBS, OR OTHER IMPROVEMENTS OR GROUNTS WHICH MAY IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, OR EFFICIENCY OF THEIR RESPECTIVE SYSTEMS IN SAID EASEMENTS. THE CITY OF ANGLETON AND PUBLIC UTILITY ENTITIES SHALL AT ALL TIMES HAVE THE FULL RIGHT OF INGRESS AND EGRESS TO OR FROM THEIR RESPECTIVE EASEMENTS FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, INSPECTING, PATROLLING, MAINTAINING, READING METERS, AND ADDING TO OR REMOVING ALL OR PARTS OF THEIR RESPECTIVE SYSTEMS WITHOUT THE NECESSITY AT ANY TIME OF PROCURING PERMISSION FROM ANYONE.

OWNER'S ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF BRAZORIA §
THE OWNER OF LAND SHOWN ON THIS PLAT, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, DEDICATES TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

CHRISTI BEARD
CND REAL ESTATE, LLC

STATE OF TEXAS §
COUNTY OF BRAZORIA §

BEFORE ME THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED CHRISTI BEARD, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THE SAME WAS THE ACTING OWNER FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_ DAY OF \_\_\_\_, 20\_\_.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

MY COMMISSION EXPIRES

NOTES:

- 1. THE PURPOSE OF THIS PLAT IS TO REPLAT TROPOLI TOWNHOMES INTO 12 LOTS, 1 BLOCK AND REVISE UTILITY EASEMENT, DRAINAGE EASEMENT AND PRIVATE ROAD LINES.
2. ALL BEARINGS AND DISTANCES ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD-83, U.S. SURVEY FEET.
3. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A COMMITMENT FOR TITLE INSURANCE, WITH REGARD TO ANY RECORDED EASEMENTS, RIGHTS-OF-WAY OR SETBACKS AFFECTING THE SURVEYED PROPERTY. NO ADDITIONAL RESEARCH REGARDING THE EXISTENCE OF EASEMENTS, RESTRICTIONS, OR OTHER MATTERS OF RECORD HAS BEEN PERFORMED BY THE SURVEYOR.
4. FLOOD ZONE STATEMENT: THE SURVEYOR NAMED HEREON HAS EXAMINED THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR BRAZORIA COUNTY: MAP NUMBER 48039C0435K, WITH EFFECTIVE DATE OF DECEMBER 30, 2020, AND THAT MAP INDICATES THAT THE PROPERTY SURVEYED IS WITHIN ZONE "X" (UNSHADED). AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD-PLAIN, WARNING: THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR STRUCTURES WILL BE FREE FROM FLOODING OR FLOOD DAMAGE, AND WILL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.
5. THE POSSIBLE EXISTENCE OF UNDERGROUND FACILITIES OR SUBSURFACE CONDITIONS OTHER THAN THOSE SHOWN MAY AFFECT THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY HEREON.
6. NOTICE: SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ANGLETON AND STATE PLATTING STATUTES AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
7. NOTICE: PLAT APPROVAL SHALL NOT BE DEEMED TO OR PRESUMED TO GIVE AUTHORITY TO VIOLATE, NULLIFY, VOID, OR CANCEL ANY PROVISIONS OF LOCAL, STATE, OR FEDERAL LAWS, ORDINANCES, OR CODES.
8. NOTICE: THE APPLICANT IS RESPONSIBLE FOR SECURING ANY FEDERAL PERMITS THAT MAY BE NECESSARY AS THE RESULT OF PROPOSED DEVELOPMENT ACTIVITY. THE CITY OF ANGLETON IS NOT RESPONSIBLE FOR DETERMINING THE NEED FOR, OR ENSURING COMPLIANCE WITH ANY FEDERAL PERMIT.
9. NOTICE: APPROVAL OF THIS PLAT DOES NOT CONSTITUTE A VERIFICATION OF ALL DATA, INFORMATION AND CALCULATIONS SUPPLIED BY THE APPLICANT. THE ENGINEER OF RECORD OR REGISTERED PUBLIC LAND SURVEYOR IS SOLELY RESPONSIBLE FOR THE COMPLETENESS, ACCURACY AND ADEQUACY OF HIS/HER SUBMITTAL WHETHER OR NOT THE APPLICATION IS REVIEWED FOR CODE COMPLIANCE BY THE CITY ENGINEER.
10. NOTICE: ALL RESPONSIBILITY FOR THE ADEQUACY OF THIS PLAT REMAINS WITH THE ENGINEER OR SURVEYOR WHO PREPARED THEM. IN APPROVING THESE PLANS, THE CITY OF ANGLETON MUST RELY ON THE ADEQUACY OF THE WORK OF THE ENGINEER AND/OR SURVEYOR OF RECORD.
11. THE 22' DRAINAGE EASEMENT SHOWN HEREON IS TO PROVIDE DRAINAGE FOR THE MINOR PLAT OF HAPPY FACES DAYCARE, C.C.F.N. 2024032045, O.P.R.B.C.T. SAID DRAINAGE EASEMENT TO BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION OF HEREIN PLAT.
12. SETBACK AND PARKING REQUIREMENTS PER CURRENT SECTION 28-50 SINGLE FAMILY ATTACHED (SFA) RESIDENTIAL DISTRICT TOWNHOMES ZONING ORDINANCE.
13. SHARED ACCESS EASEMENT HEREON IS TO BE MAINTAINED BY HOMEOWNERS ASSOCIATION.

STATE OF TEXAS §
COUNTY OF BRAZORIA §

KNOWN ALL MEN BY THESE PRESENTS:

THAT I, DARREL HEIDRICH, DO HEREBY CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL AND ACCURATE SURVEY OF THE LAND AND THAT THE CORNER MONUMENTS SHOWN THEREON WERE PROPERLY PLACED UNDER MY SUPERVISION.

Darrel Heidrich 8/20/2024
DARREL HEIDRICH
REGISTERED PROFESSIONAL LAND SURVEYOR
LAND SURVEYOR NO. 5378



REPLAT OF
TROPOLI TOWNHOMES
SUBDIVISION

1.886 ACRES
12 LOT 1 BLOCK SUBDIVISION

BEING ALL OF
TROPOLI TOWNHOMES SUBDIVISION
AS RECORDED IN
C.C.F.N. 2016032880
OF THE O.P.R.B.C.T.

J. DE J. VALDERAS SURVEY A-380
CITY OF ANGLETON
BRAZORIA COUNTY, TEXAS



Baker & Lawson Inc.
4005 Technology Dr., Suite 1530
Angleton, TX 77515
Phone # 979-849-6681
www.bakerlawson.com
Licensed Surveying Firm No. 10052500

Table with 4 columns: JOB NO., SCALE, DRAWN BY, CHECKED BY. Values: 15584, 1" = 40', AD, AH.

ANGLETON DRAINAGE DISTRICT
ACCEPTED THIS THE \_\_\_\_ DAY OF \_\_\_\_, 20\_\_, BY THE ANGLETON DRAINAGE DISTRICT.
THE BOARD OF SUPERVISORS OF THE ANGLETON DRAINAGE DISTRICT DOES NOT WARRANT, REPRESENT OR GUARANTEE:
1. THAT DRAINAGE FACILITIES OUTSIDE THE BOUNDARIES OF THE SUBDIVISION PLAT ARE AVAILABLE TO RECEIVE RUNOFF FROM THE FACILITIES DESCRIBED IN THIS PLAT.
2. THAT DRAINAGE FACILITIES DESCRIBED IN THIS PLAT ARE ADEQUATE FOR RAINFALL IN EXCESS OF ANGLETON DRAINAGE DISTRICT MINIMUM REQUIREMENTS.
3. THAT BUILDING ELEVATION REQUIREMENTS HAVE BEEN DETERMINED BY THE ANGLETON DRAINAGE DISTRICT.
4. THAT THE DISTRICT ASSUMES ANY RESPONSIBILITY FOR CONSTRUCTION, OPERATION OR MAINTENANCE OF SUBDIVISION DRAINAGE FACILITIES.
THE DISTRICT'S REVIEW IS BASED SOLELY ON THE DOCUMENTATION SUBMITTED FOR REVIEW, AND ON THE RELIANCE ON THE REPORT SUBMITTED BY THE TEXAS REGISTERED PROFESSIONAL ENGINEER.
THE DISTRICT'S REVIEW IS NOT INTENDED NOR WILL SERVE AS A SUBSTITUTION OF THE OVERALL RESPONSIBILITY AND/OR DECISION MAKING POWER OF THE PARTY SUBMITTING THE PLAT OR PLAN HEREIN, THEIR OR ITS PRINCIPALS OR AGENTS.

PLANNING AND ZONING COMMISSION AND CITY COUNCIL:
APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_, 20\_\_, BY THE PLANNING AND ZONING COMMISSION, CITY OF ANGLETON, TEXAS.

BILL GARWOOD, CHAIRMAN,
PLANNING AND ZONING COMMISSION

CITY SECRETARY

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_, 20\_\_, BY THE CITY COUNCIL, CITY OF ANGLETON, TEXAS.

JOHN WRIGHT, MAYOR

CITY SECRETARY

STATE OF TEXAS §
COUNTY OF BRAZORIA §

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_ DAY OF \_\_\_\_, 20\_\_, BY CITY SECRETARY, CITY OF ANGLETON, ON BEHALF OF THE CITY.

NOTARY PUBLIC
STATE OF TEXAS

# ANGLETON DRAINAGE DISTRICT

A Political Subdivision of the State of Texas  
P.O. Box 2469, Angleton, Texas 77516-2469  
Phone: (979) 849-2414 Fax: (979) 848-8160



July 9, 2024

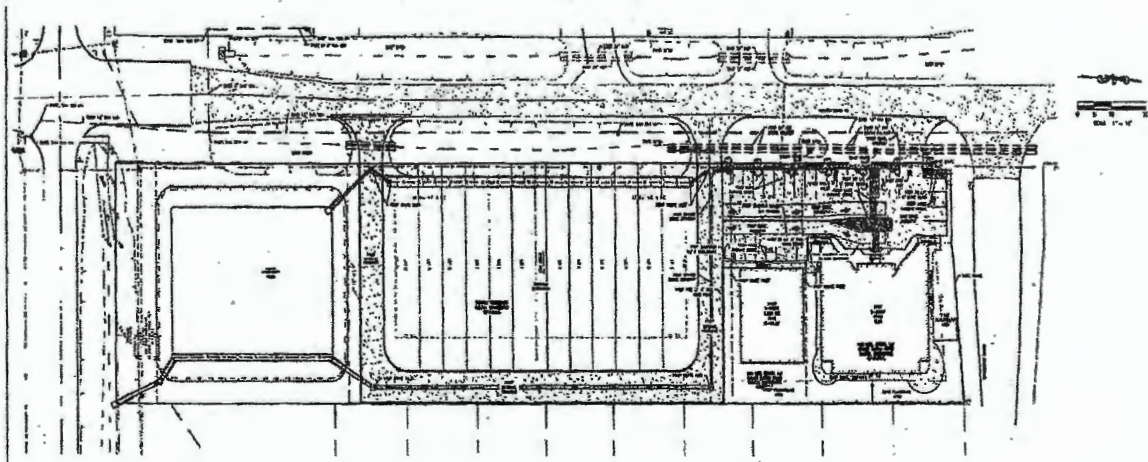
Happy Faces Daycare  
Attn: David & Christi Beard  
294 Timbercreek Drive  
Lake Jackson, TX 77566

Re: **Happy Faces Daycare and Tripoli Subdivision.  
Revised Drainage Plans and Plat**

During the regular public meeting of the Angleton Drainage District, the Board of Supervisors unanimously approved the revised drainage plan for Happy Faces Daycare and Tripoli Subdivision as presented. The original master drainage plan for Happy Faces Daycare and Tripoli Subdivision were previously approved by the District in February of 2024.

As presented on July 9, 2024, Happy Faces Daycare has revised the drainage and detention plan and plat for Happy Faces Daycare. The original plan called for the demolition of the existing parking lot and expansion of a new parking lot, an additional 3,300 square-foot building, an onsite pond of 0.142 acre-foot of detention, a shared driveway between the daycare and the Tripoli Townhome Subdivision now owned by Happy Face Daycare. The Tripoli Townhome Subdivision previously consisted of 16 lots.


The new plan will consist of the new parking lot expansion, the additional 3,300 square-foot building, a common drive between the daycare and townhome site. The townhome lots have been reduced from 16 lots to 12 lots. The common drive between the daycare and townhomes is extended to the east and south of the 12 lots and the detention pond has been enlarged to provide 1.059 acre-feet of detention. The new site plan is as follows:



If any additional structures are added to this site in the future other than those presented in the revised plan, a subsequent review by the Angleton Drainage District will be required to ensure there are no adverse impacts to adjacent landowners.

Approval of this a revised drainage plans and plat in no way represents that Happy Faces Daycare, Tripoli Townhomes and David and Christi Beard has complied with any federal, state, county or other law, statute, procedure or requirement of any type beyond the approval of the revised drainage plans and plat approved, with the stipulations listed, if any, in this letter, by the District.

Sincerely,



David B. Spoor, Chairman  
Angleton Drainage District



August 1, 2024

Mr. Otis Spriggs  
Director of Development Services  
City of Angleton  
121 S. Velasco  
Angleton, TX 77515

Re: On-Going Services  
Tropoli Homes Subdivision Minor Plat – 2<sup>nd</sup> Submittal Review  
Angleton, Texas  
HDR Job No. 10391496

Dear Mr. Spriggs:

HDR Engineering, Inc. (HDR) has reviewed the plat for the above referenced property and offers the following exceptions noted:

1. The property owner shall coordinate approval with the Angleton Drainage District for proposed subdivision and submit a copy of the approval correspondence to the City.

HDR takes no objection to the proposed Tropoli Homes Subdivision Minor Plat with the exceptions noted. Please note, this does not necessarily mean that the entire drawings, including all supporting data and calculations, has been completely checked and verified; however, the drawings and supporting data are signed, dated, and sealed by a Registered Professional Land Surveyor licensed to practice in the State of Texas, which therefore conveys the surveyor's responsibility and accountability.

If you have any questions, please feel free to contact us at our office (713)-622-9264.

Sincerely,

HDR Engineering, Inc.

Javier Vasquez, P.E., CFM  
Civil Engineer

cc: Files (10391496)

Attachments

**City of Angleton**  
**Notice of Public Hearing**

Notice is hereby given that the City Council of the City of Angleton, Texas will conduct a public hearing at 6:00 pm on Tuesday, August 27, 2024. The meeting will be held at Angleton City Hall in the City Council Chambers at 120 S. Chenango Street, Angleton, Texas 77515. At this meeting the following public hearing will be held:

Conduct a public hearing, discussion, and possible action on a recommendation regarding a request for approval of the Tropoli Townhomes Replat, BEING THE REPLAT OF THE TROPOLI TOWNHOMES SUBDIVISION AS RECORDED IN C.C.F.N. 2016032880 OF THE O.P.R.B.C.T. The proposed final replat consists of 1.886 ACRES, 12 LOT 1 BLOCK, is zoned Single Family Attached (SFA) and is located on the Northeast of the Intersection of N. Valderas St. and E. Henderson Rd.

The meeting agenda and agenda packet will be posted online at <https://angleton-tx.municodemeetings.com/>. The public will have the opportunity to offer comments on each agenda item by registering prior to the meeting.

For more information regarding these requests please contact Otis T. Spriggs, AICP, Development Services Director by email at [ospriggs@angleton.tx.us](mailto:ospriggs@angleton.tx.us) or by phone at (979) 849-4364 x-2108 or Kandice Haseloff-Bunker, Development Coordinator by email at [kbunker@angleton.tx.us](mailto:kbunker@angleton.tx.us) or by phone at (979) 849-4364 x-2131.





**CITY OF ANGLETON  
PLANNING AND ZONING COMMISSION  
RECORD OF PROCEEDINGS  
120 S. CHENANGO STREET, ANGLETON, TEXAS 77515  
TUESDAY, AUGUST 1, 2024 AT 12:00 PM**

**Members Names**

Chair | William Garwood

Commission Members | Deborah Spoor, Will Clark, Michelle Townsend,

Regina Bieri, Ellen Eby, Andrew Heston

**NOTICE IS HEREBY GIVEN PURSUANT TO V.T.C.A., GOVERNMENT CODE, CHAPTER 551, THAT THE PLANNING AND ZONING COMMISSION FOR CITY OF ANGLETON WILL CONDUCT A MEETING, OPEN TO THE PUBLIC, ON THURSDAY, THURSDAY AUGUST 1, 2024, AT 12:00 P.M., AT THE CITY OF ANGLETON COUNCIL CHAMBERS LOCATED AT 120 S. CHENANGO STREET ANGLETON, TEXAS 77515.**

**DECLARATION OF A QUORUM AND CALL TO ORDER**

**ROLL CALL: Present were: Chair William Garwood, Commission Members Deborah Spoor, Will Clark, Michelle Townsend, Ellen Eby, and Andrew Heston; Absent was: Regina Bieri.**

- 1. Discussion and possible action on the minutes for the Planning and Zoning Commission meeting held on July 2, 2024.**

Motion was made by Commission Member Heston and seconded by Commission Member Spoor to approve the minutes. The minutes were unanimously approved.

**PUBLIC HEARINGS AND ACTION ITEMS**

- 2. Conduct a public hearing, discussion and possible action on a recommendation regarding a request for approval of the Tropoli Townhomes Replat, BEING THE REPLAT OF THE TROPOLI TOWNHOMES SUBDIVISION AS RECORDED IN C.C.F.N. 2016032880 OF THE O.P.R.B.C.T. The proposed final replat consists of 1.886 ACRES, 12 LOT 1 BLOCK, is zoned Single Family Attached (SFA) and is located on the Northeast of the Intersection of N. Valderas St. and E. Henderson Rd.**

**Staff:** Kandice Haseloff-Bunker, Development Coordinator presented the staff findings for this Replat, noting that the applicants are increasing their detention area to create a shared access with the Happy Faces Daycare to the north, and in doing that they have reduced the number of lots by half.

Ms. Haseloff-Bunker added that the replat meets the requirements, and the use. The City Engineer has issued comments and Staff feels confident all comments will be cleared prior to City Council consideration. She informed that the comments are

minor in nature, such as the request to show the previous lot lines of the changes from the original plat and the other comment is a reference to the ingress/egress easement and that it is not considered public.

**Public Hearing Opened:** Motion was made by Commission Member Townsend and seconded by Commission Member Eby, to open the public hearing; Motion carried unanimously the public hearing was opened.

**Comments:** None.

**Public Hearing Closed:** Motion was made to close the public hearing Commission Member Townsend; the motion was seconded by Commission Member Heston. Motion carried unanimously; the public hearing was closed.

Commission Member Regina Bieri asked if they are just replating it for les lots; was it 17 lots down to 12?

Kandice Haseloff-Bunker stated that it was actually 16 lots with the reserve in the middle and now it's going to be 8 lots with the reserve in the middle. They also included an entrance to the Happy Face to reduce the traffic congestion, because they're going to be modifying the Happy Faces Daycare to create a better lane for dropping off the children. It will be used as a joint entrance.

**Commission Action:**

Motion was made to approve the townhomes replat and forward it to City Council for final consideration and approval, subject to the City Engineering comments being satisfied by Commission Member Townsend and seconded by Commission Member Clark to approve as indicated.

**Roll Call Vote:** Commission Member Townsend- Aye; Commission Member Clark- Aye; Commission Member Eby- Aye; Commission Member Spoor- Aye; Commission Member Heston- Aye; and Commission Chair- Aye. Motion passed unanimously (6-0).

**Meeting was adjourned at 12:05 PM.**



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Phillip Conner, Finance Director

**AGENDA CONTENT:** Discussion and possible action to approve Ordinance No. 20240827-009 2024 Annual Service Plan Update for the public improvements in the Greystone Public Improvement District (PID), and approving the updates to the 2024 Assessment Roll, in accordance with Chapter 372 of the Texas Local Government Code.

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** None

**FUNDS REQUESTED:** None

**FUND:** None

### EXECUTIVE SUMMARY:

Capitalized terms used in this 2024 Annual Service Plan Update shall have the meanings set forth in the Service and Assessment Plan (the "SAP"), used for the benefit of the property in the District.

The District was created pursuant to the PID Act, by Resolution No. 20200609-008 of the City Council on June 9, 2020, to finance certain public improvement projects for the benefit of the property in the District.

On January 25, 2022, the City Council adopted and approved the Service and Assessment Plan for the District by Ordinance No. 20220125-022, including an Assessment Roll, and levied Assessments on property by Ordinance No. 20220125-024 within the District to finance the Authorized Improvements for the benefit of such property.

The SAP identified the Authorized Improvements to be constructed, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in the District for the costs of the Authorized Improvements. Pursuant to the PID Act, the Service and Assessment Plan must be reviewed and updated annually. This document is the Annual Service Plan Update for 2024. This 2024 Annual Service Plan Update also updates the Assessment Roll for 2024.

### RECOMMENDATION:

Staff recommends that Council holds discussions and pass the Ordinance approving the 2024 Annual Service Plan Update and updates to the Assessment Roll for 2024.

**ORDINANCE NO. 20240827-009**

**AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS,  
APPROVING THE 2024 UPDATE TO THE SERVICE AND  
ASSESSMENT PLAN AND ASSESSMENT ROLL FOR THE  
GREYSTONE PUBLIC IMPROVEMENT DISTRICT;  
MAKING AND ADOPTING FINDINGS; ACCEPTING AND  
APPROVING THE ANNUAL SERVICE PLAN UPDATE  
AND UPDATED ASSESSMENT ROLL FOR THE  
DISTRICT; PROVIDING AN EFFECTIVE DATE AND  
OTHER MATTERS RELATED THERETO.**

**WHEREAS**, The Green Trails Public Improvement District (the “District”) was created pursuant to the PID Act, by Resolution No. 20200609-008 of the City Council on June 9, 2020, to finance certain public improvement projects for the benefit of the property in the District and

**WHEREAS**, On January 25, 2022, the City Council adopted and approved the Service and assessment plan for the District by Ordinance No. 20220125-024, (the “Service and Assessment Plan”) including an Assessment Roll, and levied Assessments on property within the District to finance the Authorized Improvements for the benefit of such property.

**WHEREAS**, all capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Service and Assessment Plan; and

**WHEREAS**, Section 372.013 of the Act and the Service and Assessment Plan require that the Service and Assessment Plan and Assessment Roll be reviewed and updated annually for the purpose of determining the annual budget for improvements (the “Annual Service Plan Update”); and

**WHEREAS**, the Annual Service Plan Update and updated Assessment Roll for Fiscal Year attached as Exhibit A (the “2024 Annual Service Plan Update”) hereto conforms the Assessment Roll to the annual principal and interest payment schedule required for the PID Reimbursement Agreement and updates the Service and Assessment Plan and Assessment Roll to reflect prepayments, property divisions and changes to the cost and/or budget allocations for District Authorized Improvements that occur during the year, if any and the annual administrative costs of the District; and

**WHEREAS**, the City Council now desires to proceed with the adoption of this Ordinance and hereby approves and adopts the 2024 Annual Service Plan Update and the updated Assessment Roll attached thereto, in conformity with the requirements of the Act.

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

**SECTION 1.** *Findings.* The findings and determinations set forth in the preambles hereto are hereby incorporated by reference for all purposes and are hereby adopted.

**SECTION 2.** *Annual Service Plan Update.* The 2024 Annual Service Plan Update with updated Assessment Roll attached hereto as Exhibit A is hereby accepted and approved and complies with the Act in all matters as required.

**SECTION 3.** *Cumulative Repealer.* This Ordinance shall be cumulative of all other ordinances and shall not repeal any of the provisions of such ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that ordinance and for that purpose the ordinance shall remain in full force and effect.

**SECTION 4.** *Severability.* If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**SECTION 5.** *Effective Date.* This Ordinance shall take effect, and the provisions and terms of the Annual Service Plan Update shall be and become effective upon passage and execution hereof.

**SECTION 6.** *Property Records.* This Ordinance and the 2024 Annual Service Plan Update shall be filed in the real property records of Brazoria County within seven (7) days of the Effective Date.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, ON THIS THE 27TH DAY OF AUGUST, 2024.**

[SIGNATURE PAGE FOLLOWS]

\_\_\_\_\_  
John Wright  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Michelle Perez, TRMC  
City Secretary

\_\_\_\_\_  
Judith El Masri  
City Attorney

THE STATE OF TEXAS     §

COUNTY OF BRAZORIA   §

Before me, the undersigned authority, on this day personally appeared John Wright, Mayor of the City of Angleton, Texas, known to me to be such persons who signed the above and acknowledged to me that such persons executed the above and foregoing Ordinance in my presence for the purposes stated therein.

Given under my hand and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

[NOTARY STAMP]

EXHIBIT A

2024 ANNUAL UPDATE TO THE GREYSTONE PUBLIC IMPROVEMENT DISTRICT  
SERVICE AND ASSESSMENT PLAN.



**GREYSTONE  
PUBLIC IMPROVEMENT DISTRICT  
2024 ANNUAL SERVICE PLAN UPDATE**

AUGUST 27, 2024



## INTRODUCTION

Capitalized terms used in this 2024 Annual Service Plan Update shall have the meanings set forth in the Service and Assessment Plan (the “SAP”), used for the benefit of the property in the District.

The District was created pursuant to the PID Act, by Resolution No. 20200609-008 of the City Council on June 9, 2020, to finance certain public improvement projects for the benefit of the property in the District.

On January 25, 2022, the City Council adopted and approved the Service and Assessment Plan for the District by Ordinance No. 20220125-022, including an Assessment Roll, and levied Assessments on property by Ordinance No. 20220125-024 within the District to finance the Authorized Improvements for the benefit of such property.

On August 22, 2023, the City approved the 2023 Annual Service Plan Update for the District by adopting Ordinance No. 20230822-015 which approved the levy of Assessments for Assessed Property within the District and approved the Assessment Rolls.

The 2023 SAP identified the Authorized Improvements to be constructed for the benefit of the Assessed Parcels within the District, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in the District for the costs of the Authorized Improvements. Pursuant to the PID Act, the 2023 SAP must be reviewed and updated annually. This document is the Annual Service Plan Update for 2024.

The City Council also adopted an Assessment Roll identifying the Assessments on each Lot within the District, based on the method of assessment identified in the 2023 SAP. This 2024 Annual Service Plan Update also updates the Assessment Roll for 2024.

## PARCEL SUBDIVISION

The Final Replat for Greystone Subdivision was filed and recorded with the County on August 25, 2021, and consists of 111 Residential Lots and 3 Lots of Non-Benefited Property.

See the completed Lot Type classification summary within the District below:

District	
Lot Type	Number of Lots
Lot Type Residential	111
<b>Total</b>	<b>111</b>

See **Exhibit C** for the Lot Type classification map.

## LOT AND HOME SALES

Per the Owner as of March 31, 2024, the lot ownership composition is provided below:

- Owner Owned:
  - Lot Type Residential: 0 Lots
- Homebuilder Owned:
  - Lot Type Residential: 77 Lots
- End-User Owner:
  - Lot Type Residential: 34 Lots

See **Exhibit D** for the homebuyer disclosures.

## AUTHORIZED IMPROVEMENTS

The Owner has completed the Authorized Improvements listed in the SAP and they were dedicated to the City.

## OUTSTANDING ASSESSMENT

The District has an outstanding Assessment of \$1,727,468.88.

**ANNUAL INSTALLMENT DUE 1/31/2025**

- **Principal and Interest** – Pursuant to the PID Reimbursement Agreement, the Annual Installment shall include interest on the unpaid principal amount of the Assessment at a rate of 3.99% per annum, simple interest. The total principal and interest required for the Annual Installment is \$103,608.11.
- **Annual Collection Costs** – The cost of administering the District and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on the Parcel. The total Annual Collection Costs budgeted for the Annual Installment for the District is \$13,392.60.

District	
Annual Collection Costs	
Administration	\$ 10,187.60
City Auditor	1,000.00
Filing Fees	1,000.00
County Collection	205.00
Miscellaneous	1,000.00
<b>Total Annual Collection Costs</b>	<b>\$ 13,392.60</b>

Due January 31, 2025	
Principal	\$ 34,599.60
Interest	\$ 69,008.51
Annual Collection Costs	\$ 13,392.60
<b>Total Annual Installment</b>	<b>\$ 117,000.71</b>

Please contact P3Works for the pay period for the District. See **Exhibit B** for the reimbursement schedule for the District.

### PREPAYMENT OF ASSESSMENT IN FULL

The following is a list of all Parcels or Lots that made a Prepayment in full within the District.

District				
Property ID	Address	Lot Type	Prepayment Date	Prepayment Amount
700095	632 Greystone	1	7/12/2023	\$ 16,303.14
700053	14 Gemstone	1	11/30/2023	\$ 15,832.26
700091	616 Greystone	1	12/4/2023	\$ 15,946.23

### PARTIAL PREPAYMENT OF ASSESSMENTS

No partial prepayment of Assessments have occurred within the District.

### SERVICE PLAN – FIVE YEAR BUDGET FORECAST

The PID Act requires the annual indebtedness and projected costs for the Authorized Improvements to be reviewed and updated in the Annual Service Plan Update, and the projection shall cover a period of not less than five years.

District						
Annual Installments		1/31/2025	1/31/2026	1/31/2027	1/31/2028	1/31/2029
Principal		\$ 34,599.60	\$ 35,981.78	\$ 37,419.17	\$ 38,913.98	\$ 40,468.51
Interest		\$ 69,008.51	\$ 67,626.33	\$ 66,188.94	\$ 64,694.13	\$ 63,139.60
	(1)	\$ 103,608.11	\$ 103,608.11	\$ 103,608.11	\$ 103,608.11	\$ 103,608.11
Annual Collection Costs	(2)	\$ 13,392.60	\$ 13,660.45	\$ 13,933.66	\$ 14,212.33	\$ 14,496.58
<b>Total Annual Installment</b>	<b>(3) = (1) + (2)</b>	<b>\$ 117,000.71</b>	<b>\$ 117,268.57</b>	<b>\$ 117,541.77</b>	<b>\$ 117,820.45</b>	<b>\$ 118,104.69</b>

### ASSESSMENT ROLL

The list of current Parcels within the District, the corresponding total Assessments, and current Annual Installment are shown on the Assessment Roll attached hereto as **Exhibit A**. The Parcels shown on the Assessment Roll will receive the bills for the 2024 Annual Installments which will be delinquent if not paid by January 31, 2025. The list of Parcels shown on the Assessment Roll is subject to change based on the final certified rolls provided by the County prior to billing.

## EXHIBIT A – ASSESSMENT ROLL

Property ID	Property Address	Legal Description	Lot Type	Outstanding Assessment <sup>[b]</sup>	District			
					Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>[a],[c]</sup>
700008	601 Greystone Lane	BLK 1 LOT 1	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700009	603 Greystone Lane	BLK 1 LOT 2	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700010	605 Greystone Lane	BLK 1 LOT 3	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700011	607 Greystone Lane	BLK 1 LOT 4	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700012	609 Greystone Lane	BLK 1 LOT 5	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700013	611 Greystone Lane	BLK 1 LOT 6	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700014	613 Greystone Lane	BLK 1 LOT 7	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700015	615 Greystone Lane	BLK 1 LOT 8	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700016	617 Greystone Lane	BLK 1 LOT 9	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700017	619 Greystone Lane	BLK 1 LOT 10	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700018	621 Greystone Lane	BLK 1 LOT 11	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700019	623 Greystone Lane	BLK 1 LOT 12	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700020	625 Greystone Lane	BLK 1 LOT 13	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700021	627 Greystone Lane	BLK 1 LOT 14	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700022	1 Greystone Court	BLK 1 LOT 15	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700023	2 Greystone Court	BLK 1 LOT 16	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700024	3 Greystone Court	BLK 1 LOT 17	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700025	4 Greystone Court	BLK 1 LOT 18	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700026	5 Greystone Court	BLK 1 LOT 19	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700027	6 Greystone Court	BLK 1 LOT 20	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700028	7 Greystone Court	BLK 1 LOT 21	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700029	8 Greystone Court	BLK 1 LOT 22	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700030	9 Greystone Court	BLK 1 LOT 23	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700031	10 Greystone Court	BLK 1 LOT 24	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700032	11 Greystone Court	BLK 1 LOT 25	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700033	12 Greystone Court	BLK 1 LOT 26	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700034	13 Greystone Court	BLK 1 LOT 27	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700035	14 Greystone Court	BLK 1 LOT 28	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700036	15 Greystone Court	BLK 1 LOT 29	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700037	16 Greystone Court	BLK 1 LOT 30	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700038	17 Greystone Court	BLK 1 LOT 31	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700039	18 Greystone Court	BLK 1 LOT 32	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700040	1 Gemstone Court	BLK 1 LOT 33	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700041	2 Gemstone Court	BLK 1 LOT 34	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700042	3 Gemstone Court	BLK 1 LOT 35	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700043	4 Gemstone Court	BLK 1 LOT 36	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700044	5 Gemstone Court	BLK 1 LOT 37	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700045	6 Gemstone Court	BLK 1 LOT 38	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700046	7 Gemstone Court	BLK 1 LOT 39	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700047	8 Gemstone Court	BLK 1 LOT 40	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34

**Footnotes:**

- [a] Totals may not match the Total Outstanding Assessment and Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] The Annual Installment covers the period January 1, 2024 to December 31, 2024, and is due by January 31, 2025.
- [d] Parcel IDs 70053,70091 and 70095 prepaid in full.

Property ID	Property Address	Legal		Outstanding Assessment <sup>[b]</sup>	District			
		Description	Lot Type		Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>[a],[c]</sup>
700048	9 Gemstone Court	BLK 1 LOT 41	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700049	10 Gemstone Court	BLK 1 LOT 42	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700050	11 Gemstone Court	BLK 1 LOT 43	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700051	12 Gemstone Court	BLK 1 LOT 44	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700052	13 Gemstone Court	BLK 1 LOT 45	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700053	14 Gemstone Court	BLK 1 LOT 46	Residential	\$ -	\$ -	\$ -	\$ -	\$ -
700054	15 Gemstone Court	BLK 1 LOT 47	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700055	16 Gemstone Court	BLK 1 LOT 48	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700056	17 Gemstone Court	BLK 1 LOT 49	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700057	18 Gemstone Court	BLK 1 LOT 50	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700058	1 Keystone Court	BLK 1 LOT 51	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700059	2 Keystone Court	BLK 1 LOT 52	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700060	3 Keystone Court	BLK 1 LOT 53	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700061	4 Keystone Court	BLK 1 LOT 54	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700062	5 Keystone Court	BLK 1 LOT 55	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700063	6 Keystone Court	BLK 1 LOT 56	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700064	7 Keystone Court	BLK 1 LOT 57	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700065	8 Keystone Court	BLK 1 LOT 58	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700066	9 Keystone Court	BLK 1 LOT 59	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700067	10 Keystone Court	BLK 1 LOT 60	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700068	11 Keystone Court	BLK 1 LOT 61	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700069	12 Keystone Court	BLK 1 LOT 62	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700070	13 Keystone Court	BLK 1 LOT 63	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700071	14 Keystone Court	BLK 1 LOT 64	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700072	15 Keystone Court	BLK 1 LOT 65	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700073	16 Keystone Court	BLK 1 LOT 66	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700074	17 Keystone Court	BLK 1 LOT 67	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700075	18 Keystone Court	BLK 1 LOT 68	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700076	801 Greystone Lane	BLK 1 LOT 69	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700077	805 Greystone Lane	BLK 1 LOT 70	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700078	809 Greystone Lane	BLK 1 LOT 71	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700079	813 Greystone Lane	BLK 1 LOT 72	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700080	817 Greystone Lane	BLK 1 LOT 73	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700081	821 Greystone Lane	BLK 1 LOT 74	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700082	825 Greystone Lane	BLK 1 LOT 75	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700083	829 Greystone Lane	BLK 1 LOT 76	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700084	833 Greystone Lane	BLK 1 LOT 77	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700085	837 Greystone Lane	BLK1 LOT 78	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700086	841 Greystone Lane	BLK 1 LOT 79	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700087	600 Greystone Lane	BLK 2 LOT 1	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34

**Footnotes:**

- [a] Totals may not match the Total Outstanding Assessment and Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] The Annual Installment covers the period January 1, 2024 to December 31, 2024, and is due by January 31, 2025.
- [d] Parcel IDs 70053,70091 and 70095 prepaid in full.

Property ID	Property Address	Legal Description	Lot Type	District				
				Outstanding Assessment <sup>[b]</sup>	Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>[a],[c]</sup>
700088	604 Greystone Lane	BLK 2 LOT 2	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700089	608 Greystone Lane	BLK 2 LOT 3	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700090	612 Greystone Lane	BLK 2 LOT 4	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700091	616 Greystone Lane	BLK 2 LOT 5	Residential	[d] \$ -	\$ -	\$ -	\$ -	\$ -
700092	620 Greystone Lane	BLK 2 LOT 6	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700093	624 Greystone Lane	BLK 2 LOT 7	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700094	628 Greystone Lane	BLK 2 LOT 8	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700095	632 Greystone Lane	BLK 2 LOT 9	Residential	[d] \$ -	\$ -	\$ -	\$ -	\$ -
700096	636 Greystone Lane	BLK 2 LOT 10	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700097	640 Greystone Lane	BLK 2 LOT 11	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700098	644 Greystone Lane	BLK 2 LOT 12	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700099	648 Greystone Lane	BLK 2 LOT 13	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700100	700 Greystone Lane	BLK 2 LOT 14	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700101	704 Greystone Lane	BLK 2 LOT 15	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700102	708 Greystone Lane	BLK 2 LOT 16	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700103	712 Greystone Lane	BLK 2 LOT 17	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700104	716 Greystone Lane	BLK 2 LOT 18	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700105	720 Greystone lane	BLK 2 LOT 19	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700106	724 Greystone Lane	BLK 2 LOT 20	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700107	728 Greystone Lane	BLK 2 LOT 21	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700108	732 Greystone Lane	BLK 2 LOT 22	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700109	736 Greystone Lane	BLK 2 LOT 23	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700110	800 Greystone Lane	BLK 2 LOT 24	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700111	804 Greystone Lane	BLK 2 LOT 25	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700112	808 Greystone Lane	BLK 2 LOT 26	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700113	812 Greystone Lane	BLK 2 LOT 27	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700114	816 Greystone Lane	BLK 2 LOT 28	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700115	820 Greystone Lane	BLK 2 LOT 29	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700116	824 Greystone Lane	BLK 2 LOT 30	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700117	828 Greystone Lane	BLK 2 LOT 31	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700118	832 Greystone Lane	BLK 2 LOT 32	Residential	\$ 15,995.08	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
700006	Greystone 15' Drainage	RESERVE LOT	Non-Benefited	\$ -	\$ -	\$ -	\$ -	\$ -
700007	Greystone 20' Drainage	RESERVE LOT	Non-Benefited	\$ -	\$ -	\$ -	\$ -	\$ -
700005	Greystone Park/Drainage/Detention	RESERVE LOT	Non-Benefited	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total</b>				<b>\$ 1,727,468.64</b>	<b>\$34,599.60</b>	<b>\$69,008.51</b>	<b>\$ 13,392.60</b>	<b>\$ 117,000.72</b>

**Footnotes:**

- [a] Totals may not match the Total Outstanding Assessment and Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] The Annual Installment covers the period January 1, 2024 to December 31, 2024, and is due by January 31, 2025.
- [d] Parcel IDs 70053,70091 and 70095 prepaid in full.

## EXHIBIT B – PROJECTED ANNUAL INSTALLMENTS

Annual Installments Due 1/31	Principal	Interest <sup>2</sup>	Annual Collection Costs	Total Annual Installment <sup>1</sup>
2025	\$ 34,599.60	\$ 69,008.51	\$ 13,392.60	\$ 117,000.71
2026	\$ 35,981.78	\$ 67,626.33	\$ 13,660.45	\$ 117,268.57
2027	\$ 37,419.17	\$ 66,188.94	\$ 13,933.66	\$ 117,541.77
2028	\$ 38,913.98	\$ 64,694.13	\$ 14,212.33	\$ 117,820.45
2029	\$ 40,468.51	\$ 63,139.60	\$ 14,496.58	\$ 118,104.69
2030	\$ 42,085.13	\$ 61,522.98	\$ 14,786.51	\$ 118,394.63
2031	\$ 43,766.34	\$ 59,841.77	\$ 15,082.24	\$ 118,690.36
2032	\$ 45,514.71	\$ 58,093.40	\$ 15,383.89	\$ 118,992.00
2033	\$ 47,332.92	\$ 56,275.19	\$ 15,691.57	\$ 119,299.68
2034	\$ 49,223.76	\$ 54,384.35	\$ 16,005.40	\$ 119,613.51
2035	\$ 51,190.14	\$ 52,417.97	\$ 16,325.50	\$ 119,933.62
2036	\$ 53,235.07	\$ 50,373.04	\$ 16,652.01	\$ 120,260.13
2037	\$ 55,361.70	\$ 48,246.42	\$ 16,985.06	\$ 120,593.17
2038	\$ 57,573.27	\$ 46,034.84	\$ 17,324.76	\$ 120,932.87
2039	\$ 59,873.20	\$ 43,734.92	\$ 17,671.25	\$ 121,279.36
2040	\$ 62,265.00	\$ 41,343.12	\$ 18,024.68	\$ 121,632.79
2041	\$ 64,752.34	\$ 38,855.77	\$ 18,385.17	\$ 121,993.28
2042	\$ 67,339.05	\$ 36,269.06	\$ 18,752.87	\$ 122,360.99
2043	\$ 70,029.10	\$ 33,579.02	\$ 19,127.93	\$ 122,736.04
2044	\$ 72,826.60	\$ 30,781.51	\$ 19,510.49	\$ 123,118.60
2045	\$ 75,735.86	\$ 27,872.25	\$ 19,900.70	\$ 123,508.81
2046	\$ 78,761.34	\$ 24,846.77	\$ 20,298.71	\$ 123,906.83
2047	\$ 81,907.68	\$ 21,700.43	\$ 20,704.69	\$ 124,312.80
2048	\$ 85,179.71	\$ 18,428.41	\$ 21,118.78	\$ 124,726.89
2049	\$ 88,582.45	\$ 15,025.67	\$ 21,541.16	\$ 125,149.27
2050	\$ 92,121.12	\$ 11,487.00	\$ 21,971.98	\$ 125,580.09
2051	\$ 95,801.15	\$ 7,806.96	\$ 22,411.42	\$ 126,019.53
2052	\$ 99,628.19	\$ 3,979.92	\$ 22,859.65	\$ 126,467.76
<b>Total</b>	<b>\$1,727,468.88</b>	<b>\$1,173,558.30</b>	<b>\$ 496,212.04</b>	<b>\$3,397,239.22</b>

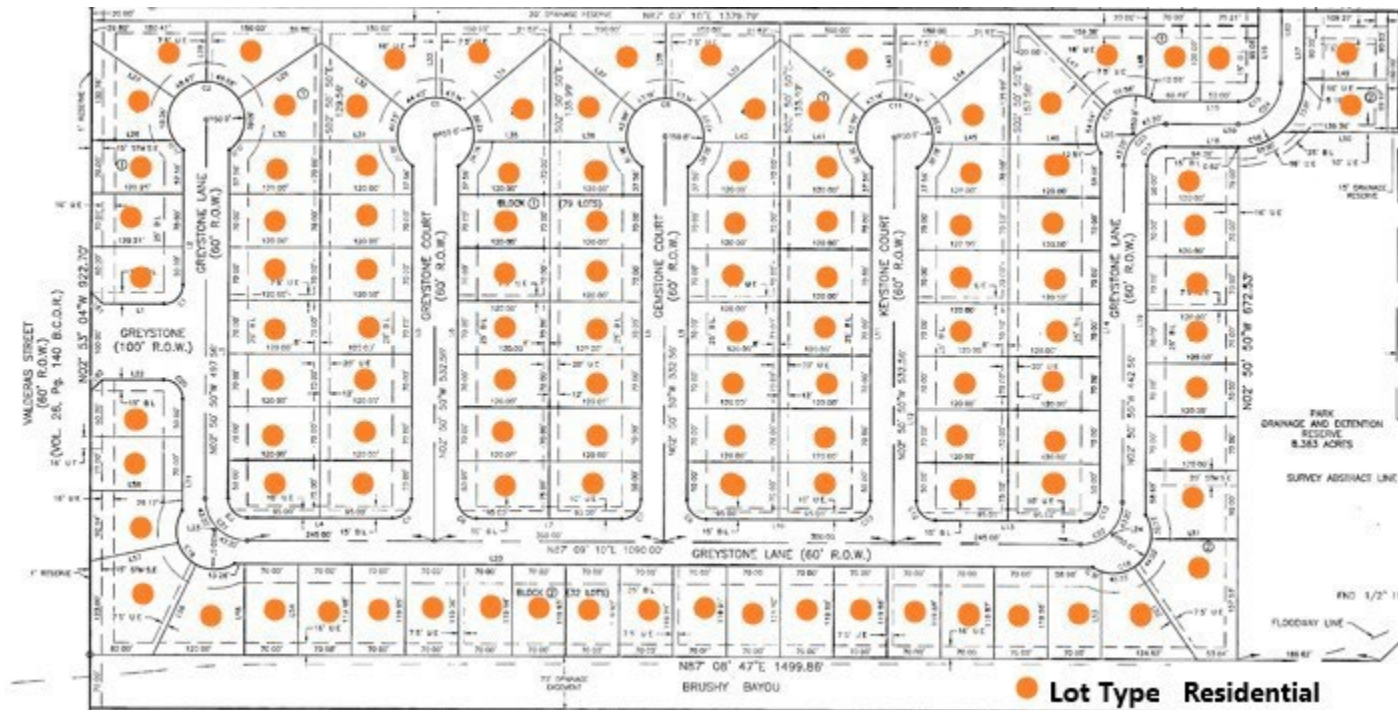
**Footnotes:**

1) The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.

2) Interest is calculated at a rate of 3.99%.



### EXHIBIT C – LOT TYPE CLASSIFICATION MAP



**EXHIBIT D – BUYER DISCLOSURES**

Buyer disclosures for the following Lot Types are contained in this Exhibit:

- Residential Lot

[Remainder of page intentionally left blank.]

## **GREYSTONE PUBLIC IMPROVEMENT DISTRICT - RESIDENTIAL LOT HOMEBUYER DISCLOSURE**

### NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.005), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING<sup>1</sup> RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO  
CITY OF ANGLETON, TEXAS  
CONCERNING THE FOLLOWING PROPERTY

\_\_\_\_\_  
STREET ADDRESS

**LOT TYPE RESIDENTIAL LOT PRINCIPAL ASSESSMENT: \$15,995.08**

As the purchaser of the real property described above, you are obligated to pay assessments to the City of Angleton, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within *Greystone Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the City of Angleton. The exact amount of each annual installment will be approved each year by the Angleton City Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the City of Angleton.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

\_\_\_\_\_  
<sup>1</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

<sup>2</sup> To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

<sup>3</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

<sup>4</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.

## ANNUAL INSTALLMENTS - RESIDENTIAL LOT

Annual Installments Due 1/31	Principal	Interest <sup>2</sup>	Annual Collection Costs	Total Annual Installment <sup>1</sup>
2025	\$ 320.37	\$ 638.97	\$ 124.01	\$ 1,083.34
2026	\$ 333.16	\$ 626.17	\$ 126.49	\$ 1,085.82
2027	\$ 346.47	\$ 612.86	\$ 129.02	\$ 1,088.35
2028	\$ 360.31	\$ 599.02	\$ 131.60	\$ 1,090.93
2029	\$ 374.71	\$ 584.63	\$ 134.23	\$ 1,093.56
2030	\$ 389.68	\$ 569.66	\$ 136.91	\$ 1,096.25
2031	\$ 405.24	\$ 554.09	\$ 139.65	\$ 1,098.98
2032	\$ 421.43	\$ 537.90	\$ 142.44	\$ 1,101.78
2033	\$ 438.27	\$ 521.07	\$ 145.29	\$ 1,104.63
2034	\$ 455.78	\$ 503.56	\$ 148.20	\$ 1,107.53
2035	\$ 473.98	\$ 485.35	\$ 151.16	\$ 1,110.50
2036	\$ 492.92	\$ 466.42	\$ 154.19	\$ 1,113.52
2037	\$ 512.61	\$ 446.73	\$ 157.27	\$ 1,116.60
2038	\$ 533.09	\$ 426.25	\$ 160.41	\$ 1,119.75
2039	\$ 554.38	\$ 404.95	\$ 163.62	\$ 1,122.96
2040	\$ 576.53	\$ 382.81	\$ 166.90	\$ 1,126.23
2041	\$ 599.56	\$ 359.78	\$ 170.23	\$ 1,129.57
2042	\$ 623.51	\$ 335.82	\$ 173.64	\$ 1,132.97
2043	\$ 648.42	\$ 310.92	\$ 177.11	\$ 1,136.44
2044	\$ 674.32	\$ 285.01	\$ 180.65	\$ 1,139.99
2045	\$ 701.26	\$ 258.08	\$ 184.27	\$ 1,143.60
2046	\$ 729.27	\$ 230.06	\$ 187.95	\$ 1,147.29
2047	\$ 758.40	\$ 200.93	\$ 191.71	\$ 1,151.04
2048	\$ 788.70	\$ 170.63	\$ 195.54	\$ 1,154.88
2049	\$ 820.21	\$ 139.13	\$ 199.46	\$ 1,158.79
2050	\$ 852.97	\$ 106.36	\$ 203.44	\$ 1,162.78
2051	\$ 887.05	\$ 72.29	\$ 207.51	\$ 1,166.85
2052	\$ 922.48	\$ 36.85	\$ 211.66	\$ 1,171.00
<b>Total</b>	<b>\$ 15,995.08</b>	<b>\$ 10,866.28</b>	<b>\$ 4,594.56</b>	<b>\$ 31,455.92</b>

**Footnotes:**

1) The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.

2) Interest is calculated at a rate of 3.99%.





## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Phillip Conner, Finance Director

**AGENDA CONTENT:** Discussion and possible action to approve Ordinance No. 20240827-010 2024 Annual Service Plan Update for the public improvements in the Green Trails Public Improvement District (PID), and approving the updates to the 2024 Assessment Roll, in accordance with chapter 372 of the Texas Local Government Code.

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** None

**FUNDS REQUESTED:** None

**FUND:** None

### EXECUTIVE SUMMARY:

Capitalized terms used in this 2024 Annual Service Plan Update shall have the meanings set forth in the Service and Assessment Plan (the "SAP"), used for the benefit of the property in the District.

The City of Angleton Green Trails Public Improvement District was created pursuant to the PID Act, by City Council under Resolution No. 20190827-011 on August 27, 2019.

The SAP identified the Authorized Improvements to be constructed, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in the District for the costs of the Authorized Improvements. Pursuant to the PID Act, the Service and Assessment Plan must be reviewed and updated annually. This document is the Annual Service Plan Update for 2024. This 2024 Annual Service Plan Update also updates the Assessment Roll for 2024.

### RECOMMENDATION:

Staff recommends that City Council holds discussions and pass the ordinance approving the 2024 Annual Service Plan Update and updates to the Assessment Roll for 2024.

**ORDINANCE NO. 20240827-010**

**AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS, APPROVING THE 2024 UPDATE TO THE SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR THE GREEN TRAILS PUBLIC IMPROVEMENT DISTRICT; MAKING AND ADOPTING FINDINGS; ACCEPTING AND APPROVING THE ANNUAL SERVICE PLAN UPDATE AND UPDATED ASSESSMENT ROLL FOR THE DISTRICT; PROVIDING AN EFFECTIVE DATE AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, The Green Trails Public Improvement District (the “District”) was created pursuant to the PID Act, by Resolution No. 20190910-017 of the City Council on September 10, 2019, to finance certain public improvement projects for the benefit of the property in the District and

**WHEREAS**, On October 13, 2020, the City Council adopted and approved the Service and assessment plan for the District by Ordinance No. 20201013-018, (the “Service and Assessment Plan”) including an Assessment Roll, and levied Assessments on property within the District to finance the Authorized Improvements for the benefit of such property.

**WHEREAS**, all capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Service and Assessment Plan; and

**WHEREAS**, Section 372.013 of the Act and the Service and Assessment Plan require that the Service and Assessment Plan and Assessment Roll be reviewed and updated annually for the purpose of determining the annual budget for improvements (the “Annual Service Plan Update”); and

**WHEREAS**, the Annual Service Plan Update and updated Assessment Roll for Fiscal Year attached as Exhibit A (the “2024 Annual Service Plan Update”) hereto conforms the Assessment Roll to the annual principal and interest payment schedule required for the PID Reimbursement Agreement and updates the Service and Assessment Plan and Assessment Roll to reflect prepayments, property divisions and changes to the cost and/or budget allocations for District Authorized Improvements that occur during the year, if any and the annual administrative costs of the District; and

**WHEREAS**, the City Council now desires to proceed with the adoption of this Ordinance and hereby approves and adopts the 2024 Annual Service Plan Update and the updated Assessment Roll attached thereto, in conformity with the requirements of the Act.

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

**SECTION 1.** Findings. The findings and determinations set forth in the preambles hereto are hereby incorporated by reference for all purposes and are hereby adopted.

**SECTION 2.** *Annual Service Plan Update.* The 2024 Annual Service Plan Update with updated Assessment Roll attached hereto as Exhibit A is hereby accepted and approved and complies with the Act in all matters as required.

**SECTION 3.** *Cumulative Repealer.* This Ordinance shall be cumulative of all other ordinances and shall not repeal any of the provisions of such ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that ordinance and for that purpose the ordinance shall remain in full force and effect.

**SECTION 4.** *Severability.* If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**SECTION 5.** *Effective Date.* This Ordinance shall take effect, and the provisions and terms of the Annual Service Plan Update shall be and become effective upon passage and execution hereof.

**SECTION 6.** *Property Records.* This Ordinance and the 2024 Annual Service Plan Update shall be filed in the real property records of Brazoria County within seven (7) days of the Effective Date.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, ON THIS THE 27TH DAY OF AUGUST, 2024.**

[SIGNATURE PAGE FOLLOWS]

\_\_\_\_\_  
John Wright  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Michelle Perez, TRMC  
City Secretary

\_\_\_\_\_  
Judith El Masri  
City Attorney

THE STATE OF TEXAS    §

COUNTY OF BRAZORIA   §

Before me, the undersigned authority, on this day personally appeared John Wright, Mayor of the City of Angleton, Texas, known to me to be such persons who signed the above and acknowledged to me that such persons executed the above and foregoing Ordinance in my presence for the purposes stated therein.

Given under my hand and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

[NOTARY STAMP]

EXHIBIT A

2024 ANNUAL UPDATE TO THE KIBER RANCH PUBLIC IMPROVEMENT DISTRICT  
SERVICE AND ASSESSMENT PLAN.



**GREEN TRAILS**  
**PUBLIC IMPROVEMENT DISTRICT**  
2024 ANNUAL SERVICE PLAN UPDATE

AUGUST 27, 2024

## INTRODUCTION

Capitalized terms used in this 2024 Annual Service Plan Update shall have the meanings set forth in the Original SAP used for the levying of Assessments or in the 2022 SAP Update.

The Petitioners submitted and filed with the City Secretary of the City a Petition requesting the establishment of a public improvement district to include the Parcels owned by the Petitioners, and to be known as the Green Trails Public Improvement District. On September 10, 2019, the City Council adopted Resolution No. 20190910-017 that authorized the creation of the District consisting of 9.5455 acres. On October 13, 2020, the City Council adopted Ordinance No. 20201013-018, levying Assessments for the cost of Authorized Improvements, creating a lien against Parcels in the District and approving the Original SAP. The Original SAP identified the Authorized Improvements to be provided by the District, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in the District for the costs of the Authorized Improvements.

On February 15, 2023, the City Council approved the 2022 SAP Update for the District by adopting Ordinance No. 20230215-014, which updated the Assessment Roll for 2022.

On August 22, 2023, the City Council approved the 2023 SAP Update for the District by adopting Ordinance No. 20230822-017, which updated the Assessment Roll for 2023.

Pursuant to the PID Act, the Original SAP must be reviewed and updated annually. This document is the Annual Service Plan Update for 2024 and also updates the Assessment Roll for 2024. P3Works, LLC was not engaged as Administrator nor engaged to prepare any updates prior to the 2022 SAP Update. Furthermore, P3Works, LLC was not involved in the creation of the District, the drafting or approval of the Original SAP, or any other matters relating to the levy of Assessments within the District.

**PARCEL SUBDIVISION**

- The final plat of Green Trails was filed and recorded with Brazoria County on February 12, 2020, and consists of 50 residential Lots and 4 Lots of Non-Benefited Property.

See the completed Lot Type classification summary within the District below:

District	
Lot Type	Number of Lots
Lot Type 1	15
Lot Type 2	35
<b>Total</b>	<b>50</b>

See **Exhibit C** for the Lot Type classification map.

**LOTS**

All Lots have completed homes, and all Lots have been sold to end-users.

See **Exhibit D** for buyer disclosures.

**OUTSTANDING ASSESSMENT**

The District has an outstanding Assessment of \$668,218.61.

**ANNUAL INSTALLMENT DUE 1/31/2025**

- *Principal and Interest* – The total principal and interest required for the Annual Installment is \$51,446.38.
- *Administrative Expenses* – The cost of administering the District and collecting the Annual Installments shall be paid for by the Annual Installments. The Administrative Expenses shall be deducted from the total Annual Installment collected each year. The estimated cost to administer the District and collect Annual Installments is \$14,000.00.



District	
Administrative Expenses	
Administration	\$ 10,800.00
City Auditor	\$ 1,000.00
Filing Fees	1,000.00
County Collection	200.00
Miscellaneous	1,000.00
<b>Total Administrative Expenses</b>	<b>\$ 14,000.00</b>

District	
Due January 31, 2025	
Principal	\$ 24,717.64
Interest	\$ 26,728.74
Administrative Expenses	\$ 14,000.00
<b>Total Annual Installment</b>	<b>\$ 65,446.38</b>

Please contact P3Works for the pay period for the District. See **Exhibit B** for the Annual Installment schedule for the District.

**PREPAYMENT OF ASSESSMENTS IN FULL**

The following is a list of all Parcels or Lots that made a Prepayment in full within the District.

District					
Property ID	Address	Lot Type	Prepayment Date	Prepayment Amount	Recorded Lien Release Number
693670	122 AUSTIN RD	2	1/29/2024	\$ 13,835.63	2024018316

**PARTIAL PREPAYMENT OF ASSESSMENTS**

There have been no partial prepayment of Assessments made in the District.

**SERVICE PLAN FIVE YEAR BUDGET FORECAST**

The PID Act requires the annual indebtedness and projected costs for the improvements to be reviewed and updated in the Annual Service Plan Update, and the projection shall cover a period of not less than five years.

Installment Due	1/31/2025	1/31/2026	1/31/2027	1/31/2028	1/31/2029
Principal	\$ 24,717.64	\$ 25,706.35	\$ 26,734.60	\$ 27,803.98	\$ 28,916.14
Interest	\$ 26,728.74	\$ 25,740.04	\$ 24,711.78	\$ 23,642.40	\$ 22,530.24
Administrative Expenses	\$ 14,000.00	\$ 14,280.00	\$ 14,565.60	\$ 14,856.91	\$ 15,154.05
	\$ 65,446.38	\$ 65,726.38	\$ 66,011.98	\$ 66,303.30	\$ 66,600.44

**ASSESSMENT ROLL**

The list of current Parcels or Lots within the District, the corresponding total assessments, and current Annual Installment are shown on the Assessment Roll attached hereto as **Exhibit A**. The Parcels or Lots shown on the Assessment Roll will receive the bills for the 2024 Annual Installments which will be delinquent if not paid by January 31, 2025. The list of Parcels shown on the Assessment Roll is subject to change based on the final certified rolls provided by the County prior to billing.

**DISCLAIMER**

P3Works, LLC was not involved in the creation of the District, the drafting or approval of the Original SAP, or any other matters relating to the levy of Assessments within the District.

## EXHIBIT A – ASSESSMENT ROLL

Property ID	Legal Description	Lot Type	Green Trails PID <sup>[a]</sup>				
			Outstanding Assessment <sup>[a],[b]</sup>	Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>[a]</sup>
693628	GREEN TRAILS LOT RESERVE A	Non-Benefited Property	\$ -	\$ -	\$ -	\$ -	\$ -
693629	GREEN TRAILS LOT RESERVE B	Non-Benefited Property	\$ -	\$ -	\$ -	\$ -	\$ -
693630	GREEN TRAILS LOT RESERVE C	Non-Benefited Property	\$ -	\$ -	\$ -	\$ -	\$ -
693631	GREEN TRAILS LOT RESERVE D	Non-Benefited Property	\$ -	\$ -	\$ -	\$ -	\$ -
693632	GREEN TRAILS BLK 1 LOT 1	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693633	GREEN TRAILS BLK 1 LOT 2	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693634	GREEN TRAILS BLK 1 LOT 3	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693635	GREEN TRAILS BLK 1 LOT 4	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693636	GREEN TRAILS BLK 1 LOT 5	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693637	GREEN TRAILS BLK 1 LOT 6	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693638	GREEN TRAILS BLK 1 LOT 7	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693639	GREEN TRAILS BLK 1 LOT 8	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693640	GREEN TRAILS BLK 1 LOT 9	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693641	GREEN TRAILS BLK 1 LOT 10	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693642	GREEN TRAILS BLK 1 LOT 11	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693643	GREEN TRAILS BLK 1 LOT 12	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693644	GREEN TRAILS BLK 1 LOT 13	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693645	GREEN TRAILS BLK 1 LOT 14	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693646	GREEN TRAILS BLK 1 LOT 15	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693647	GREEN TRAILS BLK 1 LOT 16	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693648	GREEN TRAILS BLK 1 LOT 17	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693649	GREEN TRAILS BLK 1 LOT 18	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693650	GREEN TRAILS BLK 1 LOT 19	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693651	GREEN TRAILS BLK 1 LOT 20	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693652	GREEN TRAILS BLK 1 LOT 21	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693653	GREEN TRAILS BLK 1 LOT 22	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693654	GREEN TRAILS BLK 1 LOT 23	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693655	GREEN TRAILS BLK 1 LOT 24	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693656	GREEN TRAILS BLK 1 LOT 25	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693657	GREEN TRAILS BLK 1 LOT 26	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693658	GREEN TRAILS BLK 1 LOT 27	1	\$ 13,291.33	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
693659	GREEN TRAILS BLK 1 LOT 28	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693660	GREEN TRAILS BLK 1 LOT 29	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693661	GREEN TRAILS BLK 1 LOT 30	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693662	GREEN TRAILS BLK 1 LOT 31	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693663	GREEN TRAILS BLK 1 LOT 32	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693664	GREEN TRAILS BLK 1 LOT 33	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693665	GREEN TRAILS BLK 1 LOT 34	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693666	GREEN TRAILS BLK 1 LOT 35	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693667	GREEN TRAILS BLK 1 LOT 36	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693668	GREEN TRAILS BLK 1 LOT 37	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693669	GREEN TRAILS BLK 1 LOT 38	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693670	GREEN TRAILS BLK 1 LOT 39	2	[c] \$ -	\$ -	\$ -	\$ -	\$ -
693671	GREEN TRAILS BLK 1 LOT 40	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693672	GREEN TRAILS BLK 1 LOT 41	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84

**Footnotes:**

- [a] Totals may not match the total Outstanding Assessment or Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] Property ID 693670 has fully prepaid its portion of the Assessment.

			Green Trails PID <sup>[a]</sup>				
Property ID	Legal Description	Lot Type	Outstanding Assessment <sup>[a],[b]</sup>	Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>[a]</sup>
693673	GREEN TRAILS BLK 1 LOT 42	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693674	GREEN TRAILS BLK 1 LOT 43	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693675	GREEN TRAILS BLK 1 LOT 44	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693676	GREEN TRAILS BLK 1 LOT 45	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693677	GREEN TRAILS BLK 1 LOT 46	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693678	GREEN TRAILS BLK 1 LOT 47	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693679	GREEN TRAILS BLK 1 LOT 48	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693680	GREEN TRAILS BLK 1 LOT 49	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
693681	GREEN TRAILS BLK 1 LOT 50	2	\$ 13,789.67	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
<b>Total</b>			<b>\$ 668,218.61</b>	<b>\$ 24,717.64</b>	<b>\$ 26,728.74</b>	<b>\$ 14,000.00</b>	<b>\$ 65,446.56</b>

**Footnotes:**

- [a] Totals may not match the total Outstanding Assessment or Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] Property ID 693670 has fully prepaid its portion of the Assessment.

## EXHIBIT B – DISTRICT ANNUAL INSTALLMENT SCHEDULE

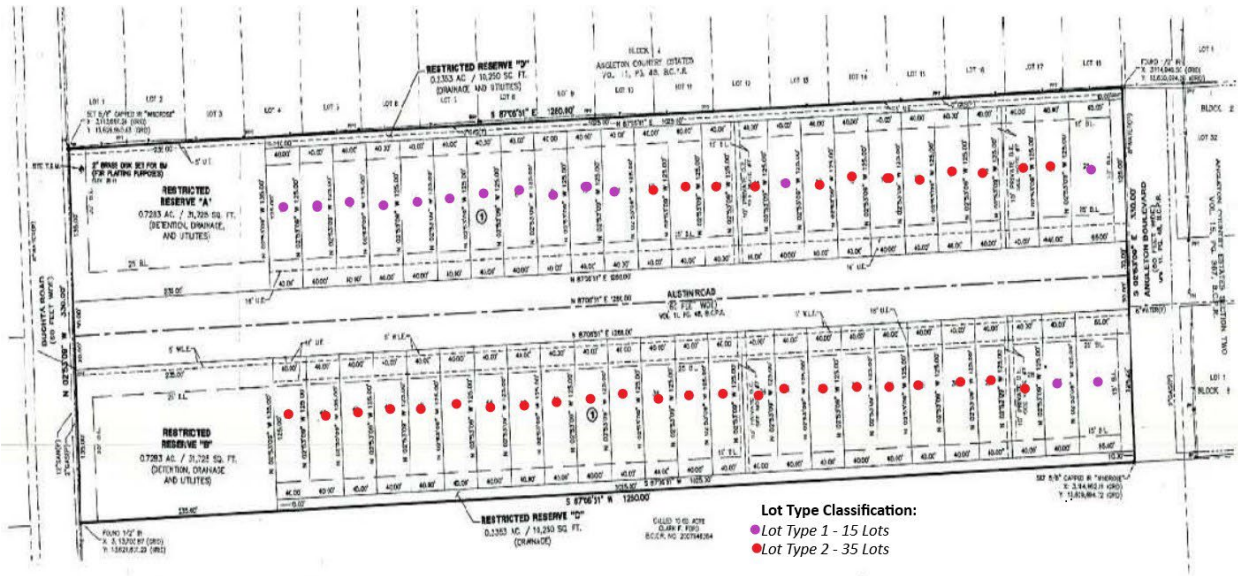
Installment Due January 31,	Principal	Interest <sup>[a]</sup>	Annual Collection Costs <sup>[b]</sup>	Annual Installment <sup>[b]</sup>
2025	\$ 24,717.64	\$ 26,728.74	\$ 14,000.00	\$ 65,446.38
2026	\$ 25,706.35	\$ 25,740.04	\$ 14,280.00	\$ 65,726.38
2027	\$ 26,734.60	\$ 24,711.78	\$ 14,565.60	\$ 66,011.98
2028	\$ 27,803.98	\$ 23,642.40	\$ 14,856.91	\$ 66,303.30
2029	\$ 28,916.14	\$ 22,530.24	\$ 15,154.05	\$ 66,600.44
2030	\$ 30,072.79	\$ 21,373.60	\$ 15,457.13	\$ 66,903.52
2031	\$ 31,275.70	\$ 20,170.68	\$ 15,766.27	\$ 67,212.66
2032	\$ 32,526.73	\$ 18,919.66	\$ 16,081.60	\$ 67,527.98
2033	\$ 33,827.80	\$ 17,618.59	\$ 16,403.23	\$ 67,849.62
2034	\$ 35,180.91	\$ 16,265.48	\$ 16,731.30	\$ 68,177.68
2035	\$ 36,588.15	\$ 14,858.24	\$ 17,065.92	\$ 68,512.31
2036	\$ 38,051.67	\$ 13,394.71	\$ 17,407.24	\$ 68,853.63
2037	\$ 39,573.74	\$ 11,872.65	\$ 17,755.39	\$ 69,201.77
2038	\$ 41,156.69	\$ 10,289.70	\$ 18,110.49	\$ 69,556.88
2039	\$ 42,802.96	\$ 8,643.43	\$ 18,472.70	\$ 69,919.09
2040	\$ 44,515.07	\$ 6,931.31	\$ 18,842.16	\$ 70,288.54
2041	\$ 46,295.68	\$ 5,150.71	\$ 19,219.00	\$ 70,665.38
2042	\$ 48,147.50	\$ 3,298.88	\$ 19,603.38	\$ 71,049.76
2043	\$ 34,324.51	\$ 1,372.98	\$ 19,995.45	\$ 55,692.94
<b>Total</b>	<b>\$668,218.61</b>	<b>\$ 293,513.81</b>	<b>\$319,767.82</b>	<b>\$ 1,281,500.24</b>

**Footnotes:**

[a] Interest is calculated at a rate of 4.00%.

[b] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.

# EXHIBIT C – LOT TYPE CLASSIFICATION MAP



## EXHIBIT D – BUYER DISCLOSURES

Buyer disclosures for the following Lot Types are found in this Exhibit:

- Lot Type 1
- Lot Type 2

## GREEN TRAILS PUBLIC IMPROVEMENT DISTRICT – LOT TYPE 1 BUYER DISCLOSURE

### NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.005), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.



AFTER RECORDING<sup>1</sup> RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO  
CITY OF ANGLETON, TEXAS  
CONCERNING THE FOLLOWING PROPERTY

\_\_\_\_\_  
STREET ADDRESS

**LOT TYPE 1 PRINCIPAL ASSESSMENT: \$13,291.33**

As the purchaser of the real property described above, you are obligated to pay assessments to the City of Angleton, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within *Green Trails Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the City of Angleton. The exact amount of each annual installment will be approved each year by the Angleton City Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the City of Angleton.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

<sup>1</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

<sup>2</sup> To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

STATE OF TEXAS

§

COUNTY OF BRAZORIA

§

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

<sup>3</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§

COUNTY OF BRAZORIA

§

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

<sup>4</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.

### ANNUAL INSTALLMENTS - LOT TYPE 1

Installment Due January 31,	Principal	Interest <sup>[a]</sup>	Annual Collection Costs <sup>[b]</sup>	Annual Installment <sup>[b]</sup>
2025	\$ 518.27	\$ 531.65	\$ 278.47	\$ 1,328.40
2026	\$ 539.00	\$ 510.92	\$ 284.04	\$ 1,333.97
2027	\$ 560.56	\$ 489.36	\$ 289.72	\$ 1,339.65
2028	\$ 582.99	\$ 466.94	\$ 295.51	\$ 1,345.44
2029	\$ 606.31	\$ 443.62	\$ 301.42	\$ 1,351.35
2030	\$ 630.56	\$ 419.37	\$ 307.45	\$ 1,357.38
2031	\$ 655.78	\$ 394.15	\$ 313.60	\$ 1,363.53
2032	\$ 682.01	\$ 367.91	\$ 319.87	\$ 1,369.80
2033	\$ 709.29	\$ 340.63	\$ 326.27	\$ 1,376.20
2034	\$ 737.66	\$ 312.26	\$ 332.80	\$ 1,382.72
2035	\$ 767.17	\$ 282.76	\$ 339.45	\$ 1,389.38
2036	\$ 797.86	\$ 252.07	\$ 346.24	\$ 1,396.17
2037	\$ 829.77	\$ 220.15	\$ 353.17	\$ 1,403.09
2038	\$ 862.96	\$ 186.96	\$ 360.23	\$ 1,410.16
2039	\$ 897.48	\$ 152.44	\$ 367.43	\$ 1,417.36
2040	\$ 933.38	\$ 116.55	\$ 374.78	\$ 1,424.71
2041	\$ 970.72	\$ 79.21	\$ 382.28	\$ 1,432.21
2042	\$ 1,009.54	\$ 40.38	\$ 389.92	\$ 1,439.85
<b>Total</b>	<b>\$ 13,291.33</b>	<b>\$ 5,607.34</b>	<b>\$ 5,962.68</b>	<b>\$ 24,861.35</b>

**Footnotes:**

[a] Interest is calculated at a rate of 4.00%.

[b] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts

## **GREEN TRAILS PUBLIC IMPROVEMENT DISTRICT – LOT TYPE 2 BUYER DISCLOSURE**

### NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.005), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING<sup>1</sup> RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO  
CITY OF ANGLETON, TEXAS  
CONCERNING THE FOLLOWING PROPERTY

\_\_\_\_\_  
STREET ADDRESS

**LOT TYPE 2 PRINCIPAL ASSESSMENT: \$13,789.67**

As the purchaser of the real property described above, you are obligated to pay assessments to the City of Angleton, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within *Green Trails Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the City of Angleton. The exact amount of each annual installment will be approved each year by the Angleton City Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the City of Angleton.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

<sup>1</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

<sup>2</sup> To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.



[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

STATE OF TEXAS

§

COUNTY OF BRAZORIA

§

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

<sup>3</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§

COUNTY OF BRAZORIA

§

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

<sup>4</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.

## ANNUAL INSTALLMENTS - LOT TYPE 2

Installment Due January 31,	Principal	Interest	Annual Collection Costs	Annual Installment
2025	\$ 498.34	\$ 551.59	\$ 288.91	\$ 1,338.84
2026	\$ 518.27	\$ 531.65	\$ 294.69	\$ 1,344.61
2027	\$ 539.00	\$ 510.92	\$ 300.58	\$ 1,350.51
2028	\$ 560.56	\$ 489.36	\$ 306.59	\$ 1,356.52
2029	\$ 582.99	\$ 466.94	\$ 312.73	\$ 1,362.65
2030	\$ 606.31	\$ 443.62	\$ 318.98	\$ 1,368.91
2031	\$ 630.56	\$ 419.37	\$ 325.36	\$ 1,375.29
2032	\$ 655.78	\$ 394.15	\$ 331.87	\$ 1,381.79
2033	\$ 682.01	\$ 367.91	\$ 338.50	\$ 1,388.43
2034	\$ 709.29	\$ 340.63	\$ 345.27	\$ 1,395.20
2035	\$ 737.66	\$ 312.26	\$ 352.18	\$ 1,402.11
2036	\$ 767.17	\$ 282.76	\$ 359.22	\$ 1,409.15
2037	\$ 797.86	\$ 252.07	\$ 366.41	\$ 1,416.33
2038	\$ 829.77	\$ 220.15	\$ 373.74	\$ 1,423.66
2039	\$ 862.96	\$ 186.96	\$ 381.21	\$ 1,431.14
2040	\$ 897.48	\$ 152.44	\$ 388.84	\$ 1,438.76
2041	\$ 933.38	\$ 116.55	\$ 396.61	\$ 1,446.54
2042	\$ 970.72	\$ 79.21	\$ 404.54	\$ 1,454.47
2043	\$ 1,009.54	\$ 40.38	\$ 412.64	\$ 1,462.56
<b>Total</b>	<b>\$ 13,789.67</b>	<b>\$ 6,158.93</b>	<b>\$ 6,598.88</b>	<b>\$ 26,547.47</b>

**Footnotes:**

[a] Interest is calculated at a rate of 4.00%.

[b] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Phillip Conner, Finance Director

**AGENDA CONTENT:** Discussion and possible action to approve Ordinance No. 20240827-011 approving the 2024 Annual Service Plan Update for the public improvements in the Kiber Reserve Public Improvement District (PID), and approving the updates to the 2024 Assessment Roll, in accordance with chapter 372 of the Texas Local Government Code.

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** None

**FUNDS REQUESTED:** None

**FUND:** None

### EXECUTIVE SUMMARY:

Capitalized terms used in this 2024 Annual Service Plan Update shall have the meanings set forth in the Service and Assessment Plan (the "SAP"), used for the benefit of the property in the District.

The Kiber Reserve Public Improvement District was created pursuant to the PID Act, by Resolution No. 20201013-021 on October 13, 2020 by City Council.

The SAP identified the Authorized Improvements to be constructed, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in the District for the costs of the Authorized Improvements. Pursuant to the PID Act, the Service and Assessment Plan must be reviewed and updated annually. This document is the Annual Service Plan Update for 2024. This 2024 Annual Service Plan Update also updates the Assessment Roll for 2024.

### RECOMMENDATION:

Staff recommends that City Council holds discussions and pass the Ordinance approving the 2024 Annual Service Plan Update and updates to the Assessment Roll for 2024.

**ORDINANCE NO. 20240827-011**

**AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS,  
APPROVING THE 2024 UPDATE TO THE SERVICE AND  
ASSESSMENT PLAN AND ASSESSMENT ROLL FOR THE  
KIBER RESERVE PUBLIC IMPROVEMENT DISTRICT;  
MAKING AND ADOPTING FINDINGS; ACCEPTING AND  
APPROVING THE ANNUAL SERVICE PLAN UPDATE  
AND UPDATED ASSESSMENT ROLL FOR THE  
DISTRICT; PROVIDING AN EFFECTIVE DATE AND  
OTHER MATTERS RELATED THERETO.**

**WHEREAS**, The Kiber Reserve Public Improvement District (the “District”) was created pursuant to the PID Act, by Resolution No. 20201110-007 of the City Council on November 10, 2020, to finance certain public improvement projects for the benefit of the property in the District and

**WHEREAS**, On October 12, 2021, the City Council adopted and approved the service and assessment plan for the District by Ordinance No. 20211012-015, (the “Service and Assessment Plan”) including an Assessment Roll, and levied Assessments on property within the District to finance the Authorized Improvements for the benefit of such property.

**WHEREAS**, all capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Service and Assessment Plan; and

**WHEREAS**, Section 372.013 of the Act and the Service and Assessment Plan require that the Service and Assessment Plan and Assessment Roll be reviewed and updated annually for the purpose of determining the annual budget for improvements (the “Annual Service Plan Update”); and

**WHEREAS**, the Annual Service Plan Update and updated Assessment Roll for Fiscal Year attached as Exhibit A (the “2024 Annual Service Plan Update”) hereto conforms the Assessment Roll to the annual principal and interest payment schedule required for the PID Reimbursement Agreement and updates the Service and Assessment Plan and Assessment Roll to reflect prepayments, property divisions and changes to the cost and/or budget allocations for District Authorized Improvements that occur during the year, if any and the annual administrative costs of the District; and

**WHEREAS**, the City Council now desires to proceed with the adoption of this Ordinance and hereby approves and adopts the 2024 Annual Service Plan Update and the updated Assessment Roll attached thereto, in conformity with the requirements of the Act.

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

**SECTION 1.** *Findings.* The findings and determinations set forth in the preambles hereto are hereby incorporated by reference for all purposes and are hereby adopted.

**SECTION 2.** *Annual Service Plan Update.* The 2024 Annual Service Plan Update with updated Assessment Roll attached hereto as Exhibit A is hereby accepted and approved and complies with the Act in all matters as required.

**SECTION 3.** *Cumulative Repealer.* This Ordinance shall be cumulative of all other ordinances and shall not repeal any of the provisions of such ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that ordinance and for that purpose the ordinance shall remain in full force and effect.

**SECTION 4.** *Severability.* If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**SECTION 5.** *Effective Date.* This Ordinance shall take effect, and the provisions and terms of the Annual Service Plan Update shall be and become effective upon passage and execution hereof.

**SECTION 6.** *Property Records.* This Ordinance and the 2024 Annual Service Plan Update shall be filed in the real property records of Brazoria County within seven (7) days of the Effective Date.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, ON THIS THE 27TH DAY OF AUGUST, 2024.**

[SIGNATURE PAGE FOLLOWS]

\_\_\_\_\_  
John Wright  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Michelle Perez, TRMC  
City Secretary

\_\_\_\_\_  
Judith El Masri  
City Attorney

THE STATE OF TEXAS    §

COUNTY OF BRAZORIA   §

Before me, the undersigned authority, on this day personally appeared John Wright, Mayor of the City of Angleton, Texas, known to me to be such persons who signed the above and acknowledged to me that such persons executed the above and foregoing Ordinance in my presence for the purposes stated therein.

Given under my hand and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

[NOTARY STAMP]

EXHIBIT A

2024 ANNUAL UPDATE TO THE KIBER RANCH PUBLIC IMPROVEMENT DISTRICT  
SERVICE AND ASSESSMENT PLAN





KIBER RESERVE  
PUBLIC IMPROVEMENT DISTRICT  
2024 ANNUAL SERVICE PLAN UPDATE

AUGUST 13, 2024

## INTRODUCTION

Capitalized terms used in this 2024 Annual Service Plan Update shall have the meanings set forth in the original 2021 Service and Assessment Plan (the “2021 SAP”).

The District was created pursuant to the PID Act, by Resolution No. 20201110-007 of the City Council on November 10, 2020, to finance certain public improvement projects for the benefit of the property in the District.

On October 12, 2021, the City Council approved the 2021 SAP for the District by adopting Ordinance No. 20211012-015, which included the revised Assessment Roll.

On August 23, 2022, the City Council approved the 2022 Annual Service Plan Update for the District by adopting Ordinance No. 20220823-13, which updated the Assessment Roll for 2022.

On August 22, 2023, the City Council approved the 2023 Annual Service Plan Update for the District by adopting Ordinance No. 20230822-16 which updated the Assessment Roll for 2023.

The 2021 SAP identified the Authorized Improvements to be provided by the District, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in the District for the costs of the Authorized Improvements. Pursuant to the PID Act, the 2021 SAP must be reviewed and updated annually. This document is the Annual Service Plan Update for 2024.

The City Council also adopted an Assessment Roll identifying the Assessment for each Lot within the District, based on the method of assessment identified in the 2021 SAP. This 2024 Annual Service Plan Update also updates the Assessment Roll for 2024.

## PARCEL SUBDIVISION

The Final Plat of Kiber Reserve Phase 1 was filed and recorded with the County on October 22, 2021, and consists of 48 Residential Lots and 1 Lot classified as Non-Benefited Property.

The Final Plat of Kiber Reserve Phase II was filed and recorded with the County on October 5, 2022, and consists of 45 Residential Lots and 2 Lots classified as Non-Benefited Property.

See **Exhibit C** for the Lot type classification map.

## LOT AND HOME SALES

Per the Owner, as of March 31, 2024, the lot ownership composition is provided below:

- Developer Owned:
  - Lot Type Residential: 0 Lots
- Homebuilder Owned:
  - Lot Type Residential: 53 Lots
- End-User Owner:
  - Lot Type Residential: 40 Lots

See **Exhibit D** for the buyer disclosures.

## AUTHORIZED IMPROVEMENTS

The Owner has completed the Authorized Improvements listed in the 2021 SAP and they were dedicated to the City on October 5, 2022.

## OUTSTANDING ASSESSMENT

The District has an outstanding Assessment of \$1,715,674.23.

## ANNUAL INSTALLMENT DUE 1/31/2025

- **Principal and Interest** – Pursuant to the PID Reimbursement Agreement, the Annual Installment shall include interest on the unpaid principal amount of the Assessment at a rate of 4.04% per annum, simple interest. The total principal and interest required for the Annual Installment is \$103,438.10.

- **Annual Collection Costs** – The cost of administering the District and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on the Parcel. The total Annual Collection Costs budgeted for the Annual Installment for the District is \$18,200.00.

District	
Annual Collection Costs Breakdown	
Administration	\$ 15,000.00
Auditor	1,000.00
Filing Fees	1,000.00
County Collection	200.00
Draw Request	-
Miscellaneous	1,000.00
<b>Total Annual Collection Costs</b>	<b>\$ 18,200.00</b>

District	
Due January 31, 2025	
Principal	34,124.86
Interest	69,313.24
Annual Collection Costs	18,200.00
<b>Total Annual Installment</b>	<b>\$ 121,638.10</b>

Please contact P3Works for the pay period for the District. See **Exhibit B** for the Annual Installment schedule for the District.

**PREPAYMENT OF ASSESSMENT IN FULL**

No full Prepayments have occurred within the District.

**PARTIAL PREPAYMENT OF ASSESSMENTS**

No partial Prepayment of Assessments have occurred within the District.

**SERVICE PLAN – FIVE YEAR BUDGET FORECAST**

The PID Act requires the annual indebtedness and projected costs for the Authorized Improvements to be reviewed and updated in the Annual Service Plan Update, and the projection shall cover a period of not less than five years.

Annual Installments		1/31/2025	1/31/2026	1/31/2027	1/31/2028	1/31/2029
Principal		\$ 34,124.86	\$ 35,503.51	\$ 36,937.85	\$ 38,430.14	\$ 39,982.72
Interest		\$ 69,313.24	\$ 67,934.59	\$ 66,500.25	\$ 65,007.96	\$ 63,455.38
	(1)	\$103,438.10	\$103,438.10	\$ 103,438.10	\$103,438.10	\$103,438.10
Annual Collection Costs	(2)	\$ 18,200.00	\$ 18,564.00	\$ 18,935.28	\$ 19,313.99	\$ 19,700.27
<b>Total Annual Installment</b>	<b>(3) = (1) + (2)</b>	<b>\$121,638.10</b>	<b>\$122,002.10</b>	<b>\$ 122,373.38</b>	<b>\$122,752.08</b>	<b>\$123,138.36</b>

**ASSESSMENT ROLL**

The list of current Parcels within the District, the corresponding total Assessments, and current Annual Installment are shown on the Assessment Roll attached hereto as **Exhibit A**. The Parcels shown on the Assessment Rolls will receive the bills for the 2024 Annual Installments which will be delinquent if not paid by January 31, 2025. The list of Parcels shown on the Assessment Roll is subject to change based on the final certified rolls provided by the County prior to billing.

## EXHIBIT A – ASSESSMENT ROLL

Property ID	Legal Description	Lot Type	Outstanding Assessment <sup>(a),(b)</sup>	Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>(a)</sup>
702067	KIBER RESERVE PHASE 1 BLK 1 LOT 11	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702068	KIBER RESERVE PHASE 1 BLK 1 LOT 12	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702069	KIBER RESERVE PHASE 1 BLK 1 LOT 13	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702070	KIBER RESERVE PHASE 1 BLK 1 LOT 14	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702071	KIBER RESERVE PHASE 1 BLK 1 LOT 15	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702072	KIBER RESERVE PHASE 1 BLK 1 LOT 16	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702091	KIBER RESERVE PHASE 1 BLK 2 LOT 14	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702092	KIBER RESERVE PHASE 1 BLK 2 LOT 15	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702093	KIBER RESERVE PHASE 1 BLK 2 LOT 16	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702094	KIBER RESERVE PHASE 1 BLK 2 LOT 17	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702095	KIBER RESERVE PHASE 1 BLK 2 LOT 18	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702096	KIBER RESERVE PHASE 1 BLK 2 LOT 19	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702097	KIBER RESERVE PHASE 1 BLK 2 LOT 20	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702098	KIBER RESERVE PHASE 1 BLK 2 LOT 21	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702099	KIBER RESERVE PHASE 1 BLK 2 LOT 22	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702078	KIBER RESERVE PHASE 1 BLK 2 LOT 1	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702079	KIBER RESERVE PHASE 1 BLK 2 LOT 2	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702080	KIBER RESERVE PHASE 1 BLK 2 LOT 3	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702081	KIBER RESERVE PHASE 1 BLK 2 LOT 4	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702082	KIBER RESERVE PHASE 1 BLK 2 LOT 5	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702083	KIBER RESERVE PHASE 1 BLK 2 LOT 6	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702084	KIBER RESERVE PHASE 1 BLK 2 LOT 7	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702085	KIBER RESERVE PHASE 1 BLK 2 LOT 8	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702086	KIBER RESERVE PHASE 1 BLK 2 LOT 9	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702087	KIBER RESERVE PHASE 1 BLK 2 LOT 10	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702088	KIBER RESERVE PHASE 1 BLK 2 LOT 11	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702089	KIBER RESERVE PHASE 1 BLK 2 LOT 12	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702090	KIBER RESERVE PHASE 1 BLK 2 LOT 13	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702057	KIBER RESERVE PHASE 1, BLK 1 LOT 1	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702058	KIBER RESERVE PHASE 1 BLK 1 LOT 2	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702059	KIBER RESERVE PHASE 1 BLK 1 LOT 3	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702060	KIBER RESERVE PHASE 1 BLK 1 LOT 4	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702061	KIBER RESERVE PHASE 1 BLK 1 LOT 5, Undivided Interest 50%	Residential	[c] \$ 9,224.06	\$ 183.47	\$ 372.65	\$ 97.85	\$ 653.97
709555	KIBER RESERVE PHASE 1 BLK 1 LOT 5, Undivided Interest 50%	Residential	[c] \$ 9,224.06	\$ 183.47	\$ 372.65	\$ 97.85	\$ 653.97
702062	KIBER RESERVE PHASE 1 BLK 1 LOT 6	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702063	KIBER RESERVE PHASE 1 BLK 1 LOT 7	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702064	KIBER RESERVE PHASE 1 BLK 1 LOT 8	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702065	KIBER RESERVE PHASE 1 BLK 1 LOT 9	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702066	KIBER RESERVE PHASE 1 BLK 1 LOT 10	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702073	KIBER RESERVE PHASE 1 BLK 1 LOT 17	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702074	KIBER RESERVE PHASE 1 BLK 1 LOT 18	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94

Footnotes:

- [a] Totals may not match the total Outstanding Assessment and Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] Undivided Interest of parent Property ID 709554 located at 216 Bryan Way, billed 50% to Property ID 702061 and 50% to Property ID 709555.

Property ID	Legal Description	Lot Type	Outstanding Assessment <sup>(a),(b)</sup>	Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>(a)</sup>
702075	KIBER RESERVE PHASE 1 BLK 1 LOT 19	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702076	KIBER RESERVE PHASE 1 BLK 1 LOT 20	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702077	KIBER RESERVE PHASE 1 BLK 1 LOT 21	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702100	KIBER RESERVE PHASE 1 BLK 2 LOT 23	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702101	KIBER RESERVE PHASE 1 BLK 2 LOT 24	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702102	KIBER RESERVE PHASE 1 BLK 2 LOT 25	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702103	KIBER RESERVE PHASE 1 BLK 2 LOT 26	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702104	KIBER RESERVE PHASE 1 BLK 2 LOT 27	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
702056	KIBER RESERVE PHASE 1 PARK/DRAINAGE/DETENTION ACRES 4.08	Non-Benefited	\$ -	\$ -	\$ -	\$ -	\$ -
709131	KIBER RESERVE PHASE II BLK 1 LOT 1	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709132	KIBER RESERVE PHASE II BLK 1 LOT 2	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709133	KIBER RESERVE PHASE II BLK 1 LOT 3	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709134	KIBER RESERVE PHASE II BLK 1 LOT 4	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709135	KIBER RESERVE PHASE II BLK 1 LOT 5	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709136	KIBER RESERVE PHASE II BLK 1 LOT 6	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709137	KIBER RESERVE PHASE II BLK 1 LOT 7	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709138	KIBER RESERVE PHASE II BLK 1 LOT 8	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709139	KIBER RESERVE PHASE II BLK 1 LOT 9	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709140	KIBER RESERVE PHASE II BLK 1 LOT 10	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709141	KIBER RESERVE PHASE II BLK 1 LOT 11	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709142	KIBER RESERVE PHASE II BLK 2 LOT 1	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709143	KIBER RESERVE PHASE II BLK 2 LOT 2	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709144	KIBER RESERVE PHASE II BLK 2 LOT 3	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709145	KIBER RESERVE PHASE II BLK 2 LOT 4	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709146	KIBER RESERVE PHASE II BLK 2 LOT 5	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709147	KIBER RESERVE PHASE II BLK 2 LOT 6	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709148	KIBER RESERVE PHASE II BLK 2 LOT 7	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709149	KIBER RESERVE PHASE II BLK 2 LOT 8	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709150	KIBER RESERVE PHASE II BLK 2 LOT 9	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709151	KIBER RESERVE PHASE II BLK 2 LOT 10	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709152	KIBER RESERVE PHASE II BLK 2 LOT 11	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709153	KIBER RESERVE PHASE II BLK 2 LOT 12	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709154	KIBER RESERVE PHASE II BLK 2 LOT 13	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709155	KIBER RESERVE PHASE II BLK 2 LOT 14	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709156	KIBER RESERVE PHASE II BLK 2 LOT 15	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709157	KIBER RESERVE PHASE II BLK 2 LOT 16	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709158	KIBER RESERVE PHASE II BLK 2 LOT 17	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709159	KIBER RESERVE PHASE II BLK 2 LOT 18	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709160	KIBER RESERVE PHASE II BLK 2 LOT 19	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709161	KIBER RESERVE PHASE II BLK 2 LOT 20	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94

Footnotes:

- [a] Totals may not match the total Outstanding Assessment and Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] Undivided Interest of parent Property ID 709554 located at 216 Bryan Way, billed 50% to Property ID 702061 and 50% to Property ID 709555.

Property ID	Legal Description	Lot Type	Outstanding Assessment <sup>[a],[b]</sup>	Principal	Interest	Annual Collection Costs	Annual Installment Due 1/31/25 <sup>[a]</sup>
709162	KIBER RESERVE PHASE II BLK 2 LOT 21	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709163	KIBER RESERVE PHASE II BLK 2 LOT 22	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709164	KIBER RESERVE PHASE II BLK 3 LOT 1	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709165	KIBER RESERVE PHASE II BLK 3 LOT 2	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709166	KIBER RESERVE PHASE II BLK 3 LOT 3	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709167	KIBER RESERVE PHASE II BLK 3 LOT 4	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709168	KIBER RESERVE PHASE II BLK 3 LOT 5	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709169	KIBER RESERVE PHASE II BLK 3 LOT 6	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709170	KIBER RESERVE PHASE II BLK 3 LOT 7	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709171	KIBER RESERVE PHASE II BLK 3 LOT 8	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709172	KIBER RESERVE PHASE II BLK 3 LOT 9	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709173	KIBER RESERVE PHASE II BLK 3 LOT 10	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709174	KIBER RESERVE PHASE II BLK 3 LOT 11	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709175	KIBER RESERVE PHASE II BLK 3 LOT 12	Residential	\$ 18,448.11	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
709129	KIBER RESERVE PHASE II LOT RESERVE A (LANDSCAPE) ACRES 0.11	Non-Benefited	\$ -	\$ -	\$ -	\$ -	\$ -
709130	KIBER RESERVE PHASE II LOT RESERVE B (LANDSCAPE) ACRES 0.003	Non-Benefited	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total</b>			<b>\$ 1,715,674.23</b>	<b>\$ 34,124.86</b>	<b>\$ 69,313.24</b>	<b>\$ 18,200.00</b>	<b>\$ 121,638.42</b>

Footnotes:

- [a] Totals may not match the total Outstanding Assessment and Annual Installment due to rounding.
- [b] Outstanding Assessment prior to 1/31/2025 Annual Installment.
- [c] Undivided Interest of parent Property ID 709554 located at 216 Bryan Way, billed 50% to Property ID 702061 and 50% to Property ID 709555.



## EXHIBIT B - DISTRICT ANNUAL INSTALLMENTS SCHEDULE

Installment Due 1/31	Principal	Interest <sup>[b]</sup>	Annual Collection Costs	Annual Installment <sup>[a]</sup>
2025	\$ 34,124.86	\$ 69,313.24	\$ 18,200.00	\$ 121,638.10
2026	\$ 35,503.51	\$ 67,934.59	\$ 18,564.00	\$ 122,002.10
2027	\$ 36,937.85	\$ 66,500.25	\$ 18,935.28	\$ 122,373.38
2028	\$ 38,430.14	\$ 65,007.96	\$ 19,313.99	\$ 122,752.08
2029	\$ 39,982.72	\$ 63,455.38	\$ 19,700.27	\$ 123,138.36
2030	\$ 41,598.02	\$ 61,840.08	\$ 20,094.27	\$ 123,532.37
2031	\$ 43,278.58	\$ 60,159.52	\$ 20,496.16	\$ 123,934.25
2032	\$ 45,027.03	\$ 58,411.07	\$ 20,906.08	\$ 124,344.18
2033	\$ 46,846.12	\$ 56,591.97	\$ 21,324.20	\$ 124,762.30
2034	\$ 48,738.71	\$ 54,699.39	\$ 21,750.68	\$ 125,188.78
2035	\$ 50,707.75	\$ 52,730.35	\$ 22,185.70	\$ 125,623.80
2036	\$ 52,756.34	\$ 50,681.75	\$ 22,629.41	\$ 126,067.51
2037	\$ 54,887.70	\$ 48,550.40	\$ 23,082.00	\$ 126,520.10
2038	\$ 57,105.16	\$ 46,332.94	\$ 23,543.64	\$ 126,981.74
2039	\$ 59,412.21	\$ 44,025.89	\$ 24,014.51	\$ 127,452.61
2040	\$ 61,812.46	\$ 41,625.63	\$ 24,494.80	\$ 127,932.90
2041	\$ 64,309.69	\$ 39,128.41	\$ 24,984.70	\$ 128,422.80
2042	\$ 66,907.80	\$ 36,530.30	\$ 25,484.39	\$ 128,922.49
2043	\$ 69,610.87	\$ 33,827.22	\$ 25,994.08	\$ 129,432.18
2044	\$ 72,423.15	\$ 31,014.94	\$ 26,513.96	\$ 129,952.06
2045	\$ 75,349.05	\$ 28,089.05	\$ 27,044.24	\$ 130,482.34
2046	\$ 78,393.15	\$ 25,044.95	\$ 27,585.13	\$ 131,023.23
2047	\$ 81,560.23	\$ 21,877.86	\$ 28,136.83	\$ 131,574.93
2048	\$ 84,855.27	\$ 18,582.83	\$ 28,699.57	\$ 132,137.66
2049	\$ 88,283.42	\$ 15,154.68	\$ 29,273.56	\$ 132,711.66
2050	\$ 91,850.07	\$ 11,588.03	\$ 29,859.03	\$ 133,297.13
2051	\$ 95,560.81	\$ 7,877.28	\$ 30,456.21	\$ 133,894.31
2052	\$ 99,421.47	\$ 4,016.63	\$ 31,065.33	\$ 134,503.43
<b>Total</b>	<b>\$1,715,674.15</b>	<b>\$1,180,592.59</b>	<b>\$ 674,332.03</b>	<b>\$3,570,598.77</b>

**Footnotes:**

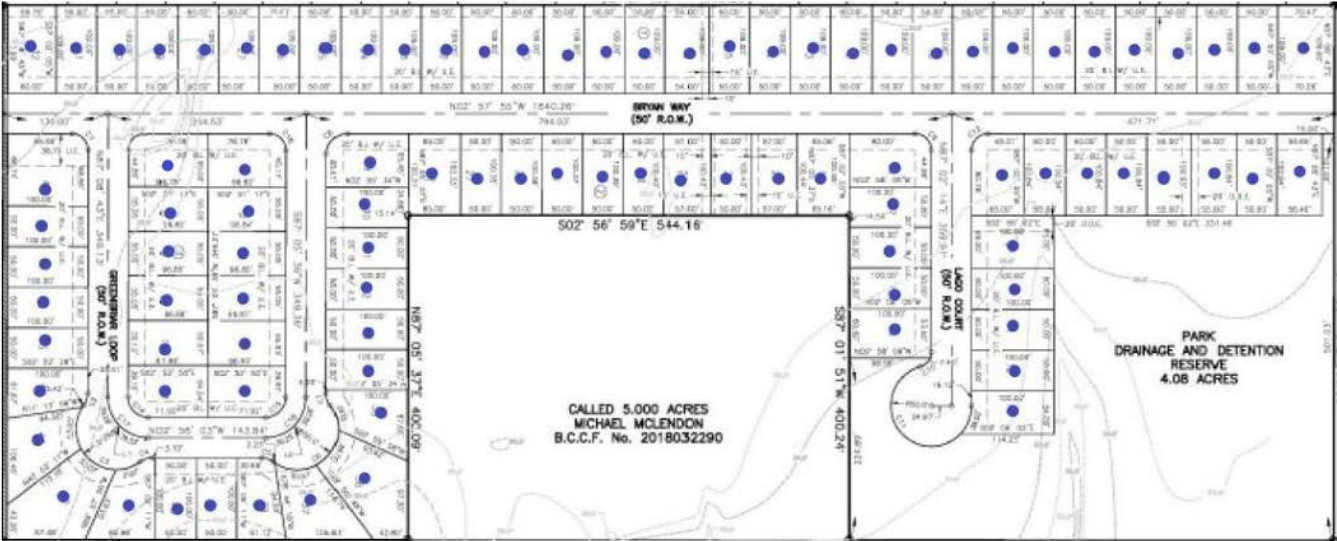
[a] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.

[b] The interest rate on the Reimbursement Obligation is estimated at a 4.04% rate.

# EXHIBIT C – LOT CLASSIFICATION MAP

Kiber Reserve Public Improvement District  
Lot Summary

- Section 1
  - 48 Residential Lots
- Section 2
  - 45 Residential Lots



## EXHIBIT D – HOMEBUYER DISCLOSURES

Buyer disclosures for the following Lot types are contained in this Exhibit:

- Residential Lot

[Remainder of page intentionally left blank.]

## KIBER RESERVE PUBLIC IMPROVEMENT DISTRICT BUYER DISCLOSURE RESIDENTIAL LOT

### NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT

A person who proposes to sell or otherwise convey real property that is located in a public improvement district established under Subchapter A, Chapter 372, Local Government Code (except for public improvement districts described under Section 372.005), or Chapter 382, Local Government Code, shall first give to the purchaser of the property this written notice, signed by the seller.

For the purposes of this notice, a contract for the purchase and sale of real property having a performance period of less than six months is considered a sale requiring the notice set forth below.

This notice requirement does not apply to a transfer:

- 1) under a court order or foreclosure sale;
- 2) by a trustee in bankruptcy;
- 3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- 4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- 5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- 6) from one co-owner to another co-owner of an undivided interest in the real property;
- 7) to a spouse or a person in the lineal line of consanguinity of the seller;
- 8) to or from a governmental entity; or
- 9) of only a mineral interest, leasehold interest, or security interest

The following notice shall be given to a prospective purchaser before the execution of a binding contract of purchase and sale, either separately or as an addendum or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller having provided the required notice, the purchaser, subject to certain exceptions, is entitled to terminate the contract.

A separate copy of this notice shall be executed by the seller and the purchaser and must be filed in the real property records of the county in which the property is located at the closing of the purchase and sale of the property.

AFTER RECORDING<sup>1</sup> RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO  
CITY OF ANGLETON, TEXAS  
CONCERNING THE FOLLOWING PROPERTY

\_\_\_\_\_  
STREET ADDRESS

**LOT TYPE RESIDENTIAL LOT PRINCIPAL ASSESSMENT: \$18,448.11**

As the purchaser of the real property described above, you are obligated to pay assessments to City of Angleton, Texas, for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within *Kiber Reserve Public Improvement District* (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the City of Angleton. The exact amount of each annual installment will be approved each year by the Angleton City Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the City of Angleton.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

\_\_\_\_\_  
<sup>1</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County when updating for the Current Information of Obligation to Pay Improvement District Assessment.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

<sup>2</sup> To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF PURCHASER

\_\_\_\_\_  
SIGNATURE OF PURCHASER

STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

<sup>3</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.

[The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

<sup>4</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Brazoria County.



## ANNUAL INSTALLMENTS - RESIDENTIAL LOT

Installments Due 1/31	Principal	Interest <sup>[b]</sup>	Annual Collection Costs	Annual Installment <sup>[a]</sup>
2025	\$ 366.93	\$ 745.30	\$ 195.70	\$ 1,307.94
2025	\$ 381.76	\$ 730.48	\$ 199.61	\$ 1,311.85
2027	\$ 397.18	\$ 715.06	\$ 203.61	\$ 1,315.84
2026	\$ 413.23	\$ 699.01	\$ 207.68	\$ 1,319.91
2029	\$ 429.92	\$ 682.32	\$ 211.83	\$ 1,324.07
2027	\$ 447.29	\$ 664.95	\$ 216.07	\$ 1,328.31
2031	\$ 465.36	\$ 646.88	\$ 220.39	\$ 1,332.63
2028	\$ 484.16	\$ 628.08	\$ 224.80	\$ 1,337.03
2033	\$ 503.72	\$ 608.52	\$ 229.29	\$ 1,341.53
2029	\$ 524.07	\$ 588.17	\$ 233.88	\$ 1,346.12
2035	\$ 545.24	\$ 566.99	\$ 238.56	\$ 1,350.79
2030	\$ 567.27	\$ 544.97	\$ 243.33	\$ 1,355.56
2037	\$ 590.19	\$ 522.05	\$ 248.19	\$ 1,360.43
2031	\$ 614.03	\$ 498.20	\$ 253.16	\$ 1,365.40
2039	\$ 638.84	\$ 473.40	\$ 258.22	\$ 1,370.46
2032	\$ 664.65	\$ 447.59	\$ 263.38	\$ 1,375.62
2041	\$ 691.50	\$ 420.74	\$ 268.65	\$ 1,380.89
2033	\$ 719.44	\$ 392.80	\$ 274.03	\$ 1,386.26
2043	\$ 748.50	\$ 363.73	\$ 279.51	\$ 1,391.74
2034	\$ 778.74	\$ 333.49	\$ 285.10	\$ 1,397.33
2045	\$ 810.20	\$ 302.03	\$ 290.80	\$ 1,403.04
2035	\$ 842.94	\$ 269.30	\$ 296.61	\$ 1,408.85
2047	\$ 876.99	\$ 235.25	\$ 302.55	\$ 1,414.78
2036	\$ 912.42	\$ 199.82	\$ 308.60	\$ 1,420.84
2049	\$ 949.28	\$ 162.95	\$ 314.77	\$ 1,427.01
2037	\$ 987.64	\$ 124.60	\$ 321.06	\$ 1,433.30
2051	\$ 1,027.54	\$ 84.70	\$ 327.49	\$ 1,439.72
2038	\$ 1,069.05	\$ 43.19	\$ 334.04	\$ 1,446.27
<b>Total</b>	<b>\$ 18,448.11</b>	<b>\$ 12,694.54</b>	<b>\$ 7,250.88</b>	<b>\$ 38,393.54</b>

**Footnotes:**

[a] The figures shown above are estimates only and subject to change in Annual Service Plan Updates. Changes in Annual Collection Costs, interest earnings, or other available offsets could increase or decrease the amounts shown.

[b] The interest rate on the Reimbursement Obligation is estimated at a 4.04% rate.



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Otis T. Spriggs, AICP, Development Services Director

**AGENDA CONTENT:** Discussion and possible action on the Austin Colony Development, located on CR 44, Anchor Road and Tigner St. regarding proposed changes to the Development Agreement for the Public Improvement District (PID) and the approved Land Plan, previously established by Tejas Angleton Development LLC and the City of Angleton.

**AGENDA ITEM SECTION:** Regular Agenda Item.

**BUDGETED AMOUNT:** None

**FUNDS REQUESTED:** None

**FUND:** None

### EXECUTIVE SUMMARY:

This is a request from the owner/developer of the Austin Colony Development, PD No. 3, for the Austin Colony Development Agreement within PD No. 3, which was amended and adopted by City Council on January 10, 2023 under Ordinance No. 20230110-009. Due to a reconfiguration and reclassification of Austin Colony Blvd., the various sections were readjusted as result. Austin Colony Drive will serve access to the proposed 50 lots in Section 1A, with a tie-in to CR 44, Anchor Road.

**Attachment A** outlines requested amendments to the Development Agreement regarding the assessment rates established in the Public Improvement District (PID) and possible changes to the Land Plan, previously established by Tejas Angleton Development LLC, as follows:

1. Increase the annual Assessment Rate provided for in Article 1, Section 1.02(b)(ii) from a Maximum Assessment Rate of 0.7073% per hundred dollars of assessed value at the time of the levy of the Assessment to a maximum of 1.25%. Austin Colony Public Improvement District (PIO) includes 164 acres, and all lots built within the PIO will have the same Maximum Assessment Rate. There will be one Maximum Assessment Rate for all lots.
2. The Angleton PID Policy provides that the City is entitled to ten percent (10%) of the gross PIO Bond Proceeds. Not the Net, the Gross. The Developer receives approximately 82% of the Gross Bond Proceeds. Tejas requests the City to reduce the 10% to 5% of the Gross Bond Proceeds sold for lots included in Sections 1 thru 4, which contain 286 lots. The actual Assessment Rate will be based on Estimated Build Out

Values as set forth in the Service and Assessment Plan. The majority of Tigner Street will be built in Sections 1 thru 4. All remaining Sections (5 thru 9) shall be entitled to ten percent (10%) of the Gross Bond Proceeds.

3. Tigner Street is an east-west street approximately 3,000 ft., four-lane divided with a median. Austin Colony includes 562 lots. Developers are required to mitigate the impact that new developments have on public infrastructure and service. A 562-lot development does not require a 3,000ft., four-lane divided with a median to mitigate the impact on public transportation. Texas cities have traditionally issued impact fee credits for public improvements that developers build and contribute to the City in excess of the required amount to compensate for the impact the development creates. The majority of Tigner Street is built during the construction of Sections 1 thru 4. The 5% reduction would be equivalent to the traditional impact fee credits.
  
4. The Austin Colony Subdivision Land Plan, which is Attachment “E” to the approved First Amendment to the Development Agreement (Attachment “D”), contains nine (9) sections. All lots are contiguous except Section 3, which has twenty-six (26) lots north of Tigner Street. Tejas requests the Development Agreement be amended to include the 26 lots contained in Section 3, north of Tigner Street, to be removed from Section 3 and included in Section 9. This would allocate more land for commercial development. Section 9 shall remain undeveloped and available for commercial development for the period specified in the Development Agreement

**RECOMMENDATION:**

The City Council should receive the presentation by Mr. Wayne L. (Sandy) Rea, II, and take action or further direction regarding the Austin Colony Development Agreement(s) and Public Improvement District (PID) and approved Land Plan.

# Tejas Angleton Development, LLC

July 16, 2024

Mr. Chris Whittaker  
City Manager  
City of Angleton  
121 S. Velasco  
Angleton, Texas 77515

Re: Austin Colony Development  
Request to Amend Development Agreement

Mr. Whittaker,

Post-COVID, the housing market has experienced a very rapid change. The cost of goods, services and materials have dramatically increased with home prices increasing at a lower rate. Interest rates on home mortgages have increased from the high 3%+- to 7%+- . Home sales volumes have reduced.

The cost to develop a single-family residential lot has approximately doubled since the pandemic began. Home builders have increased the price that they will pay for a developed lot by approximately 15%. Builders can only pay approximately 20% of the home price for a developed lot. The Cost to develop a lot includes land, city fees, water, wastewater, drainage and retention, roads, sidewalks, entry monuments, curb appeal, electrical, cable, gas, etc. The Cost to develop a lot is greater than 20% of the value of the home. Developers recoup their costs including overhead, insurance, administrative, etc. with PID Bond Proceeds.

Tejas Angleton Development, LLC (Tejas) respectfully requests the City to amend the Development Agreement and any other legal documents to allow Tejas to:

1. Increase the annual Assessment Rate provided for in Article 1, Section 1.02(b)(ii) from a Maximum Assessment Rate of 0.7073% per hundred dollars of assessed value at the time of the levy of the Assessment to a maximum of 1.25%. Austin Colony Public Improvement District (PID) includes 164 acres and all lots built within the PID will have the same Maximum Assessment Rate. There will be one Maximum Assessment Rate for all lots.

606 Marshall Street, Unit A28      Houston, Texas 77006      (713) 289-4267      [waynerca@swbell.net](mailto:waynerca@swbell.net)

# Tejas Angleton Development, LLC

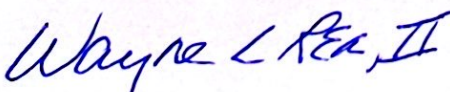
2. The Angleton PID Policy provides that the City is entitled to ten percent (10%) of the gross PID Bond Proceeds. Not the Net, the Gross. The Developer receives approximately 82% of the Gross Bond Proceeds. Tejas requests the City to reduce the 10% to 5% of the Gross Bond Proceeds sold for lots included in Sections 1 thru 4, which contain 286 lots. The actual Assessment Rate will be based on Estimated Build Out Values as set forth in the Service and Assessment Plan. The majority of Tigner Street will be built in Sections 1 thru 4. All remaining Sections (5 thru 9) shall be entitled to ten percent (10%) of the Gross Bond Proceeds.

Tigner Street is an east/west street approximately 3,000ft., four-lane divided with a median. Austin Colony includes 562 lots. Developers are required to mitigate the impact that new developments have on public infrastructure and service. A 562-lot development does not require a 3,000ft., four-lane divided with a median to mitigate the impact on public transportation. Texas cities have traditionally issued impact fee credits for public improvements that developers build and contribute to the City in excess of the required amount to compensate for the impact the development creates. The majority of Tigner Street is built during the construction of Sections 1 thru 4. The 5% reduction would be equivalent to the traditional impact fee credits.

3. The Austin Colony Subdivision Land Plan, which is Exhibit B to the approved First Amendment to the Development Agreement, contains nine (9) sections. All lots are contiguous except Section 3, which has twenty-six (26) lots north of Tigner Street and thirty-three (33) lots south of Tigner Street. Tejas requests the Development Agreement be amended to include the 33 lots contained in Section 3, north of Tigner Street, to be removed from Section 3 and included in Section 9. This would allocate more land for commercial development. Section 9 shall remain undeveloped and available for commercial development for the period specified in the Development Agreement.

I thank you in advance for your consideration of this request to amend the Development Agreement. Should you need clarification or additional information, do not hesitate to contact me at (713) 289-4267 or via email at waynerca@swbell.net. I am available to answer any questions you have, either via email, telephone or in-person.

Respectfully submitted,



**Wayne L. (Sandy) Rea, II**  
 Manager-Member  
 Tejas Angleton Development, LLC

606 Marshall Street, Unit A28      Houston, Texas 77006      (713) 289-4267      [waynerca@swbell.net](mailto:waynerca@swbell.net)

EILED  
AT 3:25 O'CLOCK PM M

AUG 16 2024

Joyce Hudson  
COUNTY CLERK  
BRAZORIA COUNTY, TEXAS



STATE OF TEXAS           §  
  §     CERTIFICATE TO COPY OF PUBLIC RECORD  
COUNTY OF BRAZORIA   §

*I hereby certify, in the performance of the functions of my office, that the instrument to which this statement is appended, consisting of 84 pages, is a full, true and correct copy of the June 14, 2022, executed Austin Colony Development Agreement Between Tejas-Angleton Development, L.L.C. and The City of Angleton, Texas, as the same appears of record in my office and that said document is an official record from the public office of the City Secretary of the City of Angleton, Brazoria County, State of Texas, and is kept in said office. I further certify that I am the City Secretary of the City of Angleton, Texas, that I am a lawful possessor and keeper, and that I have legal custody of the records in said office.*

*In witness whereof I have hereunto set my hand and affixed the official seal of said office, this 15th day of August, 2024.*

*Michelle Perez*  
Michelle Perez, TRMC  
City Secretary  
City of Angleton, Brazoria County, Texas



AUSTIN COLONY  
DEVELOPMENT AGREEMENT  
BETWEEN  
TEJAS-ANGLETON DEVELOPMENT, L.L.C.  
AND  
THE CITY OF ANGLETON, TEXAS

Dated: June 14, 2022

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**DEVELOPMENT AGREEMENT BETWEEN  
CITY OF ANGLETON, TEXAS AND TEJAS-ANGLETON DEVELOPMENT, L.L.C.**

This Development Agreement (this "Agreement") is made and entered into by the City of Angleton, Texas (the "City"), a home-rule municipality in Brazoria County, Texas, acting by and through its governing body, the City Council of the City of Angleton, Texas, and Tejas-Angleton Development, L.L.C., a Texas limited liability company ("Developer").

**RECITALS**

WHEREAS, Developer owns or is under contract to purchase approximately 164.5 acres of land located within the corporate boundaries of the City, and more particularly described on **Exhibit "A"** attached and incorporated herein by reference (the "Property"); and

WHEREAS, in order to incentivize the development of the Property and encourage and support economic development within the City and to promote employment, the City desires to facilitate the development of the Property through the financing of certain public infrastructure (the "Public Improvements" as defined herein) and constructing additional public improvements within the Property; and

WHEREAS, Developer plans a mixed-use development with single-family homes and a commercial/retail development to be known as Austin Colony, (the "Project") as depicted on the Land Plan of Austin Colony attached hereto as **Exhibit "B"** and incorporated herein by referenced (the "Land Plan"); and

WHEREAS, Section 7 of Austin Colony shall be developed with approximately fifty-five (55) single-family residential lots if Developer has not sold or developed for commercial purposes the Property included in Section 7 for commercial/retail development within six (6) years from the date of issuance of the first building permit in the project; and

WHEREAS, City has approved and adopted an ordinance to zone the Property pursuant to Chapter 28 Zoning, Article III Zoning Districts, Section 28-62, Planned Development Overlay District ("Ordinance") subject to this Agreement, which will govern and permit the development of the Project in accordance with the Land Plan; and

WHEREAS, City adopted a PID Policy on July 13, 2021 setting forth required steps, payments and obligations to be satisfied by the Developer in order to petition for a Public Improvement District;

WHEREAS, the City has approved and adopted Resolution No. 20210824-024 authorizing the establishment of the Austin Colony Public Improvement District following review of a PID petition, and consideration by the City, and a component of the PID Policy; and

WHEREAS, the City recognizes that financing of the Public Improvements confers a special benefit to the Property within the PID; and

WHEREAS, the City intends to (upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement), adopt the Assessment Ordinance (as defined herein) and

adopt the SAPs (as defined herein) which provide for the construction, and financing of the Public Improvements pursuant to the Service and Assessment Plan (“SAP”), payable in whole or in part by and from Assessments levied against property within the PID (whether through a cash reimbursement or through an issuance of PID Bonds); and

WHEREAS, upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement, the City intends to levy Assessments on all benefitted property located within the PID and issue PID Bonds (as defined herein) up to a maximum aggregate principal amount of \$30,000,000.00 for payment or reimbursement of the Public Improvements included in the SAP; and

WHEREAS the payment and reimbursement for the Public Improvements shall be solely from the installment payments of Assessments and/or proceeds of the PID Bonds and the City shall never be responsible for the payment of the Public Improvements or the PID Bonds from its general fund or its ad valorem tax collections, past or future or any other source of City revenue or any assets of the City of whatsoever nature; and

WHEREAS, the City recognizes the positive impact that the construction and installation of the Public Improvements for the PID will bring to the City and will promote state and local economic development; to stimulate business and commercial activity in the City; for the development and diversification of the economy of the State; development and expansion of commerce in the State, and elimination of employment or underemployment in the State;

WHEREAS, the Developer and the City desire to enter into this Agreement and it is the intent of this Agreement to establish certain restrictions and commitments imposed and made in connection with the development of the Property; and

WHEREAS, the City and the Developer are proceeding in reliance on the enforceability of this Agreement; and

WHEREAS, the City is authorized by the Constitution and laws of the State of Texas to enter into this Agreement.

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

**Definitions**

The terms “Agreement”, “City”, “Developer”, “Austin Colony”, “Project”, “Land Plan” shall have the meanings provided in the recitals above, however “Property” is further defined as 164.5 acres of land described in **Exhibit “A”**. Except as may be otherwise defined, or the context clearly requires otherwise, the following terms and phrases used in this Agreement shall the meanings as follows:

“Affiliates” means any other person directly controlling, directly controlled by, or under direct common control with the Developer. As used in this definition, the term “control,” “controlling,” or “controlled by” shall mean the possession, directly, of the power either to (a) vote

fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of the Developer, or (b) direct or cause the direction of management or policies of the Developer, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case, any lender of the Developer or any affiliate of such lender.

“Appraisal” means an appraisal of the property to be assessed in the PID by a licensed Member Appraisal Institute (MAI) Appraiser, such Appraisal to include as-complete improvements, including the Public Improvements to be financed in part with PID Bonds (i.e., “as-complete”) and the construction and installation of the Private Improvements, necessary to get a Final Lot Value.

“Assessed Property” means any lot or parcel within the PID against which an Assessment is levied.

“Assessment Ordinance” means one or more of the City’s ordinances approving a Service and Assessment Plan and levying Assessments on the benefitted Property within each Section of the PID.

“Assessments” means those certain assessments levied by the City pursuant to the PID Act and on benefitted parcels within the PID for the purpose of paying the costs of the Public Improvements, which Assessments shall be structured to be amortized over 30 years, including interest, all as set forth in or modified by the Service and Assessment Plan.

“Assessment Revenues” means the revenues received by the City from the Assessments levied within each Section of the PID.

“Business Day” means any day other than a Saturday, Sunday or legal holiday in the State of Texas observed as such by the City, or any national holiday observed by the City.

“City” means the City of Angleton, Texas.

“City Regulations” mean provisions of the City’s Code of Ordinances, ordinances not codified, design standards, uniform and international building and construction codes, and other policies duly adopted by the City, which shall be applied to the Development, including zoning and the Development Ordinances.

“City Representative” means the City Manager or their designee.

“Capacity Acquisition Fee” means the fee that is a one-time charge to Developer by the City and is a fee based on the roughly proportional fair share guidelines and standards set forth in Ordinance Number 20190528-021 adopting a Capacity Acquisition Fee, “CAF”, and LDC Sec. 23-32 per Equivalent Single-family Connection (“ESFC”) platted to cover the capital costs incurred by the City and as related to the provision of water supply and sewage treatment.

“Effective Date” means June 14, 2022.

“HOA” means the homeowners association(s) for the homes within the Property.

“Construction Agreements” mean the contracts for the construction of the Public Improvements.

“Cost Overruns” means those Public Improvement Project Costs that exceed the budget cost set forth in the SAP(s) plus the Developer Cash Contribution.

“Cost Underruns” means Public Improvement Project Costs that are less than the budgeted cost set forth in the Service and Assessment Plans.

“Development Ordinances” means those regulations, policies, procedures and ordinances adopted by the City that are applicable to the Property, including Chapter 23 *Land Development Code* (“LDC”), and Chapter 28 *Zoning*, Code of Ordinances of the City of Angleton, Texas, and including any future amendments or changes.

“Developer” means Tejas-Angleton Development L.L.C., a Texas limited liability company, and its successors and permitted assigns.

“Developer Cash Contribution” means that portion of the Public Improvement Project Costs that the Developer is contributing to initially fund the Public Improvements for each series of PID Bonds, as set forth in the Service and Assessment Plan.

“Development” means that single-family residential development consisting of approximately 164.5 acres to be developed and constructed on the Property pursuant to the Development Ordinances, Development Standards and City Regulations.

“Development Standards” means those standards of the City set forth in Development Ordinances.

“Final Lot Value” means the developed lot values established by an Appraisal.

“Force Majeure” means any act that (i) materially and adversely affects the affected Party’s ability to perform the relevant obligations under this Agreement or delays such affected Party’s ability to do so, (ii) is beyond the reasonable control of the affected Party, (iii) is not due to the affected Party’s fault or negligence and (iv) could not be avoided, by the Party who suffers it, by the exercise of commercially reasonable efforts. “Force Majeure” shall include: (a) natural phenomena, such as storms, floods, lightning and earthquakes; (b) pandemics (only to the extent residential construction is halted or prohibited by order of a Governmental Authority), wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (c) transportation disasters, whether by ocean, rail, land or air; (d) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected Party; (e) fires; and (f) actions or omissions of a Governmental Authority (including the actions of the City in its capacity as a Governmental Authority) that were not voluntarily induced or promoted by the affected Party, or



brought about by the breach of its obligations under this Agreement or any Applicable Law or failure to comply with City Regulations; provided, however, that under no circumstances shall Force Majeure include any of the following events: (g) economic hardship; (h) changes in market condition; (i) any strike or labor dispute involving the employees of the Developer or any Affiliate of the Developer, other than industry or nationwide strikes or labor disputes; (j) weather conditions which could reasonably be anticipated by experienced contractors operating the relevant location; (k) the occurrence of any manpower, material or equipment shortages except as such shortages are related to a shutdown or other order by a Governmental Authority; or (l) any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the Developer, or any construction contracts for the Project Improvement and Public Improvements.

“Improvement Area A” consists of Section 1, Section 1A and Section 2 of the Development.

“Improvement Area B” consists of Section 3 and Section 4,

“Improvement Area C” consists of Section 5, Section 6 and Section 7 of the Development.

“Improvement Area A Public Improvement Financing Date” means the date the City either (i) approves a bond purchase agreement and sells the first series of PID Bonds for Sections 1, 1A and 2 of the Property, or (ii) levies an Assessment on Sections 1, 1A and 2 of the Property and enters into a Reimbursement Agreement, such date to be no later than January 1, 2023 which date may be extended by written agreement of the Developer and the City.

“Improvement Area B Public Improvement Financing Date” means the date the City either (i) approves a bond purchase agreement and sells the first series of PID Bonds for Sections 3 and 4 of the Property, or (ii) levies an Assessment on Sections 3 and 4 of the Property and enters into a Reimbursement Agreement, such date to be no later than January 1, 2025 which date may be extended by written agreement of the Developer and the City.

“Improvement Area C Public Improvement Financing Date” means the date the City either (i) approves a bond purchase agreement and sells the first series of PID Bonds for Sections 5,6, and 7 of the Property, or (ii) levies an Assessment on Sections 5,6, and 7 of the Property and enters into a Reimbursement Agreement, such date to be no later than January 1 2027 which date may be extended by written agreement of the Developer and the City.

“Net Bond Proceeds” means the proceeds of the PID Bonds issued pursuant to Section 1.02, net of costs of issuance, capitalized interest, reserve funds and other financing costs, that are deposited to the Project Fund for such PID Bonds.

“Parties” or “Party” means the City and the Developer as parties to this Agreement.

“Payment Certificate” means a Payment Certificate as set forth in Section 9.03, the form of which is attached as Exhibit G.

“Section” means a Section of development of the Property. The Development will consist of eight (8) Sections.

“Phasing Plan” means that plan for the development of the Property in Sections as set forth in Exhibit B.

“Section 1” means the first Section of development in Improvement Area A of the PID, consisting of 100 single family lots, as depicted on the Land Plan.

Section 1A means the Section of development in Improvement Area A of the PID that consists of 53 single family lots, as depicted on the Land Plan.

“Section 2” means the second Section of development in Improvement Area B of the PID, consisting of 55 single family lots, as depicted on the Land Plan.

“Section 3” means the third Section of development in Improvement Area B of the PID, consisting of 111 single family lots, as depicted on the Land Plan.

“Section 4” means the third Section of development in Improvement Area B of the PID, consisting of 66 single family lots, as depicted on the Land Plan.

“Section 5” means the third Section of development in Improvement Area B of the PID, consisting of 85 single family lots, as depicted on the Land Plan.

“Section “6” means the third Section of development in the PID, consisting of approximately 16 single family lots, as depicted on the Land Plan.

“Section 7” means the third Section of development in the PID, consisting of approximately 54 single family lots or of commercial development, as depicted on the Land Plan or as allowed by City Regulations.

“Parties” or “Party” means the City and the Developer as parties to this Agreement.

“Public Improvement Completion Date” means a date that is no later than twenty-four (24) months after Commencement of Construction for the Public Improvements for each Section.

“PID Act” means Chapter 372, Texas Local Government Code, as amended.

“PID Bonds” means one or more series special assessment revenue bonds issued by the City pursuant to the PID Act for the payment and/or reimbursement of the Public Improvement Project Costs, including bonds issued to fund construction of the Public Improvements, and, if any, issued to reimburse the Developer for a portion of the costs of the Public Improvements, not previously funded with bond proceeds.

“PID” means the Austin Colony (PID No. 5) Public Improvement District created by the City Council pursuant to Resolution No. 20210824-024.

“Plans and Specifications” means the plans and specifications for Public Improvements approved by the City.

“Private Improvements” means those horizontal improvements described in the Plans and Specifications submitted to the City as part of the zoning process, other than the Public Improvements, being constructed in each Section to get to a Final Lot Value.

“Project Fund” means the fund by that name created under each Indenture into which PID Bond Proceeds shall be deposited.

“Property” means approximately 164.5 acres of real property located within the City described in Exhibit A.

“PID Enhancement Fund” means an amount equal to ten per cent (10%) of the total PID value payable to City prior to bond issuance, as referenced in the City of Angleton PID Policy.

“PID Act” means the Public Improvement District Assessment Act, Chapter 372 of the Texas Local Government Code, as amended.

“PID Policy” means the policy adopted by City Council on July 13, 3021 setting forth all requirements Developer must satisfy in order to petition, seek approval and establish a Public Improvement District in the City of Angleton, Texas.

“Public Improvement Project Costs” means the estimated cost of the Public Improvements to be constructed to benefit the land within the PID as set forth in Exhibit E, as may be amended pursuant to this Agreement, such costs to be eligible “project costs,” as defined in the PID Act.

“Public Improvements” means public improvements to be developed and constructed or caused to be developed or constructed inside and outside the PID by the Developer to benefit the PID and the Property, which will include improvements described in Exhibit E.

“Reimbursement Agreement(s)” means the agreement(s) between the City and the Developer in which Developer agrees to fund the certain costs of Public Improvements and the City agrees to reimburse the Developer for a portion of such costs of the Public Improvements from the proceeds of Assessments pursuant to the SAP(s) or from future PID Bond proceeds, if any.

“Reimbursement Cap” means the total amount of reimbursement or payment to the Developer for the Public Improvement Project Costs from any source, including the proceeds of PID Bonds, or Assessment Revenues; such amount shall be no more than \$31,250,000.

“Service and Assessment Plan” or “SAP” means the service and assessment plans drafted pursuant to the PID Act for the PID and any amendments or updates thereto, adopted and approved by the City that identifies and allocates the Assessments on benefitted parcels within the PID and

sets forth the method of assessment, the parcels assessed, the amount of the Assessments, the Public Improvements and the method of collection of the Assessment

## ARTICLE I

### PUBLIC IMPROVEMENT DISTRICT

#### Section 1.01. Creation.

The Developer has submitted a petition to the City to create a PID; such petition contains a list of the Public Improvements to be funded or acquired with the PID Bond Proceeds and the estimated or actual costs of such Public Improvements. Such petition also allows for the City's levy of Assessments for maintenance purposes and for administration of the PID. Having accepted the petition, the City held a public hearing to consider the creation of the PID in accordance with the PID Act and approved and adopted Resolution No. 20210824-024 creating the Austin Colony Public Improvement District. Developer is required to pay a mandatory PID Professional Service Fee in the amount of \$50,000 from which professional services incurred necessary for PID creation and assessment levy will be deducted. If such amount is depleted due to professional fees incurred by the City, an additional amount may be required by the City before additional work is performed as described in this Agreement.

#### Section 1.02. Issuance of PID Bonds.

(a) Subject to the terms and conditions set forth in this Article III, the City intends to authorize the issuance of PID Bonds in one or more series (each to coincide with the Developer's phased development of the Property) up to an aggregate principal amount of \$31,250,000 to pay for, reimburse or acquire the Public Improvements benefitting the Property. The Public Improvements to be constructed and funded in connection with the PID Bonds are detailed in Exhibit E, which may be amended from time to time upon approval of the City Representative, and in the Service and Assessment Plan for the PID or any updates thereto. The PID Bond Proceeds from the sale of each series of PID Bonds will be used to pay for, reimburse or acquire the Public Improvements. Notwithstanding the foregoing, the issuance of PID Bonds is a discretionary governmental action by the City Council and subject to its ongoing discretion and decision and is further conditioned upon the adequacy of the bond security and the financial ability and obligation of the Developer to pay the Developer Cash Contribution, if any, and perform its obligations hereunder.

(b) The Developer shall complete all Public Improvements within each Section in the PID and such Public Improvements shall be completed by the applicable Public Improvement Completion Date.

(c) The issuance of PID Bonds is subject to the discretion of the City Council and each series of PID Bonds shall be issued with the terms deemed appropriate by the City Council at the time of issuance, if at all.

(d) The following conditions must be satisfied prior to the City's consideration of the sale of PID Bonds:

- (i) The maximum aggregate par amount of the PID Bonds to be issued by the City shall not exceed \$31,250,000.
- (ii) The maximum "tax equivalent rate" for the projected annual assessment for each Section shall be no greater than \$0.7073 per \$100 of assessed value at the time of the levy of the Assessment on each Section based on the Estimated Build Out Value of each parcel; such rate limit for each Section is determined at the time of the levy of the Assessments applies on an individual Assessed Property basis by Lot Type based on Estimated Build Out Value, as will be set forth in more detail in the Service and Assessment Plan.
- (iii) the total assessment value to lien ratio is at least 3:1 at the time of the levy of assessments and the total assessment value to lien ratio of each series of PID Bonds for each Section is at least 3:1 at the time of the issuance of PID Bonds for each Section; such values shall be confirmed by Appraisal from licensed MAI appraiser.
- (iv) The Developer or its Affiliates shall own all property within a Section of the PID prior to the levy of Assessments for such Section unless the purchaser of such property has executed an agreement or consent with the City agreeing to such Assessments pursuant to Section 1.05 herein.
- (v) Fully Developed and Completed Lots have been delivered or the Developer must provide evidence reasonably acceptable to the City or an executed loan document or private equity, or both, in an amount sufficient to complete any Private Improvements necessary to achieve Fully Developed and Improved Lots.
- (vi) no Event of Default by the Developer has occurred and remains uncured or no event has occurred which but for notice, the lapse of time or both, would constitute an Event of Default by the Developer pursuant to this Agreement;
- (vii) the Public Improvements for the applicable Section for which the PID Bonds are being issued must have reached Completion of Construction by the Public Improvement Completion Date and have been accepted by the City;
- (viii) The amenities described in Section 2.02 and in Exhibit J within the Section for which PID Bonds are being issued must have begun Commencement of Construction.;

(e) In no event shall the Developer be paid or reimbursed for all Public Improvement Project Costs in an amount in excess of the Reimbursement Cap; and

(f) In no event shall the City issue PID Bonds if the issuance of such PID Bonds is prohibited by Applicable Law or an election is required by Applicable Law.

Section 1.03. Apportionment and Levy of Assessments.

(a) The City intends to levy Assessments on property located within the PID in accordance herewith and with the Service and Assessment Plans (as such plans are amended supplemented or updated from time to time) and the Assessment Ordinances on or before such time as each series of PID Bonds are issued. The City's apportionment and levy of Assessments shall be made in accordance with the PID Act.

(b) Concurrently with the levy of the Assessments on each Section, the Developer and its Affiliates shall execute and deliver a Landowner Consent in the form attached as Exhibit F for all land owned or controlled by Developer or its Affiliates within such Section, or otherwise evidence consent to the creation of the PID and the levy of Assessments therein and shall record evidence and notice of the Assessments in the real property records of Brazoria County. The City shall not levy Assessments on property within the PID without an executed Landowner Consent from each landowner within the PID whose property is being assessed.

Section 1.04. Developer Cash Contribution. At closing on any series of PID Bonds intended to fund construction of Public Improvements that have not already been constructed by the Developer, Developer shall deposit into a designated account with the Trustee under the applicable Indenture a pro-rata amount of the Developer Cash Contribution. If the Public Improvements relating to each series of PID Bonds have already been constructed and the PID Bonds are intended to acquire or reimburse the Public Improvements, then Developer shall not be required to deposit the Developer Cash Contribution as provided in this paragraph for such series. The amount of the Developer Cash Contribution for each series of PID Bonds shall be equal to the difference between the costs of the Public Improvements and the Net Bond Proceeds available to fund such costs of the Public Improvements related to such series of PID Bonds, as set forth in the SAP.

Section 1.05. Transfer of Property. The Developer shall not sell property within a Section of the PID prior to the City's levy of Assessments in such Section of the PID unless the Developer provides the City with an executed consent to the creation of the PID and the levy of Assessments, in a form reasonably acceptable to the City and its counsel with respect to the purchased property. In addition, evidence of any transfer of Property in the PID prior to the levy of Assessments on such property shall be provided to the City prior to the levy of Assessments on such property. For a transfer of land by the Developer prior to the levy of Assessments, the City shall require consent of each of the owners of Assessed Property to the levy of Assessments on each property and to the creation of the PID. The Developer understands and acknowledges that evidence of land transfer, the execution of the Landowner Consent, appraisal district certificate and property record recording will be required from each owner of Assessed Property in order to levy the Assessments and issue PID Bonds. The Developer shall provide all necessary documentation to the City with respect to any land transfers.

## ARTICLE II DEVELOPMENT REQUIREMENTS

Section 2.01. Scope of Agreement. This Agreement establishes provisions for the apportionment, levying, and collection of Assessments on the Property within the PID, the construction of the Public Improvements, reimbursement, acquisition, ownership and maintenance of the Public Improvements, and the issuance of PID Bonds for the financing of the Public Improvements benefitting the property within the PID.

### Section 2.02. Project Overview – The Development.

(a) The Developer will undertake or cause the undertaking of the design, development, construction, maintenance, management, use and operation of the Development, and will undertake the design, development and construction of the Public Improvements. The Development will consist of the following elements:

- (i) No more than 540 single family homes;
- (ii) Commercial development as allowed by City Regulations.
- (iii) Amenities attached as Exhibit J as may be amended or modified if approved by the City.

(b) Subject to the terms and conditions set forth in this Agreement, the Developer shall plan, design, construct, and complete or cause the planning, designing, construction and completion of the Public Improvements to the City's standards and specifications and subject to the City's approval as provided herein and in accordance with City Regulations, the Concept Plan, approved Land Plan, the Development Standards and Applicable Law.

(c) Upon completion and acceptance by the City, the City shall own and maintain all of the Public Improvements.

Section 2.03. Permitted Uses. The Project shall be limited to the development of single-family dwellings and commercial or retail uses permitted in the Commercial-Office/Retail zoning district pursuant to the "use chart" in Section 28-81.(b).

Section 2.04. Height Restrictions. No dwellings built in the single-family residential portion of the Project shall exceed a maximum height of thirty-five feet (35') or be more than two and one-half (2.5) stories tall.

Section 2.05. Lot Dimensions and Development. The lots shall be the size depicted on the Land Plan, approximately 120 feet in length, with the front width of each lot as set forth below:

SECTIONS AND LOTS SUMMARY				
Section	Lot Width 50 Feet	Lot Width 55 Feet	Lot Width 60 Feet	Section Lot Total
1	100			100
1A		53		53
2		34	21	55
3		12	99	111
4		65		65
5		55	30	85
6			16	16
7			55	55
Lot Size Total	100	219	221	540
Size %	18.5%	40.5%	41%	100%

Section 2.06. Entry Monument. An entry monument shall be placed at the corner of Austin Colony Boulevard and County Road 44, which is the entry to the Project off County Road 44. The entry monument shall be either brick or stone with landscaping, planted grass, shrubs, irrigation system and lighting.

Section 2.07. Fees. After the City Council approval of the Final Plat for each Section, recording of such Final Plat shall not occur until the following are completed, accepted and approved by the City:

- (a) Payment of the Capacity Acquisition Fees as set forth in Section 2.19 and 2.21.
- (b) Payment of Park Fee as set forth in Section 2.20.
- (c) Acceptance of the Public Improvements.

Section 2.08. Playground. A playground behind the entry monument shall include playground equipment.

Section 2.09. Construction of Tigner Street. Tigner Street shall be constructed a minimum of 24 feet wide in each direction with a 6 foot wide median, concrete pavement with curb, gutter and sidewalk on both sides of the street, and turn lanes, from the existing end of pavement of Tigner Street behind Walmart to the western property line of property. Construction of Tigner Street shall be completed as part of Sections 1A, 2 and 3. Plans for the construction of Tigner Street shall be submitted and approved as part of the subdivision process for Sections 1A, 2 and 3.

Section 2.10. Construction of Austin Colony Boulevard. Austin Colony Boulevard shall be constructed a minimum of 28 feet wide, concrete pavement with curb, gutter and sidewalk from CR 44 to its intersection with Tigner Street. Construction of Austin Colony Boulevard shall be completed as part of Sections 1 and 2. A divided entry shall be constructed as part of Section 1 from County Road 44 and shall have a left turn lane at the entry of Section 1 and Section 3. A left turn lane shall be provided to Tigner Street as part of the Section 2 construction. plans for the



construction of Austin Colony Boulevard shall be submitted and approved as part of the subdivision process for Sections 1 and 2.

Section 2.11. Section 1. Section 1 to be developed and platted is identified as Section 1 (50' lots) on the attached Land Plan and shall include:

(a) an entry monument with landscaping that is planted, irrigated and lighted. A site plan for the playground and playground equipment shall be reviewed and approved by the Parks and Recreation Director prior to issuance of any building permits in Section 1.

(b) a playground with playground equipment.

(c) A dry retention pond will be graded and planted for recreation.

(d) 100 single-family residential lots – 50' x 120' (6,000 sq.ft.).

(e) A duly executed Escrow Agreement between Developer and the City to meet the requirements of Section 23-11 of the LDC, as approved by the City, together with a cost estimate for the construction of Tigner Street to be developed in Section 1A. The Developer will fund the Escrow Agreement in an amount equal to six hundred fifty thousand dollars (\$650,000) in cash prior to the issuance by the City of any residential building permit in Section 1. The Escrow Agreement shall provide that such funds may be drawn by Developer every thirty (30) days to reimburse Developer for complete portions of Tigner Street, including utilities. The Developer must submit documentation of the expenditures of costs for Tigner Street to the City's reasonable satisfaction.

Section 2.12. Section 1A. Section 1A to be developed and platted as 53 single family residential lots having a minimum size of 55' x 120' (6,600 sq. ft) as depicted on the Land Plan.

Section 2.13. Section 2. Section 2 to be developed and platted as 34 single family residential lots having a minimum size of 55' x 120' and 21 single family residential lots having a minimum size of 60' x 120' as respectively depicted on the Land Plan. The detention pond which commenced construction in Section 1 will reach Completion of Construction no later than the date the Section 2 Public Improvement Completion Date;

Section 2.14. Section 3. as 12 single family residential lots having a minimum size of 55' X 120' (6,600 sq. ft.) and 99 single family residential lots having a minimum size of 60' X 120' (7,200 sq. ft.) as respectively depicted on the Land Plan, and including:

(a) Retention capacity for Section 3 is included in the Section 1 and 2 retention pond.

Section 2.15. Section 4. Section 4 to be developed and platted as 65 single family residential lots having a minimum size of 55' x 120' (6,600 sq. ft.) as depicted on the Land Plan.

Section 2.16. Section 5. Section 5 to be developed and platted as 55 single family residential lots having a minimum size of 55' X 120' (6,600 sq. ft.) and 30 single family residential lots having a minimum size of 60' X 120' (7,200 sq. ft.) as depicted respectively on the Land Plan.

Section 2.17. Section 6. Section 6 to be developed and platted as 16 single family residential lots having a minimum size of 60' X 120' (7,200 sq. ft.) as depicted on the Land Plan.

Section 2.18. Section 7. Section 7 to be developed shall be developed in compliance with Section 28 – 58 Commercial - Office/Retail district of the Code of Ordinances of the City of Angleton, and the City Regulations, as depicted on the Land Plan. Section 7 shall be set aside, listed, and advertised for commercial development immediately upon execution of this Agreement. Beginning a minimum of seventy-two months (72) after the issuance of the first building permit within the Property, if the property in Section 7 has not sold for commercial development within the seventy-two months, Section 7 may be developed as 55 single-family residential lots having a minimum size of 60' x 120' (7,200 sq. ft.) as depicted in the Land Plan, subject to the City Regulations.

Section 2.19. Compliance with Additional City Ordinances. In addition to those ordinances applicable to the Project by virtue of its zoning as a Section 28-45, Planned Development Overlay District single-family residential and as otherwise set forth in this Agreement; the Project shall also comply with the Development Ordinances and all City Regulations. Subject to the terms and conditions set forth in this Agreement, the Developer shall plan, design, construct, and complete or cause the planning, designing, construction and completion of the Public Improvements to the City's standards and specifications and subject to the City's approval as provided herein and in accordance with City Regulations and applicable law.

Section 2.20. Fees-in-Lieu. The Developer agrees to pay a City fee in lieu of dedication of park acres in the amount of Five Hundred and Seventy-Five Dollars (\$575.00) per lot. The fee for each Section shall be paid to the City prior to recording of any final plat of the Project, as set forth in Sec. 23-20 of the Angleton Code of Ordinances. The fee for each Section shall be paid to the City at the filing of the Final Plat for the lots included in the Final Plat for each Section.

<u>Sections</u>	<u>Number of Lots</u>	<u>Park Fee- In- Lieu</u>
1	100	\$57,500.00
1A	53	\$30,475.00
2	55	\$31,625.00
3	111	\$63,825.00
4	65	\$37,375.00
5	85	\$48,875.00
6	16	\$9,200.00
7	55	\$31,625.00
<b>TOTAL</b>	<b>540</b>	<b>\$310,500.00</b>

Section 2.21. Sewer CAF. Developer agrees to pay a Sewer CAF. The Sewer CAF is Eight Hundred Fifty and 55/100 dollars (\$850.55) per lot, which is the amount set forth in the Capacity Acquisition Fee Memo attached hereto as Exhibit "C". The fee for each Section shall

be paid to the City at the filing of the Final Plat for the lots included in the Final Plat for each Section.

<u>Sections</u>	<u>Number of Lots</u>	<u>Sewer CAF</u>
1	100	\$85,055.00
1A	53	\$45,079.15
2	55	\$46,780.25
3	111	\$94,411.05
4	65	\$55,285.75
5	85	\$72,296.75
6	16	\$13,608.80
7	55	\$46,780.25
<b>TOTAL</b>	<b>540</b>	<b>\$459,297.00</b>

Section 2.22. Water CAF. Developer agrees to pay a Water CAF. The Water CAF is five hundred thirty-six and 70/100 dollars (\$536.70) per lot. The Water CAF for each Section shall be paid to the City at the filing of the Final Plat for the lots included in the Final Plat for each Section. The City agrees to provide Water Service for the full build-out of the Project.

<u>Sections</u>	<u>Number of Lots</u>	<u>Water CAF</u>
1	100	\$53,670.00
1A	53	\$28,445.10
2	55	\$29,518.50
3	111	\$59,573.70
4	65	\$34,885.50
5	85	\$45,619.50
6	16	\$8,587.20
7	55	\$29,518.50
<b>TOTAL</b>	<b>540</b>	<b>\$289,818.00</b>

Section 2.23. Fencing. Developer agrees to install premium perimeter fencing stained and crowned along the back property lines of all lots along Austin Colony Boulevard and Tigner Street. All perimeter fencing shall be maintained by the HOA. Perimeter fencing shall not be installed within any street intersection sight triangles. All fencing for each proposed development Section shall be installed prior to the occupancy of each residence in that Section.

Section 2.24. Conduit. Developer agrees to install in Sections and provide conduit for the installation of fiber internet in the entire Project, such conduit to be installed in each Section no later than the Public Improvement Completion date for each Section.

Section 2.25. Streetlights. Developer agrees that all streetlights will be LED, and all streetlight poles will be permitted and satisfy the requirements of Texas New Mexico Power Company. (TXNM).

Section 2.26. Property Acquisition. The Parties acknowledge that, if required, the Developer is responsible for the acquisition of certain off-site property rights and interests to allow the Public Improvements to be constructed to serve the Property. Developer shall use commercially reasonable efforts to obtain all third-party rights-of-way, consents, or easements, if any, needed to construct the off-site Public Improvements. The Developer shall provide evidence of costs, maps, locations and size of infrastructure to the City and obtain the City’s consent prior to such acquisition of third-party rights-of-way, consents, or easements needed to construct the off-site Public Improvements.

Section 2.27. Plat Review Fees. Development of the Property shall be subject to payment to the City of the reasonable fees and charges applicable to the City’s preliminary and final plat review and approval process according to the fee schedule adopted by the City Council and in effect at the time of platting.

Section 2.28. Plan Review and Permit Fees. Development of the Property shall be subject to payment to the City of the reasonable fees and charges applicable to the City’s review of Plans and Specifications and issuance of permits (including building permits) for construction of the Public Improvements according to the fee schedule adopted by the City Council at the time of plan review and permit issuance.

Section 2.29. Inspection Fees. Development of the Property shall be subject to the payment to the City of inspection fees according to the fee schedule adopted by the City Council at the time of inspection.

Section 2.30. Impact Fees. All Impact Fees, if any, associated with the Development shall be paid pursuant to the City Regulations.

ARTICLE III

CONSTRUCTION OF THE PUBLIC IMPROVEMENTS

Section 3.01. Designation of Construction Manager, Construction Engineers.

(a) Prior to construction of any Public Improvement, Developer shall make, or cause to be made, application for any necessary permits and approvals required by City and any applicable Governmental Authority to be issued for the construction of the Public Improvements and shall obtain or obligate each general contractor, architect, and consultants who work on the Public Improvements to obtain all applicable permits, licenses, or approvals as required by Applicable Law. The Developer shall require or cause the design, inspection, and supervision of the construction of the Public Improvements to be undertaken in accordance with City Regulations and Applicable Law.

(b) The Developer shall design and construct or cause the design and construction of the Public Improvements, together with and including the acquisition, at its sole costs, of any and

all easements or fee simple title to such land necessary to provide for and accommodate the Public Improvements.

(c) Developer shall comply, or shall require its contractors to comply, with all local and state laws and regulations regarding the design and construction of the Public Improvements applicable to similar facilities constructed by City, including, but not limited to, the requirement for payment, performance and one-year maintenance bonds for the Public Improvements.

(d) Upon Completion of Construction of any portion of the Public Improvements, Developer shall provide City with a final cost summary of all Public Improvement Project Costs incurred and paid associated with the construction of that portion of the Public Improvements and provide proof that all amounts owing to contractors and subcontractors have been paid in full evidenced by the "all bills paid" affidavits and lien releases executed by Developer and/or its contractors with regard to that portion of the Public Improvements. Evidence of payment to the applicable contractors and subcontractors shall be provided prior to the reimbursement of the costs of any portion of the Public Improvements.

(e) Developer agrees to require the contractors and subcontractors that construct the Public Improvements to provide payment, performance and one-year maintenance bonds in forms satisfactory to the City Attorney. Any surety company through which a bond is written shall be a surety company duly authorized to do business in the State of Texas, provided that the City Attorney has the right to reasonably reject any surety company regardless of such company's authorization to do business in Texas. Evidence of payment and performance bonds shall be delivered to the City prior to Commencement of Construction of any such Public Improvements.

(f) Unless otherwise approved in writing by the City, all Public Improvements shall be constructed and dedicated to the City in accordance with City Regulations and Applicable Law.

(g) The Developer shall dedicate or convey by final plat or separate instrument, without cost to the City and in accordance with the Applicable Law, all property rights necessary for the construction, operation, and maintenance of the road, water, drainage, gas and sewer Public Improvements, at the completion of the Public Improvements and acceptance by the City.

Section 3.02. Construction Agreements. The Construction Agreements shall be let in the name of the Developer. The Developer's engineers shall prepare and provide, or cause the preparation and provision of all contract specifications and necessary related documents. The Developer shall provide all construction documents for the Public Improvements and shall acknowledge that the City has no obligations and liabilities thereunder. The Developer shall include a provision in the construction documents for the Public Improvements that the contractor will indemnify the City and its officers and employees against any costs or liabilities thereunder. The Developer shall include a provision in the construction documents for the Public Improvements that the contractor will indemnify the City and its officers and employees against any costs or liabilities thereunder, as follows:

**CITY OF ANGLETON, TEXAS ("CITY") SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST**

**ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR ANY LOSS, DAMAGE, INJURY OF ANY KIND OR CHARTER, INCLUDING DEATH, TO ANY PERSON, ENTITY, OR PROPERTY ARISING OUT OF OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF CONTRACTOR UNDER THIS CONTRACT, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. IT IS THE EXPRESSED INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT CITY FROM THE CONSEQUENCES OF THE CONTRACTOR'S ACTS, INCLUDING NEGLIGENCE, WHETHER SUCH ACTS OR NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE. CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND SAVE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, OR SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, OR SUPPLIES OBTAINED IN FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT**

Section 3.03. The Developer or its designee (which shall be the Developer's Engineer) shall administer the contracts. The Public Improvement Project Costs, which are estimated in Exhibit E, shall be paid by the Developer or caused to be paid by the Developer, or from the proceeds of PID Bonds and/or the Developer Cash Contribution in accordance with the Indentures, or reimbursed by the Assessments levied pursuant to the terms of a Reimbursement Agreement.

(a) The following requirements apply to Construction Agreements for Public Improvements:

- (i) Plans and specifications shall comply with all Applicable Law and City Regulations and all Plans and Specification shall be reviewed and approved by the City prior to the issuance of permits. The City shall have thirty (30) Business Days from its receipt of the first submittal of the Plans and Specifications to approve or deny the Plans and Specifications or to provide comments to the submitter. If any approved Plans and Specifications are amended or supplemented, the City shall have thirty (30) Business Days from its receipt of such amended or supplemented Plans and Specifications to approve or deny the Plans and Specification or provide comments back to the submitter. Any written City approval or denial must be based on

compliance with applicable City Regulations or other regulatory agencies that have jurisdiction over the Development.

- (ii) Each Construction Agreement shall provide that the contractor is an independent contractor, independent of and not the agent of the City and that the contractor is responsible for retaining, and shall retain, the services of necessary and appropriate architects and engineers; and
- (iii) Each Construction Agreement for improvements not yet under construction shall provide that the Contractor shall indemnify the City, its officers and employees for any costs or liabilities thereunder and for the negligent acts or omissions of the Contractor. The wording of such indemnity must be reviewed and approved by the City Attorney.

(b) City's Role. The City shall have no responsibility for the cost of planning, design, engineering construction, furnishing/equipping the Public Improvements (before, during or after construction) except to the extent of the reimbursement or funding of the Public Improvements Project Costs as set forth in this Agreement. The Developer will not hold the City responsible for any costs of the Public Improvements other than the reimbursements or funding described in this Agreement. The City shall have no liability for any claims that may arise out of design or construction of the Public Improvements, and the Developer shall cause all of its contractors, architects, engineers, and consultants to agree in writing that they will look solely to the Developer, not to the City, for payment of all costs and valid claims associated with construction of the Public Improvements.

Section 3.04. Project Scope Verification. The Developer will from time to time, as reasonably requested by the City Representative, verify to the City Representative that the Public Improvements are being constructed in accordance with the Plans and Specifications approved by the City. To the extent the City has concerns about such verification that cannot be answered by the Developer, to the City's reasonable satisfaction, the Developer will cause the appropriate architect, engineer or general contractor to consult with the Developer and the City regarding such concerns.

Section 3.05. Joint Cooperation; Access for Planning and Development. During the planning, design, development and construction of the Public Improvements, the parties agree to cooperate and coordinate with each other, and to assign appropriate, qualified personnel to this Project. The City staff will make reasonable efforts to accommodate urgent or emergency requests during construction. In order to facilitate a timely review process, the Developer shall cause the architect, engineer, and other design professionals to attend City meetings if requested by the City.

Section 3.06. City Not Responsible. By performing the functions described in this Article, the City shall not, and shall not be deemed to, assume the obligations or responsibilities of the Developer, whose obligations under this Agreement and under Applicable Law shall not be affected by the City's exercise of the functions described in this Article. The City's review of any Plans and Specifications is solely for the City's own purposes, and the City does not make any representation or warranty concerning the appropriateness of any such Plans and Specifications for any purpose. The City's approval of (or failure to disapprove) any such Plans and

Specifications, including the site plan, submitted with such Plans and Specifications and any revisions thereto, shall not render the City liable for same, and the Developer assumes and shall be responsible for any and all claims arising out of or from the use of such Plans and Specifications. The Developer shall not, however, be liable for any claims arising out of the operation and maintenance of the Public Improvements during the period within which the City operates and maintains the Public Improvements.

Section 3.07. Construction Standards and Inspection. The Public Improvements will be installed within the public rights-of-way or in easements granted to the City. Such easements may be granted at the time of final platting in the final plat or by separate instrument. The Public Improvements shall be constructed and inspected in accordance with applicable state law, and City Regulations, and all other applicable development requirements, including those imposed by any other governing body or entity with jurisdiction over the Public Improvements, and this Agreement, provided, however, that if there is any conflict, among the regulations of the governing body or entity with jurisdiction over the Public Improvement being constructed, the City Regulations shall control.

Section 3.08. Public Improvements to be Owned by the City – Title Evidence. The Developer shall furnish to the City a preliminary title report for land with respect to the Public Improvements, including any related rights-of-way, easements, and open spaces if any, to be acquired and accepted by the City from the Developer and not previously dedicated or otherwise conveyed to the City, for review and approval at least 30 calendar days prior to the transfer of title of a Public Improvement to the City. The City Representative shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the City, could materially affect the City's use and enjoyment of any part of the property or easement covered by the preliminary title report. In the event the City Representative does not approve the preliminary title report, the City shall not be obligated to accept title to the Public Improvement until the Developer has cured such objections to title to the satisfaction of the City Representative.

Section 3.09. Public Improvement Constructed on City Land or the Property. If the Public Improvement is on land owned by the City, the City hereby grants to the Developer a temporary easement to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Public Improvement. If the Public Improvement is on land owned by the Developer, the Developer shall dedicate easements by plat or shall execute and deliver to the City such access and maintenance easements as the City may reasonably require in recordable form, and the Developer hereby grants to the City a permanent access and maintenance easement (pending acquisition and acceptance) to enter upon such land for purposes related to inspection and maintenance of the Public Improvement. The grant of the permanent easement shall not relieve the Developer of any obligation to grant the City title to property and/or easements related to the Public Improvement as required by this Agreement or as should in the City's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of such Public Improvement. The provisions for inspection and acceptance of such Public Improvement otherwise provided herein shall apply. The grant of any easements to the City must be in a form reasonably acceptable to the City Attorney.



Section 3.10. Additional Requirements. In connection with the design and construction of the Public Improvements, the Developer shall take or cause the following entities or persons to take the following actions and to undertake the following responsibilities:

(a) The Developer shall provide to the City electronic copies of the Plans and Specifications for the Public Improvements (including revisions) as such Plans and Specifications are currently in existence and as completed after the date hereof and shall provide the City one complete set of record drawings (in electronic format) for the Public Improvements, in accordance with Applicable Law;

(b) The Developer or such person selected by and contracting with the Developer for the construction of the Public Improvements shall provide the City with a copy of any written construction schedule outlining the major items of work of each major construction contractor relating to the Public Improvements, and any revisions to such schedule;

(c) The Developer shall provide construction documents, including the Plans and Specifications to the City, signed and sealed by one or more registered professional architects or engineers licensed in the State of Texas at the time the construction documents are submitted to the City for approval;

(d) The Developer shall provide the City with reasonable advance notice of any regularly-scheduled construction meetings regarding the Public Improvements, and shall permit the City to attend and observe such meetings as the City so chooses in order to monitor the Project, and shall provide the City with copies of any written construction schedules as are discussed and reviewed at any such regularly-scheduled construction meeting;

(e) The Developer or any general contractor shall comply with, and shall require that its agents and subcontractors comply with, all Applicable Laws regarding the use, removal, storage, transportation, disposal and remediation of hazardous materials;

(f) The Developer or any general contractor shall notify and obtain the City's approval for all field changes that directly result in changes to the portion of the Plans and Specifications for the Public Improvements that describe the connection of such improvements with City streets, storm sewers and utilities;

(g) Upon notice from the City, the Developer shall or shall cause any general contractor to promptly repair, restore or correct, on a commercially reasonable basis, all damage caused by the general contractor or its subcontractors to property or facilities of the City during construction of the Public Improvements and to reimburse the City for out-of-pocket costs actually incurred by the City that are directly related to the City's necessary emergency repairs of such damage;

(h) Upon notice from the City, the Developer shall promptly cause the correction of defective work and shall cause such work to be corrected in accordance with the construction contracts for the Public Improvements and with City Regulations;

(i) If the Developer performs any soil, construction, and materials testing during construction of the Public Improvements, the Developer shall make available to the City copies of the results of all such tests; and

(j) If any of the foregoing entities or persons shall fail in a respect to perform any of its obligations described above (or elsewhere under this Agreement), the Developer shall use its good faith efforts to enforce such obligations against such entities or persons, or the Developer may cure any failure of performance as provided herein; and

(k) The Developer shall provide any other information or documentation, or services required by City Regulations; and

(l) The Developer shall allow the City Representative to conduct reasonable pre-final and final inspections of the Public Improvements. Upon acceptance by the City of the Public Improvements, the City shall become responsible for the maintenance of the Public Improvements and making any bond or warranty claim, if applicable.

**Section 3.11. Revisions to Scope and Cost of Public Improvements.**

(a) The Public Improvement Project Costs, as set forth in Exhibit E, may be modified or amended from time to time upon the approval of the City Representative, provided that the total cost of the Public Improvements shall not exceed such amounts as set forth in the applicable SAP plus the Developer Cash Contribution. Should the Public Improvements be amended by the City Council in a SAP pursuant to the PID Act, the City Representative shall be authorized to make corresponding changes to the applicable Exhibits attached hereto and shall keep official record of such amendments.

(b) Should the Public Improvement Project Costs exceed the amounts set forth in the SAPs, the Developer must make a Developer Cash Contribution at the time of each PID Bond issuance such that the net proceeds of each series of PID Bonds plus the Developer Cash Contribution, is sufficient to fund the Public Improvement Project Costs for which the PID Bonds are being issued.

**Section 3.12. City Police Powers.** The Developer recognizes the authority of the City pursuant to the Texas Constitution together with the City's charter and ordinances to exercise its police powers in accordance with Applicable Laws to protect the public health, safety, and welfare. The City retains its police powers over the Developer's or its general contractor's construction activities on or at the Property, and the Developer recognizes the City's authority to take appropriate enforcement action in accordance with Applicable Law to provide such protection. No lawful action taken by the City pursuant to these police powers shall subject the City to any liability under this Agreement, including without limitation liability for costs incurred by any general contractor or the Developer, and as between the Developer and the City, any such costs shall be the sole responsibility of the Developer and any of its general contractors and shall not be reimbursable from PID Bond Proceeds.

**Section 3.13. Title and Mechanic's Liens.**

(a) **Title.** The Developer agrees that the Public Improvements shall not have a lien or cloud on title upon their dedication to and acceptance by the City.

(b) **Mechanic's Liens.** Developer shall not create nor allow or permit any liens, encumbrances, or charges of any kind whatsoever against the Public Improvements arising from

any work performed by any contractor by or on behalf of the Developer. The Developer shall not permit any claim of lien made by any mechanic, materialman, laborer, or other similar liens to stand against the Public Improvements for work or materials furnished to the Developer in connection with any construction, improvements, renovation, maintenance or repair thereof made by the Developer or any contractor, agent or representative of the Developer. The Developer shall cause any such claim of lien to be fully discharged no later than thirty (30) days after the Developer's receipt of written notice of the filing thereof.

Section 3.14. City Consents. Any consent or approval by or on behalf of the City required in connection with the design, construction, improvement, or replacement of the Public Improvements or otherwise under this Agreement shall not be unreasonably withheld, delayed, or conditioned. Any review associated with any determination to give or withhold any such consent or approval shall be conducted in a timely and expeditious manner with due regard to the cost to the Developer associated with delay.

Section 3.15. Right of the City to Make Inspection.

(a) At any time during the construction of the Public Improvements, the City shall have the right to enter the Property for the purpose of inspection of the progress of construction on the Public Improvements; provided, however, the City Representative shall comply with reasonable restrictions generally applicable to all visitors to the Development that are imposed by the Developer or its general contractor or subcontractors. The Developer shall pay the City's costs for the retention of a third-party inspector.

(b) Inspection of the construction of all Public Improvements shall be by the City Representative or his/her designee. In accordance with Section 2.29, the Developer shall pay the inspection fee which may be included as a Public Improvement Project Cost.

(c) City may enter the Property in accordance with customary City procedures and Applicable Law to make any repairs or perform any maintenance of Public Improvements which the City has accepted for maintenance. If, during construction of the Public Improvements, the Developer is in default under this Agreement beyond any applicable cure period or in the event of an emergency which is not being timely addressed, the City may enter the Property to make any repairs to the Public Improvements that have not been accepted for maintenance by the City, of every kind or nature, which the Developer is obligated under this Agreement to repair or maintain but which the Developer has failed to perform after the expiration of ten (10) Business Days after notice is given by the City (other than in the case of an emergency in which notice is impossible or impractical). The Developer shall be obligated to reimburse the City the reasonable costs incurred by the City for any such repairs. Nothing contained in this paragraph shall be deemed to impose on the City any obligation to actually make repairs or alterations on behalf of the Developer.

Section 3.16. Competitive Bidding. The construction of the Public Improvements (which are funded from Assessments) is anticipated to be exempt from competitive bidding pursuant to Texas Local Government Code Section 252.022(a)(9). In the event that the actual costs of the Public Improvement do not meet the parameters for exemption from the competitive bid

requirement, then either competitive bidding or alternative delivery method may be utilized by the City as allowed by Applicable Law.

Section 3.17. Homeowner's Association. Developer will create detailed Deed Restrictions and a homeowner's association ("HOA") that will enforce the Deed Restrictions set forth herein. In the event the HOA becomes insolvent or fails to maintain proper documentation and filings with the State of Texas as required and loses its authority to operate and transact business as a property owner's association in the State of Texas, then the City shall have the right to, but is not obligated to, enforce the Deed Restrictions and other matters as set forth in this Agreement and shall have all authority granted to the HOA by virtue of this document and related Property Owner's Association Bylaws, including, but not limited to, the authority to impose and collect maintenance fees and other necessary fees and assessments to further the upkeep of subdivision improvements as stipulated herein and as deemed necessary by the City.

(a) Maintenance of such open spaces shall be the responsibility of the subdivider or the HOA, unless accepted by the City Council.

(b) The articles of the HOA shall require homeowner assessments sufficient to meet the necessary annual cost of the improvements. Further, the articles shall provide that the HOA shall be required to expend money for the improvements and repairs to maintain all infrastructures under its jurisdiction. Further, the articles shall require that HOA file with the City annual reports of maintenance and that the board of directors shall be required to initiate any and all needed repairs in a timely manner.

(c) Covenants, conditions and restrictions for the HOA must be filed in each Section and the HOA Maintenance Agreement must be approved and executed before any Assessments are levied by the City on the Property.

#### ARTICLE IV

##### TERMINATION EVENTS

###### Section 4.01. Developer Termination Events.

(a) The Developer may terminate this Agreement as to a Section of Development if the City does not levy Assessments and enter into a Reimbursement Agreement pursuant to Section 8.04 for such Section of the Development.

(b) The Developer may terminate this Agreement if it does not close on all of the Property by the earlier of (i) December 31, 2022 or (ii) the date on which the City levies Assessments on the Property.

###### Section 4.02. City Termination Events.

(a) The City may terminate this Agreement for each Section if the City determines not to levy Assessments and enter into a Reimbursement Agreement for such Section of the Development by the applicable Section Public Financing Deadline.

(b) The City may terminate this Agreement and any Reimbursement Agreement with respect to the applicable Section and any remaining Section, upon an uncured Event of Default by the Developer pursuant to Article VIII herein.

(c) The City may terminate this Agreement and any Reimbursement Agreement, if Commencement of Construction of the private horizontal improvements (private water, sewer and road improvements) within the first Section of the Development necessary to obtain developed lots, has not occurred within three (3) years of the Effective Date.

(d) The City may terminate this Agreement or any Reimbursement Agreement with respect to any Section, at any time if the Public Improvements to be constructed in such Section have not reached Completion of Construction by the applicable Public Improvement Completion Date, as may have been extended pursuant to the terms of this Agreement or by other written agreement of the Parties.

(e) The City may terminate this Agreement with respect to the applicable Section and any remaining Section if the Developer does not pay the Developer Cash Contribution at closing of the applicable series of PID Bonds.

(f) The City may terminate this Agreement if Developer does not close on all of the Property by the earlier of (i) December 31, 2022 or (ii) the date on which the City levies Assessments on the Property.

Section 4.03. Termination Procedure. If either Party determines that it wishes to terminate this Agreement pursuant to this Article, such Party must deliver a written notice to the other Party specifying in reasonable detail the basis for such termination and electing to terminate this Agreement. Upon such a termination, the Parties hereto shall have no duty or obligation one to the other under this Agreement, including the reimbursement of any of Developer's costs that were previously advanced or incurred or the levy of assessments on any remaining Sections; provided, however, that as of the date of termination, any Public Improvements completed and accepted by the City shall still be subject to reimbursement. Upon termination the Developer shall have no claim or right to any further payments for Public Improvements Project Costs other than as set forth herein.

## ARTICLE V

### TERM

This Agreement shall terminate upon the earlier of: (i) the expiration of the Assessments levied to reimburse the Public Improvements, (ii) (a) the date on which the City and the Developer discharge all of their obligations hereunder, including Completion of Construction and acceptance of the Public Improvements, and (b) all PID Bond Proceeds or Assessment revenues pursuant to a Reimbursement Agreement have been expended for reimbursement of all of the Public Improvements and the Developer has been reimbursed for all completed and accepted Public Improvements up to the Reimbursement Cap but in the amount set forth in the Service and Assessment Plan, (iii) an Event of Default under Article VI pursuant to which the non-defaulting

Party exercises its right to terminate this Agreement, or (iv) the occurrence of a termination event under Article IV pursuant to which a Party has exercised its right to terminate this Agreement.

## ARTICLE VI

### DEFAULT AND REMEDIES

#### Section 6.01. Developer Default.

Each of the following events shall be an “Event of Default” by the Developer under this Agreement, once the applicable time to cure, if any, as expired:

(a) The Developer shall fail to pay to the City any monetary sum hereby required of it as and when the same shall become due and payable and shall not cure such default within thirty (30) calendar days after the later of the date on which written notice thereof is given by the City to the Developer, as provided in this Agreement. The Developer shall fail in any respect to maintain any of the insurance or bonds required by this Agreement; provided, however, that if a contractor fails to maintain any of the insurance or bonds required by this Agreement, the Developer shall have thirty (30) calendar days to cure from the date of expiration of such insurance or bonds.

(b) The Developer shall fail to comply with any term, provision or covenant of this Agreement (other than the payment of money to the City), and shall not cure such failure within sixty (60) calendar days after written notice thereof is given by the City to the Developer;

(c) The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors, rights;

(d) The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor’s rights;

(e) The entering of an order for relief against Developer or the appointment of a receiver, trustee, or custodian for all or a substantial part of the property or assets of Developer in any involuntary proceeding, and the continuation of such order, judgment or decree unstayed for any period of ninety (90) consecutive days;

(f) The failure by Developer or any Affiliate to pay Impositions, and Assessments on property owned by the Developer and/or any Affiliates within the PID if such failure is not cured within thirty (30) calendar days after written notice by the City; OR

(g) Any representation or warranty confirmed or made in this Agreement by the Developer was untrue as of the Effective Date.

#### Section 6.02. Notice and Cure Period.

(a) Before any Event of Default under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such Event of Default shall notify, in writing, the Party alleged to have failed to perform the alleged Event of Default and shall demand performance (with the exception of 6.01(f) above). Except with respect to cure periods set forth in 6.01 above, which

shall be controlling, no breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within thirty (30) calendar days of the receipt of such notice (or thirty (30) calendar days in the case of a monetary default), with completion of performance within ninety (90) calendar days.

(b) Notwithstanding any provision in this Agreement to the contrary, if the performance of any covenant or obligation to be performed hereunder by any Party is delayed by Force Majeure, the time for such performance shall be extended by the amount of time of the delay directly caused by and relating to such uncontrolled circumstances. The Party claiming delay of performance as a result of any of the foregoing Force Majeure events shall deliver written notice of the commencement of any such delay resulting from such Force Majeure event and the length of the Force Majeure event is reasonably expected to last not later than seven (7) days after the claiming Party becomes aware of the same, and if the claiming Party fails to so notify the other Party of the occurrence of a Force Majeure event causing such delay, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this Article. The number of days a Force Majeure event is in effect shall be determined by the City based upon commercially reasonable standards.

(c) City's Remedies.

With respect to the occurrence of an Event of Default the City may pursue the following remedies:

- (i) The City may pursue any legal or equitable remedy or remedies, including, without limitation, specific performance, damages, and termination of this Agreement. The City shall not terminate this Agreement unless it delivers to the Developer a second notice expressly providing that the City will terminate within thirty (30) additional days. Termination or non-termination of this Agreement upon a Developer Event of Default shall not prevent the City from suing the Developer for specific performance, damages, actual damages, excluding punitive, special and consequential damages, injunctive relief or other available remedies with respect to obligations that expressly survive termination. In the event the Developer fails to pay any of the expenses or amounts or perform any obligation specified in this Agreement, then to the extent such failure constitutes an Event of Default hereunder, the City may, but shall not be obligated to do so, pay any such amount or perform any such obligations and the amount so paid and the reasonable out of pocket costs incurred by the City in said performance shall be due and payable from the Developer to the City within thirty (30) days after the Developer's receipt of an itemized list of such costs.
- (ii) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity.

- (iii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

Section 6.03. City Default.

Each of the following events shall be an Event of Default by the City under this Agreement:

(a) So long as the Developer has complied with the terms and provisions of this Agreement, the City shall fail to pay to the Developer any monetary sum hereby required of it and shall not cure such default within thirty (30) calendar days after the receipt of written notice thereof by the City from the Developer.

(b) The City shall fail to comply in any material respect with any term, provision or covenant of this Agreement, other than the payment of money, and shall not cure such failure within ninety (90) calendar days after written notice thereof is given by the Developer to the City.

Section 6.04. Developer's Remedies.

(a) Upon the occurrence of any Event of Default by the City, the Developer may pursue any legal remedy or remedies specifically including damages as set forth below (specifically excluding specific performance and other equitable remedies), and termination of this Agreement; provided, however, that the Developer shall have no right to terminate this Agreement unless the Developer delivers to the City a second notice which expressly provides that the Developer will terminate within thirty (30) days if the default is not addressed as herein provided.

(b) No remedy herein conferred or reserved is intended to be inclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing.

(c) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

Section 6.05. Limited Waiver of Immunity.

(a) The City and the Developer hereby acknowledge and agree that to the extent this Agreement is subject to the provisions of Subchapter I of Chapter 271, Texas Local Government Code, as amended, and the City's immunity from suit is waived only as set forth in such statute.

(b) Should a court of competent jurisdiction determine the City's immunity from suit is waived in any manner other than as provided in Subchapter I of Chapter 271, Texas Local Government Code, as amended, the Parties hereby acknowledge and agree that in a suit against the City for breach of this Agreement:

- (i) The total amount of money awarded is limited to actual damages in an amount not to exceed the balance then due and owed by City under this Agreement or any Reimbursement Agreement and is payable solely from Assessment revenues;



- (i) The recovery of damages against City or the Developer may not include consequential damages or exemplary damages;
- (ii) The Parties may not recover attorney's fees; and
- (iii) The Parties are not entitled to specific performance or injunctive relief against the City.

**Section 6.06. Limitation on Damages.**

In no event shall any Party have any liability under this Agreement for any exemplary or consequential damages.

**Section 6.07. Waiver.** Forbearance by the non-defaulting Party to enforce one or more of the remedies herein provided upon the occurrence of an Event of Default by the other Party shall not be deemed or construed to constitute a waiver of such default. One or more waivers of a breach of any covenant, term or condition of this Agreement by either Party hereto shall not be construed by the other Party as a waiver of a different or subsequent breach of the same covenant, term or condition. The consent or approval of either Party to or of any act by the other Party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any other subsequent similar act.

## ARTICLE VII

### INSURANCE, INDEMNIFICATION AND RELEASE

**Section 7.01. Insurance.** With no intent to limit any contractor's liability or obligation for indemnification, the Developer shall maintain or cause to be maintained, by the persons constructing the Public Improvements, certain insurance, as provided below in full force and effect at all times during construction of the Public Improvements and shall require that the City is named as an additional insured under such contractor's insurance policies.

(a) With regard to the obligations of this Agreement, the Developer shall obtain and maintain in full force and effect at its expense, or shall cause each contractor to obtain and maintain at their expense, the following policies of insurance and coverage:

- (i) Commercial general liability insurance insuring the City, contractor and the Developer against liability for injury to or death of a person or persons and for damage to property occasioned by or arising out of the activities of Developer, the contractor, the City and their respective officers, directors, agents, contractors, or employees, in the amount of one million dollars (\$1,000,000) per occurrence or a limit equal to the amount of the contract amount, two million dollars (\$2,000,000) general aggregate bodily injury and property damage. The contractor may procure and maintain a Master or Controlled Insurance policy to satisfy the requirements of this section, which may cover other property or locations of the contractor and its affiliates, so long as the coverage required in this section is separate;

- (i) Workers' Compensation insurance as required by law;
- (ii) Business automobile insurance covering all operations of the contractor pursuant to the Construction Agreements involving the use of motor vehicles, including all owned, non-owned and hired vehicles with minimum limits of not less than one million dollars (\$1,000,000) combined single limit for bodily injury, death and property damage liability.
- (iii) To the extent available, each policy shall be endorsed to provide that the insurer waives all rights of subrogation against the City;
- (iv) Each policy of insurance with the exception of Workers' Compensation and professional liability shall be endorsed to include the City (including its former, current, and future public officials, staff, agents, and employees) as additional insureds;
- (v) Each policy, with the exception of workers' compensation and professional liability, shall be endorsed to provide the City sixty (60) days' written notice prior to any cancellation, termination or material change of coverage; and
- (vi) The Developer shall cause each contractor to deliver to the City the policies, copies of policy endorsements, and/or certificates of insurance evidencing the required insurance coverage before the Commencement of Construction of the Public Improvements and within 10 days before expiration of coverage, or as soon as practicable, deliver renewal policies or certificates of insurance evidencing renewal and payment of premium. On every date of renewal of the required insurance policies, the contractor shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the contractor shall within ten (10) Business Days after written request provide the City with the certificates of insurance and policy endorsements for the insurance required herein (which request may include copies of such policies).

Section 7.02. Waiver of Subrogation Rights. The commercial general liability, workers' compensation, business auto and excess liability insurance required pursuant to this Agreement shall provide for waivers of all rights of subrogation against the City.

Section 7.03. Additional Insured Status. With the exception of worker's compensation insurance and any professional liability insurance, all insurance required pursuant to this Agreement shall include and name the City as additional insureds using additional insured endorsements that provide the most comprehensive coverage to the City under Texas law including products/completed operations.

Section 7.04. Certificates of Insurance. Certificates of insurance and policy endorsements in a form satisfactory to City shall be delivered to City prior to the commencement of any work or services on the Public Improvements. All required policies shall be endorsed to provide the City with sixty (60) days advance notice of cancellation or non-renewal of coverage. The Developer

shall provide sixty (60) days written notice of any cancellation, non-renewal or material change in coverage for any of the required insurance in this Article.

On every date of renewal of the required insurance policies, the Developer shall cause (and cause its contractors) to provide a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Developer shall, within ten (10) Business Days after written request, provide the City with certificates of insurance and policy endorsements for the insurance required herein (which request may include copies of such policies). The delivery of the certificates of insurance and the policy endorsements (including copies of such insurance policies) to the City is a condition precedent to the payment of any amounts to the Developer by the City.

Section 7.05. Carriers. All policies of insurance required to be obtained by the Developer and its contractors pursuant to this Agreement shall be maintained with insurance carriers that are satisfactory to and as reasonably approved by City, and lawfully authorized to issue insurance in the state of Texas for the types and amounts of insurance required herein. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by the City. All insurance coverage required herein shall be evidenced by a certificate of insurance and policy endorsements submitted by the Developer's and its contractors' insurer or broker. Certificates of insurance and policy endorsements received from any other source will be rejected.

## ARTICLE VIII

### INDEMNIFICATION.

DEVELOPER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY DEVELOPER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE

PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

DEVELOPER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND DEVELOPER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

Section 8.01. Conflict. Notwithstanding the foregoing provisions of this section: (i) in the event of a conflict between this Agreement and the Development Ordinances, this Agreement shall prevail.

Section 8.02. Notification. The City shall notify the Developer in writing of any alleged failure by the Developer to comply with a provision of this Agreement or the Development Ordinances, which notice shall specify the alleged failure with reasonable particularity. The Developer shall, within thirty (30) days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or, in a written response to the City, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

## ARTICLE IX

### PAYMENT OF PUBLIC IMPROVEMENTS

#### Section 9.01. Overall Requirements.

(a) The City shall not be obligated to provide funds for any Public Improvement except from the proceeds of the PID Bonds or from Assessments pursuant to a Reimbursement Agreement. The City makes no warranty, either express or implied, that the proceeds of the PID Bonds available for the payment or reimbursement of the Public Improvement Project Costs or for the payment of the cost to construct or acquire a Public Improvement by the City will be sufficient for the construction or acquisition of all of the Public Improvements. Any costs of the Public Improvements in excess of the available PID Bond Proceeds or Assessments pursuant to a Reimbursement Agreement, shall not be paid or reimbursed by the City. The Developer acknowledges and agrees that any lack of availability of monies in the Project Funds established under the Indentures to pay the costs of the Public Improvements shall in no way diminish any

obligation of the Developer with respect to the construction of or contributions for the Public Improvements required by this Agreement, or any other agreement to which the Developer is a party, or any governmental approval to which the Developer or Property is subject.

(b) Upon written Acceptance of a Public Improvement, the City shall be responsible for all operation and maintenance, subject to any applicable maintenance-bond period, of such Public Improvement, including all costs thereof and relating thereto.

(c) The City's obligation with respect to the reimbursement or payment of the Public Improvement Project Costs as finally set forth in the Service and Assessment Plan, shall be limited to the lower of actual costs or the available PID Bond Proceeds or Assessment revenues, and shall be payable solely from amounts on deposit in the Project Funds from the sale of the PID Bonds as provided herein and in the Indentures, or Assessments collected for the reimbursement or payment of such costs pursuant to Reimbursement Agreement. The Developer agrees and acknowledges that it is responsible for all costs and all expenses related to the Public Improvements in excess of the available PID Bond Proceeds and that the Developer Cash Contribution must be deposited at the time of the issuance of PID Bonds.

(d) The City shall have no responsibility whatsoever to the Developer with respect to the investment of any funds held in the Project Fund by the Trustee under the provisions of the Indenture, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment. Any such loss may diminish the amounts available in the Project Fund to pay or reimburse the Public Improvement Project Costs in the PID. The obligation of Developer to pay the Assessments is not in any way dependent on the availability of amounts in the Project Fund to pay for all or any portion of the Public Improvements Project Costs hereunder.

#### Section 9.02. Remaining Funds after Completion of a Public Improvement.

If, upon the Completion of Construction of a Public Improvement and payment or reimbursement for such Public Improvement, there are Cost Underruns, any remaining budgeted cost(s) may be available to pay Cost Overruns on any other Public Improvement with the approval of the City Representative, such approval not to be unreasonably withheld, at completion of the Public Improvements for each Section and provided that all Public Improvements for such Section, as set forth in the Service and Assessment Plan, are undertaken at least in part. The elimination of a category of Public Improvements in a Section as set forth in the Service and Assessment Plan will require an amendment to the Service and Assessment Plan. Upon receipt of all acceptance letters from the City for the Public Improvements within an improvement category as set forth in the Service and Assessment Plan, any Cost Underruns from that category may be released to pay for Cost Overruns in another improvement category, as approved by the City.

#### Section 9.03. Payment Process for Public Improvements.

(a) The City shall authorize payment or reimbursement of the Public Improvement Project Costs from PID Bond Proceeds or from Assessments collected in the PID as set forth in Section 9.04 below. The Developer shall submit a Payment Certificate to the City (no more frequently than monthly) for Public Improvement Project Costs as approved by the City. The form of the Payment Certificate is set forth in Exhibit G, as may be modified by the applicable Indenture

or Reimbursement Agreement. The City shall review the sufficiency of each Payment Certificate with respect to compliance with this Agreement, compliance with the Applicable Law, and compliance with the SAP, and Plans and Specifications. The City shall review each Payment Certificate within thirty (30) Business Days of receipt thereof and upon approval, certify the Payment Certificate pursuant to the provisions of the applicable Indenture or Reimbursement Agreement, and payment shall be made to the Developer or its designee pursuant to the terms of the applicable Indenture or Reimbursement Agreement, provided that funds are available under the applicable Indenture or Reimbursement Agreement. Notwithstanding the foregoing, the City shall review the first Payment Certificate within forty-five (45) Business Days of receipt thereof. If a Payment Certificate is approved only in part, the City shall specify the extent to which the Payment Certificate is approved and payment for such partially approved Payment Certificate shall be made to the Developer pursuant to the terms of the applicable Indenture or Reimbursement Agreement, provided that funds are available under the applicable Indenture or Reimbursement Agreement.

(b) If the City requires additional documentation, timely disapproves, or questions the correctness or authenticity of the Payment Certificate, the City shall deliver a detailed notice to the Developer within thirty (30) Business Days of receipt thereof. Payment with respect to disputed portion(s) of the Payment Certificate shall not be made until the Developer and the City have jointly settled such dispute or additional information has been provided to the City's reasonable satisfaction.

(c) The City shall reimburse the Public Improvement Project Costs as set forth in Exhibit E and the SAP, from funds available pursuant to the applicable Indenture or Reimbursement Agreement.

(d) Reimbursement to the Developer and the City for administrative costs relating to the creation of the PID, the levy of assessments and issuance of the PID Bonds may be distributed at closing of the applicable series of PID Bonds pursuant to a Closing Disbursement Request, in the form attached as Exhibit H.

Section 9.04. Public Improvements Reimbursement from Assessment Fund In the Event of a Non-Issuance of PID Bonds.

(a) The City intends to levy Assessments by the applicable Public Improvement Financing Date and may issue PID Bonds at a later date upon completion of the Public Improvement in each Section to reimburse the Public Improvement Project Costs as set forth in the SAP. Reimbursement for the costs of Public Improvements that have reached Completion of Construction shall be made on an annual basis from Assessments levied by the City pursuant to the SAP. Such reimbursement shall be made pursuant to the terms and provisions of one or more Reimbursement Agreements. Such Reimbursement Agreements shall set forth the terms of the annual reimbursement for the costs of the Public Improvements. These Reimbursement Agreement obligations may, in the City's discretion, be reimbursed through the issuance of PID Bonds by the City once the parameters set forth in Section 1.02(d) can be met. The levy of Assessments and the issuance of any PID Bonds to fund obligations under a Reimbursement Agreement is a governmental function of the City and is subject to the City's discretion and shall be determined by the City from time to time. In any event, the issuance of PID Bonds to Fund any

obligations under a Reimbursement Agreement, if the City determines to issue such PID Bonds, shall occur no later than one year after the applicable Public Improvement Financing Date or the City shall not issue such PID Bonds.

(b) Reimbursement or payment of the costs of the Public Improvements shall only be made from the levy of Assessments within the PID as set forth herein.

(c) The term, manner and place of payment or reimbursement to the Developer under this Section shall be set forth in the Reimbursement Agreement.

(d) Reimbursement or payment shall be made only for the costs of the Public Improvements as set forth in this Agreement, the Service and Assessment Plan or in the Reimbursement Agreement, as approved by the City. Any additional public improvements other than the Public Improvements constructed by the Developer and dedicated to the City, shall not be subject to payment or reimbursement under the terms of this Agreement.

#### Section 9.05. Rights to Audit.

(a) The City shall have the right to audit, upon reasonable notice and at the City's own expense, records of the Developer with respect to the expenditure of funds to pay Public Improvement Project Costs. Upon written request by the City, the Developer shall give the City or its agent, access to those certain records controlled by, or in the direct or indirect possession of, the Developer (other than records subject to legitimate claims of attorney-client privilege) with respect to the expenditure of Public Improvement Project Costs, and permit the City to review such records in connection with conducting a reasonable audit of such fund and account. The Developer shall make these records available to the City electronically or at a location that is reasonably convenient for City staff.

(b) The City and the Developer shall reasonably cooperate with the assigned independent auditors (internal or external) in this regard, and shall retain and maintain all such records for at least 3 years from the date of Completion of Construction of the Public Improvements. All audits must be diligently conducted and once begun, no records pertaining to such audit shall be destroyed until such audit is completed.

## ARTICLE X

### REPRESENTATIONS AND WARRANTIES

#### Section 10.01. Representations and Warranties of City.

(a) The City makes the following representation and warranty for the benefit of the Developer:

- (i) Due Authority; No Conflict. The City represents and warrants that this Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act). The City has all requisite power and authority to execute this

Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by the City and constitute legal, valid and binding obligations enforceable against the City in accordance with the terms subject to principles of governmental immunity and the enforcement of equitable rights. The consummation by the City of the transactions contemplated hereby is not in violation of or in conflict with, nor does it constitute a default under, any of the terms of any agreement or instrument to which the City is a Party, or by which the City is bound, or of any provision of any Applicable Law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

- (ii) Due Authority; No Litigation. No litigation is pending or, to the knowledge of the City, threatened in any court to restrain or enjoin the construction of or the Public Improvements or the City's payment and reimbursement obligations under this Agreement, or otherwise contesting the powers of the City or the authorization of this Agreement or any agreements contemplated herein.

Section 10.02. Representations and Warranties of Developer.

(a) The Developer makes the following representations, warranties and covenants for the benefit of the City:

- (i) Due Organization and Ownership. The Developer is a Texas limited liability company validly existing under the laws of the State of Texas and is duly qualified to do business in the State of Texas; and that the person executing this Agreement on behalf of it is authorized to enter into this Agreement.
- (ii) Due Authority; No Conflict. The Developer has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by the Developer and constitute the Developer's legal, valid and binding obligations enforceable against the Developer in accordance with their terms. The consummation by the Developer of the transactions contemplated hereby is not in violation of or in conflict with, nor does it constitute a default under, any term or provision of the organizational documents of the Developer, or any of the terms of any agreement or instrument to which the Developer is a Party, or by which the Developer is bound, or of any provision of any Applicable Law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.



- (iii) Consents. No consent, approval, order or authorization of, or declaration or filing with any governmental authority is required on the part of the Developer in connection with the execution and delivery of this Agreement or for the performance of the transactions herein contemplated by the respective Parties hereto.
- (iv) Litigation/Proceedings. To the best knowledge of the Developer, after reasonable inquiry, there are no pending or, to the best knowledge of the Developer, threatened, judicial, municipal or administrative proceedings, consent decree or, judgments which might affect the Developer's ability to consummate the transaction contemplated hereby, nor is there a preliminary or permanent injunction or other order, decree, or ruling issued by a governmental entity, and there is no statute, rule, regulation, or executive order promulgated or enacted by a governmental entity, that is in effect which restrains, enjoins, prohibits, or otherwise makes illegal the consummation of the transactions contemplated by this Agreement.
- (v) Legal Proceedings. There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of the Developer, threatened against or affecting the Developer, any of the principals of the Developer and any key person or their respective Affiliates and representatives which the outcome of which would (a) adversely affect the validity or enforceability of, or the authority or ability of the Developer under, this Agreement to perform its obligations under this Agreement, or (b) have a material and adverse effect on the consolidated financial condition or results of operations of the Developer or on the ability of the Developer to conduct its business as presently conducted or as proposed or contemplated to be conducted.
- (vi) Ownership. The Developer represents that it or one or more Affiliates will be the sole owners of the Property within the PID at the time of their creation and will be the sole owners at the time of the levy of Assessments for each Section. The Developer shall consent to the levy of Assessments in substantially the form of the Landowner Consent attached hereto as Exhibit F, and shall not transfer title of any land within the PID prior to the levy of Assessments within each Section.

## ARTICLE XI

### PROVISIONS FOR DEVELOPER

Section 11.01. Waiver of Actions Under Private Real Property Rights Preservation Act. The Developer hereby waives its right, if any, to assert any causes of action against the City accruing under the Private Real Property Rights Preservation Act, Chapter 2007, Texas Government Code (the "Act"), that the City's execution or performance of this Agreement or any authorized amendment or supplements thereto may constitute, either now or in the future, a

“Taking” of Developer’s, Developer’s grantee’s, or a grantee’s successor’s “Private Real Property,” as such terms are defined in the Act, provided, however, that this waiver does not apply to, and the Developer and Developer’s grantees and successors do not waive their rights under the Act to assert a claim under the Act for any action taken by the City beyond the scope of this Agreement which otherwise may give rise to a cause of action under the Act.

ARTICLE XII

GENERAL PROVISIONS

Section 12.01. Notices. Any notice, communication or disbursement required to be given or made hereunder shall be in writing and shall be given or made by facsimile or other electronic transmittal, hand delivery, overnight courier, or by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below or at such other addresses as may be specified in writing by any Party hereto to the other parties hereto. Each notice which shall be mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent and received for all purpose at such time as it is received by the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such receipt) at the following addresses:

To the City: City Manager  
Chris Whittaker  
121 South Velasco  
Angleton TX 77515  
Email: cwhittaker@angleton.tx.us

With a copy to: City Attorney  
Randle Law Office Ltd., LLP  
Grady Randle  
820 Gessner, Ste. 1570  
Houston, Texas 77024  
Email: grady@jgradyrandlepc.com

To the Developer: Developer: Tejas-Angleton Development, L.L.C.  
Attn: Wayne L. (Sandy) Rea, II  
1306 Marshall Street  
Houston, Texas 77006  
Telephone No.: 713-993-6453  
Email: waynerea@swbell.net

Section 12.02. Make-Whole Provision. If in any calendar year the City issues debt obligations that would be qualified tax-exempt obligations but for the issuance or proposed issuance of PID Bonds, the Developer shall pay to the City a fee to compensate the City for the interest savings the City would have achieved had the debt issued by the City been qualified tax-exempt obligations (the “PID Bond Fee”). Prior to issuance of any PID Bonds, the City’s financial

advisor shall calculate the PID Bond Fee based on the issued and planned debt issuances for the City and shall notify the Developer of the total amount due prior to the issuance of the PID Bonds. The Developer agrees to pay the PID Bond Fee to the City within ten (10) Business Days after receiving notice from the City of the amount of PID Bond Fee due to the City. If the City has not forgone the ability to issue a series of obligations as qualified tax exempt obligations, the PID Bond Fee shall be held in a segregated account of the City and if the total amount of debt obligations sold or entered into by the City in the calendar year in which the PID Bonds are issued are less than the bank qualification limits (currently \$10 million per calendar year), then the PID Bond Fee shall be returned to the Developer. The City shall not be required to sell any series of PID Bonds until the Developer has paid the estimated PID Bond Fee.

If the City is planning to issue debt obligations as qualified tax-exempt obligations prior to the issuance of PID Bonds in any calendar year, the City may (but is not obligated to) notify the Developer that it is planning to issue qualified tax-exempt obligations that may limit the amount of debt that the City can issue in a calendar year. In connection with the delivery of such notice, the City's financial advisor shall provide a calculation of the interest savings that the City would achieve by issuing the obligations the City plans to issue in the year as qualified tax-exempt obligations as opposed to non-qualified tax-exempt obligations. If following the receipt of such notice the Developer asks the City to forego designating the obligations as qualified tax-exempt obligations in order to preserve capacity for PID Bonds, the Developer shall pay to the City a fee to compensate the City for the interest savings the City would have achieved had the debt issued by the City been qualified tax-exempt obligations. The Developer agrees to pay the PID Bond Fee to the City within ten (10) Business Days after receiving notice from the City of the amount of PID Bond Fee due to the City. Upon receipt of the PID Bond Fee, the City agrees not to designate the obligations planned for issuance as qualified tax-exempt obligations. Such payment is compensation to the City for choosing to forego the designation of obligations as qualified tax-exempt obligations, and the PID Bond Fee may be used for any lawful purpose of the City. The City shall include language similar to this Section 12.02 in any agreement it enters into with a developer or landowner where the issuance of public improvement district bonds is contemplated.

#### Section 12.03. Assignment.

(a) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties. The obligations, requirements or covenants to develop the Property, including construction of the Public Improvements may be assigned to an Affiliate without the prior written consent of the City. The obligations, requirements or covenants to the development of the Property, including construction of the Public Improvements shall not be assigned to any non-Affiliate without the prior written consent of the City Council, which consent shall not be unreasonably withheld, conditioned or delayed if the assignee demonstrates the financial ability to perform in the reasonable judgment of the City Council. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title or interests being assigned. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. Developer shall maintain written

records of all assignments made by Developer to assignee, including a copy of each executed assignment and the assignee's notice information as required by this Agreement, and, upon written request from the City, any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party's sale, assignment, transfer or other conveyance of any interest in this Agreement or the Property. The City shall not be required to make any representations or execute any consent with respect to an assignment to an Affiliate and shall not be required to make any representations with respect to any assignment to a non-Affiliate.

(b) Developer may assign any receivables or revenues due pursuant to this Agreement or any Reimbursement Agreement to a third party without the consent of, but upon written notice to the City. Provided, however, that notwithstanding the above, the City shall not be required to make partial payments to more than two parties as a result of an assignment and shall not execute any consent or other representations with respect thereto.

(c) The Developer and assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement for the benefit of (a) their respective lenders without the consent of, but with prompt written notice to, the City. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the lender's interest, including notice information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement within thirty (30) days after written notice to the lender, not to be unreasonably withheld. A lender is not a party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. Any purchaser from or successor owner through a lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured. The City shall not be required to make partial payments to more than two parties as a result of an assignment and shall not execute any consent or other representations with respect thereto.

(d) The City shall not be required to acknowledge the receipt of any Assignment by the Developer; however, to the extent the City does acknowledge receipt of any assignment pursuant to this Section, such acknowledgment does not evidence the City's agreement, acceptance or acknowledgment of the content of the assignment documents or any rights accruing thereunder; it is solely an acknowledgment of receipt of the notice via mail, express mail or email.

(e) The City does not and shall not consent to nor participate in any third-party financing based upon the Developer's assignment of its right to receive funds pursuant to this Agreement or any Reimbursement Agreement.

**Section 12.04. Table of Contents; Titles and Headings.**

The titles of the articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

**Section 12.05. Entire Agreement; Amendment.** This Agreement is the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement. This Agreement may only be amended by a written agreement executed by all Parties.

**Section 12.06. Time.** In computing the number of calendar days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays. If the final day of any time period (with respect to calendar days or Business Days) falls on a Saturday, Sunday, or legal holiday (as observed by the City), then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday (as observed by the City).

**Section 12.07. Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

**Section 12.08. Severability; Waiver.** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement shall not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

**Section 12.09. No Third-Party Beneficiaries.** The City and the Developer intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third-party beneficiary, or any individual or entity other than the City, the Developer or assignees of such Parties. The City does not consent to and will not participate in any third-party financing of the Assessment revenues.

**Section 12.10. Notice of Assignment.** Developer shall not transfer any portion of the Property prior to the levy of Assessments, except as provided in Section 1.05. Subject to Section 12.03 herein, the requirements set forth below shall apply in the event that the Developer sells, assigns, transfers or otherwise conveys the Property or any part thereof and/or any of its rights, benefits or obligations under this Agreement. Developer must provide the following:

(a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the City;

(b) the notice must describe the extent to which any rights or benefits under this Agreement have been sold, assigned, transferred, or otherwise conveyed;

(c) the notice must state the name, mailing address, and telephone contact information of the person(s) acquiring any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance;

(d) the notice must be signed by a duly authorized person representing the Developer and a duly authorized representative of the person that will acquire any rights or benefits as a result of the sale, assignment transfer or other conveyance.

Section 12.11. No Joint Venture. Nothing contained in this Agreement or any other agreement between the Developer and the City is intended by the Parties to create a partnership or joint venture between the Developer, on the one hand, and the City on the other hand and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other. Each Party shall be responsible for any and all suits, demands, costs or actions proximately resulting from its own individual acts or omissions.

Section 12.12. Estoppel Certificates. From time to time within fifteen (15) Business Days of a written request of the Developer or any future Developer, and upon the payment of a \$100.00 fee to the City, the City Manager, or his/her designee is authorized, in his official capacity and to his reasonable knowledge and belief, with no duty of inquiry, to execute a written estoppel certificate in form approved by the City Attorney, identifying any obligations of a Developer under this Agreement that are in default. No other representations in the Estoppel shall be made by the City.

Section 12.13. Independence of Action. It is understood and agreed by and among the Parties that in the design, construction and development of the Public Improvements and any of the related improvements described herein, and in the Parties' satisfaction of the terms and conditions of this Agreement, that each Party is acting independently, and the City assumes no responsibility or liability to any third parties in connection to the Developer's obligations hereunder.

Section 12.14. Limited Recourse. No officer, director, employee, agent, attorney or representative of the Developer shall be deemed to be a Party to this Agreement or shall be liable for any of the contractual obligations created hereunder. No elected official of the City and no agent, attorney or representative of the City shall be deemed to be a Party to this Agreement or shall be liable for any of the contractual obligations created hereunder.

Section 12.15. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 12.16. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 12.17. No Acceleration.

All amounts due pursuant to this Agreement and any remedies under this Agreement are not subject to acceleration.

Section 12.18. Conditions Precedent. This Agreement is expressly subject to, and the obligations of the Parties are conditioned upon the City levy of the Assessments and the issuance of the PID Bonds or approval of a Reimbursement Agreement.

Section 12.19. No Reduction of Assessments. Following the issuance of each series of PID Bonds, the Developer agrees not to take any action or actions to reduce the total amount of the Assessments levied in payment of such PID Bonds. The Developer agrees not to take any action or actions to reduce the total amount of such Assessments to be levied as of the effective date of this Agreement.

Section 12.20. Anti-Boycott Verification. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 12.21. Iran, Sudan and Foreign Terrorist Organizations. The Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 12.22. Petroleum.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer 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 enable the Issuer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall mean, 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 (A) above. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. §230.133(f), and exists to make a profit.

#### Section 12.23. Firearms.

To the extent this Purchase Contract constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer 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 discriminate during the term of this Agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to enable the Issuer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, ‘discriminate against a firearm entity or firearm trade association’ (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) 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 (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) 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. As used in the foregoing verification, (b) ‘firearm entity’ means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (i.e., weapons that expel projectiles by the



action of explosive or expanding gases), firearm accessories (i.e., devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (i.e., a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (as defined by Section 250.001, Texas Local Government Code), and (c) 'firearm trade association' means a person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. §230.133(f), and exists to make a profit.

Section 12.24. Governing Law. The Agreement shall be governed by the laws of the State of Texas without regard to any choice of law rules, and venue for any action concerning this Agreement and the Reimbursement Agreement shall be in the State District Court of Brazoria County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

Section 12.25. Conflict. In the event of any conflict between this Agreement and any Indenture authorizing the PID Bond, the Indenture controls. In the event of any conflict between this Agreement and the Reimbursement Agreement, the Reimbursement Agreement shall control, except that in all cases, Applicable Law shall control.

Section 12.26. PID Policy Requirements & PID Enhancement Fund Payment. Developer agrees to comply with all steps, requirements, payments that are not superseded by this Agreement, as set out by the City of Angleton PID Policy. Developer agrees to pay to the City the PID Enhancement Fund as defined in this agreement and as set out in the City of Angleton PID Policy for each Section. At such time as PID Bonds for a particular Section are issued by the City, the PID Enhancement Fund payment will be payable for such Section or Sections upon closing and delivery of the net proceeds realized by Developer from the sale of PID Bonds for such Section or Sections.

Section 12.27. Change in Control. The Developer shall notify the City within fifteen (15) business days after any substantial change in ownership or control of the Developer. As used herein, the words "substantial change in ownership or control" shall mean a change of more than 49% of the stock or equitable ownership of the Developer. Any sale of the Property or agreement for the sale, transfer, or assignment of control or ownership of the Developer shall recite and incorporate this Agreement as binding on any purchaser, transferee, or assignee.

Section 12.28. Estoppel Certificates. From time to time within fifteen (15) business days of a written request of the Developer or any future Developer, and upon the payment of a \$100.00 fee to the City, the City Manager, or his/her designee is authorized, in his official capacity and to

his reasonable knowledge and belief, to execute a written estoppel certificate in form approved by the City Attorney, identifying any obligations of a Developer under this Agreement that are in default. No other representations in the Estoppel shall be made by the City.

Section 12.29. Independence of Action. It is understood and agreed by and among the Parties that in the design, construction and development of the Public Improvements and any of the related improvements described herein, and in the Parties' satisfaction of the terms and conditions of this Agreement, that each Party is acting independently, and the City assumes no responsibility or liability to any third parties in connection to the Developer's obligations hereunder.

Section 12.30. Limited Recourse. No officer, director, employee, agent, attorney or representative of the Developer shall be deemed to be a Party to this Agreement or shall be liable for any of the contractual obligations created hereunder. No elected official of the City and no agent, attorney or representative of the City shall be deemed to be a Party to this Agreement or shall be liable for any of the contractual obligations created hereunder.

Section 12.31. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 12.32. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 12.33. No Acceleration. All amounts due pursuant to this Agreement and any remedies under this Agreement are not subject to acceleration.

Section 12.34. Conditions Precedent. This Agreement is expressly subject to, and the obligations of the Parties are conditioned upon the City levy of the Assessments and the issuance of the PID Bonds or approval of a Reimbursement Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the Effective Date.

*[Faint signature area]*

[Signature Page Immediately Follows]

CITY OF ANGLETON, TEXAS

*Handwritten notes in blue ink, possibly "6/14/2022" and "Jason Perez"*

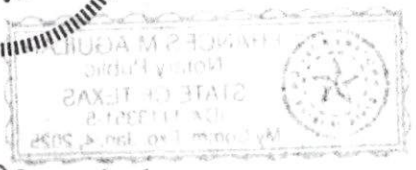
By: *Jason Perez*  
Jason Perez, Mayor

Date: 6/14/2022

ATTEST

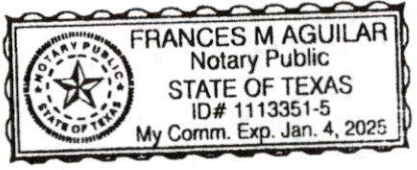
By: *Frances Aguilar*  
Frances Aguilar, City Secretary

Date: 6/14/2022



THE STATE OF TEXAS  
COUNTY OF BRAZORIA

This instrument was acknowledged before me on June 14, 2022, by Jason Perez, Mayor of the City Angleton, Texas.



*Frances Aguilar*  
Notary Public, State of Texas

DEVELOPER

TEJAS-ANGLETON DEVELOPMENT, L.L.C.  
a Texas Limited Liability Company

*Wayne L Rea, II*

Wayne L. Rea, II

Title: Manager

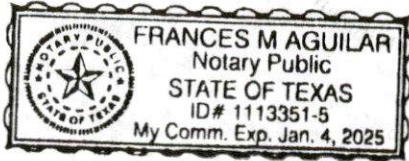
Date: 6/14/2022

THE STATE OF TEXAS

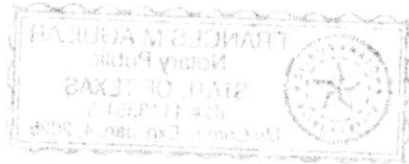
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COUNTY OF HARRIS

This instrument was acknowledged before me, the undersigned authority, this 14<sup>th</sup> day of June, 2022, by Wayne L. Rea, II, of TEJAS-ANGLETON DEVELOPMENT, L.L.C., a Texas Limited Liability Company, on behalf of said entity.



*Frances M Aguilar*  
\_\_\_\_\_  
Notary Public, State of Texas



**EXHIBIT "A"**

**THE PROPERTY**

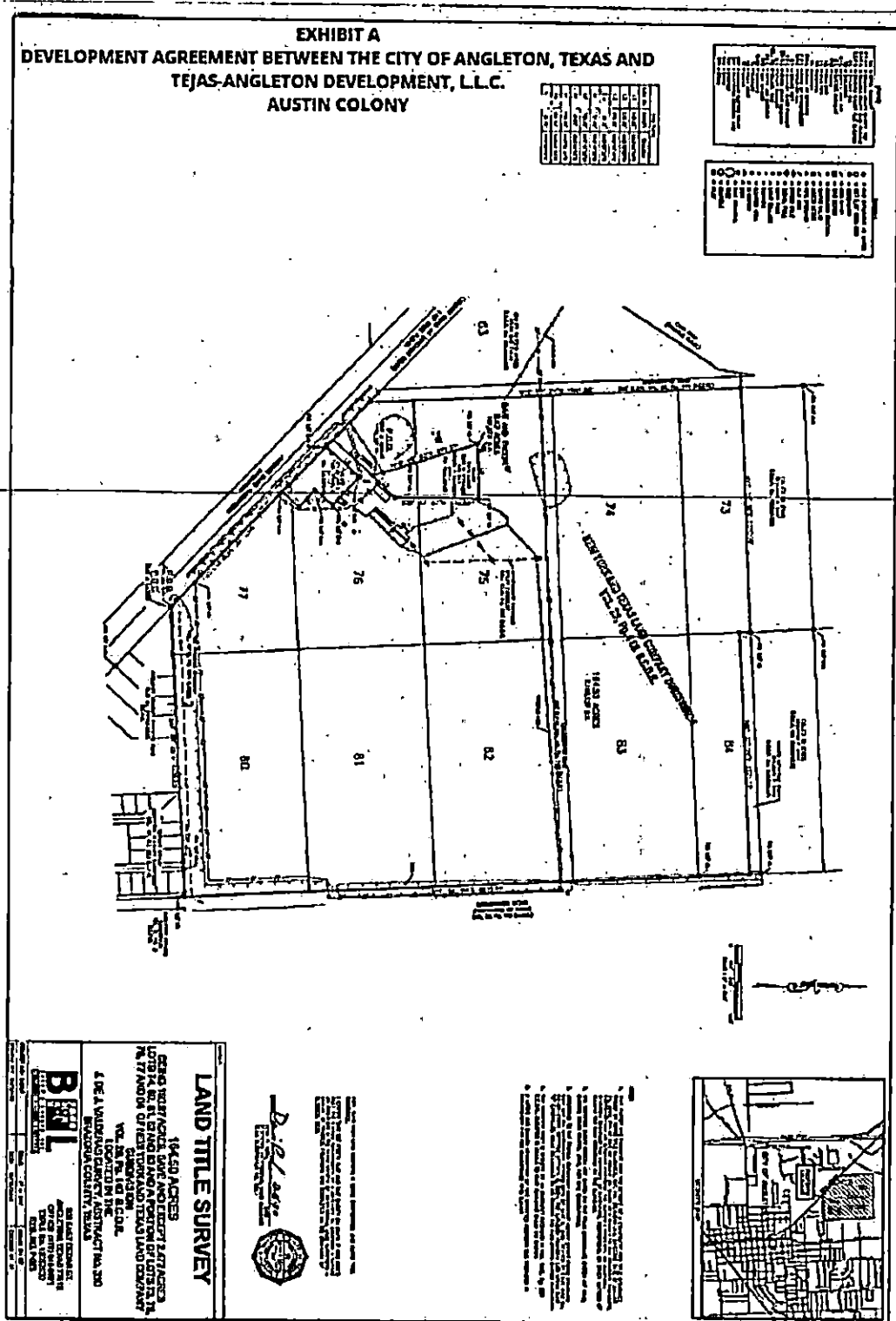


Exhibit A

**EXHIBIT "B"**

**LAND PLAN**

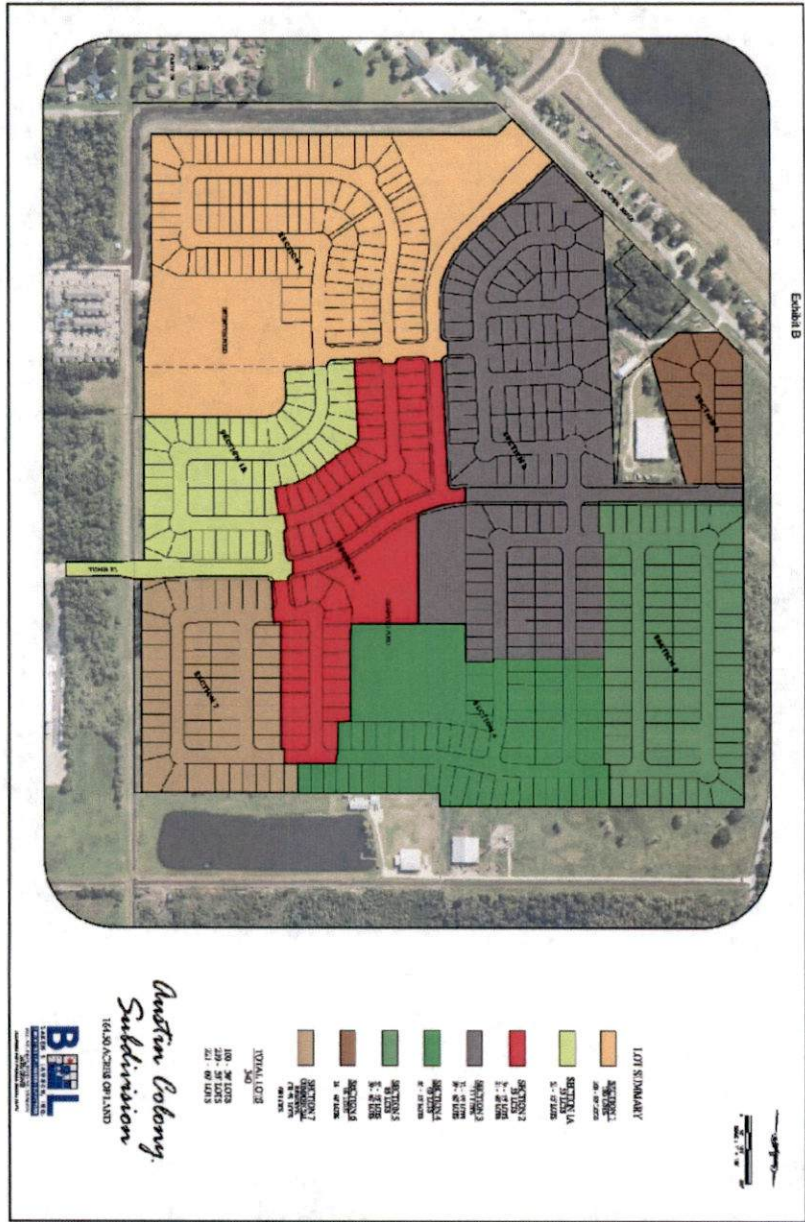


Exhibit B

**EXHIBIT "C"**  
**CAPACITY ACQUISITION FEE MEMO**



## Memo

Date: Friday, May 20, 2022

Project: Austin Colony Subdivision (Tigner Tract) (Revised ~ 540 Lots)

To: Walter Reeves, Director of Development Services

From: John Peterson, PE, CFM

Subject: Water and Wastewater Capacity Acquisition Fee

The City of Angleton has coordinated with a Developer for the proposed subdivision at Austin Colony, along Anchor Road (CR 44) to the east of Highway 288. The proposed development consists of 540 single-family residences on approximately 166 acres and is currently planned to be a phased development. Based on this information and using the planning criteria for water demand and sewer loading from the utility master plan, below is the summary of the assumptions, analysis and model results.

### Capacity Verification

- Water Demand
  - Average Daily Demand (ADD): 300 gallons per day per connection,  $540 \times 300 = 162,000$  gpd or 112.50 gpm
  - Max Daily Demand (MDD):  $1.7 \times \text{ADD} = 191.25$  gpm
  - Peak Hour Demand (PHD):  $1.25 \times \text{MDD} = 239.06$  gpm
- Water Model Run
  - There are two existing water mains located in the vicinity of the proposed subdivision (see Exhibit #1). One is a 12" water main that runs along the north side of Anchor Road, that will be required to be extended northwest along CR 44 to and across the property in order to service the subdivision. The second is a 10" water main that runs along the north side of Tigner Road that will also be required to be extended to the west to serve as a second point of connection for the proposed subdivision. It is currently assumed that the proposed development will make connections to both of these water mains in order to create a looped system within the subdivision.
  - The existing model was run for the scenario above. The model shows that there is sufficient pressure and fire flow when the systems are looped together (See Exhibit #2).
- Wastewater Flows
  - Average Daily Flow (ADF): 255 gallons per day per connection,  $540 \times 255 = 137,700$  gpd or 95.63 gpm
  - Peak Hour Wet Weather Flow (PWF):  $4 \times \text{ADF} = 382.50$  gpm
- Wastewater Model Run
  - The existing model was run for PWF scenario, which uses a peaking factor of 4.



- There is an existing 24" sewer main along the western boundary of the proposed subdivision that has available capacity at that location. For the wastewater assessment, it was assumed that the wastewater loading for the subdivision will discharge into the City's collection system near the unimproved western portion of Tigner Street.
- This 24" gravity sewer main continues south and discharges into Lift Station No. 7 (N Kaysie Lift Station).
- The Lift Station No. 7 then pumps wastewater through an 18" force main directly to the Oyster Creek WWTP along Sebesta Road.

**Capacity Acquisition Fee:**

Please see Appendix A for the calculations for the Capacity Acquisition Fee.

- Water Service
  - The City has adopted a flat fee of \$536.70 per ESU for water service throughout the City.
- Wastewater Service
  - Total Capacity of 24" Sanitary Sewer set at TCEQ minimum slope is 2,871 gpm
    - Percentage utilization of 24" gravity sanitary sewer for Austin Colony is 13% (peak flow)
  - Total Capacity of 36" Sanitary Sewer set at TCEQ minimum slope is 6,348 gpm
    - Percentage utilization of 36" gravity sanitary sewer for Austin Colony is 6% (peak flow)
  - Total Firm Capacity (assumed) of LS No. 7 is 2,380 gpm
    - Based on the assumed capacity of the lift station, the percent utilization of LS No. 7 pumping capacity and 18" force main for Austin Colony is 16% (peak flow)
  - Fee for sewer service is \$850.55 per ESU

Therefore, the combined cost per ESU (water and wastewater) will be approximately \$1,387.25. The total fee for the projected 540 homes for Austin Colony is approximately \$749,115.00. It is noted that any changes in the projected number of ESUs will need to be updated accordingly in the CAF review. Additionally, proposed ESUs for clubhouses or pools were not considered and shall be included accordingly in the total ESU projection for the proposed Austin Colony Subdivision.

**ATTACHMENTS**

Appendix A – Capacity Acquisition Fee Calculations

Exhibit 1 – Water Model System Map (Before Development – Available Fire Flow and Pressure)

Exhibit 2 – Water Model System Map (After Development – Available Fire Flow and Pressure)

Exhibit 3 – Wastewater System Map (Austin Colony Subdivision Sanitary Sewer Trace)

Total Estimated Cost Per Wastewater Connection \$850.55

Asset Name	Current Construction Year	Current Construction Cost Estimate	ENR Value for Construction Year	Estimated Construction Cost in Year of Construction	% of Total Estimated Cost	Development Cost per ESU
Gravity Sewer	1970	\$ 753,500	1381	90,754	13%	\$ 22.39
36" Man (2,700 feet)	1970	\$ 165,750	1381	19,963	6%	\$ 2.23
Total Gravity Sewer						\$ 24.67
Force Main						
18" Force Main (12,300 feet)	1970	\$ 1,807,900	1381	217,743	10%	\$ 64.81
Total Force Main						\$ 64.81
Lift Station						
No. 7	1970	\$ 1,150,000	1381	138,510	16%	\$ 41.22
Total Lift Station						\$ 41.22
Total Wastewater Infrastructure						\$ 170.63

The City purchases approximately 1.8 MGD from BWA, which is provided at a rate of \$3.12 per 1,000 gallons. Therefore, one (1) ESU or 300 gallons, is approximately \$0.94. The cost shown is the adopted flat fee per ESU for water service. The cost shown is taken by dividing the current construction cost estimate by the 2020 ENR Value of 1466.

Water Treatment in Manufacture

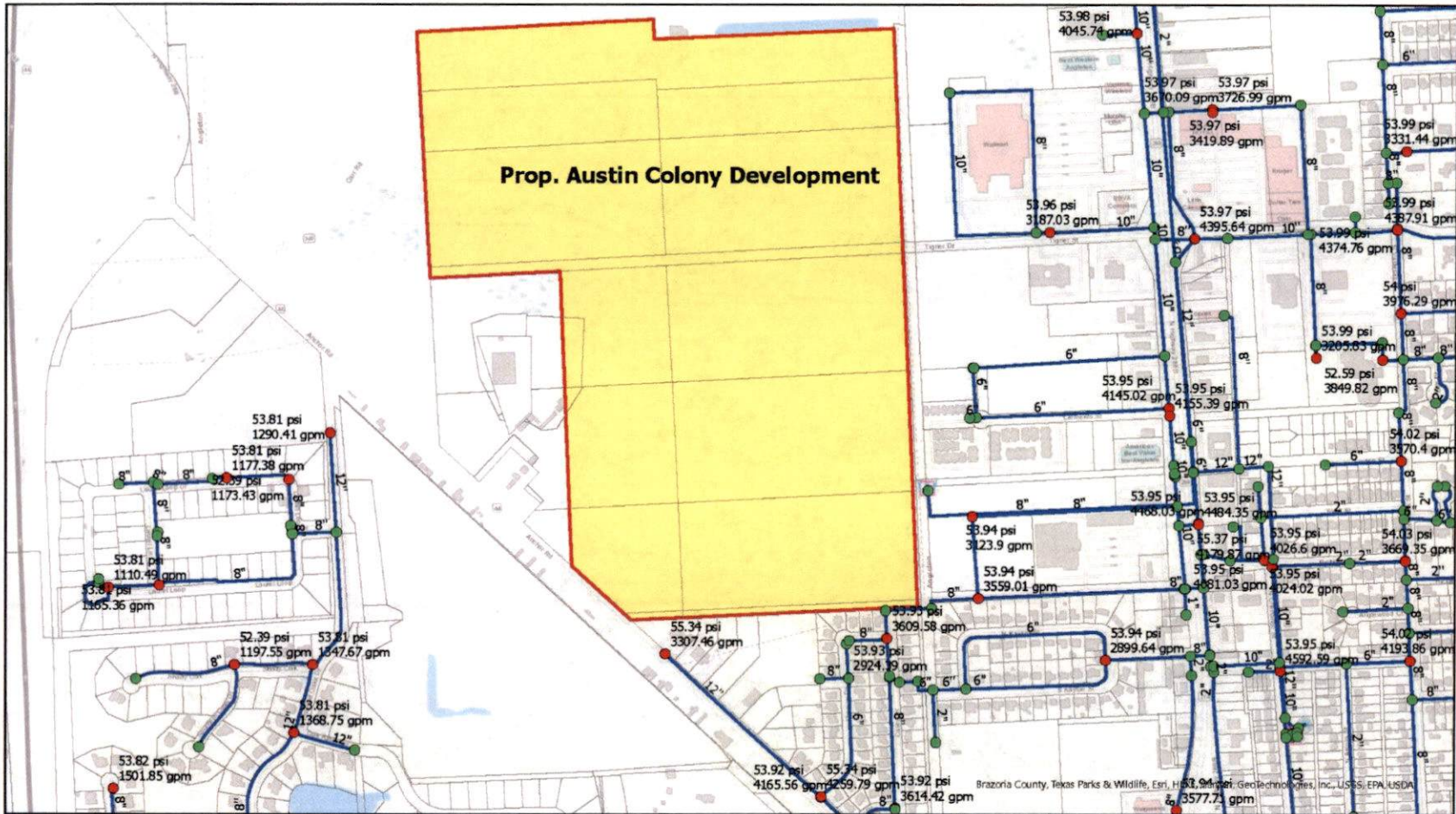
Asset Name	Current Construction Year	Current Construction Cost Estimate	ENR Value for Construction Year	Estimated Construction Cost in Year of Construction	Number of Constructed Assets	Total Estimated Construction Cost	Production (gpd)	Cost per ESU (1 ESU = 255 gpd)
Oyster Creek Back Bay Sewer Treatment Plant	1980	\$ 3,800,000	9737	1,033,263	1	\$ 1,033,263	3,800,000	\$ 71.90

Water Plants

Asset Name	Current Construction Year	Current Construction Cost Estimate	ENR Value for Construction Year	Estimated Construction Cost in Year of Construction	Number of Constructed Assets	Total Estimated Construction Cost	Production (gpd)	Cost per ESU (1 ESU = 300 gpd)
Henderson Water Plant	1988	\$ 2,000,000	4519	825,992	1	\$ 825,992	9,672,000	\$84.52
1 MGD CST								
750 gpm pumps	2006	\$ 51,250	7751	36,304	2	\$ 72,608		
850 gpm pumps	2010	\$ 51,250	8802	41,227	3	\$ 123,680		
Total Henderson Water Plant						\$ 1,022,280	9,672,000	\$84.52
Chenango Water Plant	1953	\$ 2,000,000	600	109,669	1	\$ 109,669	9,672,000	\$17.51
1 MGD CST								
850 gpm pumps	2005	\$ 51,250	7446	34,876	3	\$ 104,676		
Total Chenango Water Plant						\$ 214,286	9,672,000	\$17.51
Bainbridge Water Plant	2009	\$ 987,500	6570	773,430	1	\$ 773,430	9,672,000	\$84.63
450A CST								
850 gpm pumps	2015	\$ 51,250	10035	47,002	3	\$ 141,005		
108 Hydro Tank	2009	\$ 77,500	6570	60,700	2	\$ 121,399		
Total Bainbridge Water Plant						\$ 1,025,835	9,672,000	\$84.63
Water Well #11	1985	\$ 1,062,500	4195	407,347	1	\$ 407,347	1,224,000	\$99.84
Current Construction								
Cost Estimate								
Year								
ENR Value for Construction Year								
Estimated Construction Cost in Year of Construction								
Number of Constructed Assets								
Total Estimated Construction Cost								
Production (gpd)								
Cost per ESU (1 ESU = 300 gpd)								
Northside CST	1961	\$ 2,000,000	847	154,816	1	\$ 154,816	500,000	\$51.93
Southside CST	1977	\$ 2,000,000	2576	470,845	1	\$ 470,845	500,000	\$128.94
Total Cost per Connection for Water Purchased from Westport Water Authority (BWA)								\$54.94
Total Estimated Cost Per Water Connection								\$550.70

APPENDIX A - PROPOSED COST PER CONNECTION

Exhibit C



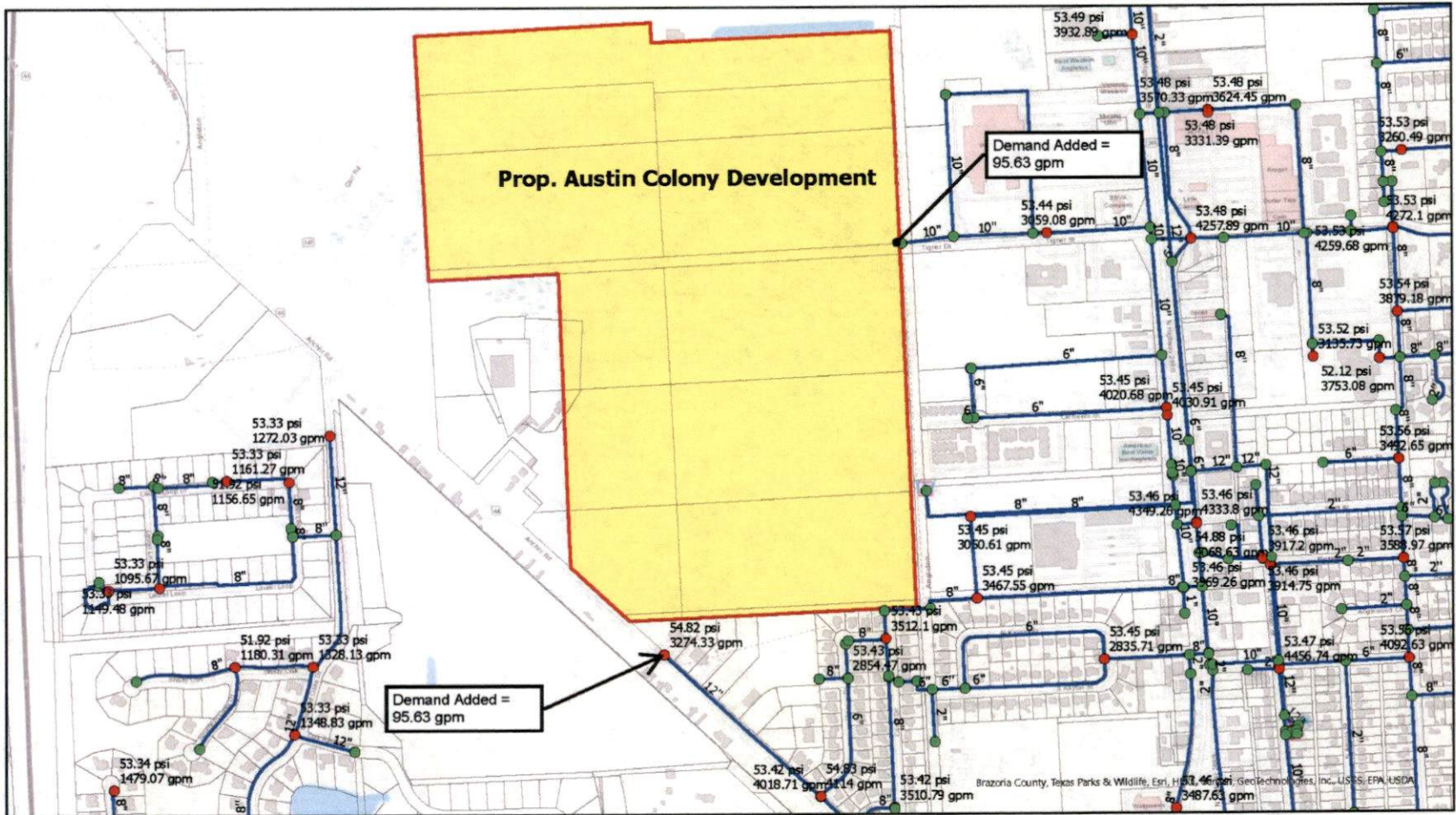
City of Angleton, Texas - Water System Modeling  
Austin Colony Development - Existing System Pressure and Available Fire Flow

**HJR** THE HEART OF BRAZORIA COUNTY **ANGLETON**

1 inch equals 500 feet

0 250 500 1,000 Feet

Exhibit C



City of Angleton, Texas - Water System Modeling  
Austin Colony Development - Post Development System Pressure and Available Fire Flow

**HDR** THE HEART OF BRAZORIA COUNTY **ANGLETON**

1 inch equals 500 feet

0 250 500 1,000 Feet

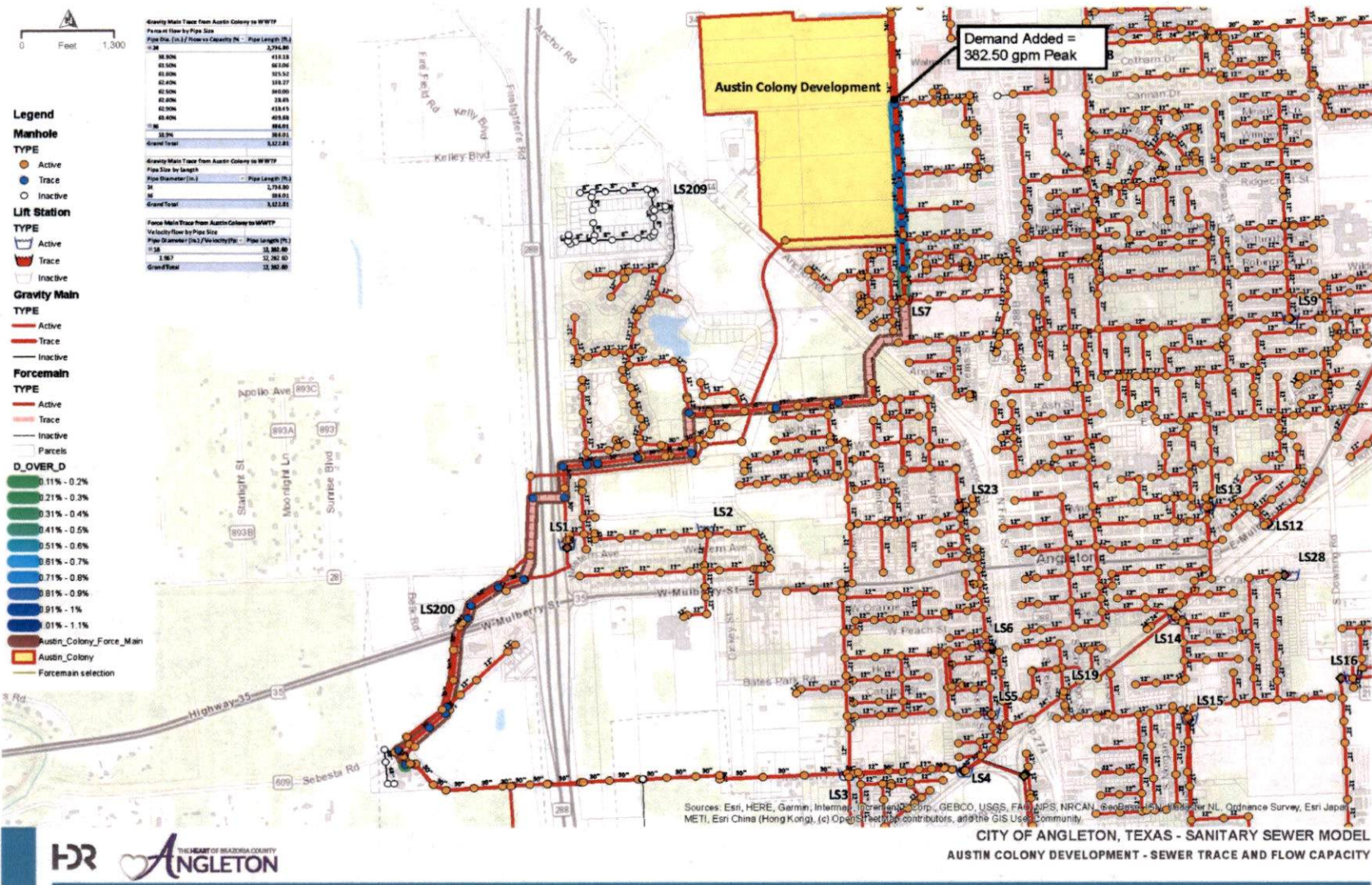


Exhibit C

**EXHIBIT "D"**

**PID PETITION**

**PETITION FOR CREATION OF**

**AUSTIN'S COLONY PUBLIC IMPROVEMENT DISTRICT**

TO THE HONORABLE MAYOR AND CITY COUNCIL, CITY OF ANGLETON, TEXAS:

COMES NOW Leah Tigner, as Independent Executrix of the Estate of John Hughes Tigner, III, Deceased, and Williams Marshall Tigner, II and Tiffany Aleece Tigner Schlenker with a reservation of Life Estate of Williams Marshall Tigner, ("Owners"), the owners of a parcel or parcels of taxable real property, and pursuant to Section 372.005 of the Texas Local Government Code (the "Act"), who hereby petition the City of Angleton, Texas ("City"), to conduct a hearing on this Petition and to create a Public Improvement District pursuant to Chapter 372, Texas Local Government Code, as amended, to be known as "Austin's Colony Public Improvement District" (the "District"). In support of same, Owners would respectfully show the following:

I.

The boundaries of the proposed District are set forth in Exhibit "A" attached hereto and incorporated by reference herein.

II.

The general nature of the proposed public improvements (the "Improvements") are: (i) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements; (ii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way; (iii) landscaping; (iv) the establishment or improvement of parks; (v) erection of fountains, distinctive lighting, and signs; (vi) projects similar to those listed in (i)-(v); (vii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement; (viii) special supplemental services for improvement and promotion of the District, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and (ix) payment of expenses incurred in the establishment, administration, and operation of the District, including the costs of financing the public improvements listed above.

III.

The estimated total cost of the proposed Improvements is \$31,250,000.00.

IV.

The City shall levy assessments on each parcel within the District in a manner that results in imposing equal shares of the costs on property similarly benefited. Each assessment may be paid in part or in full at any time (including interest), and certain assessments may be paid in annual installments (including interest). If the City allows an assessment to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those public

Improvements financed by the assessment and must continue for a period necessary to retire the indebtedness on those public Improvements (including interest).

V.

All of the cost of the proposed Improvements shall be apportioned to and paid by assessment of the property within the District. The City will pay none of the costs of the proposed Improvements. Any remaining costs of the proposed Improvements will be paid from sources other than assessment of the property within the District.

VI.

The management of the District will be by the City with the assistance of a third-party administrator hired by the City and paid as part of the annual administrative cost of the District.

VII.

The persons or entities (through authorized representatives) signing this Petition request the establishment of the District.

VIII.

It is proposed that an advisory body not be established to develop and recommend an improvement plan to the governing body of the City.

IX.

The persons or entities (through authorized representatives) signing this Petition are also owners of taxable real property representing more than fifty percent (50%) of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and the record owners of real property liable for assessment under the proposal who: (a) constitute more than fifty percent (50%) of all record owners of property that are liable for assessment under the proposal, and (b) own taxable real property that constitutes more than fifty percent (50%) of the area of all taxable real property that is liable for assessment under the proposal.

X.

This Petition will be filed with the City Secretary, City of Angleton, Texas.

XI.

This Petition may be executed in a number of identical counterparts. Each counterpart is deemed an original and all counterparts will collectively constitute one Petition.

**EXHIBIT A**

**PETITION FOR CREATION OF**

**AUSTIN'S COLONY PUBLIC IMPROVEMENT DISTRICT**

Being a tract of land containing 164.50 acres (7,165,737 square feet), located within J. De J Valderas Survey, Abstract Number (No.) 380, in Brazoria County, Texas; Said 164.50 acre tract being all of Lots 74, 80, 81, 82 and 83 and a portion of Lots 73, 75, 76, 77 and 84 of the New York and Texas Land Company Subdivision recorded under Volume (Vol.) 26, Page 140 of the Brazoria County Deed Records (B.C.D.R.), being a 166.97 acre tract save and except a 2.472 acre tract recorded in the name of Thomas H. Journeay and Elizabeth Journeay under Brazoria County Clerk's File (B.C.C.F.) No. 2014047617; Said 164.50 acres being more particularly described by metes and bounds as follows (bearings are based on the Texas Coordinate System of 1983, (NAD83) South Central Zone, per GPS observations):

**Overall 166.97 acre tract:**

**BEGINNING** at a 1/2-inch iron rod with cap found on the northeast right-of-way (R.O.W.) line of Anchor Road (AKA County Road 44, one hundred ten feet wide), on the south line of said Lot 77, at the northwest corner of Lot 1 of the Angleton Meadows Business Park recorded under Plat No. 2005019895 of the Brazoria County Plat Records (B.C.P.R.), for the southwest corner of the herein described tract;

**THENCE**, with the northeast R.O.W. line of said Anchor Road, North 47 degrees 10 minutes 56 seconds West, a distance of 853.57 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set at the south corner of a called 1.50 acre tract recorded in the name of Williams M. Tigner, II under B.C.C.F. No. 2019055977, for an angle point of the herein described tract;

**THENCE**, with the easterly lines of said 1.50 acre tract the following four (4) courses:

1. North 43 degrees 09 minutes 58 seconds East, at a distance of 1.35 feet pass a 1/2-inch iron rod with cap found for reference, continue in all a distance of 122.66 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set for an interior corner of the herein described tract;
2. North 49 degrees 37 minutes 04 seconds West, a distance of 128.89 feet to a 1/2-inch iron rod with cap found for an angle point;
3. North 42 degrees 06 minutes 44 seconds East, a distance of 126.66 feet to a 1/2-inch iron rod with cap found for an interior corner of the herein described tract;
4. North 49 degrees 03 minutes 29 seconds West, a distance of 208.32 feet to a 1/2-inch iron rod with cap found at the north corner of said 1.50 acre tract, for an interior corner of the herein described tract;



THENCE, with the northwest line of said 1.50 acre tract, South 43 degrees 14 minutes 22 seconds West, at a distance of 235.10 feet pass a 1/2-inch iron rod with cap found for reference, continue in all a distance of 237.02 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set on the northeast R.O.W. line of said Anchor Road, at the west corner of said 1.50 acre tract, for an angle point;

THENCE, with the northeast R.O.W. line of said Anchor Road, North 47 degrees 10 minutes 56 seconds West, a distance of 329.32 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set on the east line of an undeveloped road (sixty feet wide per Vol. 26, Page 140 B.C.D.R.) on the west line of said Lot 76, for the southwest corner of the herein described tract;

THENCE, with the east line of said undeveloped road and the west lines of said Lots 76, 75, 74 and 73, North 02 degrees 57 minutes 24 seconds West, a distance of 1,941.54 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set at the southwest corner of a called 10 acre tract recorded in the name of Benjamin F. Gray under B.C.C.F. No. 1999047350, for the northwest corner of the herein described tract;

THENCE, with the south line of said 10 acre tract, North 87 degrees 11 minutes 18 seconds East, a distance of 1,320.08 feet to a 5/8-inch iron rod found at southwest corner of a called 10 acre tract recorded in the name of Benjamin F. Gray under B.C.C.F. No. 2006070636, at the southeast corner of said 10 acre tract recorded in B.C.C.F. No. 1999047350, for the northwest corner of a 60' X 1,320' strip recorded in the name of Benjamin F. Gray under B.C.C.F. No. 2003054771, for an angle point;

THENCE, with the west line of said a 60' X 1,320' strip, South 02 degrees 52 minutes 02 seconds East, a distance of 60.00 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set at the southwest corner of said a 60' X 1,320' strip, for an interior corner of the herein described tract;

THENCE, with the south line of said a 60' X 1,320' strip, North 87 degrees 07 minutes 58 seconds East, a distance of 1,321.11 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set on the west line of Karankawa Road (undeveloped sixty feet wide per Vol. 26, page 140 B.C.D.R.), at the southeast corner of said a 60' X 1,320' strip, for the northeast corner of the herein described tract;

THENCE, with the west R.O.W. line of said Karankawa Road, being the east line of Lots 84, 83, 82, 81 and 80, South 02 degrees 52 minutes 54 seconds East, a distance of 2,970.25 feet to a 5/8-inch iron rod with cap stamped "Baker & Lawson" set at the northeast corner of a twenty-foot drainage easement dedicated by the Second Replat of Angleton Meadows Subdivision recorded under Vol. 17, Page 263 of the B.C.P.R., for the southeast corner of said Lot 80 and the herein described tract;

THENCE, with the north line of said Angleton Meadows Subdivision and Angleton Meadows Business Park, and the south lines of said Lots 80 and 77, South 87 degrees 09 minutes 29 seconds West, a distance of 1,575.33 feet to the **POINT OF BEGINNING** and containing 166.97 acres of land.

**SAVE AND EXCEPT 2.47 ACRES:**

**COMMENCING** at a 1/2-inch iron rod with cap found on the northeast right-of-way (R.O.W.) line of Anchor Road (AKA County Road 44, one hundred ten feet wide), on the south line of said Lot 77, at the northwest corner of Lot 1 of the Angleton Meadows Business Park recorded under Plat No. 2005019895 of the Brazoria County Plat Records (B.C.P.R.);

**THENCE**, with the northeast R.O.W. line of said Anchor Road, North 47 degrees 10 minutes 56 seconds West, a distance of 1,245.66 feet to an angle point;

**THENCE**, through and across said Lot 76 the following five (5) courses:

1. North 42 degrees 49 minutes 04 seconds East, a distance of 284.35 feet to a 5/8-inch iron rod found for the south corner and **POINT OF BEGINNING** of the herein described tract;
2. North 18 degrees 16 minutes 53 seconds West, a distance of 571.37 feet to a 5/8-inch iron rod found at the northwest corner of the herein described tract;
3. North 88 degrees 50 minutes 27 seconds East, a distance of 299.56 feet to a 5/8-inch iron rod found at the northeast corner of the herein described tract;
4. South 00 degrees 07 minutes 27 seconds West, a distance of 434.88 feet to a 5/8-inch iron rod found at the southeast corner of the herein described tract;
5. South 46 degrees 22 minutes 47 seconds West, a distance of 164.83 feet to the **POINT OF BEGINNING** and containing 2.47 acres of land.

**OVERALL: 166.97 ACRES**

**SAVE AND EXCEPT: 2.47 ACRES**

**TOTAL: 164.50 ACRES**

**EXHIBIT E**

**PUBLIC IMPROVEMENTS TO BE CONSTRUCTED WITH PID FUNDS**

The Public Improvements and costs set forth below are estimates and final Public Improvements and costs shall be as set forth in the applicable Service and Assessment Plan. The Service and Assessment Plan will also include costs of issuance for the PID Bonds.

ITEM DESCRIPTION	COMBINED	1	1A	2	1	1A	2
	EXTENSION	QTY.	QTY.	QTY.	EXTENSION	EXTENSION	EXTENSION
Clearing Right of Way - Demolition of barbed Wire Fence	\$ 4,100.00	3,280	0	0	\$ 4,100.00	\$ 0.00	\$ 0.00
Clearing and Grubbing	\$ 376,800.00	42.36	17.00	16.00	\$ 211,800.00	\$ 85,000.00	\$ 80,000.00
Roadway Excavation (Includes Lot Grading)	\$ 84,703.50	5,391	6,327	4,416	\$ 28,302.75	\$ 33,216.75	\$ 23,184.00
5" Lime Stabilized Subgrade	\$ 105,212.25	17,806	13,656	15,289	\$ 40,063.50	\$ 30,748.50	\$ 34,400.25
Lime (7% by Weight)	\$ 191,676.80	281	288	323	\$ 60,311.80	\$ 61,920.00	\$ 69,445.00
Concrete Pavement 6" Thick	\$ 2,230,611.00	16,622	12,027	13,438	\$ 880,966.00	\$ 637,431.00	\$ 712,214.00
Concrete Curb (4" to 6")	\$ 166,491.60	9,591	7,374	8,321	\$ 62,904.60	\$ 48,668.40	\$ 54,918.60
Concrete Sidewalk	\$ 281,826.00	14,260	5,730	7,640	\$ 145,452.00	\$ 58,446.00	\$ 77,928.00
Concrete Wheelchair Rmps	\$ 57,200.00	10	7	9	\$ 22,000.00	\$ 15,400.00	\$ 19,800.00
24" Driveway Culvert (Under Pvmnt)(Entry Drive)	\$ 11,135.00	128	0	0	\$ 11,135.00	\$ 0.00	\$ 0.00
Installation of Geotechnical Fabric for Wet Sand	\$ 12,565.00	1,913	600	0	\$ 9,565.00	\$ 3,000.00	\$ 0.00
Street Signs	\$ 6,670.80	7	3	2	\$ 3,891.30	\$ 1,667.70	\$ 1,111.80
Type III Barricades	\$ 6,060.80	4	1	3	\$ 3,030.40	\$ 757.60	\$ 2,272.80
Precast S.E.T. (24" w/ 6:1 Slopes)	\$ 3,355.80	2	0	0	\$ 3,355.80	\$ 0.00	\$ 0.00
Boring (Casing for 12" W.L.)	\$ 33,750.00	35	100	0	\$ 8,750.00	\$ 25,000.00	\$ 0.00
Boring (8" San. Sew., 9"-11' Depth)	\$ 40,500.00	35	100	0	\$ 10,500.00	\$ 30,000.00	\$ 0.00
4" Waterline	\$ 500.00	20	0	0	\$ 500.00	\$ 0.00	\$ 0.00
6" FH Lead (6' Long)	\$ 2,166.00	10	3	2	\$ 1,444.00	\$ 433.20	\$ 288.80
8" Waterline	\$ 393,452.00	4,090	2,686	3,578	\$ 155,420.00	\$ 102,068.00	\$ 135,964.00
12" Waterline	\$ 24,700.00	380	0	0	\$ 24,700.00	\$ 0.00	\$ 0.00
12" Wet Connection	\$ 5,043.20	1	1	2	\$ 1,260.80	\$ 1,260.80	\$ 2,521.60
Fittings	\$ 104,820.03	5.17	2.60	3.60	\$ 47,662.23	\$ 23,969.40	\$ 33,188.40
Waterline Plugs (All Sizes)	\$ 8,462.30	6	1	4	\$ 4,615.80	\$ 769.30	\$ 3,077.20
Water Line Service (Short-Single)	\$ 5,306.70	3	2	2	\$ 2,274.30	\$ 1,516.20	\$ 1,516.20
Water Line Service (Short-Double)	\$ 37,474.50	18	14	11	\$ 15,687.00	\$ 12,201.00	\$ 9,586.50
Water Line Service (Long-Single)	\$ 6,862.10	3	2	2	\$ 2,940.90	\$ 1,960.60	\$ 1,960.60
Water Line Service (Long-Double)	\$ 56,877.60	28	13	11	\$ 30,626.40	\$ 14,219.40	\$ 12,031.80
6" Gate Valve w/ Box	\$ 16,500.00	10	3	2	\$ 11,000.00	\$ 3,300.00	\$ 2,200.00
8" Gate Valve w/ Box	\$ 46,400.00	15	6	8	\$ 24,000.00	\$ 9,600.00	\$ 12,800.00
12" Gate Valve w/ Box	\$ 3,200.00	1	0	0	\$ 3,200.00	\$ 0.00	\$ 0.00
Fire Hydrant	\$ 48,000.00	10	3	2	\$ 32,000.00	\$ 9,600.00	\$ 6,400.00
8" Solid White Thermoplastic Pvmnt Marking	\$ 3,565.00	75	500	0	\$ 465.00	\$ 3,100.00	\$ 0.00
Sanitary Sewer Manhole	\$ 180,000.00	20	10	10	\$ 90,000.00	\$ 45,000.00	\$ 45,000.00
Sanitary Sewer Manhole (Extra Depth)	\$ 4,891.29	4.22	2	4	\$ 2,019.69	\$ 957.20	\$ 1,914.40
Sanitary Sewer Manhole (Stub In)	\$ 12,636.60	1	1	0	\$ 6,318.30	\$ 6,318.30	\$ 0.00
8" Sanitary Sewer (0' to 5' Depth)	\$ 90,592.00	1,314	600	470	\$ 49,932.00	\$ 22,800.00	\$ 17,850.00
8" Sanitary Sewer (5' to 7' Depth)	\$ 71,526.00	503	600	600	\$ 21,126.00	\$ 25,200.00	\$ 25,200.00
8" Sanitary Sewer (7' to 9' Depth)	\$ 132,400.00	1,608	600	440	\$ 80,400.00	\$ 30,000.00	\$ 22,000.00
8" Sanitary Sewer (9' to 11' Depth)	\$ 58,825.00	305	600	0	\$ 19,825.00	\$ 39,000.00	\$ 0.00
Sanitary Sewer Service (Short-Single)	\$ 13,844.60	7	2	2	\$ 8,810.20	\$ 2,517.20	\$ 2,517.20
Sanitary Sewer Service (Short-Double)	\$ 62,899.20	28	13	11	\$ 33,868.80	\$ 15,724.80	\$ 13,305.60
Sanitary Sewer Service (Long-Double)	\$ 73,537.60	16	14	11	\$ 28,697.60	\$ 25,110.40	\$ 19,729.60
Sanitary Sewer Service (Long-Single)	\$ 17,218.80	5	2	2	\$ 9,566.00	\$ 3,826.40	\$ 3,826.40
Sanitary Sewer Plug (All Sizes)	\$ 1,078.20	4	0	2	\$ 718.80	\$ 0.00	\$ 359.40
Wellpointing (Sanitary Sewer Construction)	\$ 94,740.10	1,913	600	0	\$ 72,120.10	\$ 22,620.00	\$ 0.00
Deep Trench Construction (San. Sew. 5' to 7')	\$ 1,571.40	546	600	600	\$ 491.40	\$ 540.00	\$ 540.00
Deep Trench Construction (San. Sew. Over 7')	\$ 3,197.70	1,913	1,200	440	\$ 1,721.70	\$ 1,080.00	\$ 396.00
Deep Trench Construction (St. Sew. 5' to 7')	\$ 3,215.70	1,253	1,250	1,070	\$ 1,127.70	\$ 1,125.00	\$ 963.00
Deep Trench Construction (St. Sew. Over 7')	\$ 3,113.10	1,979	1,030	450	\$ 1,781.10	\$ 927.00	\$ 405.00
Rock Rip Rap (2 Locations)(10" to 16" Round)	\$ 57,305.30	1440	770	0	\$ 37,339.20	\$ 19,966.10	\$ 0.00
Perimeter Drainage Swales("V" Bot, 6"-24" Deep, 4:1 Slopes)	\$ 89,240.00	2,040	1,840	0	\$ 46,920.00	\$ 42,320.00	\$ 0.00
Conc. Slope Paving - Pipe Outfall w/ Cut-Off	\$ 18,897.20	1	2	1	\$ 4,724.30	\$ 9,448.60	\$ 4,724.30
Conc. Pilot Channel (5-1/2" Thick, 4' Wide)	\$ 70,070.17	425	626	0	\$ 28,334.75	\$ 41,735.42	\$ 0.00
Inlets (Type C - L = 5')	\$ 259,700.00	19	17	13	\$ 100,700.00	\$ 90,100.00	\$ 68,900.00
Inlets (Type C - L = 10')	\$ 5,600.00	1	0	0	\$ 5,600.00	\$ 0.00	\$ 0.00
Inlets (Type A)(Entry Drive)	\$ 3,000.00	1	0	0	\$ 3,000.00	\$ 0.00	\$ 0.00
Storm Sewer Manholes (2 Pipes)	\$ 58,500.00	6	4	3	\$ 27,000.00	\$ 18,000.00	\$ 13,500.00
Storm Sewer Manhole (3 Pipes)	\$ 51,000.00	5	0	1	\$ 42,500.00	\$ 0.00	\$ 8,500.00
Storm Sewer Manholes (1 It. San. Sew.)	\$ 28,000.00	3	2	2	\$ 12,000.00	\$ 8,000.00	\$ 8,000.00
18" Storm Sewer (Under Pvmnt)	\$ 6,630.00	102	0	0	\$ 6,630.00	\$ 0.00	\$ 0.00
24" Storm Sewer (Under Pvmnt)	\$ 38,080.00	56	330	90	\$ 4,480.00	\$ 26,400.00	\$ 7,200.00
30" Storm Sewer (Under Pvmnt)	\$ 311,640.00	960	920	1060	\$ 101,760.00	\$ 97,520.00	\$ 112,360.00
36" Storm Sewer (Under Pvmnt)	\$ 101,286.00	302	160	200	\$ 46,206.00	\$ 24,480.00	\$ 30,600.00
42" Storm Sewer (Under Pvmnt)	\$ 272,650.00	110	350	870	\$ 22,550.00	\$ 71,750.00	\$ 178,350.00
48" Storm Sewer (Under Pvmnt)	\$ 171,250.00	455	230	0	\$ 113,750.00	\$ 57,500.00	\$ 0.00
54" Storm Sewer (Under Pvmnt)	\$ 65,520.00	112	70	0	\$ 40,320.00	\$ 25,200.00	\$ 0.00
5' x 4' Box Culvert (Under Pvmnt)	\$ 257,000.00	294	220	0	\$ 147,000.00	\$ 110,000.00	\$ 0.00
7' x 4' Box Culvert (Outfall to Pond)	\$ 143,500.00	205	0	0	\$ 143,500.00	\$ 0.00	\$ 0.00
18" HDPE ( From perimeter Swale to CR 44)	\$ 5,200.00	40	40	0	\$ 2,600.00	\$ 2,600.00	\$ 0.00
24" Storm Sewer (Grass)	\$ 11,600.00	145	0	0	\$ 11,600.00	\$ 0.00	\$ 0.00
24" Storm Sewer (Grass) (Outfall from Detention)	\$ 11,700.00	130	0	0	\$ 11,700.00	\$ 0.00	\$ 0.00
42" Storm Sewer (Grass)	\$ 79,920.00	444	0	0	\$ 79,920.00	\$ 0.00	\$ 0.00
Storm Sewer Plug (All Sizes)	\$ 2,933.60	4	2	2	\$ 1,466.80	\$ 733.40	\$ 733.40
Storm Water Pollution Prevention Plan	\$ 46,137.30	1	1	1	\$ 15,379.10	\$ 15,379.10	\$ 15,379.10
4" Sch. 40 PVC Conduits (4 Locations)	\$ 5,885.00	180	180	180	\$ 1,962.00	\$ 1,962.00	\$ 1,962.00
<b>TOTAL AMOUNT ON BID</b>	<b>\$ 8,254,025.59</b>				<b>\$ 3,502,804.17</b>	<b>\$ 2,261,875.57</b>	<b>\$ 2,038,925.35</b>

**EXHIBIT F**

**CONSENT AND AGREEMENT OF LANDOWNERS**

This Consent and Agreement of Landowner is issued by \_\_\_\_\_, as the landowner (the “Landowner”) who holds record title to all property located within The Austin Colony (PID No. 3) Public Improvement District (the “PID”) created by the City of Angleton pursuant to a petition of Landowner. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in the City’s ordinance levying assessments on property within the PID, dated \_\_\_\_\_, 2021, including the Service and Assessment Plan and Assessment Roll attached thereto (the “Assessment Ordinance”). [TO BE EXECUTED PRIOR TO THE LEVY OF ASSESSMENTS FOR EACH SERIES OF BONDS WITH EACH PID]

Landowner hereby declare and confirm that they hold record title to all property in the PID which are subject to the Assessment Ordinances, as set forth on Exhibit A. Further, Landowner hereby ratifies, declares, consents to, affirms, agrees to and confirms each of the following:

1. The creation and boundaries of the PID, the boundaries of each Assessed Property, and the Public Improvements for which the Assessments are being made, as set forth in the Service and Assessment Plan.
2. The determinations and findings as to benefits by the City in the Assessment Ordinance and the Service and Assessment Plan.
3. The Assessment Ordinance and the Service and Assessment Plan and Assessment Roll.
4. The right, power and authority of the City Council to adopt the Assessment Ordinances and the Service and Assessment Plans and Assessment Roll.
5. Each Assessment levied on each Assessed Property as shown in the Service and Assessment Plan (including interest and Administrative Expenses as identified in the Service and Assessment Plan and as updated from time to time as set forth in the Service and Assessment Plan).
6. The Authorized Improvements specially benefit the Assessed Property in an amount in excess of the Assessment levied on each Assessed Property, as such Assessments are shown on the Assessment Roll.
7. Each Assessment is final, conclusive and binding upon such Landowners, regardless of whether such Landowners may be required to pay Assessments under certain circumstances pursuant to the Service and Assessment Plan.
8. The then-current owner of each Assessed Property shall pay the Assessment levied on the Assessed Property owned by it when due and in the amount required by and stated in the Service and Assessment Plan and the Assessment Ordinance.

9. Delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act.
10. The "Annual Installments" of the Assessments may be adjusted, decreased and extended in accordance with the Service and Assessment Plan, and the then-current owner of each Assessed Property shall be obligated to pay its revised amounts of the Annual Installments, when due, and without the necessity of further action, assessments or reassessments by the City.
11. All notices required to be provided to it under the PID Act have been received and to the extent of any defect in such notice, Landowners hereby waive any notice requirements and consents to all actions taken by the City with respect to the creation of the PID and the levy of the Assessments.
12. That the resolution creating the PID, the Ordinance levying the Assessments, the Service and Assessment Plan and a Notice of Creation of Special Assessment District and Imposition of Special Assessment to be provided by the City, shall be filed in the records of the County Clerk of Harris County, with copies of the recorded documents delivered to the City promptly after receipt thereof by the recording party, as a lien and encumbrance against the Assessed Property.
13. Each Assessed Property owned by the Landowner identified in the Service and Assessment Plan and Assessment Roll are wholly within the boundaries of the PID.
14. There are no Parcels owned by the Landowners within the boundaries of the PID that are not identified in the Service and Assessment Plan and the Assessment Roll.
15. Each Parcel owned by the Landowners identified in the Service and Assessment Plan and Assessment Roll against which no Assessment has been levied was Non-Benefited Property as of \_\_\_\_\_, 20\_\_.

Originals and Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

*[Execution page follows]*

IN WITNESS WHEREOF, the undersigned has caused this Agreement and Consent of Landowner to be executed as of \_\_\_\_\_, 20[22].

\_\_\_\_\_,  
By:

COUNTY OF HARRIS     §  
                                  §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, as, \_\_\_\_\_ company on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas

**EXHIBIT G****FORM OF PAYMENT CERTIFICATE**

PAYMENT CERTIFICATE NO. \_\_\_\_\_

Reference is made to that certain Indenture of Trust by and between the City and the Trustee dated as of \_\_\_\_\_ (the "Indenture") relating to the "City of Angleton, Texas, Special Assessment Revenue Bonds, Series 20\_\_ (The Austin Colony (PID No. 3) Public Improvement District Project)" (the "Bonds"). Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the \_\_\_\_\_, Texas \_\_\_\_\_ (the "Developer") and requests payment to the Developer (or to the person designated by the Developer) from:

\_\_\_\_\_ the Public Improvement Account of the Project Fund  
 from \_\_\_\_\_, N.A., (the "Trustee"), in the amount of \_\_\_\_\_  
 (\$\_\_\_\_\_) for the reimbursement of the costs of labor, materials, fees, and/or other general costs related to the creation, acquisition, or construction of certain Public Improvements providing a special benefit to property within the Austin Colony (PID No. 3) Public Improvement District.

In connection with the above referenced payment, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Certificate for Payment Form on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The itemized payment requested for the below referenced Public Improvements has not been the subject of any prior payment request submitted for the same work to the City or, if previously requested, no disbursement was made with respect thereto.
3. The itemized amounts listed for the Public Improvements below is a true and accurate representation of the Public Improvements associated with the creation, acquisition, or construction of said Public Improvements and such costs (i) are in compliance with the Development Agreement, and (ii) are consistent with and within the cost identified for such Public Improvements as set forth in the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Development Agreement, the Indenture, and the Service and Assessment Plan.
5. The Developer has timely paid all ad valorem taxes and Annual Installments of Public Assessments it owes or an entity the Developer controls owes, located in the Austin Colony (PID No. 3) Public Improvement District and has no outstanding delinquencies for such Public Assessments.
6. All conditions set forth in the Indenture and the Development Agreement for the payment hereby requested have been satisfied.



7. The work with respect to Public Improvements referenced below has been completed; and the City has inspected and accepted such Public Improvements.

8. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

**Payments requested are as follows:**

<b>Payee / Description of Public Improvement</b>	<b>Total Cost Public Improvement</b>	<b>Budgeted Cost of Public Improvement</b>	<b>Amount requested be paid from the Public Improvement Account</b>	<b>Amount requested to be paid from the Developer Improvement Account</b>

Attached hereto are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments. Also attached hereto are "bills paid" affidavits and supporting documentation in the standard form for City construction projects.

Pursuant to the Development Agreement, after receiving this payment request, the City has inspected the Public Improvements and confirmed that said work has been completed in accordance with approved plans and all applicable governmental laws, rules, and regulations and has accepted such Public Improvements.

**Payments requested hereunder shall be made to the Developer as directed below:**

- a. Payment instructions

I hereby declare that the above representations and warranties are true and correct.

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVAL OF REQUEST**

The City is in receipt of the attached Certificate for Payment, acknowledges the Certificate for Payment, and finds the Certificate for Payment to be in order. After reviewing the Certificate for Payment, the City approves the Certificate for Payment and authorizes and directs payment of the amounts set forth below by Trustee from the Project Fund to the Developer as directed on such Certificate for Payment. The City's approval of the Certificate for Payment shall not have the effect of estopping or preventing the City from asserting claims under the Development Agreement, the Reimbursement Agreement, the Indenture, the Service and Assessment Plan, or any other agreement between the parties or that there is a defect in the Public Improvements.

Amount of Payment Certificate Request	Amount to be Paid by Trustee from Improvement Account	Amount to be paid by Trustee from Developer Improvement Account
\$ _____	\$ _____	\$ _____

**CITY OF ANGLETON, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT H**

**FORM OF CLOSING DISBURSEMENT REQUEST**

The undersigned is an agent for \_\_\_\_\_, (the "Developer") and requests payment from:

[the Cost of Issuance Account of the Project Fund][the Improvement Account of the Project Fund] from \_\_\_\_\_, (the "Trustee") in the amount of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) for costs incurred in the establishment, administration, and operation of the Austin Colony (PID No. 3) Public Improvement District (the "District"), as follows:

<b>Closing Costs Description</b>	<b>Cost</b>	<b>PID Allocated Cost</b>
<b>TOTAL</b>		

In connection to the above referenced payments, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Closing Disbursement Request on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the above referenced establishment, administration, and operation of the District at the time of the delivery of the Bonds has not been the subject of any prior payment request submitted to the City.
3. The amount listed for the below itemized costs is a true and accurate representation of the Actual Costs incurred by Developer with the establishment of the District at the time of the delivery of the Bonds, and such costs are in compliance with and within the costs as set forth in the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Development Agreement, the Indenture, and the Service and Assessment Plan.
5. All conditions set forth in the Indenture for the payment hereby requested have been satisfied.
6. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

**Payments requested hereunder shall be made to the Developer as directed below:**

b. Payment instructions

I hereby declare that the above representations and warranties are true and correct.

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVAL OF REQUEST**

The City is in receipt of the attached Closing Disbursement Request, acknowledges the Closing Disbursement Request, and finds the Closing Disbursement Request to be in order. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request to the extent set forth below and authorizes and directs payment by Trustee in such amounts and from the accounts listed below, to the Developer or other person designated by the Developer herein.

Closing Costs	Amount to be Paid by Trustee from Cost of Issuance Account	Amount to be paid by Trustee from Improvement Account
\$ _____	\$ _____	\$ _____

**CITY OF ANGLETON, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT I****HOME OR PROPERTY BUYER DISCLOSURE PROGRAM**

The Developer (as defined in the Service and Assessment Plan) for the Austin Colony (PID No. 3) Public Improvement District (the "PID") shall facilitate notice to prospective homebuyers in accordance with the following minimum requirements:

1. Record notice of the PID in the appropriate land records for the Property.
2. Require homebuilders to attach the Recorded Notice of the Authorization and Establishment of the PID and the final Assessment Roll for such Assessed Parcel (or if the Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30-year payment for such Assessed Parcel) in an addendum to each residential homebuyer's contract on brightly colored paper.
3. Collect a copy of the addendum signed by each buyer from homebuilders and provide to the City.
4. Require signage indicating that the Property for sale is located in a special assessment district and require that such signage be located in conspicuous places in all model homes.
5. Prepare and provide to homebuilders an overview of the existence and effect of the PID for those homebuilders to include in each sales packet of information that it provides to prospective homebuyers.
6. Notify homebuilders who estimate monthly ownership costs of the requirement that they must include special assessments in estimated Property taxes.
7. Notify Settlement Companies through the homebuilders or cause the homebuilders to notify settlement companies that they are required to include special taxes on HUD 1 forms and include in total estimated taxes for the purpose of setting up tax escrows.
8. Include notice of the PID in the homeowner association documents in conspicuous bold font.

The Developer shall regularly monitor the implementation of this disclosure program and shall take appropriate action to require these notices to be provided when one of them discovers that any requirement is not being complied with.

**EXHIBIT J**

**AMENITIES**

- Entry monument, playground with equipment, planted, aerated; to be completed with Section 1.
- Austin Colony Blvd. and Tigner Street will have premium wooden fence with vegetation, irrigation and lighting
- reflective pond at Tigner Street / Austin Colony Blvd.

Item 12.

CITY OF ANGLETON										
FISCAL BUDGET YEAR										
OCT. 1, 2022 TO SEPT. 30, 2023	Link									
GENERAL	01									
ADMIN DEPARTMENT	500									
					# OF MONTHS					
					8	LINKED TO INPUT				
PERSONNEL SERVICES										
DEPARTMENT	ACCT	ACCT DESC.	LAST YEAR	CURRENT BUDGET	YTD	PROJECTED	COMMENTS	REQUESTED BUDGET	% CHG. BUD	COMMENTS
500	105	SALARIES	\$200,547	\$134,653	\$117,416	\$159,848		\$166,925	24%	
500	115	LONGEVITY	\$0	\$60	\$60	\$60		\$120	100%	
500	125	AUTO ALLOWANCE	\$10,177	\$7,200	\$4,708	\$7,200		\$7,200	0%	
500	135	FICA	\$13,321	\$10,857	\$9,325	\$12,228		\$13,330	23%	
500	140	HEALTH INSURANCE	\$8,522	\$27	\$41	\$41		\$27	0%	
500	141	INS. SUBSIDY	(\$77)	\$0	\$0	\$0		\$0		
500	143	MERIT PAY	\$60	\$0	\$0	\$0		\$0		
500	145	WORKERS COMP	\$0	\$425	\$343	\$424	TML INSURANCE	\$425	0%	TML INSURANCE
500	155	RETIREMENT	\$18,690	\$17,001	\$14,127	\$19,710		\$20,753	22%	
500	185	PAYROLL ACCRUAL	(\$1,602)	\$0	\$0	\$0		\$0		
TOTAL PERSONNEL SERVICES			\$249,638	\$170,223	\$146,020	\$199,511		\$208,780	23%	
			% CHANGE	-32%		17%		5%		
SUPPLIES										
DEPARTMENT	ACCT	ACCT DESC.	LAST YEAR	CURRENT BUDGET	YTD	PROJECTED	COMMENTS	REQUESTED BUDGET	% CHG. BUD	COMMENTS
500	203	APPAREL	\$599	\$1,000	\$910	\$1,000		\$1,000	0%	
500	205	GENERAL SUPPLIES	\$1,813	\$7,100	\$2,946	\$4,419		\$5,000	-30%	
TOTAL SUPPLIES			\$2,412	\$8,100	\$3,856	\$5,419		\$6,000	-26%	
			% CHANGE	236%		-33%				
REPAIR & MAINTENANCE										
DEPARTMENT	ACCT	ACCT DESC.	LAST YEAR	CURRENT BUDGET	YTD	PROJECTED	COMMENTS	REQUESTED BUDGET	% CHG. BUD	COMMENTS
500	305	R&M VEHICLES	\$0	\$500	\$0	\$0		\$0		
TOTAL REPAIRS AND MAINT.			\$0	\$500	\$0	\$0		\$0		
			% CHANGE	#DIV/0!		-100%		#DIV/0!		
SERVICES										
DEPARTMENT	ACCT	ACCT DESC.	LAST YEAR	CURRENT BUDGET	YTD	PROJECTED	COMMENTS	REQUESTED BUDGET	% CHG. BUD	COMMENTS
500	405	PHONES	\$1,072	\$1,300	\$555	\$833		\$1,300	0%	
500	415	LEGAL / PROFESSIONAL	\$232,377	\$63,589	\$63,976	\$125,000		\$125,000	97%	BUDGET AMENDMENT
500	416	MANUALS	\$0	\$0	\$0	\$0		\$0		
500	417	CONSULTING FEES	\$33,539	\$75,000	\$16,213	\$38,000		\$40,000	-47%	BUDGET AMENDMENT
500	419	ATTORNEY FEES	\$342,471	\$215,000	\$139,860	\$197,000		\$200,000	-7%	BUDGET AMENDMENT
500	420	DUES/SUBSCRIPTIONS	\$11,278	\$10,000	\$3,352	\$4,292		\$5,000	-50%	BUDGET AMENDMENT
500	421	RENT	\$269	\$1,000	\$0	\$0		\$0		
500	422	CITY CONNECT	\$6,529	\$0	\$0	\$0		\$0		Cancel Contract
500	425	TRAVEL/TRAINING	\$6,076	\$7,500	\$7,635	\$7,605		\$12,000	60%	BUDGET AMENDMENT

Item 12.

CITY OF ANGLETON										
FISCAL BUDGET YEAR										
OCT. 1, 2022 TO SEPT. 30, 2023	Link									
GENERAL	01									
ADMIN DEPARTMENT	500									
500	445	SPECIAL SERVICES	\$18,302	\$0	\$0	\$0		\$0		EMS, LIBRARY, FOOD PANTRY WATER BILL
500	446	LIBRARY CONTRIBUTION	\$32,500	\$0	\$32,500	\$32,500		\$0		
500	447	EMS CONTRIBUTION	\$78,000	\$0	\$0	\$0		\$0		
500	455	CONTRACT LABOR	\$26,961	\$39,000	\$24,809	\$25,000		\$25,000		PATTY SWORDS - GRANT ADMIN
500	459	REGIONAL TRANSPORT	\$41,080	\$0	\$0	\$0		\$0		
<b>TOTAL SERVICES</b>			\$830,454	\$412,389	\$288,900	\$430,230		\$408,300	-1%	
			% CHANGE	-50%		4%		-5%		
<b>MISCELLANEOUS</b>										
<b>DEPARTMENT</b>	<b>ACCT</b>	<b>ACCT DESC.</b>	<b>LAST YEAR</b>	<b>CURRENT BUDGET</b>	<b>YTD</b>	<b>PROJECTED</b>	<b>COMMENTS</b>	<b>REQUESTED BUDGET</b>	<b>% CHG. BUD</b>	<b>COMMENTS</b>
500	503	SURETY/NOTARY FEES	\$350	\$0	\$0	\$0		\$0		
500	511	TUITION REIMBURSEMENT	\$0	\$0	\$2,000	\$2,000		\$0		BUDGET AMENDMENT
500	513	PEDDLER PERMIT SUPPLY	\$206	\$0	\$0	\$0		\$0		
500	599	MISCELLANEOUS	\$1,319	\$3,000	\$4,143	\$4,143		\$3,000	0%	BUDGET AMENDMENT
<b>TOTAL MISCELLANEOUS</b>			\$1,875	\$3,000	\$6,143	\$6,143		\$3,000	0%	
			% CHANGE	60%		105%		-51%		
<b>TOTAL DEPARTMENT</b>			\$1,084,379	\$594,212	\$444,919	\$641,303		\$626,080	5%	
			% CHANGE	-45%		8%		-2%		



CITY OF ANGLETON													
FISCAL BUDGET YEAR													
OCT. 1, 2022 TO SEPT. 30, 2023													
GENERAL	01												
ADMIN DEPARTMENT	500												

PAYROLL														
				ACCOUNT	105	105	110	115	125	126	128	143		
							1%	LINKED TO INPUT						

	EMPLOYEE NAME	POSITION	HIRE DATE	HOUR RATE	ANNUAL SALARY	TOTAL SALARY	WORK HOLIDAYS	OVER TIME	LONGEVITY	AUTO ALLOW	CERTIFICATION	SPECIAL JOB PAY	PHONE ALLOW	TOTAL PAY	COMMENTS
1	CHRIS WHITTAKER	CITY MANAGER	7/6/2020		\$160,505	\$166,925		\$0	\$120	\$7,200	\$0		\$0	\$174,245	
2						\$0			\$0				\$0	\$0	
3						\$0			\$0				\$0	\$0	
<b>TOTAL PAYROLL</b>						\$166,925	\$0	\$0	\$120	\$7,200	\$0	\$0	\$0	\$174,245	

# OF PEOPLE FOR HEALTH INSURANCE	RATE (LINKED TO INPUT)		
EMPLOYEES	0	\$1,077.81	\$0
SPOUSE ONLY	0	\$232.12	\$0
CHILDREN ONLY	0	\$176.97	\$0
FAMILY ONLY	0	\$348.04	\$0
DENTAL	0	\$30.15	\$0
LIFE	1	\$2.25	\$27
VISION	0	\$1.82	\$0
		<b>TOTAL</b>	<b>\$27</b>

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT BETWEEN CITY OF ANGLETON, TEXAS AND  
TEJAS-ANGLETON DEVELOPMENT, LLC**

This First Amendment to Development Agreement (“First Amendment”) is made and entered into by the City of Angleton, Texas (the “City”) and Tejas-Angleton Development, LLC (“Developer”), is dated effective July 25, 2023 (“Effective Date”) and amends the Development Agreement between City of Angleton, Texas and Tejas-Angleton Development, LLC (“Development Agreement”) executed and adopted on June 14, 2022.

**RECITALS**

**WHEREAS**, Developer is the owner of approximately 164.5 acres of land located within the corporate limits of the City, and more particularly described on Exhibit “A”: (the “Property”) to Ordinance 20230110-009 attached and incorporated herein as Exhibit “AA”, and

**WHEREAS**, the City Council approved the Development Agreement, dated June 14, 2022 concerning the development of 164.5 acres located in the City on the north side of Anchor Road (CR 44) approximately 2,000 feet northwest of W. Wilkins Street; and

**WHEREAS**, Developer plans a mixed-use development with single-family homes and a commercial/retail development to be known as Austin Colony (the “Project”) as depicted on the Land Plan of Austin Colony attached hereto as Exhibit “B” to Ordinance 20230110-009 (Exhibit “BB”) and incorporated herein by reference (the “Land Plan”); and

**WHEREAS**, the said Property presently has a zoning classification of Planned Development (PD) District No. 3 pursuant to Ordinance Number 20210810-008 and Ordinance 20220222-016 portions of which were revised and repealed by the City Council adoption of Ordinance 20230110-009 on January 24, 2023; and

**WHEREAS**, the City and Developer desire to modify and amend the Development Agreement as set forth in this First Amendment to include provisions that include revisions to the Land Plan authorized and adopted pursuant to Ordinance No. 20230110-009 more particularly described on Exhibit “BB” attached to this First Amendment.

**WHEREAS**, upon the satisfaction of the conditions and in accordance with the terms set forth in this agreement, the City intends to levy Assessments on all benefitted Property located within the PID and issue PID Bonds up to a maximum aggregate principal amount of \$30,000,000.00 for payment or reimbursement of the Public Improvements included in the SAP; and

**NOW THEREFORE** for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration the City and the Developer hereby agree as follows:

- 1. Incorporation of Recitals. The recitals set forth above are incorporated herein and made a part of this First Amendment to the same extent as if set forth herein.

2. The sections and provisions of the Development Agreement set forth below in this First Amendment serve to amend and revise the Development Agreement.
3. The Parties agree the Land Plan shall be the Land Plan that is described in Exhibit “B” to Ordinance No. 20230110-009 and is attached as Exhibit BB to this First Amendment. And such Land Plan replaces Exhibit B to the original Development Agreement.
4. **The following definitions are hereby deleted and replaced in their entirety with the following:**

“Improvement Area A” consists of Sections 1A, 1B, 2A, 2B.

“Improvement Area B” consists of Sections 3, 4, 5.

“Improvement Area C” consists of Sections 6, 7, 8 and 9, if Section 9 is developed into single-family residential lots.

“Improvement Area A Public Improvement Financing Date” means the date the City either (i) approves a Bond Purchase Agreement and sells the first of a series of PID Bonds for Sections 1A, 1B, 2A, and 2B of the Property, or (ii) levies and assessments on Sections 1A, 1B, 2A, 2B of the Property and enters into a Reimbursement Agreement; such date to be no later than January 1, 20225, which date may be extended by written agreement of the Developer and the City.

“Improvement Area B Public Improvement Financing Date” means the date the City either (i) approves a Bond Purchase Agreement and sells the first of a series of PID Bonds for Sections 3, 4, and 5 of the Property, or (ii) levies and assessments on Sections 3, 4 and 5 of the Property and enters into a Reimbursement Agreement, such date to be no later than January 1, 2025, which date may be extended by written agreement of the Developer and the City.

“Improvement Area C Public Improvement Financing Date” means the date the City either (i) approves a Bond Purchase Agreement and sells the first of a series of PID Bonds for Sections 6, 7, 8 and 9 (if 9 is developed into single-family residential lots) of the Property, or (ii) levies and assessments on Sections 6, 7, 8 and 9 (if 9 is developed into single-family residential lots) of the Property and enters into a Reimbursement Agreement, such date to be no later than January 1, 2025, which date may be extended by written agreement of the Developer and the City.

“Section” means a section of development of the Property. The Development will consist of nine (9) Sections.

“Phasing Plan” means that plan for the development of Property in Sections as set forth in the Land Plan.

“Section 1A” means the first Section of development in Improvement Area A of the PID consisting of 50 single family lots, as depicted on the Land Plan.

“Section 1B” means the second Section of development in Improvement Area A of the PID consisting of 50 single family lots, as depicted on the Land Plan.

“Section 2A” means the third Section of development in Improvement Area of the PID consisting of 53 single family lots, as depicted on the Land Plan.

“Section 2B” means the fourth Section of development in Improvement Area A of the PID consisting of 42 single family lots, as depicted on the Land Plan.

“Section 3” means the first Section of development in Improvement Area B of the PID consisting of 56 single family lots, as depicted on the Land Plan.

“Section 4” means the second Section of development in Improvement Area B of the PID consisting of 61 single family lots, as depicted on the Land Plan.

“Section 5” means the third Section of development in Improvement Area B of the PID consisting of 62 single family lots, as depicted on the Land Plan.

“Section 6” means the fourth Section of development in Improvement Area C of the PID consisting of 41 single family lots, as depicted on the Land Plan.

“Section 7” means the first Section of development in Improvement Area C of the PID consisting of 50 single family lots, as depicted on the Land Plan.

“Section 8” means the second Section of development in Improvement Area C of the PID consisting of 43 single family lots, as depicted on the Land Plan.

“Section 9”, means the third Section of development in Improvement Area C of the PID consisting of 54 single family lots, as depicted on the Land Plan, if Section 9 is developed into single-family residential lots.

**5. Section 2.02(a) Project Overview – The Development is hereby deleted and replaced in its entirety with the following:**

- (a) The Developer will undertake or cause the undertaking of the design, development, construction, maintenance, management, use and operation of the Development, and will undertake the design, development and construction of the Public Improvements. The Development will consist of the following elements:
  - (i) No more than 562 single family homes;
  - (ii) Commercial development as allowed by City Regulations;

(iii) Amenities attached as Exhibit J as may be amended or modified if approved by the City.

6. Section 2.05 Lot Dimensions and Development is hereby deleted and replaced in its entirety with the following:

2.05 Lot Dimensions and Development. The lots shall be the size depicted on the Land Plan, approximately 120 feet in length, with the front width of each lot as set forth below:

SECTIONS AND LOTS SUMMARY				
SECTION	LOT WIDTH 50 FEET	LOT WIDTH 55 FEET	LOT WIDTH 60 FEET	SECTION LOT TOTAL
1A	28		22	50
1B	50			50
2A	22	27	4	53
2B		42		42
3		47	9	56
4		61		61
5		38	24	62
6			41	41
7			50	50
8			43	43
9			54	54
LOT SIZE TOTAL	100	215	247	562
SIZE %	17.79%	38.26%	43.95%	100%

7. Section 2.09 Construction of Tigner Street. is hereby deleted and replaced in its entirety with the following:

Section 2.09 Construction of Tigner Street. Tigner Street shall be constructed a minimum of 24 feet wide in each direction with a 6-foot wide median, concrete pavement with curb, gutter and sidewalk on both sides of the street, and turn lanes, from the existing end of pavement of Tigner Street behind Walmart to the western property line of property. Construction of Tigner Street shall be completed as part of Sections 1B, 3, 4 and 6. Plans for the construction of Tigner Street shall be submitted and approved as part of the subdivision process for Sections 1B, 3, 4 and 6.

8. Section 2.10 Construction of Austin Colony Boulevard is hereby deleted and replaced in its entirety with the following:

Section 2.10 Construction of Austin Colony Boulevard. Austin Colony Boulevard shall be constructed a minimum of 50 feet wide, concrete pavement with curb, gutter and

sidewalk from CR 44 to the entry of Section 1A and Section 3. A divided entry shall be constructed as part of Section 1A.

**9. Section 2.20 Fees-in-Lieu is hereby deleted and replaced in its entirety with the following:**

Section 2.20 Fees-in-Lieu. The Developer agrees to pay a City fee in lieu of dedication of park acres in the amount of Five Hundred and Seventy-Five Dollars (\$575.00) per lot. The fee for each Section shall be paid to the City prior to recording any final plat of the Project, as set forth in Sec. 23-20 of the Angleton Code of Ordinances. The fee for each Section shall be paid to the City at the filing of the Final Plat for the lots included in the Final Plat for each section.

<b>Sections</b>	<b>Number of Lots</b>	<b>Park Fee-in-Lieu</b>
1A	50	\$28,750
1B	50	\$28,750
2A	53	\$30,475
2B	42	\$24,150
3	56	\$32,200
4	61	\$35,075
5	62	\$35,650
6	41	\$23,575
7	50	\$28,750
8	43	\$24,725
9	54	\$31,050
<b>TOTAL</b>	<b>562</b>	<b>\$323,150</b>

**10. Section 2.21 Sewer CAF is hereby deleted and replaced in its entirety with the following:**

Section 2.21. Sewer CAF. Developer agrees to pay a Sewer CAF. The Sewer CAF is Eight Hundred Fifty and 55/100 dollars (\$850.55) per lot, which is the amount set forth in the Capacity Acquisition Fee Memo attached hereto as **Exhibit "C"**. The fee for each Section shall be paid to the City at the filing of the Final Plat for the lots included in the Final Plat for each Section.

<b>Sections</b>	<b>Number of Lots</b>	<b>Sewer CAF</b>
1A	50	\$42,527.50
1B	50	\$42,527.50
2A	53	\$45,079.15
2B	42	\$35,723.10
3	56	\$47,630.80
4	61	\$51,883.55
5	62	\$52,734.10
6	41	\$34,872.55

7	50	\$42,527.50
8	43	\$36,573.65
9	54	\$45,929.70
<b>Total</b>	<b>562</b>	<b>\$478,009.10</b>

**11. Section 2.22 Water CAF is hereby deleted and replaced in its entirety with the following:**

Section 2.22. Water CAF. Developer agrees to pay a Water CAF. The Water CAF is five hundred thirty-six and 70/100 (\$536.70) per lot. The Water CAF for each Section shall be paid to the City at the filing of the Final Plat for the lots included in the Final Plat for each Section. The City agrees to provide Water Service for the full build-out of the Project.

<b>Sections</b>	<b>Number of Lots</b>	<b>Water CAF</b>
1A	50	\$26,835.00
1B	50	\$26,835.00
2A	53	\$28,445.10
2B	42	\$22,541.40
3	56	\$30,055.20
4	61	\$32,738.70
5	62	\$33,275.40
6	41	\$22,004.70
7	50	\$26,835.00
8	43	\$23,078.10
9	54	\$28,981.80
<b>TOTAL</b>	<b>562</b>	<b>\$301,625.40</b>

**12. Section 2.23 Fencing is hereby deleted and replaced in its entirety with the following:**

Section 2.23. Fencing. Developer agrees to install premium perimeter fencing, stained and crowned, (a) along the back property lines of all lots along Tigner Street, (b) a portion of the fence in Section 1A, 2B and 3, and (c) along the C.R. 44 frontage in areas shown on Exhibit D, Fencing Plan attached. All perimeter fencing shall be maintained by the HOA. Perimeter fencing shall not be installed within any street intersection sight triangles. All fencing for each proposed development Section shall be installed prior to the occupancy of each residence in that Section.

**13. Section 12.01 the name and address for notice to the Developer is hereby deleted and replaced in its entirety with the following:**

Section 12.01. Notices.

To the Developer: Tejas Angleton Development, LLC  
Attn: Wayne L. Rea, II  
5454 Newcastle Drive, Unit 1101  
Houston, Texas 77081  
Telephone: (713) 993-6453  
Email: [waynerea@swbell.net](mailto:waynerea@swbell.net)

- 14. **Ratification.** The Parties acknowledge and agree that, except as amended herein, the Agreement is in full force and effect and is hereby ratified and confirmed. Notwithstanding the foregoing, in the event there is any conflict between the terms and provisions of the Agreement and this Amendment, the terms and provisions of this Amendment shall control.
  
- 15. **Severability.** In case any one or more of the provisions contained in this Amendment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Amendment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
  
- 16. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.
  
- 17. **Amendments.** This Amendment may only be amended by a written agreement executed by both Parties.
  
- 18. **Entire Agreement.** This Amendment contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any or all representations or modifications concerning this instrument shall be of no force and effect except for a subsequent modification in writing signed by the Parties hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. EXECUTION PAGES FOLLOW.]



E.M.

IN WITNESS WHEREOF, this instrument is executed and effective on the 7<sup>th</sup> day of August, 2023.

DEVELOPER  
TEJAS-ANGLETON DEVELOPMENT, LLC  
A Texas Limited Liability Company

Wayne L. Rea II  
Wayne L. Rea, II  
Title: Manager  
Date: 8-7-2023

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

August This instrument was acknowledged before me, the undersigned authority, this 7 day of ~~July~~, 2023, by Wayne L. Rea, II, of TEJAS-ANGLETON DEVELOPMENT, LLC, a Texas Limited Liability Company, on behalf of said entity.  
E.M.

Ezekial Martinez  
Notary Public, State of Texas



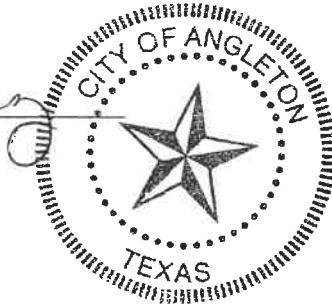
IN WITNESS WHEREOF, this instrument is executed and effective on the \_\_\_\_ day of July, 2023.

CITY OF ANGLETON, TEXAS

John Wright  
John Wright  
Title: Mayor  
Date: 8/17/23

ATTEST:

By: Michelle Perez  
Michelle Perez, City Secretary

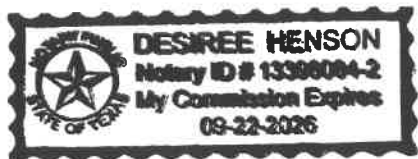


APPROVED:

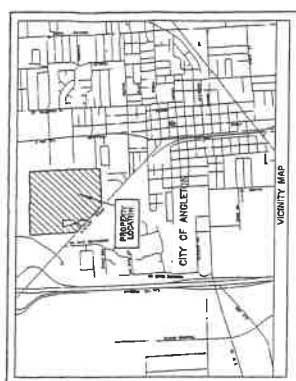
[Signature]  
City Attorney  
Randle Law Office, Ltd., L.L.P.

THE STATE OF TEXAS   §  
  §  
COUNTY OF BRAZORIA   §

This instrument was acknowledged before me, the undersigned authority, this 17 day of ~~July~~ August, 2023, by John Wright of the City of Angleton, Texas.



Desiree Henson  
Notary Public, State of Texas



**NOTES:**

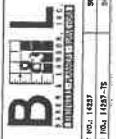
1. THIS SURVEY WAS PERFORMED WITH THE ASSISTANCE OF A FURNISHED AND THE BOUNDARIES THEREOF ARE SHOWN BY THE BOUNDARIES OF THE SURVEYED PROPERTY. THE BOUNDARIES OF THE SURVEYED PROPERTY ARE SHOWN BY THE BOUNDARIES OF THE SURVEYED PROPERTY. THE BOUNDARIES OF THE SURVEYED PROPERTY ARE SHOWN BY THE BOUNDARIES OF THE SURVEYED PROPERTY.
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FOR THE TEXAS LAND COMPANY, A TEXAS CORPORATION AND CLAIM TITLE REFERENCE:  
 JOHN R. BERRY, JR., REGISTERED PROFESSIONAL SURVEYOR  
 1102 N. W. 10TH ST., SUITE 100  
 HOUSTON, TEXAS 77002  
 LICENSE NO. 10283



**LAND TITLE SURVEY**  
 164.50 ACRES  
 BEING 168.97 ACRES SAUV. AND EXCEPT 2.472 ACRES  
 LOTS 74, 80, 81, 82 AND 83 AND PORTION OF LOTS 73, 75,  
 76, 77 AND 84 OF NEW YORK AND TEXAS LAND COMPANY  
 SUBDIVISION  
 VOL. 26, PG. 140 B.C.D.R.  
 LOCATED IN THE  
 BRAZORIA COUNTY, TEXAS

J. DE J. VALDERAS SURVEY, ABSTRACT NO. 380  
 300 EAST CEDAR ST.  
 ANGLETON, TEXAS 77616  
 OFFICE PHONE: 409-426-1001  
 TELEPHONE: 409-426-1000  
 REG. NO. F-6225



PROJECT NO.: 1427  
 SCALE: 1" = 200'  
 DATE: 10/11/2020  
 SHEET NO.: 38  
 DRAWN BY: JH

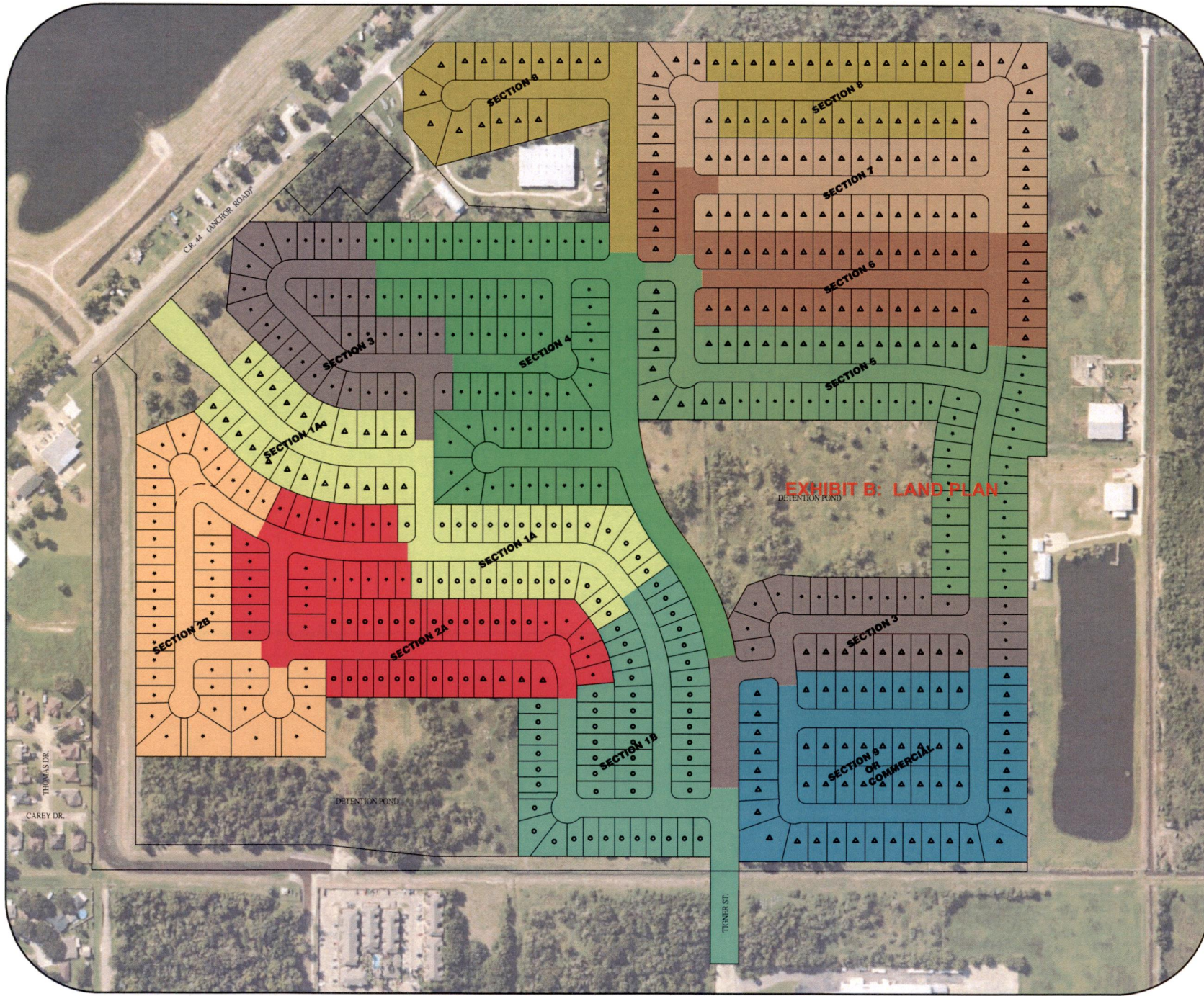
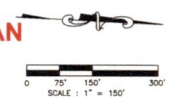
**Exhibit AA**  
**The Property**



- LEGEND**
- 1. 1" = 200'
  - 2. 1" = 100'
  - 3. 1" = 50'
  - 4. 1" = 25'
  - 5. 1" = 12.5'
  - 6. 1" = 6.25'
  - 7. 1" = 3.125'
  - 8. 1" = 1.5625'
  - 9. 1" = 0.78125'
  - 10. 1" = 0.390625'
  - 11. 1" = 0.1953125'
  - 12. 1" = 0.09765625'
  - 13. 1" = 0.048828125'
  - 14. 1" = 0.0244140625'
  - 15. 1" = 0.01220703125'
  - 16. 1" = 0.006103515625'
  - 17. 1" = 0.0030517578125'
  - 18. 1" = 0.00152587890625'
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  - 21. 1" = 0.00019073486328125'
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  - 25. 1" = 0.000011920928955078125'
  - 26. 1" = 0.0000059604644775390625'
  - 27. 1" = 0.00000298023223876953125'
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  - 38. 1" = 0.00000000145519152283668518059375'
  - 39. 1" = 0.000000000727595761418342590296875'
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  - 42. 1" = 0.000000000090949470177292817537109375'
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  - 47. 1" = 0.00000000000284217094304040429798035446875'
  - 48. 1" = 0.000000000001421085471520202148990177234375'
  - 49. 1" = 0.0000000000007105427357601010744950886171875'
  - 50. 1" = 0.0000000000003552713678800505372475442890625'
- SYMBOLS**
- 1. 1" = 200'
  - 2. 1" = 100'
  - 3. 1" = 50'
  - 4. 1" = 25'
  - 5. 1" = 12.5'
  - 6. 1" = 6.25'
  - 7. 1" = 3.125'
  - 8. 1" = 1.5625'
  - 9. 1" = 0.78125'
  - 10. 1" = 0.390625'
  - 11. 1" = 0.1953125'
  - 12. 1" = 0.09765625'
  - 13. 1" = 0.048828125'
  - 14. 1" = 0.0244140625'
  - 15. 1" = 0.01220703125'
  - 16. 1" = 0.006103515625'
  - 17. 1" = 0.0030517578125'
  - 18. 1" = 0.00152587890625'
  - 19. 1" = 0.000762939453125'
  - 20. 1" = 0.0003814697265625'
  - 21. 1" = 0.00019073486328125'
  - 22. 1" = 0.000095367431640625'
  - 23. 1" = 0.0000476837158203125'
  - 24. 1" = 0.00002384185791015625'
  - 25. 1" = 0.000011920928955078125'
  - 26. 1" = 0.0000059604644775390625'
  - 27. 1" = 0.00000298023223876953125'
  - 28. 1" = 0.000001490116119384765625'
  - 29. 1" = 0.0000007450580596923828125'
  - 30. 1" = 0.00000037252902984619140625'
  - 31. 1" = 0.000000186264514923095703125'
  - 32. 1" = 0.0000000931322574615478515625'
  - 33. 1" = 0.00000004656612873077392578125'
  - 34. 1" = 0.000000023283064365386962890625'
  - 35. 1" = 0.0000000116415321826934814453125'
  - 36. 1" = 0.00000000582076609134674072265625'
  - 37. 1" = 0.000000002910383045673370361328125'
  - 38. 1" = 0.00000000145519152283668518059375'
  - 39. 1" = 0.000000000727595761418342590296875'
  - 40. 1" = 0.0000000003637978807091712701484375'
  - 41. 1" = 0.00000000018189894035458563507421875'
  - 42. 1" = 0.000000000090949470177292817537109375'
  - 43. 1" = 0.0000000000454747350886464287685546875'
  - 44. 1" = 0.00000000002273736754432321438427734375'
  - 45. 1" = 0.0000000000113686837721616161719214171875'
  - 46. 1" = 0.0000000000056843418860808085959607089375'
  - 47. 1" = 0.00000000000284217094304040429798035446875'
  - 48. 1" = 0.000000000001421085471520202148990177234375'
  - 49. 1" = 0.0000000000007105427357601010744950886171875'
  - 50. 1" = 0.0000000000003552713678800505372475442890625'

Lot No.	Area (Acres)	Area (Sq. Ft.)
73	10.1250	697,200.00
74	10.1250	697,200.00
75	10.1250	697,200.00
76	10.1250	697,200.00
77	10.1250	697,200.00
78	10.1250	697,200.00
79	10.1250	697,200.00
80	10.1250	697,200.00
81	10.1250	697,200.00
82	10.1250	697,200.00
83	10.1250	697,200.00
84	10.1250	697,200.00
<b>Total</b>	<b>164.50</b>	<b>1,152,450.00</b>

**EXHIBIT B: LAND PLAN**



**LOT SUMMARY**

- SECTION 1A  
50 LOTS  
28-50', 22-60'
  - SECTION 1B  
50 LOTS  
50-50'
  - SECTION 2A  
53 LOTS  
22-50', 27-55', 4-60'
  - SECTION 2B  
42 LOTS  
42-55'
  - SECTION 3  
56 LOTS  
47-55', 9-60'
  - SECTION 4  
61 LOTS  
61-55'
  - SECTION 5  
62 LOTS  
38-55', 24-60'
  - SECTION 6  
41 LOTS  
41-60'
  - SECTION 7  
50 LOTS  
50-60'
  - SECTION 8  
43 LOTS  
43-60'
  - SECTION 9  
COMMERCIAL  
RESERVE  
OR 54-60' LOTS
- 50' LOTS  
\* 55' LOTS  
▲ 60' LOTS

**TOTAL LOTS**  
562

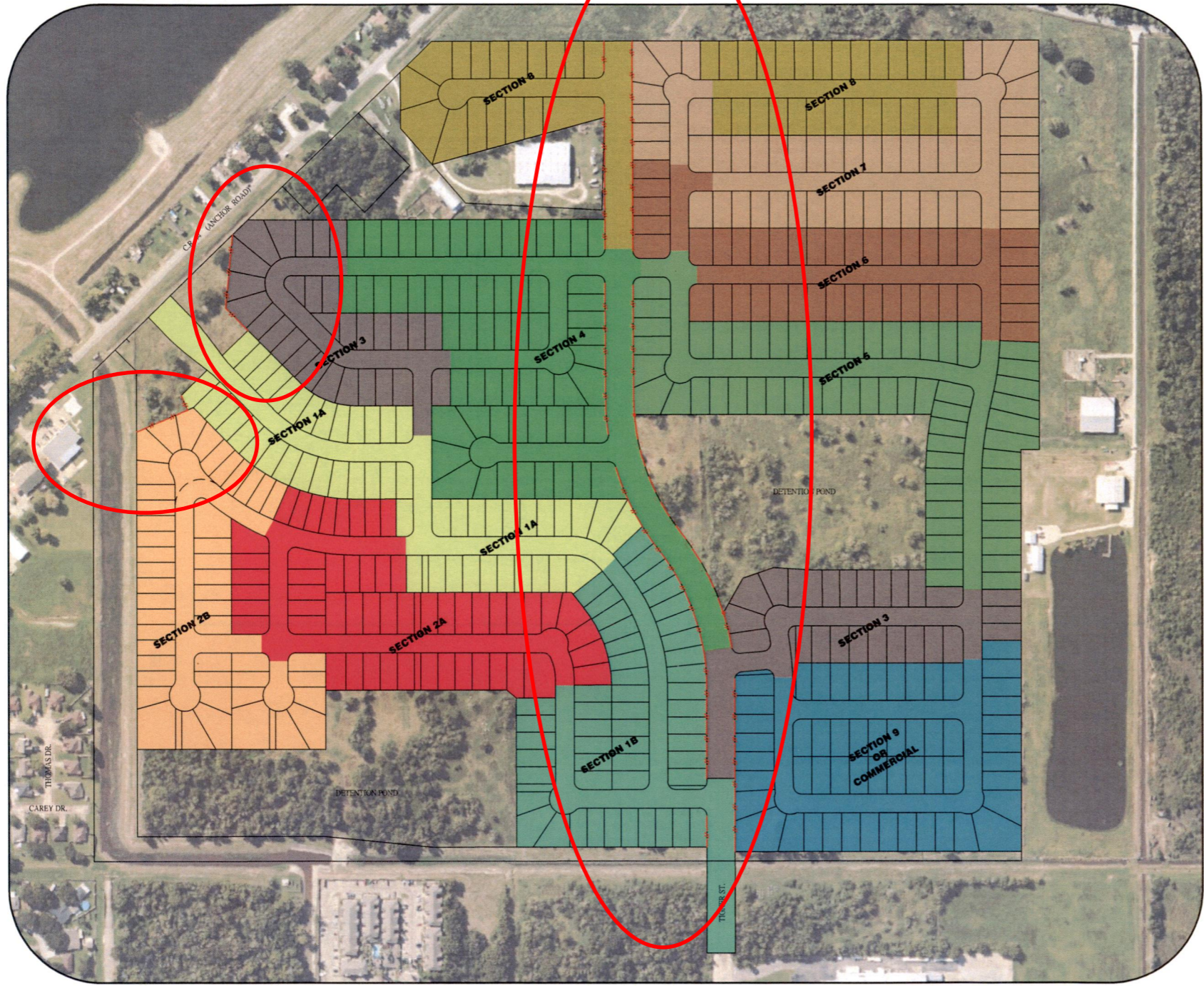
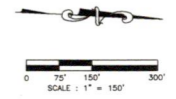
100 - 50' LOTS  
215 - 55' LOTS  
247 - 60' LOTS



*Austin Colony  
Subdivision*

164.50 ACRES OF LAND



### EXHIBIT D FENCING PLAN



-  PREMIUM CEDAR FENCE W/CROWN
-  WROUGHT IRON FENCE W/BRICK COLUMNS FOR VISUAL TO DETENTION POND

## Austin Colony Subdivision

164.50 ACRES OF LAND



## EXHIBIT J

### AMENITIES

- Entry monument is to be completed with Section 1A; playground with equipment, planted, aerated to be completed with Section 1B.
- Premium perimeter wood fencing, stained and crowned, shall be installed along the back property lines of all lots along Tigner Street and along the C.R. 44 frontage in areas shown on Exhibit D, Fencing Plan. All fencing for each proposed development Section shall be installed prior to the occupancy of each residence in that Section.
- A reflective pond is to be provided on the north side of Tigner Street.

# FILED and RECORDED

Instrument Number: 2023038189

Filing and Recording Date: 08/23/2023 02:21:50 PM Pages: 14 Recording Fee: \$74.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Brazoria County, Texas.



A handwritten signature in cursive script, appearing to read "Joyce Hudman".

---

Joyce Hudman, County Clerk  
Brazoria County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

***DO NOT DESTROY - Warning, this document is part of the Official Public Record.***

cclerk-emily

## SECOND AMENDMENT TO PROMISSORY NOTE AND FINANCING AGREEMENT

Whereas, TEJAS ANGLETON DEVELOPMENT, LLC, a Texas Limited Liability Company (herein called "Maker"), executed a PROMISSORY NOTE and FINANCING AGREEMENT in the amount of THREE MILLION FOUR HUNDRED FIFTY-EIGHT THOUSAND FIVE HUNDRED SEVENTY-EIGHT AND NO/100 DOLLARS (\$3,458,578.00), together with interest, dated October 8, 2021 in favor of WILLIAMS MARSHALL TIGNER, II; LEAH TIGNER, INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF JOHN HUGHES TIGNER, III, DECEASED; MARCELLA GRAY TIGNER, AS INDEPENDENT EXECUTRIX OF TIFFANY ALEECE TIGNER SCHLENSKER, DECEASED; and WILLIAMS MARSHALL TIGNER [herein, together with all subsequent holders of this Promissory Note ("Note"), collectively called "Payee"]; and

Whereas, the PROMISSORY NOTE AND FINANCING AGREEMENT are secured by a Deed of Trust executed by Maker and filed in the Public Records of Brazoria County on October 13, 2021, under Instrument Number 2021067766; and

Whereas, Maker and Payee desire to change the PAYMENT SCHEDULE of the outstanding interest and principal balance of the PROMISSORY NOTE and FINANCING AGREEMENT; and

NOW, THEREFORE for TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF IS HEREBY ACKNOWLEDGED, MAKER and PAYEE hereby agree to the following Amendments to the PROMISSORY NOTE and FINANCING AGREEMENT:

### AMENDMENTS TO PROMISSORY NOTE

The PROMISSORY NOTE is hereby Amended to remove Paragraph 11. DEFINITIONS "Maturity Date" and replace with the following:

#### II. DEFINITIONS

"Maturity Date" shall mean earlier of (i) the date of the Final Payment, as such is defined in that certain Financing Agreement, as Amended, between the Maker and Payee (the "Financing Agreement"), or (ii) the date of the fifth anniversary of this Note, whichever is the later date

The PROMISSORY NOTE is hereby amended to delete and remove Paragraph IV. PAYMENTS Section 4.1 Payment Schedule and replace with the following:

#### IV. PAYMENTS

4.1 Payment Schedule. The outstanding interest and principal balance of this Note shall be paid in accordance with the following:



- (i) First Payment: No later than the first anniversary of this Note (October 8<sup>th</sup>, 2022), Maker paid to Payee the sum of \$141,331 in principal and \$69,172 in interest.
- (ii) Second Payment: No later than the second anniversary of this Note (October 8<sup>th</sup>, 2023), Maker shall pay to Payee the sum of \$66,344 in interest.
- (iii) Third Payment: No later than the third anniversary of this Note (October 8<sup>th</sup>, 2024), Maker shall pay to Payee the sum of \$1,000,000 in principal and \$66,344 in interest.
- (iv) Fourth Payment: No later than the fourth anniversary of this Note (October 8<sup>th</sup>, 2025), Maker shall pay to Payee the sum of \$1,158,623 in principal and \$46,344.94 in interest.
- (v) Fifth Payment: No later than the fifth anniversary of this Note (October 8<sup>th</sup>, 2026), Maker shall pay to Payee the sum of \$1,158,624 in principal and \$23,172 in interest or, if such payment is made prior to October 8<sup>th</sup>, 2026 or if Maker has made prepayments hereunder, then all remaining unpaid principal and accrued interest outstanding this Note.

Remaining terms and provisions of the PROMISSORY NOTE dated October 8, 2021, between Maker and Payee, shall remain unchanged.

#### **AMENDMENTS TO FINANCING AGREEMENT**

The FINANCING AGREEMENT is hereby Amended to remove ARTICLE I PURCHASE OF PROPERTY Section 1.1 Partial Release of Deed of Trust and replace with the following:

#### ARTICLE I

#### PURCHASE OF PROPERTY

Section 1.1 **Partial Release of Deed of Trust.** Buyer shall be entitled to receive partial releases of the lien of the Deed of Trust as follows:


- a. Upon payment of the First Payment (October 8<sup>th</sup>, 2022), Seller shall not release any of its rights, title and interest in the Deed of Trust.
- b. Upon payment of the Second Payment (October 8<sup>th</sup>, 2023), Seller shall not release any of its rights, title and interest in the Deed of Trust.
- c. Upon payment of the Third Payment (October 8<sup>th</sup>, 2024), Seller shall release all of its rights, title and interest in the Deed of Trust, insofar and only insofar as to land included in Tract 2 and Buyer shall own Tract 2 as shown on Exhibit A.
- d. Upon payment of the Fourth Payment (October 8<sup>th</sup>, 2025), Seller shall release all of its rights, title and interest in the Deed of Trust, insofar and only insofar as to land included in Tract 3 and Buyer shall own Tract 3 as shown on Exhibit A.
- e. Upon payment of the Fifth Payment – Final Payment (October 8<sup>th</sup>, 2026), Seller shall release all of its rights, title and interest in the Deed of Trust.

Remaining terms and provisions of the FINANCING AGREEMENTS dated November 8, 2021, including the Exhibits thereto, between Maker and Payee, shall remain unchanged.

This Amendment to Promissory Note and Financing Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

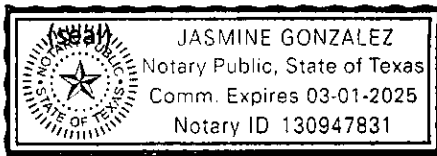
EXECUTED AND AGREED to as of the 26 day of July, 2023

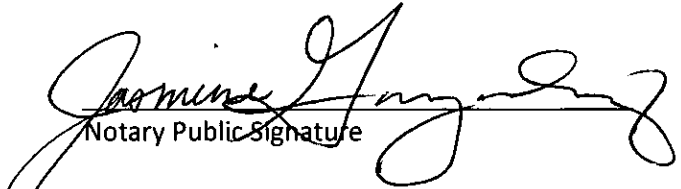
**LEAH TIGNER, INDIVIDUALLY AND AS  
INDEPENDENT EXECUTRIX OF THE ESTATE OF  
JOHN HUGHES TIGNER, III**

  
\_\_\_\_\_  
Leah Tigner

State of Texas  
County of Brazoria

Sworn to and subscribed before me on the 26 day of July, 2023 by Leah Tigner, Individually and as Independent Executrix of the Estate of John Hughes Tigner, III.



  
\_\_\_\_\_  
Notary Public Signature

EXECUTED AND AGREED to as of the 25<sup>th</sup> day of July, 2023

**WILLIAMS MARSHALL TIGNER, II**

  
\_\_\_\_\_  
Williams Marshall Tigner, II

State of Texas  
County of Brazoria

Sworn to and subscribed before me on the 25<sup>th</sup> day of July, 2023 by Williams Marshall Tigner, II.

(seal)



  
\_\_\_\_\_  
Notary Public Signature

EXECUTED AND AGREED to as of the \_\_\_ day of \_\_\_, 20\_\_.

**MARCELLA GRAY TIGNER, AS INDEPENDENT EXECUTRIX OF TIFFANY ALEECE TIGNER SCHLENSKER, DECEASED**

*Marcella Gray Tigner*  
\_\_\_\_\_  
Marcella Gray Tigner

State of Texas  
County of Brazoria

Sworn to and subscribed before me on the 25<sup>th</sup> day of July, 2023 by Marcella Gray Tigner, as Independent Executrix of Tiffany Aleece Tigner Schlenker, Deceased.

(seal)



*Hannah Lee Comstock*  
\_\_\_\_\_  
Notary Public Signature

EXECUTED AND AGREED to as of the \_\_\_ day of \_\_\_, 20\_\_.

**WILLIAMS MARSHALL TIGNER**

*Williams Marshall Tigner*  
\_\_\_\_\_  
Williams Marshall Tigner

State of Texas  
County of Brazoria

Sworn to and subscribed before me on the 25<sup>th</sup> day of July, 2023 by Williams Marshall Tigner.

(seal)



*Hannah Lee Comstock*  
\_\_\_\_\_  
Notary Public Signature

EXECUTED AND AGREED to as of the 25<sup>th</sup> day of July, 2023.

TEJAS ANGLETON DEVELOPMENT, LLC  
A TEXAS LIMITED LIABILITY COMPANY

Wayne L. Rea, II  
Wayne L. Rea, II Manager / Member

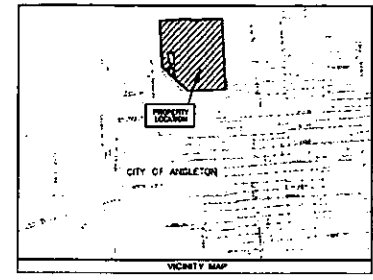
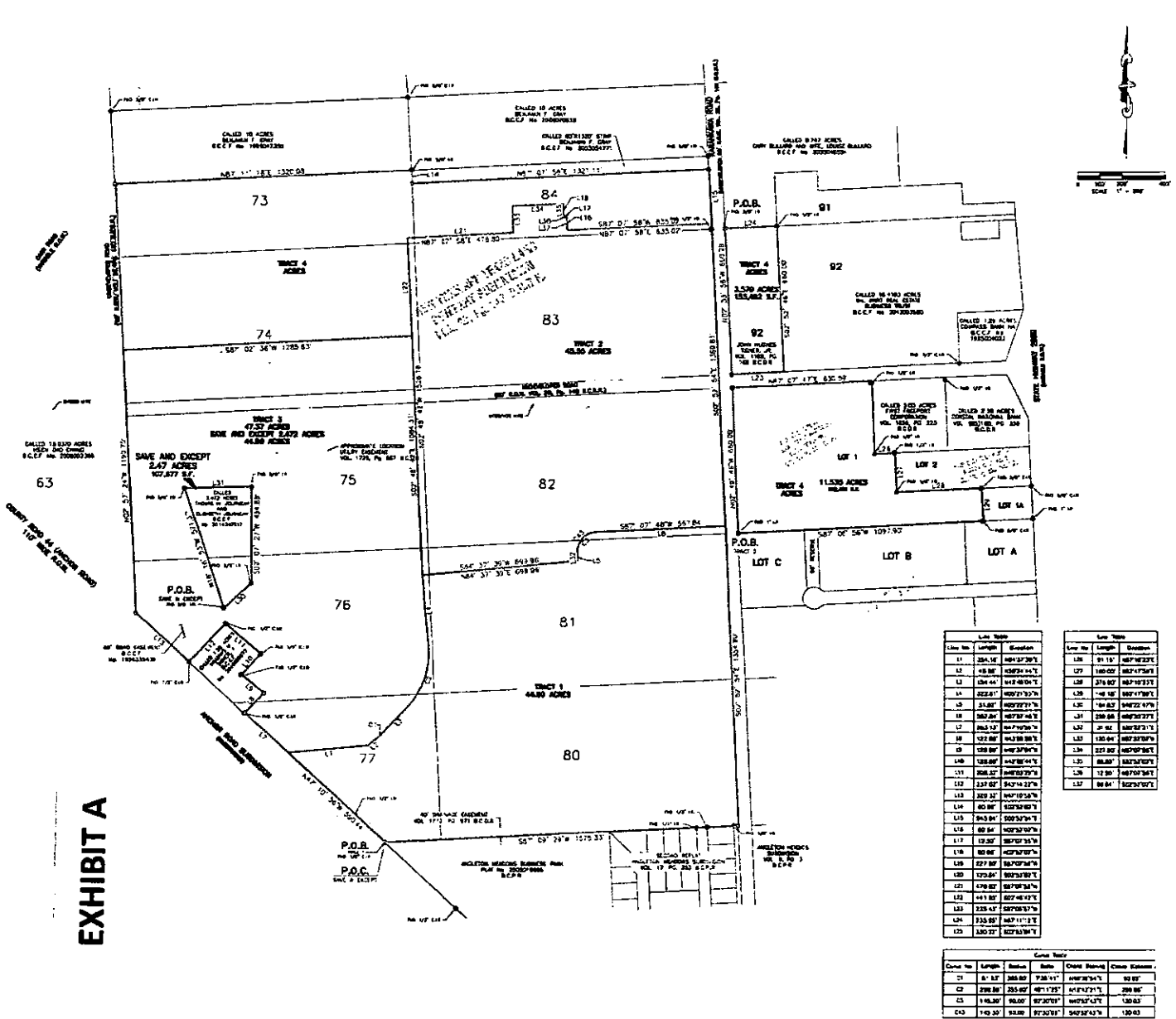
State of Texas  
County of Brazoria

Sworn to and subscribed before me on the 25<sup>th</sup> day of JULY, 2023 by Wayne L. Rea, II.

(seal)



Hannah Lee Comstock  
Notary Public Signature



- NOTES
1. THIS SURVEY WAS PREPARED FOR THE PURPOSE OF A CONVEYANCE FOR THE PURPOSES OF SAID CONVEYANCE AND THE ACCURACY OF THE INFORMATION CONTAINED HEREIN IS GUARANTEED TO THE EXTENT OF THE SURVEYING RECORDS AND THE EXISTENCE OF RECORDS RECORDING OF OTHER METHODS OF RECORDING HAS BEEN PERFORMED BY THE SURVEYOR.
  2. ALL RECORDS AND RECORDS ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1982 (NAD83) WITH THE CENTRAL ZONE, FOR THE SURVEYOR'S RECORDS.
  3. ACCORDING TO THE FEDERAL GOVERNMENT PROPERTY ADMINISTRATION ACT OF 1982, THE FEDERAL GOVERNMENT HAS A LIMITED LIABILITY TO THE EXTENT OF THE SURVEYOR'S RECORDS AND THE EXISTENCE OF RECORDS RECORDING OF OTHER METHODS OF RECORDING HAS BEEN PERFORMED BY THE SURVEYOR.
  4. A SURVEY IS SUBJECT TO ANY RESTRICTIONS RECORDED IN VOL. 118, PG. 888 AND VOL. 120, PG. 841, B.C.P.R.
  5. A SURVEY IS SUBJECT TO ANY RESTRICTIONS RECORDED IN VOL. 118, PG. 888 AND VOL. 120, PG. 841, B.C.P.R.
  6. A SURVEY IS SUBJECT TO ANY RESTRICTIONS RECORDED IN VOL. 118, PG. 888 AND VOL. 120, PG. 841, B.C.P.R.
  7. A SURVEY IS SUBJECT TO ANY RESTRICTIONS RECORDED IN VOL. 118, PG. 888 AND VOL. 120, PG. 841, B.C.P.R.
  8. A SURVEY IS SUBJECT TO ANY RESTRICTIONS RECORDED IN VOL. 118, PG. 888 AND VOL. 120, PG. 841, B.C.P.R.

Line No.	Length	Bearing	Station
11	254.34'	S84°37'30"W	
12	48.86'	S89°54'47"W	
13	126.44'	N47°00'00"W	
14	222.81'	S89°57'57"W	
15	31.88'	S89°57'57"W	
16	362.84'	S87°57'48"W	
17	263.13'	S87°57'48"W	
18	127.88'	S87°57'48"W	
19	128.88'	S87°57'48"W	
20	128.88'	S87°57'48"W	
21	268.37'	S87°57'48"W	
22	127.88'	S87°57'48"W	
23	329.37'	S87°57'48"W	
24	40.88'	S87°57'48"W	
25	263.84'	S87°57'48"W	
26	88.84'	S87°57'48"W	
27	128.88'	S87°57'48"W	
28	88.88'	S87°57'48"W	
29	227.88'	S87°57'48"W	
30	128.88'	S87°57'48"W	
31	478.88'	S87°57'48"W	
32	441.88'	S87°57'48"W	
33	128.88'	S87°57'48"W	
34	128.88'	S87°57'48"W	
35	128.88'	S87°57'48"W	

Curve No.	Length	Radius	Chord Bearing	Chord Distance
C1	8.17'	268.88'	S78°51'47"W	80.88'
C2	278.88'	268.88'	S71°57'17"W	268.88'
C3	118.88'	268.88'	S71°57'17"W	118.88'
C4	118.88'	268.88'	S71°57'17"W	118.88'

**EXHIBIT**

**166.50 ACRES**  
**BEING 166.97 ACRES, SAVE AND EXCEPT 2.472 ACRES**  
**LOTS 74, 80, 81, 82 AND 83 AND A PORTION OF LOTS 73, 75,**  
**76, 77 AND 84 OF NEW YORK AND TEXAS LAND COMPANY**  
**SUBDIVISION**  
**VOL. 26, PG. 140 B.C.D.R.**  
**TRACT 2- 3.570 ACRES**  
**BEING A PORTION OF LOT 92**  
**OF NEW YORK AND TEXAS LAND COMPANY SUBDIVISION**  
**VOL. 26, PG. 140 B.C.D.R.**  
**TRACT 3- 12.288 ACRES**  
**BEING ALL OF LOT 1 OF THE REPLAT OF LOT NO. 1**  
**ANGLETON COMMERCIAL SUBDIVISION NO. 1,**  
**VOL. 20, PG. 361 B.C.P.R.**  
**LOCATED IN THE**  
**J. DE J. VALDERAS SURVEY, ABSTRACT NO. 380**  
**BRAZORIA COUNTY, TEXAS**

300 EAST CEDAR ST.  
 ANGLETON, TEXAS 77515  
 OFFICE (979) 849-5581  
 TBP/LP NO. 10052500  
 REG. NO. F-825

PROJECT NO. 14331 SCALE 1" = 200' DRAWN BY SP  
 DRAWING NO. 14331-19 DATE 10/14/2023 CHECKED BY SP

# FILED and RECORDED

Instrument Number: 2023034373

Filing and Recording Date: 07/31/2023 04:10:32 PM Pages: 7 Recording Fee: \$46.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Brazoria County, Texas.



A handwritten signature in black ink, appearing to read "Joyce Hudman".

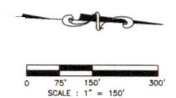
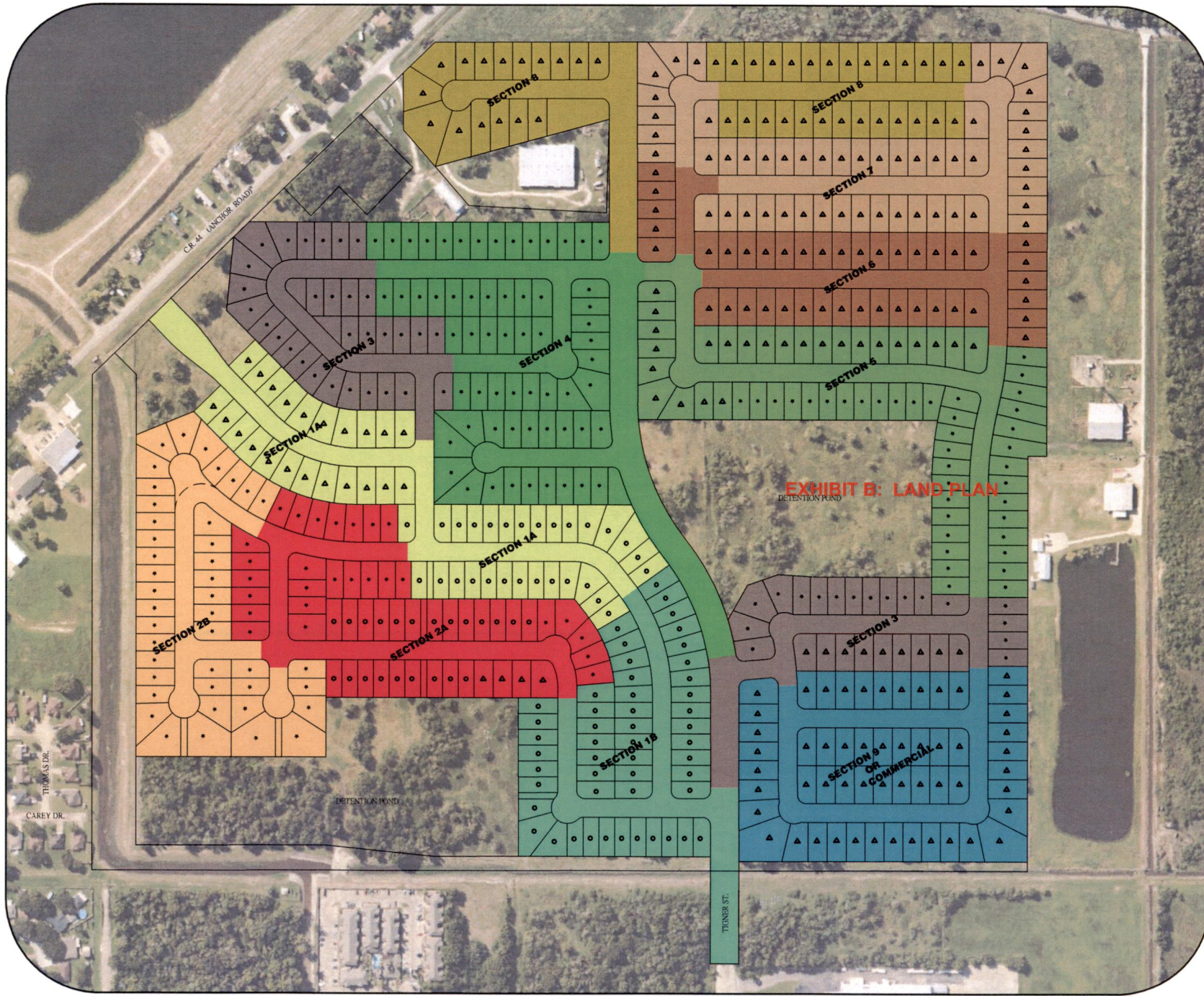
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Joyce Hudman, County Clerk  
Brazoria County, Texas

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***DO NOT DESTROY - Warning, this document is part of the Official Public Record.***

cclerk-kara



LOT SUMMARY

- SECTION 1A  
50 LOTS  
28-50', 22-60'
  - SECTION 1B  
50 LOTS  
50-50'
  - SECTION 2A  
53 LOTS  
22-50', 27-55', 4-60'
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42 LOTS  
42-55'
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56 LOTS  
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43 LOTS  
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  - SECTION 9  
COMMERCIAL  
RESERVE  
OR 54-60' LOTS
- 50' LOTS  
\* 55' LOTS  
▲ 60' LOTS

EXHIBIT B: LAND PLAN

TOTAL LOTS  
562

100 - 50' LOTS  
215 - 55' LOTS  
247 - 60' LOTS

*Austin Colony  
Subdivision*

164.50 ACRES OF LAND





# AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Phill Conner, Finance Director

**AGENDA CONTENT:** Discussion and possible action on Resolution No. 2024813-005; Resolution by the City Council of the City of Angleton, Texas, Authorizing Publication of Notice of Intention to Issue Certificates of Obligation; and Approving Other Matters Incidental Thereto.

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** N/A **FUNDS REQUESTED:** N/A

**FUND:** General Fund

**EXECUTIVE SUMMARY:**

The resolution authorizing the publication of the Notice of Intention to issue certificates of obligation is the first formal step in the process of issuing the certificates of obligation (CO). The proposed CO issue is for a total of \$10,500,000 with the funds being used for:

Streets	\$ 5,500,000
Downtown Project	\$ 1,500,000
Police Department expansion	\$ 2,000,000
Animal Shelter expansion	<u>\$ 1,500,000</u>
Total	<u>\$10,500,000</u>

**RECOMMENDATION:**

Staff recommends that the Council pass the resolution authorizing the publication of the Notice of Intent.



**RESOLUTION NO. 20240813-005**

**RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AND APPROVING OTHER MATTERS INCIDENTAL THERETO**

**WHEREAS**, the City Council of the City of Angleton, Texas (the “City”) deems it advisable to issue certificates of obligation of the City (the “Certificates”) in accordance with the notice hereinafter set forth; and

**WHEREAS**, the City desires to authorize the preparation of a preliminary official statement (“Preliminary Official Statement”) and notice of sale (“Notice of Sale”) in anticipation of its issuance of the Certificates; and

**WHEREAS**, it is hereby found and determined that the meeting at which this resolution is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended;

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

**SECTION 1.** The findings, determinations, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council of the City (the “City Council”) and made a part hereof for all purposes.

**SECTION 2.** The City Secretary is hereby authorized and directed to cause to be published and posted in the manner required by law and in substantially the form attached hereto as Exhibit A, notice of the City’s intention to issue the Certificates (the “Notice”).

**SECTION 3.** The Notice shall be published once a week for two (2) consecutive weeks in a newspaper that is of general circulation in the City, the date of the first publication to be before the 45<sup>th</sup> day before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City’s website for at least 45 days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

**SECTION 4.** For the purposes of the Notice, the City hereby designates as self-supporting those public securities listed in the attached Exhibit B, the debt service on which the City currently pays from sources other than ad valorem tax collections. The City plans to continue to pay these public securities based on this practice; however, there is no guarantee this practice will continue in future years.

**SECTION 5.** For purposes of section 1.150-2(d) of the Treasury Regulations, this Resolution and the Notice serve as the City’s official declaration of intent to reimburse itself from proceeds of the Certificates in the maximum principal amount and for expenditures paid in connection with the projects, each as set forth in Exhibit A hereof. Any such reimbursement will only be made (i) for

an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date of which the project to which such expenditure relates is placed in service or abandoned, but in no event more than three years after the original expenditure is paid.

**SECTION 6.** The City's financial advisor, Hilltop Securities Inc., and bond counsel, Bracewell LLP, are hereby authorized and directed to proceed with the necessary arrangements for the sale of the Certificates.

**SECTION 7.** The City hereby authorizes the preparation and distribution of a Preliminary Official Statement and Notice of Sale relating to the Certificates and authorizes the Mayor, City Manager, or Finance Director to approve the final form of and deem final the Preliminary Official Statement within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 of the United States Securities and Exchange Commission.

**SECTION 8.** The Mayor, City Manager, Finance Director, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

**SECTION 9.** This resolution shall take effect immediately from and after its passage by the City Council.

**SECTION 10.** The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

[Execution page to follow]

**PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2024.**

CITY OF ANGLETON, TEXAS

---

John Wright  
Mayor

ATTEST:

---

Michelle Perez, TRMC  
City Secretary

*Execution page for the Resolution by the City Council of the City of Angleton, Texas, Authorizing Publication of Notice of Intention to Issue Certificates of Obligation; And Approving Other Matters Incidental Thereto*

EXHIBIT A

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Angleton, Texas (the “City”), will meet at 120 S. Chenango Street, Angleton, Texas, 77515 at 6:00 p.m. on October 8, 2024, which is the time and place tentatively set for the final passage of an ordinance authorizing the issuance by the City of a series of certificates of obligation (the “Certificates”) and such other action as may be deemed necessary to authorize the issuance of the Certificates, in the maximum aggregate principal amount not to exceed \$10,500,000 payable from ad valorem taxes and from a limited pledge of a subordinate lien on the net revenues of the City’s waterworks and sanitary sewer system, bearing interest at any rate or rates not to exceed the maximum interest rate authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the Certificates, and maturing over a period not to exceed forty (40) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with (i) the design, construction, acquisition and equipment of (a) city streets, sidewalks and related infrastructure, including, but not limited to, the downtown streetscape revitalization project, (b) improvements to and the expansion of City police department facilities, and (c) improvements to and the expansion of the City’s animal shelter and (ii) the costs of professional services related thereto. The estimated combined principal and interest required to pay the Certificates on time and in full is approximately \$15,613,340. Such estimate is provided for illustrative purposes only and is based on an assumed interest rate of 4.000%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount outstanding of tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting in Resolution No. 2024813-005, dated August 13, 2024, which resolution is available from the City upon request) is \$12,055,000. Based on the City’s expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$17,313,033.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE CITY, this 13th day of August, 2024.

Michelle Perez, TRMC  
 City Secretary  
 City of Angleton, Texas

EXHIBIT B  
SELF-SUPPORTING DEBT

**\$25,785,000**      **Total Principal Amount Designated as Self-Supporting**

The total principal amount of self-supporting debt is comprised of some or all of the debt from the following series of obligations:

**Series Designation**

Combination Tax and Revenue Certificates of Obligation, Series 2024

Combination Tax and Revenue Certificates of Obligation, Series 2022

Combination Tax and Revenue Certificates of Obligation, Series 2021

Combination Tax and Revenue Certificates of Obligation, Series 2020

Combination Tax and Revenue Certificates of Obligation, Series 2019

Combination Tax and Revenue Certificates of Obligation, Series 2018

General Obligation Refunding Bonds, Series 2016

Combination Tax and Revenue Certificates of Obligation, Series 2015

Combination Tax and Revenue Certificates of Obligation, Series 2013

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §  
COUNTY OF BRAZORIA §

I, the undersigned officer of the City Council of the City of Angleton, Texas, hereby certify as follows:

1. The City Council of the City of Angleton, Texas, convened in a regular meeting on the 13th day of August, 2024, at the regular meeting place thereof, within said City, and the roll was called of the duly constituted officers and members of said City Council, to wit:

- |                   |   |
|-------------------|---|
| John Wright       | Mayor                                       |
| Travis Townsend   | Mayor Pro-Tem and Councilmember, Position 2 |
| Christiene Daniel | Councilmember, Position 1                   |
| Terry Roberts     | Councilmember, Position 3                   |
| Cecil Booth       | Councilmember, Position 4                   |
| Tanner Sartin     | Councilmember, Position 5                   |

and all of said persons were present, except the following absentee(s): \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

**RESOLUTION NO. 20240813-005**

**RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AND APPROVING OTHER MATTERS INCIDENTAL THERETO**

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said resolution, prevailed and carried by the following vote:

\_\_\_\_\_ Members shown present voted "Aye."

\_\_\_\_\_ Members shown present voted "No."

\_\_\_\_\_ Members shown present abstained from voting.

2. A true, full and correct copy of the aforesaid resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said resolution has been duly recorded in said City Council's minutes of said meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said meeting pertaining to the adoption of said resolution; that the persons named in the above and

foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this \_\_\_\_ day of \_\_\_\_\_, 2024.

[SEAL]

\_\_\_\_\_  
Michelle Perez, TRMC  
City Secretary



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Martha Eighme

**AGENDA CONTENT:** Approval of Construction Manager at Risk Contract for King Municipal Operations Center

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** **FUNDS REQUESTED:**

**FUND:**

**EXECUTIVE SUMMARY:**

Service Center Building at 901 S. Velasco was purchased in 2007 and was previously a Car Dealership. With the need to shutter the old Service Center and subsequent relocation of the Public Works, Parks, and Information Technology Staff to a modular office, an internal team was assembled to look at options for a new facility.

An architectural firm was retained to prepare a high-level Feasibility Study and Assessment of the Public Works Building. The intended scope was to demolish and reconstruct the existing foundation of the current Service Center building and expand the use and square footage to accommodate Parks, Public Works, and IT departments. After lengthy discussion at the City Council Meeting, the scope was widened to determine the comparison of different sites and associated costs for each option. After looking at different options, City Council determined that they would support building a new building on the existing site.

IAD Architect and Teal Construction were awarded the contract to work alongside the city to bring this project to fruition

In early 2024, the front of the old Service Center was demolished to make way for the new construction. A new single-story office and maintenance building of approximately 16,900 SF to serve the City of Angleton as the King Municipal Operations Center named after City of Angleton employee David Lee King who served the City of Angleton Public Works Department for 44 years before retiring in 2016. Departments housed within this facility will include Public Works and Parks as well as other support areas and will also include site amenities, along with a covered maintenance structure

**RECOMMENDATION:**

Approve the Construction Manager at Risk Contract with Teal Construction for the King Municipal Operations Center Project.



# DRAFT AIA® Document A133™ – 2019

**Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

**AGREEMENT** made as of the « Seventh » day of May in the year 2024  
(In words, indicate day, month, and year.)

**BETWEEN** the Owner:  
(Name, legal status, address, and other information)

City of Angleton, a Texas Municipal Corporation  
121 S. Velasco  
Angleton, TX 77515

and the Construction Manager:  
(Name, legal status, address, and other information)

Teal Construction Company, a Texas Corporation  
1335 Brittmoore Rd  
Houston, TX 77043

for the following Project:  
(Name, location, and detailed description)

City of Angleton King Municipal Operations Center  
901 S. Velasco St, Angleton, TX 77515

A new single-story office and maintenance building of approximately 16,900 SF to serve the City of Angleton as the King Municipal Operations Center. Departments housed within this facility will include Public Works, Parks & Recreation, and other support areas. Project will also include site amenities, along with a covered maintenance structure and demolition of the existing building located on this site.

The Architect:  
(Name, legal status, address, and other information)

iAD Architects  
107 West Way St, Suite 16  
Lake Jackson, TX 77566

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

**ELECTRONIC COPYING** of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

The Owner and Construction Manager agree as follows.

## TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 GENERAL PROVISIONS
- 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 7 COST OF THE WORK FOR CONSTRUCTION PHASE
- 8 DISCOUNTS, REBATES, AND REFUNDS
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- 12 DISPUTE RESOLUTION
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- 14 MISCELLANEOUS PROVISIONS
- 15 SCOPE OF THE AGREEMENT

**EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT**

**EXHIBIT B INSURANCE AND BONDS**

**ARTICLE 1 INITIAL INFORMATION**

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as “not applicable” or “unknown at time of execution.”)*

§ 1.1.1 The Owner’s program for the Project, as described in Section 4.1.1:

*(Insert the Owner’s program, identify documentation that establishes the Owner’s program, or state the manner in which the program will be developed.)*

See attached Preliminary Program Statement – Owner Review 01 (Rev. 02) dated 02.23.2023, attached as Attachment 1

§ 1.1.2 The Project’s physical characteristics:

*(Identify or describe pertinent information about the Project’s physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

A single story maintenance building consisting of approximately 16,900 square feet to house the Public Works Department, Parks & Recreation Department and other city support areas.

See attached Land Title and Topographic Survey prepared by Windrose Land Surveying dated July 11, 2022 and attached as Attachment 2.

See attached Geotechnical Engineering Report prepared by Terracon dated 06.23.2023, and attached as Attachment 3.

See attached Site Plan prepared by IAD Architects attached as Attachment 4.

§ 1.1.3 The Owner’s budget for the Guaranteed Maximum Price, as defined in Article 6:

*(Provide total and, if known, a line item breakdown.)*

Estimated between \$3,900,000 and \$4,500,000.

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any: Estimated Timeline

- Schematic Design Package currently ready to issue
- Schematic Design Control Estimate due April .15.2024
- Design Development Package to be issued March 25.2024
- Design Development Control Estimate due April 8.2024
- 95% Construction Document Package issued May13.2024
- Guaranteed Maximum Price (GMP) due June10.2024

.2 Construction commencement date:

Estimated September 1.2024

.3 Substantial Completion date or dates:

Estimated 52 weeks of construction

- .4 Other milestone dates:  
N/A.

§ 1.1.7 Other Project information:

*(Identify special characteristics or needs of the Project not provided elsewhere.)*

« »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

*(List name, address, and other contact information.)*

« »City of Angleton, City Manager, Chris Whittaker.

« »

« »

« »

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

*(List name, address and other contact information.)*

« »

§ 1.1.10 The Architect shall retain the following consultants and contractors:

*(List name, legal status, address, and other contact information.)*

- .1 Geotechnical Engineer:

Terracon  
22535 N. Hwy 288-B  
Angleton, TX 77515  
p. 979.202.1113

- .2 Civil Engineer:

PRD Land Development Services, LLC  
12621 Featherwood, Suite 200  
Houston, TX 77034  
p. 281.760.1541

- .3 Other, if any:

*(List any other consultants retained by the Owner, such as a Project or Program Manager.)*

§ 1.1.11 The Architect's representative:

*(List name, address, and other contact information.)*

Brent Bowles, AIA  
 iAD Architects  
 107 West Way, Suite 16  
 Lake Jackson, TX 77566  
 p. 979.297.1411  
 e. bbowles@iadarchitects.com

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

*(List name, address, and other contact information.)*

Jennifer King, Vice President, Teal Construction Company  
 1335 Brittmoore Rd  
 Houston, TX 77043  
 p. 713.465.8306  
 e. jenniferking@tealcon.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

*(List any Owner-specific requirements to be included in the staffing plan.)*

« »

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:  
*(List any Owner-specific requirements for subcontractor procurement.)*

« »

§ 1.1.15 Other Initial Information on which this Agreement is based:

Teal Construction Company's CMAA RFP Response dated 11.20.23

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

## ARTICLE 2 GENERAL PROVISIONS

### § 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution

of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. CMaR has previously submitted its Proposal to the Owner, attached to and made a part of this Contract as Attachment 5. In the event of a conflict between the terms of the Proposal and the terms of this Contract, the terms of this Contract shall control; provided, however, that this provision shall not be construed to relieve the CMaR from performing all services set forth in the Proposal Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

## § 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and furnish the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in a manner to promote furtherance of the Project in the best and soundest way, and in the most expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager.

## § 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

## ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

## § 3.1 Preconstruction Phase

### § 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

### § 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

### § 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

### § 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

### § 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.



### § 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

### § 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

### § 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

### § 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 Prior to completion of CmaR's Design Phase Services and submission of bid packages to bidding, and at a time to be mutually agreed upon by the Owner and the Construction Manager; the Construction Manager shall develop and submit to Owner a Guaranteed Maximum Price ("GMP") which is within the approximate project construction budget. The Guaranteed Maximum Price proposal shall be prepared for the Owner's and Architect's review, and the Owner's acceptance, and shall include a full list of construction and performance items, and additive and deductive alternates.. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2, all within the Construction Budget.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

### § 3.3 Construction Phase

#### § 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner’s execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

#### § 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

#### § 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

#### § 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

#### § 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

## ARTICLE 4 OWNER’S RESPONSIBILITIES

### § 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner’s objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made

financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

**§ 4.2 Owner’s Designated Representative**

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner’s representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

**§ 4.2.1 Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner’s needs and interests.

**§ 4.3 Architect**

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect’s scope of services in the agreement.

**ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES**

**§ 5.1 Compensation**

**§ 5.1.1** For the Construction Manager’s Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

**\$12,500.00** twelve thousand five hundred dollars

**§ 5.1.2** The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.

Individual or Position	Rate
Project Executive	\$150.00/hour
Estimator	\$ 90.00/hour
Project Manager	\$ 90.00/hour
Quality Control Manager	\$ 90.00/hour
Project Engineer	\$ 75.00/hour
Contract Administrator	\$ 75.00/hour

**§ 5.1.2.1** Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within eight ( 8 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager’s compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager’s performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager’s Fee.

§ 6.1.2 The Construction Manager’s Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager’s Fee.)*

6.68% of Cost of Work

§ 6.1.3 The method of adjustment of the Construction Manager’s Fee for changes in the Work:

Change Order Cost of Work Total  
< \$10,000.00 = 15% Fee  
\$10,000 - \$20,000 = 10% Fee  
>\$20,000 = 7.5% Fee

§ 6.1.4 Limitations, if any, on a Subcontractor’s overhead and profit for increases in the cost of its portion of the Work:

«Change Order Cost of Work Total  
< \$10,000.00 = 15% Fee  
\$10,000 - \$20,000 = 10% Fee  
>\$20,000 = 7.5% Fee

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed ten percent ( 10 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

*(Insert terms and conditions for liquidated damages, if any.)*

The Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay after the date established for Substantial Completion in the Contract Documents until the Work is substantially complete:

Five Hundred Dollars (\$500.00) per day

It is understood that said sum shall be considered as liquidated damages and shall in no sense be considered as a penalty against the Contractor.

**§ 6.1.7 Other:**

*(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)*

Cost Saving Split – 80% to the Owner, 20% to the CMAR

**§ 6.2 Guaranteed Maximum Price**

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

**§ 6.3 Changes in the Work**

**§ 6.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

**§ 6.3.1.1** The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.2** Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.3** Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

**§ 6.3.4** In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

### § 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

### § 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

« »

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.



**§ 7.2.5** If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

### **§ 7.3 Subcontract Costs**

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

### **§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction**

**§ 7.4.1** Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

**§ 7.4.2** Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

### **§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**§ 7.5.1** Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

**§ 7.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of the Construction Manager's site office, including general office equipment and supplies.

**§ 7.5.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

### **§ 7.6 Miscellaneous Costs**

All Miscellaneous Costs set out in Section 7.6 are subject to Owner's approval.

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 This provision was deleted.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 This provision was deleted.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

## § 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

**§ 7.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

**§ 7.7.4** The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

### **§ 7.8 Related Party Transactions**

**§ 7.8.1** For purposes of this Section 7.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

**§ 7.8.2** If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

### **§ 7.9 Costs Not To Be Reimbursed**

**§ 7.9.1** The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager,

- Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
  - .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
  - .9 Costs for services incurred during the Preconstruction Phase.

## ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

## ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

## ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

### § 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

### § 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

5%, five percent

§ 11.1.8.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

### Preconstruction Fees

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

« »

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage, such as upon completion of the Owner’s audit and reconciliation, upon Substantial Completion.)*

« »

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Except with the Owner’s prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on

Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## § 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's



auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

### § 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

## ARTICLE 12 DISPUTE RESOLUTION

### § 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

« »

### § 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

All provisions of this Contract as amended or supplemented shall be governed by and construed solely in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

The obligations of the parties to this Contract shall be performable in Brazoria County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Brazoria County, Texas.

## **ARTICLE 13 TERMINATION OR SUSPENSION**

### **§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment**

**§ 13.1.1** If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

**§ 13.1.2** In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.3** Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201-2017.

**§ 13.1.4** In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.5** If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee

as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

**§ 13.1.6** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

**§ 13.1.6.1** If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

## **§ 13.2**

### **Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment**

#### **§ 13.2.1 Termination**

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

#### **§ 13.2.2 Termination by the Owner for Cause**

**§ 13.2.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

**§ 13.2.2.2** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

### **§ 13.2.3 Termination by the Owner for Convenience**

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

*(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner’s convenience.)*

All reasonable costs accrued to date as agreed upon by the parties.

### **§ 13.3 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

## **ARTICLE 14 MISCELLANEOUS PROVISIONS**

**§ 14.1** Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

### **§ 14.2 Successors and Assigns**

**§ 14.2.1** The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

As an express condition of consent to any assignment, CMAr shall remain liable under this Contract for all obligations of CMAr and for the completion of the Work in accordance with the terms and conditions of this Contract in the event of default by the successor contractor or assignee.

**§ 14.2.2** The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

## § 14.3 Insurance and Bonds

### § 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than five million dollars (\$ 5,000,000.00) for each occurrence and ten million dollars (\$10,000,000.00) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned and leased vehicles used, by the Construction Manager with policy limits of not less than one million (\$ 1,000,000.00) per accident with a deductible not to exceed \$5,000.00. The insurance certificates (s) shall indicate that the Auto Liability policy carries an endorsement which names the City of Angleton, its directors, officers, trustees and agents as additional insureds. for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million (\$ 1,000,000.00) each accident, one million (\$ 1,000,000) each employee, and one million (\$ 1,000,000.00) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than two million dollars (\$ 2,000,000.00) per claim and five million dollars (\$ 5,000,000.00) in the aggregate.

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

§ 14.5 Other provisions:

« »

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this Agreement.)*

« »

- .6 Other Exhibits:  
*(Check all boxes that apply.)*

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
010200	Supplementary Conditions appended to the General Conditions		1-8

7 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

- « Attachment 1 - Preliminary Program Statement
- Attachment 2 - Land Title and Topographic Survey prepared by Windrose Land Surveying
- Attachment 3 - Geotechnical Engineering Report
- Attachment 4 - Site Plan prepared by IAD Architects
- Attachment 5 – Teal Construction's CMAR RFP Response»

This Agreement is entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** (Signature)  
 \_\_\_\_\_  
 John Wright, Mayor City of Angleton, Texas  
 \_\_\_\_\_  
 (Printed name and title)

\_\_\_\_\_  
**CONSTRUCTION MANAGER** (Signature)  
 \_\_\_\_\_  
 Jennifer King, Vice President  
 \_\_\_\_\_  
 (Printed name and title)

<b>DEPARTMENT ONE</b>				<b>I.T.</b>		
	# of Units	Sq. Ft./Unit	Total Sq. Ft.	X Coord.	Y Coord.	
<b>1.00 I.T. Director</b> Private office with small separate seating area.	0	160	0	15.8	10.0	16.0
<b>1.01 Administrative Assist.</b> Private office.	0	120	0	13.7	10.0	12.0
<b>1.02 I.T. Specialist</b>	0	100	0	0.0	0.0	#DIV/0!
<b>1.03 Computer/Server Room</b> Dedicated to I.T. Department (Switch Rooms located elsewhere in bldg.)	0	120	0	13.7	14.0	8.6
<b>1.04 Equipment Storage</b> Dedicated to I.T. Department	0	300	0	0.0	0.0	#DIV/0!
<b>I.T. DEPT. - SQ. FT. TOTALS</b>			<b>0</b>			

Notes: - Need increased security/Server Room. Screen & Projector in Train/Conf. Rooms. Access control w/ automatic gates. Access control to secure area of building/entry/exits. Server Rm. to be fireproof; acoustically insulated. Fiber conduit b/t switch closets and Server Rooms. Dedicated A/C for Server Rm.



<b>DEPARTMENT TWO</b>				<b>PARKS &amp; RECREATION</b>		
	# of Units	Sq. Ft./Unit	Total Sq. Ft.	X Coord.	Y Coord.	
<b>2.00 Director</b> Private office with small separate seating area.	0	160	0	0.0	0.0	#DIV/0!
<b>2.01 Assist. Director</b> Private office with small separate seating area.	0	160	0	0.0	0.0	#DIV/0!
<b>2.02 Parks Superintendent</b> Private office	1	120	120	13.7	14.0	8.6
<b>2.03 Recreation Superintendent</b> Private office	1	120	120	13.7	14.0	8.6
<b>2.04 Crew Leader</b> Open workstation (3 now; plan for 5)	5	80	400	11.2	11.0	7.3
<b>2.05 Parks Crew Member</b> Reside at Conf. Room	10	0	0	0.0	10.0	0.0
<b>2.06 ROW Crew Member</b> Reside at Conf. Room	7	0	0	0.0	10.0	0.0
<b>2.07 Recreation Specialist</b> Private office. (3 now; plan for 4)	4	120	480	13.7	14.0	8.6
<b>PARKS &amp; RECRATION - SQ. FT. TOTALS</b>			<b>1,120</b>			

Notes: - Ref. Notes for I.T. Dept.

<b>DEPARTMENT THREE</b>				<b>PUBLIC WORKS</b>		
	# of Units	Sq. Ft./Unit	Total Sq. Ft.	X Coord.	Y Coord.	
<b>3.00 Director</b> Private office with small separate seating area.	0	160	0	15.8	16.0	10.0
<b>3.01 Assist. Director</b> Private office	0	120	0	13.7	14.0	8.6
<b>3.02 Superintendent</b> Private office	2	120	240	19.4	19.0	12.6
<b>3.03 Foreman</b> Workstation	5	80	400	25.0	25.0	16.0
<b>3.04 Operations</b> Workstation	3	80	240	19.4	19.0	12.6
<b>3.05 Office Manager</b> Private office	1	120	120	13.7	10.0	12.0
<b>PUBLIC WORKS - SQ. FT. TOTALS</b>			<b>1,000</b>			

Notes: - Ref. Notes for I.T. Dept.

DEPARTMENT FOUR	BUILDING SUPPORT					
	# of Units	Sq. Ft./Unit	Total Sq. Ft.	X Coord.	Y Coord.	
<b>4.00 Lobby/Waiting Area</b> First Floor Lobby	4	35	140	14.8	15.0	9.3
<b>4.01 Conference Room</b> 1 of 2 requested	0	35	0	0.0	0.0	#DIV/0!
<b>4.02 Conference Room</b> 2 of 2 requested	12	35	420	25.6	26.0	16.2
<b>4.03 Training Room</b> Assume this will be shared space with 1.09 Council Chambers???	50	30	1,500	48.4	48.0	31.3
<b>4.04 Office Supplies/Materials</b> 1 per floor	1	100	100	12.5	10.0	10.0
<b>4.05 Toilets (Public)</b> Verify amount w/ code; plan on 2 fixtures/gender/floor	6	80	480	11.2	11.0	7.3
<b>4.06 Toilets (Staff)</b> In addition to code req'd; plan on 1 fixture/gender/floor	2	80	160	11.2	11.0	7.3
<b>4.07 Kitchen/Break Room</b> 1 primary space and 1 coffee bar/per other floors (see below)	20	30	600	30.6	31.0	19.4
<b>4.08 Coffee Bar</b> 1 per floor other than primary space (4.07)	1	120	120	13.7	10.0	12.0
<b>4.09 Print/Copy Room</b> 1 per floor	1	160	160	15.8	10.0	16.0
<b>4.10 File/Data/Record Storage/Plan Room</b>	1	250	250	19.8	10.0	25.0
<b>4.11 After Hours Package Delivery</b> (locate at Ground Floor)	1	80	80	11.2	10.0	8.0
<b>4.12 Computer/Switch Room</b> 1 per upper floors	1	80	80	11.2	11.0	7.3
<b>4.13 Custodial Closet</b> 1 per floor	1	120	120	13.7	10.0	12.0
<b>4.14 Locker Room</b> Change Rm w/ Toilets & Shwrs. (Locate at Ground Floor) <i>(divided by male/female)?</i>	75	25	1,875	54.1	54.0	34.7
<b>4.15 PPE Closet</b> Storage of PPE & field items. (locate on Ground Floor)	1	160	160	15.8	10.0	16.0
<b>4.16 Chemical Storage</b> <i>(Is this located within the main building or adjacent Equipment Storage Bays)?</i>	1	160	160	15.8	10.0	16.0
<b>4.17 Equipment Storage Bays</b> Separate Building - Secure access	10	350	3,500	23.4	14.0	25.0

<b>BUILDING SUPPORT - SQ. FT. TOTALS</b>	<b>9,905</b>
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Notes: - Ref. notes from I.T., Parks, & Public Works. Need info on Solar light storage, repair & installation.

<b>DEPARTMENTAL SQ. FT. SUBTOTALS</b>	<b>12,025</b>
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<b>UTILITY</b>		<b>UTILITY</b>
----------------	--	----------------

5.00 Stairs	0	260	0	20.2	10.0	26.0
5.01 Elevator	0	80	0	11.2	10.0	8.0
5.02 Elevator Equip. Room	0	80	0	11.2	10.0	8.0
5.03 Mechanical/Electrical Closets @ Approx. 3% of Net Building Sq. Ft. Subtotal			361	23.7	10.0	36.1
5.04 Building Systems/Materials @ Approx. 5% of Net Building Sq. Ft. Subtotal Assuming typical commercial office construction.			601			
<b>Subtotal:</b>			12,987			
5.05 Circulation @ Approx. 15% of Net Building Sq. Ft. Subtotal Need wide corridors (5'-0") min.			1,804			
<b>Subtotal:</b>			<b>14,791</b>			

Notes: Property to have access control gate; secure entry to certain areas;

Department area totals have been taken from or interpreted from the Program Questionnaires as completed by City of Angleton staff members. Please review and comment on the number of spaces requested as well as the preliminary size of each space. Check for duplicated or omitted spaces.

**SUMMARY**

**Proposed Total Sq. Ft. for New Construction** **14,791**

**Anticipated Construction Cost**

	Sq. Ft.	\$/Sq. Ft.	Construction Cost
New construction including finished interior office space.	14,791	\$285	\$4,215,364

**Preliminary Construction Cost Subtotal** **\$4,215,364**

**Additional cost considerations (Soft Costs Estimates)**

Site Development/Improvements: (parking, lighting, sidewalks, earthwork, etc.)	\$0
Landscape/Irrigation:	\$0
Exterior Graphics/Signage: (building signage, interior graphics - & monument sign)	\$0
Security System: (if necessary)	\$0
Furniture: (if not relocating)	\$0
Audio/Visual equipment: (if not relocating)	\$0
Professional construction materials testing:	\$0
Office equipment: (if not relocating)	\$0
Relocation/moving costs: (if necessary)	\$0
Professional Fees: (approx. 10% of Const. Costs)	\$0

**Preliminary Total Construction Cost** **\$4,215,364**

Consideration of each of the above items in addition to the Anticipated Construction Cost should yield a more accurate representation of the overall Project Cost for this facility.



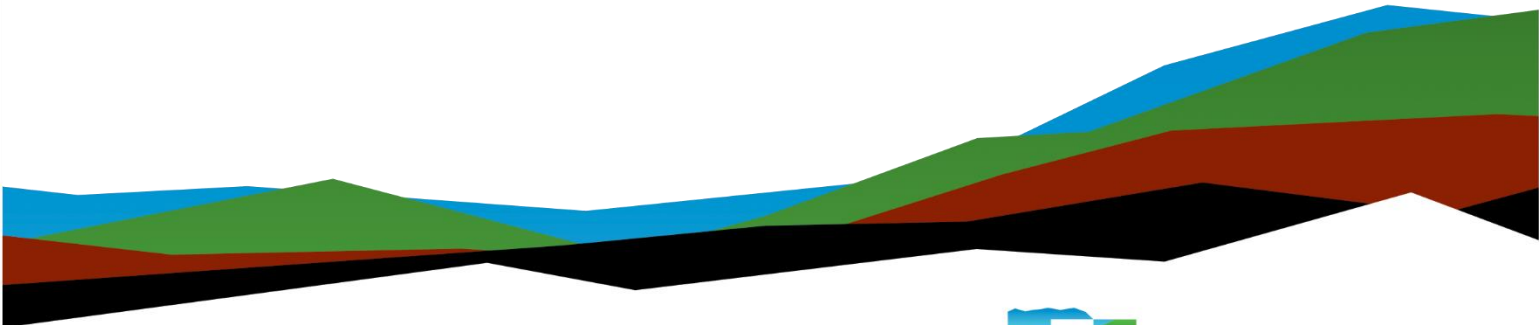
# Angleton King Municipal Operations Center

## Geotechnical Engineering Report

June 23, 2023 | Terracon Project No. AS225036

**Prepared for:**

iAD Architects  
107 West Way, Suite 16  
Lake Jackson, Texas 77566



Nationwide  
[Terracon.com](https://www.terracon.com)

- Facilities
  - Environment
  - Geotechnical
  - Materials
- 327

22535 N Highway 288-B  
Angleton, TX 77515  
P (979) 202-1113  
**Terracon.com**

June 23, 2023

iAD Architects  
107 West Way, Suite 16  
Lake Jackson, Texas 77566

Attn: Ms. Terri Jordan – Office Manager  
E: tjordan@iadarchitects.com

Re: Geotechnical Engineering Report  
Angleton King Municipal Operations Center  
901 South Velasco Street  
Angleton, Texas  
Terracon Project No. AS225036

Dear Ms. Jordan:

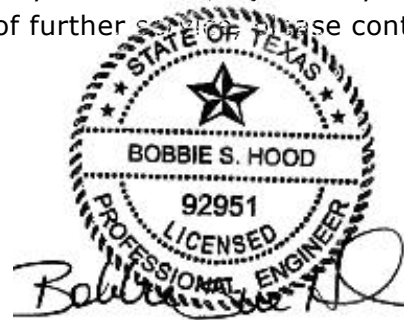
Terracon Consultants, Inc. (Terracon) is pleased to submit our geotechnical engineering report for the project referenced above in Angleton, Texas. We trust that this report is responsive to your project needs. Please contact us if you have any questions or if we can be of further assistance.

We appreciate the opportunity to be of service to you on this project. If you have any questions concerning this report or if we may be of further assistance, please contact us.

Sincerely,  
**Terracon Consultants, Inc.**  
(Texas Firm Registration No.: F-3272)



Ramses Macias, E.I.T.  
Geotechnical Senior Staff Engineer



Bobbie Sue Hood, P.E.  
Geotechnical Services Manager



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## Attachments

- Exploration and Testing Procedures**
- Site Location and Exploration Plans**
- Exploration and Laboratory Results**
- Supporting Information**

**Note:** Refer to each individual Attachment for a listing of contents.

## Introduction

This report presents the results of our subsurface exploration and Geotechnical Engineering services performed for the proposed pre-engineered metal building (PEMB), covered parking structures, associated pavement and driveways, and demolition considerations for existing building to be located at 901 South Velasco Street in Angleton, Texas. This project was authorized by Mr. Brent Bowles with iAD Architects through signature of our Agreement for Services on May 24, 2023. This project was performed in general accordance with Terracon Document No. PAS225036.Rev1 dated May 24, 2023.

The purpose of these services was to provide information and geotechnical engineering recommendations relative to:

- Subgrade preparation/earthwork recommendations;
- Demolition considerations;
- Recommended foundation options and engineering design parameters;
- Estimated settlement of foundations; and
- Pavement design guidelines.

The geotechnical engineering Scope of Services for this project included the advancement of three test borings to depths ranging from approximately 6 to 25 feet below existing grade, laboratory testing, engineering analysis, and preparation of this report.

Maps showing the site and boring locations are shown on the [Site Location](#) and [Exploration Plan](#), respectively. The results of the laboratory testing performed on soil samples obtained from the site during our field exploration are included on the boring logs in the [Exploration Results](#) section.

## Project Description

Our initial understanding of the project was provided in our proposal and was discussed during project planning. A period of collaboration has transpired since the project was initiated, and our final understanding of the project conditions is as follows:

Item	Description
<b>Information Provided</b>	An updated drawing of the site location and proposed development were received on May 15, 2023.

Item	Description
<b>Project Description<sup>1</sup></b>	We understand that the proposed development includes a one-story pre-engineered metal building (PEMB) with an approximate footprint of 14,800 square feet, covered parking structures, pavement and driveways, and demolition of the existing building located on site.
<b>Finished Floor Elevation</b>	Within up to 2 feet above existing grade
<b>Proposed Foundations</b>	Shallow spread footings
<b>Maximum Loads</b>	<ul style="list-style-type: none"> <li>■ Columns: 50 kips</li> <li>■ Slabs: 125 pounds per square foot (psf)</li> </ul>

1. Information provided by iAD Architects.

Terracon should be notified if any of the above information is inconsistent with the planned construction, especially the grading limits, as modifications to our recommendations may be necessary.

## Site Conditions

The following description of site conditions is derived from our site visit in association with the field exploration.

Item	Description
<b>Parcel Information</b>	The project site is located at 901 South Velasco Street in Angleton, Texas. See <a href="#">Site Location</a>
<b>Existing Improvements</b>	At the time of our field exploration, one-story buildings, pavement and driveways, containers, and a transmission line were located within the general vicinity of the site.
<b>Current Ground Cover</b>	Asphaltic pavement near the existing building, grass and weeds outside the existing developments.
<b>Existing Topography</b>	Relatively level

# Geotechnical Characterization

## Geology

Based on the geologic maps published by the Bureau of Economic Geology, the site for the proposed construction is located on the Beaumont formation, a deltaic nonmarine Pleistocene deposit. The Beaumont formation is heterogeneous containing thick interbedded layers of clay, fine sand, and silt.

The clay present in the formation has been reconsolidated by a process of desiccation. Numerous wetting and drying cycles have produced a network of randomly oriented and closely-spaced joints, which are sometimes slickensided, that is, have shiny appearance when exposed. The joint pattern strongly influences the engineering behavior of the soil.

The sand layers vary in compactness from loose to very dense, and in thickness from a fraction of an inch to many feet due to an irregular depositional environment. Sands are generally subrounded to subangular and vary from coarse to very fine, are poorly graded, and often contain significant amounts of silt-sized particles in the sand matrix.

The coastal plain in this region has a complex tectonic geology, several major features of which are: Gulf Coastal geosyncline, salt domes, and major sea level fluctuations during the glacial stages, subsidence and geologic faulting activities. Most of these geologic faulting activities have ceased for millions of years, but some are still active.

## Subsurface Profile

We have developed a general characterization of the subsurface conditions based upon our review of the subsurface exploration, laboratory data, geologic setting and our understanding of the project. This characterization, termed GeoModel, forms the basis of our geotechnical calculations and evaluation of the site. Conditions observed at each exploration point are indicated on the individual logs. The individual logs can be found in the **Exploration Results** and the GeoModel can be found in the **Figures** attachment of this report.

As part of our analyses, we identified the following model layers within the subsurface profile. For a more detailed view of the model layer depths at each boring location, refer to the GeoModel.

Model Layer	Layer Name	General Description
1	Asphalt	about 1 to 1.5 inches
2	Base	about 4 inches

Model Layer	Layer Name	General Description
3	Lean Clay and Sandy Lean Clay	dark tan, tan, and gray, medium stiff to very stiff with calcareous and ferrous nodules, and shell fragments
4	Fat Clay	dark gray and tan, very stiff, with calcareous nodules
5	Sandy Silt, Silty Sand, Clayey Sand, and Poorly Graded Sand with Silt	tan, very loose to dense, with shell fragments

### Groundwater Conditions

Borings B-1 and B-2 were advanced using dry drilling techniques to a depth of approximately 10 to 12 feet in an effort to evaluate groundwater conditions at the time of the field program. Wet rotary techniques were used thereafter to the termination depth of these borings (about 25 feet). Boring B-3 was advanced using dry drilling techniques to its termination depth (approximately 6 feet) in an effort to evaluate groundwater conditions at the time of the field program. Upon reaching groundwater, drilling was suspended for a period of about 15 minutes to allow the groundwater to rise and the groundwater levels to be recorded. The water levels observed in the boreholes can be found on the boring logs in [Exploration Results](#), and are summarized below.

Summary of Groundwater Level Observations					
Boring No.	Approximate Boring Depth (feet)	Approximate Depth of Dry Drilling (feet)	Approximate Depth of Groundwater Below Existing Grade (feet)		
			Initial/During Dry Drilling	After 5 Minutes	After 15 Minutes
B-1	25	10	7	6	5
B-2	25	12	9	7	6½
B-3	6	6	No groundwater observed		

Groundwater level fluctuations occur due to seasonal variations in the amount of rainfall, runoff and other factors not evident at the time the borings were performed. Therefore, groundwater levels during construction or at other times in the life of the structure may be higher or lower than the levels indicated on the boring logs. The possibility of groundwater level fluctuations should be considered when developing the design and construction plans for the project and should be evaluated prior to construction.

## Geotechnical Overview

Based on the information obtained from our subsurface exploration, the site can be developed for the proposed project. A summary of our findings and recommendations is provided below.

- Expansive soils were observed at this site. This report provides recommendations to help reduce the effects of soil shrinkage and expansion. However, even if these procedures are followed, some movement and distress in the grade supported foundations should be anticipated. The severity of distress will increase if any modification of the site results in excessive wetting or drying of the expansive soils. Eliminating the risk of movement associated with expansive soils may not be feasible. However, this risk can be significantly reduced if the foundations are designed as a structural beam or slab over a void space with the structural loads supported by a deep foundation system terminated below the active zone.
- We understand the proposed structure at this site is planned to be supported on a foundation system consisting of shallow spread/strip footings. This type of foundation may be utilized to support the proposed structure planned at this site provided the subgrade is prepared as discussed in this report.
- A minimum 12-inch-thick select fill pad should be placed under the proposed grade-supported slab to provide uniform support to the slab and reduce the estimated PVR to approximately one inch or less.
- Both flexible pavement systems (consisting of asphaltic concrete and base material) and rigid pavement systems may be considered for this project. The **Pavements** section addresses the design of pavement systems.

The recommendations contained in this report are based upon the results of field and laboratory testing (presented in the **Exploration Results**), engineering analyses, and our current understanding of the proposed project. The **General Comments** section provides an understanding of the report limitations.

## Earthwork

Earthwork is anticipated to include clearing and grubbing, excavations, and select fill placement. The following sections provide recommendations for use in the preparation of specifications for the work. Recommendations include critical quality criteria, as necessary, to render the site in the state considered in our geotechnical engineering evaluation for foundations, floor slabs, and pavements.

## Site Preparation

Construction areas should be stripped of vegetation, topsoil, existing pavements (including crushed stone material) and other debris/unsuitable surface material. Proper site drainage should be maintained during construction so that ponding of surface runoff does not occur and cause construction delays and/or inhibit site access.

Demolition of existing structures and their below-grade portions, pavements/flatwork, utilities, etc. should be addressed as recommended in **Demolition Considerations**. Once final subgrade elevations have been achieved, the exposed subgrade should be carefully proofrolled with a 20-ton pneumatic roller or equivalent equipment, such as a fully loaded dump truck, to detect weak zones in the subgrade. Weak areas detected during proofrolling, as well as zones containing organic matter and/or debris, should be removed and replaced with soils exhibiting similar classification, moisture content, and density as the adjacent in-situ soils.

Subsequent to proofrolling, and just prior to placement of fill, the exposed subgrade within the construction area should be evaluated for moisture and density. If the moisture and/or density do not meet the criteria described in **Fill Compaction Requirements** for on-site soils, the subgrade should be scarified to a minimum depth of 6 inches, moisture adjusted, and compacted to at least 95 percent of the Standard Effort (ASTM D 698) maximum dry density.

## Fill Material Types

Select fill and on-site soils to be used at this site for grade adjustments should meet the following criteria:

Fill Type	USCS Classification	Acceptable location for Placement
Select fill soils	CL and/or SC ( $10 \leq PI \leq 20$ )	Must be used to construct the select fill building pad under the floor slab and for all grade adjustments within the building area.
On-site soils	Varies	The on-site soils appear suitable for use as fill within the pavement areas, provided they are free of organics and debris.

If blended or mixed soils are intended for use as select fill, Terracon should be contacted to provide additional recommendations. Blended or mixed soils do not occur naturally. These soils are a blend of sand and clay and will require mechanical mixing at the site with a pulvimixer. If these soils are not mixed thoroughly to break down the clay clods and blend-in the sand to produce a uniform soil matrix, the fill material may be detrimental

to the performance of the foundations. If blended soils are used, we recommend that additional samples of the blended soils as well as the clay clods, be obtained prior to and during earthwork operations to evaluate if the blended soils can be used in lieu of select fill. The actual type and amount of mechanical mixing at the site will depend on the amount of clay and sand, and properties of the clay.

### Fill Compaction Requirements

Item	Description
<b>Fill Lift Thickness</b>	The fill soils should be placed on prepared surfaces in lifts not to exceed 8 inches loose measure.
<b>Compaction Requirements</b>	<ul style="list-style-type: none"> <li>■ Select fill and on-site soils should be compacted to at least 95 percent of the Standard Effort (ASTM D 698) maximum dry density.</li> <li>■ The select fill soils should be moisture adjusted to within 2 percent of the optimum moisture content.</li> <li>■ The on-site clay soils should be moisture conditioned to between optimum and +4 percent of the optimum moisture content.</li> </ul>

Prior to any filling operations, samples of the proposed borrow and on-site materials should be obtained for laboratory moisture-density testing. The tests will provide a basis for evaluation of fill compaction by in-place density testing. A qualified soil technician should perform sufficient in-place density tests during the filling operations to evaluate that proper levels of compaction, including dry unit weight and moisture content, are being attained.

### Grading and Drainage

All grades must provide effective drainage away from the proposed building during and after construction. Water permitted to pond next to the building can result in distress in the building. These greater movements can result in unacceptable differential slab movements, cracked slabs and walls, and roof leaks. Slabs and foundation performances described in this report are based on effective drainage for the life of the building and cannot be relied upon if effective drainage is not maintained.

Exposed ground should be sloped away from the building for at least 10 feet beyond the perimeter of the building. After construction and landscaping, we recommend verifying final grades to document that effective drainage has been achieved. Grades around the building should also be periodically inspected and adjusted as necessary, as part of the buildings’ maintenance program.



Discharge roof drains and downspouts onto pavements and/or flatworks which slope away from the building or extend down spouts a minimum of 10 feet away from the building.

Flatworks will be subject to post construction movement. Maximum grades practical should be used for flatwork to prevent water from ponding. Allowances in final grades should also consider post-construction movement of flatwork, particularly if such movement would be critical. Where flatwork abuts the structures, effectively seal and maintain joints to prevent surface water infiltration.

Utility trenches are a common source of water infiltration and migration. All utility trenches that penetrate beneath the structures should be effectively sealed to restrict water intrusion and flow through the trenches, which could migrate below the structure. The trench should provide an effective trench plug that extends at least 5 feet out from the face of the structure exterior. The plug material should consist of clay compacted at a water content at or above the soils optimum water content. The clay fill should be placed to completely surround the utility line and be compacted in accordance with recommendations in this report.

### Wet Weather/Soft Subgrade Considerations

Construction operations may encounter difficulties due to wet or soft surface soils becoming a general hindrance to equipment, especially following periods of wet weather. If the subgrade cannot be adequately compacted to the minimum densities as described previously, one of the following measures will be required: 1) removal and replacement with select fill, 2) chemical treatment of the soil to dry and improve the condition of the subgrade, or 3) drying by natural means if the schedule allows. Based on our experience with similar soils in this area, chemical treatment is generally an efficient and effective method to increase the supporting value of wet and weak subgrade. Terracon should be contacted for additional recommendations if chemical treatment is needed due to soft and wet subgrade.

### Demolition Considerations

We understand that the site is currently occupied by an existing building and associated asphaltic parking areas. Special care should be exercised to demolish and/or remove any existing foundations, pavements, utilities, and buried structures to help reduce the disturbance of the subgrade and potential detrimental effects on construction of the proposed development at this site.

We anticipate that the existing building is supported on shallow footings or grade beams and/or drilled-and-underreamed footings. Shallow footings and grade beams should be removed and the excavation backfilled with properly placed and compacted select fill. If drilled footings are observed, we recommend that the shaft should be broken off at an

elevation about 24 to 36 inches below the bottom of the proposed grade beam depth. The remainder of the drilled footing should be left in place. Remnants of the foundation elements to remain should be surveyed. The existing foundations should be superimposed on the proposed development plans to evaluate the potential for obstructions with the new construction. If drilled footings are planned to be excavated and completely removed, Terracon should be contacted for additional recommendations. Complete removal of drilled footings will require significant earthwork activities to backfill the resulting excavations in such a manner as to make the site suitable for new construction.

All utilities and associated bedding material that are planned to be abandoned should be completely removed from within the proposed building areas. As an alternate to complete removal, the existing utilities may be abandoned in-place if they do not interfere with the planned development. If the utilities are abandoned in-place, they should be properly pressure grouted to completely fill the utility.

The excavations resulting from the utilities or other buried structures should be backfilled in accordance with the recommendations provided in the **Fill Compaction Requirements** section. If situations are encountered where compaction of fill would not be efficient because of the size or location of an excavation, the use of cement stabilized sand or flowable fill may be considered as a suitable alternative to select fill. The compressive strength of the cement stabilized sand or flowable fill utilized should be between 50 and 100 pounds per square inch (psi).

## Shallow Foundations

If the site has been prepared in accordance with the requirements noted in **Earthwork**, the following design parameters are applicable for shallow foundations.

### Design Recommendations – Shallow Spread/Strip Footings

Item	Description
<b>Minimum Embedment Depth</b> <sup>1</sup>	3 feet below final grade
<b>Allowable bearing pressures (individual footings)</b> <sup>2</sup>	Net dead plus sustained live load – 1,700 psf Net total load – 2,500 psf
<b>Allowable bearing pressure (strip footing)</b> <sup>3</sup>	Net total load – 1,700 psf
<b>Approximate post-construction settlement</b> <sup>4</sup>	Approximately one inch

Item	Description
<b>Estimated post-construction differential settlement<sup>5</sup></b>	Approximately 1/2 of post-construction settlement
<b>Allowable passive pressure<sup>6</sup></b>	750 psf
<b>Allowable frictional resistance<sup>7</sup></b>	250 psf
<b>Uplift resistance<sup>8</sup></b>	Foundation Weight (150 pcf) & Soil Weight (120 pcf)

1. The footings should bear upon the compacted select fill or undisturbed native clay soils.
2. Whichever condition yields a larger bearing area.
3. Defined as a footing at least twice as long as it is wide.
4. This estimated post-construction settlement of the shallow footings is based on proper construction practices being followed. A clear distance between footings of one footing size of the larger of the two footings should not produce overlapping stress distributions and would essentially behave as independent foundations.
5. The post-construction differential settlements may result from variances in subsurface conditions, loading conditions, and construction procedures. The settlement response of the footings will be more dependent upon the quality of construction than upon the response of the subgrade to the foundation loads.
6. The passive pressure along the exterior face of the footings should be neglected within the upper 4 feet due to surface effects and the presence of fill and expansive soils unless pavement is provided up to the edge of the structures. For interior footings, the allowable passive pressure may be used for the entire depth of the footing.
7. To be utilized on the base of the footings.
8. Structural uplift loads on the shallow footings may be resisted by the weight of the foundation plus the weight of any soil directly above the foundation. The ultimate uplift capacity of shallow footings should be reduced by an appropriate factor of safety to compute allowable uplift capacity.

### Construction Considerations – Shallow Foundations

Excavations for the shallow foundations should be performed with equipment capable of providing a relatively clean bearing area. The bottom 6 inches of the excavations should be performed using a smooth-mouthed excavation bucket or by hand labor. The excavations should be neatly excavated and properly formed. Disturbance of the bearing area of the foundations should be minimized during the excavation operations. Soft zones observed during construction should be over-excavated to a firm and undisturbed soil layer and all loose materials in the excavation bottom should be removed before placement of concrete. Water should not be allowed to accumulate at the bottom of the foundation excavations. To reduce the potential for groundwater seepage into the excavations and to minimize disturbance to the bearing area, we recommend that steel and concrete be placed as soon as possible after the excavations are completed and properly cleaned. Excavations should not be left open for more than 24 hours. The bearing surface of the foundations should be evaluated immediately prior to placing concrete.

A thin seal slab (approximately 2 to 4 inches thick) should be placed at the bottom of the footing excavation to protect the bearing surface of the footing from disturbance if the footing cannot be poured within 24 hours following excavation.

## Foundation Construction Monitoring

The performance of the foundation systems will be highly dependent upon the quality of construction. Thus, we recommend that subgrade preparation, fill compaction, and foundation installation be observed full time by an experienced Terracon soil technician under the direction of our geotechnical engineer. During foundation construction, the base of the footing excavations should be observed to evaluate the condition of the subgrade. We would be pleased to develop a plan for compaction and foundation installation observation to be incorporated in the overall quality control program.

## Floor Slabs

Planned finished grades for the proposed building were not available at the time of this report. We anticipate that the finished floor elevation of the proposed building is planned to be within about 2 feet above existing grade. If the grading is planned to be altered from what has been previously described, Terracon should be notified to review and/or modify our recommendations given in this subsection.

The near-surface soils observed at this site generally exhibit a moderate to high expansion potential. These soils can subject the interior floor slab of the building to significant movements (due to shrinking and swelling) with fluctuations in their moisture content. This movement potential is influenced primarily by the properties of the subgrade soils, as well as the moisture content of the subgrade at the time of construction, overburden pressures, and the stability of the moisture contents throughout the life of the building. Based on the information developed from our field and laboratory programs and on method TEX-124-E in the Texas Department of Transportation (TxDOT) Manual of Testing Procedures, we estimate that the subgrade soils at this site exhibit a Potential Vertical Rise (PVR) of up to approximately 1¼ inches. Therefore, we recommend that the near-surface soils be prepared as stated below to reduce the potential for slab movement associated with volumetric changes of the near-surface clay soils due to moisture variations to a more acceptable level. The actual movements could be greater if poor drainage, ponded water, and/or other sources of moisture are allowed to infiltrate beneath the structure after construction.

The most common method of subgrade preparation to reduce potential expansion of the subgrade would be to provide a pad of properly placed and compacted select fill beneath the grade-supported floor slabs. The corresponding decrease in the potential soil movements is primarily a function of the fill pad thickness and the moisture levels of the

underlying clay subgrade. While the indicated preparations do not eliminate the potential for soil movement, the magnitude of such movements should be reduced to more acceptable levels. To provide uniform support to the floor slab and to reduce the estimated PVR to approximately one inch or less, we recommend that a minimum 12 inches of properly placed and compacted select fill material be constructed immediately beneath the floor slab. The select fill pad should extend a minimum of 3 feet beyond the edge of the building area. The final exterior grade adjacent to the structure should be sloped to promote effective drainage away from the structure.

Select fill should be utilized for all grade adjustments within the proposed building area. The subgrade and select fill soils should be prepared as outlined in the **Earthwork** section of this report, which contains material and placement requirements for select fill, as well as other subgrade preparation recommendations.

The subgrade soils for flatwork outside of the structure which will be sensitive to movement should be prepared as discussed previously. This preparation will be important on surrounding sidewalks and paving immediately adjacent to the structure. If these adjacent flatwork areas are not prepared as stated above for the building area, the estimated PVR for these areas could approach those indicated previously for in-situ conditions. If the soils swell in these areas, this movement could result in significant distress to the adjacent sidewalks and paving and possibly result in reversed drainage (flow of runoff toward the structure) around the perimeter of the structure.

## Pavements

Once the subgrade is properly prepared, both flexible pavement systems (consisting of asphaltic concrete and base material) and rigid pavement systems may be considered for this project. Detailed traffic loads and frequencies were not available. However, we understand that traffic will primarily consist of passenger vehicles and fire trucks in the parking areas and passenger vehicles combined with fire trucks, garbage trucks, and large multi-axle trucks from time-to-time in driveway areas.

Tabulated in the following table are the assumed traffic frequencies and loads used to design pavement sections for this project. When actual traffic conditions have been determined Terracon should be contacted to review the information to consider a need for revision of the pavement designs and related recommendations.

Pavement Area	Traffic Design Index <sup>1</sup>	Description
<b>Automobile Parking Areas</b>	DI-1	Light traffic (Few vehicles heavier than passenger cars, no regular use by heavily loaded two axle trucks.) (EAL <sup>2</sup> < 6)

Pavement Area	Traffic Design Index <sup>1</sup>	Description
<b>Driveways (Light Duty)</b>	DI-2	Medium to light traffic (Similar to DI-1 including not over 50 loaded two axle trucks or lightly loaded larger vehicles per day. No regular use by heavily loaded trucks with three or more axles.) (EAL = 6-20)
<b>Driveways and Truck Traffic Areas (Medium Duty)</b>	DI-3	Medium traffic (Including not over 300 heavily loaded two axle trucks plus lightly loaded trucks with three or more axles and no more than 30 heavily loaded trucks with more than three axles per day.) (EAL = 21-75)

1. Based on NSSGA traffic design indices.
2. Equivalent daily 18-kip single-axle load applications.

The top 6 inches of the finished subgrade soils directly beneath the pavements should be chemically treated with lime or a mixture of lime and flyash. Chemical treatment will increase the supporting value of the subgrade and decrease the effect of moisture on subgrade soils. This 6 inches of treatment is a required part of the pavement design and is not a part of the site and subgrade preparation for wet/soft subgrade conditions.

Listed below are pavement component thicknesses, which may be used as a guide for pavement systems at the site for the traffic classifications stated herein. These systems were derived based on general characterization of the subgrade. Specific testing (such as CBR's, resilient modulus tests, etc.) was not performed for this project to evaluate the support characteristics of the subgrade.

Flexible Pavement Section		
Component	Material Thickness, Inches	
	DI-1	DI-2
Asphaltic concrete	2.0	2.5
Base material	8.0	10.0
Treated subgrade	6.0	6.0

Rigid Pavement Section			
Component	Material Thickness, Inches		
	DI-1	DI-2	DI-3
Reinforced concrete	5.0	6.0	7.0
Treated subgrade	6.0	6.0	6.0

Waste dumpster areas should be constructed of at least 7 inches of reinforced concrete pavement. The concrete pad areas should be designed so that the vehicle wheels of the collection truck are supported on the concrete while the dumpster is being lifted to support the large wheel loading imposed during waste collection.

Presented below are our recommended material requirements for the various pavement sections.

Reinforced Concrete Pavement – The materials and properties of reinforced concrete pavement should meet applicable requirements in the ACI Manual of Concrete Practice. The portland cement concrete mix should have a minimum 28-day compressive strength of 3,500 psi.

If river gravel is planned to be utilized in the portland cement concrete mix, Terracon should be contacted for additional services. The presence of river gravel in the portland cement concrete mix can result in excessive cracking and distress to the concrete pavement as a result of differing thermal expansion properties between the river gravel and cement paste. Special care should be taken in developing the project’s portland cement concrete mix design, joint layout, and placement to help reduce the potential for excessive cracking and distress if river gravel is planned to be utilized for the project.

Reinforcing Steel – ACI recommendations indicate that distributed steel reinforcement is not necessary when the pavement is properly jointed to form short panel lengths that will help reduce intermediate cracking. Provided the concrete pavement is designed and constructed as stated herein, the installation of reinforcing steel is optional and should be evaluated by the design team. Proper layout and installation of the joints within the pavement is critical to help control intermediate cracking.

If reinforcing steel is planned to be utilized in the concrete pavement by the design team, the following amount of reinforcing steel should be used as a guideline:

- DI-1: #3 bars spaced at 18 inches or #4 bars spaced at 24 inches on centers in both directions.
- DI-2: #3 bars spaced at 12 inches or #4 bars spaced at 18 inches on centers in both directions.
- DI-3: #4 bars spaced at 18 inches on centers in both directions.

Control Joint Spacing – ACI recommendations indicate that control joints should be spaced at a maximum spacing of 30 times the thickness of the pavement for unreinforced parking lot pavements. Furthermore, ACI recommends a maximum control joint spacing of 12.5 feet for 5-inch pavements and a maximum control joint spacing of 15 feet for 6-inch or thicker pavements. Sawcut control joints should be cut within 4 to 12 hours of concrete placement to help control the formation of plastic shrinkage cracks as the concrete cures. The depth of the joint should be at least one-quarter of the slab depth when using a conventional saw or one inch when using early entry saws. The width of the cut should be in accordance with the joint sealant manufacturer recommendations.

Expansion Joint Spacing – ACI recommendations indicate that regularly spaced expansion joints may be deleted from concrete pavements. Therefore, the installation of expansion joints is optional and should be evaluated by the design team.

Construction Joints – When concrete is planned to be placed at different times, we recommend the use of a construction joint between paving areas. The construction joint should consist of a butt joint (not a keyway joint).

Concrete Curing Compound – A concrete curing compound, such as a Type 2 membrane curing compound conforming to TxDOT DMS-4650, “Hydraulic Cement Concrete Curing Materials and Evaporation Retardants” or equivalent, should be applied to the concrete surface immediately after placement of the concrete in accordance with TxDOT 2014 Standard Specifications Item 360.

Dowels at Expansion/Construction Joints – The dowels at expansion/construction joints should be spaced at 12-inch centers and consist of the following:

- DI-1: 5/8-inch diameter, 12-inches long with 5-inch embedment.
- DI-2: 3/4-inch diameter, 14-inches long with 6-inch embedment.
- DI-3: 7/8-inch diameter, 14-inches long with 6-inch embedment.

Hot Mix Asphaltic Concrete Surface Course – The asphaltic concrete surface course should be plant mixed, hot laid Type D (Fine Graded Surface Course) meeting the requirements in TxDOT 2014 Standard Specifications Item 340. Specific criteria for the job specifications should include compaction to within an air void range of 3.8 to 8.5 percent calculated using the maximum theoretical specific gravity of the mix measured by TxDOT Tex-227-F. The asphalt cement content by percent of total mixture weight should be within  $\pm 0.5$  percent asphalt cement from the job mix design.

Base Material – Base material should be composed of crushed limestone or crushed concrete meeting the requirements of TxDOT 2014 Standard Specifications Item 247, Type A or D, Grade 1-2. The base material should be compacted to at least 95 percent of the Modified Effort (ASTM D1557) maximum dry density at moisture content within 2 percent of the optimum moisture content.

### Chemical Treatment

Lime Treated Subgrade – We anticipate that the pavement subgrade will generally consist of on-site medium to high plasticity clay soils. The pavement subgrade should be treated with lime in accordance with the TxDOT 2014 Standard Specifications Item 260. The amount of lime should be determined for subgrade soils by conducting laboratory tests just prior to construction. Based on the classification test results, we anticipate that about 6 to 7 percent lime by dry weight may be used for estimating and planning. The percentages are given as application by dry weight and are typically equivalent to about 30 to 35 pounds of lime per square yard per 6-inch depth. The pulverization, mixing and curing of the lime treated subgrade is of particular importance in these clays. The subgrade should be compacted to a minimum of 95 percent of the Standard Effort (ASTM D 698) maximum dry density at a moisture content between optimum and 4 percent wet of the optimum moisture content.



Lime-Flyash Treated Subgrade –The on-site silty sand and clayey sand soils should be treated with lime-flyash in accordance with TXDOT 2014 Standard Specifications for Construction of Highways, Streets, and Bridges Item 265. Based on the classification test results, we recommend that about 2 to 3 percent lime and 7 to 8 percent flyash by dry weight of soil be used for estimating and planning. The percentages are given as application by dry weight and are typically equivalent to about 10 to 15 pounds of lime and 35 to 40 pounds of flyash per square yard per 6-inch depth. Lime-flyash is also available pre-mixed, typically in percentages of 20 to 30 percent lime and 70 to 80 percent flyash. These pre-mixed products may be used if preferred at a rate of 50 pounds per square yard per 6-inch depth. The subgrade soils should be compacted to a minimum of 95 percent of the material's Standard Effort (ASTM D 698) maximum dry density at a moisture content within 2 percent of the optimum moisture content.

Preferably, traffic should be kept off the treated subgrade for 7 days to facilitate curing of the soil-chemical mixture. In addition, the subgrade is not suitable for heavy construction traffic prior to paving.

The pavement design methods described above are intended to provide structural sections with adequate thickness over a particular subgrade such that wheel loads are reduced to a level the subgrade can support. The support characteristics of the subgrade for pavement design do not account for shrink/swell movements of an expansive clay subgrade such as the soils observed at this site. Thus, the pavement may be adequate from a structural standpoint, yet still experience cracking and deformation due to shrink/swell related movement of the subgrade. Post-construction subgrade movements and some cracking of pavements are not uncommon for clay subgrade conditions such as those observed at this site. Reducing moisture changes in the subgrade is important to reduce shrink/swell movements. Although chemical treatment will help to reduce such movement/cracking, this movement/cracking cannot be feasibly eliminated.

Related civil design factors such as subgrade drainage, shoulder support, cross-sectional configurations, surface elevations and environmental factors which will significantly affect the service life must be included in the preparation of the construction drawings and specifications. Normal periodic maintenance will be required.

Long-term pavement performance will be dependent upon several factors, including maintaining subgrade moisture levels and providing for preventative maintenance. The following recommendations should be implemented to help promote long-term pavement performance:

- The subgrade and the pavement surface should be designed to promote proper surface drainage, preferably at a minimum grade of 2 percent;
- Install joint sealant and seal cracks immediately;
- Extend curbs into the treated subgrade for a depth of at least 4 inches to help reduce moisture migration into the subgrade soils beneath the pavement section; and

- Place compacted, low permeability clayey backfill against the exterior side of the curb and gutter.

Preventative maintenance should be planned and provided for the pavements at this site. Preventative maintenance activities are intended to slow the rate of pavement deterioration, and consist of both localized maintenance (e.g. crack and joint sealing and patching) and global maintenance (e.g. surface sealing). Prior to implementing any maintenance, additional engineering observations are recommended to determine the type and extent of preventative maintenance.

## General Comments

Our work is conducted with the understanding of the project as described in the cost estimate document and will incorporate collaboration with the design team as we complete our services to verify assumptions. Revision of our understanding to reflect actual conditions important to our work will be based on these verifications and will be reflected in the final report. The design team should collaborate with Terracon to confirm these assumptions and to prepare the final design plans and specifications. This facilitates the incorporation of our opinions related to implementation of our geotechnical recommendations. Any information conveyed prior to the final report is for informational purposes only and should not be considered or used for decision-making purposes.

Our analysis and opinions are based upon our understanding of the geotechnical conditions in the area, the data obtained from our site exploration and from our understanding of the project. Variations will occur between exploration point locations, across the site, or due to the modifying effects of construction or weather. The nature and extent of such variations may not become evident until during or after construction. Terracon should be retained as the Geotechnical Engineer, where noted in the final report, to provide observation and testing services during grading, excavation, foundation construction and other earth-related construction phases of the project. If variations appear, we can provide further evaluation and supplemental recommendations. If variations are noted in the absence of our observation and testing services on-site, we should be immediately notified so that we can provide evaluation and supplemental recommendations.

Our Scope of Services does not include either specifically or by implication any environmental or biological (e.g., mold, fungi, bacteria) assessment of the site or identification or prevention of pollutants, hazardous materials or conditions. If the owner is concerned about the potential for such contamination or pollution, other services should be undertaken.

Our services and any correspondence are intended for the sole benefit and exclusive use of our client for specific application to the project discussed and are accomplished in accordance with generally accepted geotechnical engineering practices with no third party

**Geotechnical Engineering Report**

Angleton King Municipal Operations Center | Angleton, Texas  
June 23, 2023 | Terracon Project No. AS225036



Item 14.

beneficiaries intended. Any third party access to services or correspondence is solely for information purposes only. Reliance upon the services and any work product is limited to our client, and is not intended for third parties. Any use or reliance of the provided information by third parties is done solely at their own risk. No warranties, either express or implied, are intended or made.

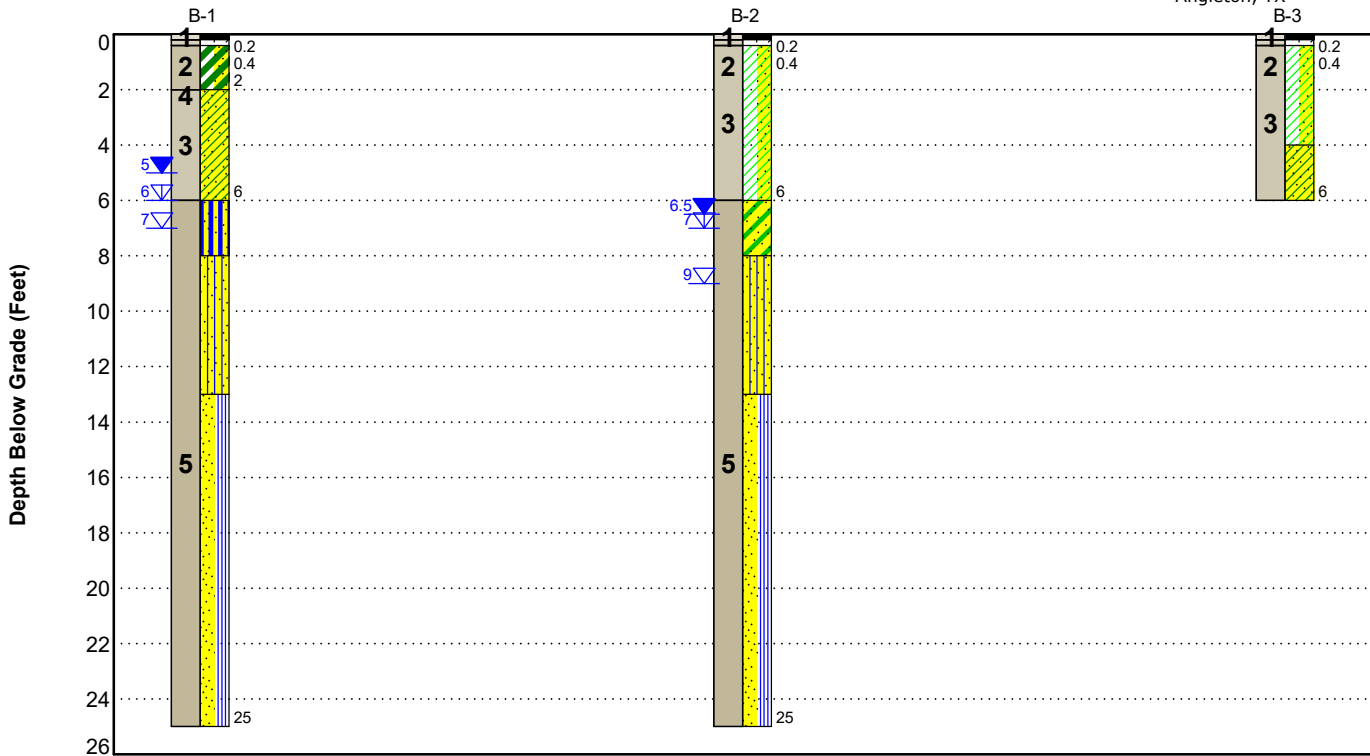
Site characteristics as provided are for design purposes and not to estimate excavation cost. Any use of our report in that regard is done at the sole risk of the excavating cost estimator as there may be variations on the site that are not apparent in the data that could significantly impact excavation cost. Any parties charged with estimating excavation costs should seek their own site characterization for specific purposes to obtain the specific level of detail necessary for costing.

## Figures

### Contents:

GeoModel

## GeoModel



This is not a cross section. This is intended to display the Geotechnical Model only. See individual logs for more detailed conditions.

Model Layer	Layer Name	General Description
1	Asphalt	about 1 to 1.5 inches
2	Base	about 4 inches
3	Lean Clay and Sandy Lean Clay	dark tan, tan, and gray, medium stiff to very stiff with calcareous and ferrous nodules, and shell fragments
4	Fat Clay	dark gray and tan, very stiff, with calcareous nodules
5	Sandy Silt, Silty Sand, Clayey Sand, and Poorly Graded Sand with Silt	tan, very loose to dense, with shell fragments

### LEGEND

- |                    |                 |                              |
|--------------------|-----------------|------------------------------|
| Asphalt            | Sandy Lean Clay | Poorly-graded Sand with Silt |
| Base               | Sandy Silt      | Lean Clay with Sand          |
| Fat Clay with Sand | Silty Sand      | Clayey Sand                  |

- First Water Observation
- Second Water Observation
- Third Water Observation

The groundwater levels shown are representative of the date and time of our exploration. Significant changes are possible over time. Water levels shown are as measured during and/or after drilling. In some cases, boring advancement methods mask the presence/absence of groundwater. See individual logs for details.

**NOTES:**

Layering shown on this figure has been developed by the geotechnical engineer for purposes of modeling the subsurface conditions as required for the subsequent geotechnical engineering for this project. Numbers adjacent to soil column indicate depth below ground surface.

**Geotechnical Engineering Report**

Angleton King Municipal Operations Center | Angleton, Texas  
June 23, 2023 | Terracon Project No. AS225036



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## Attachments

## Exploration and Testing Procedures

### Field Exploration

Number of Borings	Approximate Boring Depth (feet)	Location
2 (B-1 and B-2)	25	Building areas
1 (B-3)	6	Pavement/driveway areas
<b>Total:</b>	<b>56</b>	

**Boring Layout and Elevations:** We used handheld Global Positioning System (GPS) equipment to locate the approximate latitude and longitude of the borings with an accuracy of +/-25 feet. The boring depths were measured from the existing ground surface at the time of our field activities.

**Subsurface Exploration Procedures:** We advanced soil borings with an all-terrain vehicle (ATV) mounted drilling equipment using dry auger and wet rotary drilling techniques. Samples were obtained at intervals of 2 feet in the upper 12 feet of each boring and at intervals of 5 feet thereafter.

Cohesive soil samples were generally recovered using open-tube samplers. Hand penetrometer tests were performed on samples of cohesive soils in the field to serve as a general measure of consistency.

Granular soils and soils for which good quality open-tube samples could not be recovered were sampled by means of the Standard Penetration Test (SPT). This test consists of measuring the number of blows (N) required for a 140-pound hammer free falling 30 inches to drive a standard split-spoon sampler 12 inches into the subsurface material after being seated six inches. This blow count or SPT "N" value is used to evaluate the stratum.

The samples were placed in appropriate containers, taken to our soil laboratory for testing, and classified by a geotechnical engineer. In addition, we observed and record groundwater levels during drilling and sampling.

Our exploration team prepared field boring logs as part of standard drilling operations including sampling depths, penetration distances, and other relevant sampling information. Field logs include visual classifications of materials observed during drilling, and our interpretation of subsurface conditions between samples. Final boring logs, prepared from field logs, represent an interpretation of the field logs by a geotechnical engineer and include modifications based on laboratory observation and tests on select samples.

**Property Disturbance:** We backfilled our borings with auger cuttings and patched them at the surface with asphaltic concrete cement after completion. Our services do not include repair of the site beyond backfilling our borings. Excess auger cuttings were dispersed in the general vicinity of the boring. Because backfill material often settles below the surface after a period, we recommend borings be checked periodically and backfilled, if necessary

## Laboratory Testing

The project engineer reviewed the field data and assigned laboratory tests. The laboratory testing program included the following types of tests:

- Moisture Content
- Dry Unit Weight
- Atterberg Limits
- Percent finer than No. 200 sieve
- Unconfined Compression

The laboratory testing program included examination of soil samples by an engineer. Based on the results of our field and laboratory programs, we described and classified the soil samples in accordance with the Unified Soil Classification System.

Samples not tested in the laboratory will be stored for a period of 30 days subsequent to submittal of this report and will be discarded after this period, unless we are notified otherwise



## Site Location and Exploration Plans

### **Contents:**

Site Location Plan

Exploration Plan

### Site Location

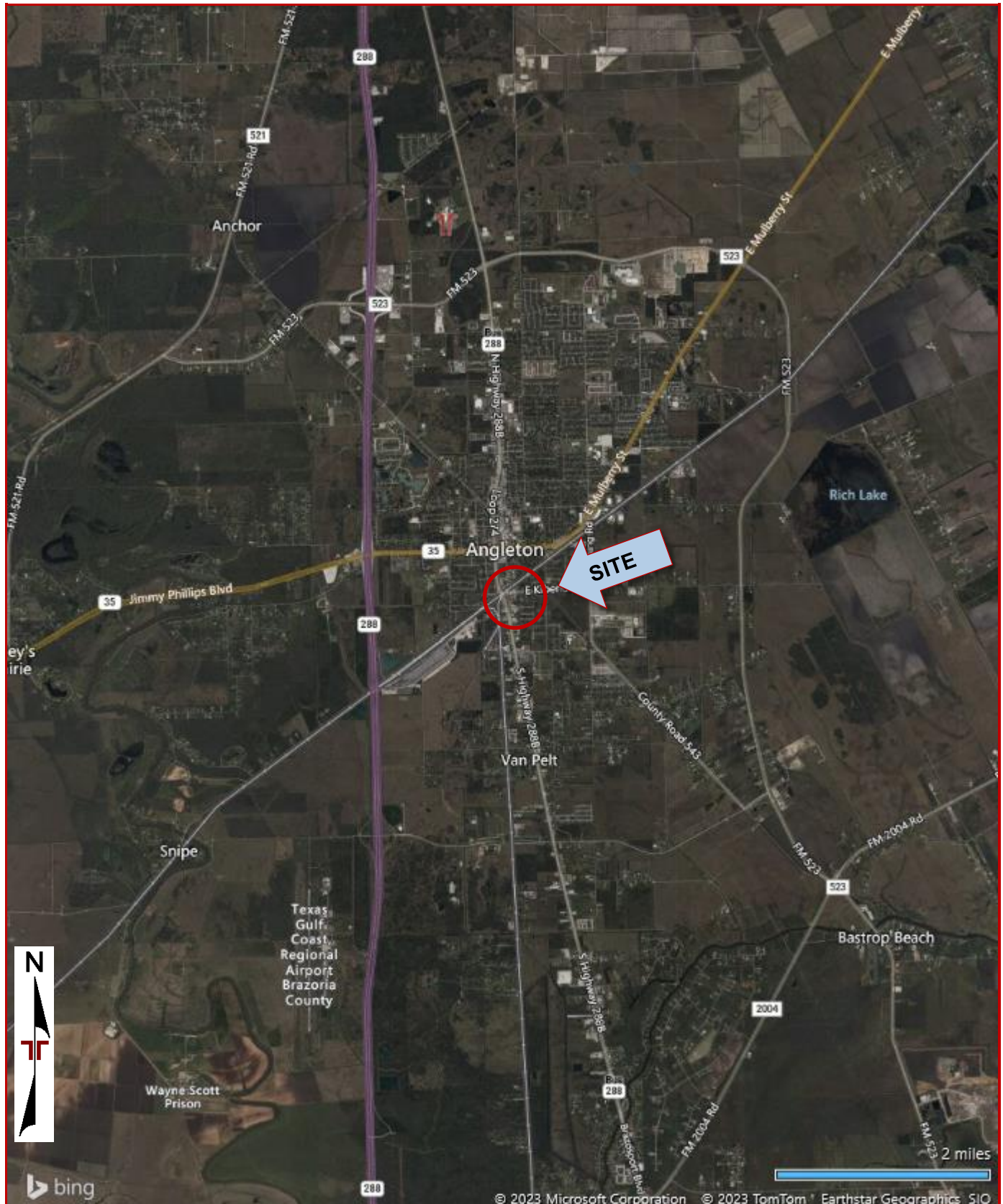


DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES MAP PROVIDED BY MICROSOFT BING MAPS

## Exploration Plan



## **Exploration and Laboratory Results**

### **Contents:**

Boring Logs (B-1 through B-3)

## Boring Log No. B-1

Model Layer	Graphic Log	Location: See Exploration Plan Latitude: 29.1560° Longitude: -95.4307° Depth (Ft.)	Depth (Ft.)	Water Level Observations	Sample Type	Field Test Results	Strength Test			Water Content (%)	Dry Unit Weight (pcf)	Atterberg Limits LL-PL-PI	Percent Fines
							Test Type	Compressive Strength (tsf)	Strain (%)				
1		0.2	0.2										
2		0.4	0.4										
4		FAT CLAY WITH SAND (CH), dark gray and tan, very stiff, with calcareous nodules	2.0			2.5 (HP)							
3		SANDY LEAN CLAY (CL), tan and gray, medium stiff to very stiff, with calcareous nodules	2.0 - 6.0			2.5 (HP)			15.5		36-13-23		
		SANDY SILT (ML), tan, very loose	6.0 - 8.0	▼		1.5 (HP)	UC	0.96	5.7	21.1	117		
		SILTY SAND (SM), tan, loose to medium dense	8.0 - 13.0	▼		0.25 (HP)				25.4		21-19-2 51	
		POORLY GRADED SAND WITH SILT (SP-SM), tan, medium dense	13.0 - 25.0	▼		2-1-3 N=4							
						4-6-8 N=14			23.5			14	
						7-10-10 N=20							
						9-12-15 N=27			24.1			7	
						9-16-13 N=29							
<b>Boring Terminated at 25 Feet</b>			25										

See [Exploration and Testing Procedures](#) for a description of field and laboratory procedures used and additional data (If any).  
 See [Supporting Information](#) for explanation of symbols and abbreviations.

**Notes**

**Water Level Observations**

- ▼ While drilling
- ▼ After 5 minutes
- ▼ After 15 minutes

**Drill Rig**  
ATV

**Hammer Type**  
Rope and Cathead

**Driller**  
East Texas Drilling

**Logged by**  
JC

**Boring Started**

**Boring Completed**

**Advancement Method**

Dry augered to 10 feet, wet rotary thereafter.

**Abandonment Method**

Boring backfilled with auger cuttings.  
Surface capped with asphalt.

## Boring Log No. B-2

Model Layer	Graphic Log	Location: See Exploration Plan Latitude: 29.1561° Longitude: -95.4303°	Depth (Ft.)	Water Level Observations	Sample Type	Field Test Results	Strength Test			Water Content (%)	Dry Unit Weight (pcf)	Atterberg Limits LL-PL-PI	Percent Fines
							Test Type	Compressive Strength (tsf)	Strain (%)				
1		0.2	0.2										
2		0.4	0.4										
3		LEAN CLAY WITH SAND (CL), dark tan, stiff to very stiff, with calcareous nodules - with shell fragments 0.4 to 2 feet - tan and gray 2 to 6 feet				4.5 (HP)			10.8		24-16-8		
3		- with ferrous nodules 4 to 6 feet				1.5 (HP)	UC	1.13	9.6	18.7	114		
3			5			1.5 (HP)				19.7	29-16-13		
3		CLAYEY SAND (SC), tan, very loose	6.0	▼									
3			8.0	▼		0.25 (HP)							
3		SILTY SAND (SM), tan, loose to medium dense		▼									
3			10		X	5-6-7 N=13							
3			10		X	5-4-4 N=8			27.8			43	
3			15		X	6-15-18 N=33							
3		POORLY GRADED SAND WITH SILT (SP-SM), tan, dense - with shell fragments 13 to 18 feet	13.0		X								
3			20		X	12-18-24 N=42			23.1			9	
3			25		X	8-15-18 N=33							
<b>Boring Terminated at 25 Feet</b>			25										

See Exploration and Testing Procedures for a description of field and laboratory procedures used and additional data (If any).  
 See Supporting Information for explanation of symbols and abbreviations.

**Notes**

**Water Level Observations**

- ▼ While drilling
- ▼ After 5 minutes
- ▼ After 15 minutes

**Drill Rig**  
ATV

**Hammer Type**  
Rope and Cathead

**Driller**  
East Texas Drilling

**Logged by**  
JC

**Boring Started**

**Boring Completed**

**Advancement Method**

Dry augered to 12 feet, wet rotary thereafter.

**Abandonment Method**

Boring backfilled with auger cuttings.  
 Surface capped with asphalt.

## Boring Log No. B-3

Model Layer	Graphic Log	Location: See Exploration Plan Latitude: 29.1563° Longitude: -95.4308° Depth (Ft.)	Depth (Ft.)	Water Level Observations	Sample Type	Field Test Results	Strength Test			Water Content (%)	Dry Unit Weight (pcf)	Atterberg Limits LL-PL-PI	Percent Fines
							Test Type	Compressive Strength (tsf)	Strain (%)				
1		0.2											
2		0.4											
3		<b>ASPHALT</b> , about 1.5 inches <b>BASE</b> , about 4 inches <b>LEAN CLAY WITH SAND (CL)</b> , tan and gray, medium stiff to stiff - with calcareous nodules 2 to 4 feet				1.25 (HP)			23.7		49-14-35		
						1.0 (HP)							
						1.25 (HP)							
		4.0	5										
		6.0											
		<b>Boring Terminated at 6 Feet</b>											

<p>See <a href="#">Exploration and Testing Procedures</a> for a description of field and laboratory procedures used and additional data (If any).                  See <a href="#">Supporting Information</a> for explanation of symbols and abbreviations.</p>	<p><b>Water Level Observations</b> No groundwater Observed</p>	<p><b>Drill Rig</b> ATV</p>
<p><b>Notes</b></p>	<p><b>Advancement Method</b> Dry augered to termination depth.</p> <p><b>Abandonment Method</b> Boring backfilled with auger cuttings. Surface capped with asphalt.</p>	<p><b>Driller</b> East Texas Drilling</p> <p><b>Logged by</b> JC</p> <p><b>Boring Started</b></p> <p><b>Boring Completed</b></p>

## Supporting Information








### Contents:

General Notes

Unified Soil Classification System



## General Notes

Sampling	Water Level	Field Tests
 Auger Cuttings  Shelby Tube   Standard Penetration Test	 Water Initially Encountered   Water Level After a Specified Period of Time   Water Level After a Specified Period of Time   Cave In Encountered  Water levels indicated on the soil boring logs are the levels measured in the borehole at the times indicated. Groundwater level variations will occur over time. In low permeability soils, accurate determination of groundwater levels is not possible with short term water level observations.	N Standard Penetration Test Resistance (Blows/Ft.)  (HP) Hand Penetrometer  (T) Torvane  (DCP) Dynamic Cone Penetrometer  UC Unconfined Compressive Strength  (PID) Photo-Ionization Detector  (OVA) Organic Vapor Analyzer

### Descriptive Soil Classification

Soil classification as noted on the soil boring logs is based Unified Soil Classification System. Where sufficient laboratory data exist to classify the soils consistent with ASTM D2487 "Classification of Soils for Engineering Purposes" this procedure is used. ASTM D2488 "Description and Identification of Soils (Visual-Manual Procedure)" is also used to classify the soils, particularly where insufficient laboratory data exist to classify the soils in accordance with ASTM D2487. In addition to USCS classification, coarse grained soils are classified on the basis of their in-place relative density, and fine-grained soils are classified on the basis of their consistency. See "Strength Terms" table below for details. The ASTM standards noted above are for reference to methodology in general. In some cases, variations to methods are applied as a result of local practice or professional judgment.

### Location And Elevation Notes

Exploration point locations as shown on the Exploration Plan and as noted on the soil boring logs in the form of Latitude and Longitude are approximate. See Exploration and Testing Procedures in the report for the methods used to locate the exploration points for this project. Surface elevation data annotated with +/- indicates that no actual topographical survey was conducted to confirm the surface elevation. Instead, the surface elevation was approximately determined from topographic maps of the area.

### Strength Terms

Relative Density of Coarse-Grained Soils (More than 50% retained on No. 200 sieve.) Density determined by Standard Penetration Resistance		Consistency of Fine-Grained Soils (50% or more passing the No. 200 sieve.) Consistency determined by laboratory shear strength testing, field visual-manual procedures or standard penetration resistance		
Relative Density	Standard Penetration or N-Value (Blows/Ft.)	Consistency	Unconfined Compressive Strength Qu (tsf)	Standard Penetration or N-Value (Blows/Ft.)
Very Loose	0 - 3	Very Soft	less than 0.25	0 - 1
Loose	4 - 9	Soft	0.25 to 0.50	2 - 4
Medium Dense	10 - 29	Medium Stiff	0.50 to 1.00	4 - 8
Dense	30 - 50	Stiff	1.00 to 2.00	8 - 15
Very Dense	> 50	Very Stiff	2.00 to 4.00	15 - 30
		Hard	> 4.00	> 30

### Relevance of Exploration and Laboratory Test Results

Exploration/field results and/or laboratory test data contained within this document are intended for application to the project as described in this document. Use of such exploration/field results and/or laboratory test data should not be used independently of this document.

## Unified Soil Classification System

Criteria for Assigning Group Symbols and Group Names Using Laboratory Tests <sup>A</sup>				Soil Classification	
				Group Symbol	Group Name <sup>B</sup>
<b>Coarse-Grained Soils:</b> More than 50% retained on No. 200 sieve	<b>Gravels:</b> More than 50% of coarse fraction retained on No. 4 sieve	<b>Clean Gravels:</b> Less than 5% fines <sup>C</sup>	Cu ≥ 4 and 1 ≤ Cc ≤ 3 <sup>E</sup>	GW	Well-graded gravel <sup>F</sup>
		<b>Gravels with Fines:</b> More than 12% fines <sup>C</sup>	Cu < 4 and/or [Cc < 1 or Cc > 3.0] <sup>E</sup>	GP	Poorly graded gravel <sup>F</sup>
			Fines classify as ML or MH	GM	Silty gravel <sup>F, G, H</sup>
		<b>Sands:</b> 50% or more of coarse fraction passes No. 4 sieve	<b>Clean Sands:</b> Less than 5% fines <sup>D</sup>	Fines classify as CL or CH	GC
	Cu ≥ 6 and 1 ≤ Cc ≤ 3 <sup>E</sup>			SW	Well-graded sand <sup>I</sup>
	<b>Sands with Fines:</b> More than 12% fines <sup>D</sup>		Cu < 6 and/or [Cc < 1 or Cc > 3.0] <sup>E</sup>	SP	Poorly graded sand <sup>I</sup>
			Fines classify as ML or MH	SM	Silty sand <sup>G, H, I</sup>
	<b>Fine-Grained Soils:</b> 50% or more passes the No. 200 sieve	<b>Silts and Clays:</b> Liquid limit less than 50	<b>Inorganic:</b>	PI > 7 and plots above "A" line <sup>J</sup>	CL
PI < 4 or plots below "A" line <sup>J</sup>				ML	Silt <sup>K, L, M</sup>
<b>Organic:</b>			$\frac{LL \text{ oven dried}}{LL \text{ not dried}} < 0.75$	OL	Organic clay <sup>K, L, M, N</sup> Organic silt <sup>K, L, M, O</sup>
			<b>Silts and Clays:</b> Liquid limit 50 or more	<b>Inorganic:</b>	PI plots on or above "A" line
PI plots below "A" line		MH			Elastic silt <sup>K, L, M</sup>
<b>Organic:</b>		$\frac{LL \text{ oven dried}}{LL \text{ not dried}} < 0.75$		OH	Organic clay <sup>K, L, M, P</sup> Organic silt <sup>K, L, M, Q</sup>
		<b>Highly organic soils:</b>		Primarily organic matter, dark in color, and organic odor	

<sup>A</sup> Based on the material passing the 3-inch (75-mm) sieve.

<sup>B</sup> If field sample contained cobbles or boulders, or both, add "with cobbles or boulders, or both" to group name.

<sup>C</sup> Gravels with 5 to 12% fines require dual symbols: GW-GM well-graded gravel with silt, GW-GC well-graded gravel with clay, GP-GM poorly graded gravel with silt, GP-GC poorly graded gravel with clay.

<sup>D</sup> Sands with 5 to 12% fines require dual symbols: SW-SM well-graded sand with silt, SW-SC well-graded sand with clay, SP-SM poorly graded sand with silt, SP-SC poorly graded sand with clay.

<sup>E</sup>  $Cu = D_{60}/D_{10}$      $Cc = \frac{(D_{30})^2}{D_{10} \times D_{60}}$

<sup>F</sup> If soil contains ≥ 15% sand, add "with sand" to group name.

<sup>G</sup> If fines classify as CL-ML, use dual symbol GC-GM, or SC-SM.

<sup>H</sup> If fines are organic, add "with organic fines" to group name.

<sup>I</sup> If soil contains ≥ 15% gravel, add "with gravel" to group name.

<sup>J</sup> If Atterberg limits plot in shaded area, soil is a CL-ML, silty clay.

<sup>K</sup> If soil contains 15 to 29% plus No. 200, add "with sand" or "with gravel," whichever is predominant.

<sup>L</sup> If soil contains ≥ 30% plus No. 200 predominantly sand, add "sandy" to group name.

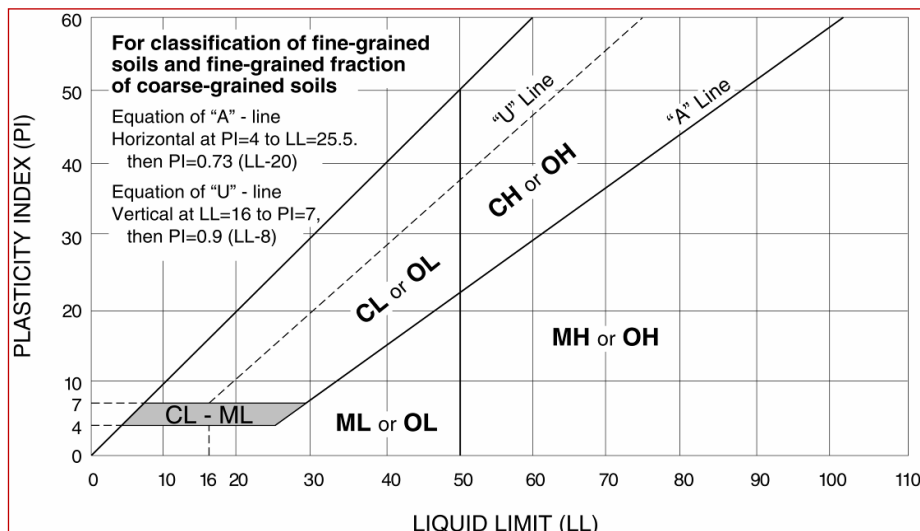
<sup>M</sup> If soil contains ≥ 30% plus No. 200, predominantly gravel, add "gravelly" to group name.

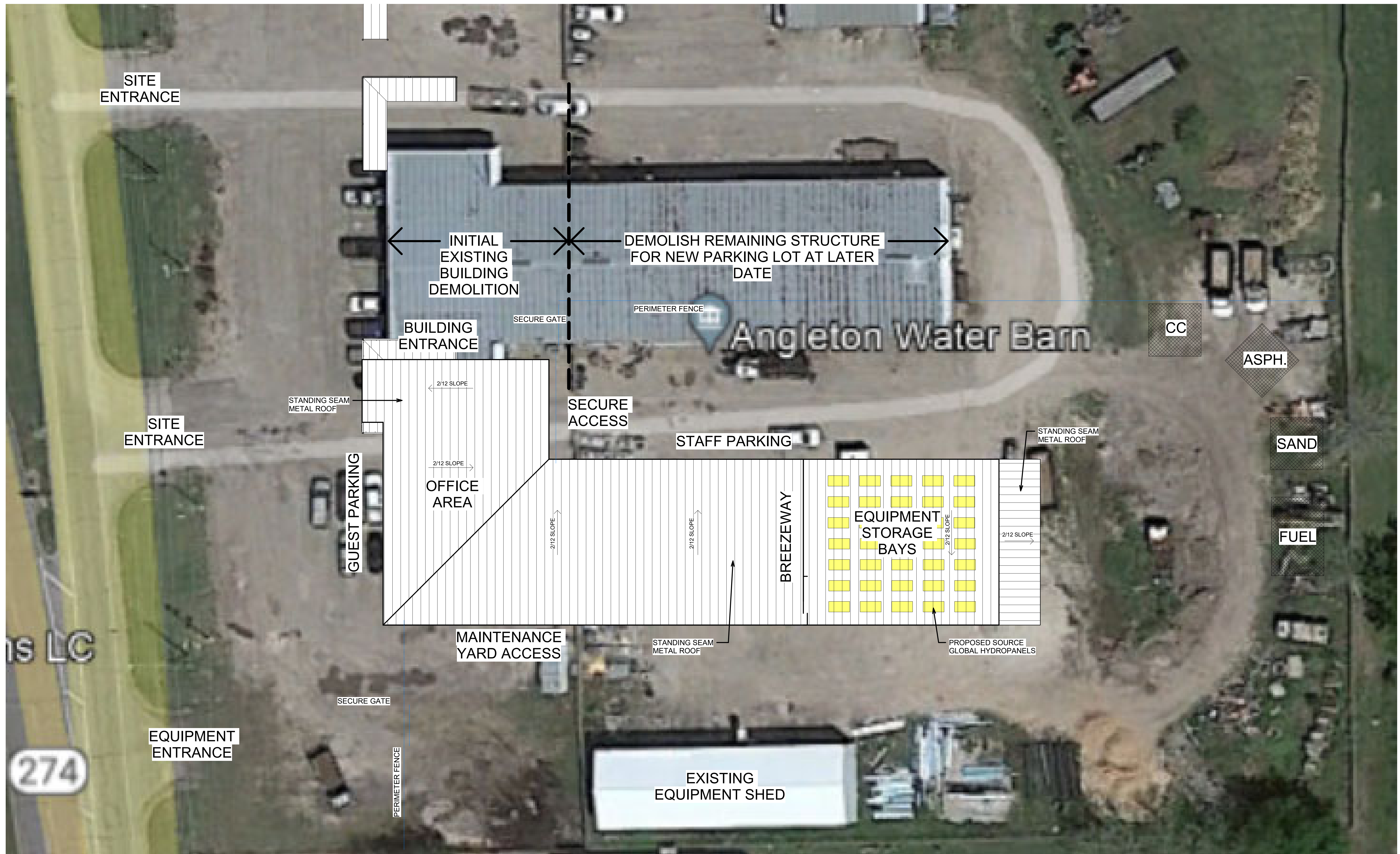
<sup>N</sup> PI ≥ 4 and plots on or above "A" line.

<sup>O</sup> PI < 4 or plots below "A" line.

<sup>P</sup> PI plots on or above "A" line.

<sup>Q</sup> PI plots below "A" line.





① PROPOSED SITE PLAN  
1/16" = 1'-0"



Request for Proposal for Construction Manager At-Risk

# CITY OF ANGLETON

## KING MUNICIPAL OPERATIONS CENTER



- 1: Letter
- 2: Cost & Delivery Proposal
- 3: Firm Information
- 4: General Company History
- 5: Licensing
- 6: Relevant Experience
- 7: Financial Information
- 8: Experience as a Construction Manager At Risk
- 9: Safety
- 10: Knowledge & Approach to Best Practices
- 11: Schedules
- 12: References
- 13: Experience on the Site & for the City of Angleton

“ The Teal Team is proactive, professional and they coordinated the project both timely and concisely. The project scheduling and submittal process was very thorough and efficient. **Teal worked diligently to ensure a successful project.** The end result is a beautiful facility the entire team can be proud of.

”

- Paul B. Harwell, AIA, Staffelbach



November 27, 2023

Item 14.

City Of Angleton, Texas  
121 S. Velasco  
Angleton, Texas 77515

LETTER

RE: Request For Proposals RFP No. 2023-09 Construction Manager At Risk

Dear Selection Committee

Teal Construction Company is pleased to submit our proposal and statement of qualifications in accordance with the RFP and request for consideration to provide construction manager-at-risk services for the City of Angleton King Municipal Operations Center. We look forward to building a relationship with the City of Angleton and continuing our partnership with iAD Architects. It is our mission to build structures and life-long relationships through integrity, innovation, high-performance and an experienced professional team. We have multiple unique qualities that will prove to put Teal above the competition.

### **Supreme Experience in Municipal Facilities**

Teal Construction Company has completed several municipal facilities and has the understanding of how a high profile project should be managed and delivered. We understand that all projects should be managed with a delicate hand due to safety and interest of all involved. Teal has worked with multiple city jurisdictions and has delivered outstanding end results to produce the quality product the client was envisioning. The amount of continued clients shows that we put the owner and end user first.

### **Decades of Experience in the Transportation Sector**

Our long standing history in the Transportation Sector is why Teal Construction is the Construction Manager for the City of Angleton. We have built hundreds of dealerships over the years that contain the full program of the King Municipal Operation Center. We are currently finishing up a heavy trucking dealership in Houston and multiple large service facilities in preconstruction across Houston and State of Texas. This knowledge and experience will prove to be an asset to your team and project.

### **Exceptional Team Members & Local Subcontractors**

Teal Construction Company has been in business for over 75 years and has kept a steady company size throughout their time. We keep the company size small, but efficient, because we do not want any client, design team or future clients to be lost in the mix as can happen with larger construction companies. Teal wants every client to feel as though they are always heard and can contact us at anytime. We will always work to communicate directly with our team and perform all necessary tasks that are requested. Teal views our subcontractors as part of our team and knows without quality subcontractors, we would not deliver the product our client needs. We work diligently at keeping our excellent subcontractors and reaching out to new ones that can continue to support Teal's growth.

### **Safety at the Forefront**

Teal Construction Company puts safety at the forefront of every project and our organization. Each project has a specified safety plan that is unique to the projects scope and surroundings; providing the client, staff and community with a safe construction environment. We have been a recipient of ABC's STEP award since 2008 and have reached Platinum Level every year since 2009.

### **Dedicated Close-Out Coordinator**

With all construction projects it seems that the Close-Out process can be tedious and be dragged out. This doesn't benefit the client, subcontractors or Teal. Every project has to start and finish with the same excitement and persistence. We have a dedicated close-out coordinator that works with our project management team from the beginning of the project to the end, to guarantee that the Owner has all close-out documentation within 30 days following substantial completion.

We ensure that we have provided the City of Angleton with the best team for the King Municipal Operation Center. Please contact me with any questions you may have.

Sincerely-



Jennifer King  
Vice President  
Teal Construction Company  
p. 713.465.8306



**EXHIBIT A**

THIS SECTION MUST BE COMPLETED AND RETURNED WITH RESPONDENT'S PROPOSAL. FAILURE TO RETURN THIS SECTION WILL RESULT IN THE REJECTION OF YOUR PROPOSAL.

Proposal of:

**TEAL CONSTRUCTION COMPANY**

To: The City of Angleton, Texas

Ref.: King Municipal Operation Center

Having carefully examined all of the requirements of this RFP and any attachments thereto, the undersigned proposes to furnish CMAR services as required at the terms stated herein.

**Pricing Schedule and Costing Methodologies**

Include all fees and costs of the Contractor associated with the Preconstruction Phase and Construction Phase Services for this Project.

Identify fees and costs based upon the Scope of Work and Information provided by iAD Architects.

**PART 1, PRECONSTRUCTION PHASE FEE**

Contractor's fee for the Construction Contractor's Participation in the Preconstruction Phase (Includes All Design Phases) \$ **12,500.00**

**PART 2, CONSTRUCTION PHASE FEE**

A. For Construction Phase Services, based on the anticipated GMP established at the time of this Agreement, Owner shall pay Contractor a stipulated Construction Phase Fee amount of: **6.68**%

Shared Savings (if selected to continue beyond Preconstruction Services): We propose that any savings to the GMP contract remaining at the end of construction be shared at the following rate:

                                80 % to the Owner

                                20 % to the CMaR

Addenda Acknowledgment

Receipt is hereby acknowledged of the following addenda to this RFP by entering yes or no in space provided and indicating date received. Enter "0" if none received.

- No. 1 \_\_\_\_\_ Date\_\_\_\_\_
- No. 2 \_\_\_\_\_ Date\_\_\_\_\_
- No. 3 \_\_\_\_\_ Date\_\_\_\_\_
- No. 4 \_\_\_\_\_ Date\_\_\_\_\_





3. FIRM INFORMATION:

1. Name of firm

Teal Construction Company

2. Address of Principal Office

1335 Brittmoore Road  
Houston, TX 77043

3. Phone/Fax

p: 713-465-8306  
f: 713-465-5810

4. Form of Business Organization (Corporation, Partnership, Individual, etc.)

Corporation

5. Year founded.

1947

6. Size of Firm

53 Employees

7. Primary individual to contact.

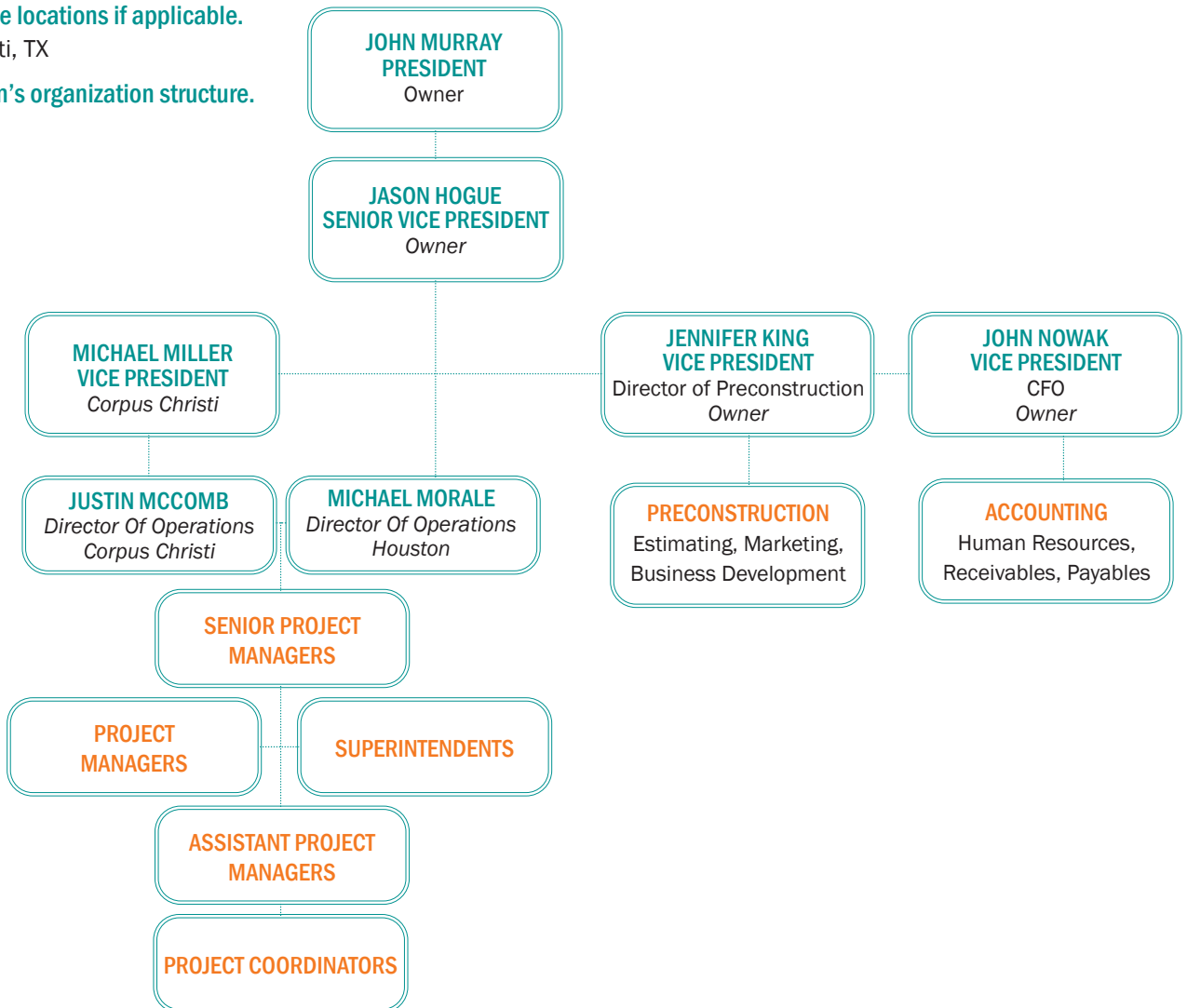
8. Email of primary individual to contact.

Jennifer King  
713-465-8306  
jenniferking@tealcon.com

9. List of office locations if applicable.

Corpus Christi, TX

10. List of firm's organization structure.



**4. GENERAL COMPANY HISTORY:**

**1. How many years has your organization been in business in its current capacity?**

76 years

**2. How many years has your organization been in business under its present name?**

62 years

**3. Under what other or former name(s) has your organization operated?**

1947-1959 Murray Building Company

1959- Present as Teal Construction Company

**4. If your organization is a corporation, please provide the date and State of incorporation, list all corporation officers, and confirm that it is in good standing.**

January 26, 1959, Texas - Teal is in good standing.

John Murray Jr. - President

Jason Hogue - Vice President

Jennifer King - Secretary

John Nowak - Treasurer

~~5. If your organization is a partnership, answer the following: Date of organization, type of partnership (if applicable), and name of the managing partner(s).~~

~~6. If your organization is individually owned, answer the following: Date of organization, name of owner.~~

~~7. If the form of your organization is other than those listed above, describe it and name the principals.~~

**8. A one-page resume of the individual who will be the project manager and the site superintendent should the project proceed to construction.**

Please find our resumes following this page.

**PROJECT SUCCESS**



**THE KLEIN ISD SOUTH TRANSPORTATION CENTER**

This Project consists of a 11,592SF Garage Building and a 4,092SF Office building, both of tilt wall construction. Site improvements include a 70 bus parking lot and an 88 car parking lot, fueling bay, bus wash, as well as diesel and gasoline storage.





# Blake Edwards PROJECT MANAGER

### EDUCATION

Bachelor of Science in Agricultural Business  
Sam Houston State University

### SPECIALIZED TRAINING

OSHA 30 hour certified  
First Aid CPR

### EMPLOYMENT

Teal Construction  
2023 - Present  
Pogue Construction  
2021 - 2023  
Paradigm Construction  
2018 - 2021  
Christensen Building Group  
2015 - 2018

Mr. Blake Edwards has 8 years experience in the commercial construction industry leading, managing, and coordinating projects.

Mr. Edwards coordinates and conducts client and consultant meetings, schedules weekly budgetary and progress meetings, prepares subcontract agreements, change orders, and project schedules. He maintains budget requirements through close scrutiny of general conditions and supplies ordered, approves product submittals, negotiates and awards contracts, and produces schedule of values and pay requests. Blake is also responsible for project estimating, project budgeting and allocation of future funds.

Blake promotes a work environment of open communication and team synergy while delegating and implementing company policy and procedures using skills in diplomacy and communication to ensure a successful project on time and within budgets.

### RELEVANT PROJECTS

- Mustang Cat | Angleton, TX
- Mustang Cat | Willis, TX
- City of Dayton Public Safety Buildings | Dayton, TX
- Montgomery County ESD #8 Station 11-1 | Conroe, TX
- Montgomery County ESD #8 Station 11-5 | Conroe, TX
- Montgomery County ESD #8 Station 11-6 | Conroe, TX
- Conroe Fire Station #7 & Fire Training Facility | Conroe, TX
- Harris County ESD #6 Klein Fire Station #32 | Klein, TX
- Harris County ESD #6 Klein Fire Station #34 | Klein, TX

### PROJECT HIGHLIGHTS

- Montgomery ISD Lake Creek High School | Montgomery, TX
- Montgomery ISD New Elementary School #7 | Montgomery, TX
- Cleveland ISD New Elementary School #5 | Cleveland, TX
- Cleveland ISD New Elementary School #6 | Cleveland, TX
- Cleveland ISD New Middle School #2 | Cleveland, TX
- Concordia Lutheran High School Sports Fields | Houston, TX
- Holy Comforter Episcopal Church | Houston, TX
- St John the Evangelist Catholic Church Youth Center | Houston, TX





## Daniel Vermillion SUPERINTENDENT | FIELD MANAGER

### SPECIALIZED TRAINING

30 HR OSHA  
Basic Plus - HASC  
First Aid & CPR

### EMPLOYMENT HISTORY

Teal Construction  
2019 - present  
Arch-Con Corporation  
2018 - 2019  
Burrow Global Services  
2008 - 2018  
American Rice Inc.  
1993 - 2008

### REFERENCES

Brandon Dillard  
RB Dillard Group  
713.836.2926

Charles Hodges  
Arch-Con  
713.818.2051

Buster Burnett  
Burrow Global Services  
713.875.2525

Mr. Vermillion is a Superintendent for Teal Construction and is on site full-time on the projects he is assigned to. He directs all construction related activities, and coordinate subcontractor and material suppliers' scheduling.

Daniel brings over 30 years of general building experience to the project. He has the proven ability of scheduling trades to follow in a quick succession, overseeing each detail, to communicate openly with the project team and to deliver a completed facility on time and within budget.

On each project, he establishes a strong leadership position, while maintaining a good rapport with the subcontractors. He is skilled in all aspects of the construction industry and is particularly known for his thorough follow-up skills.

### RELEVANT EXPERIENCE

Mustang Cat | Angleton, TX  
Mustang Cat - Temporary Facility | Angleton, TX  
Bearden Warehouse Park | Angleton, TX  
Phillips 66 Maintenance Shop PEMB | Sweeny, TX  
Lyondell Basell Admin and Maintenance Shop | Pasadena, TX  
Ascend Maintenance Shop PEMB | Alvin, TX

### PROJECT HIGHLIGHTS

INEOS Styrolution Warehouse | Pasadena, TX  
Niseki Shipping/Receiving PEMB | Pasadena, TX  
Niseki Administration PEMB | Pasadena, TX  
Lummus Technologies Manufacturing PEMB | Pasadena, TX  
Lummus Technologies Labs PEMB (2) | Pasadena, TX  
Lummus Technologies Small Shipping/Receiving PEMB | Pasadena, TX  
Akzo Nobel HPMO Lab PEMB | Deer Park, TX  
Total Main Control Room Addition | Port Arthur, TX  
Total Coker Control Room | Port Arthur, TX  
American Rice Package Warehouse PEMB | Freeport, TX  
Phillips 66 Warehouse PEMB | Sweeny, TX  
Exxon Mobil Main Control Room | Baytown, TX



**5. LICENSING:****1. List jurisdiction and trade categories in which your organization is legally qualified to do business and indicate registration or license numbers if applicable.**

Teal Construction is a general contractor and holds registrations in multiple cities or towns when necessary. It is not required to hold a license in the State of Texas to practice General Contracting.

**2. List jurisdictions in which your organization's partnership or trade name or business entity is filed.**

Texas, Louisiana, Arkansas



Both projects involved significant renovation to existing facilities, and were very difficult projects to realize. As is usually the case with projects of this type, existing condition presented all manner of unexpected difficulties. *No problems, however, were too difficult for Teal to solve. Teal performed admirably on both projects and always acted in the best interests of the project team, including the Owner, Architect, and sub-consultants.*

– Daniel Kornberg, Principal - Harrison Kornberg Architects



**6. RELEVANT EXPERIENCE**

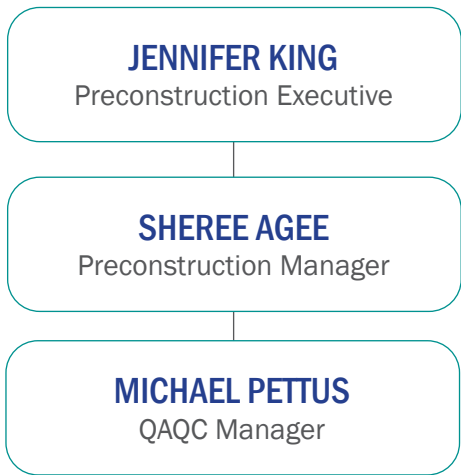
**1. List the categories of work that your organization typically performs with its own forces on projects of this type.**

Teal Construction performs all project management, site management, accounting, and other administrative duties with our own forces. We have the ability to perform concrete, rough carpentry, installation of doors & hardware, and weekly cleanup. Teal Construction will work with the Owner and Design Team to determine if any of the above options will work best for your project.

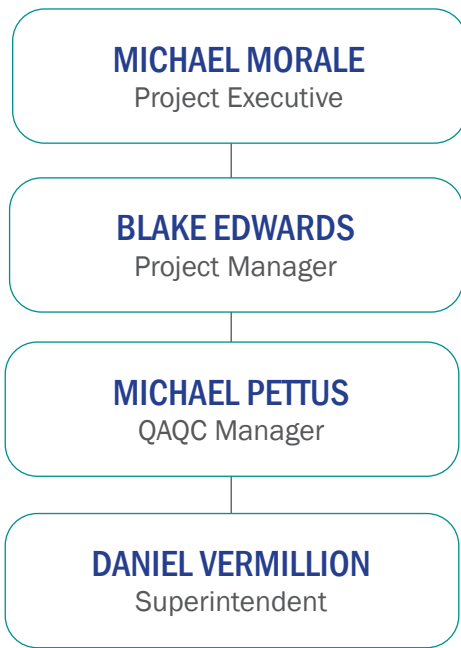
**2. Provide an organizational chart that explains the proposed team members.**

**CITY OF ANGLETON**

**PRECONSTRUCTION**



**CONSTRUCTION**



	CMAR PROJECTS	PUBLIC PROJECTS	MAINTENANCE FACILITIES	IAD ARCHITECT EXPERIENCE	PROJECT BUDGET	PROJECT LOCATION	OCCUPIED SITES
JENNIFER KING - PRECONSTRUCTION EXECUTIVE	✓	✓	✓	✓	✓	✓	✓
SHEREE AGEE - PRECONSTRUCTION MANAGER	✓	✓	✓		✓	✓	✓
MICHAEL MORALE - PROJECT EXECUTIVE	✓	✓	✓	✓	✓	✓	✓
BLAKE EDWARDS - PROJECT MANAGER	✓	✓	✓	✓	✓	✓	✓
DANIEL VERMILLION - SUPERINTENDENT	✓	✓	✓	✓	✓	✓	✓



RESPONSIBILITY MATRIX

- ✓ Primary
- ★ Input to Primary

	PRECON JENNIFER KING	PM SHEREE AGEE	PEX MICHAEL MORALE	PM BLAKE EDWARDS	SUPER DANIEL VERMILLION	QAQC MIKE PETTUS
MAIN CLIENT CONTACT - PRECON & CONSTRUCTION	✓		✓			
PRECONSTRUCTION PHASE ESTIMATES	✓	★				
CONSTRUCTABILITY REVIEWS	✓			★		✓
VALUE ENGINEERING	✓					
WRITING & REVIEW SCOPES OF WORK	✓		✓	✓	★	★
SUBCONTRACTOR BIDDING	★	✓				
BID TABS	✓	✓				
PREQUALIFYING SUBCONTRACTORS		✓		✓		★
PROJECT DAILY CONTACT				✓		
SUBCONTRACTS				✓	★	
SITE & SUBCONTRACTOR COORDINATION				★	✓	
CPMS SCHEDULE				✓	★	★
COST CONTROL				✓		
QUALITY CONTROL & ASSURANCE - DOCUMENTATION				✓		✓
QUALITY CONTROL & ASSURANCE - SITE	★	★		✓	✓	✓
SUBMITTAL REVIEW & DOCUMENTATION	★	★	✓		★	★
RFI INPUT & DOCUMENTATION	★	★	✓		★	★
SITE REPORTING				✓	✓	✓
JOBSITE SAFETY	★	★	★	✓	✓	✓
PAY APPLICATION & INVOICING	★	★		✓		
OAC MEETINGS	✓	✓	★			
JOBSITE MEETINGS				✓	✓	✓
PROJECT CLOSEOUT	★	★	✓	✓	★	★



Teal Construction Company takes pride in the quality and detail of their construction and customer satisfaction. They stand behind their construction warranties with prompt and courteous service.”

– Jack Helfman, President/Owner, Helfman Autogroup



**3. List any subcontractors in which your organization has some ownership and list the categories of work those subcontractors typically perform.**

none

**4. Claims and suits (if the answer to any of the questions below is yes, please attach details).**

**5. Has your organization ever failed to complete any work awarded to it by a Texas municipality?**

no

**6. Are any judgments, claims, arbitration proceedings, or suits filed or outstanding against your organization or its officers for the last 5 years by a Texas municipality?**

Teal is dedicated to resolving differences that are unfortunately inherent to this business in the fairest and fastest way possible. We believe legal action never benefits any party. There has not been any legal action taken against the officer of our company. Management does not believe the outcome of any such current claims, if any, would have a substantial adverse affect on the financial stability of the company; no legal activities involve 'lack of performance' or 'contract violations' by Teal Construction.

*5800 Mesa - Teal sued the Owner due to non-payment for completed work. The Owner filed a counter suit indicating that the work was not installed properly and had to be removed and re-installed, which Teal disagrees with. Insurance is currently involved and we hope to have this resolved by year end 2023.*

*Tandem - Tandem sued Teal claiming non-payment for work performed. Tandem was removed from the project due to a project safety violations and was supplemented with another contractor to complete their work. The cost of the supplemented contractor to complete the work exceeds what Tandem was owed. Teal filed a counter suit for the amount over what was owed to Tandem. Teal and Tandem are currently in process to work this out informally.*

*We had a claim against the City of Cedar Park on a fire station project. There were some wood framed eaves installed that began to sag structurally. We engaged the help of a third party structural engineer that surmised that the structural engineer of record was at fault in his design. Regardless, we corrected the issue based on the recommendations of our 3rd party engineer. The claim was to recuperate the cost of the corrective measures which Teal did and was approved by the City. If additional information is required, we would be happy to provide given additional time.*

**7. Has your organization filed any lawsuits or requested arbitration regarding construction contracts within the last 5 years against a Texas municipality?**

See Open Suits above





**8. Similar work over the last 5 years of a value of over \$1 million in construction value: a. List up to three projects (particularly municipal work of similar nature) constructed by your firm. For each project, provide the name, site size in acres, location, cost, completion date, owner, architect/engineer, and method selection (i.e., Design Build, CMAR, CSP, Bid, Proposal, or other).**

Please find the below charts of similar projects in the public and private market. All projects are over the million dollar threshold and were done either in the CMAR or Design Build delivery method allowing teal to work with the design team in the preconstruction phase of the project. The importance of the second table is that 30% of Teal's annually is automotive which all have a service portion to the building. The automotive market for Teal consists for vehicle, heavy trucking, and heavy equipment. The teal bold projects are projects that Teal and iAD worked on together - Teal & iAD have been working together for the past 10 years and have had a minimum of one project together every year. Teal & iAD currently have eight projects in preconstruction and construction together in both CMAR and Design Build delivery method. The orange bold projects are projects that Teal has done in Brazoria County.

Project Sheets are on the following page for the three representative projects.

PROJECT NAME	OWNER	LOCATION	CONTRACT VALUE	YEAR
<b>INEOS STYROLUTION MULTI-USE WAREHOUSE BUILDING</b>	INEOS	Pasadena, TX	\$21,572,000	2021
Medina County Jail Addition & Renovation	Medina County	Hondo, TX	\$13,410,000	2023
Medina County Annex Building	Medina County	Hondo, TX	\$11,347,000	2021
Klein ISD North Flex Campus	Klein ISD	Spring, TX	\$9,628,900	2023
HCC Acres Homes Campus	Houston Community College	Houston, TX	\$8,218,000	2018
<b>1ST BAPTIST CHURCH OF ANGLETON</b>	First Baptist Angleton	<b>ANGLETON, TX</b>	\$4,517,600	2019
Aransas County ISD Competition Gym	Aransas County	Rockport, TX	\$4,254,000	2019
Bastrop County Fire Station No. 4	BCESD1	Bastrop, TX	\$4,233,450	2021
San Antonio Water Systems NWOC Maintenance Facility	San Antonio Water System	San Antonio, TX	\$4,206,060	2019
Montgomery County Fire Station # 52	MCESD 2.	Montgomery, TX	\$3,092,808	2018

PROJECT NAME	PROJECT TYPE	LOCATION	SERVICE COMPONENT	PROJECT SIZE
Houston Freightliner Western Star	New Construction	Houston, TX	✓	350,000 SF
AEP Cross Town Office & Warehouse Facility	New Construction	Corpus Christi, TX	✓	95,000 SF
AEP Lon Hill Office & Warehouse Facility	New Construction	Corpus Christi, TX	✓	95,000 SF
Doggett Ford	New Construction	Houston, TX	✓	62,500 SF
Katy ISD South Transportation Center	New Construction	Katy, TX	✓	47,200 SF
Tesla Collision Center	New Construction	San Antonio, TX	✓	40,200 SF
French Ellison Truck Center	New Construction	Corpus Christi, TX	✓	35,000 SF
North Corpus Christi Honda	New Construction	Corpus Christi, TX	✓	34,110 SF
<b>DOGGETT HEAVY EQUIPMENT</b>	Renovation	St Rose, LA	✓	20,000 SF
<b>DOGGETT HEAVY EQUIPMENT</b>	New Construction	Lufkin, TX	✓	19,525 SF
Doggett Heavy Equipment	New Construction	Longview, TX	✓	19,525 SF
<b>MUSTANG CAT SERVICE &amp; RENTAL</b>	New Construction	Willis, TX	✓	15,400 SF
<b>MUSTANG CAT SERVICE &amp; RENTAL</b>	New Construction	<b>ANGLETON TX</b>	✓	12,250 SF





## Bastrop Fire Station No.4

This project provides for construction of a new Fire Station of approximately 10,500 square feet consisting of four drive thru apparatus bays, sleeping and living quarters for fire staff, a Training Room, and traditional support spaces associated with fire stations. The fire station has structural steel with CMU loading bearing walls as primary structure. The exterior includes red glazed brick, metal panels, brick, and glazing. Site work included bringing new electrical to the site, paving, generator, detention pond, and landscaping

- ✓ LIGHT & HEAVY VEHICLE SERVICE CENTER
- ✓ OFFICE SPACE
- ✓ MAINTENANCE AREA

### PROJECT INFORMATION

*Owner:*  
Bastrop County ESD 1  
(see reference tab)

*Architect:*  
BSW Architects  
(see reference tab)

*Delivery Method:*  
CMAR

*Completion Date:*  
March 2021

*Contract Value:*  
S: \$4,297,440  
F: \$4,233,453  
Owner Initiated Changes



## Doggett Heavy Machinery - Longview & Lufkin

The two John Deere facilities are pre-engineered metal buildings with a masonry façade. There is a 10,000 sqft office and parts area with a 10k sqft shop with 4 bays and 8 overhead doors. There is also a lean-to canopy 1,500 sqft on the back of the building to house a compressor/lube shed, fuel, and misc parts. There is also a 4,000 sqft PEMB/Masonry wash building with a water reclaim system to clean the water for reuse of washing equipment. There is 200,000 sqft of 8" paving for heavy trucks and equipment storage, and a loading dock for unloading and loading of equipment. Inside finishes of the main building are acoustic ceilings, metal framing and painted drywall, sealed concrete in the shop, epoxy flooring in the show room / offices.

### PROJECT INFORMATION

*Owner:*

Doggett Industries  
(see reference tab)

*Architect:*

iAD Architects  
(see reference tab)

*Delivery Method:*

Design Build

*Completion Date:*

January 2020

*Cost:*

O: \$5,139,000

F: \$5,697,000

Owner Initiated Changes

- ✓ LIGHT & HEAVY VEHICLE SERVICE CENTER
- ✓ OFFICE SPACE
- ✓ PARTS STORAGE





## Doggett Ford

A new 62,500 square foot tilt-wall Ford Dealership. The structure is Class A steel with an ACM, glass, and concrete façade. The building has a 29-bay service department fully air-conditioned with a separate four bay detail area outside. Customer comfort and convenience is prominent in the design of the dealership with a centrally themed layout. The design build project allowed Teal to work directly with Ford Land to receive variances for their client from the Ford prototype. The new building was constructed while a temporary dealership was being ran on the same site. Teal worked with the Owner on logistics during preconstruction and updated logistics plans throughout the construction.

- ✓ OCCUPIED SITE
- ✓ LIGHT & HEAVY VEHICLE SERVICE CENTER
- ✓ OFFICE SPACE
- ✓ PARTS STORAGE

### PROJECT INFORMATION

*Owner:*  
Doggett Ford  
(see reference tab)

*Architect:*  
Praxis 3

*Delivery Method:*  
Design Build

*Completion Date:*  
October 2020

*Contract Value:*  
S: \$11,731,000  
F: \$12,517,000  
Owner Initiated Changes

**7. FINANCIAL INFORMATION:**

1. Attach a financial statement, preferably audited, including your organization’s latest balance sheet and income statement showing the following items:

- a. Current assets
- b. Current liabilities
- c. Capital accounts and retained earnings (e.g., capital, capital stock, authorized and outstanding shares par value, earned surplus, and retained earnings).

Financial Statements are provided in a separate envelope labeled ‘Financial Statements’

2. Name and address of firm preparing attached financial statement and date thereof.

Benton, Duroy, & Ivey, PC  
14505 Torrey Chase Blvd., Suite 200  
Houston, TX 77014

3. Is the attached financial statement for the identical organization named under item 1? If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent, subsidiary).

yes

4. Will the organization whose attached financial statement act as a guarantor of the construction contract?

yes

5. Provide name, address, and phone number for bank reference.

Denise Thompson, Vice President  
Frost National Bank  
802 North Carancahua  
Corpus Christi, TX 78407  
p: 361.844.1027  
dlthompson@frostbank.com

**PROJECT SUCCESS**



**Galveston County Road & Bridge**

Part of the IKE Recovery, two new pre-engineered metal buildings were constructed on Crystal Beach. The new buildings allowed for administration, vehicle maintenance, and vehicle storage. The 7,200 SF administration building includes meeting spaces, offices, and a three bay repair and maintenance garage. The second 2,800 SF building is for the county vehicle parking and wash bay. To meet flood regulations over four feet of fill was brought in to increase the finished floor height and a large retaining wall was constructed. Laydown and storage areas, large quantity of parking, and an access road were installed for the project as well.



## 8. EXPERIENCE AS A CONSTRUCTION MANAGER-AT-RISK:

### 1. Describe how your firm will benefit from this project using Construction Manager at Risk.

Throughout the qualifications package the selection committee will find reasons why Teal is the best decision for your Construction Manager position. Teal Construction has been working in the public sector since the sixties and private sector since the forties in the Houston Metropolitan area with our Owner's family originating from Angleton, TX.

Teal Construction have completed forty maintenance projects in the last five years. These projects were both private and public with many of them having a preconstruction phase working with the design team and owner. These projects included transportation centers for municipal and school districts, heavy equipment, heavy truck, and vehicle dealerships. We have worked in the Construction Manager role or Design Build role in the transportation market which have many similarities to this project. Every dealership that we have completed contain all program items in the King Municipal Operation Center. Dealerships contain offices, service, parts, parts storage, and a large site to house multiple vehicles. Many of the sites that we have successfully completed are occupied six days a week. The complexity of these projects are facilitating each individual space to work cohesively with function and systems. Each must be developed in unison to best serve the whole building. Teal works through the preconstruction phase with our subcontractors and suppliers to ensure at construction these components have been worked out for quality and constructability prior to installation. The top aspect to review is how the mechanical and other technical systems are working together as well as the demising walls between these spaces.

### PROJECT TEAM – PRECONSTRUCTION TO CONSTRUCTION COLLABORATION

Our proposed team have worked together on multiple projects in all contract methods. Jennifer King, Sheree Agee, Michael Morale, Blake Edwards, and Michael Pettus all work together during the Preconstruction phase to build and work through a plan for construction. This team, with our proposed Superintendent, Daniel Vermillion, all worked together on our Mustang Cat - Willis Design Build project and Mustang Cat - Angleton Design Build project which is currently under construction. This project is on an occupied site and has a similar program to the King Municipal Operation Center. The proposed team worked directly with the Mustang Cat PM and iAD Architect to first fully understand the wants and needs for the building then develop a plan to design and construct these within budget and schedule. Jennifer and other estimators worked weekly with the Owner and Design team reviewing plans, budgets, and program. Our Operation Team worked monthly with the Owner on logistics and construction phasing. Our entire team no matter which contract phase is here to satisfy the client.

Our Quality Control and Constructability, Mike Pettus, was originally a Superintendent that has recently moved into the office to assist in preconstruction and construction quality control. Mike is a unique asset to this project team because of his years of experience and transition to the new position allows him to alleviate construction obstacles in the preconstruction phase. He will help in the preconstruction to review plans, provide design/quality suggestions, scope work, and interview subcontractors for the project. Mike is currently assisting in preconstruction on multiple transportation projects. Mike also worked with our team (Michael Morale, Jennifer King) during construction our HFWS, Doggett Heavy Equipment, and Doggett Ford which are like the King Municipal Operation Center; similar program, occupied site work project, maintenance centers, and PEMB structures..

### SUBCONTRACTOR INPUT AND CONSTRUCTABILITY

Teal's long history in the Houston market is beneficial because of our Subcontractor Partners. We cannot deliver a quality project to our Client's without these partners. Our team work with specialty contractors during preconstruction to review estimates and constructability. They assist us on value engineering and industry standards that do not reduce quality but benefit the project through cost or schedule. The partners understand when we are working on any project that they are assisting us and not guaranteed the project. During the GMP bidding process, Teal will write detailed scope of work for each trade on the project during the preconstruction phase to ensure we are receiving reliable estimates and will choose from a pool of quality subcontractors that have held a strong track record with Teal. The scope of work packages and quality of subcontractors help with cost control. To further the efforts on cost control and scheduling Teal meets with each subcontractor prior to writing a contract to review their proposal, project schedule, and subcontractor manpower to guarantee that the subcontractor can do the work. The project schedule and any other particulars discussed are then made exhibits to their contract.

Before the subcontractor begins work, the superintendent meets with them onsite to review all work that has been completed, their scope of work, construction schedule, and subcontractor's safety plan; all has to be provided to the superintendent prior to starting work. Our superintendent provides quality control and inspections throughout the construction phase and reviews any deficiencies with the project manager and subcontractor. The subcontractor then has time to correct these deficiencies; if the superintendent sees that this is a continued problem the subcontractor will be replaced. Replacing subcontractors is very rare on our projects, because we work in the preconstruction phase to only provide our client with high-quality subcontractors.

*Preconstruction Project Example: Doggett Ford*



*Doggett Ford is a 60,000 square foot two story insulated tiltwall structure. The collaboration between our divisions started in the preconstruction when we contracted with our subcontractor and the structural engineer to deliver the panel design drawings. Our team with the designer and subcontractor brought collective experience to build the correct plan for construction. We had the insulation supplier come and spend a day presenting on how to correctly install the insulation between the panels and lessons learned. Our entire team including our subcontractor Owner, Project Manager, and foreman were all part of the meeting to walk through the process as well as have questions and concerns answered. With only having a portion of the site for construction while the other was occupied by the Owner, Teal and our subcontractors had to develop an extensive panel pour and lift plan. The foundation was not large enough to hold all panels, so our subcontractor had to stack panels 2-3 high. We were able to successfully work with the concrete and erection subcontractor together to get the process completed and lifted successfully.*

**PROJECT EXPERIENCE**

The greater part of Teal’s projects both ground up and renovation have been on an occupied site, which means extensive preparations and management must be done in both preconstruction and construction phases. These projects were successfully completed because of Teal’s proactive approach, open communication, transparency, and cohesion with the project team.

Our main task or goal is to provide a safe environment for the employees, public, and patrons while limiting disruption to their everyday activities. In the preconstruction phase we will develop with the design team and owner logistics plans for each phase of the project and transition plans to ensure productivity is not lost. Due to the surrounding site being in operation during construction we will need to coordinate all activities and will work around schedules or events to ensure safety. These plans, events and daily schedules will be built into the construction schedule to provide a comprehensive plan on completing the phase and project on time.

*Occupied Site Logistics: SAWS ESOC*

Our SAWS ESOC multiple building construction was on a 24/7 occupied site. Throughout both preconstruction and construction, Preconstruction Manager, Jason Hogue and Project Manager (PM), Robert Varner worked with the SAWS Project Manager (PM) developing, updating, and presenting construction phasing plans to the workers onsite. The plans would show Teal’s work zone, huddle points, entry and exit points for both Teal’s workers and SAWS workers, temporary fence locations, etc as well as enlarged plans of specific areas we were working. For example, while under construction of the new Administration building, Teal had to demolish the loading dock of the existing Administration Building to allow the installation of the underground for the mechanical yard. The construction was going to block an entrance/exit of the worker’s locker room. We put together a plan with SAWS PM to provide another safe entrance/exit for the workers which was presented, posted, and put in place two-weeks prior to starting construction allowing everyone to get used to the new plan. The phasing and logistics plan for SAWS was updated monthly with the PM team then presented within two weeks prior of starting a new phase. Allowing all parties to be aware of what was going on and the specific phasing kept the project moving and reduced any confusion or safety issues.

*Occupied Site Logistics: Doggett Ford*

*A recent completed similar project is Doggett Ford, which was a unique design build project on an occupied site. The project includes office area, two story parts warehouse, and service center for both light and heavy vehicles. The site was in floodplain that hadn’t been disturbed since the 1980’s and needed to be raised with the new City of Houston Harvey standards three feet. Teal installed temporary trailers to keep the operations moving while under construction. The construction was in 5 phases which included portions of the site to be raised which included adding ramps for vehicles and personnel around site and temporary storm drainage to not flood any areas that were completed. Our proposed project team, Jason Hogue, Preconstruction Manager, Michael Morale, Project Executive and Mike Pettus, Quality Control Manager all worked in both preconstruction and construction to expedite the logistics to complete these phases effectively and safely.*

Teal Construction Company understands that this expansion is for the future interest of the City and providing functional spaces to City employees which will be around long after we have left the jobsite. We have the unique qualifications and experience to produce the project that the City is envisioning. We want to work hand in hand with the City of Angleton and iAD Architects to facilitate this development of the King Municipal Operation Center project. Teal has a vested interest in the cohesion of all collaborating members of the team and will approach your project with the careful consideration of creating the strongest relationship possible between City of Angleton, Teal Construction, and iAD Architects.



**2. Cost Estimates:**

**a. Provide an example of a proposed accounting method for a Construction Manager at Risk contract and a preconstruction and final GMP(FGMP) cost estimate on similar work. Attach a sample conceptual cost estimate prepared during the design phase of the project and a sample of the final cost estimate breakdown used to fix the contract amount for the construction of the same project. (The identity of the project may be concealed. The intent is to see the nature and format of the cost information provided.)**

Please find an example of our cost estimating at the end of this section

**b. Describe your approach in verifying that the estimating strategy assures pricing is consistent with the market.**

**COST ESTIMATING**

Our estimating approach starts with understanding the particular vision for the project. It is imperative that we provide reliable budgets throughout the design phase of the project to ensure we can manage the budget throughout the construction phase. A successful project must be built upon solid estimating and budget development. It is Teal's responsibility as your CMAR to provide the Owner and your consultant team with dependable budget information. Our estimating procedures are designed to ensure that the project will be successfully completed within the parameters of the Owner's scope, and all construction-related expenditures will be thoroughly reviewed and documented.

Each of Teal's estimates will build upon the previous one in a repetitive process that continues through each phase in preconstruction. As a result, successive estimates will provide the Owner and the project stakeholders with detailed and accurate information, in which the team can utilize to make numerous informed project decisions. Our estimating process is open book. Teal's goal is to achieve an optimal balance between the desired program, functional requirements and fiscal realities for the Owner.

The Owner and Architect will be involved throughout the full preconstruction phase for questions, concerns, and ensuring what is being designed is what the Owner is looking for. We look at each project as a partnership and want to make sure that when we hand the keys over at the completion of the project, the client is making the call to Teal for the next project. Each project builds a relationship between the client and design team.

Teal works in full transparency and will provide all information to the client and design team. As we build our estimate the subcontractor proposals will be reviewed by all parties so that everyone on the team feels comfortable with the total estimate that is being provided.

As a steward of the Owner's funds it's Teal's job to deliver a GMP that meets the Owner's budget. Understanding the goals of the Owner and End Users from the beginning of preconstruction we can guide the design team to develop construction documents that will secure a GMP that is in the client's budget. By working with the design team on building systems and material reviews Teal is able to recommend the best options for the buildings. When estimates are not in the budget of the Owner Teal will value engineer the building. Value Engineering doesn't always mean reducing scope or cutting needs out of the program, we work first with our subcontractors to provide equipment, material, or means and methods substitutions to work on lowering the budget. The substitutions will not reduce the quality of the product.

**PRECONSTRUCTION PHASE**

**PROGRAMMING PHASE**

- Coordinate Project Wants & Needs*
- Facilitate a Design Plan*
- Research Materials & Equipment*
- Designate Operational Requirements*
- Scope of Work Matrix*

**SCHEMATIC DESIGN**

- Preliminary Design Ideas*
- Design Review*
- Control Budget*
- Transparency & Communication*

**DESIGN DEVELOPMENT**

- Detailing of the Design*
- Constructability Reviews*
- Variance Reports*
- Budget Updates*
- Document Reviews*
- Transparency & Communication*

**CONSTRUCTION DOCUMENTS**

- 30%, 60%, 90% Drawing Release*
- Constructability Reviews*
- Variance Reports*
- 30%, 60%, 90% Estimates*
- Subcontractor Bidding*
- GMP Proposal*
- Permit Plans*
- Transparency & Communication*





**GMP PROCEDURES**

Teal works with subcontractors throughout the preconstruction phase of the project to estimate, provide guidance on constructability and investigate building systems and materials that will work for the Owner’s needs. With each release of documents our team will provide detailed estimates, variance reports, constructability studies, drawing coordination, and project schedules all with transparency. Prior to bid day Teal will do personal outreach to subcontractors to populate interested parties and ensure that all scopes of work will receive proposals on bid day. Preconstruction meetings with subcontractors are held to answer any questions on the project and identify scopes of work that may not be fully understood.

At GMP, Teal encourages the Owner and design team to be part of bid day to review subcontractor proposals and estimates. Post interviews are done to review proposals, schedule, and qualifications for subcontractors. The GMP proposal will have proposed subcontractors for the Owner and design team to review and accept. All of the ground work that is made in the preconstruction phase of the project build a stable foundation for our construction team to build upon.

**1 REVIEW** Formulate Scope Sheets & Packages  
 Invitation to Bid Sent out  
 Preproposal Site Meeting with Subcontractors

**3 BID DAY** Formulate Subcontractor List  
 Continue Personal Outreach  
 Verification of Proposals

**2 PRE BID** Personal Outreach  
 Request for Information  
 Final Scope Review & Clarifications

**4 GMP** Finalize GMP Proposal  
 Subcontractor Recommendations  
 Design Team & Owner Review

*Early GMP - 90% Construction Documents*

There are many projects and/or contracts when Teal sets our GMPs prior to the construction documents being fully completed, in these instances we provide line item allowances for items that are not yet worked out. By this time in the design phase, Teal and the design team have met with permitting authorities and are able to set close dollar figures to what is needed for permitting fees and may have some knowledge of some unknowns that come out of permit comments. These early meetings with the jurisdictions is crucial on early GMPs as we want to make sure that all requirements are included in the documents early in the phases. Teal will hold a contractor’s contingency of three percent for their sole use and update a contingency log for review at our OAC meetings. We work with the Owner and Design team to designated what the Owner’s contingency should be at time of GMP depending on what is unknown in the design or scope of work. The next step is to get the 100% CDs and IFC documents ready for subcontractors, so that we can have a fast and accurate buyout.

**PROJECT SUCCESS ON RETURNING SAVING TO OUR CLIENTS**

PROJECT NAME	OWNER	GMP CONTRACT	SAVINGS RETURNED
Alice ISD 2019 Bond Projects	Alice ISD	\$14,216,975	\$315,464
London ISD Elementary School	London ISD	\$11,124,000	\$421,778
Payne CDR+J Edinburg	Payne Motors	\$10,405,637	\$396,068
Hondo ISD Fine Arts Building	Hondo ISD	\$7,997,000	\$167,425
London ISD Gym & Band Hall Expansion	London ISD	\$6,407,000	\$133,943
Sames Honda	Sames Autogroup	\$6,187,403	\$167,917
Aransas County ISD Competition Gym	Aransas County ISD	\$4,468,678	\$214,500

**3. Fees:**

**a. Preconstruction phase service fee: Describe your organization’s ideology regarding the preconstruction phase fee (i.e., items and services to be included). DO NOT INCLUDE A DESCRIPTION OF YOUR ESTIMATED FEES IN THIS SECTION. ONLY INCLUDE A DESCRIPTION OF WHAT ITEMS AND SERVICES WILL BE INCLUDED IN THE FEE. Selected short-list respondents may be requested to submit additional information indicating fees.**

Our preconstruction fee is made up of a portion of the preconstruction team’s time, printing, and advertisements for bidding. Our preconstruction team’s full monetary time is not allocated to the project however they will be on the project the duration of the preconstruction phase and as needed in the construction phase.



**b. Construction phase service fee: Describe your organization's ideology regarding the construction phase fee, i.e., fixed fee, percentage fee, and particular items to be included and/or excluded from the fee. DO NOT INCLUDE A DESCRIPTION OF YOUR ESTIMATED FEES IN THIS SECTION; ONLY INCLUDE A DESCRIPTION OF WHAT ITEMS AND SERVICES WILL BE INCLUDED IN THE FEE AND HOW THAT FEE WILL BE CALCULATED (FIXED FEE VERSUS PERCENTAGE FEE). Selected short-list respondents may be requested to submit additional information indicating fees.**

Our construction phase fee is our overhead, profit, and non-job costs that it takes to run a business. Every business has a matrix to figure out what they need to operate; ours is based on the construction budget and a fee percentage which will tell us our 'break even' fee. We use this plus the current market, type of project, risk factor, client, etc to put together what we believe is a fair construction phase fee.

**4. Savings: Describe your organization's concept for the disposition of savings realized during construction. Is the full amount or a percentage thereof returned to the owner?**

Savings will be used for project needs during construction and tracked in a savings log. At the end of the project and/or at a time agreed upon by the project team will be returned to the Owner. Though typically we offer 100% savings back to the owner, we have had clients specifically request a 50/50 split. The theory behind the client preferred split is that it incentivizes the CMAR to be more conservative with contingencies. We can assure you, we will be judicious with either option, and requesting a 80/20 split for this project.

**5. Contingencies: Describe your organization's concept for cost contingencies during design? During construction? What is your organization's concept for the disposition of contingency funds after the completion of the project?**

The contingencies are based on the project scope of work, not necessarily new construction versus renovation, and the stage of the plans are in when the GMP is set. Below are standard contingencies that Teal would use on a project of this scope work however each project scope of work and time of GMP contingencies are reviewed

Schematic Design - 10% CM Contingency

Design Development & Construction Documents - 5% CM Contingency

GMP and Construction - 3% CM Firm Contingency

All construction costs and contingencies will be tracked by our construction team and will be reported at all OAC meetings or when requested by the Owner. The above contingencies are for CM use only and are not considered to be Owner contingencies. All usage of CM Contingency during construction will be done with appropriate back up and tracked through a contingency expenditure log.

The remaining contingency at the end of construction will be dispersed based on the savings split negotiated at contract.

**6. Cost Information: Your firm would be required to make all cost information during design and construction available to the City and the City's Engineer/Architect. Describe how this information would be furnished and how the City and Architect would be assured that it is complete and accurate.**

Our cost estimates will be provided in pdf format broken down by CSI division. After each estimate release there will be a variance column to allow the full team to clearly see any changes in the budget.

It is imperative that we provide reliable budgets throughout the design phase of the project to ensure we can manage the budget throughout the construction phase. Our primary responsibility as a trusted advisor for the City is to effectively manage the City's money and provide cost saving solutions wherever possible. The importance of the preconstruction or planning phase, prior to any shovel hitting the ground, that the project team must develop a comprehensive plan that will safely deliver the facility within the budget, schedule and quality parameters set forth by City of Angleton.

Teal's preconstruction phase is rooted in being an effective steward of public funds. We believe that the buy-out process must be an integrated approach with both the construction operations team and preconstruction team members actively engage. While firms in our industry typically conduct the buy-out process during preconstruction and then hand everything off to operations, we have the construction operations team working with the preconstruction team throughout the planning/preconstruction phase. Because of our approach and the fact that we will be collaborating, there will be no hand-off.

During construction our team will provide any costs reports requested in pdf format as well. Our accounting software can provide buyout logs, contingency logs, job cost to date reports, cost projection reports, and many other financial reporting for our projects.



BID SUMMARY

CURRENT BID TOTAL >>>>> \$15,091,883

PROJECT:
LOCATION:
BID DATE:
BID TIME:

GSF: 71,200 SQFT
Duration: 14 Months
61 Weeks
420 Days

\$1,714,129 38 \$\$'s and Allowance
11.36%

\$929,890 22 \$\$'s and Self Perform
6.16%

\$455,721 20 \$\$'s and PLUGS REMAIN!!
3.02%

blue = entry field

Table with columns: CSI Code, Bid Tab Description, Labor, Material, Equipment, Subcontractor Scoped Bid, Total Bid, \$/SF, %/Tot, Low Subcontractor, 75% CD Estimate, Variance. Rows include General Requirements, Existing Conditions, Concrete, Masonry, Metals, Wood, Plastics and Composites, Thermal and Moisture Protection.

EXPERIENCE AS A CONSTRUCTION MANAGER AT RISK







BID SUMMARY

CURRENT BID TOTAL >>>>> \$14,819,305 GMP \$15,091,883

PROJECT:
LOCATION:
BID DATE:
BID TIME:

GSF: 71,200 SQFT 1.81%
Duration: 14 Months (\$272,578)
61 Weeks
420 Days

\$879,906 38 \$\$'s and Allowance
5.94%

\$936,540 22 \$\$'s and Self Perform
6.32%

\$343,557 18 \$\$'s and PLUGS REMAINII
2.32%

blue = entry field

Table with columns: CSI Code, Bid Tab Description, Labor, Material, Equipment, Subcontractor Scoped Bid, Total Bid, \$/SF, %/Tot, Low Subcontractor, 85% GMP, Variance. Rows include General Requirements, Allowances, Existing Conditions, Concrete, Building Concrete, Masonry, and Metals.

EXPERIENCE AS A CONSTRUCTION MANAGER AT RISK









BID SUMMARY

CURRENT BID TOTAL >>>>> \$14,819,305 GMP \$15,091,883

PROJECT:  
LOCATION:  
BID DATE:  
BID TIME:

GSF: 71,200 SQFT 1.81%  
Duration: 14 Months (\$272,578)  
61 Weeks  
420 Days

\$879,906	38	\$\$'s and Allowance
5.94%		
\$936,540	22	\$\$'s and Self Perform
6.32%		
\$343,557	18	\$\$'s and PLUGS REMAIN!!
2.32%		

blue = entry field

CSI Code	Bid Tab Description	Labor	Material	Equipment	Subcontractor Scoped Bid	Total Bid	\$/SF	%Tot	Low Subcontractor	85% GMP	Variance
	Tree Protection	\$0	\$0	\$0	\$2,800	\$2,800	\$0.04	0.02%	Teal	\$ 2,800	\$ -
32 0000	<b>Exterior Improvements</b>										
	Lime Stabilization @ Housekeeping pads - 1/S-304	\$0	\$0	\$0	Not Included	\$0	\$0.00	0.00%		\$ -	\$ -
	Chainlink Fencing and Gates	\$0	\$0	\$0	\$53,885	\$53,885	\$0.76	0.36%	Anchor	\$ 49,988	\$ 3,917
100	Gate 101 went to (2) 24' wide from (2) 12' wide	\$0	\$0	\$0	incl abv	\$0	\$0.00	0.00%		\$ -	\$ -
	Exterior Benches	\$0	\$0	\$0	none	\$0	\$0.00	0.00%		\$ -	\$ -
	Striping/Wheelstops/Signage - New Parking Only	\$0	\$0	\$0	\$30,000	\$30,000	\$0.42	0.20%	Teal	\$ 30,000	\$ -
100	Additional Striping @ Add parking	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%		\$ -	\$ -
	Striping/Wheelstops/Signage - Existing Parking	\$0	\$0	\$0	incl abv	\$0	\$0.00	0.00%		\$ -	\$ -
	Landscape - Sod or Hydromulch	\$0	\$0	\$0	\$111,308	\$111,308	\$1.56	0.75%	Allowance	\$ 50,000	\$ 61,308
unknown	Landscape/Irrigation Allowance	\$0	\$0	\$0	incl in landscape	\$0	\$0.00	0.00%		\$ 50,000	\$ (50,000)
	Irrigation	\$0	\$0	\$0	incl abv	\$0	\$0.00	0.00%		\$ -	\$ -
	Walking Trail - Concrete	\$0	\$0	\$0	incl in conc	\$0	\$0.00	0.00%		\$ 78,000	\$ (78,000)
100	Walking Trail - Concrete - Increase in length	\$0	\$0	\$0	incl in conc	\$0	\$0.00	0.00%		\$ -	\$ -
	Remove & Reinstall Exterior Sports Equipment	\$0	\$0	\$0	\$8,000	\$8,000	\$0.11	0.05%	Teal	\$ 8,000	\$ -
100	Relocate Existing Benches by Gymnasium	\$0	\$0	\$0	incl	\$0	\$0.00	0.00%		\$ -	\$ -
100	Grass Paver Fire Lane	\$0	\$0	\$0	\$75,000	\$75,000	\$1.05	0.51%	Allowance	\$ -	\$ 76,000
33 0000	<b>Utilities</b>										
	Manholes	\$0	\$0	\$0	Existing	\$0	\$0.00	0.00%		\$ -	\$ -
	Water Distribution Mains	\$0	\$0	\$0	Existing	\$0	\$0.00	0.00%		\$ -	\$ -
	Sanitary Sewers	\$0	\$0	\$0	Existing	\$0	\$0.00	0.00%		\$ -	\$ -
	Storm Drainage	\$0	\$0	\$0	\$128,000	\$128,000	\$1.80	0.86%	StoneRiver	\$ 128,529	\$ 1,551
100	Demoreplace 15' STM Culvert @ Existing driveway	\$0	\$0	\$0	incl	\$0	\$0.00	0.00%		\$ -	\$ -
100	Existing Inlets @ South Building lowered	\$0	\$0	\$0	incl abv	\$0	\$0.00	0.00%		\$ -	\$ -
100	New 6" riser on existing Inlet @ drive between existing parking lots	\$0	\$0	\$0	incl	\$0	\$0.00	0.00%		\$ -	\$ -
	Culverts @ Root Road - 18"	\$0	\$0	\$0	incl abv	\$0	\$0.00	0.00%		\$ -	\$ -
	Remote FDC Connections & Piping	\$0	\$0	\$0	incl below	\$0	\$0.00	0.00%		\$ 25,000	\$ (25,000)
	Fire Hydrants	\$0	\$0	\$0	none	\$0	\$0.00	0.00%		\$ -	\$ -
100	New Fire Hydrant	\$0	\$0	\$0	incl below	\$0	\$0.00	0.00%		\$ -	\$ -
100	FDC - Updated County Comments	\$0	\$0	\$0	\$15,000	\$15,000	\$0.21	0.10%		\$ -	\$ 15,000
	Site Fire Line	\$0	\$0	\$0	\$190,000	\$190,000	\$1.40	0.67%	Fire Lines Plus	\$ 100,000	\$ -
100	New Water Meter, BFP, & Associated Work	\$0	\$0	\$0	\$82,134	\$82,134	\$1.15	0.55%	Fire Lines Plus	\$ -	\$ 82,134
	Site Water - Utilities	\$0	\$0	\$0	Existing	\$0	\$0.00	0.00%		\$ -	\$ -
0.00%	----- Labor Burden (onsite trade only)	\$0				\$0	\$0.00	0.00%		\$ -	\$ -
8.25%	----- Sales Tax	\$0				\$0	\$0.00	0.00%		\$ -	\$ -
8.25%	----- Equipment Tax			\$0		\$0	\$0.00	0.00%		\$ -	\$ -
0.00%	----- Sub Bonds				\$0	\$0	\$0.00	0.00%		\$ -	\$ -
5.00%	----- Contingency				\$514,930.00	\$514,930	\$7.23	3.47%		\$ 573,320	\$ (68,390)
	<b>SUB TOTAL</b>					\$13,948,872	\$195.91	94.13%	ALTERNATES MARKUPS	\$ 14,209,299	\$ (260,427)
	<b>Design Fees</b>										
0.00%	Architectural & ADA Fees				\$0	\$0	\$0.00	0.00%			
0.00%	Structural Engineering Fees				\$0	\$0	\$0.00	0.00%			
0.00%	MEP Engineering Fees				\$0	\$0	\$0.00	0.00%			
0.00%	Landscape & Irrigations Design Fees				\$0	\$0	\$0.00	0.00%			
0.00%	Civil Engineers Fees				\$0	\$0	\$0.00	0.00%			
0.00%	Geotechnical Lab Fees				\$0	\$0	\$0.00	0.00%			
0.00%	Testing Lab Fees				\$0	\$0	\$0.00	0.00%			
0.00%	Design Team Reimbursable Expenses				\$0	\$0	\$0.00	0.00%			
	<b>Insurance</b>										
0.25000%	Builder's Risk Insurance				Requested Quote	\$34,872	\$0.49	0.24%	0.2353%	\$35,814	
0.43620%	General Liability Insurance					\$60,848	\$0.85	0.41%	0.4106%	\$62,499	
0.17410%	Umbrella & Corp Insurance					\$24,288	\$0.34	0.16%	0.1639%	\$24,941	
0.65730%	Pollution Liability - CPL					\$7,993	\$0.11	0.05%	0.0559%	\$8,209	
0.06000%	Professional Liability Insurance					\$8,369	\$0.12	0.06%	0.0565%	\$8,595	
0.00000%	Owner's Protective - OCP				If owner required Get Quote	\$0	\$0.00	0.00%	0.0000%	\$0	
0.80%	Payment & Performance Bond					\$ 118,769.09	\$ 1.67	0.80%	0.8014%	\$ 118,379.00	
	<b>Permits</b>										
0.1687%	Building Permit Fee					\$25,000	\$0.35	0.17%	0.1687%	\$25,000	
0.0000%	Plan Review Fee					\$0	\$0.00	0.00%	0.0000%	\$0	
0.0000%	Sign Permit Fees					\$0	\$0.00	0.00%	0.0000%	\$0	
0.0000%	Curb Cut Permit Fees					\$0	\$0.00	0.00%	0.0000%	\$0	
0.0000%	DOT Permit Fees					\$0	\$0.00	0.00%	0.0000%	\$0	
	<b>SUB TOTAL</b>					\$14,229,008				\$14,490,728	
	<b>General Conditions</b>					\$378,492	2.66%			\$385,453	
	<b>SUB TOTAL</b>					\$14,607,497				\$14,876,179	
	<b>Bonds &amp; Fees</b>										
1.45%	Overhead & Profit Net Fee					\$211,809	\$ 2.97	1.43%	1.4293%	\$215,705	
1.00%	Margin Tax					\$ -	\$ -	0.00%	0.0000%	\$ -	
0.00%	Texas State Remodeling Tax					\$0	\$ -	0.00%	0.0000%	\$0	
	<b>BID TOTAL</b>					\$14,819,305	\$ 208.14	100%		\$15,091,884	
	<b>Actual Amount Bid</b>					\$14,819,305	\$208.14	100%	<b>Actual Amount Bid</b>	\$15,091,884	

EXPERIENCE AS A CONSTRUCTION MANAGER AT RISK

**9. SAFETY**

1. Provide information as pertains to your firm’s accident frequency rate and modifier for the last five years. List any OSHA citations in the previous five years. List any deaths on your projects in the last five years. Ability to Manage Construction Safety Risks. Respondent’s ability to manage construction safety risks will be evaluated based on Respondent’s proven approach to eliminating construction accidents supported by Respondent’s experience history. Identify Respondent’s annual OSHA Recordable Incident Rates (RIR) for all work performed during the past three (3) calendar years.

**SAFETY**

Teal Construction is 100% committed to safety and continually exceeds industry standards. Safety is a priority for our company and we focus on maintaining a safe environment for our employees, subcontractors, owners, and the general public. For each project Teal is involved in we build a site specific safety plan as well as require our subcontractors to do the same. A third party safety company inspects our jobsite monthly to ensure all employees and subcontractors are following OSHA standards. Our Superintendent’s inspect their jobsites daily and review JSA’s with subcontractor. Both Teal employees use a Safety App, iAuditor, to record the safety inspections to provide our team with monthly updates and if there are any safety trends on our jobsites that need to be discussed. When there are unique safety requirements on our projects, we utilize a third party training team to come in and train both our personnel and subcontractor’s team.

Through creative training and education programs, we provide our employees and subcontractors with the tools, knowledge and resources they need to increase safety, reduce risk and improve loss control on every project we manage. Our safety training for our employees is done bi-monthly with a corporate meeting and a training meeting dedicated to both safety and industry methods.

Maintaining a good safety record is beneficial for both the client and contractor. A good safety record results in lower overhead cost in terms of insurance premiums, increases project and worker efficiency, and a successful project for all involved.

Teal Construction values our safety program and strives to exceed industry standards. We take an active role in industry safety programs and certifications, which proves our dedication to ensuring the highest level of safety on all of our projects. Each of our operations team members partake in monthly safety training and are OSHA 30 certified.

*We have also been a recipient of ABC’s STEP award since 2008 and have reached Platinum Level every year since 2009.*

**CRITICAL SUCCESS FACTORS**

- Site Specific Safety Plans*
- OSHA 10-hour & 30-hour training for site and office management*
- Leading Edge Safety Strategies*
- Core Values*
- Personal Commitment to Safety*
- Industry leader and partner in safety innovation*
- Third Party Auditing System*
- Strict subcontractor adherence & training*
- Award winning track record*

**Goal on all jobs = ZERO ACCIDENTS**

**OSHA DIAMOND LEVEL RECIPIENT 2021 - 2022**

EXPERIENCE MODIFIER RATE		OSHA FORM 3	2022	2021	2020	2019	2018
2023	0.84	# OF INJURIES/ILLNESSES	0	0	0	0	0
2022	0.81	# OF LOST TIME ACCIDENTS	0	0	0	0	0
2021	0.91	# OF RECORDABLE CASES	0	0	0	0	0
2020	0.87	# OF FATALITIES	0	0	0	0	0
2019	0.99	AVERAGE # OF EMPLOYEES	0	0	0	0	0
		HOURS WORKED	113,549	111,276	125,429	123,531	144,400



1. Knowledge and approach to best practices will be evaluated based on Respondent’s approach to Quality Assurance / Quality Control (“QA/QC”), including Respondent’s experience in working with owners who have their own inspections team/program, as well as Respondent’s philosophy and approach to various other areas of “industry best practice” and how Owner would benefit from Respondent’s approach as compared with the approach of Respondent’s competitors.
2. Describe your QA/QC program. Explain the methods used to ensure QA/QC during the Construction Phase of a project. Provide specific examples of how these techniques or procedures were used for any of the Representative Projects.

**QUALITY ASSURANCE  
PRECONSTRUCTION**

A meaningful quality program must begin with a clear definition of objectives. From the RFQ, contract negotiations and OAC preconstruction kick-off meeting we layout the rules for the game. These rules will define how the design will be programmed, software/technology needs, owner requirements, schedule, budget, and critical components to the project. By identifying all of these items at the beginning we are able to build a work plan with quality and control checks throughout the preconstruction phase of the project. Teal and consultants will build a preconstruction schedule to identify milestone dates for each design marker, estimates provided, and any other major date. With each release of drawings, we will provide CSI division estimates, constructability reviews, discipline coordination, and variance reports from the previous release. Each of our design disciplines will do their own in-house review for coordination as well as our team meeting to do a group review. Our commitment is to achieve an error-free project that matches the scope, timeline, and does not exceed the project budget.

**CONSTRUCTION**

Quality Assurance is the means by which Teal Construction ensures that the construction, including that of subcontractors and suppliers, complies with the requirements of the contract. The Quality Control Program shall be adequate to cover all construction operations, including both onsite and off-site activities, and shall be coordinated with quality control measures that include monitoring of source materials and field work to ensure conformance with the required standard of quality established in the contract documents. Teal’s superintendent and the subcontractors’ superintendents will be onsite at all times during the work and have the authority to effectively resolve any quality control issues that may arise, including stopping the work.



**SPECIFICATION AND SUBMITTAL REVIEW**

All of our projects start with a Preconstruction Meeting where the Estimator, Project Executive, Project Manager, and Superintendent go over all aspects of the project including plans, specifications, Owner contract, subcontractor proposals, and schedule individual scopes of work. All aspects are presented to transfer the project to our construction management team. After the preconstruction meeting our Project Manager will build the submittal log based on when the materials need to be onsite. Submittals are reviewed by both Project Manager and Superintendent for compliance with plans and specifications. When material is delivered to the site our Superintendent will confirm compliance with the approved submittals.



**PRE INSTALLATION INSPECTION**

Prior to the start of each separate definable segment of work or prior to the start of work a coordination meeting is held between our superintendent, supervisory and quality control representatives for all appropriate subcontractors. The purpose of the meeting is to ensure there are no misunderstandings regarding the quality and the technical requirements of the contract.



**INITIAL INSPECTION**

Upon completion of particular scope of work Teal’s superintendent and the subcontractor’s superintendent will meet to review the adequacy of the work accomplished. Once approved, the representative sample will become the baseline of quality by which ongoing work is compared for quality and acceptability. To the maximum extent, approved representative samples of work shall remain visible until all scopes of work in the appropriate category are complete. During this inspection, all issues with non-compliant work will be resolved. The initial inspection should be repeated for each subcontractor that works on-site or at any time acceptable, specified quality standards are not being met.



**FOLLOW-UP INSPECTION**

Daily checks are performed to assure continuing compliance with contract requirements, including control testing, until completion of the particular scope of work. Final follow-up checks are conducted and all deficiencies corrected prior to the start of additional scopes of work that may be affected by the deficient work. The contractor will not build upon or conceal deficient work. Deficient work will be clearly explained on the daily report under items of concern and noted on the items of concern/punch list.





### FINAL ACCEPTANCE INSPECTION

After we have completed all items on the punch list generated by Teal Construction, we will request a final acceptance inspection on a definite date. A notice will be sent to the Owner to establish this date and time.

Quality and on-time delivery of work products are guaranteed through the due diligence Teal's team will do during the preconstruction and buyout phase of the contract. We build our schedules and develop them throughout the preconstruction phase which subcontractors approve when signing contracts. When setting the final GMP our project team builds a material matrix and delivery log that works backwards on when the material needs to be onsite, how long it will take to fabricate, submittal review time which computes when we will need the submittal back from the subcontractor. This will tell us what long-lead items need a faster submittal review or may need to be released early. Our quality is checked daily by our Superintendent and weekly by our project team. If there is a quality issue it is taken care of immediately. We have third-party consultants review drawings during the construction document phase to assist on constructability and quality. The consultants will make site visits as well to review the mockups or initial installation of the building envelope. Our job as the General Contractor is to deliver a quality building at Substantial Completion in a safe and quality manner.

### QAQC - SUB PRECON MEETING

3.6 Subcontractor was given a copy of Teal Constructions Daily Inspection Safety form for their review.  
 Yes       No       N/A

3.7 The subcontractor must furnish JSA(s) to Teal superintendent every day for each work area / task.  
 Yes       No       N/A

3.8 All sub's employees must receive project site safety orientation  
 Yes       No       N/A

#### 4. Schedule Review

4.1 The schedule was issued and discussed in detail and the critical path. All agreed to maintain this schedule.  
 Yes       No       N/A

### QAQC - CONCRETE POUR REPORT

Crew	# Workers	# Total hours	Work performed
HTX	4	32	Poured walls and 5 bollards
Totals	4	32	

#### 3. Pour Details - Attach Pictures to References

3.1 What are was poured?  
 Foundation  
 Tilt Walls  
 Paving  
 Other



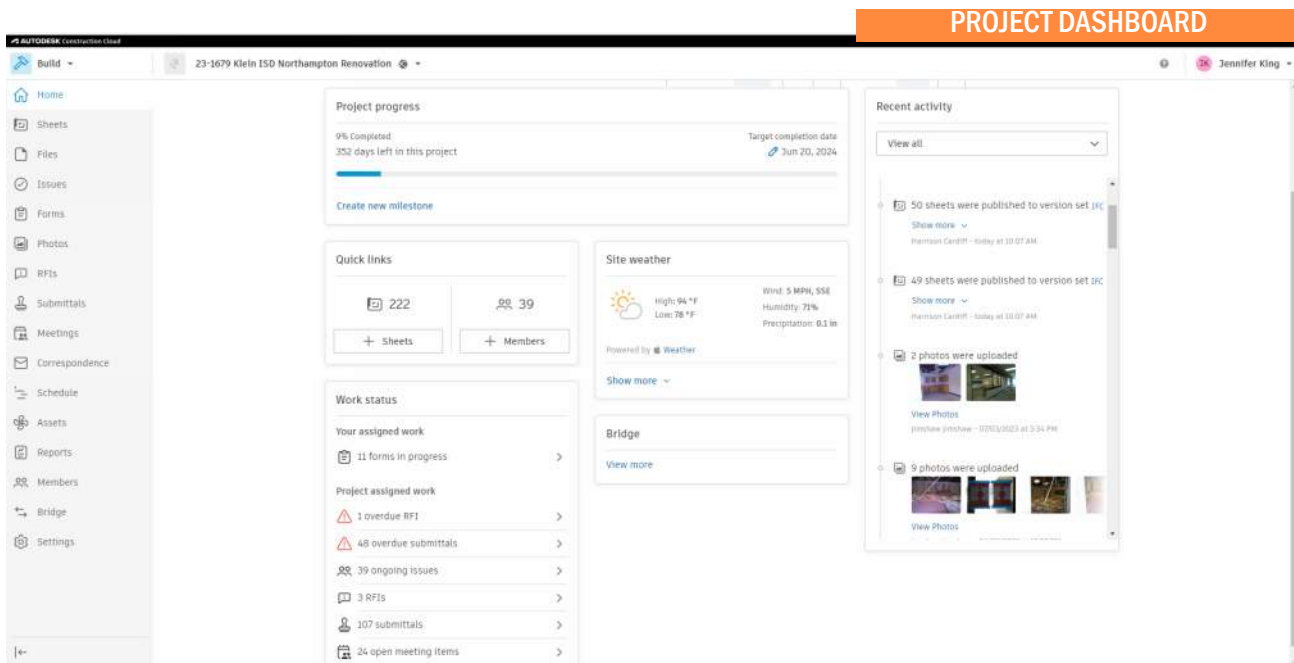
3. Describe your procedures for implementing “industry best practice” as defined by the Construction Industry Institute and similar organizations for:

- a. Establishing and tracking project objectives;
- b. Using project scope definition resources (i.e., Project Definitions Rating Index (“PDRI”)) in order to obtain complete and accurate design and construction documents from the architect/engineer;
- c. Partnering;
- d. Cost tracking;
- e. Master milestone scheduling, look-ahead planning, and weekly work planning to ensure best productivity;
- f. Change (order) management systems;
- g. Building systems commissioning including coordination with the Owner’s commissioning agent; and
- h. Total quality management for each phase, including coordinating with the owner’s project inspectors, testing, commissioning, training, close-out and warranty service.

TECHNOLOGY

The use of technology on our jobs is pertinent in the control of the project. Control via technology is required to ensure the safety of the workers and general public, and to ensure that the trades are put in a position to succeed so that the project can be delivered on time and within budget. Your project team will provide general direction for work, ensure quality of the installation, and establish procedures for communication from the top to the bottom of the organization chart. We have developed and utilize a number of monitoring and information management systems throughout all phases of the project to make certain that critical steps are not ignored or overlooked.

Our Operations team uses Autodesk Build to manage projects and give access to all team members (Teal, Owner, and Designers) Submittals, RFIs, updated drawings, etc are all in one platform allowing for current information at all times. The system allows for collaboration between the office and the field. Build interlocks with our accounting software Sage Timberline and allows for our Microsoft Project schedules to be inputted into the software, so there is one dashboard showing documentation, schedule, and cost analysis for your project.



Timberline is a popular program in the construction industry that we have utilized for many years; all of our office staff are extremely proficient in its use. It compiles all project specifics in one central database, with customized inquiries and reports. It allows us to quickly get to the details that will identify issues before they grow into problems. We can stay on top of subcontracts and performance and effectively manage actual costs against budgets. Additionally, it gives project managers live, up-to-the-minute cost and project detail for aid in solid decision-making while keeping track of purchase orders, subcontracts, and change orders. It eliminates workflow redundancies and saves time.

Some of the key reports/records we utilize:

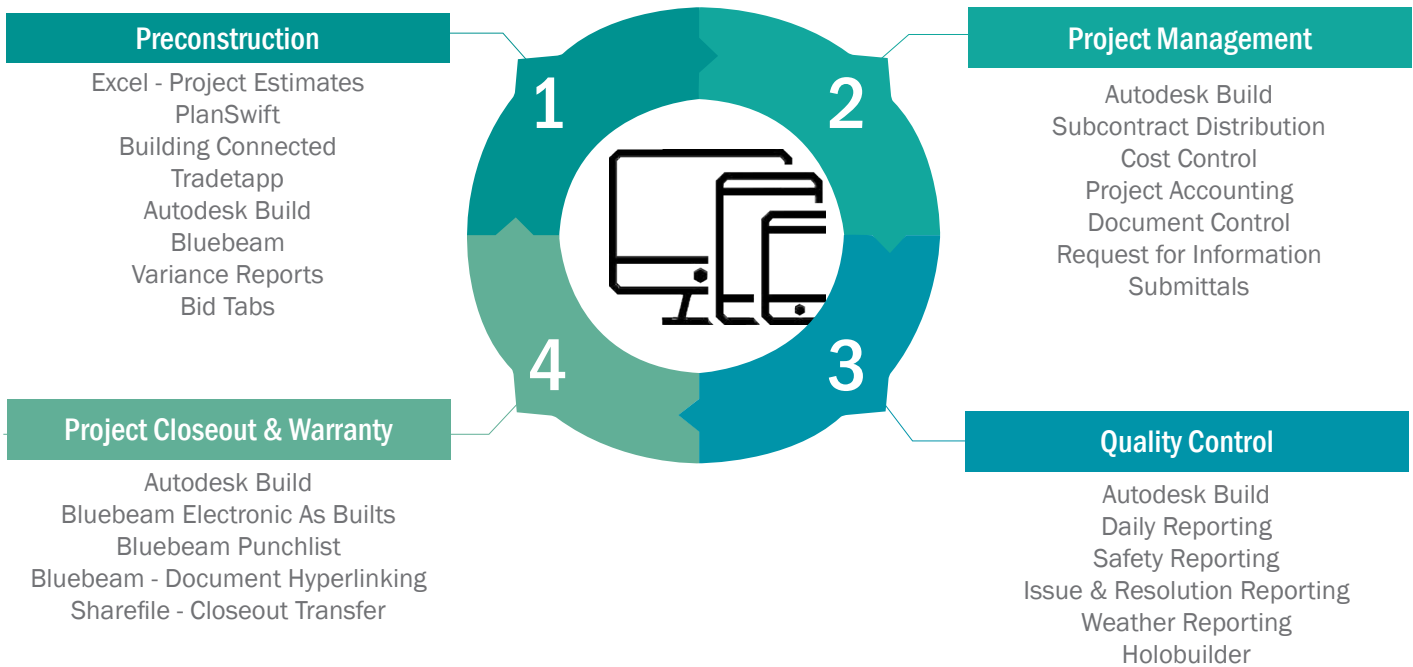
- Cost-to-Date Report
- Cost-to-Complete Report
- Committed Cost Report



We perform quality and safety audits by our Superintendent daily and third party safety inspectors on a monthly basis. The safety inspectors document any conditions that need to be fixed or looked at and provide our superintendent with a detailed list of not only what but why OSHA would mark this. The report is published to a cloud based website where Teal employees can access and send the reports to designated subcontractors. The system is very informative and helps educate both Teal and the subcontractors which will prevent any accidents in the future. On a monthly basis, Teal holds monthly meetings where a safety topic is reviewed to continue to educate our employees and to keep us up-to-date on OSHA requirements.

Our Superintendent and Project Manager will hold weekly subcontractor meetings to go over schedules and performance. At the meeting, Teal will discuss overall construction schedule, two-week look ahead schedule, status of material delivery, safety toolbox topic, and facilitate conversations between subcontractors to ensure there are limited to no conflicts during construction.

All of our Superintendents are provided a laptop, iPad, and smart phone. The iPad has plans, project documents, and multiple apps (see below) that provide them with the ability to instantly communicate. The Superintendent uses these electronics to manage safety, quality, field reporting, and all of your project needs.



**TEAM ORIENTATION**

Teal’s construction goal is to practice professional management techniques applied to planning, design and construction from inception to completion for the purpose of controlling quality, safety, timeliness, and costs.

Teal Construction likens the CMAR relationship with the owner and design team as a three-legged stool. No one leg can do the job without the other two.

This relationship begins with the City. The City has very specific objectives for the project, as this is what has been described to the constituents in the Pearland community and the City employees. Making sure the City makes good on all promises is job one. With that in mind, we will remain diligent in constantly monitoring cost throughout the design process.

The architect plays a huge role in this, as they have promised to deliver an efficient, aesthetically pleasing, and economical project as well. Our former clients and colleagues in the architectural world can attest to the active role Mr.Hogue plays in the preconstruction process. From constantly updating detailed estimates, to full specification of construction systems, Mr. Hogue has the unique ability to see the functional and aesthetic objectives from a perspective of “how can we achieve this with the utmost quality and value.”

This role and his ability to communicate with the team will be critical to the success of the project, especially in these unprecedented times of shortages and cost escalation. Our goal is to “over-communicate” so all parties are informed of what has been accomplish, work that is taking place and a look ahead to what is coming up so all necessary preparations can be made. We believe an informed client is better served as it related to good decision making. Identification and resolution of problems starts on day one with a project. Teal utilizes many resources throughout the stages of a project



and feels that a proactive approach to any issue is the best possible way of resolution. Face-to Face meetings have been the best resolution from our past experience. Transparency with information is crucial to mitigating and removing conflicts throughout the life of the project. By working closely with and constantly sharing all information received with the client and design team, we are able to ensure complete transparency while simultaneously receiving constant client feedback. This allows us to expedite the process while ensuring everything stays on track relative to the client’s desires.

Teal Construction has a vested interest in the cohesion of all collaborating members of the team. With this philosophy in mind, we approach all projects with the careful consideration of how we create the strongest relationship possible between the owner, design team and Teal Construction. We actively seek out collaboration among all team members in order to achieve a greater benefit from the team’s combined expertise than that which could be realized from each individual’s separate input.

The ability to work as a team starts at the beginning of the project when the project team clearly defines the goals for the project. When building the goals the team has to have a full understanding of the client’s vision for the project and all outcomes and expectations that are presented for the project. The goals are met by having an open line of communication, proactive approaches to all challenges, constructive criticisms, motivation through team members, and a full understanding of roles and responsibilities. All of the ground work that we have laid to keep a transparent and cohesive process in the preconstruction phase, will greatly benefit the construction phase by eliminating any questions of the communication lines and construction outcomes.

Our collaborative efforts include:

- Offering differing cost options of methods and material through value engineering
- Quality and safety audits
- Lead frequent team meetings
- Hold weekly subcontractor meetings
- Provide 2-week “look ahead” schedules to the entire project team

With our team’s extensive background in municipal facilities, we believe that we would be best qualified for the project. We establish and keep our team, as proposed in the qualifications, from preconstruction to construction which eliminates the learning curve. A poor quality, poor managed project does not benefit any team or end-user and that’s why we build each relationship through trust, quality, and a proactive approach to each project. Teal’s track record is proven by multiple repeat clients and architects.

**3. Provide an example of a successful constructability program used to maintain project budgets without sacrificing quality.**

**CONSTRUCTABILITY INPUT**

The project team that we are providing have all worked together before and understand how to hurdle even the most complex of obstacles. Our advanced background in construction make us an asset in the design phase of the project to provide constructability input as the project develops. A constructability review will be done with each phase of design to determine if there are built-in issues, flaws that may impede construction or factors that may cause impact to any stakeholders in terms of time, cost, or quality. Teal will provide alternative design opportunities, discipline coordination and compliance, and confirm that a strict adherence is being followed to the project scope.

Teal brings in subcontractors at the beginning of the project to help in constructability. The subcontractors are able to review documents in the beginning to help develop the building systems and provide constructability of how the building will be constructed.

*Project Example: Harris County Fire Station No. 44*

On Fire Station 44, a CSP project, we found there was no insulation above the ceiling between the non-air-conditioned apparatus bay and air-conditioned which would pose a moisture issue. Teal proposed to the client and design team to install 2” rigid insulation above the ceiling that was glued to the CMU wall. This lesson was learned through many years of building car dealerships with non-air-conditioned service bays adjacent to air-conditioned showrooms. Our project team and third party building envelope consultant reviews each set of plans for issues like this to prevent air and water infiltration that will degrade the building over time.

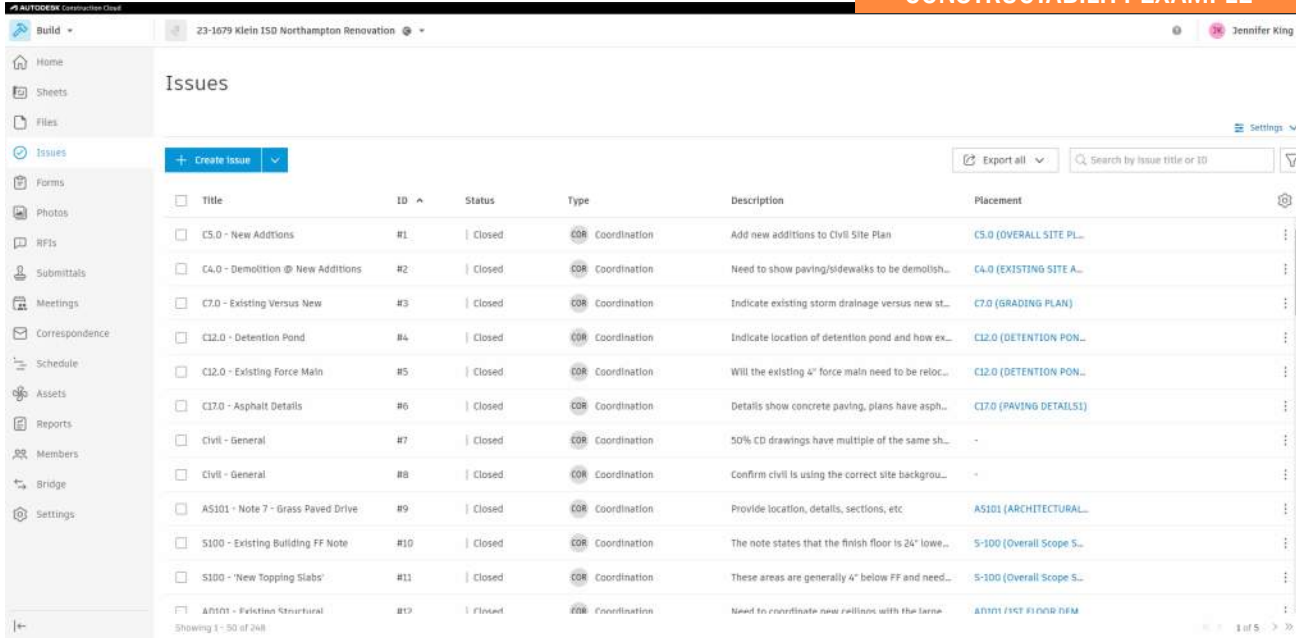
*Design Assist Project Example: Acres Homes Campus*

Teal Construction was brought on at 50% Construction Documents in the preconstruction phase for the HCC New Acres Homes project. During our initial constructability review, we found that multiple exterior walls clad in masonry were sized incorrectly and did not meet windload regulations due to the size of the metal stud and height of the wall. We worked with our gypsum wall assemblies’ subcontractor to provide the design team with a design that would suffice the windload regulations and ensure the structural integrity of the building was sufficient.

Teal will use Autodesk Build, online collaborative software, to provide the project team with our constructability and design input. The system provides the team with an up to date report that we will cross check when additional documents come out to ensure all comments have been addressed. It works as a check and balance system. Our quality control team reviews each set of drawings and with their history in education facilities will provide an abundance of knowledge to the team.

The constructability example is from Autodesk Build and can be viewed by the Project Team, this allows for a central location on items to be updated in drawings. Each phase of drawings will be inputted in Build which will allow 'Issues' to easily be closed out as Teal can see when it's been picked up on the designated sheet.

**CONSTRUCTABILITY EXAMPLE**



**4. Experience and approach to partnering with an A/E to coordinate and consolidate project as-built information in a BIM model for the owner's use in building life cycle management.**

Teal's onsite team will have a clean print of the plans that can easily be marked up as as-builts. This is then transferred monthly to the sheets on Autodesk Build for A/E to review. The A/E team will be able to update their BIM model as the project progresses and pull any submittal data to input into the model from the project documentation that is stored in Build. Teal has found that having one platform to store all information including as-built and warranty information makes it simple for all parties.

**5. As a CMAR, describe your relationship with the local subcontracting community.**

Teal has been working in Brazoria County for over ten years in the public and private markets. We typically have a project in the area annually. Since we have a local presence we have a great relationship with local subcontractors. We will reach out to them during the preconstruction phase of the project to ensure they know about the project and are part of the procurement process.

**6. Provide any other details regarding special services, products, advantages or other**

Teal believes that we have provided the City with an abundance of information throughout the qualification package that shows our expertise in construction and the scope of work for the King Municipal Operations Center.

**7. Describe what you believe are the unique operational skills and experiences that distinguish Respondent from its competitors. benefits offered to the City by Respondent.**

We feel it cannot be overstated our experience in the maintenance facility market with it being thirty percent of our annual revenue which will bring unique knowledge to your project. The other unique experience that Teal has that should distinguish us from our competitors is our long history with iAD Architects. Brent and his staff are not just partners but family. We have worked with them consistently for the last ten years including everyone on the proposed team. Jennifer King and iAD are currently working on multiple design build projects in preconstruction which all have maintenance/service components. The other members of the team are currently working with the iAD staff on Mustang Cat in Angleton. All of your proposed staff and our office team is highly versed with iAD and the City of Angleton.



### 11. SCHEDULES

- a. Provide a sample of a schedule that will be used to control various project phases. Give a history of your ability to deliver projects on time for the past 2 years.
- b. Describe methods to keep projects on schedule and corrective action to overcome schedule deficiencies.

#### SCHEDULE

During the preconstruction phase of the project, our construction team will start putting together a schedule based on the program and goals set forth for the project. Each schedule will be updated monthly to ensure that all team members are meeting our deadlines. All of the ground work that we (Teal Construction, Owner, and Design Team) have laid to keep a transparent and cohesive process in the preconstruction phase, will greatly benefit the construction phase by eliminating any questions of the communication lines and construction outcomes.

##### Schedule Software

Teal Construction implements Microsoft Project Critical Path and/or Primavera software for project scheduling and tracking. It is designed to assist project managers in developing plans, assigning resources to tasks, tracking progress, managing budgets and analyzing workloads. The application creates critical path schedules that can be resource leveled, and chains are visualized in a Gantt chart. This incorporates all phases of work, contractors and owner's, necessary for the client to obtain the intended facilities within the required time. The CPM schedule will be used during both preconstruction and construction phases and distributed monthly and/or at each phase of preconstruction.

Preconstruction methods of reaching project timeline goals included determining if the project will need early release packages. The typical packages include structural steel, mechanical equipment, and site work. As we develop our baseline schedule we will work with the team to establish if and what early release packages are necessary.

During Construction, Teal will provide two week look ahead to the subcontractors and project team that will be built from the baseline schedule. The two week look ahead puts construction into more detail and ensuring proper communication between all vested parties. These schedules will be updated weekly and distributed.

Our Superintendent and Project Manager will hold weekly subcontractor meetings to go over schedules and performance. At the meeting, Teal will discuss overall construction schedule, two-week look ahead schedule, status of material delivery, safety toolbox topic, and facilitate conversations between subcontractors to ensure there are limited to no conflicts during construction.

**Weekly jobsite subcontractor meetings with both Project Manager & Superintendent help facilitate conversations between trades to ensure that all parties are up to date on what needs to be done prior to hitting the jobsite. These meetings are also used to discuss safety topics that pertain directly to the work done on each specific project.**



A phased project on an occupied site means constant communication between the field, office, and the owner employees onsite to ensure all parties know the construction schedule and phasing of the project. Teal's Operation team will complete due diligence in the preconstruction phase reviewing site traffic on and around the site to build a phasing logistics plan that will continue to be updated during the construction. The construction will need space for laydown areas and contractor parking which will encroach outside the labeled Phase I on the Design Development documents provided. Our logistics plan will be submitted after a thorough review of the site traffic to ensure we will not impede operations. Through the logistics, knowledge of site traffic, and specific scheduling information from the Owner Teal's team will provide a schedule that will be updated throughout preconstruction with drawing releases and monthly during construction. We will work with the Owner representative and design team to layout the timeline for Phase I and Phase II to keep the site operational. Teal will build in our schedule tasks for Owner move-in once the new building is built while we continue to plan the demolition of the other buildings. During construction Teal's team will provide weekly progress reports that include the work for the next two weeks.

A difficult task when building on an occupied site is the construction of new utilities. Domestic water, sanitary, and storm will all have to be in place prior to receiving our certificate of occupancy. The installation of these items will have to be phased out like the building and site. In both SAWS and Doggett Ford, we installed the mains and vaults in Phase I and then continued to phase the piping until we were within five feet of the building where the plumber took it into the building. We used steel plate over trenches to allow portions of the site to be operational and worked after hours in areas that couldn't be shut down. This is a tedious process to work through in preconstruction with our subcontractors and part of the monthly updates for the logistics plan. These are items that we lay out in the plan in case there is a transition of vehicle or pedestrian circulation through the site and occupants need to be aware of it early. Once we are hitting the final stretch



of the project, weekly updates are imperative to make sure the City has everything ready for the move. In both the SAWS ESOC and Doggett Ford, the schedule review was done weekly during the last couple of months to assist the Owner's with putting the correct tasks in place for a successful move-in. Doggett Ford, the move was over a weekend with the temporary trailers having to be moved prior to the Monday morning opening. Concurrently with the final completion of the building, Teal will work with the City to project the schedule of the demolition of buildings and site build back. We understand that we will need to release portions of the paving back to you quickly. Through proper communication, due diligence, and collaboration in preconstruction and construction phase our Team will provide the City with a schedule and plan that will keep the site operational and limit disruption. All team members have successfully completed this before and is ready to do it again.

Our Superintendent and Project Manager will hold weekly subcontractor meetings to go over schedules and performance. At the meeting, Teal will discuss overall construction schedule, two-week look ahead schedule, status of material delivery, safety toolbox topic, and facilitate conversations between subcontractors to ensure there are limited to no conflicts during construction.

## CURRENT CHALLENGES & MITIGATION

As everyone is aware, since the COVID-19 pandemic, our industry and the way we successfully execute projects has changed drastically. At first, it was dealing with the mechanics of keeping our employees, subcontractors, and jobsites safe and sanitary. Fast forward 2 years and now we are dealing with a whole new set of challenges which include lack of manpower, material shortages, and price escalation. We have successfully navigated these uncharted waters with a proactive approach on all fronts.

- ▶ **MANPOWER:** Work performed with our own forces has been easy to maintain. Teal has always taken an active role in listening to the needs of our people, and we have not experienced the turnover rate that many other contractor's are facing. All of the team members that have been slated for this project have been with us for many years and have no plans to leave our Teal family. This is important because it is always detrimental when there are changes in leadership during a construction project. As for our subs, our many years of working in this area has helped us identify subcontractors with a similar corporate culture as us. This means that we see many of the same faces from job to job and they share the same excitement when working on a Teal project. When you identify good people that produce quality work, you do whatever is necessary to retain that asset. This is our mantra.
- ▶ **MATERIAL SHORTAGES:** From the preconstruction phase through purchasing and execution, we will be monitoring the availability of all specified materials. Some long lead items may be identified to purchase prior to the execution of the GMP depending on scarcity and price volatility at the time. We recently overcame a unique situation at the Rockport Center for the Arts. The architect had specified a custom siding that was ordered many months in advance because we knew it was an uncommon critical path item. 7 months into the project we received a "dear John" letter from the manufacturer stating that they apologize, but due to demand on the more common cementitious siding, our order had been CANCELLED. This was devastating as we were to begin installing in less than 60 days. We worked with the design team to develop a creative solution that provided the same aesthetic with a product that was readily available. In the end, the crisis was averted, and the project remains on schedule.
- ▶ **PRICE ESCALATION:** Prior to 2020, subcontractors could easily hold quotes for 30, 60 even 90 days prior to placing orders for materials. Those days are long gone, and it is not uncommon for subcontracting firms limit their price guarantees to a matter of days. We mitigate this with a few approaches. First of all, we can request that they isolate material costs with their bids so that we know their hard costs from the get go. Secondly, we identify the items with the highest volatility and prioritize accordingly. For example, if the door hardware market is spiking, we will work with the design team to expedite these submittals even though they may not appear to be an immediate need for the project. This allows the contractor to fulfill the purchase order in advance and either store the materials on site or in a bonded warehouse. The last thing we want is any last-minute surprises or subcontractors defaulting on their obligations because of reactive purchasing practices.
- ▶ **LONG LEAD ITEMS:** Teal will identify the long lead items at the beginning of the preconstruction stage of the project. We will work with the design team to get design documents, specifications, and any other documents needed to get proposals for these items. We will send out for an early package release which will be the first of the GMPs and part of the GMP will be an allowance to make sure any design updates are covered while the remainder of the design is being completed. Once we agree on the GMP, we will release the subcontractor to get submittals together; once received Teal will do a cursory review, then send to Designer for their cursory review, and have all parties come together to review as a group. We have found that this helps get through the submittals quicker as the design team can ask the subcontractor any questions while together and subcontractors, if needed, can call suppliers, so that all questions can get answered at this meeting and submittals released. Depending on the site space and subcontractor warehouse space we will determine if it can be stored at either of these locations, if onsite we will include storage boxes, if required, and



temporary fence; if at subcontractor warehouse, we will ask for insurance on the warehouse when they are starting to bill for materials.

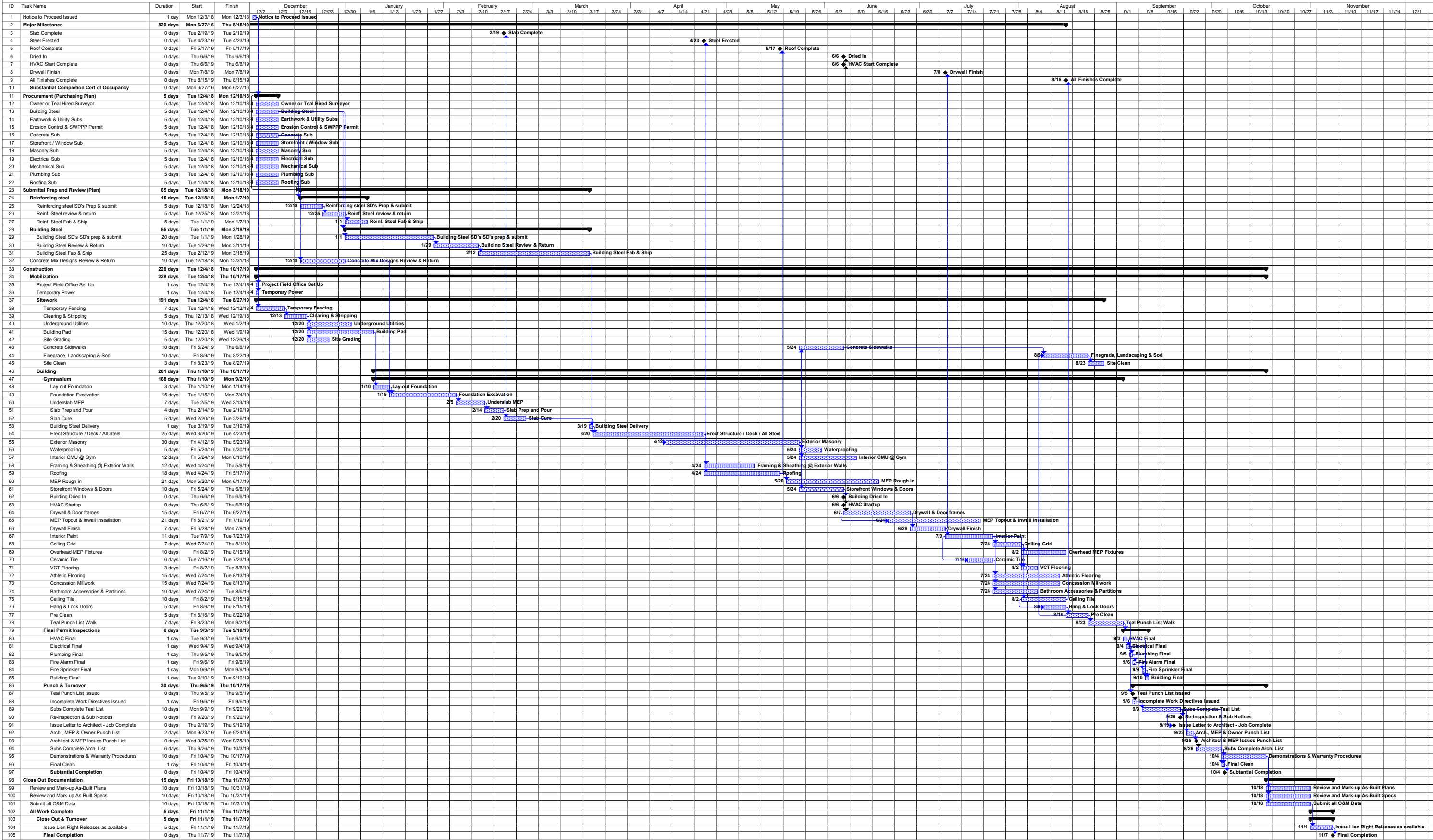
All other materials that are being procured for the project will start with a procurement matrix which works backwards on when the material needs to be onsite. Then Teal PM inputs fab time, design & Owner submittal review time, Teal review time, and submittal prep time to provide our Team with the date that the submittal is needed by. This provides a procurement log and submittal register that we can tag a subcontractor to each submittal package so that they understands when it required to get the submittal to Teal. These dates are reviewed with the subcontractor at the Precontract Meeting.

All this documentation is in our Project Management Software, Autodesk Build. Below is a compressed version of a submittal register that is ran as a report from Build which includes all the above information plus much more including the reviewer's information and more information about the submittal itself.

SUBMITTAL REGISTER							
Spec #	Spec	Priority	Title	Type	Package #	Package	Responsible contractor
072100	Thermal Insulation	Normal	Batt Insulation	Product Data			Brad Tamborello
238239	Electric Unit Heat	Normal	Product Data	Product Data	238239-001	Product Data	Kim Diehl
265600	Exterior Lighting	Normal	Product Data	Product Data	265600-001	Exterior Lighting	Chris Roberts
265113	Incandescent Inte	Normal	Product Data	Product Data	265113-001	Incandescent Inte	Harrison Cardiff
260924	Lighting Controls	Normal	Fixture & Load Schedule, Layout,	Product Data	260924-001	Lighting Controls	Harrison Cardiff

Responsible contractor	Sent to submitter	Submitter due date	Required Date	Required approval date	Required on job site date	Lead time (days)
Brad Tamborello	7/7/2023	7/7/2023	7/14/2023	7/28/2023	11/24/2023	30
Kim Diehl	6/8/2023	6/8/2023	6/16/2023	6/30/2023	11/17/2023	56
Chris Roberts	5/25/2023	5/26/2023	5/26/2023	6/30/2023	12/8/2023	120
Harrison Cardiff	5/25/2023	5/26/2023	5/26/2023	6/30/2023	12/8/2023	120
Harrison Cardiff	5/25/2023	5/26/2023	6/23/2023	6/30/2023		90







**12. REFERENCES**

a. For the projects listed above in F:8. Identify a primary and secondary representative of the owner and 1 representative of the architect/engineer. Provide complete contact information: name, company, title, address, phone, and email address of whom we could contact as references regarding your organization’s services for Construction Manager at Risk. Ideally, some references should be for municipal/public projects of comparable scope and similar type from the past 5 years.

PROJECT NAME	OWNER	ARCHITECT
Doggett Heavy Machinery- multiple locations Doggett Ford - multiple locations Doggett Freightliner - multiple locations	Landon Duncan Director of Facilities landon.duncan@doggett.com 281.249.4617	iAD Architects Brent Bowles Principal bbowles@iadarchitects.com 979.297.1411
Mustang Cat - Willis & Angleton	Jason Apel General Manager japel@mustangcat.com 713.452.7395	iAD Architects Principal bbowles@iadarchitects.com 979.297.1411
Fort Bend County Sheriff Administration Office Fort Bend County Missouri City Gymnasium Fort Bend County Linear Jail Renovation Fort Bend County Community Center	Jon McGuff Project Manager jon.mcguff@fortbendcountytexas.gov 281.633.7018	AUTOARCH Farrah Sabouni (Missouri City Gym) Principal farrah@autoarch.net 832.439.2869
Bastrop County ESD 1 Fire Station No. 4	Tim McCanlies Fire Chief tim@bastropesd1.com 512.466.0004	BSW Architects Don Greer Principal dgreer@bsw-architects.com 512.610.4700



**13. EXPERIENCE ON THE SITE AND FOR THE CITY OF ANGLETON**

a. Provide a list of projects within the last 7 years completed by the firm within the City of Angleton (or its ETJ) and (if applicable) on the site itself.

PROJECT NAME	OWNER	ARCHITECT	LOCATION	CONTRACT VALUE
Texas Gulf Coast Regional Airport Terminal	Brazoria County	iAD Architects	Angleton	\$2,789,000
Brazos Pointe Fellowship Expansion	Brazos Pointe Fellowship	iAD Architects	Lake Jackson	\$1,422,100
Clute Fire & EMS Station No. 1	City of Clute	BRW Architects	Clute	\$3,883,540
Greater Mount Zion Church	Greater Mount Zion	iAD Architects	Brazoria	\$2,476,610
New Bethel Baptist Church	New Bethel Baptist	iAD Architects	Angleton	Precon Only
MAX Rehab & Sport Office	MAX Rehab	iAD Architects	Clute	\$100,000
Mustang Cat Temporary Facility	Mustang Cat	iAD Architects	Angleton	\$566,045
Freeport LNG Administration Building	Freeport LNG	iAD Architects	Freeport	\$266,785
First Baptist Church of Angleton	First Baptist	iAD Architects	Angleton	\$4,517,600
Angleton Warehouse Development	Bearden Investments	Beaty Palmer	Angleton	\$9,923,185
Fort Velasco Replica	Cradle of Texas Conservatory	iAD Architects	Surfside	Currently in Precon
Mustang Cat	Mustang Cat	iAD Architects	Angleton	\$6,169,695

**PROJECT SUCCESS**



**San Antonio Water Systems - Northwest Operations**

The San Antonio Water Systems project was a design-build project for new construction of a new PEMB Administration Building on the Northwest Operations Campus. The program included office space, locker rooms, warehouse, and auxiliary spaces for multiple divisions of SAWS. This project ran concurrently with the East Side Operation Center and all part of one project. All projects were constructed in a phased approach that allowed continuous operations of the facility.





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## SECTION 010200 – SUPPLEMENTARY CONDITIONS

The following supplements modify the General Conditions of the Contract for Construction, AIA Document A201 – 2017. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect.

ARTICLE 1 – GENERAL PROVISIONS

To Section 1.1.3, THE WORK, add the following:

1.1.3.1 “Work” (the) shall be understood to include everything shown, mentioned or reasonably inferred as being necessary to produce the intended results.

To Section 1.2.1 of Section 1.2, CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS, add the following:

1.2.1.1 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. The Agreement.
2. Addenda, with those of later date having precedence over those of earlier date.
3. The Supplementary Conditions.
4. The General Conditions of the Contract for Construction.
5. Division 1 of the Specifications.
6. Drawings and Divisions 2 – 33 of the Specifications.

In the case of conflicts or discrepancies between Drawings and Division 2 – 33 of the Specifications or within either Document not clarified by Addendum, the Architect will determine which takes precedence in accordance with Section 4.2.11. Bids shall be based on the most expensive combination of quality and quantity of work indicated.

- a. Figures take precedence over scaled measurements.
- b. Large scale details take precedence over small scale details.
- c. Architectural Drawings take precedence in regard to dimensions, when in conflict with Mechanical and Structural Drawings, except for the size of the structural members.
- d. Specifically titled Drawings and Sections of the Specifications take precedence over indication of the item in a collateral way.
- e. Existing conditions take precedence over Drawings and Specifications for dimensions.

To Section 1.2.3, add the following:

## 1.2.3.1 Definition of specific terms used in the Contract Documents:

- A. MANUFACTURER’S INSTRUCTIONS (or) DIRECTIONS: All manufactured articles, material and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturers, unless herein specified to the contrary. Notify the Architect if Contract Documents are in conflict with manufacturer’s instructions or directions or if code requirements are more stringent. Do not proceed in such cases until an answer is given by the Architect.
- B. DAY: A calendar day beginning and ending at 12:00 midnight.
- C. WORK DAYS: Any day except Saturdays, Sundays and legal holidays where the Work is located.
- D. SHOP DRAWINGS: The term “Shop Drawings” includes fabrication drawings, manufacturing drawings, erection drawings, cutting and setting drawings, masonry coursing, ceiling layouts and other erection layouts.
- E. PRODUCT DATA are brochures and printed literature describing materials and equipment, photographs, operational data, illustrations, standard schedules, performance charts, instructions, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.
- F. SAMPLES are physical examples, which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.
- G. SUBMITTALS shall be understood to mean data submitted by the Contractor to the Architect (or Owner if so directed) and includes but is not limited to shop drawings, product data, samples and substitution data.
- H. ALTERNATE: A variation to Base Bid to cover a variation in Contract requirements. If Alternate is accepted by Owner, variation is then part of Contract and amount quoted to be added or deducted from Base Bid is taken into account in determining Contract Sum.
- I. BASE BID: A bid, before any Alternates are considered.
- J. GENERAL CONTRACTOR, PRIME CONTRACTOR: Same as Contractor.

ARTICLE 2 – OWNER

To Section 2.3, INFORMATION AND SERVICES REQUIRED OF THE OWNER;

Add Section 2.3.7 to Section 2.3:

- 2.3.7 The Owner will procure and bear costs of Construction Material Testing structural tests and special inspections as required by the applicable building code. Contractor shall identify such tests and provide proposal to Owner or Owner’s agent for review and consideration.

Add the following Sections:

- 2.6 The Owner shall reserve the right to observe the work at any time.
- 2.7 The presence of the Owner or Architect, or their representatives at the project site does not imply concurrence with or approval of the Work.

### ARTICLE 3 – CONTRACTOR

To Section 3.3, SUPERVISION AND CONSTRUCTION PROCEDURES, add the following:

- 3.3.4 Prior to start of work, Contractor shall locate all general reference points, lay out his own work, and be responsible for verifying measurements of building, utilities and work included in Contract.
- 3.3.5 Provide acceptable access to the work for inspections by the Owner, Architect and all local, State and Federal authorities having jurisdiction. Access shall be made safe and reasonably convenient.

To Section 3.4, LABOR AND MATERIALS, delete Section 3.4.2 and substitute the following:

- 3.4.2 After the Contract has been executed, the Owner and Architect will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in the General Requirements (Division 1 of the Specifications). By making requests for substitutions, the Contractor:
- .1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
  - .2 represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;
  - .3 certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and
  - .4 will coordinate the installation of the accepted substitute, making such changes as may be required for the work to be complete in all respects.

Add the following Sections to Section 3.4:

- 3.4.5 Not later than thirty (30) days from the Contract Date, the Contractor shall provide a list showing the names of the manufacturer proposed to be used for each of the products identified in the Contract Drawings and Specifications and, where applicable, the name of the installing Subcontractor.
- 3.4.6 The Architect will promptly reply in writing to the Contractor stating whether the Owner or the Architect, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed manufacturer or installer is not available, the Architect may state that action will be deferred until the Contractor provides further data. Failure of the Owner or Architect to reply promptly shall not constitute notice of no reasonable objection. Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufacturer must conform to such requirements.

3.4.7 WORKMANSHIP: Compliance with the Drawings and Specifications with regard to materials and methods of assembly will, not in itself, assure acceptance of the construction. Of equal importance is good workmanship, the lack of which will be sufficient cause to refuse acceptance of the construction.

To Section 3.5 WARRANTY, add the following:

- 3.5.1.1 Contractor warrants to Owner that construction will be free from leakage of water or seepage of dampness from outside to inside or from outside to members normally expected to stay dry. This leak warranty extends for **TWO YEARS** after date of Substantial Completion. Contractor shall, at his own expense, upon due notification by Owner, take remedial measures to correct conditions of leakage of water infiltration that may have developed within warranty period. Extended warranty requirements are described in Specification Sections.
- 3.5.3 Contractor shall be responsible for damages to building contents during warranty if such damages result from his negligent use of materials or workmanship.

#### ARTICLE 4 – ARCHITECT

Section 4.2, ARCHITECT'S ADMINISTRATION OF THE CONTRACT, add the following Sections to Section 4.2.2:

- 4.2.2.1 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault or neglect of the Contractor.
- 4.2.2.2 To facilitate Architect's observation, Contractor shall not bury or conceal pipe or conduit in any way until it has been examined.

#### ARTICLE 7 – CHANGES IN THE WORK

Section 7.1, GENERAL, add the following Section 7.1.4 to Section 7.1:

- 7.1.4 The combined overhead and profit included in the total cost to the Owner of a change in the Work shall be based on the following schedule:
- .1 For the Contractor, for Work performed by the Contractor's own forces, 10% of the cost.
  - .2 For the Contractor, for Work performed by the Contractor's Subcontractors, 8% of the amount due the Subcontractors.
  - .3 In order to facilitate checking of quotations for extras or credits, all proposals shall be accompanied by a complete itemization of costs including labor, materials, equipment.
  - .4 For any changes paid for out of Contingency Allowances, no mark-up shall be allowed by General Contractor.

#### ARTICLE 8 – TIME

To Section 8.1, DEFINITIONS, add the following:

8.1.1.1 Contractor shall state in his proposal the number of calendar days in which he proposes to complete the Work. Upon award of Contract by Owner, Contractor shall be obligated to complete the Work within number of calendar days proposed.

To Section 8.3, DELAYS AND EXTENSIONS OF TIME, add the following Sections:

8.3.1.1 Contractor shall make claim to the Architect for extension of time by email on day on which delay first occurs. Written confirmation to include condition that caused the delay and the critical path of work affected.

Contractor shall submit a summary of delays with back-up data for delays occurring during the current billing period, along with each Application for Payment for review by the Architect.

8.3.1.2 Approved extensions of time shall add an equal number of working days to Contract Time.

8.3.1.3 If at least 5 hours of work time are available out of the working day no extension of time will be allowed.

8.3.1.4 No extension of time will be allowed for Saturdays, Sundays, or Holidays unless the Contract required and stipulates overtime work and it has been approved in writing by the Architect.

#### ARTICLE 9 – PAYMENTS AND COMPLETION

To Section 9.2, SCHEDULE OF VALUES, add the following Section 9.2.1:

9.2.1 A Schedule of Value shall be prepared so that each major item of Work and each subcontracted item of Work are shown as a single line item on AIA Document G703 Application and Certificate for Payment, Continuation Sheet. A breakdown of HVAC, Plumbing and Electrical line items, indicating value of major labor and material portions of the Work will also be required.

Section 9.3, APPLICATIONS FOR PAYMENT, add the following sentence to Section 9.3.1:

The form of Application for Payment, duly notarized, shall be a current authorized edition of AIA Document G702 – 1992, Application and Certificate for Payment, supported by a current authorized edition of AIA Document G703 – 1992, Continuation Sheet.

To Section 9.4, CERTIFICATES FOR PAYMENT, add the following Section:

9.4.3 The Contractor shall submit applications for payment to Architect. The Architect will review the application according to this article and, upon determination that a payment is properly due, will certify the application in the designated place on AIA Document G702.

From Section 9.6, PROGRESS PAYMENTS, delete Section 9.6.1 and add the following:

9.6.1 Monthly progress payments will be made to the value of the completed work and the value of materials suitably stored at the site, less the specified retainage. Payments by the Owner will be made Net 30 days from the date the Contractor's application is approved by the Architect in the amount recommended by the Architect.

9.6.1.1 A retainage of 5% of the amount due the Contractor, shall be held by the Owner, until 30 days after Substantial Completion of the Work.

To Section 9.10, FINAL COMPLETION AND FINAL PAYMENT, add the following subparagraphs and clauses:

9.10.6 To receive Final Payment the Contractor must provide the following:

1. Guarantees, certificates of inspection, bonds and all other warranties shall be prepared in duplicate and submitted to the Architect for review and delivery to the Owner.
2. Instruction manuals shall be prepared in accordance with Section 013300, Submittal Procedures. Deliver all copies to the Architect for review and delivery to the Owner. Provide manuals on operating, servicing, maintenance, cleaning instructions for all Work and parts list, special tools, etc. for all mechanical and electrical work.
3. As-built drawings shall be prepared on each sheet of the Drawings as indicated in Specification Section 017839 "Project Record Documents". Deliver to the Architect along with a flash drive containing record drawings in pdf format.
4. AIA Document G706, Contractors Affidavit of Payment of Debts and Claims.
5. AIA Document G706A, Contractors Affidavit for Release of Liens.
6. AIA Document G707, Consent of Surety.
7. Support data for G706, G707 and G706A as required by the Owner. Forms shall cover all work under Contract, including all subcontractors, vendors, labor, materials and services, and be executed by an authorized officer and duly notarized.
8. Signed statement that to the best of Contractor's knowledge, no asbestos-containing building material was used as a building material in this Project.
9. Itemized inventory list of attic stock provided to the Owner.

Add the following Section 9.11 to Article 9:

9.11 The Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay after the date established for Substantial Completion in the Contract Documents until the Work is substantially complete:

Five Hundred Dollars (\$500.00) per day

It is understood that said sum shall be considered as liquidated damages and shall in no sense be considered as a penalty against the Contractor.

#### ARTICLE 10 – PROTECTION OF PERSONS AND PROPERTY

To Section 10.2.3 add the following Sections:

10.2.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor resulting from emergency work shall be considered in accordance with Article 7 for Contract changes.

Add the following Section:

#### 10.2.9 PROJECT WEATHER PROTECTION

1. Contractor shall at all times provide reasonable protection against weather, so as to maintain all work, materials, existing work to remain, apparatus, and fixtures free from injury and damages. At the end of the day's work, all work likely to be damaged shall be covered or otherwise protected.
2. Wet work shall not be performed when temperature is below 40°F or is likely to go below 40°F within the ensuing 48 hours, except when sufficient protective heat is provided and the Architect's approval in writing is obtained.
3. Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep excavations, floors, pits and trenches free of water.

#### ARTICLE 11 – INSURANCE AND BONDS

Refer to City of Angleton's Request for Bids Document, Attachment E Insurance Requirements.

In addition, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk industry standard policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Builder's Risk insurance must include windstorm coverage, even if necessary to write as an additional or separate component. Such property insurance shall be maintained, unless otherwise provided in the Contract Document or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractor in the Project. If the Owner is damaged by the failure of the Contractor to purchase and maintain such insurance without so notifying the Owner in writing, then the Contractor shall bear all reasonable costs attributable thereto.

#### ARTICLE 12 – UNCOVERING AND CORRECTION OF WORK

To Section 12.2, CORRECTION OF WORK, add the following Section 12.2.2.4 to Section 12.2.2:

12.2.2.4 Upon request by the Owner and prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct, and the Contractor shall attend a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 15 – CLAIMS AND DISPUTES

To Section 15.1.6 CLAIMS FOR ADDITIONAL TIME, add the following:

- 15.1.6.3 Claims for increase in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim.
- 15.1.6.4 The Contractor shall not be entitled to a separate increase in the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due to the fault of the Contractor.
- 15.1.6.5 Weather related days per month shall be documented by Contractor and submitted to Architect as defined in Section 8.3 Delays and Extension of Time.

Contractor shall account for the following normal weather-related days as part of the Contract Time included on his Bid Form, or other means of documenting proposed Contract Time to the Owner:

Jan	3 days	May	3 days	Sept	6 days
Feb	2 days	Jun	3 days	Oct	3 days
Mar	2 days	Jul	3 days	Nov	3 days
Apr	2 days	Aug	3 days	Dec	2 days

END OF SECTION 010200



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

### for the following PROJECT:

(Name and location or address)

««City of Angleton King Municipal Operations Center »  
»  
« »

### THE OWNER:

(Name, legal status and address)

«City of Angleton »« »  
«121 S. Velasco »  
«Angleton, TX 77515 »  
« »

### THE ARCHITECT:

(Name, legal status and address)

«iAD Architects »« »  
«107 West Way St, Suite 16 »  
«Lake Jackson, TX 77566 »

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### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 Basic Definitions

#### § 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### § 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### § 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### § 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### § 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

#### § 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### § 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### § 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

### § 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### § 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

### § 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### § 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Owner/City shall receive a copy. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

### § 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### § 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

### § 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite

AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## **ARTICLE 2 OWNER**

### **§ 2.1 General**

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

**§ 2.1.2** The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### **§ 2.2 Evidence of the Owner's Financial Arrangements**

**§ 2.2.1** Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

**§ 2.2.2** Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

**§ 2.2.3** After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

**§ 2.2.4** Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

### **§ 2.3 Information and Services Required of the Owner**

**§ 2.3.1** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.3.2** The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

#### § 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

#### § 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### ARTICLE 3 CONTRACTOR

#### § 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

#### § 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### **§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### **§ 3.4 Labor and Materials**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**§ 3.4.2** Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### § 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

### § 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### § 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

### § 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

### § 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

### § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the GMP Amendment, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the GMP Amendment and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

### § 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field



changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

**§ 3.12 Shop Drawings, Product Data and Samples**

**§ 3.12.1** Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

**§ 3.12.2** Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

**§ 3.12.3** Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

**§ 3.12.4** Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

**§ 3.12.6** By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

**§ 3.12.7** The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 3.12.10.2** If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

### **§ 3.13 Use of Site**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **§ 3.14 Cutting and Patching**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### **§ 3.15 Cleaning Up**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

### **§ 3.16 Access to Work**

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### **§ 3.17 Royalties, Patents and Copyrights**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

### § 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## ARTICLE 4 ARCHITECT

### § 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

### § 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

### § 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect’s evaluations of the Contractor’s Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor’s submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect’s action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect’s professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect’s review of the Contractor’s submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect’s review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect’s responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect’s response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect’s decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect’s response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

**ARTICLE 5 SUBCONTRACTORS**

**§ 5.1 Definitions**

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term “Subcontractor” is referred to throughout the Contract Documents as if singular in

number and means a Subcontractor or an authorized representative of the Subcontractor. The term “Subcontractor” does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

## ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

### § 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

### § 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### § 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

### ARTICLE 8 TIME

#### § 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.



## § 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

## § 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### § 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### § 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

#### § 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
  - .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
  - .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
  - .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
  - .5 damage to the Owner or a Separate Contractor;
  - .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- or

.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

## § 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

### § 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

### § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### § 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

### § 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid, will be paid out of the proceeds of Final Payment, or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. This condition is satisfied by the statutory payment bond furnished per Ch. 2253 Tex. Govt Code. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

### § 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;

- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### § 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed

by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up only as necessary and upon notice, and agreement by Owner and Contractor and Construction Manager

§ 10.3.3 The parties acknowledge and agree that indemnification by the City is prohibited by the Texas Constitution Sec. III, Art. 51, and therefore any type of hold harmless provision obligating the City is likely unenforceable or enforceable only to the extent authorized by the Constitution and laws of the State of Texas.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred. Written notice and itemization is required.

#### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

### ARTICLE 11 INSURANCE AND BONDS

#### § 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

**Professional Liability** insurance (occurrence form) or if the insurance is written on a claims-made form, it shall

continue for five (5) years following the completion of the performance or the attempted performance of the provisions of this agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this agreement. If the coverage is canceled or non-renewed and not replaced with another claims-made policy form with a retroactive date prior to the effective date of coinciding with the effective date of this agreement the Construction Manager must purchase Extended Reporting (“Tail”) coverage for a minimum of five (5) years following the completion of the performance or the attempted performance of the provisions of this agreement, providing coverage in the amount of:

- (a) For projects where the Construction Price is greater than \$2,000,000: a \$5,000,000 per occurrence liability limit is required;
- (b) For a projects where the Construction Price is \$2,000,000 or less: a \$1,000,000 per occurrence liability limit is required.

(vi) **Builder’s Risk** insurance, at replacement cost, covering the full contract value for the construction being performed. Such builder’s risk policy shall be written on an All-Risk form that includes Windstorm as a covered loss and shall only contain exclusions acceptable to Owner in writing, and shall include coverage for reasonable compensation for the Construction Manager’s services and expenses required as a result of such insured loss. This insurance shall insure the interests of the Builder, sub builders, and sub-sub builders in the Project. Property covered by the builder’s insurance shall include Owner’s Direct Purchase Materials whether stored on or off-site and temporary building(s) or structure(s) at the Project site, other than any of Builder’s office trailer(s). In addition, such builder’s risk insurance shall cover portions of the Project stored off the site, after the written approval of the Owner, at the value established in the approval, and portions of the Project in transit.

The City of Angleton, directors, officers, employees and agents shall be named additional insureds on such policy. The policy shall include a waiver of subrogation endorsement and a severability of interest endorsement. Builder’s risk Insurance deductibles shall be subject to the following requirements:

(a) For projects where the Construction Price is greater than \$2,000,000: the deductible under this policy shall not exceed \$250,000 for Flood, five percent (5%) of the value of the Project at the time of the loss or a minimum of \$250,000 for Windstorm and \$10,000 for all other perils unless otherwise agreed to by the parties. and

(b) For projects where the Construction Price is \$2,000,000 or less: the deductible under this policy shall not exceed \$5,000 for Flood, five percent (5%) of the value of the Project at the time of the loss or a minimum of \$5,000 for Windstorm and \$5,000 for all other perils.

(c) Owner shall not be liable for amounts that may represent a deductible in any insurance policy.

The payment of such deductible shall be the sole responsibility of the Builder. When the Project includes the repair, removal, installation and/or testing of live steam boilers, valves, pipes or lines then such insurance shall include testing and start-up coverage, written on the ISO form or its equivalent. A loss or losses insured under this insurance policy shall be adjusted by the Builder and its insurance company. The Builder shall repair or replace the damaged property with the proceeds from the builder’s risk policy. The builder shall be responsible for all damages and necessary repairs whether or not the loss is covered in the builder’s risk policy; and

(vii) If relevant to the Project - **Pollution, Environmental Impairment, and/or Asbestos Pollution** Liability coverage in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 policy aggregate, coverage to be maintained for a minimum of five (5) years after Project completion.

## § 11.2 Owner’s Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance



that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

**§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

### **§ 11.3 Waivers of Subrogation**

**§ 11.3.1** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

### **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

### **§11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from

receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 Uncovering of Work**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

### **§ 12.2 Correction of Work**

#### **§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### **§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary

by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### § 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

### § 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

## ARTICLE 15 CLAIMS AND DISPUTES

### § 15.1 Claims

#### § 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

### § 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

### § 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

### § 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

### § 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

### § 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

### § 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

## § 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

## § 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

## 16. Attorneys fees.

16.1 In the event of litigation between the parties hereto, the prevailing party shall recover its attorneys fees and costs from the non-prevailing party.



## SECTION 010200 – SUPPLEMENTARY CONDITIONS

The following supplements modify the General Conditions of the Contract for Construction, AIA Document A201 – 2017. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect.

ARTICLE 1 – GENERAL PROVISIONS

To Section 1.1.3, THE WORK, add the following:

1.1.3.1 “Work” (the) shall be understood to include everything shown, mentioned or reasonably inferred as being necessary to produce the intended results.

To Section 1.2.1 of Section 1.2, CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS, add the following:

1.2.1.1 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. The Agreement.
2. Addenda, with those of later date having precedence over those of earlier date.
3. The Supplementary Conditions.
4. The General Conditions of the Contract for Construction.
5. Division 1 of the Specifications.
6. Drawings and Divisions 2 – 33 of the Specifications.

In the case of conflicts or discrepancies between Drawings and Division 2 – 33 of the Specifications or within either Document not clarified by Addendum, the Architect will determine which takes precedence in accordance with Section 4.2.11. Bids shall be based on the most expensive combination of quality and quantity of work indicated.

- a. Figures take precedence over scaled measurements.
- b. Large scale details take precedence over small scale details.
- c. Architectural Drawings take precedence in regard to dimensions, when in conflict with Mechanical and Structural Drawings, except for the size of the structural members.
- d. Specifically titled Drawings and Sections of the Specifications take precedence over indication of the item in a collateral way.
- e. Existing conditions take precedence over Drawings and Specifications for dimensions.

To Section 1.2.3, add the following:

## 1.2.3.1 Definition of specific terms used in the Contract Documents:

- A. MANUFACTURER’S INSTRUCTIONS (or) DIRECTIONS: All manufactured articles, material and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturers, unless herein specified to the contrary. Notify the Architect if Contract Documents are in conflict with manufacturer’s instructions or directions or if code requirements are more stringent. Do not proceed in such cases until an answer is given by the Architect.
- B. DAY: A calendar day beginning and ending at 12:00 midnight.
- C. WORK DAYS: Any day except Saturdays, Sundays and legal holidays where the Work is located.
- D. SHOP DRAWINGS: The term “Shop Drawings” includes fabrication drawings, manufacturing drawings, erection drawings, cutting and setting drawings, masonry coursing, ceiling layouts and other erection layouts.
- E. PRODUCT DATA are brochures and printed literature describing materials and equipment, photographs, operational data, illustrations, standard schedules, performance charts, instructions, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.
- F. SAMPLES are physical examples, which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.
- G. SUBMITTALS shall be understood to mean data submitted by the Contractor to the Architect (or Owner if so directed) and includes but is not limited to shop drawings, product data, samples and substitution data.
- H. ALTERNATE: A variation to Base Bid to cover a variation in Contract requirements. If Alternate is accepted by Owner, variation is then part of Contract and amount quoted to be added or deducted from Base Bid is taken into account in determining Contract Sum.
- I. BASE BID: A bid, before any Alternates are considered.
- J. GENERAL CONTRACTOR, PRIME CONTRACTOR: Same as Contractor.

ARTICLE 2 – OWNER

To Section 2.3, INFORMATION AND SERVICES REQUIRED OF THE OWNER;

Add Section 2.3.7 to Section 2.3:

- 2.3.7 The Owner will procure and bear costs of Construction Material Testing structural tests and special inspections as required by the applicable building code. Contractor shall identify such tests and provide proposal to Owner or Owner’s agent for review and consideration.

Add the following Sections:

- 2.6 The Owner shall reserve the right to observe the work at any time.
- 2.7 The presence of the Owner or Architect, or their representatives at the project site does not imply concurrence with or approval of the Work.

### ARTICLE 3 – CONTRACTOR

To Section 3.3, SUPERVISION AND CONSTRUCTION PROCEDURES, add the following:

- 3.3.4 Prior to start of work, Contractor shall locate all general reference points, lay out his own work, and be responsible for verifying measurements of building, utilities and work included in Contract.
- 3.3.5 Provide acceptable access to the work for inspections by the Owner, Architect and all local, State and Federal authorities having jurisdiction. Access shall be made safe and reasonably convenient.

To Section 3.4, LABOR AND MATERIALS, delete Section 3.4.2 and substitute the following:

- 3.4.2 After the Contract has been executed, the Owner and Architect will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in the General Requirements (Division 1 of the Specifications). By making requests for substitutions, the Contractor:
- .1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified.;
  - .2 represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;
  - .3 certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and
  - .4 will coordinate the installation of the accepted substitute, making such changes as may be required for the work to be complete in all respects.

Add the following Sections to Section 3.4:

- 3.4.5 Not later than thirty (30) days from the Contract Date, the Contractor shall provide a list showing the names of the manufacturer proposed to be used for each of the products identified in the Contract Drawings and Specifications and, where applicable, the name of the installing Subcontractor.
- 3.4.6 The Architect will promptly reply in writing to the Contractor stating whether the Owner or the Architect, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed manufacturer or installer is not available, the Architect may state that action will be deferred until the Contractor provides further data. Failure of the Owner or Architect to reply promptly shall not constitute notice of no reasonable objection. Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufacturer must conform to such requirements.

3.4.7 WORKMANSHIP: Compliance with the Drawings and Specifications with regard to materials and methods of assembly will, not in itself, assure acceptance of the construction. Of equal importance is good workmanship, the lack of which will be sufficient cause to refuse acceptance of the construction.

To Section 3.5 WARRANTY, add the following:

- 3.5.1.1 Contractor warrants to Owner that construction will be free from leakage of water or seepage of dampness from outside to inside or from outside to members normally expected to stay dry. This leak warranty extends for **TWO YEARS** after date of Substantial Completion. Contractor shall, at his own expense, upon due notification by Owner, take remedial measures to correct conditions of leakage of water infiltration that may have developed within warranty period. Extended warranty requirements are described in Specification Sections.
- 3.5.3 Contractor shall be responsible for damages to building contents during warranty if such damages result from his negligent use of materials or workmanship.

#### ARTICLE 4 – ARCHITECT

Section 4.2, ARCHITECT'S ADMINISTRATION OF THE CONTRACT, add the following Sections to Section 4.2.2:

- 4.2.2.1 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault or neglect of the Contractor.
- 4.2.2.2 To facilitate Architect's observation, Contractor shall not bury or conceal pipe or conduit in any way until it has been examined.

#### ARTICLE 7 – CHANGES IN THE WORK

Section 7.1, GENERAL, add the following Section 7.1.4 to Section 7.1:

- 7.1.4 The combined overhead and profit included in the total cost to the Owner of a change in the Work shall be based on the following schedule:
- .1 For the Contractor, for Work performed by the Contractor's own forces, 10% of the cost.
  - .2 For the Contractor, for Work performed by the Contractor's Subcontractors, 8% of the amount due the Subcontractors.
  - .3 In order to facilitate checking of quotations for extras or credits, all proposals shall be accompanied by a complete itemization of costs including labor, materials, equipment.
  - .4 For any changes paid for out of Contingency Allowances, no mark-up shall be allowed by General Contractor.

#### ARTICLE 8 – TIME

To Section 8.1, DEFINITIONS, add the following:

8.1.1.1 Contractor shall state in his proposal the number of calendar days in which he proposes to complete the Work. Upon award of Contract by Owner, Contractor shall be obligated to complete the Work within number of calendar days proposed.

To Section 8.3, DELAYS AND EXTENSIONS OF TIME, add the following Sections:

8.3.1.1 Contractor shall make claim to the Architect for extension of time by email on day on which delay first occurs. Written confirmation to include condition that caused the delay and the critical path of work affected.

Contractor shall submit a summary of delays with back-up data for delays occurring during the current billing period, along with each Application for Payment for review by the Architect.

8.3.1.2 Approved extensions of time shall add an equal number of working days to Contract Time.

8.3.1.3 If at least 5 hours of work time are available out of the working day no extension of time will be allowed.

8.3.1.4 No extension of time will be allowed for Saturdays, Sundays, or Holidays unless the Contract required and stipulates overtime work and it has been approved in writing by the Architect.

#### ARTICLE 9 – PAYMENTS AND COMPLETION

To Section 9.2, SCHEDULE OF VALUES, add the following Section 9.2.1:

9.2.1 A Schedule of Value shall be prepared so that each major item of Work and each subcontracted item of Work are shown as a single line item on AIA Document G703 Application and Certificate for Payment, Continuation Sheet. A breakdown of HVAC, Plumbing and Electrical line items, indicating value of major labor and material portions of the Work will also be required.

Section 9.3, APPLICATIONS FOR PAYMENT, add the following sentence to Section 9.3.1:

The form of Application for Payment, duly notarized, shall be a current authorized edition of AIA Document G702 – 1992, Application and Certificate for Payment, supported by a current authorized edition of AIA Document G703 – 1992, Continuation Sheet.

To Section 9.4, CERTIFICATES FOR PAYMENT, add the following Section:

9.4.3 The Contractor shall submit applications for payment to Architect. The Architect will review the application according to this article and, upon determination that a payment is properly due, will certify the application in the designated place on AIA Document G702.

From Section 9.6, PROGRESS PAYMENTS, delete Section 9.6.1 and add the following:

9.6.1 Monthly progress payments will be made to the value of the completed work and the value of materials suitably stored at the site, less the specified retainage. Payments by the Owner will be made Net 30 days from the date the Contractor's application is approved by the Architect in the amount recommended by the Architect.

9.6.1.1 A retainage of 5% of the amount due the Contractor, shall be held by the Owner, until 30 days after Substantial Completion of the Work.

To Section 9.10, FINAL COMPLETION AND FINAL PAYMENT, add the following subparagraphs and clauses:

9.10.6 To receive Final Payment the Contractor must provide the following:

1. Guarantees, certificates of inspection, bonds and all other warranties shall be prepared in duplicate and submitted to the Architect for review and delivery to the Owner.
2. Instruction manuals shall be prepared in accordance with Section 013300, Submittal Procedures. Deliver all copies to the Architect for review and delivery to the Owner. Provide manuals on operating, servicing, maintenance, cleaning instructions for all Work and parts list, special tools, etc. for all mechanical and electrical work.
3. As-built drawings shall be prepared on each sheet of the Drawings as indicated in Specification Section 017839 "Project Record Documents". Deliver to the Architect along with a flash drive containing record drawings in pdf format.
4. AIA Document G706, Contractors Affidavit of Payment of Debts and Claims.
5. AIA Document G706A, Contractors Affidavit for Release of Liens.
6. AIA Document G707, Consent of Surety.
7. Support data for G706, G707 and G706A as required by the Owner. Forms shall cover all work under Contract, including all subcontractors, vendors, labor, materials and services, and be executed by an authorized officer and duly notarized.
8. Signed statement that to the best of Contractor's knowledge, no asbestos-containing building material was used as a building material in this Project.
9. Itemized inventory list of attic stock provided to the Owner.

Add the following Section 9.11 to Article 9:

9.11 The Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay after the date established for Substantial Completion in the Contract Documents until the Work is substantially complete:

Five Hundred Dollars (\$500.00) per day

It is understood that said sum shall be considered as liquidated damages and shall in no sense be considered as a penalty against the Contractor.

#### ARTICLE 10 – PROTECTION OF PERSONS AND PROPERTY

To Section 10.2.3 add the following Sections:

10.2.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor resulting from emergency work shall be considered in accordance with Article 7 for Contract changes.

Add the following Section:

#### 10.2.9 PROJECT WEATHER PROTECTION

1. Contractor shall at all times provide reasonable protection against weather, so as to maintain all work, materials, existing work to remain, apparatus, and fixtures free from injury and damages. At the end of the day's work, all work likely to be damaged shall be covered or otherwise protected.
2. Wet work shall not be performed when temperature is below 40°F or is likely to go below 40°F within the ensuing 48 hours, except when sufficient protective heat is provided and the Architect's approval in writing is obtained.
3. Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep excavations, floors, pits and trenches free of water.

#### ARTICLE 11 – INSURANCE AND BONDS

Refer to City of Angleton's Request for Bids Document, Attachment E Insurance Requirements.

In addition, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk industry standard policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Builder's Risk insurance must include windstorm coverage, even if necessary to write as an additional or separate component. Such property insurance shall be maintained, unless otherwise provided in the Contract Document or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractor in the Project. If the Owner is damaged by the failure of the Contractor to purchase and maintain such insurance without so notifying the Owner in writing, then the Contractor shall bear all reasonable costs attributable thereto.

#### ARTICLE 12 – UNCOVERING AND CORRECTION OF WORK

To Section 12.2, CORRECTION OF WORK, add the following Section 12.2.2.4 to Section 12.2.2:

12.2.2.4 Upon request by the Owner and prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct, and the Contractor shall attend a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 15 – CLAIMS AND DISPUTES

To Section 15.1.6 CLAIMS FOR ADDITIONAL TIME, add the following:

- 15.1.6.3 Claims for increase in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim.
- 15.1.6.4 The Contractor shall not be entitled to a separate increase in the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due to the fault of the Contractor.
- 15.1.6.5 Weather related days per month shall be documented by Contractor and submitted to Architect as defined in Section 8.3 Delays and Extension of Time.

Contractor shall account for the following normal weather-related days as part of the Contract Time included on his Bid Form, or other means of documenting proposed Contract Time to the Owner:

Jan	3 days	May	3 days	Sept	6 days
Feb	2 days	Jun	3 days	Oct	3 days
Mar	2 days	Jul	3 days	Nov	3 days
Apr	2 days	Aug	3 days	Dec	2 days

END OF SECTION 010200





## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** August 27, 2024  
**PREPARED BY:** Chris Whittaker  
**AGENDA CONTENT:** Henderson Roadway Update

**AGENDA ITEM SECTION:** Regular Agenda

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**BUDGETED AMOUNT:**  
NA

**FUNDS REQUESTED:**  
NA

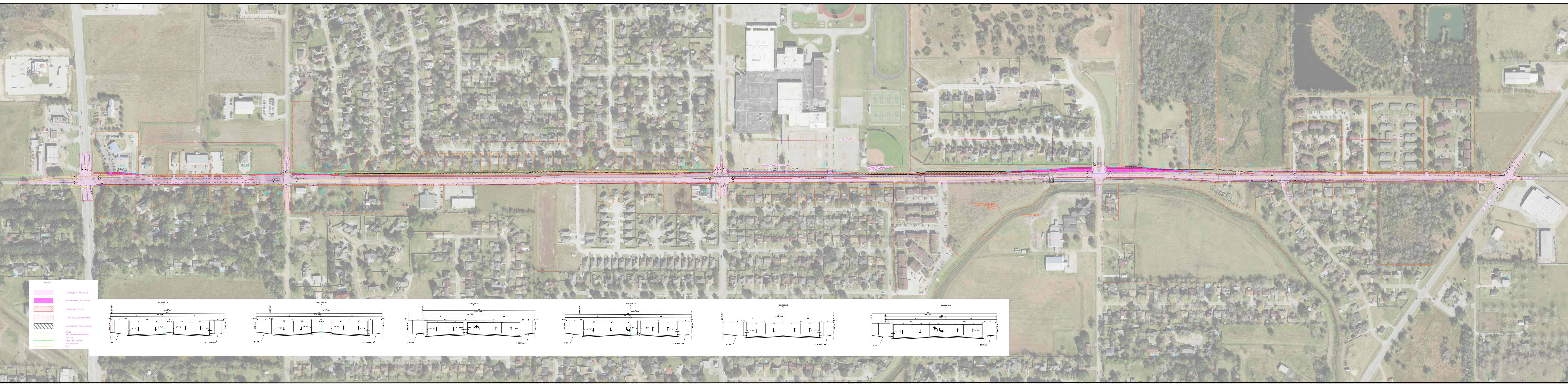
**FUND:** NA

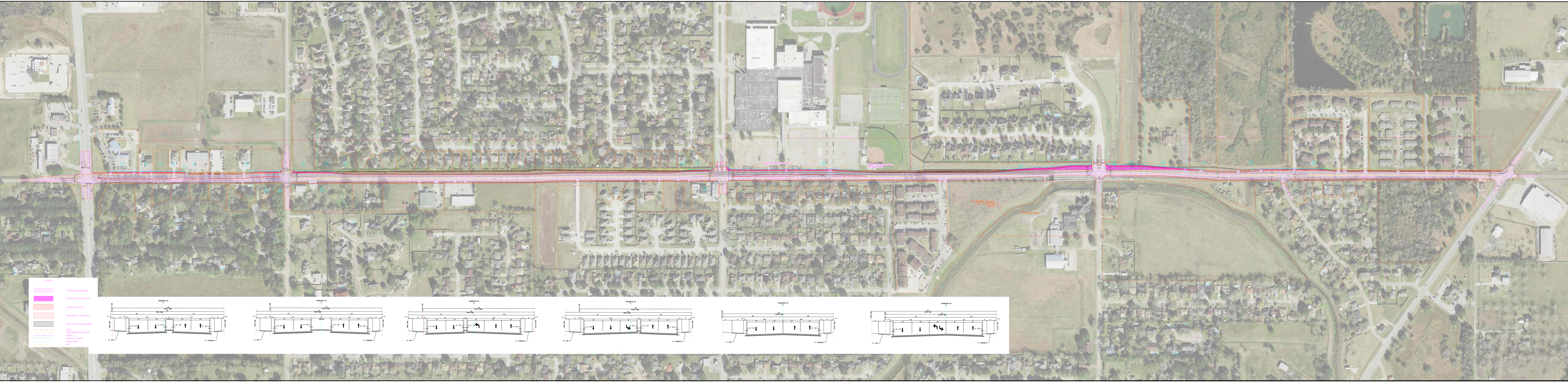
### EXECUTIVE SUMMARY:

The City has held one task force meeting and will be holding the final meeting on August 21, 2024. The current configuration that the community has identified is attached. I have attached the two options remaining. The differences are at the intersection of 288B and Henderson (One left turn lane vs two). I have also attached the agenda for the remaining conversations.

We will bring council the final alignment once the last task force meeting is completed.

### RECOMMENDATION:







## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** August 27, 2024  
**PREPARED BY:** Chris Whittaker  
**AGENDA CONTENT:** Piney Way Speed Hump

**AGENDA ITEM SECTION:** Regular Agenda

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**BUDGETED AMOUNT:**

**FUNDS REQUESTED:** \$8,500

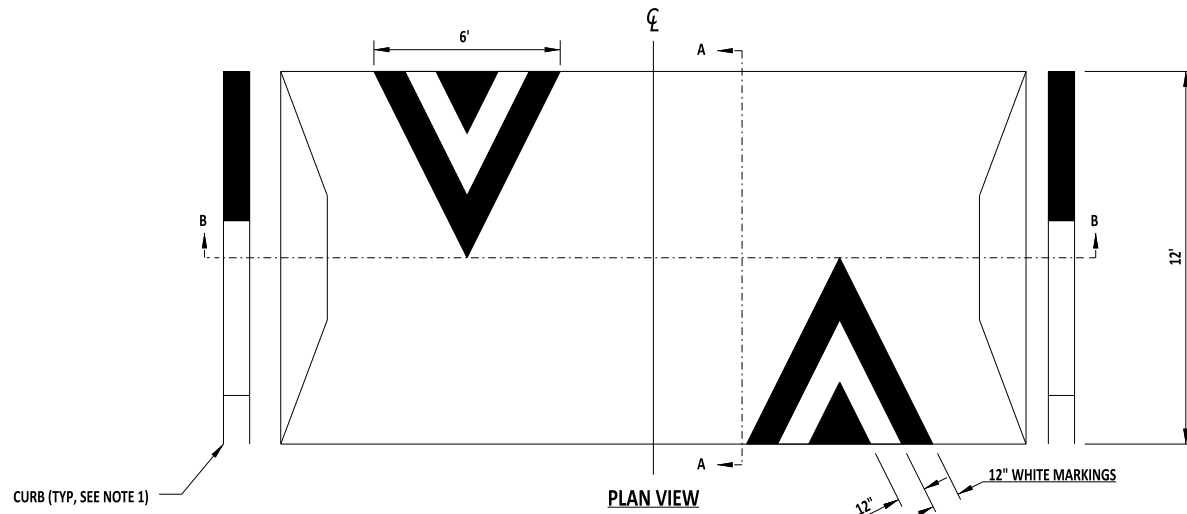
**FUND:**

### EXECUTIVE SUMMARY:

The City has solicited three bids to install a speed hump on Piney Way. We have receive 2 bids on it. The Bids are as follows:

1. HTI - \$8,500
2. Greater Houston Construction - \$12,274.00

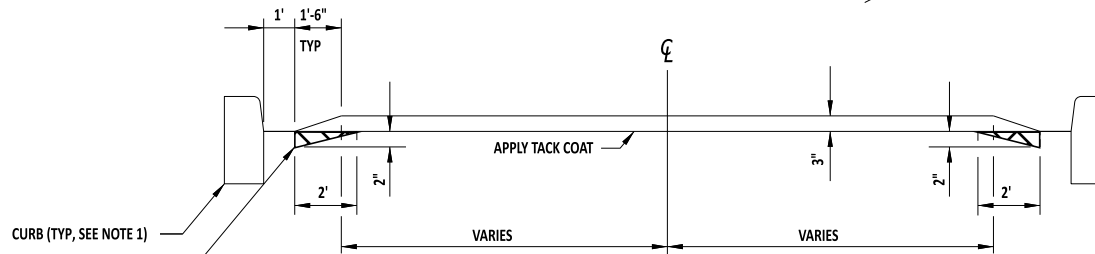
**RECOMMENDATION:** Council to direct staff on how they would like to proceed.



CURB (TYP, SEE NOTE 1)

PLAN VIEW

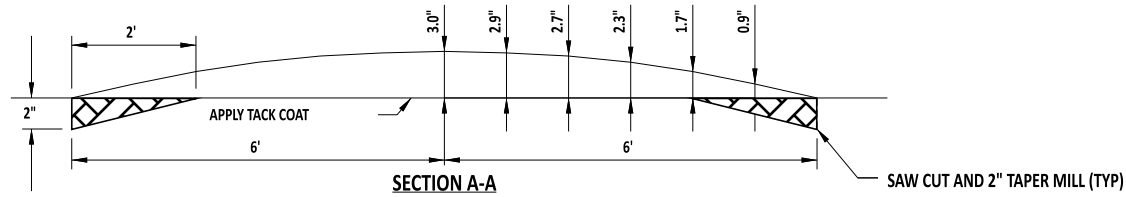
12" WHITE MARKINGS



CURB (TYP, SEE NOTE 1)

SAW CUT AND 2" TAPER MILL (TYP)

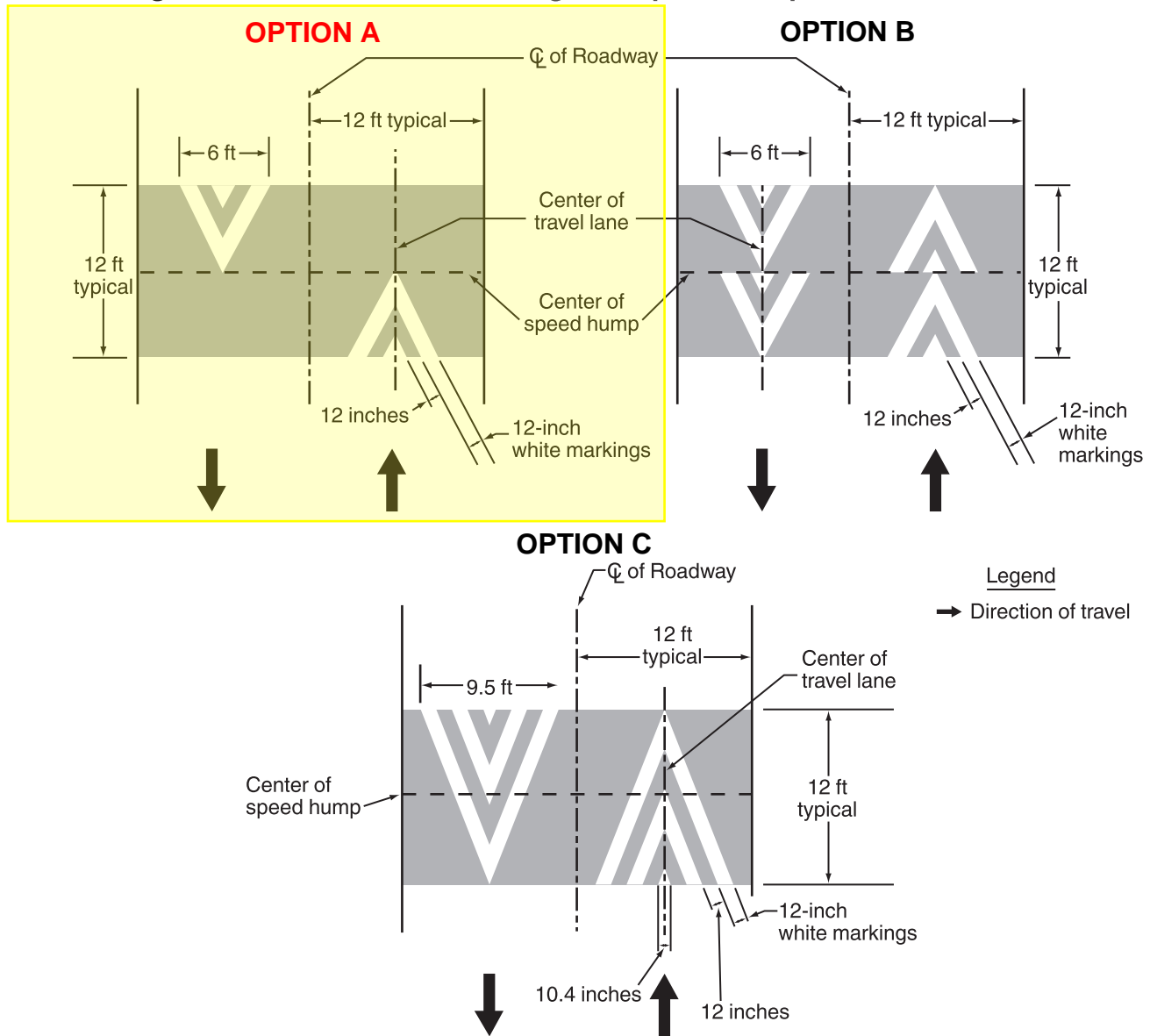
SECTION B-B



SAW CUT AND 2" TAPER MILL (TYP)

- NOTES:
- 1). CURB SHOWN IS CONCEPTUAL ONLY. INSTALL CURB PER PLANS.
  - 2). IF NO CURB IS REQUIRED, INSTALL SPEED HUMP TO THE FULL WIDTH OF ROADWAY.
  - 3). INSTALL STRIPING IN ACCORDANCE WITH THE TX MUTCD.

Figure 3B-29. Pa



**Piney Way Speed Hump Installation**

**Quote Sheet**

City of Angleton

CONTRACTOR: HTI Construction, Inc.

DATE:

Item	Item Description	Unit	Quantity	Unit Price	Cost
1	Traffic control per TxMUTCD requirements, complete in place, the sum of:	LS	1	\$500.00	\$500.00
2	Remove and salvage existing manufactured speed bumps, including existing pavement fasteners, sealing of pavement holes, and all appurtenances, complete in place, the sum of:	EA.	4	\$50.00	\$200.00
3	Saw cut and 2" taper mill existing pavement, per detail, complete in place, the sum of:	EA.	2	\$900.00	\$1,800.00
4	Install proposed speed hump, per detail, including type D HMAC, tack coat per manufacturers specifications, and all appurtenances, complete in place, the sum of:	EA.	2	\$3,000.00	\$6,000.00
Subtotal:					\$8,500.00
<b>TOTAL QUOTE:</b>					<b>\$8,500.00</b>

**Piney Way Speed Hump Installation**

**Quote Sheet**

City of Angleton

CONTRACTOR: **Greater Houston Construction**

DATE:

Item	Item Description	Unit	Quantity	Unit Price	Cost
1	Traffic control per TxMUTCD requirements, complete in place, the sum of:	LS	1	\$700.00	\$700.00
2	Remove and salvage existing manufactured speed bumps, including existing pavement fasteners, sealing of pavement holes, and all appurtenances, complete in place, the sum of:	EA.	4	\$356.00	\$1,424.00
3	Saw cut and 2" taper mill existing pavement, per detail, complete in place, the sum of:	EA.	2	\$692.00	\$1,384.00
4	Install proposed speed hump, per detail, including type D HMAC, tack coat per manufacturers specifications, and all appurtenances, complete in place, the sum of:	EA.	2	\$4,387.50	\$8,775.00
				Subtotal:	\$12,274.00
				<b>TOTAL QUOTE:</b>	<b>\$12,274.00</b>





## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** 8/27/24

**PREPARED BY:** Chris Whittaker

**AGENDA CONTENT:** Update and discussion on the Brazosport Water Authority rate increase and water quality by Morris Massingill.

**AGENDA ITEM SECTION:** Regular Agenda

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**BUDGETED AMOUNT:** N/A                      **FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY:**

Morris Massingill to speak regarding BWA rate increases and water quality

**RECOMMENDATION:**



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Otis T. Spriggs, AICP, Director of Development Services

**AGENDA CONTENT:** Discussion and possible action on a request for a Preliminary Plat extension for a period of one year as requested by the applicant's agent for Windrose Green Section 5.

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** N/A

**FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY.** This is a request for approval of Windrose Green Section 5 Preliminary Plat (Attachment 1). The subject property is located within the City of Angleton ETJ on FM 523, east of SH 35, on 13.54 acres of land, containing 65 lots (50'x120', typical).

Note that a 12-month Preliminary Plat extension letter was submitted by the applicant's agent, META Planning + Design, for the Windrose Green Section 5, Preliminary Plat, which was previously approved by City Council on August 22, 2023. The extension will not exceed 12 months, as they need additional time to assemble the final plat package.

**Recommendation.** The City Council is recommended to grant the requested Windrose Green Section 5 Preliminary Plat extension for a period of one year per the applicant's request.

July 15, 2024

Otis Spriggs  
Director of Development Services  
City of Angleton  
121 S. Velasco,  
Angleton, Texas, 77515

**Re: Windrose Green Section 5- EOA**

Dear Otis,

We, META Planning + Design, respectfully request an extension of approval on the Windrose Green Section 5 preliminary plat to allow for more time to assemble the final plat package. We request an extension not to exceed 12 months to achieve this. Additionally, we acknowledge that there will be no additional extensions.

Please contact me if you need any additional information.

Sincerely,

Ripley Woodard IV  
Enclosure



**DEVELOPER'S REPORT**

JANUARY 31, 2024

**HOMEBUILDING ACTIVITY**

HOMES UNDER CONSTRUCTION	<b>49</b>
HOMES COMPLETED	<b>63</b>
SALES TO DATE	<b>64</b>
STARTS PACE (PER MONTH)	<b>17</b>

**BUILDOUT SCHEDULE**

SECTIONS	PRODUCT	TOTAL LOTS	HOMEBUILDERS	HOMES STARTED	STATUS	EST. DELIVERY DATE	EST. BUILDOUT DATE
SEC. 1	45' + 50'	148	Castlerock + KHov	94	Homebuilding	Complete	Nov. 2024
SEC. 2	45' + 50'	70	Castlerock + KHov	3	Homebuilding	Complete	Aug. 2025
SEC. 3	40'	122	Castlerock + Lennar	18	Homebuilding	Complete	Jul. 2025
SEC. 4	50'	65	TBD	-	Design	Dec. 2024	Aug. 2026
SEC. 5	45'+50'	67	TBD	-	Design	Dec. 2024	Jul. 2027
SEC. 6	45'	78	TBD	-	Future	Sep. 2026	Feb. 2029
SEC. 7	50'	56	TBD	-	Future	Jun. 2026	Dec. 2027
SEC. 8	45'	42	TBD	-	Future	Mar. 2028	Dec. 2029
<b>EST. TOTAL</b>		<b>648</b>					



### AMENITIES

- Phase 2 Landscaping
  - FM 523 frontage – masonry wall and softscape
  - Section 3 – park and softscape
  - Minor entry off Henderson Rd.
- Preliminary layout of trail connection to Angleton High School

### TREE PRESERVATION

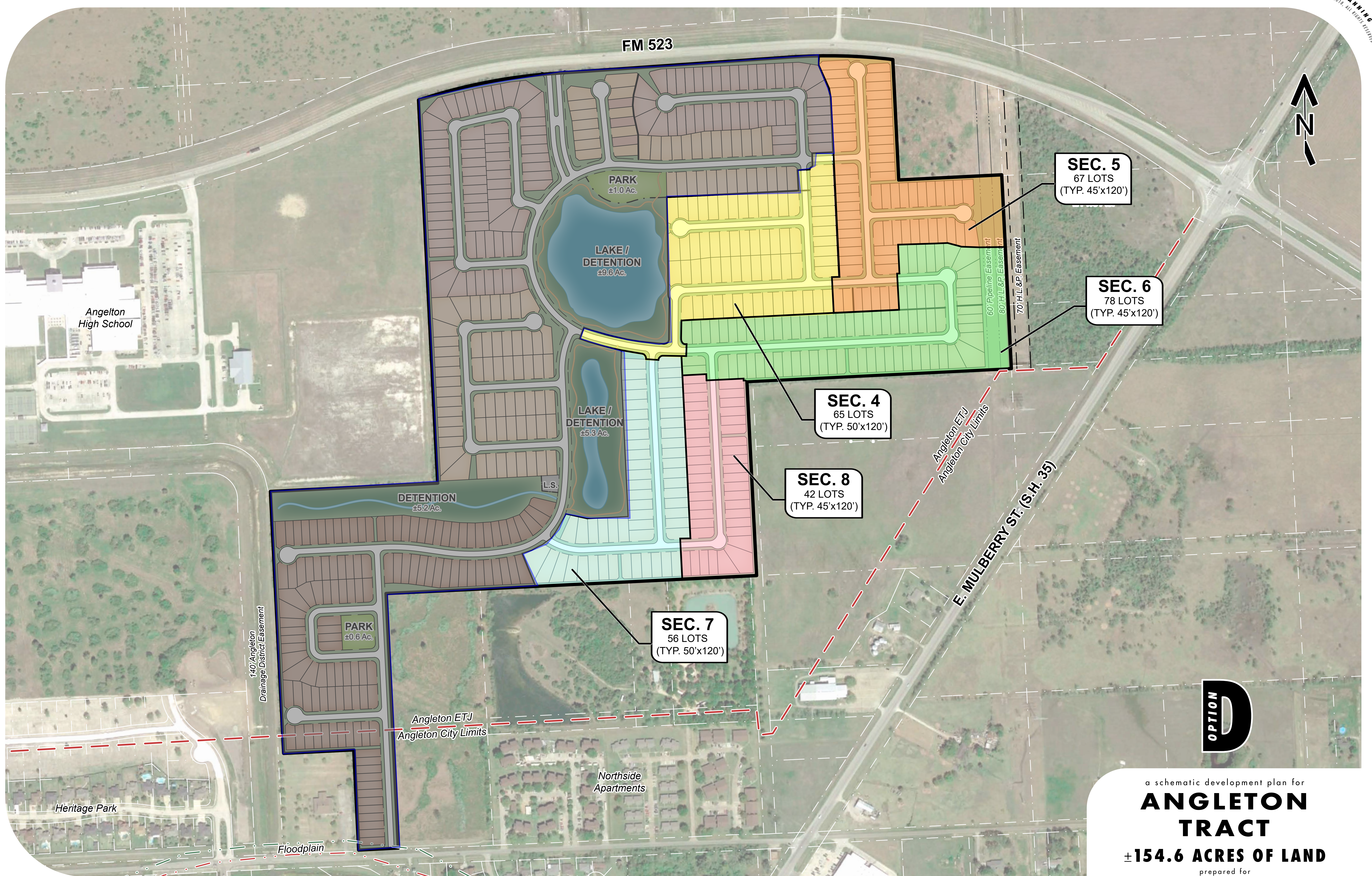
- True up of total required caliper inches to be completed with Phase 2 Landscaping

### FREEDOM PARK DETENTION

- Coordinating punch list close out with contractor

### WATER AND SEWER IMPACT FEES

- Section 1 – \$328,468.24 – paid from MUD receivables in Rancho Isabella WS&D Bond Issue No. 1
- Section 2 - \$155,356.60 – paid from MUD receivables in Rancho Isabella WS&D Bond Issue No. 1
- Section 3 - \$270, 764.36 – due April 13, 2024, or include in WS&D Bond Issue No. 2 (est. December 2024).
- Section 4 - \$144,259.70 – due July 25, 2026, or include in WS&D Bond Issue No. 2 (est. December 2024).
- Section 5 - \$148,698.46 – due August 22, 2026, or include in WS&D Bond Issue No. 2 (est. December 2024).



**OPTION**  
**D**

a schematic development plan for  
**ANGLETON TRACT**  
 ±154.6 ACRES OF LAND  
 prepared for  
**CONCOURSE DEVELOPMENT**



24275 Katy Freeway, Ste. 200  
 Katy, Texas 77494  
 Tel: 281-810-1422



MTA-56002  
 FEBRUARY 26, 2020

THIS DRAWING IS A GRAPHIC REPRESENTATION FOR PRESENTATION PURPOSES ONLY AND IS NOT FOR COMPUTATION OR CONSTRUCTION PURPOSES. SAID DRAWING IS A SCANNED IMAGE ONLY AND IS SUBJECT TO CHANGE WITHOUT NOTICE. META PLANNING + DESIGN MAY OR MAY NOT INTEGRATE ADDITIONAL INFORMATION PROVIDED BY OTHER CONSULTANTS, INCLUDING BUT NOT LIMITED TO THE TOPICS OF ENGINEERING AND DRAINAGE, FLOODPLAINS, AND/OR ENVIRONMENTAL ISSUES AS THEY RELATE TO THIS DRAWING. NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE PHYSICAL DESIGN, LOCATION, AND CHARACTER OF THE FACILITIES SHOWN ON THIS MAP ARE INTENDED. ADDITIONALLY, NO WARRANTY IS MADE TO THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

STATE OF TEXAS §  
COUNTY OF BRAZORIA §

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT EMPOR ANGLETON, LLC acting herein by and through its duly authorized officers, does hereby adopt this plat designating the hereinabove described property as Windrose Green Section 5, a subdivision in the jurisdiction of the City of Angleton, Texas, and does hereby dedicate, in fee simple, to the public use forever, the streets, alleys and public parkland shown thereon. The streets, alleys and parkland are dedicated for street purposes. The easements and public use areas, as shown, are dedicated for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs, or other improvements or growths shall be constructed or placed upon, over, or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the City of Angleton. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and City of Angleton's use thereof. The City of Angleton and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs, or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The City of Angleton and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time of procuring permission from anyone.

STATE OF TEXAS §  
COUNTY OF BRAZORIA §

This plat is hereby adopted by the owners (called "Owners") and approved by the City of Angleton, ("City") subject to the following conditions which shall be binding upon the Owners, their heirs, grantees, successors, and assigns:

"Drainage Easements" shown on the plat are reserved for drainage purposes forever, and the maintenance of the drainage easements shall be provided by all of the owners of lots in the subdivision. All Owner documents shall specify, confirm and bind the Owner(s) to continuously maintain all Drainage Easements and shall relieve the City of Angleton of the responsibility to maintain any Drainage Easement. The fee simple title to the Drainage and Floodway Easement shall always remain in the Owner(s).

The City and Angleton Drainage District will not be responsible for the maintenance and operation of easement or for any damage or injury to private property or person that results from the flow of water along said easement or for the control of erosion, but reserves the right to use enforcement powers to ensure that drainage easements are properly functioning in the manner in which they were designed and approved.

The Owners shall keep all Drainage Easements clean and free of debris, silt, and any substance which would result in unsanitary conditions or obstruct the flow of water, and the City of Angleton or Angleton Drainage District shall have the right of ingress and egress for the purpose of inspection and supervision of maintenance work by the Owners to alleviate any public health or safety issues.

The Association hereby agrees to indemnify and hold harmless the City from any such damages and injuries.

STATE OF TEXAS §  
COUNTY OF BRAZORIA §

The owner of land shown on this plat, in person or through a duly authorized agent, dedicates to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed.

Owner

Duly Authorized Agent

STATE OF TEXAS §  
COUNTY OF BRAZORIA §

Before me, the undersigned, personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and considerations therein expressed and, in the capacity, therein stated. Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_

Notary Public  
State of Texas

STATE OF TEXAS §  
COUNTY OF BRAZORIA §

KNOW ALL MEN BY THESE PRESENTS:

That I, Mark D. Armstrong, do hereby certify that I prepared this plat from an actual survey of the land and that the corner monuments shown thereon were properly placed under my supervision.

I, Mark D. Armstrong, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that META Planning + Design LLC has prepared this preliminary plat based on information furnished by Costello, Inc.

Mark D. Armstrong  
Registered Professional Land Surveyor  
No. 5363

STATE OF TEXAS §  
COUNTY OF BRAZORIA §

KNOW ALL MEN BY THESE PRESENTS:

That I, A. Khoshkhalgh, do hereby certify that proper engineering consideration has been provided in this plat. To the best of my knowledge, this plat conforms to all requirements of the Angleton LDC, except for any variances that were expressly granted by the City Council.

A. Khoshkhalgh, P.E.  
Professional Engineer  
No. 101133



APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Planning and Zoning Commission, City of Angleton, Texas.

Chairman, Planning and Zoning Commission

City Secretary

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the City Council, City of Angleton, Texas.

Mayor

City Secretary

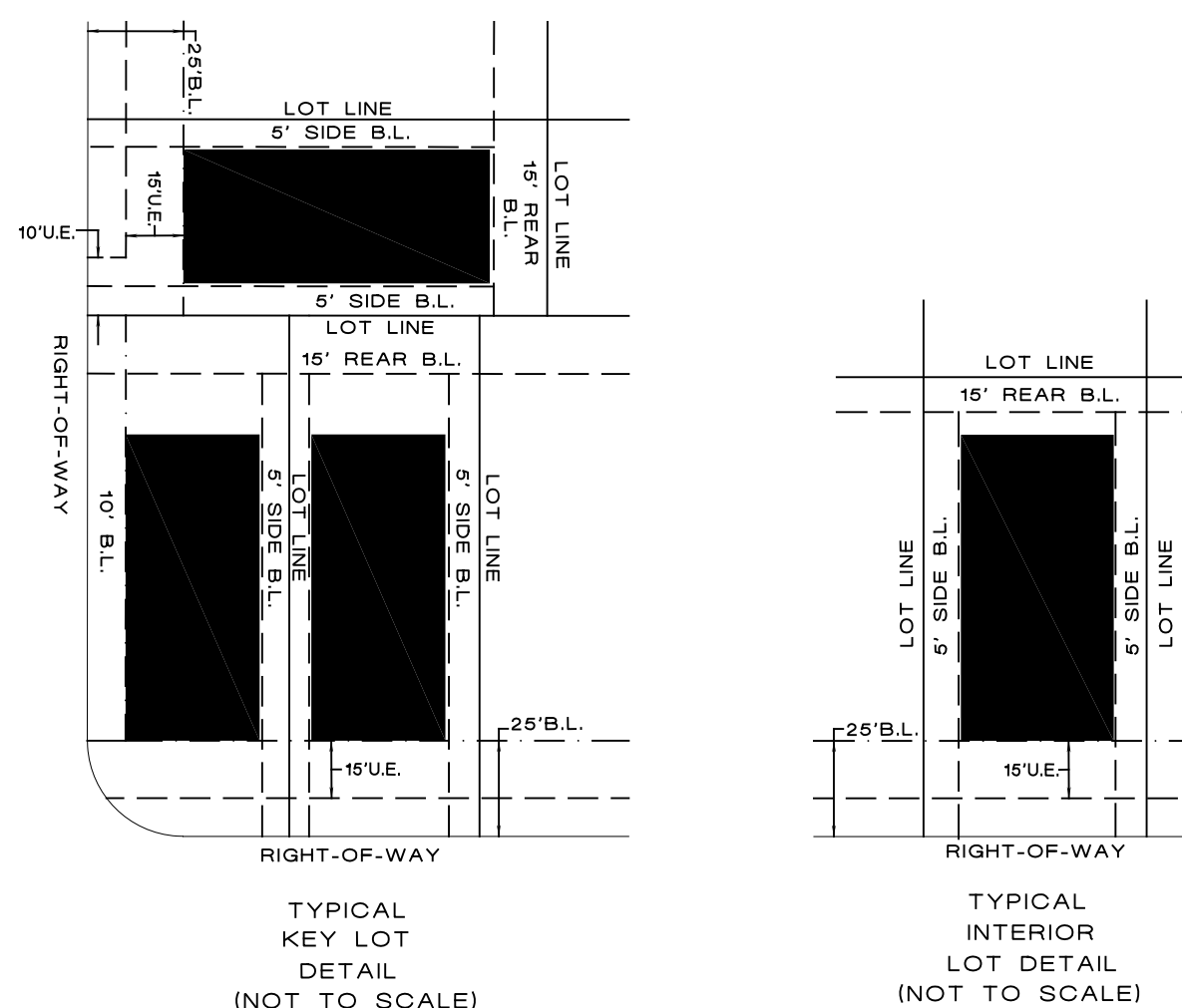
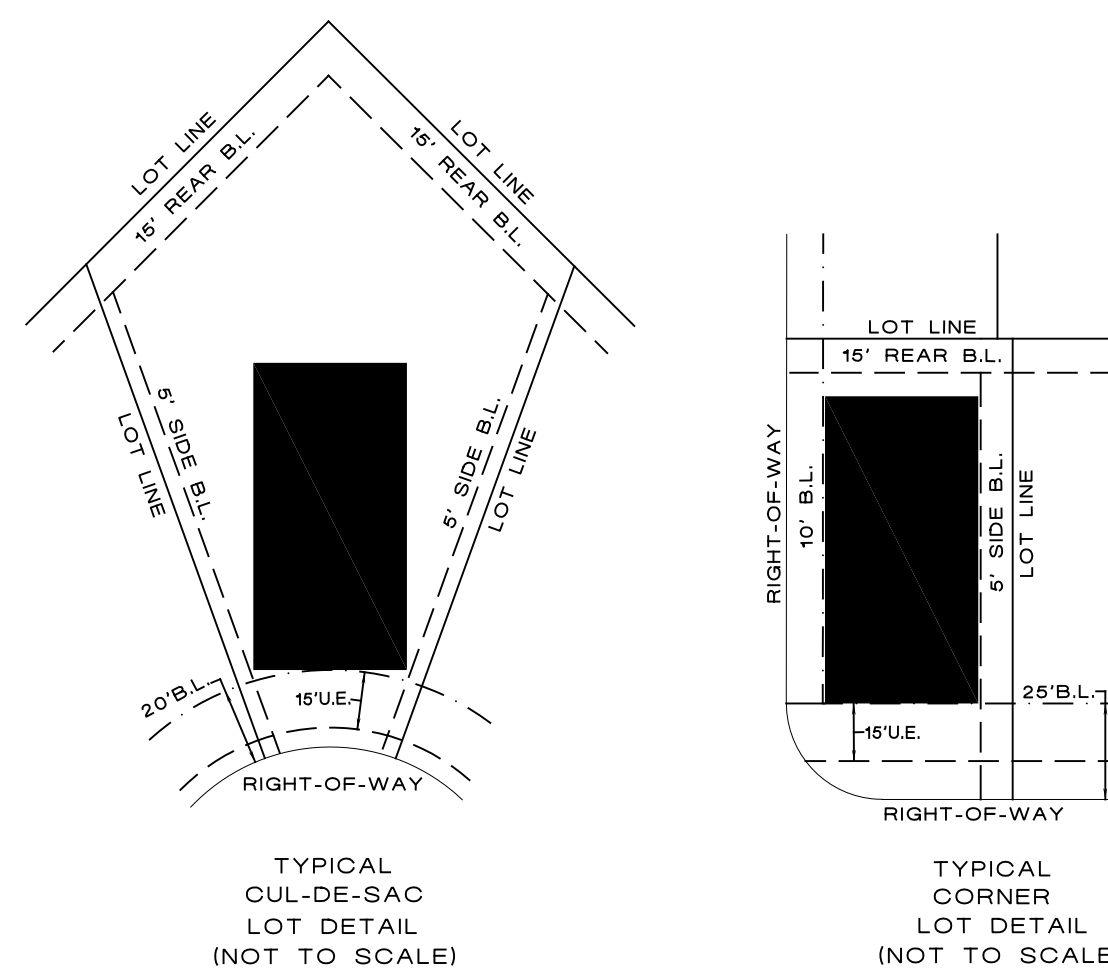
STATE OF TEXAS §  
COUNTY OF BRAZORIA §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, City Secretary, City of Angleton, on behalf of the City.

Notary Public  
State of Texas

GENERAL NOTE:

- "B.L." INDICATES BUILDING LINE.
- "U.E." INDICATES UTILITY EASEMENT.
- "1' RES." INDICATES ONE FOOT RESERVE.  
dedicated to the public in fee as a buffer separation between the side or end of streets where such streets abut adjacent acreage tracts, the condition of such dedication being that when the adjacent property is subdivided in a recorded plat, the one foot reserve shall thereupon become vested in the public for street right-of-way purposes and the fee title thereto shall revert to and revest in the dedicator, his heirs assigns, or successors.
- ALL PROPERTY LINE DIMENSIONS ARE APPROXIMATE.
- ALL LOT WIDTH AND DEPTH DIMENSIONS ARE APPROXIMATE, AND LOT WIDTHS ARE MEASURED AT THE FRONT BUILDING LINE, AND OR THE REAR BUILDING PAD LINE.
- NOTICE: SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ANGLETON AND STATE PLATTING STATUTES AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- NOTICE: PLAT APPROVAL SHALL NOT BE DEEMED TO OR PRESUMED TO GIVE AUTHORITY TO VIOLATE, NULLIFY, VOID, OR CANCEL ANY PROVISIONS OF LOCAL, STATE, OR FEDERAL LAWS, ORDINANCES, OR CODES.
- NOTICE: THE APPLICANT IS RESPONSIBLE FOR SECURING ANY FEDERAL PERMITS THAT MAY BE NECESSARY AS THE RESULT OF PROPOSED DEVELOPMENT ACTIVITY. THE CITY OF ANGLETON IS NOT RESPONSIBLE FOR DETERMINING THE NEED FOR, OR ENSURING COMPLIANCE WITH ANY FEDERAL PERMIT.
- NOTICE: APPROVAL OF THIS PLAT DOES NOT CONSTITUTE A VERIFICATION OF ALL DATA, INFORMATION AND CALCULATIONS SUPPLIED BY THE APPLICANT. THE ENGINEER OF RECORD OR REGISTERED PUBLIC LAND SURVEYOR IS SOLELY RESPONSIBLE FOR THE COMPLETENESS, ACCURACY AND ADEQUACY OF HIS/HER SUBMITTAL WHETHER OR NOT THE APPLICATION IS REVIEWED FOR CODE COMPLIANCE BY THE CITY ENGINEER.
- NOTICE: ALL RESPONSIBILITY FOR THE ADEQUACY OF THIS PLAT REMAINS WITH THE ENGINEER OR SURVEYOR WHO PREPARED THEM. IN APPROVING THESE PLANS, THE CITY OF ANGLETON MUST RELY ON THE ADEQUACY OF THE WORK OF THE ENGINEER AND/OR SURVEYOR OF RECORD.
- ALL RESERVES SHALL BE OWNED AND MAINTAINED BY HOMEOWNER'S ASSOCIATION OR MUD.
- HORIZONTAL DATUM:  
ALL BEARINGS ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (NAD83), SOUTH CENTRAL ZONE.  
VERTICAL DATUM:  
ALL ELEVATIONS ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAV88), GEOID 12B, BASED ON ALLTERRA'S RTK NETWORK, STATIONS HAGS\_1012 AND HCOG\_14012.
- ACCORDING TO THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR BRAZORIA COUNTY, TEXAS, MAP NUMBER 48039C0435K, DATED DECEMBER 30, 2020 THIS PROPERTY LIES IN UNSHADED ZONE "X", WHICH IS DEFINED AS AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN.
- DRIVEWAY ACCESS TO FM 523 FROM LOT 10 & 11, BLOCK 1 IS DENIED.
- THIS PRELIMINARY PLAT HAS BEEN PREPARED BY META PLANNING + DESIGN LLC, WITH THE AID OF INFORMATION PROVIDED BY COSTELLO, INC.
- COSTELLO, INC., TBPE FIRM REGISTRATION No. 280, TBPLS FIRM REGISTRATION No. 100486... IS A SUBCONSULTANT ONLY AND HAS NOT PREPARED THIS PRELIMINARY PLAT.
- PROPOSED MONUMENTS TO BE SET BY COSTELLO, INC., UPON RECORDATION OF A FINAL PLAT.
- DETENTION PROVIDED FOR WINDROSE GREEN SECTION 4 HAS BEEN DEDICATED WITHIN WINDROSE GREEN SECTION 1.
- SUBJECT TO THE TERMS, CONDITIONS, AND STIPULATIONS AS SENT FORTH IN DOCUMENT NO. 2008000450 OF THE OFFICIAL PUBLIC RECORDS OF BRAZORIA COUNTY, TEXAS.



A PRELIMINARY PLAT OF

# WINDROSE GREEN SECTION FIVE

BEING 13.41± ACRES OF LAND CONTAINING 67 LOTS (45'/50' X 120' TYP.) AND ONE RESERVE IN THREE BLOCKS.

OUT OF THE T.S. LEE SURVEY, A-318 BRAZORIA COUNTY, TEXAS

OWNER:  
**EMPOR ANGLETON, LLC**  
9950 WESTPARK DR. #285  
HOUSTON, TEXAS 77063

ENGINEER/SURVEYOR:  
**COSTELLO, INC.**  
2107 CITYWEST BLVD., 3RD FLOOR  
HOUSTON, TEXAS 77042  
TBPE FIRM REGISTRATION NO. 280  
TBPLS FIRM REGISTRATION NO. 100486

PLANNER:



META PLANNING + DESIGN LLC  
24285 KATY FREEWAY, SUITE 525  
KATY, TEXAS 77494 | TEL: 281-810-1422

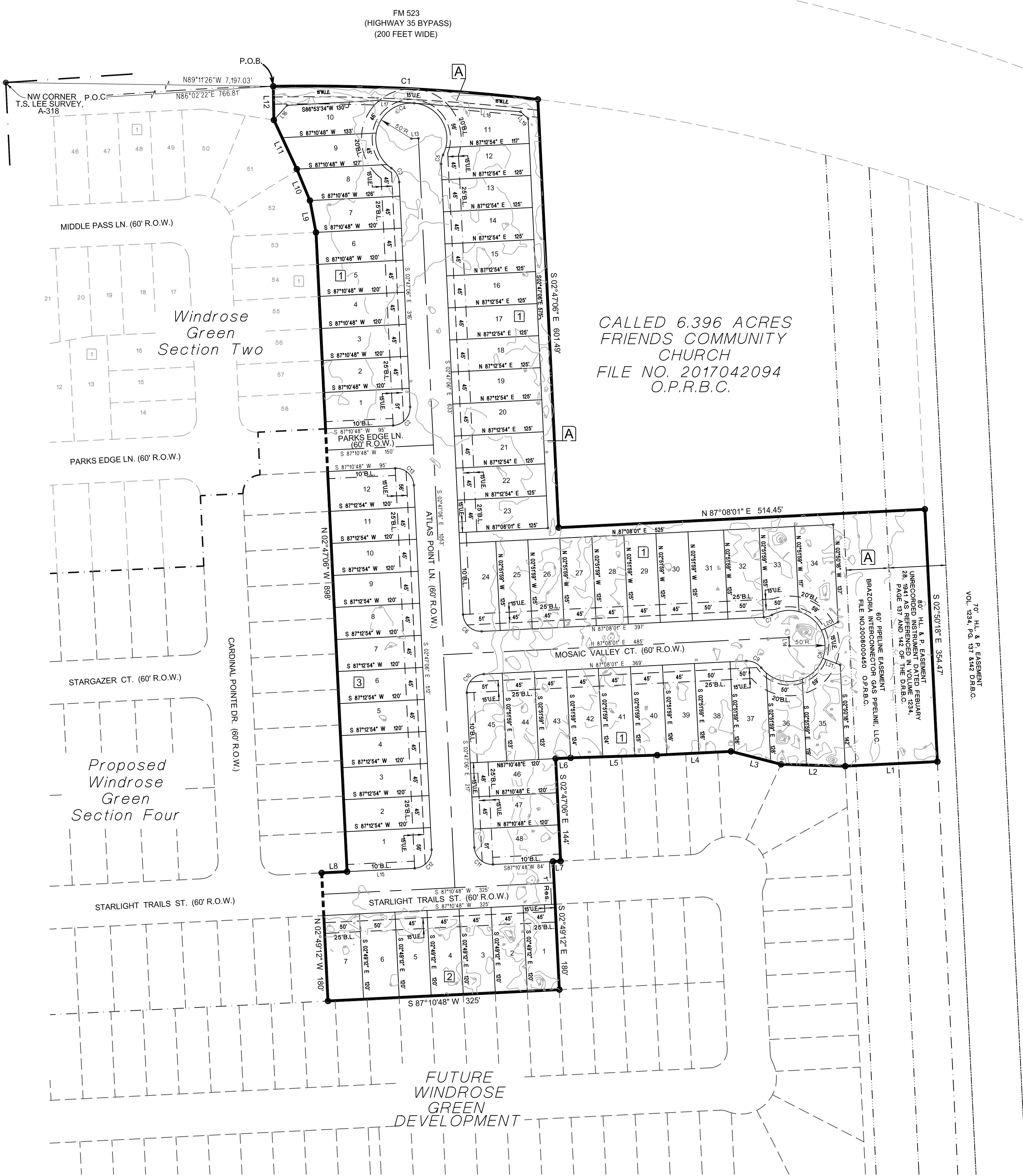
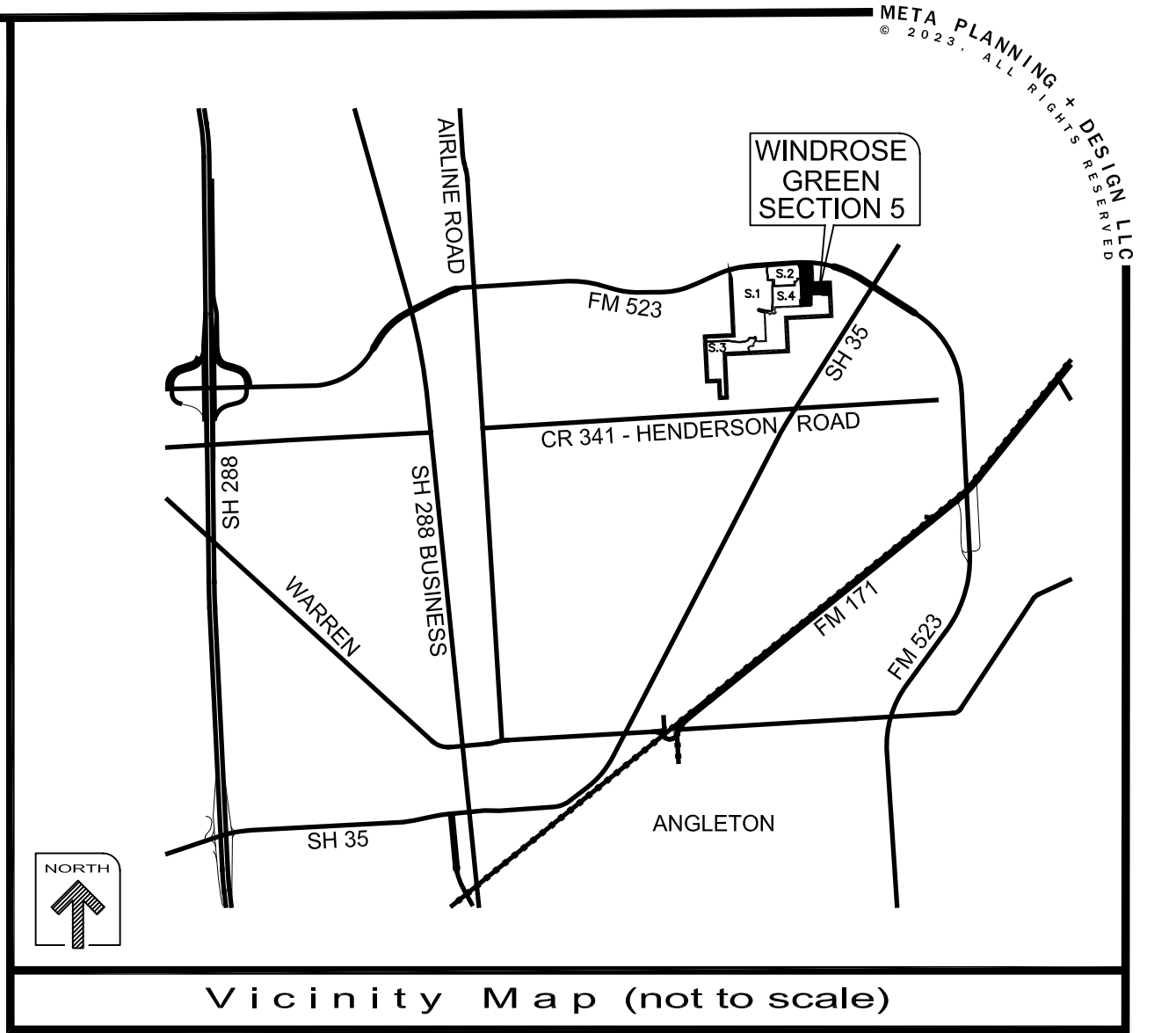
LEGEND:

- "B.L." INDICATES BUILDING LINE.
- "U.E." INDICATES UTILITY EASEMENT.
- "AC." INDICATES ACREAGE.
- "R.O.W." INDICATES RIGHT-OF-WAY.
- "P.O.B." INDICATES POINT OF BEGINNING.
- "FND" INDICATES FOUND.
- "IP" INDICATES IRON PIPE.
- "IR" INDICATES IRON ROD.
- "VOL." INDICATES VOLUME.
- "PG." INDICATES PAGE.
- "D.R.B.C." INDICATES DEED RECORDS BRAZORIA COUNTY.
- "NO." INDICATES NUMBER.
- "CT." INDICATES COURT.
- "DR." INDICATES DRIVE.
- "O.P.R.B.C." INDICATES OFFICIAL PUBLIC RECORDS BRAZORIA COUNTY.
- "- - -" INDICATES STREET NAME CHANGE.
- "[ ]" INDICATES BLOCK NUMBER.
- "[A]" INDICATES RESERVE NUMBER.
- "- - -" INDICATES 50' CUL-D-SAC RADIUS.

DISCLAIMER AND LIMITED WARRANTY

THIS PRELIMINARY SUBDIVISION PLAT HAS BEEN PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE CITY OF ANGLETON SUBDIVISION REGULATIONS IN EFFECT AT THE TIME THIS PLAT WAS PREPARED ALONG WITH ANY VARIANCE OR VARIANCES TO THE PROVISIONS OF THE AFOREMENTIONED ORDINANCE WHICH ARE SUBSEQUENTLY GRANTED BY THE CITY OF ANGLETON PLANNING AND ZONING COMMISSION. THIS PRELIMINARY PLAT WAS PREPARED FOR THE LIMITED PURPOSE OF GUIDANCE IN THE PREPARATION OF ACTUAL ENGINEERING AND DEVELOPMENT PLANS. THIS LIMITED WARRANTY IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NEITHER META PLANNING + DESIGN LLC NOR ANY OF ITS OFFICERS, OR DIRECTORS, OR EMPLOYEES MAKE ANY OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED CONCERNING THE DESIGN, LOCATION, QUALITY, CHARACTER OF ACTUAL UTILITIES OR OTHER FACILITIES IN, ON, OVER, OR UNDER THE PREMISES INDICATED IN THE PRELIMINARY SUBDIVISION PLAT.

Called 8.132 Acres  
 Joray One, LLC.  
 Document No.2015025521  
 O.P.R.B.C.



CALLED 6.396 ACRES  
 FRIENDS CHURCH  
 COMMUNITY  
 CHURCH  
 FILE NO. 2017042094  
 O.P.R.B.C.

REMAINDER OF  
 CALLED 271.431 ACRES  
 (TRACT III)  
 PAUL O'FARRELL, TRUSTEE  
 FILE NO. 921057 919 O.R.B.C.

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 87°09'42" E	129.46'
L2	N 88°19'15" W	89.99'
L3	N 75°34'46" W	72.67'
L4	S 87°08'01" W	103.62'
L5	S 88°09'40" W	121.40'
L6	S 87°10'48" W	21.18'
L7	S 87°10'48" W	10.68'
L8	N 87°10'48" E	35.68'
L9	N 10°45'55" W	45.44'
L10	N 22°39'47" W	47.84'
L11	N 25°02'33" W	75.99'
L12	N 01°01'30" W	47.26'
L13	N 87°12'54" E	10.00'
L14	S 02°51'59" E	12.00'
L15	N 87°10'48" E	95.02'
L16	S 42°10'48" W	27.80'
L17	S 85°22'22" E	48.99'
L18	S 85°22'22" E	149.80'
L19	S 47°47'06" E	14.14'
L20	S 63°57'41" W	26.02'
L21	N 69°38'17" W	26.01'

CURVE TABLE

CURVE	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	2764.93'	07°42'29"	371.97'	S 87°10'16" E	371.69'
C2	25.00'	89°57'54"	39.25'	S 42°11'51" W	35.34'
C3	25.00'	53°07'48"	23.18'	N 29°21'00" W	22.36'
C4	50.00'	263°03'24"	229.56'	N 75°36'47" E	74.86'
C5	25.00'	29°55'35"	13.06'	S 12°10'42" W	12.91'
C6	25.00'	90°04'53"	39.31'	N 47°49'33" W	35.38'
C7	25.00'	26°41'32"	11.65'	N 73°47'15" E	11.54'
C8	50.00'	261°42'58"	228.39'	S 11°17'58" W	75.63'
C9	25.00'	55°01'26"	24.01'	N 65°21'16" W	23.10'
C10	25.00'	89°57'54"	39.25'	S 42°10'27" W	35.33'
C11	25.00'	90°02'06"	39.29'	S 47°48'09" E	35.37'
C12	25.00'	89°57'54"	39.25'	N 42°11'51" E	35.34'
C13	25.00'	90°02'06"	39.29'	N 47°48'09" W	35.37'

METES AND BOUNDS DESCRIPTION  
 13.41 ACRES

Being a 13.41-acre tract of land located in the T.S. Lee Survey, Abstract No. 318 in Brazoria County, Texas, said 13.41-acre tract being a part of a called 154.6-acre tract of land recorded in the name of Emptor Angleton, LLC in File No. 2020013621 of the Official Public Records of Brazoria County (O.P.R.B.C.), said 13.41-acre tract being more particularly described by metes and bounds as follows (all bearings are referenced to the Texas Coordinate System, North American Datum 1983, South Central Zone):

Commencing at a 5/8-inch iron rod with cap stamped "COSTELLO INC" found at the northeast corner of Reserve "P" of Windrose Green Section One, a subdivision recorded in File No. 2021062480 of the Brazoria County Plat Records and being on the southerly right-of-way (R.O.W.) line of FM 523 (Highway 35 Bypass, 200 feet wide);

Thence, with said southerly R.O.W. line, North 86 degrees 02 minutes 22 seconds East, a distance of 766.81 feet;

Thence, continuing with said southerly R.O.W. line, 141.66 feet along the arc of a curve to the right, said curve having a central angle of 02 degrees 56 minutes 08 seconds, a radius of 2,764.93 feet and a chord that bears North 87 degrees 30 minutes 25 seconds East, a distance of 141.65 feet to the Point of Beginning the herein described tract;

1. Thence, continuing with said southerly R.O.W. line, 371.97 feet along the arc of a curve to the right, said curve having a central angle of 07 degrees 42 minutes 29 seconds, a radius of 2,764.93 feet and a chord that bears South 87 degrees 10 minutes 16 seconds East, a distance of 371.69 feet to the northeast corner of aforesaid 154.6-acre tract and the northwest corner of a called 6.396-acre tract of land recorded in File No. 2017042094 of the O.P.R.B.C.;

2. Thence, with the common line of said 154.6-acre tract and said 6.396-acre tract, South 02 degrees 47 minutes 06 seconds East, a distance of 601.49 feet to the southwest corner of said 6.396-acre tract;

3. Thence, continuing with said common line, North 87 degrees 08 minutes 01 seconds East, a distance of 514.45 feet to the southeast corner of said 6.396-acre tract and an easterly corner of said 154.6-acre tract, same being the west line of a called 271.431-acre tract of land recorded in File No. 921057 919 of the O.P.R.B.C.;

4. Thence, with the common line of said 154.6-acre tract and said 271.431-acre tract, South 02 degrees 50 minutes 18 seconds East, a distance of 354.47 feet;

Thence, through said 154.6-acre tract, the following seventeen (17) courses:

- South 87 degrees 09 minutes 42 seconds West, a distance of 129.46 feet;
- North 88 degrees 19 minutes 15 seconds West, a distance of 89.99 feet;
- North 75 degrees 34 minutes 46 seconds West, a distance of 72.67 feet;
- South 87 degrees 08 minutes 01 seconds West, a distance of 103.62 feet;
- South 88 degrees 09 minutes 40 seconds West, a distance of 121.40 feet;
- South 87 degrees 10 minutes 48 seconds West, a distance of 21.18 feet;
- South 02 degrees 47 minutes 06 seconds East, a distance of 144.00 feet;
- South 87 degrees 10 minutes 48 seconds West, a distance of 10.68 feet;
- South 02 degrees 49 minutes 12 seconds East, a distance of 180.00 feet;
- South 87 degrees 10 minutes 48 seconds West, a distance of 325.00 feet;
- North 02 degrees 49 minutes 12 seconds West, a distance of 180.00 feet;
- North 87 degrees 10 minutes 48 seconds East, a distance of 35.68 feet;
- North 02 degrees 47 minutes 06 seconds West, a distance of 898.00 feet;
- North 10 degrees 45 minutes 55 seconds West, a distance of 45.44 feet;
- North 22 degrees 39 minutes 47 seconds West, a distance of 47.84 feet;
- North 25 degrees 02 minutes 33 seconds West, a distance of 75.99 feet;
- North 01 degrees 01 minutes 30 seconds West, a distance of 47.26 feet to the Point of Beginning and containing 13.41 acres of land.

DISCLAIMER AND LIMITED WARRANTY

THIS PRELIMINARY SUBDIVISION PLAT HAS BEEN PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE CITY OF ANGLETON SUBDIVISION REGULATIONS IN EFFECT AT THE TIME THIS PLAT WAS PREPARED ALONG WITH ANY VARIANCE OR VARIANCES TO THE PROVISIONS OF THE AFOREMENTIONED ORDINANCE WHICH ARE SUBSEQUENTLY GRANTED BY THE CITY OF ANGLETON PLANNING AND ZONING COMMISSION. THIS PRELIMINARY PLAT WAS PREPARED FOR THE LIMITED PURPOSE OF GUIDANCE IN THE PREPARATION OF ACTUAL ENGINEERING AND DEVELOPMENT PLANS. THIS LIMITED WARRANTY IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NEITHER META PLANNING + DESIGN LLC NOR ANY OF ITS OFFICERS, OR DIRECTORS, OR EMPLOYEES MAKE ANY OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED CONCERNING THE DESIGN, LOCATION, QUALITY, CHARACTER OF ACTUAL UTILITIES OR OTHER FACILITIES IN, ON, OVER, OR UNDER THE PREMISES INDICATED IN THE PRELIMINARY SUBDIVISION PLAT.

LAND USE TABLE		
RESERVE	ACREAGE	LAND USE
A	1.65	LANDSCAPE/ OPEN SPACE

A PRELIMINARY PLAT OF

# WINDROSE GREEN SECTION FIVE

BEING 13.41± ACRES OF LAND CONTAINING 67 LOTS (45'/50' X 120' TYP.) AND ONE RESERVE IN THREE BLOCKS.

OUT OF THE  
 T.S. LEE SURVEY, A-318  
 BRAZORIA COUNTY, TEXAS

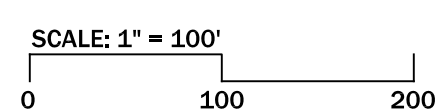
OWNER:  
**EMPTOR ANGLETON, LLC**  
 9950 WESTPARK DR. #285  
 HOUSTON, TEXAS 77063

ENGINEER/SURVEYOR:  
**COSTELLO, INC.**  
 2107 CITYWEST BLVD., 3RD FLOOR  
 HOUSTON, TEXAS 77042  
 TPPE FIRM REGISTRATION NO. 280  
 TBPLS FIRM REGISTRATION NO. 100486

PLANNER:



META PLANNING + DESIGN LLC  
 24285 RYRY FREEWAY, SUITE 525  
 KATY, TEXAS 77494 | TEL: 281-810-1422







**DEVELOPER'S REPORT**

JANUARY 31, 2024

**HOMEBUILDING ACTIVITY**

HOMES UNDER CONSTRUCTION	<b>49</b>
HOMES COMPLETED	<b>63</b>
SALES TO DATE	<b>64</b>
STARTS PACE (PER MONTH)	<b>17</b>

**BUILDOUT SCHEDULE**

SECTIONS	PRODUCT	TOTAL LOTS	HOMEBUILDERS	HOMES STARTED	STATUS	EST. DELIVERY DATE	EST. BUILDOUT DATE
SEC. 1	45' + 50'	148	Castlerock + KHov	94	Homebuilding	Complete	Nov. 2024
SEC. 2	45' + 50'	70	Castlerock + KHov	3	Homebuilding	Complete	Aug. 2025
SEC. 3	40'	122	Castlerock + Lennar	18	Homebuilding	Complete	Jul. 2025
SEC. 4	50'	65	TBD	-	Design	Dec. 2024	Aug. 2026
SEC. 5	45'+50'	67	TBD	-	Design	Dec. 2024	Jul. 2027
SEC. 6	45'	78	TBD	-	Future	Sep. 2026	Feb. 2029
SEC. 7	50'	56	TBD	-	Future	Jun. 2026	Dec. 2027
SEC. 8	45'	42	TBD	-	Future	Mar. 2028	Dec. 2029
<b>EST. TOTAL</b>		<b>648</b>					



### **AMENITIES**

- Phase 2 Landscaping
  - FM 523 frontage – masonry wall and softscape
  - Section 3 – park and softscape
  - Minor entry off Henderson Rd.
- Preliminary layout of trail connection to Angleton High School

### **TREE PRESERVATION**

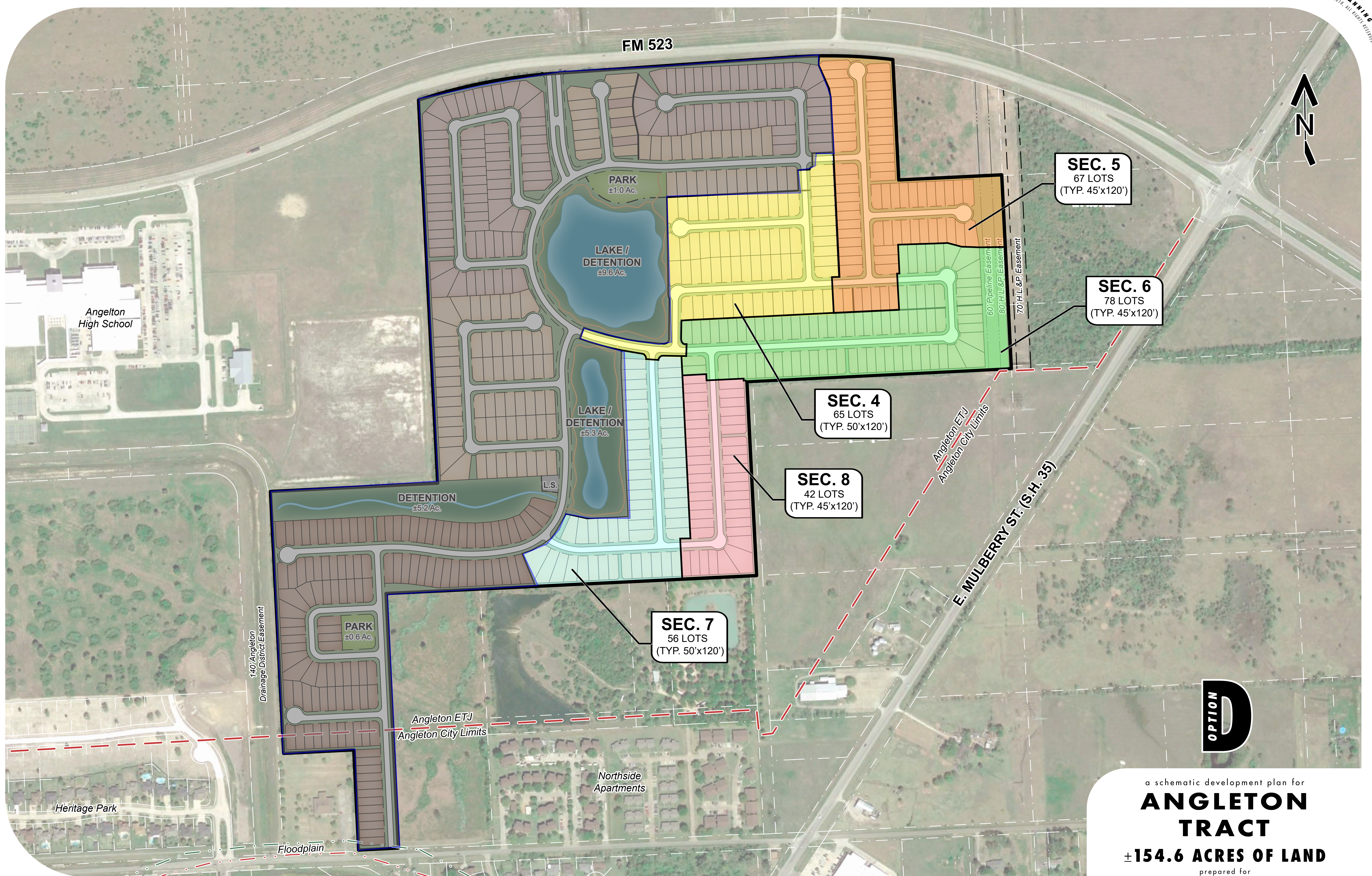
- True up of total required caliper inches to be completed with Phase 2 Landscaping

### **FREEDOM PARK DETENTION**

- Coordinating punch list close out with contractor

### **WATER AND SEWER IMPACT FEES**

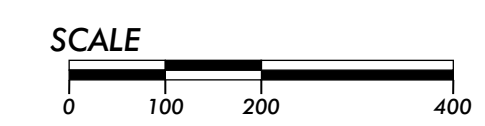
- Section 1 – \$328,468.24 – paid from MUD receivables in Rancho Isabella WS&D Bond Issue No. 1
- Section 2 - \$155,356.60 – paid from MUD receivables in Rancho Isabella WS&D Bond Issue No. 1
- Section 3 - \$270, 764.36 – due April 13, 2024, or include in WS&D Bond Issue No. 2 (est. December 2024).
- Section 4 - \$144,259.70 – due July 25, 2026, or include in WS&D Bond Issue No. 2 (est. December 2024).
- Section 5 - \$148,698.46 – due August 22, 2026, or include in WS&D Bond Issue No. 2 (est. December 2024).



a schematic development plan for  
**ANGLETON TRACT**  
 ±154.6 ACRES OF LAND  
 prepared for  
**CONCOURSE DEVELOPMENT**



24275 Katy Freeway, Ste. 200  
 Katy, Texas 77494  
 Tel: 281-810-1422



MTA-56002  
 FEBRUARY 26, 2020

THIS DRAWING IS A GRAPHIC REPRESENTATION FOR PRESENTATION PURPOSES ONLY AND IS NOT FOR COMPUTATION OR CONSTRUCTION PURPOSES. SAID DRAWING IS A SCANNED IMAGE ONLY AND IS SUBJECT TO CHANGE WITHOUT NOTICE. META PLANNING + DESIGN MAY OR MAY NOT INTEGRATE ADDITIONAL INFORMATION PROVIDED BY OTHER CONSULTANTS, INCLUDING BUT NOT LIMITED TO THE TOPICS OF ENGINEERING AND DRAINAGE, FLOODPLAINS, AND/OR ENVIRONMENTAL ISSUES AS THEY RELATE TO THIS DRAWING. NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE PHYSICAL DESIGN, LOCATION, AND CHARACTER OF THE FACILITIES SHOWN ON THIS MAP ARE INTENDED. ADDITIONALLY, NO WARRANTY IS MADE TO THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** August 27, 2024

**PREPARED BY:** Otis T. Spriggs, AICP, Director of Development Services

**AGENDA CONTENT:** Discussion and possible action on a request for Plat extensions for a period of one year as requested by the applicant's agent for the Ashland Development for Street Dedication 1, 2 and 3 Plats, Coral Haven Street Dedication Plat and the Ashland Water Plant Plat.

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** N/A

**FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY.** On behalf of Anchor Holdings MP, LLC, Quiddity Engineering is requesting a 1-year extension of the following approved plats for the Ashland Development until 8/22/2025:

- Street Dedication 1
- Street Dedication 2
- Street Dedication 3
- Coral Haven Lane Street Dedication
- Ashland Development Water Plant

The above referenced plats were approved with conditions at the 8/22/2023 city council meeting. The conditions of approval have since been met, but there continues to be ongoing construction plan review coordination with city staff. As a result, the applicant is asking for an extension to allow Anchor Holdings MP, LLC the necessary time to navigate these challenges and ensure the successful completion of the project.

**Recommendation.** The City Council is recommended to grant the requested Plat extensions for a period of one year per the applicant's request.

August 16, 2024

City of Angleton  
Development Department  
121 S. Velasco  
Angleton, Texas 77515

Plat Approval Extension Request  
Ashland Development

To whom it may concern:

On behalf of our client, Anchor Holdings MP, LLC, Quiddity Engineering is requesting a 1-year extension of the following approved plats for the Ashland Development until 8/22/2025:

- Street Dedication 1
- Street Dedication 2
- Street Dedication 3
- Coral Haven Lane Street Dedication
- Ashland Development Water Plant

The above referenced plats were approved with conditions at the 8/22/2023 city council meeting. The conditions of approval have since been met, but there continues to be ongoing construction plan review coordination with city staff. As a result, we kindly ask for an extension to allow our client the necessary time to navigate these challenges and ensure the successful completion of the project. We greatly appreciate your understanding and consideration in granting this extension.

If you have any questions or require additional information, please contact me at (210) 546-0053

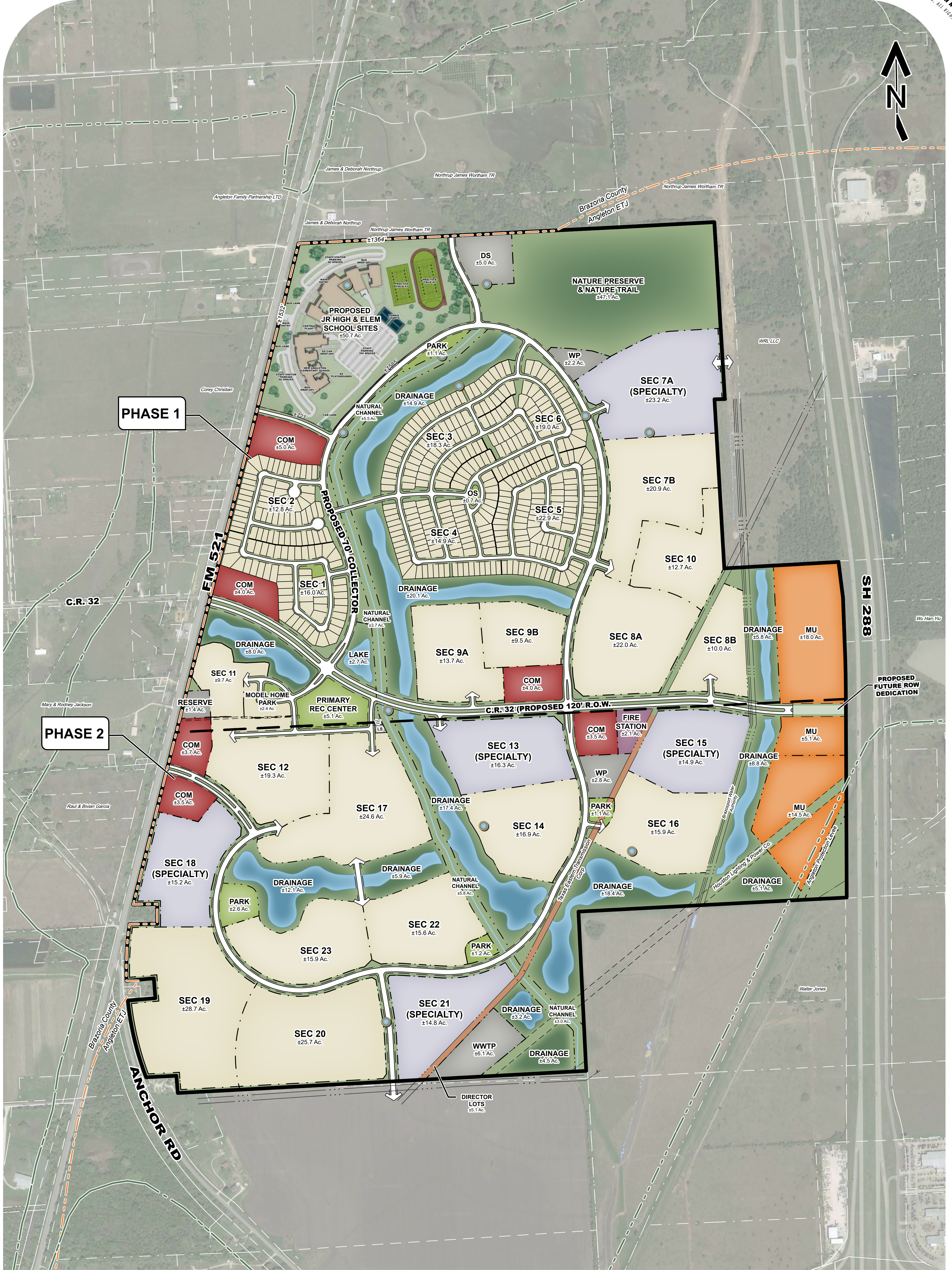
Respectfully,



**Darren J. McAfee PE**  
Project Manager

PKC/DJM

K:\16759\16759-0010-00 Angleton – Prelim\Project Management\Correspondence\City of Angleton



an exhibit for

# ASHLAND

± 881.8 ACRES OF LAND

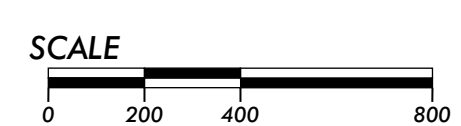
prepared for

**ASHTON GRAY DEVELOPMENT**



24285 Katy Freeway, Ste. 525  
Katy, Texas 77494  
Tel: 281-810-1422

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MTA-78006  
SEPTEMBER 25, 2023



## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** 08/27/2024  
**PREPARED BY:** Kyle Reynolds  
**AGENDA CONTENT:** Sign Update  
**AGENDA ITEM SECTION:** Regular Agenda Item

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**BUDGETED AMOUNT:** N/A **FUNDS REQUESTED:** None

**FUND:** N/A

**EXECUTIVE SUMMARY:**

Sign update for Council with a list of businesses that Code Enforcement is actively working on from old signage to storm damage related signs thru out town.

**RECOMMENDATION:**

DS will have a 90 day update on signs mainly from storm damage.

Aarons	1846 N. Velasco	Sign corrected from both storms	Good
China Buffet	1227 N. Velasco	Sign/ building demoed	Good
McDonalds	1716 N. Velasco	Sign corrected from both storms	Good
TGB	1717 N. Velasco	Sign redamaged from Hurricane	Recheck
Puerto Vallarta	1708 N. Velasco	Sign repaired from storm	Good
Americas Best Value Inn	1235 N. Velasco	Sign redamaged from storm	Recheck
MF nail strip center	1121 N. Velasco	2 old poles were removed	Good
Ace Cash Express	1103 N. Velasco	Sign repaired from storm	Good
Peters Cut Rate	1036 N. Velasco	Sign redamaged from storm	Recheck
Old Pizza Hut	911 E. Mulberry	old sign/pole will be reused for new business if possible	
H&S Gun Club	2301 W Mulberry	off premise advertising/ sign removed	
Nenas	621 W. Mulberry	one old car sign removed/ one pole to be reused	
EarlyBird	500 W. Mulberry	redamaged from storm	Recheck
Durans	2024 E. Mulberry	property purchased by WildWest/ will be changed	
Jeters Antiques	2300 E. Mulberry	Advertising off sign/ complete sign will come down	
Old Budget Inn/ Clarabell	2209 E. Mulberry	new cover on pole sign for The Clarabell	
TLC-HCS	933 E. Mulberry	wall advertising taken down/ closed	Good
Will Clark Realty	1100 N. Velasco	Redamaged from storm	Recheck
QuikQuack carwash	1722 N. Velasco	Old Shell gas sign removed	Good
China Wok	630 N. Velasco	Redamaged from storm/ will take down	Recheck
Old County Seat Barber	1228 E. Mulberry	closed/ sign taken down	Good
Old Hamilton Studio	2038 E. Mulberry	new hair studio/ will reuse if possible	
Lable Warehouse	1220 E. Mulberry	new owner/ will take signage off building	Recheck
Old Baytown Seafood		Soulfood opening soon/ will use old pole if possible	
BurgerKing	1209 E. Mulberry	Damaged from Hurricane	Recheck
UTMB Health	2323 E. Mulberry	waiting to see if UTMB will reuse building, if not sign will be	

Code Enforcement is working on the enforcement of banner flags and tethered banners around town





# AGENDA SUMMARY/STAFF REPORT

**MEETING DATE:** August 13, 2024

**PREPARED BY:** Jamie Praslicka, Emergency Management Coordinator

**AGENDA CONTENT:** Discuss update about debris and recovery from Hurricane Beryl

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** None.

**FUNDS REQUESTED:** None.

**FUND:** None

**EXECUTIVE SUMMARY:**

Discussion of current debris removal status and recovery efforts from Hurricane Beryl.

**Public Notification:**

None

**RECOMMENDATION:**

N/A



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Josh Wilde, Purchasing Agent/Fleet Manager

**AGENDA CONTENT:** Discussion and possible action on the Enterprise rental fleet program

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** **FUNDS REQUESTED:** \$130,104.00

**FUND:** 01-556-514

**EXECUTIVE SUMMARY:**

After discussion with Council, Public Works would like to make the following changes to add 3 2500 pick-ups to their fleet.

These 3 pick-ups will replace 3 city owned pick-ups:

PW-21 2018 Chevrolet Silverado 1500 single cab,

PW-22 2019 Chevrolet Silverado 1500 4 door,

UB-08 2008 Ford F-150 single Cab.

The plan is to sell the three units specified and add three 2500 utility bodies (2 gas and one diesel). Angleton can expect \$25,000 in proceeds from the three turn-ins.

We will pay \$58,500 for aftermarket on the trucks and PD units. The first year cash outlay totals \$130,104 (including the 3 new Police vehicles). After the first year to lease the 6 new vehicles the annual cost is \$96,650.

**RECOMMENDATION:**

Staff recommends the leasing of these 3 vehicles to be added to the continuation of the Enterprise Fleet program.



## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** 8/27/2024

**PREPARED BY:** Phill Conner, Finance Director

**AGENDA CONTENT:** Discussion and guidance on the FY 24-25 Budget.

**AGENDA ITEM SECTION:** Regular Agenda

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**BUDGETED AMOUNT:** N/A                      **FUNDS REQUESTED:** N/A

**FUND:** N/A

**EXECUTIVE SUMMARY:**

The staff will be providing additional information to the Council on various items that the Council had questions on.

**RECOMMENDATION:**

Staff recommends that the Council provide direction on the FY 24-25 Budget.



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 8/27/2024

**PREPARED BY:** Phill Conner, Finance Director

**AGENDA CONTENT:** Discussion and possible action on Resolution No. 20240813-004 setting the proposed Fiscal Year 2024-2025 tax rate and setting the date(s) and time(s) for the required public hearing(s)

**AGENDA ITEM SECTION:** Regular Agenda

**BUDGETED AMOUNT:** N/A

**FUNDS REQUESTED:** N/A

**FUND:** General Fund

### EXECUTIVE SUMMARY:

The next step in the process to set the tax rate is for the City Council to vote on a proposed tax rate for FY 24-25. Additionally, the Council needs to announce the date, time, and place for the public hearings on the proposed budget and the tax rate.

The proposed budget was prepared using the de minimis tax rate (\$0.541192 / \$100 valuation). The de minimis rate is the rate that will generate \$500,000 in revenue above the no new revenue rate (\$0.492858 / \$100 valuation). The 2024 Tax Rate calculation worksheet steps through the rate calculation process.

If the proposed tax rate is more than the no new revenue rate, the City is required to hold a public hearing on the tax rate. This public hearing must take place no more than 7 days before the Council adopts the tax rate for the new fiscal year. The vote setting the tax rate for the new fiscal year can be taken at the same meeting as the public hearing.

The City is also required to hold a public hearing on the proposed budget for the new fiscal year. The City must take some sort of action on the budget at the conclusion of the public hearing.

The attached resolution sets the upper limit on the tax rate that will be voted on after the public hearing. The rate listed in the resolution is the de minimis rate. The resolution also sets the public hearings on the budget and tax rate for September 10, 2024.

### RECOMMENDATION:

Adopt the resolution setting the proposed tax rate at the de minimis rate of \$0.541192 / \$100 valuation and calling for public hearings on the budget and tax rate for September 10, 2024.

**RESOLUTION 20240813-004**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS TO ADOPT A PROPOSED TAX RATE AND SET THE DATE FOR THE PUBLIC HEARINGS TO ALLOW CITIZEN INPUT ON THE PROPOSED 2024-25 BUDGET AND THE TAX RATE AND PROVIDE THE DATE, TIME AND LOCATION TO CONDUCT A VOTE TO ADOPT THE FISCAL YEAR 2024-2025 BUDGET, PROVIDING FOR THE PUBLICATION OF THE PUBLIC HEARINGS AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Angleton, Texas desires to place a proposal to adopt a property tax rate that will result in additional revenue as outlined in Section 26.05 of the Tax Code of the State of Texas on the agenda of a future meeting as an action item; and

**WHEREAS**, the Texas Property Tax Code, Chapter 26 requires the City Council to hold a public hearing before adopting the Property Tax Rate that exceeds the lower of the Voter-Approval Tax Rate or the No-New-Revenue Tax Rate; and

**WHEREAS**, the Texas Property Tax Code, Chapter 26 requires the property tax rate hearing notice to include how all members of the City Council voted on the proposed tax rate and indicating the absences, if any, during the vote on the proposed tax rate; and

**WHEREAS**, the Texas Local Government Code, Chapter 102 requires the City Council to hold a public hearing before taking action on the proposed Fiscal Year 2024-2025 Budget.

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

**SECTION 1.** The above and foregoing premises are true and correct and are incorporated into the body of this Resolution as if fully set forth therein.

**SECTION 2.** That the City Council of the City of Angleton, Texas hereby adopts a proposed property tax rate of \$.541192 per \$100 valuation. **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.** A vote on the tax rate shall be placed on the City Council agenda for September 10, 2024, at 6:00 PM in the City Council Chambers located at 121 S. Velasco, Angleton, Texas.

**SECTION 3.** That the City Council of the City of Angleton, Texas will hold a public hearing on the proposed Property Tax Rate on the regularly scheduled city council meeting on September 10, 2024, at 6:00 pm in the City Council Chambers located at 121 S. Velasco, Angleton, Texas, and take action on the proposed Property Tax Rate adoption.

**SECTION 4.** The city council will also hold a public hearing to allow for citizen input on the proposed 2024-25 Budget on September 10, 2024 at 6:00 p.m. immediately followed by a public hearing to allow for citizen input on the Tax Rate.

**SECTION 5.** The City Secretary is hereby authorized to cause notice of the aforementioned public hearings to be published in compliance with Texas law.

**SECTION 6.** This Resolution shall be and become effective immediately upon and after its passage.

**DULY RESOLVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS ON THIS 27TH DAY OF AUGUST, 2024.**

CITY OF ANGLETON, TEXAS

\_\_\_\_\_  
John Wright  
Mayor

ATTEST:

\_\_\_\_\_  
Michelle Perez, TRMC  
City Secretary

RECORD VOTE:

John Wright, Mayor	_____ For	_____ Against
Travis Townsend, Mayor Pro Tem	_____ For	_____ Against
Christiene Daniel, Position 1	_____ For	_____ Against
Terry Roberts, Position 3	_____ For	_____ Against
Cecil Booth, Position 4	_____ For	_____ Against
Tanner Sartin, Position 5	_____ For	_____ Against