



**Economic Development Corporation
(Type A) Agenda**

**Monday, March 20, 2023
5:00 PM**

**City Hall - 141 W. Renfro
Burleson, TX 76028**

1. Call to Order

2. Citizen Appearances

Each person in attendance who desires to speak to the Board on an item NOT posted on the agenda, shall speak during this section. A speaker card must be filled out and turned in to the City Secretary prior to addressing the Board. Each speaker will be allowed three minutes to speak.

Each person in attendance who desires to speak on an item posted on the agenda shall speak when the item is called forward for consideration.

3. General

- A. Consider approval of the minutes from the February 6, 2023 Economic Development Corporation (Type A) meeting. (*Staff Contact: Amanda Campos, City Secretary*)
- B. Consider approval of a resolution recommending approval of a professional services contract between the City and Kimley-Horn and Associates, Inc. for design of the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway in the amount of \$1,090,915.00. (*Staff Contact: Errick Thompson, Deputy Director of Public Works*)
- C. Consider approval of a resolution recommending approval of demolition agreement between the City and Garrett Demolition, Inc. for asbestos abatement and demolition of 130 East Renfro Street in the amount of \$201,462.00. (*Staff Contact: Errick Thompson, Deputy Public Works Director*)
- D. Consider approval of a resolution recommending approval of a contract with First United Methodist Church Burleson for use of church facilities for community events in exchange for the stained glass windows at 130 E Renfro St. (*Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager*)

4. Board Requests for Future Agenda Items or Reports

5. Recess into Executive Session

In accordance with Chapter 551 of the Texas Government Code, the Board may convene in Executive Session in the City Council Workroom in City Hall to conduct a closed meeting to discuss any item listed on this Agenda.

Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071, Texas Government Code

Discussion regarding possible purchase, exchange, lease, or value of real property pursuant to Section 551.072, Texas Government Code

Deliberation regarding commercial or financial information received from or the offer of a financial or other incentive made to a business prospect seeking to locate, stay or expand in or near the territory of the City and with which the City is conducting economic development negotiations pursuant to Section 551.087, Texas Government Code

6. **Adjourn**

CERTIFICATE

I hereby certify that the above agenda was posted on this date the 15th of March 2023, by 5:00 p.m., on the official bulletin board at the Burleson City Hall, 141 W. Renfro, Burleson, Texas.

Amanda Campos
City Secretary



ACCESSIBILITY STATEMENT

The Burleson City Hall is wheelchair accessible. The entry ramp is located in the front of the building, accessible from Warren St. Accessible parking spaces are also available in the Warren St. parking lot. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the A.D.A. Coordinator at 817-426-9600, or TDD 1-800-735-2989.

Economic Development Corporation (Type A)

DEPARTMENT: City Secretary's Office
FROM: Amanda Campos, City Secretary
MEETING: March 20, 2023

SUBJECT:

Consider approval of the minutes from the February 6, 2023 Economic Development Corporation (Type A) meeting. (*Staff Contact: Amanda Campos, City Secretary*)

SUMMARY:

The Burleson 4A Economic Development Corporation Board duly and legally met on February 6, 2023.

OPTIONS:

- 1) Board may approve the minutes as presented or approve with amendments.

RECOMMENDATION:

Approve.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A.

FISCAL IMPACT:

N/A.

STAFF CONTACT:

Name: Amanda Campos, TRMC
Title: City Secretary
Email: acampos@burlesontx.com
Phone: 817-426-9665

BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION

February 6, 2023

DRAFT MINUTES

COUNCIL PRESENT:

Rick Green
Jimmy Stanford
Tamara Payne
Dan McClendon, President
Ronnie Johnson

COUNCIL ABSENT:

Staff present:

Bryan Langley, City Manager
Tommy Ludwig, Deputy City Manager
Amanda Campos, City Secretary
Monica Solko, Deputy City Secretary
Matt Ribitzki, Deputy City Attorney

1. CALL TO ORDER – Time: 4:00 P.M.

2. CITIZEN APPEARANCE

- No speakers.

3. GENERAL

A. Minutes from the January 9, 2023 Economic Development Corporation (Type A) meeting. (Staff contact: Amanda Campos, City Secretary)

Motion by Rick Green and seconded by Ronnie Johnson to approve.

Motion passed 5-0.

B. 4A020623FTG-Tulsa, Performance Agreement between the Burleson 4A Economic Development Corporation and 2525 FTG-Tulsa, LLC for a development located at 700, 708, 712, 714, 716, and 720 SW Wilshire Blvd in Burleson, Texas (Staff Presenter: Alex Philips, Economic Development Director)

Alex Philips, Director of Economic Development, presented an agreement to the board.

Motion by Jimmy Stanford and seconded by Tamara Payne to approve.

Motion passed 5-0.

- C. 4A020623AmendACBurleson, Amendment to the Chapter 380 Economic Development and Performance Agreement between the City of Burleson, Burleson 4A Economic Development Corporation, Burleson Community Service Development Corporation, and AC Burleson, LLC for a family entertainment facility located at 1258 SW Alsbury Blvd. (Staff Presenter: Alex Philips, Economic Development Director)**

Alex Philips, Director of Economic Development, presented an amended agreement to the board.

Motion by Ronnie Johnson and seconded by Rick Green to approve.

Motion passed 5-0.

4. BOARD REQUESTS FOR FUTURE AGENDA ITEMS OR REPORT

- None.

5. RECESS INTO EXECUTIVE SESSION

Pursuant to Section 551.071, Texas Government Code, the Board reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.

A. Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071

- No Executive Session needed.

6. ADJOURN

There being no further discussion Dan McClendon adjourned the meeting.

Time: 4:11 p.m.

Monica Solko
Deputy City Secretary

Economic Development Corporation (Type A)

DEPARTMENT: Public Works

FROM: Errick Thompson, Deputy Director of Public Works

MEETING: March 20, 2023

SUBJECT:

Consider approval of a resolution recommending approval of a professional services contract between the City and Kimley-Horn and Associates, Inc. for design of the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway in the amount of \$1,090,915.00. *(Staff Contact: Errick Thompson, Deputy Director of Public Works)*

SUMMARY:

On June 7, 2021, the City Council approved a Chapter 380 and Economic Development and Performance Agreement (Agreement) with the developer of the approximately 1,000 acre Chisholm Summit master-planned community on the City's west side. Per the Chapter 380 agreement, the developer is responsible for designing and constructing the city funded public improvements, including the extension of Lakewood Drive from just south of CR 1020 to FM 1902. Phase 1 of the Lakewood Drive extension from FM 1902 to CR 1016 is underway and includes a temporary connection to FM 1902.

Lakewood Drive will also serve as the primary access to land purchased by the Economic Development Corporation (Type A), known as the Hooper Business Park, totaling approximately 107 acres.

The professional services agreement for consideration includes design of the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway, providing a direct connection from the tollway to the business park, master-planned community, and points to the east. Since FM 1902 and the Chisholm Trail Tollway are TxDOT and NCTTA roadways, the design of the improvements must be to TxDOT standards, including environmental clearance, before the final design.

The design contract has been set up to follow TxDOT standards and procedures and includes additional tasks that would only be authorized and expensed to comply with federal requirements should federal funding be awarded. Construction is estimated at \$16.9M. Staff is exploring potential federal funding for construction through the North Central Texas Council of Governments (NCTCOG). Whether the design follows state or federal standards and procedures, the schedule for design and construction will take longer than if it were strictly a local / City project designed and constructed following City standards and processes.

If following the TxDOT standards and process a schematic design is required to be submitted and approved before any detailed project design can begin. The schematic design is anticipated to take approximately one year to complete. Environmental clearance, right-of-way acquisition, and utility relocation are activities that can overlap; however, construction cannot begin until utility relocation is complete. Extensive public involvement is required via internal and external stakeholder meetings, and public meetings to gather input from surrounding property owners. The design is estimated to be completed summer 2025, and relocation of the utilities by the fall 2026. Construction is estimated to begin in early 2027 at an estimated construction cost of \$16.9M and be completed fall 2028 following TxDOT standards and process.

If federal funding is awarded to the project, the schedule is estimated to extend by approximately one year. This is mainly because the federal process does not allow right-of-way acquisition to begin until environmental clearance has been obtained, and utility relocation is not allowed until all right-of-way has been acquired. Construction can only begin once all utility relocation has been completed. If federal funding is secured, construction is projected to begin in early 2028 at estimated construction cost of \$17.6M. However, the federal funding could potentially contribute up to 80% of the construction cost. Additional state and/or county funding may also become available to assist.

The following tasks are included in the design contract –

- Design Survey
- Right-of-Way and Easement Documentation
- Schematic Design
- Preliminary and Final Design
- Geotechnical Investigation
- Environmental Services
- Traffic Evaluation
- TxDOT and Federal Documentation
- Chisholm Trail Parkway Intersection Improvements
- FM 1902 Intersection Improvements (re-alignment)
- Subsurface Utility Engineering
- Franchise Utility Coordination
- Bidding and Construction Phase Services

Coordination between several entities will require more meetings than a typical project designed to city standards.

The design for the extension of Lakewood Drive will be funded as part of the reimbursement resolution for the Economic Development Corporation 4A approved at the October 3, 2023 City Council meeting.

OPTIONS:

- 1) Approve a resolution recommending approval of a professional services contract between the City and Kimley-Horn and Associates, Inc. for design of the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway in the amount of \$1,090,915.00.
- 2) Deny a resolution recommending approval of a professional services contract between the City and Kimley-Horn and Associates, Inc. for design of the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway in the amount of \$1,090,915.00.

RECOMMENDATION:

Approve a resolution recommending approval of a professional services contract between the City and Kimley-Horn and Associates, Inc. for design of the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway in the amount of \$1,090,915.00.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

None

FISCAL IMPACT:

Funded as part of the reimbursement resolution for the Economic Development Corporation 4A approved on October 3, 2022.

STAFF CONTACT:

Erick Thompson
Deputy Director of Public Works
ethompson@burlesontx.com
817-426-9610

LAKEWOOD DRIVE EXTENSION

Professional Services Agreement for Design

BRIEF HISTORY

2021

- Council approved Chapter 380 and Economic Development and Performance Agreement for the proposed Chisholm Summit master-planned community
- City Council purchased approximately 107 acres for future business park

2022

- Council approved the final design of Lakewood Drive from CR 1020 to FM 1902
- Council approved Community Facilities Contract with R.A. Development, Ltd. for Lakewood Drive construction
- Construction began October

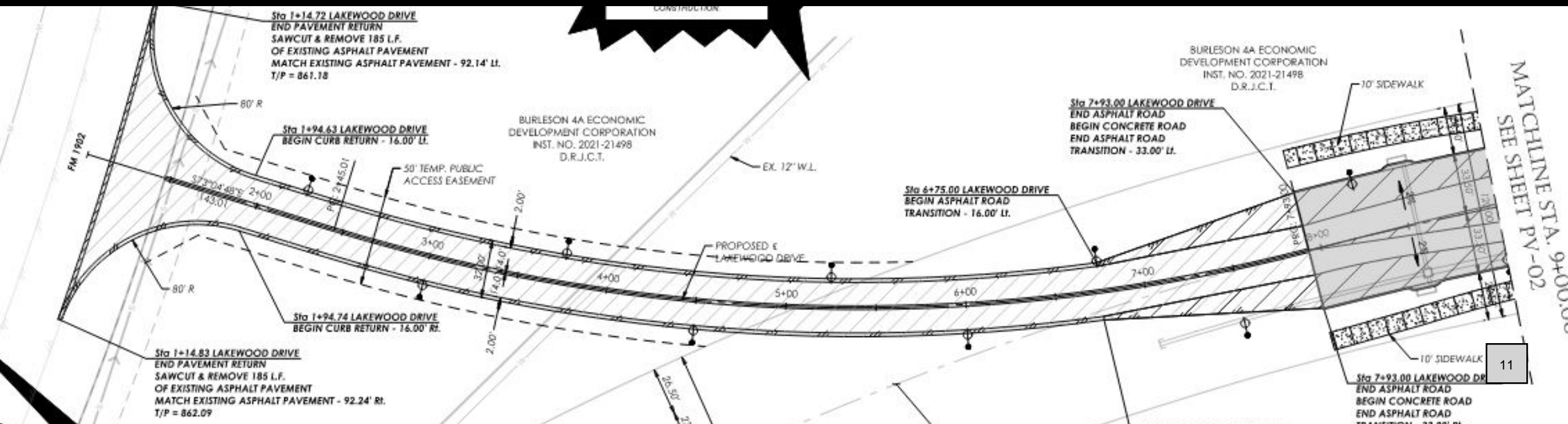


LAKEWOOD DRIVE

Item B.

Lakewood Drive (currently under construction) includes a temporary connection to FM 1902 (pictured below)

Lakewood Drive Extension creates more direct access to and from Chisholm Trail Parkway to Hooper Business Park, master-planned community development, and points to the east





LAKEWOOD DRIVE EXTENSION

DESIGN TO TXDOT OR FEDERAL STANDARDS

STAFF IS EXPLORING POTENTIAL CONSTRUCTION FUNDING PARTNERS

- Potential federal funding for construction (with local matching funds)
- Additional regulations, process, and time apply if federal funding is secured
- Potential county capital program may be implemented and this project could compete well should a program be implemented

ESTIMATED CONSTRUCTION COST - \$16.9M

2027 Dollars, based on TxDOT process

ESTIMATED CONSTRUCTION COST - \$17.6M

2028 Dollars, based on federal process and could be up to 80% federally funded

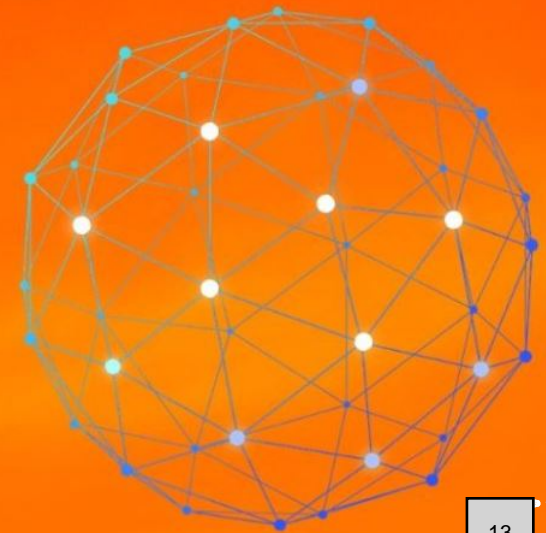


Item B.



U.S. Department
of Transportation

Federal Highway
Administration



LAKEWOOD DRIVE EXTENSION

Item B.

Kimley-Horn and Associates, Inc. selected to provide design services at a negotiated fee of \$1,090,915. This contract is being funded by the 4A Economic Development Corporation and major contract elements include:

DESIGN SURVEY

SCHEMATIC DESIGN

**PRELIMINARY AND FINAL
DESIGN**

**TXDOT AND FEDERAL
DOCUMENTATION**

ENVIRONMENTAL CLEARANCE

**CHISHOLM TRAIL PARKWAY
INTERSECTION
IMPROVEMENTS (AND NTTA
COORDINATION)**

FM 1902 RE-ALIGNMENT

**FRANCHISE UTILITY
COORDINATION**

**CONSTRUCTION BIDDING &
ADMINISTRATION**



LAKEWOOD DRIVE EXTENSION

Item B.

Kimley-Horn and Associates, Inc. will partner with several professional firms for portions of the design work

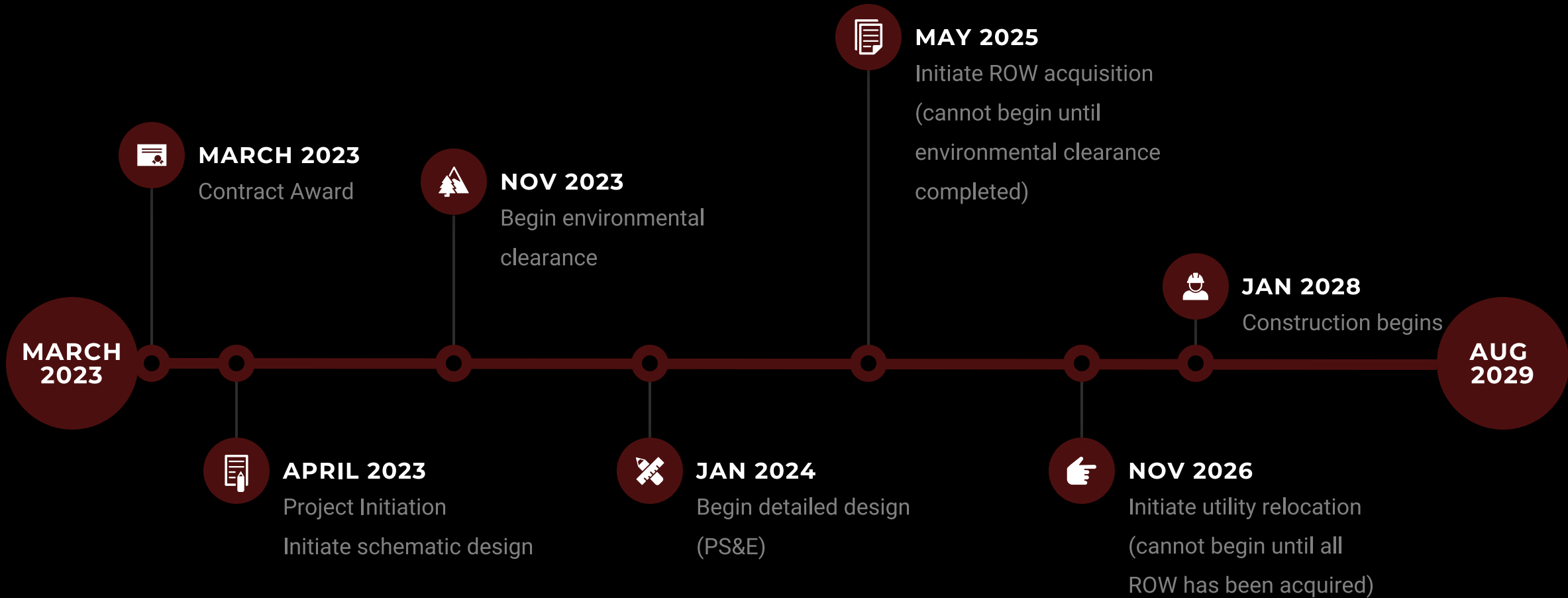
**SPOONER & ASSOCIATES, INC. -
SURVEY**

**CMJ ENGINEERING - GEOTECHNICAL
SERVICES**

**STANTEC ENGINEERING -
ENVIRONMENTAL SERVICES**

SCHEDULE BASED ON FEDERAL FUNDING FOR CONSTRUCTION

Item B.



PROJECT COULD BE SHORTENED BY ONE YEAR IF NOT FEDERALLY FUNDED

OPTIONS

Item B.

RECOMMENDED



APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR DESIGN OF THE EXTENSION OF LAKEWOOD DRIVE FROM FM 1902 TO CHISHOLM TRAIL PARKWAY IN THE AMOUNT OF \$1,090,915.00.



DENY A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR DESIGN OF THE EXTENSION OF LAKEWOOD DRIVE FROM FM 1902 TO CHISHOLM TRAIL PARKWAY IN THE AMOUNT OF \$1,090,915.00.



RESOLUTION 4A031523KIMLEYHORN

A RESOLUTION OF THE OF THE BURLESON 4A ECONMIC DEVELOPMENT CORPORATION RECOMMENDING APPROVAL OF A PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY OF BURLESON AND KIMELY-HORN AND ASSOCIATES, INC. FOR THE DESIGN OF THE EXTENSION OF LAKEWOOD DRIVE FROM FM 1902 TO CHISHOLM TRAIL PARKWAY; AUTHORIZING THE CITY MANAGER TO FUND THE CONTRACT WITH FUNDS FROM THE BURLESON 4A ECONMIC DEVELOPMENT CORPORATION; AND PROVIDING AN EFFECTIVE DATE AND REQUESTING THE CITY COUNCIL RATIFY THIS RESOLUTION.

WHEREAS, the Burleson 4A Economic Development Corporation, known as the “Type A Corporation”, incorporated and certified in October 2000 under the authorization of the Development Corporation Act of 1979; and

WHEREAS, the City of Burleson, Texas (“City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City, R.A. Development, Ltd. (“Developer”), the Type A Corporation, and other parties entered into that certain Chapter 380 and Economic Development and Performance Agreement for the development of Chisholm Summit and Hooper Business Park (the “Agreement”); and

WHEREAS, the Agreement calls for the Developer to design and construct roadway improvements along Lakewood Drive approximately from CR 1020 to FM 1902; and

WHEREAS, the Type A Corporation desires to extend the Lakewood Drive extension provided for the in Agreement to the Chisholm Trail Parkway; and

WHEREAS, extending Lakewood Drive from FM 1902 to Chisholm Trail Parkway will give the Hooper Business Park direct connection to the Chisholm Trail Parkway; and

WHEREAS, the City has a proposed agreement with Kimley-Horn and Associates, Inc. to design the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway (the “Proposed Agreement”); and

WHEREAS, the Type A Corporation desires that the City approve the Proposed Agreement and the Type A Corporation fund all costs under the Proposed Agreement; and

WHEREAS, the Type A Corporation authorizes the City Manager to pay all costs under the Proposed Agreement with Type A Corporation funds; and

WHEREAS, the Type A Corporation desires the City approve this action;

NOW, THEREFORE, BE IT RESOLVED BY THE BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS, THAT:

Section 1

The Type A Corporation hereby recommends approval of the Proposed Agreement between the City and Kimley-Horn and Associates, Inc, for the design the extension of Lakewood Drive from FM 1902 to Chisholm Trail Parkway.

Section 2

If the City approves the Proposed Agreement, the City Manager is authorized to pay for costs actually incurred under the Proposed Agreement.

Section 3

The findings set forth above in the recitals of this resolution are incorporated into the body of this resolution as if fully set forth herein.

Section 4

The Type A Corporation hereby requests that the City Council of the City of Burleson ratify this resolution and actions of the Type A Corporation. Accordingly, this resolution shall take effect immediately after such ratification.

PASSED, APPROVED, AND SO RESOLVED by the Board of Directors of the Burleson 4A Economic Development Corporation on the ____ day of _____, 20__.

Dan McClendon, Board President
Burleson 4A Economic Development Corporation

ATTEST:

Amanda Campos, Secretary

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is made and entered into by and between the **CITY OF BURLESON** (the “City”), a home rule municipal corporation situated in portions of Tarrant and Johnson Counties, Texas and **KIMLEY-HORN AND ASSOCIATES, INC.** (“Consultant”).

1. SCOPE OF SERVICES.

Attached hereto and incorporated for all purposes incident to this Agreement is **Attachment A** more specifically describing the services to be provided hereunder.

2. TERM.

This Agreement shall commence upon execution by the parties (the “Effective Date”) and terminate upon completion of the work specified in the scope of services unless terminated earlier in accordance with the provisions of this Agreement. Those obligations concerning warranties and representations which by their nature should survive termination of this Agreement, shall survive termination of this Agreement, including Articles 5, 6, 8, 12, 14-17, and 25-26.

3. COMPENSATION.

This is a fixed-price contract. The City shall pay Consultant an amount not to exceed One Million Ninety Thousand Nine Hundred Fifteen Dollars (**\$1,090,915 and 0/100**) in accordance with the fee schedule incorporated herein as **Attachment A**, and subject to the other terms and conditions of this Agreement, in exchange for completion of all tasks and delivery of all services listed in Attachment A, Scope of Work. In the event of partial performance the City shall pay Consultant for only the itemized tasks completed and delivered. Consultant shall not perform any additional services for the City not specified by this Agreement unless the City requests and approves in writing the additional services and costs for such services. The City shall not be liable for any additional expenses of Consultant not specified by this Agreement unless the City first duly approves such expenses in a contract amendment executed by the City Manager or the City Manager’s designee.

The Consultant shall submit monthly payment invoices to the City. Invoices shall contain a detailed breakdown to include: task or deliverables to the City and date provided for the billing period, the amount billed for each task or deliverable, and the total amount due.

Payment for services rendered shall be due within thirty (30) days of the uncontested performance of the particular services so ordered and receipt by City of Consultant’s invoice for payment of same. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. No interest will accrue on any contested portion of the billing until mutually resolved. City will exercise reasonableness in contesting any billing or portion thereof.

4. TERMINATION.

4.1. Written Notice.

The City or Consultant may terminate this Agreement at any time and for any reason by providing the other party with 30 days written notice of termination.

4.2 Non-appropriation of Funds.

In the event no funds or insufficient funds are appropriated by the City in any fiscal period for any payments due hereunder, City will notify Consultant of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds shall have been appropriated.

4.3 Duties and Obligations of the Parties.

In the event that this Agreement is terminated prior to the end of the term of this agreement as provided in Article 2, the City shall pay Consultant for services actually rendered or consultant shall reimburse the City for services paid for but not actually rendered, up to the date of notice of termination.

5. **DISCLOSURE OF CONFLICTS AND CONFIDENTIAL INFORMATION.**

Consultant hereby warrants to the City that Consultant has made full disclosure in writing of any existing or potential conflicts of interest related to Consultant's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Consultant hereby agrees immediately to make full disclosure to the City in writing. Consultant, for itself and its officers, agents and employees, further agrees that it shall treat all information provided to it by the City as confidential and shall not disclose any such information to a third party without the prior written approval of the City. Consultant shall store and maintain City information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Consultant shall notify the City immediately if the security or integrity of any City information has been compromised or is believed to have been compromised.

6. **RIGHT TO AUDIT.**

Consultant agrees that the City shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of the consultant involving transactions relating to this Contract at no additional cost to the City. Consultant agrees that the City shall have access during normal working hours to all necessary Consultant facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The City shall give Consultant reasonable advance notice of intended audits.

Consultant further agrees to include in all its subcontractor agreements hereunder a provision to the effect that the subcontractor agrees that the City shall, until expiration of three (3) years after final payment of the subcontract, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records of such subcontractor involving

transactions related to the subcontract, and further that City shall have access during normal working hours to all subcontractor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this paragraph. City shall give subcontractor reasonable notice of intended audits.

7. INDEPENDENT CONTRACTOR.

It is expressly understood and agreed that Consultant shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the City. Subject to and in accordance with the conditions and provisions of this Agreement, Consultant shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, and subcontractors. Consultant acknowledges that the doctrine of *respondeat superior* shall not apply as between the City, its officers, agents, servants and employees, and Consultant, its officers, agents, employees, servants, contractors, and subcontractors. Consultant further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between City and Consultant.

8. CHARACTER OF SERVICES AND INDEMNIFICATION.

8.1 Character of Services.

Consultant shall perform as an independent contractor all services under this Agreement with the professional skill and care ordinarily provided by competent architects, engineers, or landscape architects practicing under the same or similar circumstances and professional license. Further, Consultant shall perform as an independent contractor all services under this Agreement as expeditiously as possible as is prudent considering the ordinary professional skill and care of a competent engineer or architect. Provided, however, if this is a construction contract for architectural or engineering services or a contract related to the construction or repair of an improvement to real property that contains architectural or engineering services as a component part, the architectural or engineering services must be performed with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license. Consultant shall provide professional services necessary for the work described in Attachment "A," and incorporated herein and made a part hereof as if written word for word; provided, however, that in case of conflict in the language of Attachment "A" the terms and conditions of this Agreement shall be final and binding upon both parties hereto.

8.2 Indemnification.

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING REASONABLE ATTORNEY FEES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OF OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR

OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS AGREEMENT, WHETHER SAID NEGLIGENCE IS SOLE NEGLIGENCE, CONTRACTUAL COMPARATIVE NEGLIGENCE, CONCURRENT NEGLIGENCE OR ANY OTHER FORM OF NEGLIGENCE. IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF CONSULTANT AND CITY, RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. NOTHING IN THIS PARAGRAPH IS INTENDED TO WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW OR WAIVE ANY DEFENSES OF CONSULTANT OR CITY UNDER TEXAS LAW. THIS PARAGRAPH SHALL NOT BE CONSTRUED FOR THE BENEFIT OF ANY THIRD PARTY, NOR DOES IT CREATE OR GRANT ANY RIGHT OR CAUSE OF ACTION IN FAVOR OF ANY THIRD PARTY AGAINST CITY OR CONSULTANT.

CONSULTANT WARRANTS THAT NO MUSIC, LITERARY OR ARTISTIC WORK OR OTHER PROPERTY PROTECTED BY COPYRIGHT WILL BE REPRODUCED OR USED, NOR WILL THE NAME OF ANY ENTITY PROTECTED BY TRADEMARK BE REPRODUCED OR USED BY CONSULTANT UNLESS CONSULTANT HAS OBTAINED WRITTEN PERMISSION FROM THE COPYRIGHT OR TRADEMARK HOLDER AS REQUIRED BY LAW, SUBJECT ALSO TO CITY'S CONSENT. CONSULTANT COVENANTS TO COMPLY STRICTLY WITH ALL LAWS RESPECTING COPYRIGHTS, ROYALTIES, AND TRADEMARKS AND WARRANTS THAT IT WILL NOT INFRINGE ANY RELATED STATUTORY, COMMON LAW OR OTHER RIGHT OF ANY PERSON OR ENTITY IN PERFORMING THIS AGREEMENT. CONSULTANT WILL INDEMNIFY AND HOLD CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM ALL CLAIMS, LOSSES AND DAMAGES (INCLUDING REASONABLE ATTORNEY'S FEES) WITH RESPECT TO SUCH COPYRIGHT, ROYALTY OR TRADEMARK RIGHTS TO THE EXTENT CAUSED BY CONSULTANT OR FOR WHOM CONSULTANT IS LEGALLY LIABLE.

THE PROVISIONS OF THIS SECTION ARE INTENDED TO ONLY PROVIDE INDEMNIFICATION TO THE EXTENT ALLOWED BY TEXAS LOCAL GOV'T CODE SEC. 271.904 AND SHALL BE CONSTRUED TO THAT EFFECT. THE CONSULTANT AS ALLOWED BY TEXAS LOCAL GOV'T CODE SEC. 271.904 WILL STILL NAME CITY AS ADDITIONAL INSURED IN ITS GENERAL LIABILITY POLICY AND PROVIDE ANY DEFENSE AS ALLOWED BY THE POLICY.

9. ASSIGNMENT AND SUBCONTRACTING.

Consultant shall not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of the City. If the City grants consent to an assignment, the assignee shall execute a written agreement with the City and the Consultant under which the assignee agrees to be bound by the duties and obligations of Consultant under this Agreement. The

Consultant and Assignee shall be jointly liable for all obligations under this Agreement prior to the assignment. If the City grants consent to a subcontract, the subcontractor shall execute a written agreement with the Consultant referencing this Agreement under which the subcontractor shall agree to be bound by the duties and obligations of the Consultant under this Agreement as such duties and obligations may apply. The Consultant shall provide the City with a fully executed copy of any such subcontract.

10. **INSURANCE.**

Consultant shall provide the City with certificate(s) of insurance documenting policies of the following minimum coverage limits that are to be in effect prior to commencement of any work pursuant to this Agreement:

10.1 Coverage and Limits

- (a) Commercial General Liability
\$1,000,000 Each Occurrence
\$1,000,000 Aggregate
- (b) Automobile Liability
\$1,000,000 Each accident on a combined single limit basis or
\$250,000 Bodily injury per person
\$500,000 Bodily injury per person per occurrence
\$100,000 Property damage

Coverage shall be on any vehicle used by the Consultant, its employees, agents, representatives in the course of the providing services under this Agreement. "Any vehicle" shall be any vehicle owned, hired and non-owned.

- (c) Worker's Compensation
Statutory limits
Employer's liability
\$100,000 Each accident/occurrence
\$100,000 Disease - per each employee
\$500,000 Disease - policy limit

This coverage may be written as follows:

Workers' Compensation and Employers' Liability coverage with limits consistent with statutory benefits outlined in the Texas workers' Compensation Act (Art. 8308 – 1.01 et seq. Tex. Rev. Civ. Stat.) and minimum policy limits for Employers' Liability of \$100,000 each accident/occurrence, \$500,000 bodily injury disease policy limit and \$100,000 per disease per employee

- (d) Errors & Omissions (Professional Liability):

\$1,000,000 Per Claim and Aggregate
Professional Services Agreement
Page 5

If coverage is written on a claims-made basis, the retroactive date shall be coincident with or prior to the date to the contractual agreement. The certificate of insurance shall state that the coverage is claims-made and include the retroactive date. The insurance shall be maintained for the duration of the contractual agreement and for five (5) years following completion of the services provides under the contractual agreement or for the warranty period, which ever is longer. An annual certificate of insurance submitted to the City shall evidence coverage.

10.2 Certificates.

Certificates of Insurance evidencing that the Consultant has obtained all required insurance shall be delivered to the City prior to Consultant proceeding with any work pursuant to this Agreement. All applicable policies shall be endorsed to name the City as an additional insured thereon, as its interests may appear. The term City shall include its employees, officers, officials, agent, and volunteers in respect to the contracted services. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirement. The City reserves the right to make reasonable requests or revisions pertaining to the types and limits of that coverage. A minimum of thirty (30) days notice of cancellation or reduction in limits of coverage shall be provided to the City. Ten (10) days notice shall be acceptable in the event of non-payment of premium. Such terms shall be endorsed onto Consultant's insurance policies. Notice shall be sent to the Purchasing Manager, City of Burleson, 141 W. Renfro, Burleson, Texas 76028, with copies to the City Attorney at the same address.

10.3 Additional Insurance Requirements.

The insurance required herein must be provided by an insurer licensed to do business in the State of Texas. The insurance required herein must be provided by an insurer rated by the A.M. Best as "A-" or better or are rated "A" by Standard and Poor's. The insurance required herein shall be in full force and effect at all times during this Agreement.

11. **COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.**

Consultant agrees to comply with all applicable federal, state and local laws, ordinances, rules and regulations. If the City notifies Consultant of any violation of such laws, ordinances, rules or regulations, Consultant shall immediately desist from and correct the violation.

12. **NON-DISCRIMINATION COVENANT.**

Consultant, for itself, its personal representatives, assigns, subcontractors and successors in interest, as part of the consideration herein, agrees that in the performance of Consultant's duties and obligations hereunder, it shall not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. If any claim arises from an alleged violation of this non-discrimination covenant by Consultant, its personal representatives, assigns, subcontractors

or successors in interest, Consultant agrees to assume such liability and to indemnify and defend the City and hold the City harmless from such claim.

13. NOTICES.

Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

To CITY:

City of Burleson
City Manager's Office
Attn: Bryan Langley
141 W. Renfro St.
Burleson, TX 76028

To CONSULTANT:

Kimley-Horn and Associates, Inc.
Attn: Dana Shumard
801 Cherry Street, Unit 11
Suite 1300
Fort Worth, TX 76102

14. GOVERNMENTAL POWERS.

It is understood and agreed that by execution of this Agreement, the City does not waive or surrender any of its governmental powers.

15. NO WAIVER.

The failure of the City or Consultant to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of the City's or Consultant's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

16. GOVERNING LAW / VENUE.

This Agreement shall be construed in accordance with the internal laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought on the basis of this Agreement, venue for such action shall lie in state courts located in Johnson County, Texas or the United States District Court for the Northern District of Texas.

17. SEVERABILITY.

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

18. FORCE MAJEURE.

The City and Consultant shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in

performance due to force majeure or other causes beyond their reasonable control (force majeure), including, but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority, transportation problems and/or any other similar causes.

19. HEADINGS NOT CONTROLLING.

Headings and titles used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

20. REVIEW OF COUNSEL.

The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or exhibits hereto.

21. AMENDMENTS / MODIFICATIONS / EXTENSIONS.

No extension, modification or amendment of this Agreement shall be binding upon a party hereto unless such extension, modification, or amendment is set forth in a written instrument, which is executed by an authorized representative and delivered on behalf of such party.

22. ENTIRETY OF AGREEMENT.

This Agreement, including the schedule of exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Consultant, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

23. SIGNATURE AUTHORITY.

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other party is fully entitled to rely on this warranty and representation in entering into this Agreement.

24. NO WAIVER OF GOVERNMENTAL IMMUNITY.

Nothing contained in this Agreement shall be construed as a waiver of City's governmental immunity, or of any damage caps or limitations imposed by law, or any other legal protections granted to City by law, except to the extent expressly provided or necessarily implied herein.

25. MANDATORY OWNERSHIP DISCLOSURE PROVISION.

Consultant shall submit completed Texas Ethics Commission Form 1295 Ownership Disclosure form to City at time of execution of Agreement pursuant to Texas Government Code Section 2252.908.

26. MANDATORY ANTI-ISRAEL BOYCOTT PROVISION.

Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate:

- i. Pursuant to Section 2271.002 of the Texas Government Code, Consultant certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- ii. Pursuant to SB 13, 87th Texas Legislature, Consultant certifies that either (i) it meets an exemption criterion under SB 13, 87th Texas Legislature; or (ii) it does not boycott energy companies, as defined in Section 1 of SB 13, 87th Texas Legislature, and will not boycott energy companies during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- iii. Pursuant to SB 19, 87th Texas Legislature, Consultant certifies that either (i) it meets an exemption criterion under SB 19, 87th Texas Legislature; or (ii) it does not discriminate against a firearm entity or firearm trade association, as defined in Section 1 of SB 19, 87th Texas Legislature, and will not discriminate against a firearm entity or firearm trade association during the term of the Agreement. Consultant acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- iv. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Consultant certifies that either (i) it meets an exemption criterion under Subchapter F, Chapter 2252, Texas Government Code; or (ii) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

27. NON-EXCLUSIVITY.

Agreement is non-exclusive and City may enter into a separate Agreement with any other person or entity for some or all of the work to be performed under Agreement.

28. NO THIRD-PARTY BENEFICIARIES.

Except as expressly provided herein, nothing herein is intended to confer upon any person other than the parties hereto any rights, benefits or remedies under or because of this Agreement, provided, however, that the described beneficiaries of the indemnity provisions of this Agreement are expressly intended third-party beneficiaries of this Agreement.

29. BASIC SAFEGUARDING OF CONTRACTOR INFORMATION SYSTEMS.

The Consultant shall apply basic safeguarding requirements and procedures to protect the Professional Services Agreement

Consultant's information systems whenever the information systems store, process, or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that is necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

Consultant shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have City contract information residing in or transiting through its information system.

30. OWNERSHIP OF DOCUMENTS.

All documents and materials prepared by Consultant under the terms of this Agreement are the City's property from the time of preparation. Consultant will deliver copies of the documents and materials to the City or make them available for inspection whenever requested. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use. Any modifications made by the City to any of the Consultant's documents, or any use, partial use or reuse of the documents without written authorization or adaptation by the Consultant will be at the City's sole risk and without liability to the Consultant.

31. COUNTERPARTS; PDF SIGNATURES.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any pdf-format or other electronic transmission of any signature of a signatory shall be deemed an original and shall bind such signatory.

The remainder of this page is left intentionally blank

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

CITY OF BURLESON:

KIMLEY-HORN AND ASSOCIATES, INC.:

By: _____

By: Scott R. Arnold

Name: _____

Name: Scott R. Arnold

Title: _____

Title: Vice President

Date: _____

Date: March 15, 2023

APPROVED AS TO FORM:

By: _____
City Attorney, Assistant City Attorney,
or Deputy City Attorney

ATTACHMENT A

I. Scope of Services

The Consultant understands that the City wishes to prepare schematic and construction plans, specifications and estimates (PS&E) for improvements to FM 1902 (Lakewood Drive) from Chisholm Trail Parkway to the east to the connection to Lakewood Drive that is being designed with the Chisholm Summit Development. The scope will be to widen roadway from a 2 lane undivided roadway section with ditches to a 4 lane divided roadway with curb section to match the City Master Thoroughfare Plan. The plans will consist of roadway plan and profile, sidewalk, and storm drain plan improvements, street lighting, traffic signal, traffic control, signing and marking and utility adjustments. The project will also include a roadway connection from FM 1902 to Lakewood Drive. The project will need to adhere to TxDOT requirements as well as Federal Highway Administration (FHWA) guidelines with exceptions provided by the City of Burleson. The project will also consist of Environmental Documentation, Utility Clearance, Traffic Analysis, Bidding and Construction Phase Services.

The Consultant will complete the following tasks:

Task 1 – Design Survey

The Consultant, through its subconsultant, Spooner & Associates, Inc. will provide topographic survey for the following limits: two hundred feet west of Chisholm Trail Parkway southbound frontage road to the approximately 3,500 linear feet east along FM 1902. The limits will also consist of two hundred feet each way at the frontage road along Chisholm Trail Parkway. Other subtasks for this task consist of:

A. Topographic Survey

- 1) Making a topographic survey of all existing features above ground level by using both Mobile LIDAR and on the ground survey. These features will consist of telephone poles, power poles, utilities, utility markers, fences, retaining walls, water meters, detector check valves, manholes, vaults, sprinkler heads, structures, culvert pipes and any other facilities in close proximity to the anticipated construction limits. Also, all buildings, trees, and other topographical features.
- 2) Determining horizontal and vertical location of all underground utilities or other underground structures where they cross any part of the proposed project.
- 3) Making of all surveys necessary to determine limits of any existing right-of-way or easements.
- 4) Tie all public improvements to existing City monument system.

Task 2 – Right-of-Way and Easement Determination

A. In conformance with TxDOT ROW Acquisition Manual, the Consultant, through subconsultant, will survey, render field notes, and prepare a right-of-way strip map and up to five (5) individual parcel exhibits for right-of-way documents and up to six (6) easement documents as needed. The right-of-way strip map will be contained on plan paper (11" x 17") at a scale of 1" = 100', will be sealed, dated, and signed by a Registered Professional Land Surveyor and will contain the following:

- 1) Title page including location map.

- 2) Summary sheet listing all parcels to be acquired, property owner, legal description of property, gross area of property, square footage and type of easements, net area of property after acquisition, a column for volume and page of filing, and current volume and page.
- 3) Corners of all parcels tied to the centerline.
- 4) Location of all existing property pins, including station and offset to centerline.
- 5) Location of all new property pins, including station and offset to centerline.
- 6) Parcel number.
- 7) Area required.

Task 3 – Schematic Design

- A. Schematic Plans. Schematic plan and profile will be drawn at a scale no smaller than 1"= 100' and to such detail as is necessary to meet TxDOT requirements. The Consultant will prepare schematic plans which will consist of the following:
- 1) Roadway improvements (plan and profile) showing curb, median, turn lanes, median openings, sidewalk, existing and proposed right-of-way. The approximate location of all existing and proposed driveways within the limits of the project.
 - 2) Intersection improvements based on the findings of the traffic evaluation in Task 7. Up to two (2) options will be developed for each intersection, the Chisolm Trail Parkway intersection, and the connection to Lakewood Drive.
 - 3) Existing and proposed typical sections.
 - 4) Existing utilities and survey data collected in Task 1 and Task 12.
 - 5) A preliminary drainage study, consisting of drainage areas, location, and size of existing drainage facilities, the approximate size and alignment of proposed drainage facilities, and approximate discharges.
 - 6) Existing water and sanitary sewer mains and potential conflicts (if applicable).
 - 7) An opinion of probable construction cost. Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, will be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost.
 - 8) A 30%, 60% and Final Schematic Submittal is assumed.
 - 9) Address up to three (3) rounds of comments from the City, TxDOT and NTTA on the schematic submittal.
 - 10) Environmental documentation as listed in Task 6.
 - 11) Traffic evaluation as listed in Task 7.
 - 12) TxDOT documentation and coordination as listed in Task 8.
- B. Project Management - Perform general project management related tasks such as routine communication with the City, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, preparation of the project schedule and updates to the project schedule. Project invoicing for Task 6-11 will include time sheet and subconsultant invoices for backup.

Task 4 – Preliminary and Final Design

It is understood that the PS&E phase will occur concurrently with the Preliminary (Schematic) phase of

the project, at risk. The PS&E phase will begin once the City authorizes the Consultant to begin the PS&E task.

Design associated with widening and intersection improvements at Chisholm Trail Parkway Intersection will be listed in a separate task, Task 9. The design improvements are not yet defined and dependent upon Task 7 Traffic Evaluation recommendations.

A. Preliminary Design Construction Plans (30% and 60%) – Preliminary plans will consist of the following:

- 1) Edge of existing pavement, existing structures, mailboxes, water meters, utility poles, fire hydrants, existing driveways, existing utilities, existing and proposed rights-of-way and easements, proposed centerline, proposed curb line on plan and profile sheets, and existing ground elevation in profile at the proposed centerline and right-of-way lines.
- 2) All existing improvements on property within twenty feet (20') of the proposed right-of-way or easement line on construction plans.
- 3) The location, size, and species of all trees and shrubs within the limits of proposed street right-of-way (ROW), drainage, slope or temporary construction easements. If due to the density of the growth it is impractical to show all trees and shrubs, the limits of dense stands of trees and shrubs will be shown. In any case, all trees six inches (6") in diameter, or larger, will be shown, unless directed otherwise the Consultant will indicate on the plans those trees that are to be removed, and those trees to be preserved.
- 4) Sidewalk, retaining walls (if applicable), and curb ramps.
- 5) Lane and pavement width dimensions.
- 6) Proposed structure locations, lengths, and widths.
- 7) Direction of traffic flow on all roadways. Lane lines and arrows indicating the number of lanes must also be shown.
- 8) Begin and end superelevation transitions and cross slope changes.
- 9) Limits of rip-rap, block sod, and seeding.
- 10) Existing utilities and structures.
- 11) Benchmark information.
- 12) Typical sections for all proposed and existing roadways and cross streets. Typical sections to include width of travel lanes, shoulders, outer separations, border widths, curb offsets, sidewalk and ROW.
- 13) Cross-sections of existing ground surface line and proposed ground surface lines.
- 14) Overall drainage areas, sub-drainage areas, existing and proposed drainage facilities, discharges, times of concentration, and drainage area acreage for proposed structures (including the existing drainage system).
- 15) All drainage computations such as inlet and pipe calculations within TxDOT ROW will be in accordance with TxDOT criteria.
- 16) Hydraulic analysis and modeling of the impact of proposed structures within a designated 100-year floodplain or as determined by City or TxDOT.
- 17) Storm sewer plan and profile sheets, including hydraulic grade lines.
- 18) Culvert layout for each bridge class culvert.
- 19) Erosion Control Plans
- 20) Traffic Control Sequencing Plan
- 21) Pavement markings, striping and/or traffic button plans.
- 22) Plans to comply with TxDOT PS&E Checklists.
- 23) An opinion of probable construction cost.

- B. Final Design Construction Plans -Upon acceptance of preliminary plans by City, the Consultant will prepare final plans. Final plans will contain all information and requirements of the preliminary plans and will incorporate comments from City, TxDOT, NTTA, and utility companies. The Consultant will also prepare contract documents, specifications, and special provisions. In addition, the following will be submitted:
- 1) Standard City title page with location map and revision block in the lower right corner showing date of revision, description of revision and initials of the Consultant authorizing the revision.
 - 2) Storm sewer improvement plan and profile sheets (as needed).
 - 3) Detail and standard sheets for all elements of the Project.
 - 4) Special provisions and specifications.
 - 5) Final right-of-way plans or easements as required in Task 2.
 - 6) An opinion of probable cost based upon the items and quantities listed in the proposal in the contract documents. This estimate will be based on current unit prices bid on similar projects.
 - 7) Street addresses of all properties adjacent to the Project.
 - 8) Plan sheets for traffic signals, and signs and pavement markings as required by this contract.
 - 9) Water and/or sanitary sewer adjustment sheets (as needed).
 - 10) Prepare street lighting conduit and foundation plan.
 - 11) Prepare proposed cross-sections every 50 feet and at culvert locations.
 - 12) Prepare Project Manual and Specifications.
- C. Project Management - Perform general project management related tasks such as routine communication with the City, project status updates, quality control efforts, internal team meetings, project invoicing, project planning efforts, preparation of the project schedule and updates to the project schedule. Project invoicing for Task 6-11 will include time sheet and subconsultant invoices for backup.
- D. The project will be registered with TDLR. Fees associated with the registration, review, and inspection are included in this scope. The Consultant will subcontract to Accessology to register, review, and inspect the project.

Task 5 – Geotechnical

The Consultant, through its subconsultant (CMJ Engineering), will provide geotechnical services as follows:

- A. The Consultant will perform geotechnical investigations and analyses necessary to complete the design. The Consultant will prepare a geotechnical report describing existing geotechnical conditions and considerations necessary for design and construction of the project for City and TxDOT review and approval. The report will consist of up to eight (8) pavement borings in the outside shoulder.

Task 6 – Environmental Services

The Consultant, through a subconsultant (Stantec Engineering) will prepare Environmental Documentation in accordance with TxDOT Requirements. The following are anticipated to be necessary for Environmental Clearance.

- A. Environmental Services
 - 1) Prepare the Environmental Project Description Form according to the TxDOT Fort Worth District guidelines and policy.
 - 2) Prepare a Work Plan Development according to the TxDOT Fort Worth District Professional Services Agreement

guidelines and policy.

- 3) This scope assumes that the project will meet the requirements for a D or C list Categorical Exclusion. The Consultant will collect the necessary data and prepare the technical reports for a Categorical Exclusion. The following reports are anticipated:
 - i. Air Quality Assessment
 - ii. Archeological Resource Background Study
 - iii. Biological Resource Deliverables
 - iv. Surface Water Analysis Form
 - v. Hazardous Materials Initial Site Assessment
 - vi. Historic Resources Project Coordination Request
 - vii. Traffic Noise Analysis
 - viii. Community Impacts Analysis
 - ix. Indirect Impacts
- B. Public Meetings. Attend and prepare for up to one (1) public meeting during the schematic design phase. The public meetings are required for the environmental process and documentation for TxDOT requirements. Public meeting materials and summary report will be provided.

Task 7 – Traffic Evaluation (Hourly)

- A. Traffic Evaluation
 - 1) Coordinate with TxDOT and NTTA to determine traffic report scope.
 - 2) The Consultant will collect turning movement counts and 24 hour traffic data at the Chisolm Trail Parkway intersection.
 - 3) Collect TPP volumes from TxDOT.
 - 4) The Consultant will analyze the existing and ultimate build out for the intersection at Chisolm Trail Parkway and the connection to FM 1902 to Lakewood Drive.
 - 5) The Consultant will utilize City traffic model to develop growth projections.
 - 6) The traffic study will evaluate the level of service for the project intersections and corridor and provide necessary recommendations.
 - 7) The Consultant will analyze up to four (4) intersection control options.
 - 8) The Consultant will perform a signal warrant study for Chisholm Trail Parkway and FM 1902 intersection with Lakewood Parkway.
 - 9) The Consultant will prepare the findings and recommendations in a technical memo.
 - 10) Address up to two (2) rounds of comments from the City, TxDOT and NTTA.
 - 11) Meetings are included in Task 11.

Task 8 – TxDOT and Federal Documentation (Hourly)

- A. TxDOT and Federal Documentation
 - 1) Provide a project description and scope, location map, and opinion of probable construction costs in accordance with TxDOT requirements for use in the advanced funding agreement.
 - 2) Assist the City with the Advanced Funding Agreement supporting documents.
 - 3) Design Concept Conference (DCC). Prepare agenda and document the DCC prior to or during preliminary schematic development.
 - 4) Prepare design criteria in accordance with FHWA and TxDOT requirements.
 - 5) DSR Prepare a Design Summary Report (DSR) to reflect discussion and decisions at the DCC. DSR will be updated throughout project development as design progresses.
 - 6) Follow FHHWA checklist criteria for each submittal.
 - 7) Prepare Page 3 of TxDOT Form 1002.

- 8) Schematic and PS&E comment response form for each submittal.
- 9) Prepare contract documents in accordance with TxDOT LGPP Guidelines.
- 10) Coordinate with TxDOT during the duration of the project via email correspondence and phone calls.
- 11) Assist the City with preparing federal forms as required.
- 12) Coordinate with City and NTCOG to add the project to the TIP.
- 13) Assist the City with reviewing TIP information and coordinating TIP Modifications on quarterly basis.

Task 9 – Chisholm Trail Parkway Intersection Improvements (Hourly)

Based on the results of the Traffic Evaluation in Task 7, the Consultant will prepare preliminary and final design plans for the associated improvements to Lakewood Drive from the intersection of the southbound Chisholm Trail Parkway frontage road to the northbound Chisholm Trail Parkway frontage road. The intersection design will begin once Task 3 and Task 7 are complete and the City authorizes the Consultant to Proceed.

A. Preliminary Design

- 1) Roadway improvements (plan and profile) showing curb, median, turn lanes, median openings, sidewalk, existing and proposed right-of-way.
- 2) Existing and proposed typical sections.
- 3) Existing utilities and survey data collected in Task 1 and Task 12.
- 4) Existing water and sanitary sewer mains and potential conflicts (if applicable).
- 5) Sidewalk, retaining walls (if applicable), and curb ramps.
- 6) Lane and pavement width dimensions.
- 7) Proposed structure locations, lengths, and widths.
- 8) Direction of traffic flow on all roadways. Lane lines and arrows indicating the number of lanes must also be shown.
- 9) Begin and end superelevation transitions and cross slope changes.
- 10) Limits of rip-rap, block sod, and seeding.
- 11) Existing utilities and structures.
- 12) Benchmark information.
- 13) Cross-sections of existing ground surface line and proposed ground surface lines.
- 14) Overall drainage areas, sub-drainage areas, existing and proposed drainage facilities, discharges, times of concentration, and drainage area acreage for proposed structures (including the existing drainage system).
- 15) Storm sewer plan and profile sheets, including hydraulic grade lines.
- 16) Erosion Control Plans
- 17) Traffic Control Sequencing Plan
- 18) Traffic Signal Plans
- 19) Pavement markings, striping and/or traffic button plans
- 20) An opinion of probable construction cost
- 21) Compile applicable details.
- 22) Address up to one (1) rounds of comments from the City, TxDOT, and NTTA.

B. Final Design- Upon acceptance of preliminary plans by City, the Consultant will prepare final plans. Final plans will contain all information and requirements of the preliminary plans and will incorporate comments from City, TxDOT, NTTA and utility companies.

- 1) Roadway plan and profile sheets.
- 2) Storm sewer improvement plan and profile sheets (as needed).

- 3) Detail and standard sheets for all elements of the Project.
- 4) Plan sheets for traffic signals, and signs and pavement markings.
- 5) Traffic Control Plans.
- 6) Water and/or sanitary sewer adjustment sheets (as needed).
- 7) Prepare street lighting conduit and foundation plan.
- 8) Prepare proposed cross-sections every 50 feet and at culvert locations.
- 9) An opinion of probable cost based upon the items and quantities listed in the proposal in the contract documents. This estimate will be based on current unit prices bid on similar projects.
- 10) Address up to two (2) rounds of comments from the City, TxDOT and NTTA.

Task 10 – FM 1902 Intersection Improvements (Hourly)

Based on the results of the Traffic Evaluation in Task 7, the Consultant will prepare preliminary and final design plans for the associated improvements to Lakewood Drive and FM 1902. Task 10 will consist of intersection improvements such as traffic signal and changes to the striping and widening along FM 1902 for the connection to Lakewood Drive. The intersection design will begin once Task 3 and Task 7 are complete and the City authorizes the Consultant to Proceed.

A. Preliminary Design 30% and 60%

- 1) Intersection Improvements at FM 1902 and Lakewood Drive
- 2) Existing and proposed typical sections.
- 3) Existing utilities and survey data collected in Task 1 and Task 12.
- 4) Existing water and sanitary sewer mains and potential conflicts (if applicable).
- 5) Lane and pavement width dimensions.
- 6) Direction of traffic flow on all roadways. Lane lines and arrows indicating the number of lanes must also be shown.
- 7) Limits of rip-rap, block sod, and seeding.
- 8) Existing utilities and structures.
- 9) Benchmark information.
- 10) Cross-sections of existing ground surface line and proposed ground surface lines.
- 11) Traffic Control Sequencing Plan
- 12) Traffic Signal Plans
- 13) Pavement markings, striping and/or traffic button plans.
- 14) An opinion of probable construction cost.
- 15) Compile applicable details.
- 16) Submit 30% Plans
- 17) Submit 60% Plans
- 18) Address up to two (2) rounds of comments from the City and TxDOT.

B. Final Design- Upon acceptance of preliminary plans by City, the Consultant will prepare final plans. Final plans will contain all information and requirements of the preliminary plans and will incorporate comments from City, TxDOT and utility companies.

- 1) Intersection Layout sheets.
- 2) Storm sewer improvement plan and profile sheets (as needed).
- 3) Detail and standard sheets for all elements of the Project.
- 4) Final right-of-way plans or easements as required in Task 2.
- 5) Plan sheets for traffic signals, and signs and pavement markings.
- 6) Traffic Control Plans.
- 7) Water and/or sanitary sewer adjustment sheets (as needed).

- 8) An opinion of probable cost based upon the items and quantities listed in the proposal in the contract documents. This estimate will be based on current unit prices bid on similar projects.
- 9) Submit 90% and Final Plans.
- 10) Address up to two (2) rounds of comments from the City and TxDOT.

Task 11 – Meetings (Hourly)

A. Meetings

- 1) The Consultant will prepare for and attend Project Kickoff Meeting with City, NTTA, and TxDOT.
- 2) The Consultant will prepare for and attend up to six (6) meetings with NCTCOG through the duration of the project.
- 3) The Consultant will attend up to two (2) plan review meetings during schematic design with the City, NTTA, and TxDOT.
- 4) The Consultant will attend up to three (3) plan review meetings with the City, NTTA, and TxDOT staff at 30%, 60% and 90% level.
- 5) The Consultant will attend a constructability site visit after 60% Submittal.
- 6) The Consultant will attend one monthly virtual progress meeting with the City PM to discuss project progress. Up to forty eight (48) meetings are assumed.
- 7) The Consultant will attend up to twelve (10) coordination meetings with the City and TxDOT or NTTA or other stakeholder to discuss progress, design and/or coordination items beyond in addition to the review meetings listed above.
- 8) The Consultant will prepare an agenda and meeting notes for all meetings.

Task 12 – Subsurface Utility Engineering

The Consultant, through its subconsultant (The Rios Group), will provide subsurface utility engineering for the survey limits.

A. Provide Subsurface Utility Engineering (SUE) to Quality Level D, C, B, and A.

- 1) SUE level B will be performed as needed.
- 2) SUE level A will be performed on any utilities where conflicts with proposed improvements are suspected based on level B SUE. The SUE will be performed in accordance with CI/ASCE 38-02.
- 3) Expose and locate utilities up to 15 specific locations (Level A).
- 4) Perform Level B SUE for the Level A locations (up to 2,000 linear feet)

Task 13 -Franchise Utility Coordination and Utility Clearance (Hourly)

- A. Send plans to franchise utility companies.
- B. Develop “Time of Relocation” schedule containing the estimated time for each utility company with facilities impacted by Project to relocate their facilities.
- C. Attend up to six (6) meetings with franchise utility companies to review and coordinate relocation design.
- D. Adhere to TxDOT Utility Clearance Process by supporting the City with the following tasks:
 - a. Prepare and Maintain Utility Layout
 - b. Prepare and maintain Utility Conflict Matrix

- c. Prepare and Maintain Utility Conflict Exhibits
- d. Review Plans
- e. Prepare proposed utility layouts
- f. Obtain clearance letters from franchise utility companies.

Task 14 - Bidding and Construction Phase Services (Hourly)

A. Bidding

- 1) Assist City during advertisement by answering response for information or clarifications.

B. Construction Phase Services

- 1) Review and approve shop drawings, samples and other data which contractor(s) are required to submit.
- 2) Evaluate and determine the acceptability of substitute materials and equipment proposed by contractor(s).
- 3) Attend pre-construction conference with the Contractor.
- 4) Make one visit per month to the site for observation, and interpretation of plans and specifications as requested by the City period of time specified for construction in the project manual. A total of twelve (12) site visits by the Consultant is anticipated during the construction phase.
- 5) Preparation of change orders and associated plans, specifications or other revisions if due to improper design, plan preparation, specifications, quantities, materials, or other fault of the Consultant will be prepared by The Consultant and included in the basic Design fee.
- 6) Revise the construction drawings in accordance with the information furnished by construction Contractor(s) reflecting changes in the project made during construction.

II. Method of Compensation

The Consultant will perform the services in Tasks 1 - 5 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the City.

Task 1 – Design Survey	\$ 28,240
Task 2 – Right-of-Way and Easement Determination	\$ 13,870
Task 3 – Schematic Design	\$ 154,675
Task 4 – Preliminary and Final Design	\$ 247,430
<u>Task 5 – Geotechnical Investigation</u>	<u>\$20,800</u>
Total Lump Sum Fee	\$465,015

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

The Consultant will perform the services in Tasks 6-14 on a labor fee plus expense basis with the maximum labor fee shown below.

Task 6 Environmental Services	\$95,000
Task 7 Traffic Evaluation (Hourly)	\$32,400
Task 8 TxDOT and Federal Documentation (Hourly)	\$73,620
Task 9 Chisholm Trail Pkwy Intersection Improvements(Hourly)	\$163,270
Task 10 – FM 1902 Intersection Improvements (Hourly)	\$73,720
Task 11 – Meetings (Hourly)	\$68,660
Task 12 – Subsurface Utility Engineering	\$44,820
Task 13 – Franchise Utility Coordination (Hourly)	\$48,790
<u>Task 14 – Bidding and Construction Phase Services (Hourly)</u>	<u>\$25,620</u>
Maximum Labor Fee	\$625,900

Total Fee	\$1,090,915
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The Consultant will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. The Consultant reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost.

Kimley-Horn and Associates, Inc.
Hourly Labor Rate Schedule

Classification	Rate
Analyst	\$125 - \$210
Professional	\$200 - \$250
Senior Professional I/Project Manager	\$250 - \$310
Senior Professional II/Senior Project Manager	\$330 - \$390
Support Staff	\$100 - \$160

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

CITY OF BURLESON:

KIMLEY-HORN AND ASSOCIATES, INC.:

By: _____

By: Scott R. Arnold

Name: _____

Name: Scott R. Arnold

Title: _____

Title: Vice President

Date: _____

Date: March 15, 2023

APPROVED AS TO FORM:

By: _____
City Attorney, Assistant City Attorney,
or Deputy City Attorney

CERTIFICATE OF INTERESTED PARTIES

FORM 12

Item B.

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2023-993151

Date Filed:
03/10/2023

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Kimley-Horn and Associates, Inc.
Dallas, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

031023
FM 1902 (Lakewood Drive) Extension

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Cook, Richard N	Dallas, TX United States	X	
	Flanagan, Tammy	Dallas, TX United States	X	
	Lefton, Steve	Dallas, TX United States	X	
	McEntee, David L	Dallas, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is SARAH MEZA, and my date of birth is 05/14/1981.

My address is 13455 NOEL ROAD, SUITE 700, DALLAS, TX, 75240, US.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in DALLAS County, State of TEXAS, on the 10TH day of MARCH, 2023.
(month) (year)

Sarah Meza

Signature of authorized agent of contracting business entity
(Declarant)

Economic Development Corporation (Type A)

DEPARTMENT: Public Works

FROM: Errick Thompson, P.E., CFM®, Deputy Public Works Director

MEETING: March 20, 2023

SUBJECT:

Consider approval of a resolution recommending approval of demolition agreement between the City and Garrett Demolition, Inc. for asbestos abatement and demolition of 130 East Renfro Street in the amount of \$201,462.00. (*Staff Contact: Errick Thompson, Deputy Public Works Director*)

SUMMARY:

The City of Burleson purchased the 130 E. Renfro site in August 2005. In January 2021, the 4A Economic Development Corporation purchased the site from the City for redevelopment. In April 2022, staff received direction and issued a request for proposals to sell or long-term ground lease.

In preparation for redevelopment and potentially shortening the time for a future development to occur, staff advanced activities to have the current structures demolished. A required asbestos survey was completed in December 2022 and required air monitoring and environmental services have also been secured.

The most recent tenant, Hill College, vacated the premises in January 2023. An invitation to bids was publicly advertised in February 2023 and four complete bids were received February 23, 2023 as shown below. Bidders were also asked to provide optional pricing for taking additional measures when removing the stained-glass windows. The low bid is from Garrett Demolition, Inc. for a total of \$201,462 including the window removal option.

Vendor	Abatement	Demolition	Window Removal Option	Total (Abatement + Demo + Option)
Garrett Demolition	\$69,052	\$123,910	\$8,500	\$201,462
Lloyd Nabors Demolition	\$79,000	\$232,000	\$77,000	\$388,000
Prism Response	\$126,000	\$125,420	\$5,580	\$257,000

Tejas Destructors	\$144,500	\$178,000	\$15,000	\$337,500
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OPTIONS:

- 1) Approve a resolution recommending approval of demolition agreement between the City and Garrett Demolition, Inc. for asbestos abatement and demolition of 130 East Renfro Street in the amount of \$201,462.00.
- 2) Deny a resolution recommending approval of demolition agreement between the City and Garrett Demolition, Inc. for asbestos abatement and demolition of 130 East Renfro Street in the amount of \$201,462.00.

RECOMMENDATION:

Approve a resolution recommending approval of demolition agreement between the City and Garrett Demolition, Inc. for asbestos abatement and demolition of 130 East Renfro Street in the amount of \$201,462.00.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

April 4, 2022 – City Council City Council directed staff to release a request for proposals to sell or long-term ground lease real property located at 130 E. Renfro St

FISCAL IMPACT:

Project #: FA2304
Budgeted Y/N: Y
Fund Name: BCDC 4A Sales Tax SRF
Full Account #s: 110-1014-415.80-05
Amount: \$201,462

STAFF CONTACT:

Errick Thompson
 Deputy Public Works Director
ethompson@burlesontx.com
 817-426-9610

130 E. RENFRO STREET STREET ABATEMENT AND DEMOLITION

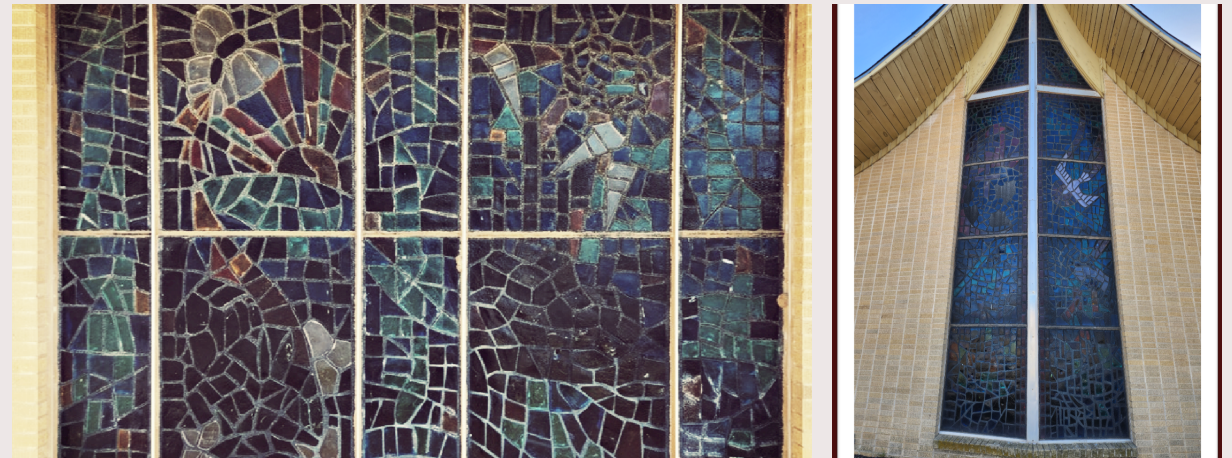


Item C.

PROCUREMENT

Item C.

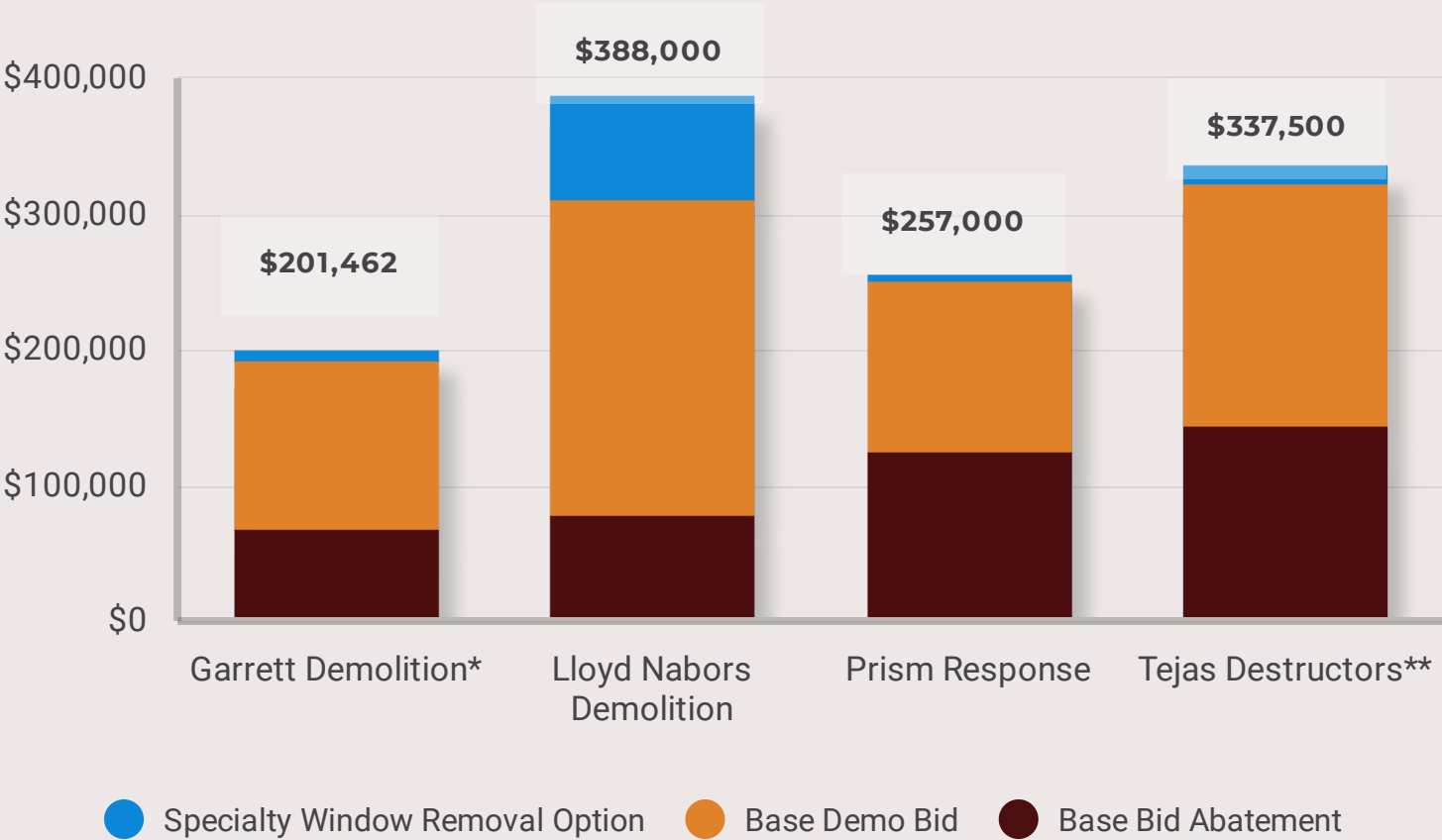
- ABATEMENT AND DEMOLITION PROJECT PUBLICLY ADVERTISED FOR BIDS FEB 3, 2023
- OPTIONAL PRE-BID SITE VISIT HELD FOR VENDORS FEBRUARY 15, 2023
- SOLICITATION CLOSED FEB 23, 2023
- OPTIONAL PRICING REQUESTED FOR INCLUDING SPECIALTY WINDOW VENDOR FOR CAREFUL REMOVAL OF STAINED-GLASS WINDOWS



COMPETITIVE CONTRACT PROCUREMENT

BID COMPARISON

Item C.



* Certified Small Business Enterprise
** Certified Historically Under-Utilized Business / Minority or Woman-Owned Business Enterprise



FOUR COMPLETE (RESPONSIVE) BIDS AND FIVE PARTIAL BIDS RECEIVED

Lowest responsive bid including \$8,500 option specialty sub for stained-glass window removal is from Garrett Demolition - total \$201,462

PARTIAL BIDS WERE FOR ABATEMENT-ONLY

FUNDING

Item C.

This project is funded from 4A operating funds

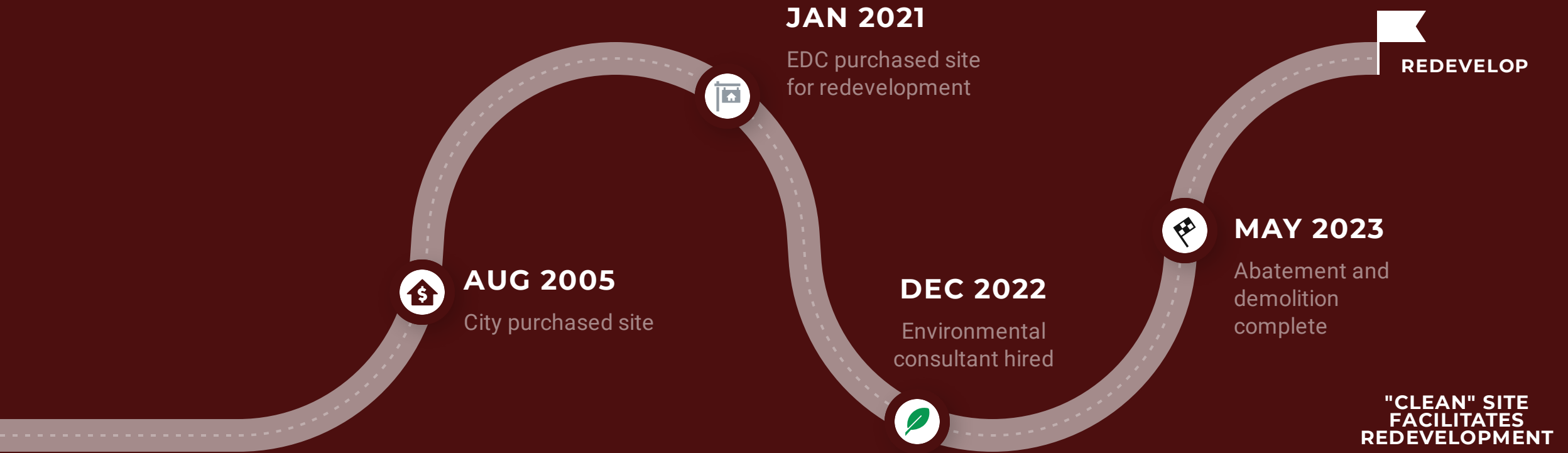
- \$35,850 - Asbestos survey and environmental consulting for compliance with state and federal regulations
- \$8,969 - Project management
- \$201,462 - Asbestos abatement and demolition of the site

Total \$246,281



HIGH LEVEL BACKGROUND

Item C.



EDC LEASED PROPERTY WHILE WORKING TOWARDS REDEVELOPMENT VISION, HILL COLLEGE VACATED JAN 2023

"TO DESTROY IS ALWAYS THE FIRST STEP IN ANY CREATION." *E.E. CUMMINGS*

OPTIONS AND RECOMMENDATION

RECOMMENDED



APPROVE

Approve a demolition agreement with Garrett Demolition, Inc. in the amount of \$201,462 as presented



DENY

Deny a demolition agreement with Garrett Demolition, Inc. in the amount of \$201,462 as presented

Item C.



RESOLUTION 4A032023GARRETTDEMOLITION

A RESOLUTION OF THE OF THE BURLESON 4A ECONMIC DEVELOPMENT CORPORATION RECOMMENDING APPROVAL OF A CONTRACT BETWEEN THE CITY OF BURLESON AND GARRETT DEMOLITION, INC. FOR THE DEMOLITION OF 130 E RENFRO ST; AUTHORIZING THE CITY MANAGER TO FUND THE CONTRACT WITH FUNDS FROM THE BURLESON 4A ECONMIC DEVELOPMENT CORPORATION; AND PROVIDING AN EFFECTIVE DATE AND REQUESTING THE CITY COUNCIL RATIFY THIS RESOLUTION.

WHEREAS, the Burleson 4A Economic Development Corporation, known as the “Type A Corporation”, incorporated and certified in October 2000 under the authorization of the Development Corporation Act of 1979; and

WHEREAS, the City of Burleson, Texas (“City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, Type A Corporation owns the real property commonly known as 130 E Renfro St (the “Property”) and desires to begin renovation of the Property by demolishing the structures currently on the Property; and

WHEREAS, the City has a proposed agreement with Garrett Demolition, Inc. to demolish the existing structures on the Property (the “Proposed Agreement”); and

WHEREAS, the Type A Corporation desires that the City approve the Proposed Agreement and the Type A Corporation fund all costs under the Proposed Agreement; and

WHEREAS, the Type A Corporation authorizes the City Manager to pay all costs under the Proposed Agreement with Type A Corporation funds; and

WHEREAS, the Type A Corporation desires the City approve this action;

NOW, THEREFORE, BE IT RESOLVED BY THE BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS, THAT:

Section 1

The Type A Corporation hereby recommends approval of the Proposed Agreement between the City and Garrett Demolition, Inc. for the demolition of the structures on 130 E Renfro St.

Section 2

If the City approves the Proposed Agreement, the City Manager is authorized to pay for costs actually incurred under the Proposed Agreement.

Section 3

The findings set forth above in the recitals of this resolution are incorporated into the body of this resolution as if fully set forth herein.

Section 4

The Type A Corporation hereby requests that the City Council of the City of Burleson ratify this resolution and actions of the Type A Corporation. Accordingly, this resolution shall take effect immediately after such ratification.

PASSED, APPROVED, AND SO RESOLVED by the Board of Directors of the Burleson 4A Economic Development Corporation on the ____ day of _____, 20____.

Dan McClendon, Board President
Burleson 4A Economic Development Corporation

ATTEST:

Amanda Campos, Secretary

STANDARD DEMOLITION AGREEMENT BETWEEN CITY OF BURLESON, TEXAS AND CONTRACTOR

This Agreement is made by and between the City of Burleson, Texas, a home-rule municipality ("City") and Garrett Demolition, Inc., whose principle office is located at 232 SW Johnson, Ste. 633, Burleson, TX 76028 (the "Contractor") for Demolition Services described as **130 E. Renfro St, Burleson, Texas 76028** (the "Project"). The City and the Contractor (hereafter collectively the "Parties") agree as follows:

I. CONTRACT AND MODIFICATIONS

1. Contract Documents. The Contract Documents are complementary, and what is called for one shall be as binding as if called for by all. In case of conflict between any of the Contract Documents, priority of interpretation shall be in the following order:

- Standard Demolition Agreement
- Specifications or Technical Specifications
- Plans
- Special Instructions to Bidders
- Special Provisions, if any
- Addenda issued for the solicitation, if any
- Standard Terms and Conditions for Construction
- Supplier Response (Bid)
- Performance Bond, Payment Bond, Special Bond (if any)
- Insurance Requirements

These Contract Documents shall constitute the "Contract" and are all incorporated into this Agreement as if set forth at length herein.

2. Change Orders. Change Orders are written orders executed between the Parties, authorizing, and directing a change in the Work (i.e., an increase or decrease in the quantity of work to be performed or of materials, equipment or supplies to be furnished), or an adjustment in the contract price or contract time, or any combination thereof, as described in Tex. Loc. Gov't Code Ch. 252. A change order will require authorization by City Council if it exceeds the thresholds under Ch. 252. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as amended, the Contract Price and the Contract Time. By execution of a Change Order, the Contractor waives and forever releases any claim against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

Contractor shall have no responsibility for the condition of the soils at the Work Site. Any excavation or other Work required by the City not specified in this Agreement other than the usual and customary excavation and grading shall be agreed to either in a Change Order for an amount in addition to the Contract Price; or, if available, in a Change Order using Contingency Funds within the Engineer's discretion.

3. Contingency Funds. Contingency funds, if available, may be used for changes in plans or specifications that are necessary after the performance of the contract is begun which require a price increase, or if it is necessary to increase or decrease the quantity of work to be performed or of materials, equipment, or supplies to be furnished or

if it is necessary to account for increases in the price of materials, equipment, or supplies where those items do not increase in quantity. Contingency funds may be added to the Project as a lump sum amount which is included in the original contract price approved by the City Council. The Contractor agrees that the addition of contingency funding does not represent an amount due and owing to the Contractor, and the Contractor is not entitled to demand the use of contingency funding as a funding source to pay for any Change Orders or any other claims arising under the Contract. The use of City Council approved, appropriated, and available contingency funds in a Contingency agreement shall not be calculated as an increase or decrease of the original contract price.

II. SCOPE OF WORK

1. Work. The intent of the Plans and Specifications is to prescribe a complete work or improvement which the Contractor undertakes to do in full compliance with the Plans, Specifications, and Contract for the Project. The Contractor shall do all Work as provided in the Contract and shall do such additional Extra Work as may be considered necessary to complete the Work in a satisfactory and acceptable manner. All Work shall conform to the lines, grades, cross-sections, and dimensions shown on the Plans. Any deviation from the Plans which may be required by the exigencies of construction will be determined by the Engineer, or his/her designee, and authorized by the Engineer in writing. The Contractor shall waive any part error or omission in the Plans and Specifications, and the Engineer shall be permitted to make such corrections or interpretations as may be deemed necessary for the fulfillment of the intent of the Plans and Specifications.

Unless otherwise stated in the plans and specifications, the Work will include, but not be limited to, the dismantling, leveling and demolition of all Improvements, including, without limitation, buildings, below-grade foundations, parking areas, driveways, utility installations owned by the City located on or under the Site; removal and proper disposal of all debris resulting from such Work; and proper compaction and grading of the Site following the removal of all improvements and debris. The Work expressly includes identification and remediation, removal and proper disposal of asbestos and polychlorinated bi-phenyls comprising a portion of the improvements (as opposed to any such substances improperly released into the environment). Work will not include landscaping or finish grading unless called for in the plans or specifications.

In the event the Contractor discovers an apparent error or discrepancy, he/she shall immediately call this to the attention of the Engineer in writing.

2. Working Hours/Days. Work shall be done only during the regular and commonly accepted and described working hours between 7:00 a.m. and 6:00 p.m. No work shall be done nights, Saturdays, Sundays, or during any City holidays unless permission is given by the Engineer and upon payment of the City Inspector's overtime costs. Normal working hours for City construction inspections is between 8 a.m. and 5 p.m. Monday through Friday except for City recognized holidays. The term "Day" in this Contract shall mean Calendar Day unless otherwise specified, which shall be a solar day of 24 hours, including all holidays, regardless of weather conditions, material availability, and other conditions not under control of the Contractor.
3. Extra Work. Extra Work is all work that may be required by the Engineer or City to be done by the Contractor to accomplish any changes, alterations, or addition of the work shown on the Plans, or reasonably implied by the Specifications and not covered by the Contractor's Proposal but which is necessary to the proper completion of the Project. The Contractor agrees that the City may make such changes and alterations as the City may see fit, in the line, grade, form, dimensions, Plans or materials for the Work herein contemplated, or any part thereof, either before or after the beginning of the construction, without affecting the validity of the Contract and the accompanying Bonds.
 - a. Approval Required: The Contractor shall not do Extra Work, but only when and as ordered in writing

by the Engineer, subject, however, to the right of the Contractor to require a written confirmation of such Extra Work order by the City. Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefore and the Engineer insists upon its performance, the Contractor shall proceed with the work after making written request for written Change Order and shall keep an accurate account of the "actual field cost" thereof. The Contractor will hereby preserve the right to submit the matter of payment to arbitration, as provided herein.

- b. Compensation for Extra Work. The Parties agree that the compensation to be paid the Contractor for performing Extra Work shall be determined prior to commencing any Extra Work by one or more of the following methods:

- i. By agreed unit prices or;
- ii. By agreed lump sum; or
- iii. If neither (i) or (ii) can be agreed upon before the Extra Work commences, then the Contractor shall be paid the "actual field cost" of the Work, plus fifteen (15) percent. The actual field cost includes the cost of all workmen, such as foremen, timekeepers, mechanics, laborers, and materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used on Extra Work, plus actual transportation charges necessarily incurred together with all necessary incidental expenses incurred directly on account of such Extra Work, including social security, old age benefit and other payroll taxes, public liability and property damage and workmen's compensation, and all other insurance as may be required by any law or ordinance, or directed by the Engineer of City, or agreed to by him/her. The Engineer may direct the form in which accounts of the "actual field cost" shall be kept and the record of these accounts shall be made available to the Engineer. The Engineer may also specify in writing before the Work commences, the method of doing the Work. The type and kind of machinery and equipment shall be determined by using 100 percent, unless otherwise specified, of the latest schedule of equipment which shall be incorporated into the written order for Extra Work. Except where the Contractor's camp or field office must be maintained primarily on account of such Extra Work, then the cost to maintain and operate the same shall be included in the "actual field cost."

- c. Existing Structures and Utilities: The location of gas mains, water mains, conduits, sewer, and other utilities or improvements is unknown, and the City assumes no responsibility for failure to show them in their exact locations. It is mutually agreed that such failure will not be considered sufficient basis for claims for additional compensation for Extra Work or for increasing the pay quantities in any manner whatsoever.

4. Changes in Work. The City reserves the right to alter the quantities of Work, or to extend or shorten the Work, as necessary, and the Contractor shall perform the Work as altered. No allowance will be made for any change in anticipated profits nor shall such changes be considered as waiving or invalidating any conditions or provisions of the Contract and bonds.
5. Demolition Permit and Notice. In addition to other Contract requirements, the Contractor shall obtain a demolition permit prior to commencing the demolition of any structure in the City. Prior to issuance of the Notice to Proceed with Demolition, Contractor shall ensure that all meters, service loops, lines, cables and instruments shall be disconnected, abandoned and/or removed prior to commencement of any demolition and/or site clearance. If Contractor finds that any such items have not been disconnected, abandoned and/or removed, Contractor shall not proceed with the demolition and/or site clearance until such items have been disconnected, abandoned and/or removed. It is the duty of the owner and/or Contractor to contact all utility companies and ensure that all utilities have been disconnected.

Contractor shall submit a State demolition notification followed by a 10-day waiting period. This is required prior to any demolition and/or abatement activity whether there is asbestos present or not. All demolition and abatement activities must be done with wet methods.

When required by EPA Regulations, the Contractor shall provide the EPA with written notice of intention to remove asbestos and this notice shall include all EPA required information. This written notice shall be sent by certified mail, return receipt requested. The City shall be given a copy of this written notice and a copy of the EPA returned receipt prior to the start of asbestos removal. Contractor shall also provide all notices, plans, and other documents as required under the asbestos regulations and shall provide the City with a copy of all such notices. Contractor shall provide the City with copies of all truck asbestos hauling permits, dumping receipts, monitoring test results, and any and all documentation as may be required by the asbestos regulations and pay any required fees.

6. Costs of Materials. Unless otherwise stipulated, the Contractor shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, lights, power, fuel, transportation, and other facilities necessary for the execution and completion of the Work.
7. Inspections of Work and Materials. The parties agree that the Engineer may inspect all Work and materials included herein. The Engineer may stop the Work whenever such stoppage may be necessary to ensure the proper execution of the Contract. The Parties further agree that the Engineer is hereby authorized to appoint subordinate engineers, supervisors, or inspectors as the Engineer may deem proper to inspect the materials furnished and the work done under this Agreement, and to see that the said material is furnished, and said work is done in accordance with the Plans and Specifications. The Contractor shall regard and obey the direction and instruction of any subordinate engineers, supervisors, or inspectors so appointed, when such directions and instructions are consistent with the obligations of the Contract and the accompanying Plans and Specifications, as determined by the Engineer.
8. Warranty of Work. The Warranty Period is two (2) years, commencing on the date of Final Completion and Acceptance of the Work by the City. ~~The warranty provided in this section is a guarantee by the Contractor that is made in addition to the Maintenance Bond, and the warranty shall not limit the City's rights or remedies under the Maintenance Bond. The Contractor warrants and guarantees to the City during the Warranty Period that all labor furnished, and Work performed under the Contract has yielded only first-class results, that materials and equipment furnished are of good quality and new, and that the Work is of good quality, free from faults and defects and in strict conformance with this Contract. All Work not conforming to these requirements may be considered defective, and the Contractor shall promptly repair or replace such defective Work upon demand by the City without any further objection by the Contractor. All manufacture's guarantees or warranties shall be assigned to the City of Burleson upon installation and Final Completion and Acceptance of the Work by the City. This obligation shall survive acceptance of the work under the Contract and termination of the Contract.~~
9. Survey. If the Project is near the City's property boundary, the City will identify property lines to the Contractor. If any party has any doubt about the location of the property lines, the City shall provide Contractor with a survey done through a licensed surveyor. Upon request of the Contractor, the City will provide Contractor copies of any covenants, conditions, or restrictions that affect the Work on the Project.
10. Salvage and Ownership. Contractor shall have salvage rights to all components of the improvements to the Site, subject to the Contract provisions and except only any asbestos containing materials, equipment containing polychlorinated bi-phenyls or any other Hazardous Materials, which must be disposed of as provided for herein. No right, title, property or interest in and to the land on which the improvements stand is

created, assigned, conveyed, granted, or transferred to Contractor, or any other persons, except only the license to enter onto the Property to demolish and remove the improvements in strict accordance with the Contract. If the City terminates this Agreement, title to the Improvements remaining on the Site as of the date of termination revert to and vest in the City without release or prejudice to claims between the parties.

11. Safety. Contractor agrees that the Contractor will take proper precautions to prevent injury or damages to persons or property, including without limitation providing, erecting, and maintaining all reasonable, necessary, or required safety devices for its employees and flagmen, erecting proper barricades and other safeguards around its Work, and posting danger signs and other warning devices where warranted by the nature of the existing condition of the Work as detailed in the plans and specifications and Standard Terms and Conditions for Construction. In any event, Contractor shall promptly and properly replace any safety devices provided by others or Contractor and which are disturbed by Contractor's Work.

Explosives or hazardous materials are prohibited unless specifically called for in the Plans and Specifications. When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel and in accordance with all applicable Legal Requirements.

12. Environmental Regulations. Contractor shall abide by all applicable environmental laws in performance of the demolition services and related to hazardous materials. Contractor shall take no action or inaction that exposes the City to liability or non-compliance or other findings or damages, penalties or fines related thereto. In the event a regulatory agency assesses either a monetary or non-monetary fine or penalty for Contractor's noncompliance, the Contractor shall reimburse the City for all associated costs. Contractor shall remove all hazardous material and waste upon completion of the contract. Abandoned waste shall be managed as "unknown waste", and the Contractor shall bear the cost of any analytical, disposal, or other costs incurred. The City of Burleson landfill does not accept asbestos containing materials and the Contractor is responsible for disposing of the material at an approved disposal facility.

The City endeavors to perform a Phase I Environmental Study prior to Work commencement. The City will make best efforts to notify the Contractor that it anticipates that the improvements to be demolished contain various asbestos containing materials, lead paint and/or other Hazardous Materials, including but not limited to, transformers and/or other electrical equipment containing polychlorinated biphenyls which are located at the Site. If the Contractor encounters Hazardous Materials or if Contractor or anyone for whom the Contractor is responsible creates a Hazardous environmental condition, Contractor shall immediately secure or otherwise isolate such conditions, stop all Work in connection with such condition and in any area affected thereby (except in an emergency) and notify the City immediately (and promptly thereafter confirm in writing). Contractor shall be responsible for Hazardous environmental conditions created with any materials brought to the Project by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible. Receiving of a report from the City, whether oral or written, regarding the presence or absence of asbestos or other Hazardous Materials, receiving no report, or receiving an incomplete report, does not alleviate Contractor of this duty. Contractor shall warrant to the City that it has experience in handling Hazardous Materials, has inspected the Site for the presence of Hazardous Materials and has included the cost of remediation and disposal of such Hazardous Materials in the Contract Price.

Contractor shall abide by all EPA regulations to prevent emissions of particulate asbestos material to the outside air. Prior to the start of work, Contractor shall provide the City with a copy of Contractor's asbestos removal procedure. Contractor shall provide all personal protective equipment, as required by OSHA Standards 29 C.F.R. §§ 1910.1001, for its employees. Contractor shall provide all personal protective equipment to City's personnel who may be required to inspect the work. Contractor shall immediately report a release to all appropriate agencies and to the City in the event a release occurs during the performance of the Work that requires immediate reporting to one or more federal, state or local agencies pursuant to applicable

law including but not limited to the Emergency Planning and Community Right-To-Know Act of 1986, CERCLA (Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.), the Clean Water Act and the Oil Pollution Act of 1990. The term, "immediate reporting" shall mean those instances where reporting is required within 15 minutes of the incident such that it is not practical to contact the City prior to making such report. Otherwise, Contractor shall promptly advise the City in writing of any condition which it reasonably believes requires reporting. Contractor shall, subject to City review, make such reports and shall provide the City with copies of any such reports.

"Applicable Environmental Laws" means any federal, state or local statute, law, rule, regulation, ordinance, code, policy or rule of common law of any Governmental Entity now in effect and in each case as amended from time to time, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree, or judgment, relating to the environment, human health or hazardous materials, including, without limitation, CERCLA; The Hazardous Materials Transportation Act of 1994, as amended, 49 U.S.C. § 5101, et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300(f), et seq., the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136, et seq., the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, et seq., orders, rules and regulations issued by the Texas Commission on Environmental Quality, and the ordinances, rules, and permits of the City of Burleson, Texas, and any other similar federal, state or local laws, or any federal, state, or local laws relating to the environment or to hazardous or waste materials.

"Hazardous Materials" means: (A) any substance, material, or waste that is included within the definitions of "hazardous substances", "hazardous materials", "hazardous waste", "toxic substances", "toxic materials", "toxic waste", or words of similar import in any Environmental Law; (B) the substances listed as hazardous substances by the United States Department of Transportation (or any successor agency) (49 C.F.R. 172.101 and amendments thereto) or by the EPA (40 C.F.R. 302 and amendments thereto); and (C) any substance, material, or waste that is petroleum, petroleum related, or a petroleum by-product, asbestos or asbestos containing material, lead or lead containing materials, polychlorinated biphenyls, flammable, explosive, or radioactive materials, Freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical.

III. COMPENSATION

1. Contract Price. The City shall pay, and the Contractor shall accept, as full and complete payment for all of the Work required herein, the lump sum of \$ 201,462.00. The sum set forth in this paragraph shall constitute the Contract Price which shall not be modified except by Change Order as provided in this Contract.
2. Retainage. The City may withhold Retainage in the amount of five percent (5%) of the Contract price, and the rate of Retainage may not exceed five percent (5%) for any item in a bid schedule or schedule of values for the Project, including materials and equipment delivered on site to be installed. On Final Completion and acceptance, retainage will be released to Contractor so long as there is not a bona fide dispute under this Agreement.
3. Schedule of Values. Within ten (10) calendar days of the effective date hereof, the Contractor shall submit to the City and to the Engineer a Schedule of Values allocating the Contract Price to the various portions of the Work. The Contractor's Schedule of Values shall be prepared in such form, with such detail, and supported by such data as the Engineer or the City may require to substantiate its accuracy. The Contractor shall not imbalance its Schedule of Values nor artificially inflate any elements. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Schedule of Values shall be used only as a

basis for the Contractor's Applications for Payment and shall only constitute such basis after it has been acknowledged in writing by the Engineer and the City.

4. Progress/Partial Payment. On or before the 15th of each month the Engineer shall submit a statement showing as completely as practicable the total value to the Work done by the Contractor up to and including the last day of the preceding month. With approval from the Engineer, said statement may also include the value of all sound materials delivered on the site of the Work that are to be fabricated into the Work, providing the Contractor can produce a paid receipt for the materials. Upon receipt of an accepted and approved payment application, the City shall then pay the Contractor within thirty-one (31) days of the last day of the preceding month the total amount of the Engineer's statement, less Retainage withheld by the City until Final Payment, and further less all previous payments and all further sums that may be retained by the City under the terms of this Agreement.
5. Substantial Completion. If the Contractor meets that stage in the progression of the Work when the Work is sufficiently complete in accordance with the Contract, and as determined by the City in the City's sole discretion, such that only final punch-list items or minor work remains and the Contractor can achieve Final Completion within the time approved in the Certificate of Substantial Completion, then the Contractor will be deemed to be substantially complete.
 - a. Certificate. When the Contractor believes that the Work is substantially complete, the Contractor shall submit to the Engineer a final punch-list of items to be completed or corrected. When the Engineer, on the basis of an inspection, determines that the Work is in fact substantially complete, the Engineer will prepare a Certificate of Substantial Completion, which shall (1) establish the date of Substantial Completion; (2) state the responsibilities of the Owner and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance; and (3) fix the time within which the Contractor shall complete the items listed therein, which shall not exceed thirty (30) days. If the Contract Time is less than thirty (30) days, the deadline for the final punch-list items shall be within the number of days remaining on the Contract unless there is an approved Change Order. At the time of Substantial Completion, if the Contract has greater than thirty (30) days remaining, the final punch list items must still be completed within the thirty (30) day period. The Certificate of Substantial Completion shall be submitted to the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.
 - b. Payment. Upon Substantial Completion of the Work, and execution by both the City and the Contractor of the Certificate of Substantial Completion, the City may pay the Contractor an amount sufficient to increase total payments to the Contractor to one hundred percent (100%) of the Contract Price less any Retainage withheld for the reasonable cost, as determined by the Engineer, for completing all incomplete Work, including punch-list items, and correcting and bringing into conformance all defective and nonconforming Work, and resolving all unsettled bona fide disputes and other claims.
 - c. Delay. It is understood, however, that in case the Contractor achieves Substantial Completion and some unexpected and unusual delay occurs due to a force majeure event or no fault or neglect on the part of the Contractor as determined by the City, the City may, upon written recommendations of the Engineer, release a reasonable and equitable portion of the Retainage to the Contractor; or the Contractor at the City's option, may be relieved of the obligation for fully completing the Work, and thereupon, the Contractor shall receive payment of the balance due him or her under the Contract subject only to the conditions stated under "Final Payment."
6. Final Completion. The Contract will be considered fulfilled, save as provided in any maintenance stipulations, bond, or by law, when all the Work has been 100% completed, the final inspection made by the Engineer,

and final acceptance and final payment made by the City.

- a. Notice of Completion. Within five (5) business days after the Contractor has given the Engineer written notice that the Work has been 100% finally completed.
 - b. Final Inspection: The Engineer will make final inspection of all work included in the Contract as practicable after the work is completed and ready for acceptance. If the work performed by the Contractor is not acceptable to the Engineer at the time of such inspection the Engineer will inform the Contractor as to the particular defect(s) before final acceptance will be made.
 - c. Notice of Acceptance. The Engineer or his/her designee shall inspect the Work and within said time, if the Work is found to be 100% complete in accordance with the Contract Documents, the City shall issue to the Contractor a Notice of Acceptance within ten calendar (10) days. Upon issuance of the Notice of Acceptance, the Engineer shall proceed to make final measurements and prepare a final statement of the value of all Work performed and materials furnished under the terms of the Agreement and shall certify same to City. If the Engineer is unable to issue its final Notice of Acceptance and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s) which cost may be deducted by the City from the Contractor's final payment.
 - d. Close-out Documents. The Contractor shall provide the City with a notarized affidavit that all payrolls, invoices for materials and equipment, all bills and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied ("Notarized Affidavit"). The Contractor shall further provide releases and unconditional waivers of lien from all subcontractors of the Contractor and any and all other parties required by the Engineer or the City ("Unconditional Lien Waivers"). If any third party fails or refuses to provide Unconditional Lien Waivers as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien and release and defend and indemnify the City from any and all liability in accordance with this Contract.
 - e. Final Payment. The City shall pay the Contractor within thirty (30) days after the date of the Notice of Acceptance and receipt of the Notarized Affidavit and Unconditional Lien Waivers. Acceptance of Final Payment shall constitute a waiver of any and all claims against the City by the Contractor, including any claims for delays, except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.
 - f. Effect of Obligations. Neither the Notice of Acceptance nor the final payment, nor any provisions in the Contract Documents, shall relieve the Contractor of the obligation for the fulfillment of any warranty, bond, or other obligation, which may be required by the Contract Documents, or which may survive the termination and completion of the Contract. If no bona fide dispute or other default, breach, or claim exists under this Contract or applicable law, the City shall release any Retainage withheld upon application for Final Payment.
7. Payments Withheld: The City may, on account of subsequently discovered evidence, bona fide dispute, or Contractor's unexcused delay or abandonment, withhold or nullify the whole or part of any certificate, amounts due, or request for payment to such extent as may be necessary to protect itself from loss on account of any or each of the following:
- a. Defective, rejected, unauthorized, or abandoned work not remedied by Contractor;
 - b. Claims filed or reasonable evidence indicating probable filing of claims;

- c. Failure of the Contractor to make payments properly to subcontractors or for material or labor;
 - d. Damage to another contractor, the City or other third party to whom the City may/may not be liable;
 - e. Contractor bankruptcy, insolvency, notification of any tax liens;
 - f. Persistent Delays or Liquidated Damages owed to the City;
 - g. Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price; or
 - h. Evidence that the Work will not be completed in the Contract Time required for final completion.
8. Subcontractors to be Paid. The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled within ten (10) days of City's payment. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty or obligation, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

IV. PROSECUTION, PROGRESS, DELAY, AND TERMINATION

1. Prosecution of the Work: Time is of the essence in this Contract. The Contractor shall complete the Work to be performed under this Contract within the Contract Time and in accordance with the Plans and Specifications and shall conduct the work in such a manner and with sufficient equipment, materials, and labor as is necessary to ensure its completion. The sequence of all construction operations may otherwise be directed by or approved by the Engineer in writing. Such written direction or approval by the Engineer shall not relieve the Contractor from the full responsibility of the complete performance of the Contract. Should the prosecution of the work be discontinued by the Contractor, the Contractor shall notify the Engineer at least twenty-four (24) hours in advance of resuming operation.
2. Order of Completion. Unless otherwise specifically provided in the Contract Documents, the Contractor shall be allowed to prosecute the Work at such time and seasons, in such order of precedence, and in such a manner as shall be most conducive to economy of construction; provided that, the order and the time of prosecution shall be such that the Work shall be completed as a whole and in part, in accordance with this Contract, the Plans and Specifications. However, when the City is having other work done, either by Contractor or by the City's own force, the Engineer may direct the order and timing of the Contract, so that conflict will be avoided, and the construction of the various works being done for the City shall be harmonized.
3. Contract Time. The Contractor shall complete the Work as a whole and in part, in accordance with the time of completion designated in the Bid and/or Special Instructions to Bidders. The Contractor shall submit a weekly schedule, which shall show the order in which the Contractor will start the several parts of the Work, and estimated dates of completion of the several parts. The Engineer may also request the Contractor to submit additional schedules at such times as the Engineer may determine to be necessary to ensure timely completion of the Work. Failure by the Contractor to strictly comply with these provisions shall constitute a material breach of this Contract.
4. Extension of Time: Should the Contractor be delayed in the completion of the Work by any act or neglect of the City or Engineer, or any employee of either, or by other Contractors employed by the City, or by changes ordered in the Work, or by strikes, lockouts, fires, and unusual delays by common carriers, or unavoidable cause or causes beyond the Contractor's control, as determined in the City's sole discretion, or by any cause which the Engineer may decide justifies delay, then an extension of the time may be allowed for completing the Work, sufficient to compensate for the delay, the amount of the extension to be determined by the

Engineer; provided, however that the Contractor shall give the Engineer notice in writing of the cause of such delay within seven (7) days of the beginning of the delay, along with any efforts used to minimize the impact on this Project.

5. Hindrances and Delays. Once the work order is transmitted to the Contractor, the Contractor shall devote both manpower and equipment to the project on a continuous basis each and every workday in sufficient quantity to bring the project to Final Completion without delay. The Engineer shall be the sole judge of whether the Contractor has devoted both manpower and equipment to the project on a continuous basis to bring the project to completion.
 - a. No Contractor Damages. No claims shall be made by the Contractor for damages resulting from hindrances or delays from any cause (except where the Work is stopped by order of the City) during the progress of any portion of the Work. In case said Work shall be stopped by an act of the City, then such expense as in the judgment of the Engineer, caused by such stoppage of said Work shall be paid for by the City to the Contractor, pursuant to a valid written Change Order.
 - b. No Future Bids. Failure to comply with the contractual provisions of a City of Burleson Construction Contract or failure to diligently pursue a project to completion shall be a basis for the City Council rejecting a future bid from the Contractor.

6. **TIME AND LIQUIDATED DAMAGES.** THE TIME OF COMPLETION OF THE CONTRACT IS OF THE ESSENCE. THE AMOUNT OF TIME SPECIFIED IN THE CONTRACT TO COMPLETE THE WORK TO FINAL COMPLETION WILL BE STRICTLY ENFORCED. LIQUIDATED DAMAGES WILL BE ASSESSED AGAINST THE CONTRACTOR FOR FAILURE TO COMPLETE THE PROJECT TO TOTAL (100%) FINAL COMPLETION WITHIN THE CONTRACT TIME. THE CONTRACTOR AND SURETY AGREE THAT THE LIQUIDATED DAMAGES PROVISIONS IN THIS CONTRACT ARE REASONABLE, FACIALLY VALID, NOT A PENALTY, AND DO NOT OTHERWISE OPERATE AS A PENALTY. THE CONTRACTOR AGREES THAT FOR PURPOSES OF TEXAS GOV'T CODE CH. 2252, A BONA FIDE DISPUTE EXISTS IF LIQUIDATED DAMAGES ARE ASSESSED UNDER THIS CONTRACT AND THE CITY MAY WITHHOLD RETAINAGE TO SATISFY LIQUIDATED DAMAGES OWED TO THE CITY HEREUNDER.

FOR EACH AND EVERY CALENDAR DAY **THAT ANY** WORK SHALL REMAIN INCOMPLETE AFTER THE EXPIRATION OF THE CONTRACT TIME AS SPECIFIED IN THE PROPOSAL AND CONTRACT, PLUS ANY AUTHORIZED EXTENSION OF TIME GRANTED IN WRITING BY THE CITY, OR AS INCREASED BY EXTRA WORK AUTHORIZED BY CHANGE ORDER AFTER THE CONTRACT IS SIGNED, THE SUM PER CALENDAR DAY OF \$125.00 (AN AMOUNT NOT TO EXCEED \$1000.00 PER DAY), WILL BE DEDUCTED FROM THE MONEYS DUE THE CONTRACTOR OR MAY BE CHARGED AGAINST THE CONTRACTOR, NOT AS A PENALTY, BUT AS LIQUIDATED DAMAGES.

THE SUM OF MONEY THUS DEDUCTED OR CHARGED FOR SUCH DELAY, FAILURE, OR NONCOMPLETION IS NOT TO BE CONSIDERED AS A PENALTY, BUT SHALL BE DEEMED, TAKEN AND TREATED AS REASONABLE LIQUIDATED DAMAGES, REPRESENTING A REASONABLE ESTIMATE OF DAMAGES, OR A REASONABLE FORECAST OF JUST COMPENSATION, BECAUSE THE HARM CAUSED BY THE BREACH IS INCAPABLE OR EXTREMELY DIFFICULT OF ESTIMATION DUE TO THE PUBLIC NATURE OF THE WORK AND THE LIKELY LOSS TO BE SUSTAINED BY THE CITY AND THE GENERAL PUBLIC, ESTIMATED AT OR BEFORE THE TIME OF EXECUTING THIS AGREEMENT. FURTHER, THE PARTIES ACKNOWLEDGE THE CITY'S PARAMOUNT PURPOSE AND DUTY IS TO PROTECT THE PUBLIC FISC AND THE GENERAL HEALTH, SAFETY, AND WELFARE OF THE PUBLIC,

AND THE PARTIES AGREE THAT ANY ALLEGED DISPARITY BETWEEN ACTUAL AND LIQUIDATED DAMAGES SHALL BE CONSTRUED AS BRIDGEABLE AND ACCEPTABLE AS A MATTER OF PUBLIC POLICY AND SHALL BE CALCULATED AND CONSTRUED IN FAVOR OF THE CITY.

7. Abandonment by Contractor: In case the Contractor should abandon and fail or refuse to prosecute, progress, or resume the Work within seven (7) calendar days after written notification from the City or the Engineer, then, where a performance bond exists, the Surety on the bond may be notified in writing and directed to complete the Work, and a copy of said notice shall be delivered to the Contractor. After receiving said notice of abandonment, the Contractor shall not remove from the Work or Project any materials, equipment, tools, or supplies then on the site, but the same, together with any materials and equipment and under Contract for the Work may be held for use on the Work by the City or the Surety on the performance bond, or another contractor in completion of the Work; and the Contractor shall not receive any rental or credit, it being understood that the use of such equipment and materials will mitigate the cost to complete the Work.
8. Suspensions. If it should become necessary to stop the Work for an indefinite period, the Contractor shall protect the Work and store all materials in such a manner that they will not obstruct or impede the public unnecessarily nor become damaged in any way and the Engineer shall take every precaution to prevent damage or deterioration.
 - a. Weather. The Engineer shall have the authority to suspend the Work wholly or in part for such period or periods as the Engineer may deem necessary due to unsuitable weather conditions as are considered unfavorable for the suitable prosecution of the Work.
 - b. Court Order. The Contractor shall suspend such part or parts of the Work ordered to be suspended by a court of competent jurisdiction and will not be entitled to additional compensation by virtue of such court order. Neither will Contractor be liable to the City in the event the Work is suspended by court order, unless the court order is caused in whole or in part by the Contractor's negligent or willful acts or omissions.
9. Termination for Convenience. The City may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The City shall give a written, five (5) day notice of such termination to the Contractor specifying when termination becomes effective. The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work and terminate outstanding orders and subcontracts when such termination becomes effective, settling all third-party liabilities and claims arising out of the termination of subcontracts and orders. The Contractor shall transfer title and deliver to the City such completed or partially completed Work and materials, equipment, parts, fixtures, information, manufacturer's guarantees, and contract rights as the City may determine. The Contractor shall submit a claim to the City for amounts due herein within ninety (90) days from the effective date of termination, or the Contractor waives any claim for damages in accordance with TCPRC Ch. 16 and TGC Ch. 271.
10. Termination for Cause. If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, supply enough properly skilled workers, supervisory personnel, proper equipment, or materials, or if the Contractor fails to make prompt payment to Subcontractors or for materials or labor, or disregards any laws, ordinances, rules, regulations or orders of any public authority or governmental entity having jurisdiction, or otherwise violates a material provision of this Contract, then the City may by written notice to the Contractor, without prejudice to any other right or remedy, immediately terminate the Contract and take possession of the site and of all materials, equipment, tools, construction equipment, and machinery thereon owned by the Contractor, and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the Contract is terminated for cause, the Contractor shall pay the cost of finishing the work, including

compensation for the Architect's or Engineer's additional services and expenses made necessary thereby. This obligation for payment shall survive the termination of the Contract. In the event any court of competent jurisdiction finds the termination to be without cause, then termination will default to Termination for Convenience.

V. DEFECTS AND REMEDIES

1. Defective or Rejected Materials/Goods. If the Work or any part thereof, or any materials brought on the site of the Work for use in the Work or selected for the same, shall be deemed by the Engineer, as unsuitable or not in conformity with the Specifications, the Contractor shall, after receipt of written notice from the Engineer, immediately remove such materials and rebuild or otherwise remedy such Work within three (3) business days so that it shall be in full accordance with this Contract. No failure or omission of the Engineer to reject defective work or materials shall release the Contractor from the obligations to at once tear out, remove and properly replace the same at any time prior to final acceptance upon the discovery of said defective work or materials, except in event the material has been once accepted by the Engineer, such acceptance shall be binding on the City, unless it can be clearly shown that such materials furnished do not meet the Specifications for this Work.
2. Defective or Rejected Work. Any questioned Work may be ordered taken up or removed for reexamination by the Engineer, prior to final acceptance, and if found not in accordance with the Specifications for said Work, all expense of removing, reexamination and replacement shall be borne by the Contractor; otherwise the expenses incurred shall be allowed as Extra Work, and shall be paid for by the City, provided that, where inspection or approval is specifically required by the Specifications prior to performance of certain Work, should the Contractor proceed with such Work without requesting prior inspection and approval, the Contractor shall bear all expense of taking up, removing and replacing his/her Work if so directed by the Engineer. All work which has been rejected shall be repaired at Contractor's expense, or if it cannot be repaired satisfactorily, it shall be removed and replaced at the Contractor's expense.
3. Defective Plans or Specifications. Contractor must, within a reasonable time of learning of a defect, inaccuracy, inadequacy, or insufficiency in the plans, specifications, or other design documents, disclose in writing to the City the existence of any known defect in the plans, specifications, or other design documents that is discovered by the Contractor, or that reasonably should have been discovered by the Contractor using ordinary diligence, before or during construction.
4. Unauthorized Work. Defective work, work done without line and grade having been given, work done out of the lines or not in conformity with the grades shown on the Plans or as given, save as herein provided, work done without proper inspection, or any extra or unclassified work done without written authority and prior agreement in writing as to prices shall be done at the Contractor's expense. All expense of removing, reexamination and replacement of Unauthorized Work shall be borne by the Contractor.
5. Contractor's Failure to Remedy. Upon failure of the Contractor to repair satisfactorily or to remove and replace, if so directed, defective, rejected, or unauthorized work or materials immediately after receiving notice from the Engineer or the City, the Engineer or the City will, after giving reasonable notice to the Contractor, have the authority to cause the defective, rejected, or unauthorized work or materials to be remedied or removed and replaced by the Surety, the City, or by any third-party contractor, all at the City's sole discretion without any duty to mitigate costs, and to charge the costs against the Contractor, or deduct the cost from any moneys due or to become due the Contractor, without the need for a written Change Order deducting the same. Any act, failure, refusal, omission, event, occurrence or condition constituting a material breach of this Contract shall not imply that any other, non- specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

In case of a failure on the part of the Contractor to restore such property or make good such damage or injury when a nuisance or hazardous condition results, the Engineer may without notice when a nuisance or hazardous condition results, proceed to repair, rebuild or otherwise restore such property as may be determined necessary by Engineer, and the cost thereof will be deducted from any moneys due or to become due the Contractor under the Contract.

6. Public Convenience and Safety Remedy. The City reserves the right to remedy any neglect on the part of the Contractor in the interest of public convenience and safety which may come to its attention, after twenty-four (24) hours' notice in writing to the Contractor, save in cases of emergency, when it shall have the right to remedy any neglect without notice; in either case, the cost of such work done by the City shall be deducted from moneys due the Contractor. Any action by City under this provision shall not abrogate Contractor's duties. City undertakes no obligation to inspect the work site for neglect of the public convenience.
7. Failure to Comply with Laws. The City may automatically terminate this Contract without liability to the City if the Contractor performs any Work knowing it to be contrary to any laws, ordinances, rules, and regulations.
8. Failure to Provide Adequate Warnings. The Contractor shall provide, maintain, and be responsible for all necessary barricades, warning lights, or signs for the Project as provided in the Standard Terms and Conditions for Construction and Texas Manual on Uniform Traffic Control Devices and by instruction of the Engineer. If the Contractor fails to furnish precautionary measures as required, until final completion and acceptance of Work or until directed by the Engineer, the Contractor shall be held responsible for all damage to the Work or injury to users of the roadway due to the failure of barricades, signs, lights, and watchmen or other required provisions to protect it, and whenever evidence is found of such damage, the Engineer may order the damaged portion immediately removed and replaced by the Contractor at his cost and expense. Contractor will be required to pay any judgment, with costs, including reasonable attorney's fees, which may be obtained against the City growing out of such injury or damage. Contractor is responsible for providing photographic evidence of the warning systems in place to the Engineer within 24 hours of installation.
9. Failure to Protect and Restore Property: Where the Work passes over or through private property, the City will provide such rights-of-way or temporary access easements as necessary. The Contractor shall notify the proper representatives of any public utility, corporation, any company or individual not less than forty-eight hours in advance of any work which might damage or interfere with the operation of their or his/her property along or adjacent to the Work. The Contractor shall be responsible for all damage or injury to any person or property of any character, except such as may be due to the provisions of the Contract Documents or caused by agents or employees of the City, by reason of any negligent act or omission on the part of the Contractor, or defective work or materials, or due to Contractor's failure to reasonably or properly prosecute the work and said responsibility shall not be released until the work shall have been completed and accepted. When and where any such damage or injury is done to public or private property on the part of the Contractor, the Contractor shall restore or have restored at the Contractor's own cost and expense such property to a condition similar or equal to that existing before such damage was done, by repairing, or otherwise restoring as may be directed, or the Contractor shall make good such damage or injury in a manner acceptable to the owner or the Engineer.

INDEMNIFICATION. THE CONTRACTOR (THE "INDEMNIFYING PARTY"), SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY'S OFFICERS, AGENTS, COUNCIL MEMBERS, EMPLOYEES, ATTORNEYS AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE "CITY INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) MADE BY ANY THIRD-PARTY, TO THE EXTENT ARISING FROM OR RELATED TO THE SERVICES PROVIDED BY THE CONTRACTOR

PURSUANT TO THIS CONTRACT (COLLECTIVELY, "INDEMNIFIED CLAIMS"), REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY CONTRACTOR OR THE CITY. THE INDEMNITIES IN THIS CONTRACT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF CONTRACT, BREACH OF WARRANTY, VIOLATION OF STATUTE OR COMMON LAW, VIOLATIONS OF THE STATE OR FEDERAL CONSTITUTIONS, OR ANY OTHER CONDUCT WHATSOEVER OF THE CITY INDEMNIFIED PARTIES. CONTRACTOR SHALL GIVE TO THE CITY REASONABLE NOTICE OF ANY SUCH CLAIMS OR ACTIONS. CONTRACTOR SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE CITY IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS CONTRACT. THIS INDEMNIFICATION IS NOT INTENDED TO APPLY TO CLAIMS MADE AGAINST THE CITY INDEMNIFIED PARTIES RESULTING FROM NEGLIGENT ACTS OF CITY EMPLOYEES COVERED UNDER SECTION 101.021 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE.

THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT CITY IS ENTERING THIS CONTRACT PURSUANT TO ITS GOVERNMENTAL FUNCTION AND THAT NOTHING CONTAINED IN THIS CONTRACT SHALL BE CONSTRUED AS CONSTITUTING A WAIVER OF THE CITY'S GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY, WHICH IS EXPRESSLY RESERVED TO THE EXTENT ALLOWED BY LAW. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT TO THE EXTENT THIS CONTRACT IS SUBJECT TO THE PROVISIONS OF SUBCHAPTER I OF CHAPTER 271, TEXAS LOCAL GOV'T CODE, AS AMENDED, THE CITY'S IMMUNITY FROM SUIT IS WAIVED ONLY AS SET FORTH IN SUBCHAPTER I OF CHAPTER 271, TEXAS LOCAL GOV'T CODE. FURTHER, THE PARTIES AGREE THAT THIS CONTRACT IS MADE SUBJECT TO ALL APPLICABLE PROVISIONS OF THE TEXAS CIVIL PRACTICES AND REMEDIES CODE ("CPRC"), INCLUDING BUT NOT LIMITED TO ALL DEFENSES, LIMITATIONS, AND EXCEPTIONS TO THE LIMITED WAIVER OF IMMUNITY FROM LIABILITY PROVIDED IN CHAPTER 101 AND CHAPTER 75.

TO THE EXTENT THE CONTRACT IS FOR ENGINEERING OR ARCHITECTURAL SERVICES, IT IS THE EXPRESS INTENTION OF THE PARTIES THAT THIS SECTION ONLY PROVIDE INDEMNIFICATION TO THE EXTENT ALLOWED BY THE TEXAS LOCAL GOVERNMENT CODE, SECTION 271.904 AND SHALL BE CONSTRUED TO THAT EFFECT.

VI. MISCELLANEOUS

1. **Arbitration.** All questions of dispute under this Agreement that cannot be resolved between the Engineer and Contractor shall be submitted to the City Council at the request of either party and the decision of the City Council shall be final and unappealable.
2. **Notices.** Written Notice shall be deemed to have been duly served if delivered in person to an individual, officer, legal representative, or member of the party for whom it is intended, or if delivered at or sent by registered mail to the last business address known to the person giving the notice.

3. Waiver. No right or remedy granted herein or reserved to either party is exclusive of any other right or remedy provided or permitted by law or equity, but each shall be cumulative of every other right or remedy given hereunder. The waiver or failure of either party to exercise, in any respect, any right provided for in this Contract shall not be deemed a waiver of any further right under this Contract.
4. Funding. This Contract is subject to the appropriation of public funds by the City in its budget adopted for any fiscal year for the specific purpose of making payments pursuant to this Contract for that fiscal year. The obligation of the City pursuant to this Contract in any fiscal year for which this Contract is in effect shall constitute a current expense of the City for that fiscal year only and shall not constitute an indebtedness of the City of any monies other than those lawfully appropriated in any fiscal year. In the event of non-appropriation of funds in any fiscal year to make payments pursuant to this Contract, this Contract may be terminated without any liability to either party.
5. Insurance. Contractor shall carry and maintain insurance. An example of required coverage is attached hereto and made a part of this Agreement and shall provide continuing insurance under the same terms and conditions of this Agreement for three (1) years after Final Completion of the Project.
6. Severability. If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are held for any reasons to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.
7. Venue. This Contract is to be construed, governed, and enforced under the laws of the State of Texas. The obligations of all parties under a contract awarded through this solicitation are performed in Johnson County, Texas, and if legal action is necessary to enforce same, exclusive venue shall be within Johnson County, Texas.

IN WITNESS WHEREOF, the parties have executed this Agreement this the _____ day of _____, 20__.

CITY OF BURLESON

Garrett Demolition, Inc

CONTRACTOR

By: _____

CHRIS FLETCHER, MAYOR

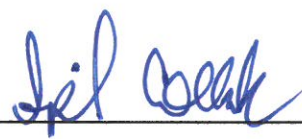
By:  (sign)

Bradley J Garrett (print)

ATTEST:

ATTEST:

AMANDA CAMPOS, CITY SECRETARY

 (sign)

April Collmar (print)

APPROVED AS TO FORM:

ALLEN TAYLOR, CITY ATTORNEY

STANDARD CONTRACT AND ACKNOWLEDGMENT

CORPORATE ACKNOWLEDGMENT

THE STATE OF Texas §
COUNTY OF Johnson §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared:

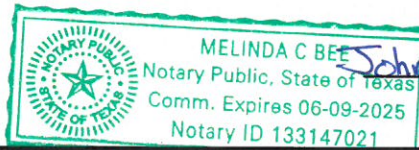
Bradley J Garrett (Print Name) President (Print Title)

of the corporation known as Garrett Demolition, Inc, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of said corporation, that he or she was duly authorized to perform the same by appropriate resolution of the board of directors of such corporation and that she or he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 9th day of March, A.D., 2023.

Melinda C Bee
Notary Public In and For

My Commission expires: 6-9-2025



Johnson County, Texas

PARTNERSHIP ACKNOWLEDGMENT

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day appeared:

(Print Name) (Print Title)

of _____ a partnership, known to me to be the person and partner whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said partnership, and that she or he was duly authorized as a partner of such partnership to perform same for the purpose and consideration therein expressed, and in the capacity therein stated. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, A.D., 2____.

Notary Public In and For

My Commission expires: _____

County, _____

SINGLE ACKNOWLEDGMENT

THE STATE OF _____ § COUNTY
OF _____ §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day 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 consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, A.D., 2____.

Notary Public In and For

My Commission expires: _____

County, _____

(SAMPLE FORM)
CERTIFICATE OF INSURANCE

TO:

Date _____

Project No. _____

Type of _____

Owner

Project _____

Address

THIS IS TO CERTIFY THAT _____
 (Name and address of insured)

is, at the date of this certificate, insured by this Company with respect to the business operations hereinafter described, for the types of insurance and in accordance with the provisions of the standard policies used by this Company, and further hereinafter described. Exceptions to standard policy noted on reverse side hereof.

TYPE OF INSURANCE

	Policy No.	Effective	Expires	Limits of Liability
Workers Compensation				1 Person \$
Public Liability				1 Accident \$
Contingent				1 Person \$
Liability				1 Accident \$
Property Damage _____				
Builder's Risk _____				
Automobile _____				
Other _____				
The forgoing policies (do) (do not) cover all sub-contractors.				
Locations Covered: _____				
Descriptions of Operations Covered: _____				
<p>The above policies either in the body thereof or by appropriate endorsement provide that they may not be changed or cancelled by the insurer in less than fifteen days after the insured has received written notice of such change or cancellation.</p> <p>Where applicable local laws or regulations require more than fifteen days actual notice of change or cancellation to the assured, the above policies contain such special requirements, either in the body thereof or by appropriate endorsement thereto attached.</p>				
_____ (Name of Insurer)				
By _____				
Title _____				

CERTIFICATE OF INTERESTED PARTIES

FORM 12

Item C.

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2023-993045

Date Filed:
03/09/2023

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Garrett Demolition, Inc
Burleson, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

130 E. Renfro St, Burleson
Abatement & Demolition services located at 130 E. Renfro St, Burleson, Texas 76028

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Garrett, Brad	Burleson, TX United States	X	
	Collmar, April	Burleson, TX United States		X

5 Check only if there is NO Interested Party.

☐

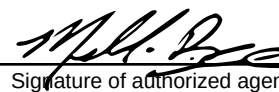
6 UNSWORN DECLARATION

My name is Melinda Bee, and my date of birth is 11/15/1972.

My address is PO Box 633, Burleson, TX, 76097, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Johnson County, State of Texas, on the 9th day of March, 2023.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/4
Item C.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER 6M Insurance Group Inc 5904 S COOPER ST STE 104-172 ARLINGTON TX 76017	CONTACT NAME: Certificate Department PHONE (A/C, No, Ext): 877-450-6390 E-MAIL ADDRESS: service@6mgroun.net FAX (A/C, No):
INSURED Garrett Demolition Inc PO BOX 633 Burleson TX 76097	INSURER(S) AFFORDING COVERAGE INSURER A: Nautilus Insurance Co INSURER B: Key Risk Insurance Company INSURER C: The Hanover Insurance Company (AMB#002225) INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU/ Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER: Contractors Pollution Liability	Y	Y	ECP2016054-16	5/21/2022	5/21/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Each Pollution Condition \$ 1,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> Uninsured/Und <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y	Y	BAP2037450-10	4/18/2022	5/21/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ 100,000 csl \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ NONE	Y	Y	FFX2029090-12	5/21/2022	5/21/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	EQUIPMENT FLOATER	Y	Y	IHD H245346	5/21/2022	5/21/2023	Scheduled limit: \$5,949,901 / proof of coverage
C	Leased & Rented Equipment			IHD H245346	5/21/2022	5/21/2023	\$250,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Contractors Equipment policy IHD H245346 Deductibles: \$2,500 Per Occurrence. \$5,000 ded Per Occurrence Items Over \$250,000, \$10,000 ded. Per Occurrence Items over \$500,000, \$25,000, ded Per Occurrence Items Over \$750,000 Market Value w/Replacement Value on Items 5 Years or Newer. The Commercial Auto & General Liability/Pollution Liability (including Completed Operations) policy includes a blanket automatic additional insured endorsement that provides additional insured status and the General Liability & Auto policy include a blanket waiver of subrogation endorsement to the certificate holder when there is a written contract that requires such status.

CERTIFICATE HOLDER

CANCELLATION

City of Burleson c/o Public Works 232 SW Johnson Ave Burleson TX 76028-4776	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Melina Morrison</i>
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ADDITIONAL REMARKS SCHEDULE

AGENCY 6M Insurance Group Inc		NAMED INSURED Garrett Demolition Inc	
POLICY NUMBER BAP2037450-10		PO BOX 633	
CARRIER Key Risk Insurance Company	NAIC CODE 10885	Burleson, TX, 76097	
		EFFECTIVE DATE: 4/18/2022	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25

FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

RE: Demolition services at 130 E. Renfro St, Burleson



CERTIFICATE OF LIABILITY INSURANCE

Acct#: 2856808

DATE (M/D/Y)
3/9/16
Item C.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies, LLC 3657 Briarpark Dr., Suite 700 Houston, TX 77042	CONTACT NAME: 888-828-8365	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS: INSPERITYCERTS@LOCKTONAFFINITY.COM	
INSURED GARRETT DEMOLITION, INC. PO BOX 633 BURLESON, TX 76097	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Indemnity Insurance Co. of North America		43575
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	X	C51770341	10/1/2022	10/1/2023 X PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

30-DAY NOTICE OF CANCELLATION
RE: Demolition services at 130 E. Renfro St, Burleson
WAIVER OF SUBROGATION IN FAVOR OF City of Burleson c/o Public Works WHEN REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER**CANCELLATION**

CITY OF BURLESON C/O PUBLIC WORKS
232 SW JOHNSON AVE
BURLESON, TX 76028

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

NOTICE TO OTHERS - SPECIFIC PARTIES

- A.** If we cancel this Policy prior to its expiration date by notice to you or the first Named insured for any reason other than nonpayment of premium, we will endeavor, as set out below, to send written notice of cancellation, via such electronic or other form of notification as we determine, to the persons or organizations listed in the schedule set out below (the "Schedule"). You or your representative must provide us with both the physical and e-mail address of such persons or organizations, and we will utilize such e-mail address or physical address that you or your representative provided to us on such Schedule.
- B.** We will endeavor to send or deliver such notice to the e-mail address or physical address corresponding to each person or organization indicated in the Schedule at least 30 days prior to the cancellation date applicable to the Policy.
- C.** The notice of cancellation is intended only to be a courtesy notification to the person(s) or organization(s) named in the Schedule in the event of a pending cancellation of coverage. We have no legal obligation of any kind to any such person(s) or organization(s). Our failure to provide advance notification of cancellation to the person(s) or organization(s) shown in the Schedule shall impose no obligation or liability of any kind upon us, our agents or representatives, will not extend any Policy cancellation date and will not negate any cancellation of the Policy.
- D.** We are not responsible for verifying any information provided to us in any Schedule, nor are we responsible for any incorrect information that you or your representative provide to us. If you or your representative does not provide us with the information necessary to complete the Schedule, we have no responsibility for taking any action. In addition, if neither you nor your representative provides us with e-mail and physical address information with respect to a particular person or organization, then we shall have no responsibility for taking action with regard to such person or entity.
- E.** We may arrange with your representative to send such notice in the event of any such cancellation.
- F.** You will cooperate with us in providing, or in causing your representative to provide, the e-mail address and physical address of the persons or organizations listed in the Schedule.
- G.** The provisions of this notice do not apply in the event that you cancel the Policy.

SCHEDULE

Name of Certificate Holder	E-Mail Address	Physical Address
City of Burleson c/o Public Works		232 SW Johnson Ave
		Burleson, TX 76028

Workers' Compensation and Employers' Liability Policy

Named Insured GARRETT DEMOLITION, INC. PO BOX 633 BURLESON, TX 76097	Endorsement Number
	Policy Number Symbol: RWC Number: C51770341
Policy Period 10/1/2022 TO 10/1/2023	Effective Date of Endorsement 10/1/2022
Issued By (Name of Insurance Company) INDEMNITY INS. CO. OF NORTH AMERICA	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.	

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule, where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the schedule.

Schedule1. (☒) Specific Waiver

Name of person or organization:
City of Burleson c/o Public Works
232 SW Johnson Ave
Burleson, TX 76028

(☐) Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:

RE: Demolition services at 130 E. Renfro St, Burleson

3. Premium:

The premium charge for this endorsement shall be INCLUDED percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: INCLUDED



Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED -- OWNERS, LESSEES OR CONTRACTORS
AUTOMATIC STATUS – ONGOING OPERATIONS – COVERAGE A, B, D.1 & D.4**

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP2016054-17	5/21/2022	5/21/2023	5/21/2022

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

I. SECTION III – WHO IS AN INSURED is amended to include as an additional **insured**:

- Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement, in effect during this **policy period**, that such person or organization be added as an additional **insured** on this policy; and
- Any other person or organization you are explicitly required to add as an additional **insured** under the contract or agreement described in Paragraph 1. above.

Such contract or agreement must be executed and in effect prior to the performance of **your work** which is the subject of such contract or agreement.

Such person(s) or organization(s) is an additional **insured** only with respect to liability for **bodily injury** or **property damage** under **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Coverage D.1 – Contractors Pollution Legal Liability** and **Coverage D.4 – Microbial Substance Contractors Pollution Liability**, or personal injury or advertising injury under **SECTION I - COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY** directly caused by:

- Your acts or omissions; or
- The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional **insured** described in Paragraph 1. or 2. above.

However, the insurance afforded to such additional **insured** described above:

- Only applies to the extent permitted by law; and
- Will not be broader than that which you are required by the contract or agreement to provide for such additional **insured**, and
- Will not extend beyond that which is provided to you in this policy.

A person's or organization's status as an additional **insured** under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

II. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- Bodily injury, property damage** or **personal and advertising injury** arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the **claims** against any **insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **insured**, if the **occurrence** which caused the **bodily injury** or **property damage**, or the offense which caused the **personal and advertising injury**, involved the rendering of, or the failure to render any professional architectural, engineering or surveying services.

- Bodily injury** or **property damage** occurring after:

- All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional **insured(s)** at the location of the **covered operations** has been completed; or

- (2) That portion of **your work** out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

III. With respect to the insurance afforded to these additional *insureds*, the following is added to SECTION V – LIMITS OF INSURANCE:

The most we will pay on behalf of the additional **insured** is the amount of insurance:

1. Required by the contract or agreement described in Paragraph I.1.; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

IV. With respect to the insurance afforded to these additional *insureds*, the following is added to SECTION VI – REPORTING, DEFENSE, SETTLEMENT & COOPERATION:

1. Duties -- Additional Insured

An additional **insured** must see to it that:

- a. We are notified in writing as soon as practicable of an **occurrence** or offense which may result in a **claim** or **suit**;
- b. We receive written notice of a **claim** or **suit** as soon as practicable; and
- c. A request for defense and indemnity of the **claim** or **suit** will promptly be brought against any policy issued by another insurer under which the additional **insured** may be an insured in any capacity. This provision does not apply to insurance on which the additional **insured** is a **Named Insured**, if the contract or agreement requires that this coverage be primary and noncontributory.

V. SECTION VII – CONDITION 10. – Other Insurance is amended by the addition of the following which supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to a person(s) or organization(s) included as an additional **insured** under this endorsement provided that:

1. The additional **insured** person(s) or organization(s) is a **Named Insured** under such other insurance; and
2. You have agreed in writing in a contract or agreement, in effect during this **policy period**, that this insurance would be primary and would not seek contribution from any other insurance available to the additional **insured** person(s) or organization(s). Such contract or agreement must be executed and in effect prior to the performance of **your work** which is the subject of such contract or agreement.

However, this provision does not apply if the other insurance available to the person(s) or organization(s) included as an additional **insured** is Owners and Contractors Protective Liability, Railroad Protective Liability, or similar project-specific, primary insurance.

VI. This endorsement does not apply to an additional *insured* which has been added to this policy by an endorsement showing the additional *insured* in a SCHEDULE of additional *insureds*, and which endorsement applies to that designated additional *insured*.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED -- OWNERS, LESSEES OR CONTRACTORS
AUTOMATIC STATUS – COMPLETED OPERATIONS – COVERAGE A, D.1 & D.4**

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP2016054-17	5/21/2022	5/21/2023	5/21/2022

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

I. SECTION III – WHO IS AN INSURED is amended to include as an additional **insured**:

- Any person or organization for whom you have performed operations when you and such person or organization have agreed in writing in a contract or agreement, in effect during this **policy period**, that such person or organization be added as an additional **insured** on this policy; and
- Any other person or organization you are explicitly required to add as an additional **insured** under the contract or agreement described in Paragraph 1. above.

Such contract or agreement must be executed and in effect prior to the performance of **your work** included in the **products-completed operations hazard** which is the subject of such contract or agreement.

Such person(s) or organization(s) is an additional **insured** only with respect to liability for **bodily injury** or **property damage** under **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Coverage D.1 – Contractors Pollution Legal Liability** and **Coverage D.4 – Microbial Substance Contractors Pollution Liability**, directly caused by **your work** performed for the additional **insured** described in Paragraph 1. or 2. above, and included in the **products-completed operations hazard**.

However, the insurance afforded to such additional **insured** described above:

- Only applies to the extent permitted by law; and
- Will not be broader than that which you are required by the contract or agreement to provide for such additional **insured**; and
- Will not extend beyond that which is provided to you in this policy.

II. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- Bodily injury** or **property damage** arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the **claims** against any **insured** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **insured**, if the **occurrence** which caused the **bodily injury** or **property damage** involved the rendering of, or the failure to render any professional architectural, engineering or surveying services.

III. With respect to the insurance afforded to these additional insureds, the following is added to SECTION V – LIMITS OF INSURANCE:

The most we will pay on behalf of the additional **insured** is the amount of insurance:

- Required by the contract or agreement described in Paragraph I.1.; or
 - Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

IV. With respect to the insurance afforded to these additional insureds, the following is added to SECTION V

REPORTING, DEFENSE, SETTLEMENT & COOPERATION:**1. Duties -- Additional Insured**

An additional **insured** must see to it that:

- a. We are notified in writing as soon as practicable of an **occurrence** which may result in a **claim** or **suit**;
- b. We receive written notice of a **claim** or **suit** as soon as practicable; and
- c. A request for defense and indemnity of the **claim** or **suit** will promptly be brought against any policy issued by another insurer under which the additional **insured** may be an insured in any capacity. This provision does not apply to insurance on which the additional **insured** is a **Named Insured**, if the contract or agreement requires that this coverage be primary and noncontributory.

- V. SECTION VII – CONDITION 10. – Other Insurance** is amended by the addition of the following which supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to a person(s) or organization(s) included as an additional **insured** under this endorsement provided that:

1. The additional **insured** person(s) or organization(s) is a **Named Insured** under such other insurance; and
2. You have agreed in writing in a contract or agreement, in effect during this **policy period**, that this insurance would be primary and would not seek contribution from any other insurance available to the additional **insured** person(s) or organization(s). Such contract or agreement must be executed and in effect prior to the performance of **your work** included in the **products-completed operations hazard** which is the subject of such contract or agreement.

However, this provision does not apply if the other insurance available to the person(s) or organization(s) included as an additional **insured** is Owners and Contractors Protective Liability, Railroad Protective Liability, or similar project-specific, primary insurance.

- VI.** This endorsement does not apply to an additional **insured** which has been added to this policy by an endorsement showing the additional **insured** in a **SCHEDULE** of additional **insureds**, and which endorsement applies to that designated additional **insured**.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF SUBROGATION
(TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US)
AUTOMATIC STATUS – COVERAGE A, B & D**

Policy Number	Policy Effective Date	Policy Expiration Date	Endorsement Effective Date
ECP2016054-17	5/21/2022	5/21/2023	5/21/2022

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL COMBINED POLICY

I. The following is added to Paragraph 17. Subrogation of SECTION VII – CONDITIONS:

We waive any right of recovery against any person(s) or organization(s) because of payments we make under **COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY, and COVERAGE D – CONTRACTORS POLLUTION LIABILITY** under this policy.

Such waiver by us applies only if:

1. The **insured** has agreed in writing in a contract or agreement with such person(s) or organization(s) to waive its right of recovery; and
2. The **insured** has waived its right of recovery against such person(s) or organization(s) prior to loss.

This waiver does not apply in any jurisdiction where such waiver is held to be illegal or against public policy or in any situation where the person(s) or organization(s) against whom subrogation is to be waived is found to be solely negligent.

This endorsement does not apply to any person(s) or organization(s) designated in a **SCHEDULE** of person(s) or organization(s) against whom rights of recovery have been waived.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Garrett Demolition, Inc.

Endorsement Effective Date: 04/18/22

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
Any Principal wherein such waiver has been included before loss as part of a contractual undertaking by the Named Insured
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A.** The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

- B.** The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

ENDORSEMENT

This endorsement forms a part of the policy to which it is attached. Please read it carefully.

BUSINESS AUTO – ADDITIONAL INSURED WHEN REQUIRED BY CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section II - Liability Coverage A. - Coverage, 1. Who is an Insured, is amended to add:

- d. Any person or organization to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, excluding contracts or agreements for professional services, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you. However, the insurance provided will not exceed the lesser of:
1. The coverage and/or limits of this policy; or
 2. The coverage and/or limits required by said contract or agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

1 Priority's COI



CERTIFICATE OF LIABILITY INSURANCE

DATE (M/D/Y)
3/9/16
Item C.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER IBTX Risk Services 32335 US Highway 281 N Suite 1201 Bulverde TX 78163	CONTACT NAME: Elvia Salazar PHONE (A/C, No, Ext): 214-989-7100 E-MAIL ADDRESS: service@ib-tx.com FAX (A/C, No): 210-696-8414
INSURED 1 Priority Environmental Services, LLC 4028 Daley Ave. Fort Worth TX 76180	INSURER(S) AFFORDING COVERAGE INSURER A: Steadfast Insurance Company INSURER B: Zurich American Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:
	NAIC # 26387 16535

COVERAGES **CERTIFICATE NUMBER:** 1046011493 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> XCU GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			GPL 2461633-02	6/30/2022	6/30/2023	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BAP 2461632-02	6/30/2022	6/30/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			SXS 7418249-01	6/30/2022	6/30/2023	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC 7808524-01	6/30/2022	6/30/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Pollution/Asbestos Professional Liability Deductible \$10,000			GPL 2461633-02	6/30/2022	6/30/2023	Each Pollution Cond Per Claim/Per Occurr Aggregate \$5,000,000 \$5,000,000 \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
General Liability/Pollution & Auto Policies include blanket Additional Insured Endorsements [STF-ESP-MAN-02 08/20, STF-ESP101-FCW 4/13 (Ongoing Operations & Comp Ops), CA2048 10/13] as agreed in writing with Named Insured. General Liability/Pollution, Excess, Auto & Workers Compensation policies include blanket Waiver of Subrogation Endorsements [STF-ESP-248-A CW 04/10 & U-CA-424-F CW 04/14, WC000313 4/84 & WC420304B] as agreed in writing with Named Insured. General Liability/Pollution and Excess includes blanket Primary & Non-Contributory Endorsements [STF-ESP-MAN-01 08/20-STF-ESP-MAN-4 06/20, U-CA-424-F CW 04/14]. Excess Liability follows form of underlying GL, Auto & Employers Liability. Cancellation Endorsement [STF-ENVL-1632-A CW 11/10, U-CA-832-A CW 01/13, U-WC-100-A-CW 10/16]. General Liability/ Pollution Blanket Contractual Liability Railroad [STF-ESP-185-C CW 1/06]. Per Project Aggregate [STF-ESP-148-B CW 01/04]
Project: Demolition services at 130 E. Renfro St, Burleson.

CERTIFICATE HOLDER City of Burleson c/o Public Works 232 SW Johnson Ave. Burleson, TX 76028-4776	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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Amendment to Limits of Insurance

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
GPL2461633-02	6/30/22	6/30/23		11227000		

Named Insured and Mailing Address:

1 Priority Environmental Services, LLC
4028 Daley Ave.
Fort Worth, TX 76180

Producer:

IBTX Risk Services

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

Environmental Services Package Policy

In consideration of the payment of premium and the Deductible by you and in reliance upon the statements in the Application made a part hereof, we agree with you, subject to all the terms, exclusions and conditions of the policy that,

- Item 4., Limits of Insurance, of the Declarations is deleted and replaced by the following:

Item 4. Limits of Insurance:

Each Incident Limits

COVERAGE PART ONE – COMMERCIAL GENERAL LIABILITY \$2,000,000

COVERAGE PART TWO – CONTRACTOR'S POLLUTION LIABILITY \$5,000,000

COVERAGE PART THREE – PROFESSIONAL LIABILITY \$5,000,000

Damage To Premises Rented to You Limit \$300,000 Any one premises

Medical Expense Limit \$25,000 Any one person

Personal & Advertising Injury Limit \$2,000,000 Any one person or organization

Products-Completed Operations Aggregate Limit \$4,000,000

Coverage Part One Aggregate Limit \$4,000,000

Coverage Part Two Aggregate Limit \$5,000,000

Coverage Part Three Aggregate Limit \$5,000,000

Policy Aggregate \$5,000,000

- Limits of Insurance and Deductible (Section III.) in the COMMON POLICY PROVISIONS is deleted in its entirety and replaced as follows:

- The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- Insureds;
- "Claims" made or "suits" brought; or
- Persons or organizations making "claims" or bringing "suits".

- The Policy Aggregate Limit is the most we will pay for the sum of:

- a. Under COVERAGE PART ONE, Coverage A., "damages";
 - b. Under COVERAGE PART ONE, Coverage A., "damages" because of "bodily injury" and "property damage" included in the "products-completed operations hazard";
 - c.. Under COVERAGE PART ONE, Coverage B., "damages";
 - d. Under COVERAGE PART ONE, Coverage C, medical expenses;
 - e. Under COVERAGE PART TWO, "losses" and "claims expense"; and
 - f. Under COVERAGE PART THREE, "damages" and "claims expense".
3. Subject to 2. Above, the Products-Completed Operations Aggregate Limit is the most we will pay under COVERAGE PART ONE, Coverage A. for "damages" because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
 4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under COVERAGE PART ONE, Coverage B. for the sum of all "damages" because of all "personal and advertising injury" sustained by any one person or organization.
 5. Subject to 2. above, the COVERAGE PART ONE Each Incident Limit is the most we will pay for the sum of:
 - a. Under COVERAGE PART ONE, Coverage A., "damages" because of all "bodily injury" and "property damage" arising out of any one "occurrence"; and
 - b. Under COVERAGE PART ONE, Coverage C., Medical Expenses because of all "bodily injury" arising out of any one "occurrence".
 6. Subject to 2. above, the COVERAGE PART TWO Each Incident Limit is the most we will pay for the sum of, under COVERAGE PART TWO, "losses" and "claims expense" arising out of any one "pollution event"; the same, interrelated, associated, repeated or continuous "pollution events" shall be considered one "pollution event".
 7. Subject to 2. above, the COVERAGE PART THREE Each Incident Limit is the most we will pay for the sum of, under COVERAGE PART THREE, "damages" and "claim expenses" arising out of any one act, error or omission; the same, interrelated, associated, repeated or continuous acts, errors or omissions shall be considered one act, error or omission.
 8. Subject to 2. and 5. above, the Damage To Premises Rented To You Limit is the most we will pay under COVERAGE PART ONE, Coverage A., for "damages" because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
 9. Subject to 2. and 5. above, the Medical Expense Limit is the most we will pay under COVERAGE PART ONE, Coverage C., for all medical expenses because of "bodily injury" sustained by any one person.
 10. Deductible.
 - a. The Deductible amount indicated on the Declarations is your obligation and applies to:
 - (1) under COVERAGE PART ONE, Coverage A., to all "damages" because of "bodily injury" and/or "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain "damages" because of that "occurrence";
 - (2) under COVERAGE PART ONE, Coverage B., to all "damages" as the result of any one offense, regardless of the number of persons or organizations who sustain "damages" because of that offense;
 - (3) under COVERAGE PART ONE, Coverage C., to all "bodily injury" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain "damages" because of that "occurrence";
 - (4) under COVERAGE PART TWO, all "loss(es)" and related "claim expenses" as a result of any one "pollution event", regardless of the number of persons or organizations who sustain "loss(es)" and related "claim expense(s)" because of that "pollution event"; and
 - (5) under COVERAGE PART THREE, all "damage(s)" and related "claim expense" as a result of any one act, error or omission, regardless of the number of persons or organizations who sustain "damage(s)" and related "claim expense(s)" because of that act, error or omission.

- b. The Deductible amount does not erode the Limits of Insurance.
 - c. We may pay, but are not obligated to pay, any part or all of the deductible amount to effect settlement of a "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the Deductible amount as has been paid by us.
11. Multiple "policy periods" and interrelated, associated, repeated or continuous "suits", "claims", "damages", "bodily injury", "property damage", "personal and advertising injury", "loss" and "claims expense".
- a. Under COVERAGE PART ONE, Coverages A, B and C, any "suit" or "claim" for "damages"; any "bodily injury"; any "property damage"; and/or any "personal and advertising injury" which takes place over two or more "policy periods", or are interrelated, associated, repeated or continuous, shall be subject to one Limit of Insurance and one Deductible as stated in the Declarations. All such "suits" or "claims" seeking "damages" for "bodily injury", "property damage" or "personal and advertising injury", whenever made, shall be provided coverage in the "policy period" of the date of the first exposure to the "occurrence" causing such "bodily injury" or "property damage", or to the offense causing such "personal and advertising injury".
 - b. Under COVERAGE PART TWO, any "claim" for "loss"; any "bodily injury"; any "property damage"; and/or any related "claim expense" which takes place over two or more "policy periods", or are interrelated, associated, repeated or continuous, shall be subject to one Limit of Insurance and one Deductible as stated in the Declarations. All "claims" as a result of "bodily injury", "property damage" and/or related "claim expense", whenever made, shall be provided coverage in the "policy period" of the date of first exposure to the "pollution event" which results in the "bodily injury", "property damage" and/or related "claim expense".
 - c. Under COVERAGE PART THREE, any "claim"; any "damages"; and/or any related "claims expense" which takes place over two or more "policy periods", or are interrelated, associated, repeated or continuous, shall be subject to one Limit of Insurance and one Deductible as stated in the Declarations. All such "claims" for "damages" and/or related "claims expense" whenever made, shall be considered first made on the date on which the earliest "claim" was first reported to you and the Limits of Insurance applicable to that "policy period" shall apply.
12. Under COVERAGE PART THREE, "claims" against the insured arising from an incident or circumstance reported to us, pursuant to Claim Provisions (Section IV.) in the COMMON COVERAGE PROVISIONS, in a subsequent uninterrupted renewal "policy period" shall be subject to the Each Incident and Policy Aggregate Limit of Insurance applicable to the "policy period" in effect when the incident or circumstance was reported to us.
13. Under COVERAGE PART THREE, the automatic extended reporting period and the extended reporting period, if purchased by you, shall not serve to increase or reinstate the Limits of Insurance set out in the Declarations to the policy. The Limits of Insurance shall be that which is remaining in the Policy Aggregate Limit at the end of the "policy period".
14. When the COVERAGE PART ONE Each Incident Limit of Insurance, the COVERAGE PARTS TWO and THREE Each Incident Limit of Insurance or the Policy Aggregate Limits of Insurance described above have actually been exhausted in the payment of "bodily injury", "property damage", "damages", medical expenses, and/or "claims expense" we will:
- a. Notify the first Named Insured, in writing, as soon as possible, that such limits have been exhausted and our duty to defend under the Insuring Agreements has also ended; and
 - b. Commence and cooperate in the transfer of control to any appropriate insured of all "claim(s)" or "suits" which are subject to that limit and which are reported to us before that limit is exhausted.
3. The Limits of Insurance stated in paragraph 1. above will apply:
- a. Under COVERAGE PART ONE, to "bodily injury", "property damage" and "personal and advertising injury" that occurs;
 - b. Under COVERAGE PART TWO, to "bodily injury", "property damage" and related "claims expense" that occurs; and
 - c. Under COVERAGE PART THREE, to "claims" made against the insured;

On or after 12:01 a.m. on January 28, 2017. Any "claim" made against an insured on or after this date arising from an act, error or omission reported to us prior to this date shall be deemed to have been made on the date on which notice of the act, error or omission was first received by us.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

Named Insured: 1 Priority Environmental Services, LLC dba A-1
Environmental, 1 Priority Acquisition, 1 Priority Holdings & West Texas
Abatement

Item C.

Additional Insured – Automatic – Owners, Lessees Or Contractors



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GPL 2461633-02

Effective Date: 06/30/22

Name Insured & Mailing Address

1 Priority Environmental Services, LLC

Producer

IBTX Risk Services
32355 US Highway 281, #1201
Bulverde, TX 78163

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part One, Common Coverage Provisions

A. Section I – Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a.** The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or
- b.** The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

- (1)** Your ongoing operations, with respect to Paragraph **1.a.** above; or
- (2)** "Your work", with respect to Paragraph **1.b.** above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **1.**, insurance afforded to such additional insured:

- (a)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (b)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

Solely with respect to this Paragraph **(b)**, if the written contract or written agreement provides a minimum time period for providing such coverage, and such minimum time period ends prior to the end of the policy period, this insurance shall not apply to "bodily injury", "property damage" or a "personal and advertising injury" offense which occurs during the policy period and after the end of that minimum time period.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or
- b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

- (1) Your acts or omissions; or
 - (2) The acts or omissions of those acting on your behalf,
- in the performance of:

- (a) Your ongoing operations, with respect to Paragraph 2.a. above; or
- (b) "Your work" and included in the "products-completed operations hazard", with respect to Paragraph 2.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 2., insurance afforded to such additional insured:

- (i) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (ii) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

Solely with respect to this Paragraph (ii), if the written contract or written agreement provides a minimum time period for providing such coverage, and such minimum time period ends prior to the end of the policy period, this insurance shall not apply to "bodily injury", "property damage" or a "personal and advertising injury" offense which occurs during the policy period and after the end of that minimum time period.

3. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b. With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 3., insurance afforded to such additional insured:

- (a) Only applies to the extent permitted by law;
- (b) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
- (c) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

4. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or

b. With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **4.**, insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law;
- (2) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3) Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

Solely with respect to this Paragraph **(4)**, if the written contract or written agreement provides a minimum time period for providing such coverage, and such minimum time period ends prior to the end of the policy period, this insurance shall not apply to "bodily injury" or "property damage" which occurs during the policy period and after the end of that minimum time period.

B. Solely with respect to the insurance afforded to any additional insured referenced in Section **A.** of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. Solely with respect to the coverage provided by this endorsement, the following is added to Common Coverage Provisions, Section **IV – Claims Provisions**, Paragraph **2**:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section **V – Conditions**, Paragraph **8**:

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a.** The additional insured is a Named Insured under such other insurance; and
- b.** You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph **8.b.** of the **Other Insurance Condition** under Section **V –**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

- E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.
- F. Solely with respect to the insurance afforded to an additional insured under this endorsement, the following is added to Section **III – Limits Of Insurance**:

Additional Insured – Automatic – Owners, Lessees Or Contractors Limit

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.



ZURICH®

Designated Construction Project(s) Aggregate Limit

Coverage Part One – Commercial General Liability

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
GPL2461633-02	6/30/22	6/30/23		11227000	-----	-----

Named Insured and Mailing Address:

1 Priority Environmental Services, LLC
 4028 Daley Ave.
 Fort Worth, Tx 76180

Producer:

IBTX RISK SERVICES
 10101 REUNION PL STE 100
 SAN ANTONIO, TX 78216-4165

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

Environmental Services Package Policy

In consideration of the payment of premium and the Deductible by you and in reliance upon the statements in the Application made a part hereof, we agree with you, subject to all the terms, exclusions and conditions that the following provisions apply to COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY only.

Schedule

Designated Construction Project(s): Construction projects as required by a written contract or written agreement executed and effective prior to providing services.

Total Designated Construction Project(s) Aggregate Limit: \$10,000,000

1. For all sums which the insured becomes legally obligated to pay as "damages" caused by "occurrences" under COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY and for all medical expenses caused by accidents under COVERAGE C - MEDICAL PAYMENTS in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY which can be attributed **only** to ongoing operations at a single designated construction project shown in the Schedule above:
 - a. A separate Designated Construction Project Aggregate Limit applies to each construction project, and that limit is equal to the amount of the Policy Aggregate Limit shown in the Declarations.
 - b. The Total Designated Construction Project(s) Aggregate Limit, shown in the Schedule above, is the most we will pay for the sum of all "damages" caused by "occurrences" under COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY and for all medical expenses caused by accidents under COVERAGE C - MEDICAL PAYMENTS in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY which can be attributed **only** to ongoing operations at designated construction projects.
 - c. The Designated Construction Project(s) Aggregate Limit is the most we will pay for the sum of all "damages" under COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY, except "damages" because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under COVERAGE C - MEDICAL PAYMENTS in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY regardless of the number of:

(1) Insureds;

- (2) "Claims" made or "suits" brought; or
 - (3) Persons or organizations making "claims" or bringing "suits".
- d. Any payments made under COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY or "damages" or under COVERAGE C - MEDICAL PAYMENTS in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY for medical expenses which can be attributed **only** to ongoing operations at designated construction projects shall reduce the Designated Construction Project Aggregate Limit for that designated construction project. Such payments shall **also** reduce the Total Designated Construction Project Aggregate Limit shown in the Schedule above. However such payments shall not reduce the Policy Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project Aggregate Limit for any other designated construction project shown in the Schedule above.
 - e. The limits shown in the Declarations for Each Incident, Damage to Premises Rented to You and Medical Expense continue to apply. However, instead of being subject to the Policy Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project Aggregate Limits.
- 2. For all sums which the insured becomes legally obligated to pay as "damages" caused by "occurrences" under COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY, and for all medical expenses caused by accidents under COVERAGE C - MEDICAL PAYMENTS in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY, which cannot be attributed **only** to ongoing operations at a single designated construction project shown in the Schedule above:
 - a. Any payments made under COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY or "damages" or under COVERAGE C - MEDICAL PAYMENTS in COVERAGE PART ONE - COMMERCIAL GENERAL LIABILITY for medical expenses shall reduce the amount available under the Policy Aggregate Limit shown in the Declarations; and
 - b. Such payments shall not reduce any Designated Construction Project Aggregate Limit or the Total Designated Construction Project Aggregate Limit.
 - 3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for "damages" because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit shown in the declarations and not reduce the Designated Construction Project Aggregate Limit.
 - 4. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
 - 5. The provisions of Limits of Insurance and Deductible (Section III.) in the COMMON COVERAGE PROVISIONS not otherwise modified by this endorsement shall continue to apply as stipulated.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.



Additional Insured-Automatic-Owners, Lessees Or Contractors

Coverage Part One-Commercial General Liability
Coverage Part Two-Contractor's Pollution Liability

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
GPL2461633-02	6/30/22	6/30/23			-----	-----

Named Insured and Mailing Address:

1 Priority Environmental Services, LLC
4028 DALEY AVE
FORT WORTH, TX 76180-8600

Producer:

IBTX RISK SERVICES
10101 REUNION PL STE 100
SAN ANTONIO, TX 78216-4165

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

Environmental Services Package Policy

- ☐ COVERAGE PART ONE-COMMERCIAL GENERAL LIABILITY
- ☒ COVERAGE PART TWO-CONTRACTOR'S POLLUTION LIABILITY

1. Who is an Insured (Section I.) in the COMMON COVERAGE PROVISIONS is amended to include as an additional insured any person(s) or organization(s) whom you are required to add as an additional insured on this policy under a written contract or written agreement.
2. The insurance provided to the additional insured person(s) or organization(s) applies only to:
 - a. "Bodily injury", "property damage" or "personal and advertising injury" under COVERAGE PART ONE-COMMERCIAL GENERAL LIABILITY, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY and COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY caused, in whole or in part, by:
 - (1) Your acts or omissions; or
 - (2) The acts or omissions of those acting on your behalf;
 and resulting directly from:
 - (a) Your ongoing operations performed for the additional insured, which is the subject of the written contract or written agreement; or
 - (b) "Your work" completed as included in the "products-completed operations hazard", performed for the additional insured, which is the subject of the written contract or written agreement; and/or
 - b. "Claims" arising out of a "pollution event" under COVERAGE PART TWO - CONTRACTOR'S POLLUTION LIABILITY, caused, in whole or in part, by:
 - (1) Your acts or omissions; or
 - (2) The acts or omissions of those acting on your behalf;
 and resulting directly from:
 - (a) "Covered operations" performed for the additional insured, which is the subject of the written contract or written agreement; or

(b) "Completed operations" of the "covered operations" performed for the additional insured, which is the subject of the written contract or written agreement.

3. However, regardless of the provisions of paragraphs 1. and 2. above, the insurance afforded to such additional insured:

- a. Only applies to the extent permitted by law; and
- b. Will not be broader than that which you are required by the written contract or written agreement to provide to such additional insured.

4. With respect to the insurance afforded to the additional insured under this endorsement, the following is added to **Section III – Limits Of Insurance and Deductible:**

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the written contract or written agreement you have entered into with the additional insured; or
 - b. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations

5. The insurance provided to the additional insured person or organization does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering or failure to render any professional architectural, engineering or surveying services including:

- (1) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any architectural, engineering or surveying services.

6. The additional insured must see to it that:

- a. We are notified as soon as practicable of an "occurrence", offense or "pollution event", as applicable, that may result in a claim;
- b. We receive written notice of a claim or "suit" as soon as practicable; and
- c. A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured, if the written contract or written agreement requires that this coverage be primary and non-contributory.

7. For the coverage provided by this endorsement:

- a. The following paragraph is added to Paragraph 8.a. Other Insurance, Conditions (Section V.) in the COMMON COVERAGE PROVISIONS:

Primary and Noncontributory Insurance

This Insurance is primary to and will not seek contribution from any other insurance available to an additional insured under this endorsement provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in a written contract or written agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

- b. The following paragraph is added to Paragraph 8.b. Other Insurance, Conditions (Section V.) in the COMMON COVERAGE PROVISIONS:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

8. This endorsement does not apply to an additional insured which has been added to this policy by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.



Contractual Liability - Railroads

Coverage Part One - Commercial General Liability

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
GPL2461633-02	6/30/22	6/30/23		11227000	-----	-----

Named Insured and Mailing Address:

1 PRIORITY ENVIRONMENTAL SERVICES, LLC
4028 DALEY AVE
FORT WORTH, TX 76180-8600

Producer:

IBTX Risk Services

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

Environmental Services Package Policy

In consideration of the payment of premium and the Deductible by you and in reliance upon the statements in the Application made a part hereof, we agree with you, subject to all the terms, exclusions and conditions of the policy and with respect to COVERAGE PART ONE – COMMERCIAL GENERAL LIABILITY and the coverage provided by this endorsement that:

Schedule

Scheduled Railroad: All railroads as required by written contract

Contract #: All contracts for work done for railroads

Designated Job Site(s): All job sites as required by written contract

With respect to operations performed for, or affecting, a Scheduled Railroad at a Designated Job Site shown in the Schedule above, the definition of "insured contract" in Definitions (Section VII.) in the COMMON COVERAGE PROVISIONS is deleted and replaced by the following:

"Insured Contract" means:

- A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- A sidetrack agreement;
- Any easement or license agreement;
- An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- An elevator maintenance agreement;
- That part of any other contract or agreement pertaining to your business (including an indemnification of a

municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (1) above and supervisory, inspection, architectural or engineering activities.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

Waiver of Transfer of Rights of Recovery Against Others – Blanket as Required by Contract



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
GPL2461633-02	6/30/22	6/30/23		11227000	-----	-----

Named Insured and Mailing Address:

1 PRIORITY ENVIRONMENTAL SERVICES, LLC
4028 DALEY AVE
FORT WORTH, TX 76180-8600

Producer:

IBTX Risk Services

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

Environmental Services Package Policy

- [**X**] COVERAGE PART ONE – COMMERCIAL GENERAL LIABILITY
- [**X**] COVERAGE PART TWO – CONTRACTOR'S POLLUTION LIABILITY
- [**X**] COVERAGE PART THREE – PROFESSIONAL LIABILITY

In consideration of the payment of premium and the Deductible by you and in reliance upon the statements in the Application made a part hereof, we agree with you, subject to all the terms, exclusions and conditions that with respect to the coverage parts indicated above Conditions (Section V.) of the COMMON COVERAGE PROVISIONS, Condition 14. Subrogation is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization whom you are required to waive your right of subrogation by a written contract or written agreement executed and effective prior to the performance of your services which is the subject of such written contract or written agreement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.



Blanket Notification to Others of Cancellation

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
GPL2461633-02	6/30/22	6/30/23		11227000	-----	-----

Named Insured and Mailing Address:
1 PRIORITY ENVIRONMENTAL SERVICES, LLC
4028 DALEY AVE
FORT WORTH, TX 76180-8600

Producer:
IBTX Risk Services

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

- Agribusiness Pollution Liability Insurance Policy - Claims Made and Reported Coverage
- Commercial Umbrella Liability Policy
- Commercial Umbrella Liability Policy – Claims Made and Reported Coverage
- Contractor’s Pollution Liability Insurance Policy
- Contractor’s Pollution Liability Insurance Policy - Claims Made and Reported Coverage
- Environmental Cleanup and Liability Insurance Policy - Claims Made and Reported Coverage
- Environmental Impairment Liability Insurance Policy - Claims Made and Reported Coverage
- Environmental Services Package Policy
- Excess Environmental Insurance Policy - Claims Made and Reported Coverage
- Follow Form Excess Liability Policy
- Follow Form Excess Liability Policy – Claims Made and Reported Coverage
- Healthcare Pollution Liability Insurance Policy - Claims Made and Reported Coverage
- Lender Environmental Collateral Protection and Liability Insurance Outstanding Loan Balance - Claims Made and Reported Coverage
- Lender Environmental Collateral Protection and Liability Insurance Policy – Claims Made and Reported Coverage
- Professional Consultant’s Liability Insurance Policy - Claims Made and Reported Coverage
- Professional Environmental Consultant’s Liability Insurance Policy
- Professional Environmental Consultant’s Liability Insurance Policy - Claims Made and Reported Coverage
- Public Entity Pollution Liability - Claims Made and Reported Coverage
- Real Estate Environmental Liability Insurance Policy - Claims Made and Reported Coverage
- Remediation Stop Loss
- Z Choice Pollution Liability
- Z Choice® Real Estate Environmental Liability - Claims Made and Reported Coverage
- Z Choice™ Pollution Liability - Claims Made and Reported Coverage
- Z Link® Commercial General and Pollution Liability

A. If we cancel this policy by written notice to the first Named Insured for any reason other than nonpayment of premium, we will deliver electronic notification that such policy has been cancelled to each person or organization shown in a Schedule provided to us by the First Named Insured. Such Schedule:

1. Must be initially provided to us within 15 days:
 - a. After the beginning of the policy period shown in the Declarations; or
 - b. After this endorsement has been added to policy;
2. Must contain the names and e-mail addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled;
3. Must be in an electronic format that is acceptable to us; and
4. Must be accurate.

Such Schedule may be updated and provided to us by the First Named Insured during the policy period. Such updated Schedule must comply with Paragraphs **2.**, **3.** and **4.** above.

- B.** Our delivery of the electronic notification as described in Paragraph **A.** of this endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to the first Named Insured. Delivery of the notification as described in Paragraph **A.** of this endorsement will be completed as soon as practicable after the effective date of cancellation to the first Named Insured.
- C.** Proof of emailing the electronic notification will be sufficient proof that we have complied with Paragraphs **A.** and **B.** of this endorsement.
- D.** Our delivery of electronic notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such delivery of electronic notification will not:
 1. Extend the Coverage Part cancellation date;
 2. Negate the cancellation; or
 3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- E.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY SHALL APPLY AND REMAIN UNCHANGED.

POLICY NUMBER: BAP2461632-02

COMMERCIAL AUTO
CA 20 48 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: 1 PRIORITY ENVIRONMENTAL SERVICES, LLC

Endorsement Effective Date: 6/30/22

SCHEDULE

Name Of Person(s) Or Organization(s):

Blanket When Required By Written Contract

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.



Coverage Extension Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP2461632-02	6/30/22	6/30/23		11227000	INCL	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
- Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment – Supplementary Payments

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph **2.** in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph **2.b.** in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous leases or loans.

F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
 - (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
 - (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".
- However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

I. Personal Effects Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Personal Effects Coverage

- a. We will pay up to \$750 for "loss" to personal effects which are:
 - (1) Personal property owned by an "insured"; and
 - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
 - (1) The reasonable cost to replace; or
 - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
 - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
 - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
 - (3) Paintings, statuary and other works of art.
 - (4) Contraband or property in the course of illegal transportation or trade.
 - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

- 1. The Exclusion in Paragraph B.4.a. of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph B.2.c. of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
- 2. The following is added to Paragraph 1.a. **Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

K. Airbag Coverage

The Exclusion in Paragraph **B.3.a. of Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.4.a. of Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Physical Damage – Comprehensive Coverage – Deductible

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is \$5,000 or the deductible shown in the Declarations, whichever is greater.

N. Temporary Substitute Autos – Physical Damage

1. The following is added to **Section I – Covered Autos**:

Temporary Substitute Autos – Physical Damage

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
 2. Repair;
 3. Servicing;
 4. "Loss"; or
 5. Destruction.
2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

Temporary Substitute Autos – Physical Damage

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any

agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

P. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

Q. Employee Hired Autos – Physical Damage

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

R. Unintentional Failure to Disclose Hazards

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

S. Hired Auto – World Wide Coverage

Paragraph **7a.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

T. Bodily Injury Redefined

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

U. Expected Or Intended Injury

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

V. Physical Damage – Additional Temporary Transportation Expense Coverage

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

X. Return of Stolen Automobile

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.

(Ed. 6-14)

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver

Name of person or organization

☒ Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:

3. Premium:

The premium charge for this endorsement shall be _____ percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium:

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 6/30/22 Policy No. WC7808524-01 Endorsement No.
Insured 1 Priority Environmental Services, LLC Premium

Insurance Company
Zurich American Insurance Co.

Countersigned by _____

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

"ALL PERSONS AND/OR ORGANIZATIONS - OTHER THAN MANUFACTURERS OF ASBESTOS, MANUFACTURERS WHOSE COMPONENT PARTS INCLUDE ASBESTOS, OR DISTRIBUTORS OF A PRODUCT THAT CONTAINS ASBESTOS - THAT ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT WITH YOU, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION."

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement 6/30/22 Effective Policy No. WC7808524-01 Endorsement No.

Insured 1 Priority Environmental Services, LLC

Premium \$ N/A

Insurance Company Zurich American Insurance Company Countersigned by _____



Blanket Notification to Others of Cancellation or Non-Renewal

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP2461632-02	6/30/22	6/30/23		11227000	INCL	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial Automobile Coverage Part

- A.** If we cancel or non-renew this Coverage Part by written notice to the first Named Insured, we will mail or deliver notification that such Coverage Part has been cancelled or non-renewed to each person or organization shown in a list provided to us by the first Named Insured if you are required by written contract or written agreement to provide such notification. However, such notification will not be mailed or delivered if a conditional notice of renewal has been sent to the first Named Insured. Such list:
1. Must be provided to us prior to cancellation or non-renewal;
 2. Must contain the names and addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled or non-renewed; and
 3. Must be in an electronic format that is acceptable to us.
- B.** Our notification as described in Paragraph **A.** of this endorsement will be based on the most recent list in our records as of the date the notice of cancellation or non-renewal is mailed or delivered to the first Named Insured. We will mail or deliver such notification to each person or organization shown in the list:
1. Within seven days of the effective date of the notice of cancellation, if we cancel for non-payment of premium; or
 2. At least 30 days prior to the effective date of:
 - a. Cancellation, if cancelled for any reason other than nonpayment of premium; or
 - b. Non-renewal, but not including conditional notice of renewal.
- C.** Our mailing or delivery of notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such mailing or delivery will not:
1. Extend the Coverage Part cancellation or non-renewal date;
 2. Negate the cancellation or non-renewal; or
 3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- D.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the list provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

All other terms and conditions of this policy remain unchanged.

NOTIFICATION TO OTHERS OF CANCELLATION ENDORSEMENT

This endorsement is used to add the following to Part Six of the policy.

PART SIX – CONDITIONS**F. Notification To Others Of Cancellation**

1. If we cancel this policy by written notice to you for any reason other than nonpayment of premium, we will deliver electronic notification to each person or organization shown in a Schedule provided to us by you.

Such Schedule:

- a. Must be initially provided to us within 15 days:
After the beginning of the policy period shown in the Declarations; or
After this endorsement has been added to policy;
- b. Must contain the names and e-mail addresses of only the persons or organizations requiring notification that this policy has been cancelled;
- c. Must be in an electronic format that is acceptable to us; and
- d. Must be accurate.

Such Schedule may be updated and provided to us by you during the policy period. Such updated Schedule must comply with Paragraphs **b.**, **c.**, and **d.** above.

2. Our delivery of the electronic notification as described in Paragraph **1.** of this endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to you. Delivery of the notification as described in Paragraph **1.** of this endorsement will be completed as soon as practicable after the effective date of cancellation to you.
3. Proof of e-mailing the electronic notification will be sufficient proof that we have complied with Paragraphs **1.** and **2.** of this endorsement.
4. Our delivery of electronic notification described in Paragraphs **1.** and **2.** of this endorsement is intended as a courtesy only. Our failure to provide such delivery of electronic notification will not:
 - a. Extend the policy cancellation date;
 - b. Negate the cancellation; or
 - c. Provide any additional insurance that would not have been provided in the absence of this endorsement.
5. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs **1.** and **2.** of this endorsement.

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 6/30/22

Policy No. WC7808524-01

Endorsement No.

Insured 1 Priority Environmental Services, LLC

Premium \$

Insurance Company Zurich American Ins Co

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2023-993045

Date Filed:
03/09/2023

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Garrett Demolition, Inc
Burleson, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

130 E. Renfro St, Burleson
Abatement & Demolition services located at 130 E. Renfro St, Burleson, Texas 76028

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Garrett, Brad	Burleson, TX United States	X	
	Collmar, April	Burleson, TX United States		X

5 Check only if there is NO Interested Party.

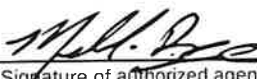
☐
6 UNSWORN DECLARATION

My name is Melinda Bee, and my date of birth is _____

My address is _____, Burleson, TX, 76097, USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Johnson County, State of Texas, on the 9th day of March, 2023
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

Economic Development Corporation (Type A)

DEPARTMENT: Legal and Purchasing

FROM: Matt Ribitzki, Deputy City Attorney/Compliance Manager

MEETING: March 20, 2023

SUBJECT:

Consider approval of a resolution recommending approval of a contract with First United Methodist Church Burleson for use of church facilities for community events in exchange for the stained glass windows at 130 E Renfro St. *(Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager)*

SUMMARY:

The City will utilize Garrett Demolition, Inc. to demolish the buildings located at 130 E Renfro St. For many years First United Methodist Church Burleson was located at the 130 E Renfro St property and one of the buildings served as the church's chapel. The chapel contains many stained glass windows that are dear to FUMC Burleson. FUMC Burleson has requested that, if possible, the stained glass windows not be demolished, and instead the windows be removed and returned to the church. In exchange for the stained glass windows, FUMC Burleson will allow the City to use its facilities for a few community meetings in the future. FUMC Burleson is located at 590 NE McAlister Rd in Burleson.

City staff is requesting that the Type A Corporation's Board approve the resolution recommending approval of the tentative contract subject to the approval of the City Attorney. At this time, City staff does not have enough information and details to draft the final agreement (e.g., how many stained glass window can be successfully extracted, when will the windows be delivered, how the windows should be delivered, etc.). Once the windows are removed and the details are learned, City staff will draft the final version of the agreement subject to the review and approval of the City Attorney.

OPTIONS:

- 1) Approve a resolution recommending approval of a contract with First United Methodist Church Burleson for use of church facilities for community events in exchange for the stained glass windows at 130 E Renfro St; or

- 2) Deny a resolution recommending approval of a contract with First United Methodist Church Burleson for use of church facilities for community events in exchange for the stained glass windows at 130 E Renfro St

RECOMMENDATION:

Approve a resolution recommending approval of a contract with First United Methodist Church Burleson for use of church facilities for community events in exchange for the stained glass windows at 130 E Renfro St.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

None

FISCAL IMPACT:

None

STAFF CONTACT:

Matt Ribitzki
Deputy City Attorney/Compliance Manager
mribitzki@burlesontx.com
817-426-9664

FUMC Burleson Contract



FUMC Stained Glass

- The 4A will be razing the building at 130 E. Renfro, the former home of First United Methodist Church Burleson
- FUMC has requested that, if possible, the stained glass be removed and returned to the church
 - To be used in their current home at 590 NE McAlister Rd
 - In exchange FUMC has offered the use of their community space for City events
- Much is unknown how or when the City can return the glass panels:
 - How many panels will be successfully removed
 - How the panels should be delivered
 - When the panels will be delivered
- Staff is requesting approval of a tentative agreement until all details are known. City Attorney will subsequently approve final version



Requested Board Action



Approve

Approve a contract with First United Methodist Church Burleson for use of church facilities for community events in exchange for the stained glass windows at 130 E Renfro



Deny

Deny a contract with First United Methodist Church Burleson for use of church facilities for community events in exchange for the stained glass windows at 130 E Renfro St

Staff Recommends Approval

RESOLUTION 4A032023FUMC

A RESOLUTION OF THE OF THE BURLESON 4A ECONMIC DEVELOPMENT CORPORATION RECOMMENDING APPROVAL OF A CONTRACT BETWEEN THE CITY OF BURLESON AND FIRST UNITED METHODIST CHURCH BURLESON FOR THE USE OF CHURCH FACILITIES IN EXCHANGE FOR THE STAINED GALSS WINODWS LOCATED AT 130 E RENFRO ST; AND PROVIDING AN EFFECTIVE DATE AND REQUESTING THE CITY COUNCIL RATIFY THIS RESOLUTION.

WHEREAS, the Burleson 4A Economic Development Corporation, known as the “Type A Corporation”, incorporated and certified in October 2000 under the authorization of the Development Corporation Act of 1979; and

WHEREAS, the City of Burleson, Texas (“City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, Type A Corporation owns the real property commonly known as 130 E Renfro St (the “Property”) and desires to begin renovation of the Property by demolishing the structures currently on the Property; and

WHEREAS, the First United Methodist Church Burleson (“FUMCB”) once owned the Property and improvements at 130 E Renfro, Burleson, Texas; and

WHEREAS, during FUMCB’s ownership of the Property, FUMCB constructed a chapel and used the chapel for its worship services for many, many years (the “Old Church”); and

WHEREAS, the Old Church contains many stained glass windows that are important to FUMCB (the “Stained Glass Windows”); and

WHEREAS, the EDC owns the Property and the EDC and City desire to demolish the Old Church building and renovate the site; and

WHEREAS, FUMCB has requested that the City preserve the Stained Glass Windows and transfer ownership of the windows to FUMCB; and

WHEREAS, the FUMCB campus is located at 590 NE McAlister, Burleson, Texas and possesses a multi-purpose room (the “Multi-Purpose Room”); and

WHEREAS, the City and EDC desire to use the Multi-Purpose Room for community events occasionally from time to time; and

WHEREAS, the City has a tentative proposed agreement with FUMCB whereby the City desires to transfer to FUMCB and FUMCB desires to receive the Stained Glass Windows in exchange for the City’s occasional use of the Multi-Purpose Room (the “Proposed Agreement”); and

WHEREAS, the Proposed Agreement is not drafted at this time due to a number of details still being outstanding; and

WHEREAS, the Type A Corporation desires that the City approve the Proposed Agreement subject to the review and approval of the City Attorney; and

WHEREAS, the Type A Corporation desires the City approve this action;

NOW, THEREFORE, BE IT RESOLVED BY THE BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS, THAT:

Section 1

The Type A Corporation hereby recommends approval of the Proposed Agreement between the City and FUMCB for the transfer of the Stained Glass Windows in exchange for the City's occasional use of the Multi-Purpose Room and for other good and valuable considerations that will be set forth in the Proposed Agreement.

Section 2

If the City approves the Proposed Agreement and the Proposed Agreement is drafted and approved by the City Attorney and executed by the parties, the City Manager is authorized to transfer the Stained Glass Windows to the FUMCB pursuant to terms of Proposed Agreement.

Section 3

The findings set forth above in the recitals of this resolution are incorporated into the body of this resolution as if fully set forth herein.

Section 4

The Type A Corporation hereby requests that the City Council of the City of Burleson ratify this resolution and actions of the Type A Corporation. Accordingly, this resolution shall take effect immediately after such ratification.

PASSED, APPROVED, AND SO RESOLVED by the Board of Directors of the Burleson 4A Economic Development Corporation on the ____ day of _____, 20__.

Dan McClendon, Board President
Burleson 4A Economic Development Corporation

ATTEST:

Amanda Campos, Secretary