



**CITY OF HUTCHINS
CITY COUNCIL MEETING
AGENDA**

**Tuesday, January 16, 2024 at 6:30 PM
City Hall, 321 N. Main Street**

Under Section 551 of the Texas Government Code, notice is hereby given of a Regular Meeting of the Hutchins City Council to be held on Tuesday, January 16, 2024, at 6:30 PM located at Hutchins City Hall Council Chambers, 321 N. Main Street, Hutchins, Texas, at which time the following items will be discussed and considered.

City Council Members

Mayor Mario Vasquez
Mayor Pro Tem Steve Nichols
Councilmember Brenda Campbell
Councilmember Dominic Didehbani
Councilmember Raymond Elmore
Councilmember Demarcus Odom

A. CALL TO ORDER AND ANNOUNCE A QUORUM PRESENT

1. Roll Call by Mayor

B. INVOCATION AND PLEDGE OF ALLEGIANCE

- C. CITIZEN COMMENTS** - *This agenda item provides an opportunity for citizens to address the City Council on any matter that is not posted on the agenda. Anyone wishing to address the City Council should complete a Citizen Comments Form and submit it to the City Secretary prior to the start of the City Council meeting. There is a three (3) minute time limit for each citizen to speak. However, in accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decision at this time.*

D. PUBLIC HEARINGS

2. Conduct a Public Hearing regarding a request for a 4B project at 101 S IH 45 Suite 9, Presented by: Guy Brown, EDC Director
3. Conduct a Public Hearing to consider a request for Specific Use Permit for truck sales and storage at 1301 E. Wintergreen Road. Presented by Tim Rawlings, Building Official

E. PRESENTATIONS

4. LGI Presentation. Presented by Tim Rawlings, Building Official
5. CIP Update Presented by: Robert McWayne, Interim Director of Public Works
6. Hutchins 911 next generation project. Presented by: S. Perry, B. Blanton, Thomas Marsh (Carbyne)

F. REGULAR AGENDA - *As authorized by Section 551.071 of the Texas Government Code, the City Council reserves the right to convene in Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.*

7. Discuss and consider Resolution R2024-01-1164 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, APPROVING A 4B PROJECT FOR THE PURPOSE OF INFRASTRUCTURE IMPROVEMENTS FOR PROPERTY LOCATED AT 101 SOUTH INTERSTATE 45, SUITE 9, HUTCHINS, TEXAS; AUTHORIZING THE HEDC EXECUTIVE DIRECTOR TO EXECUTE THE FINAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. PRESENTED BY: Guy Brown, EDC Director
8. Discuss and consider ORDINANCE 2024-01-1187 OF THE CITY OF HUTCHINS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF HUTCHINS, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING BY GRANTING A SPECIFIC USE PERMIT (“SUP”) WITH SPECIAL CONDITIONS TO ALLOW A TRUCK SALES AND STORAGE FACILITY ON LAND ZONED LIGHT INDUSTRIAL (“LI”) CONSISTING OF ±7.925 ACRES OF LAND, SITUATED IN THE WILLIAM GATLIN SURVEY, ABSTRACT NO. 499, CITY OF HUTCHINS, DALLAS COUNTY, TEXAS, MORE COMMONLY KNOWN AS 1301 EAST WINTERGREEN ROAD, HUTCHINS, PRESENTED BY; Tim Rawlings, Building Official
9. Discuss and consider Resolution R2024-01-1163 of the City of Hutchins, Casting Its Vote for the Fourth Member of the Board of Directors of the Dallas Central Appraisal District. Presented by: Cynthia Olguin, City Secretary
10. Consider and act on Resolution No. R2024-01-1165 APPROVING AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF HUTCHINS AND RENÉ BATES AUCTIONEERS, INC. (RBAI) TO CONDUCT ONLINE AUCTIONS OF SURPLUS INVENTORY FOR THE CITY OF HUTCHINS; AND PROVIDING FOR AN EFFECTIVE DATE. Presented by: Katherine Lindsey, Assistant to the City Administrator
11. Consider and act on Resolution No. R2024-01-1166 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, DECLARING CERTAIN PROPERTY SURPLUS OR OBSOLETE, AND AUTHORIZING THE AUCTION OF SAME; AND PROVIDING FOR AN EFFECTIVE DATE. Presented by: Katherine Lindsey, Assistant to the City Administrator

G. ITEMS OF COMMUNITY INTEREST

12. Planning and Zoning Commission Meeting, Thursday, January 18, 2024, at 6:00 p.m. City Hall Council Chambers, 321 N. Main St.

Boards and Commissions Recruitment Event, Thursday, January 18, 2023 at 6:30 p.m., Hutchins Community Center, 500 W. Hickman.

Wednesday, January 17, 2024, through Friday, February 16, 2024 - Period for filing an application for a place on the ballot for the City of Hutchins May 4, 2024, General Election to elect a mayor and two council members at large.

Zoning Board of Adjustment and Building and Standards Commission joint meeting and training, Thursday, January 2, 2024, at 6:30 p.m. at City Hall Council Chambers, 321 N. Main St.

Parks and Recreation Board, Tuesday, February 6, 2024 at 6:30 p.m., City Hall Council Chambers, 321 N. Main St.

Atwell Public Library Board Meeting, Tuesday, February 20, 2024 at 6:30 p.m., City Hall Council Chambers, 321 N. Main St.

H. ADJOURN

CERTIFICATION

I certify that a copy of the January 16, 2024, agenda of items to be considered by the Hutchins City Council was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website www.cityofhutchins.org, in accordance with Chapter 551 of the Texas Government Code. Posted on Wednesday, January 10, 2024 before 6:30 p.m.



Cynthia Olguin
City Secretary



ACCESSIBILITY STATEMENT

The meeting location is wheelchair accessible from the front door. Request for special services must be received at least 48 hours in advance of a scheduled meeting. For assistance, please call the office of the City Secretary at 972-225-6121 or email the City Secretary at colguin@cityofhutchins.org



CITY COUNCIL AGENDA STAFF REPORT

MEETING DATE: January 16, 2024
SUBMITTED BY: Guy Brown, EDC Director
AGENDA CAPTION: Public Hearing regarding 4B project at 101 S IH 45 Suite 9

Background Information

In November 2023, the Hutchins Economic Development Corporation was approached by La Mancha Coffee and Tea regarding assistance with expanding his business in Hutchins. The company intends to open a coffee shop and restaurant to be located at 101 South Interstate Highway 45 Suite #9 in Hutchins.

The applicant is asking for assistance with vent hood and fire suppression equipment for the location.

This item is a Public Hearing. A Public Notice was issued and ran in the Focus Daily News. Those wanting to speak on this issue will be given the opportunity to address the council. A subsequent action item is related to this project.

Budget Implications

If approved, the HEDC will grant the applicant \$6,000 upon issuance of a Certificate of Occupancy by the City of Hutchins.

Operational Impact

There are no operational impacts regarding this item.

Legal Review

The attached agreement located under the Action Item was drafted by the City Attorney.

Staff Recommendation

The HEDC Board of Directors recommends that the City Council hold a Public Hearing and approve of the attached agreement.

Supporting Documentation and Attachments

1. Copy of Public Notice

LEGAL NOTICES

City of Hutchins

Notice of Public Hearings

**NOTICE IS HEREBY
GIVEN TO ALL INTER-
ESTED PERSONS, THAT:**

The Hutchins Economic Development Corporation (Hutchins EDC) proposes to initiate a 4B Project for the purpose of infrastructure improvements to a commercial area located at 101 South Interstate 45, Suite 9 within the City of Hutchins.

The purpose of the 4B Project is to contribute to the retention or expansion of primary employment or to attract major investment and industry to the City of Hutchins for the purpose of creating jobs and expanding the tax base.


A public hearing will be held by and before the Hutchins City Council on the 16th day of January, 2024 at 6:30 p.m. at the Hutchins City Hall located

at 321 Main Street, Hutchins, Texas, for all persons interested in the above 4B Project.

The time and place of the public hearing is as follows:

Date: January 16, 2024
Time: 6:30 PM
Place: Hutchins City Hall
321 Main Street
Hutchins, TX 75141

*H- 12/24 Brown
44L*

	<h1>STAFF REPORT</h1>	
MEETING DATE: 1-16-2024		
MEETING TYPE: REGULAR		
SUBMITTED BY: TIM RAWLINGS BUILDING OFFICIAL		
AGENDA CAPTION: SUP	Specific Use Permit for truck sales and storage	

Background Information

Chris Cate representing Provident Realty Advisors has made an application for a Specific Use Permit (SUP) to allow truck sales and storage at their new facility located at 1301 E. Wintergreen Rd. This site has a newly constructed 20,000 SF building on 7.93 acres in the Light Industrial (LI) district located just south of the newly constructed Lennar Homes sub-division and just west of the Hutchins Fire Station #2. The property has been developed and built according to the City of Hutchins Zoning Ordinance and building codes. The building has now been completed and Provident has a tenant interested that wishes to sell heavy load trucks, they also plan to install a wash bay for trucks in one end of the building (not open to the public) maintenance and minor repairs will be made on site only to truck offered for sale.

At their 12-21-2023 meeting the Planning and Zoning Commission voted 5-0 in favor of forwarding a recommendation of approval to City Council.

Budget Implications

N/A

Operational Impact

N/A

Legal Review

Yes

Staff Recommendation

Staff recommends Council discuss and consider this item.

Supporting Documentation and Attachments

LEGAL DESCRIPTION
1301 E Wintergreen Road, Hutchins, TX

BEING a 7.925 acre tract of land, situated in William Gatlin Survey, Abstract No. 499, City of Hutchins, Dallas County, Texas, and being all of Lot 1, Block S of Replat of Skyline Estates Addition Phase 1 & 2, an addition to the City of Hutchins, Dallas County, Texas, recorded in Instrument Number 201900338511 of the Official Public Records of Dallas County, Texas (O.P.R.D.C.T.), as affected by that Certificate of Correction, recorded in Instrument No. 202000139040 (O.P.R.D.C.T.) and being a portion of a tract of land described in a deed to DLH Logistics LLC, recorded in Instrument Number 201700256958 (O.P.R.D.C.T.).

SUP APPLICATION LETTER

1301 E. Wintergreen, Hutchins, TX 75141

ISF Hutchins Parcel 10 LLC, an affiliate of *Provident Realty Advisors*



HIGHLIGHTS

- ADDRESS:** 1301 E. Wintergreen Rd, Hutchins, TX
- BUILDING/SITE SIZE:** 20,000 SF Building on 7.93 ACRES
- STATUS:** Built in Q42023. Completed/Vacant
- CONSTRUCTION TYPE:** Tilt Wall Construction, Fully Paved Parking
- ZONING:** Light Industrial (LI)
- OWNER:** ISF Hutchins Parcel 10 LLC, an affiliate of *Provident Realty Advisors*
- TENANT NAME:** Confidential
- TENANT USE:** Tractor-Trailer sales with minimal routine maintenance.
- HOURS OF OPERATION:** Mon-Fri 7:00am-5:00pm; Saturday 8:00am-3:00pm; Closed Sunday
- ANTICIPATED SALES:** \$60M+ Annually
- JOB CREATION:** 20+ Employees (1 employee per 1,000 SF)
- SUP REQUEST FOR:** Truck Sales & Storage

SUP APPLICATION LETTER

1301 E. Wintergreen, Hutchins, TX 75141

ISF Hutchins Parcel 10 LLC, an affiliate of *Provident Realty Advisors*

TO: City of Hutchins | City Hall
Attn: Tim Rawlings
321 N. Main, P.O. Box 500
Hutchins, TX 75141
trawlings@cityofhutchins.org

Mr. Rawlings:

As you are aware, our new construction project located at 1301 E. Wintergreen, Hutchins, TX has just been completed. This development comprises a Class A 20,000 SF tilt-wall truck maintenance facility with a fully paved parking lot and landscaping around the perimeter on a 7.93 acre site. The site is fully fenced in addition to a 12’ masonry wall along the northern property boundary. The site lies in the city of Hutchins and has a zoning classification of Light Industrial (“LI”).

When we applied for (and received) our building permit the proposed use was for Trailer and Heavy Load Vehicle Repair, a permitted use in the LI zoning district. While we have been under construction, we have been marketing the property for lease. We are deep in design and lease negotiations with a potential tenant (“Tenant”) who’s main line of business is the Sales of used Heavy Load Vehicles. They are a very strong company out of Chicago, IL that wants to expand to DFW with a new facility. The Tenant chose our location based on the building quality and the speed at which we could deliver them a turnkey building, but according to the Tenants broker, the Tenant has another option in the city of Dallas they are considering as well. The Tenant use under the City of Hutchins code would qualify under Truck Sales and Storage. As such, I am seeing a Specific Use Permit (“SUP”) for Truck Sales and Storage at 1301 E. Wintergreen, Hutchins, TX.

We believe this use at this facility would be a benefit to the city, its residents, and its employers for various reasons, especially as an alternative to what the building was initially intended for (Trailer and Heavy Load Vehicle Repair).

Benefits of this use compared to other uses in the LI district include but are not limited to:

- Addition of a **wash bay** inside the existing building to keep trucks clean at all times
- **Limited hours of operation:** Mon-Fri 7:00am-5:00pm; Sat 8:00am-3:00pm; Closed Sun
- **Noise:** Minimal to no noise compared to a heavy vehicle repair shop
- This is a **Truck Dealership**, so tenant will be incentivized to keep facility clean and landscaping top notch. Maintenance performed would be very light maintenance. This facility will not have customers coming in to get vehicles serviced. All maintenance to vehicles are routine maintenance of the vehicles that are for sale.
- **Truck Traffic:** Essentially zero additional truck traffic will be incurred by the city’s roads and infrastructure if the Truck Sales and Storage use is approved.
- **Strong Reputation and Proven Track Record:** Tenant has another facility outside of Chicago and their Google profile boasts a 4-star rating with 116 reviews. Customers rave about customer service and cleanliness of their facility and Trucks. Their Chicago facility historically has \$60+ Million of sales annually and this facility is expected to meet or exceed that figure.
- **Employment:** This facility is estimated to bring 20+ new jobs to Hutchins (1 job per 1,000 SF)
- **Harmonious Use:** This use is harmonious and compatible with the surrounding existing uses which are primarily industrial, logistics, and the Union Pacific Intermodal. In fact, this facility is the best quality facility in the area.

SUP APPLICATION LETTER

1301 E. Wintergreen, Hutchins, TX 75141

ISF Hutchins Parcel 10 LLC, an affiliate of *Provident Realty Advisors*

Below is a list of permitted uses in the LI district that the facility could be used for by right which I believe are less desirable uses for residents and employers in the surrounding area compared to our proposed Truck Sales & Storage use for a variety of reasons, whether it be noise, tenant quality, employment, truck traffic, hours of operation, etc.:

- Parking Lot or Structure Commercial (Auto)
- Auto Glass, Seat Cover/Upholstery and Muffler Shop
- Auto Repair, Major
- Trailer and Heavy Load Vehicle Repair
- Contractor Shop w/outside Storage Yard
- Distribution Center
- Welding or Machine Shop
- Wholesale & Retail Steel and Metal Sales with Outside Storage

Comparable uses that are Permitted in LI district and are similar to proposed Truck Sales & Storage use:

- Tractor Sales
- Trailer or Truck Rental
- Trailer and Heavy Load Vehicle Repair
- Auto Repair, Minor
- Equipment Rental (Heavy)
- Open Storage, Display, or Work Areas For Merchandise or Machinery

In Conclusion, I strongly feel that the Truck Sales & Storage use at this facility would be beneficial to serve the City of Hutchins, its residents, and its employers. The proposed use is substantially similar to various other permitted uses in the LI district. A truck dealership at this facility would reduce truck traffic compared to other permitted uses, result in strong employment numbers relative to the size of the facility, create minimal noise and disturbance, and would allow a strong tenant with a proven track record to expand their operations in the area. As such, I believe there are a variety of reasons that City of Hutchins and its residents would be inclined to approve an SUP for Truck Sales & Storage at this facility.

I look forward to discussing this opportunity further. Please do not hesitate to reach out with any questions, comments, or concerns.

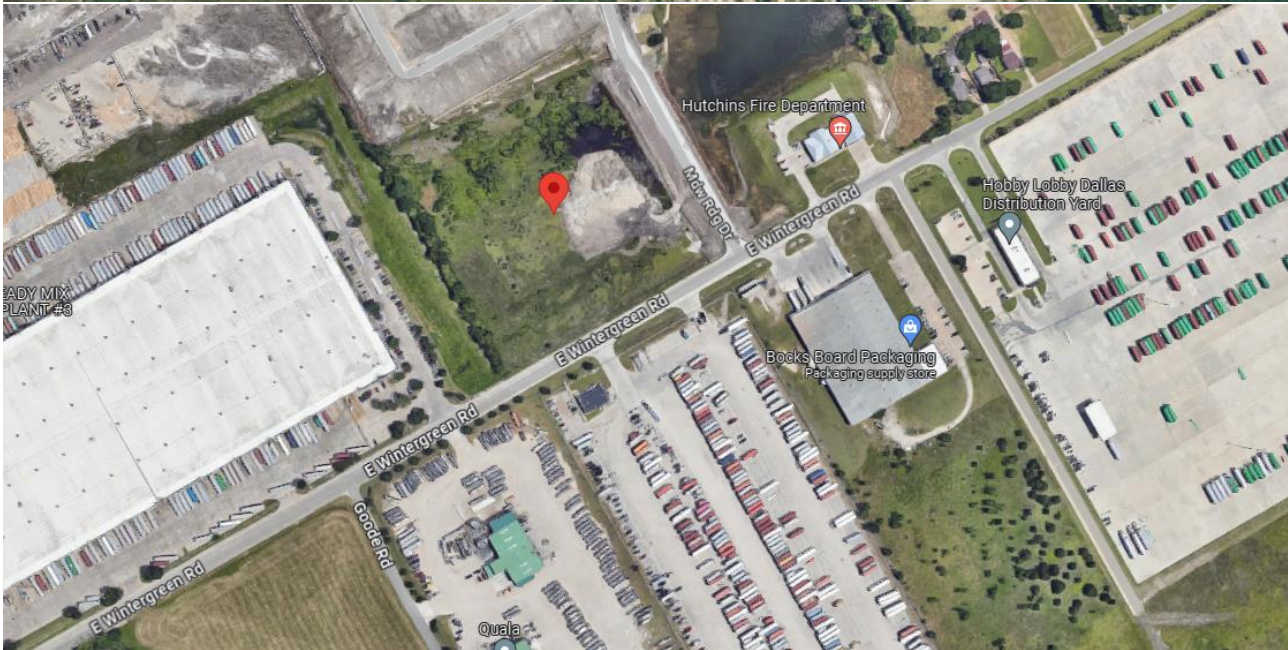
Respectfully,

Chris Cate
 Provident Realty Advisors
 10210 N. Central Expy #300
 Dallas, TX 75231
 Direct: 972-972-7504
 Cell: 714-227-5588
 Email: ccate@providentrealty.net

SUP APPLICATION LETTER

1301 E. Wintergreen, Hutchins, TX 75141

ISF Hutchins Parcel 10 LLC, an affiliate of *Provident Realty Advisors*



SUP APPLICATION LETTER

1301 E. Wintergreen, Hutchins, TX 75141

ISF Hutchins Parcel 10 LLC, an affiliate of *Provident Realty Advisors*



SUP APPLICATION LETTER

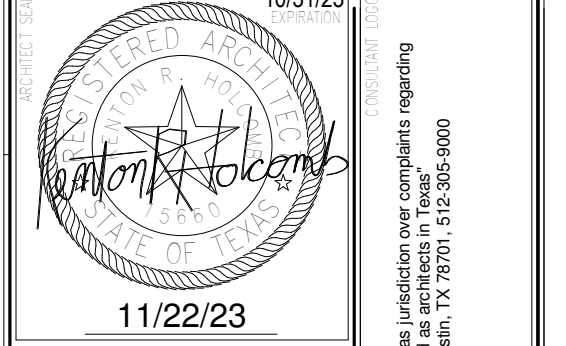
1301 E. Wintergreen, Hutchins, TX 75141

ISF Hutchins Parcel 10 LLC, an affiliate of *Provident Realty Advisors*

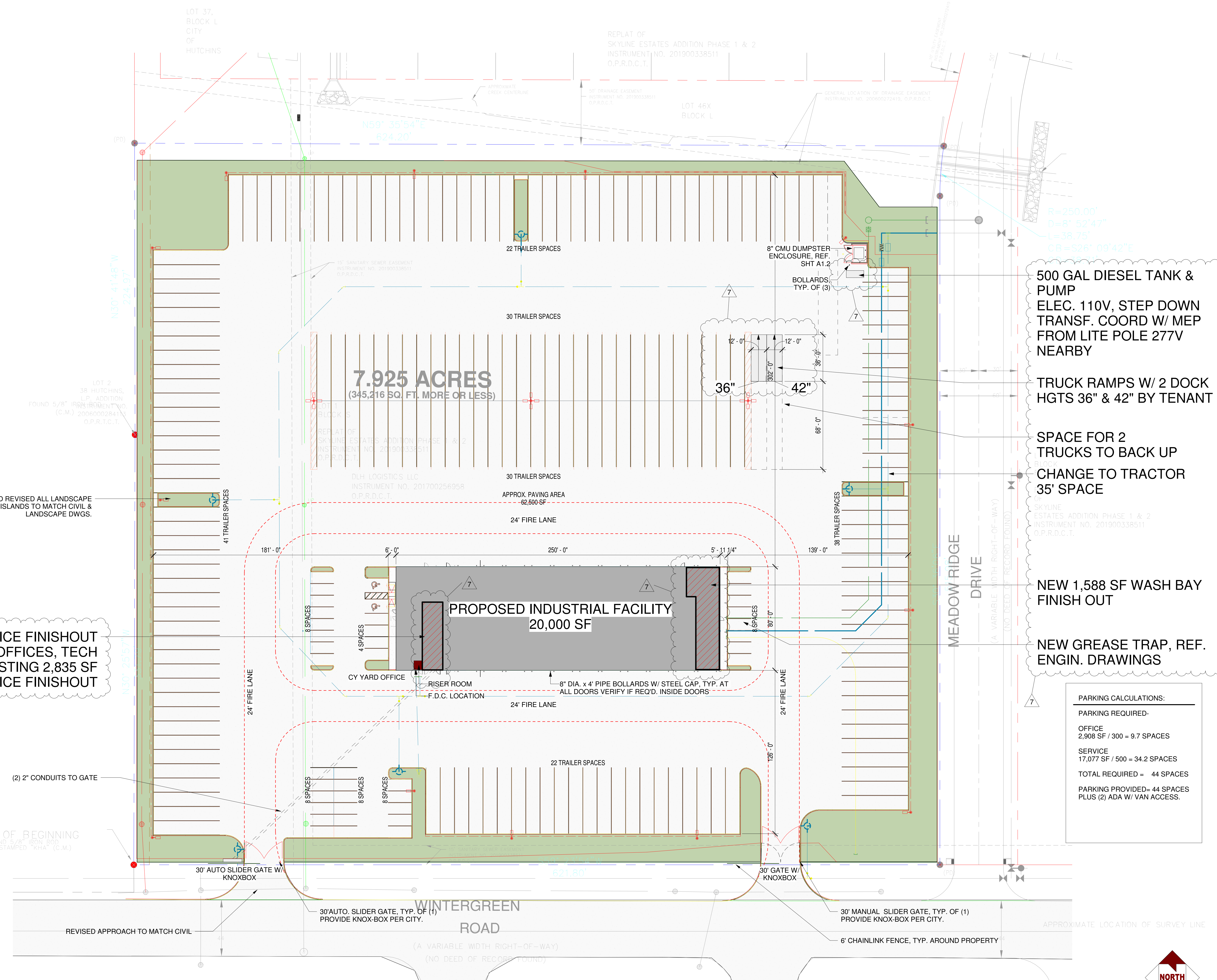




11880 Younger Ct., Ste. A
Azle, Texas 76020
817-905-6991



11/22/23
STATEMENT OF A PROFESSIONAL ENGINEER: I have prepared this drawing in accordance with the provisions of the Texas State Board of Professional Engineers and the provisions of the Engineering Act of 1999, Chapter 900, Texas Government Code, and the Rules of the State Board of Professional Engineers, Chapter 100, Texas Administrative Code.



NEW 827 SF TENANT OFFICE FINISHOUT ALTERATION W/ ADDITIONAL OFFICES, TECH BREAK & LOCKER IN THE EXISTING 2,835 SF OFFICE FINISHOUT

500 GAL DIESEL TANK & PUMP
ELEC. 110V, STEP DOWN TRANSF. COORD W/ MEP FROM LITE POLE 277V NEARBY

TRUCK RAMPS W/ 2 DOCK HGTS 36" & 42" BY TENANT

SPACE FOR 2 TRUCKS TO BACK UP CHANGE TO TRACTOR 35' SPACE

NEW 1,588 SF WASH BAY FINISH OUT

NEW GREASE TRAP, REF. ENGIN. DRAWINGS

PARKING CALCULATIONS:

PARKING REQUIRED-
OFFICE 2,908 SF / 300 = 9.7 SPACES
SERVICE 17,077 SF / 500 = 34.2 SPACES
TOTAL REQUIRED = 44 SPACES
PARKING PROVIDED= 44 SPACES PLUS (2) ADA W/ VAN ACCESS.

Revision Schedule

NO.	DATE	REVISION DESCRIPTION
1	11/22/23	REVISIONS FOR A NEW TENANT II

DLH 10 DEVELOPMENT

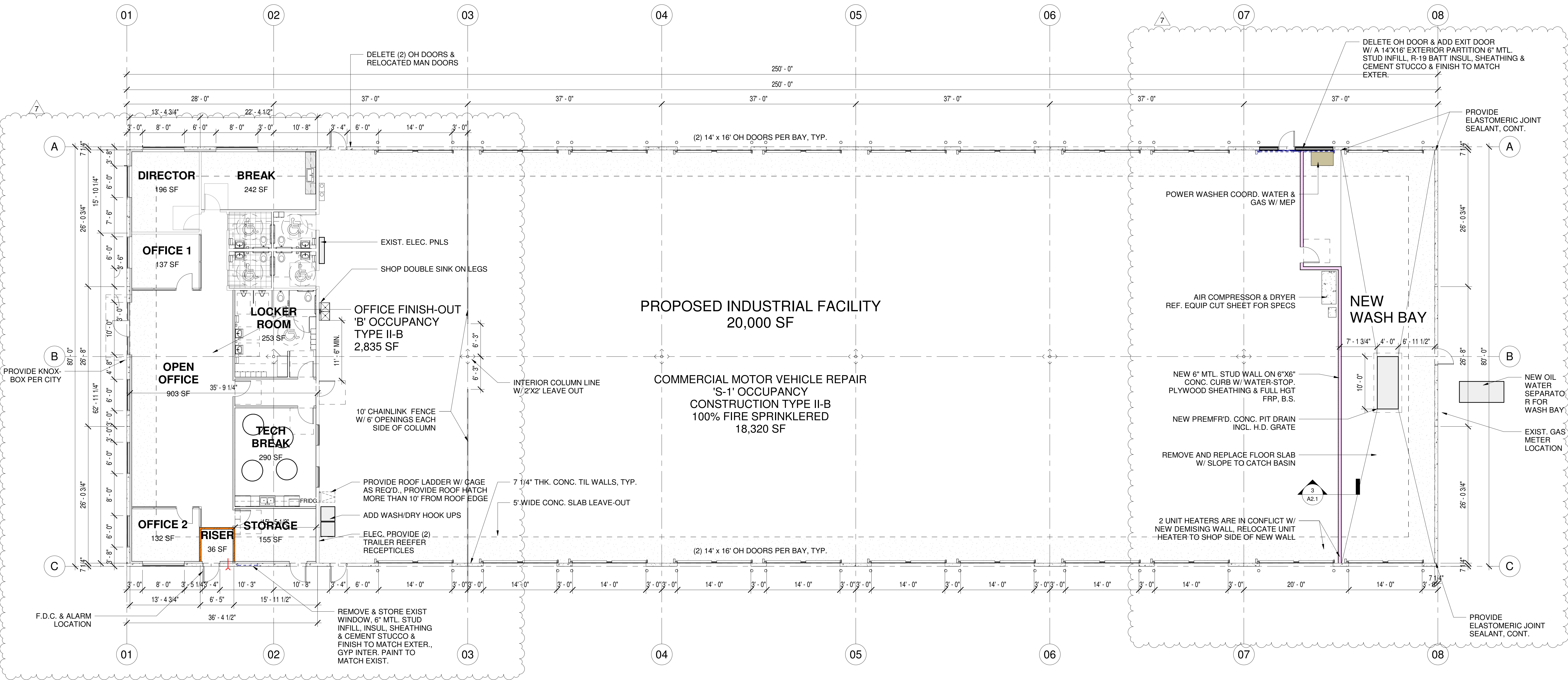
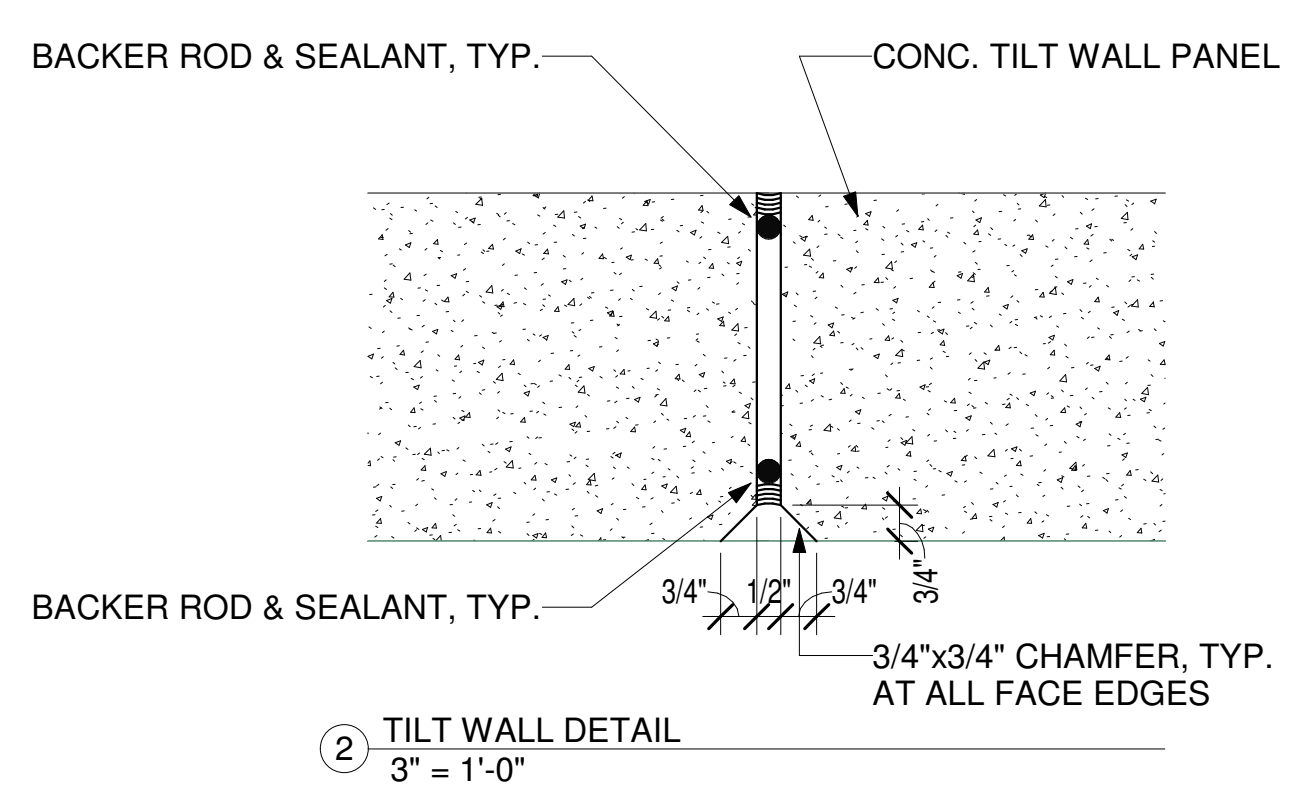
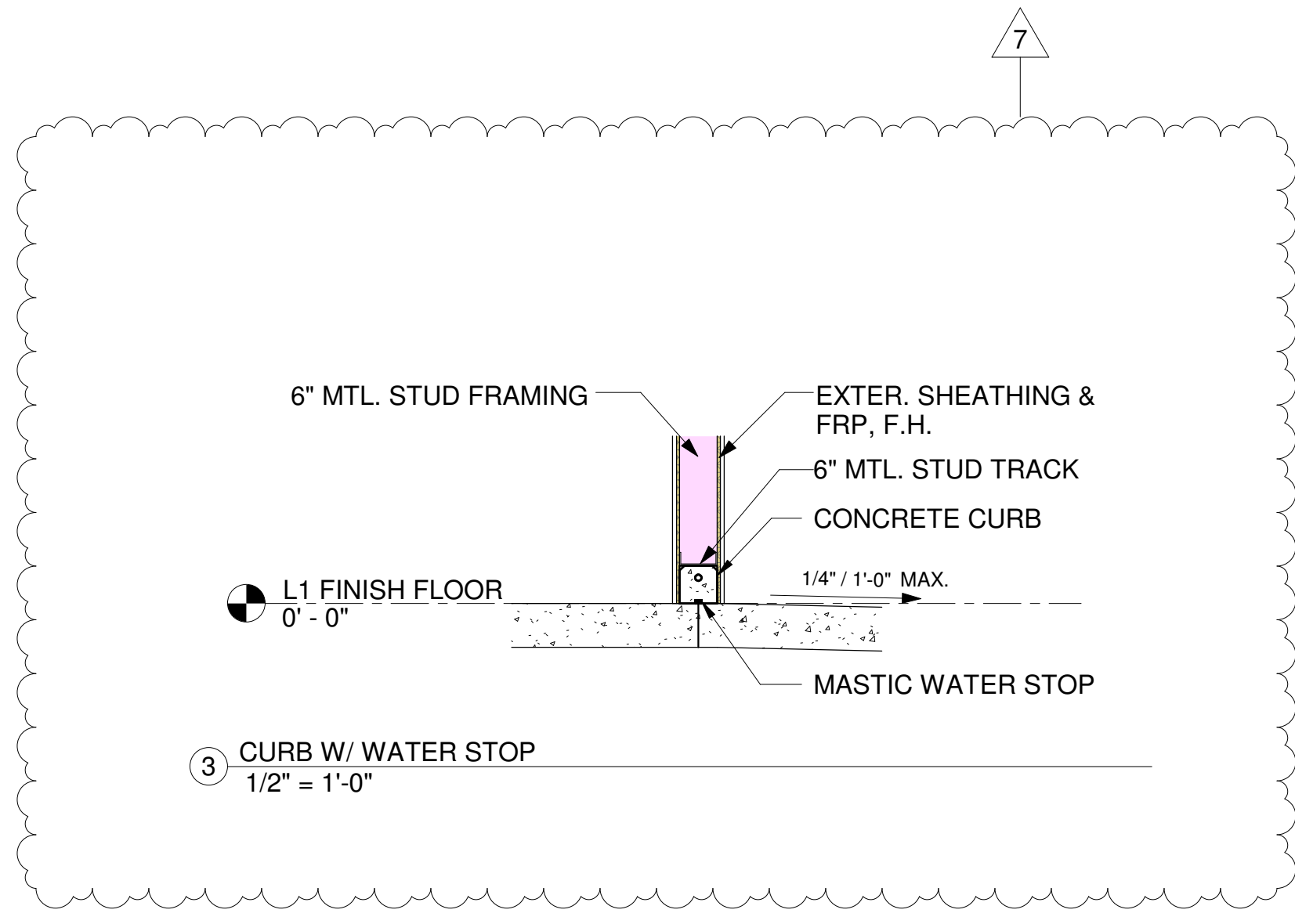
1 Meadow Ridge Drive, Hutchins, TX
TENANT PERMIT ADDENDUM II

ARCHITECTURAL SITE PLAN
CONSTRUCTION DRAWINGS

A1.1

1 SITE PLAN
1" = 30'-0"





1 FLOOR PLAN - OVERALL
1/8" = 1'-0"




Revision Schedule

Rev.	Description
1	ISSUED FOR PERMIT
2	REVISIONS FOR A NEW TENANT

DLH 10 DEVELOPMENT
1 Meadow Ridge Drive, Hutchins, TX
TENANT PERMIT ADDENDUM II

FLOOR PLAN - OVERALL
CONSTRUCTION DRAWINGS
A2.1

	STAFF REPORT	
MEETING DATE: 1-16-2024		
MEETING TYPE: REGULAR		
SUBMITTED BY: TIM RAWLINGS BUILDING OFFICIAL		
AGENDA CAPTION:	LGI Presentation	

Background Information

At the request of Council, Elaine Torres (representing LGI Homes) will make a presentation regarding the exterior façade's to be on the new homes constructed in the South Haven sub-division.

Budget Implications

N/A

Operational Impact

N/A

Legal Review

N/A

Staff Recommendation

N/A

Supporting Documentation and Attachments

Southaven



748 single family





Southaven

Section E, Item 4.



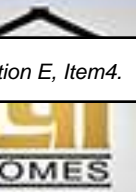
Southaven

Section E, Item 4.



Southaver

Section E, Item 4.



Southaven

Section E, Item 4.



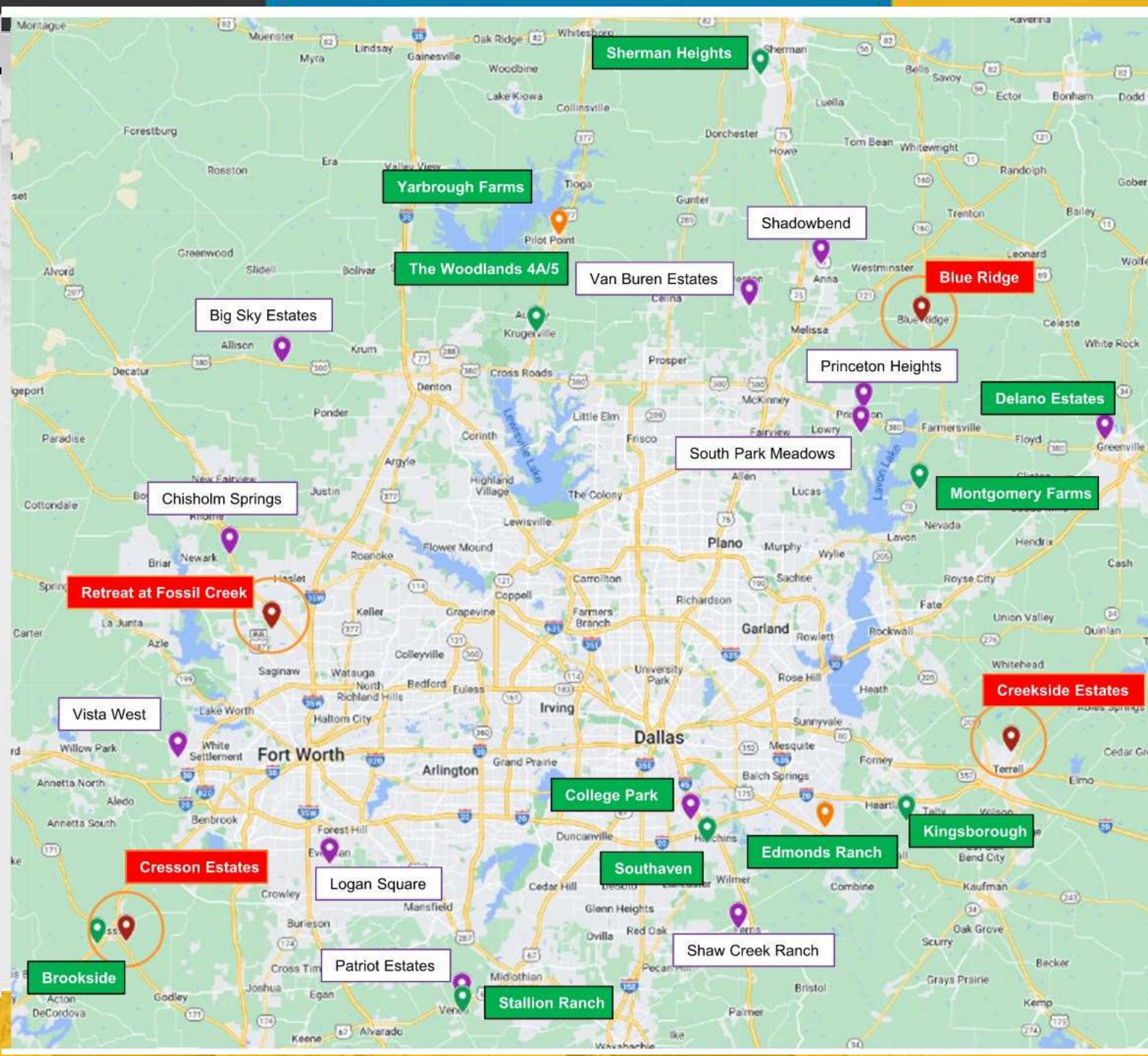
Southaver

Section E, Item 4.



Southaven

Section E, Item 4.



DFW is on track to meet its goal of 17 active communities!

Section E, Item 4.



240 COMMUNITIES

Dallas Fort Worth Stats:

- 1,258 lots Controlled
- 1,836 lots in Engineering
- 1,281 lots being Developed
- 1,608 Finished lots
- 2,133 Raw lots

8,116 TOTAL LOTS

(compared to 8,141 in Q3)



STAFF REPORT

MEETING DATE: January 16, 2024
MEETING TYPE: City Council
SUBMITTED BY: Robert McWayne, Interim Public Works Director
AGENDA CAPTION: CIP Update Presented by: Robert McWayne

Background Information

N/A

Budget Implications

N/A

Operational Impact

N/A

Legal Review

N/A

Staff Recommendation

N/A

Supporting Documentation and Attachments

CIP Update

City of Hutchins Infrastructure Improvement Projects Status Report

January 16, 2024

Project Number	Project Name	Project Type	City Led	Dallas County Led	Other Led	Total Cost	Budgeted Cost	Cost to Date	Status	Anticipated Completion	Project narrative
1	Monument Signs	Signage	✓			TBD	\$300,000	\$0		TBD	Currently in design phase, 100% EDC Funded.
2	Wintergreen Rd Expansion	Street		✓		TBD	\$1,500,000	\$0		TBD	Design is currently around 30% completion.
3	Lancaster-Hutchins Rd Design	Street	✓		✓	\$ 1,000,000	\$500,000	\$224,584		Jan-24	Quiddity engineering has submitted 60% plans that are currently being reviewed by Dallas County.
4	UPRC Palestine St. Crossing	Sidewalk	✓		✓	\$ 100,000				TBD	UPPR has accepted the plans and submitted costs to the City.
5	18" Wastewater Relief Line	Sewer	✓			TBD	\$1,000,000	\$0		Sep-22	Designs are currently at 90% and are being prepared for bid.
6	Campbell Park Site Improvements	Parks	✓			TBD	\$700,000	\$39,000		Sep-24	Ron Hobbs has started designing the pavilion.
7	Meadowbrook Channel Stabilization	Drainage	✓			TBD	\$1,000,000	\$0		TBD	Freese and Nichols has been directed to get plans ready to bid excluding the area requiring a 404 permit.
8	AMI Water Meter System Upgrade	Water	✓			\$ 779,654	\$1,000,000	\$687,025		N/A	Finance is working with Aqua Metric to get the customer portal up and running.
9	Southern WW Sys. Interceptor	Sewer	✓			\$ 4,023,445		\$2,319,222		Apr-24	Approximatley 60% complete.
10	Southern WW Sys. Lift Station	Sewer	✓			\$ 6,898,878		\$1,304,432		Apr-24	Currently under construction.
11	Southern WW Sys. Force Main	Sewer	✓			\$ 5,260,359		\$2,493,040		Apr-24	Approximatley 90% complete.
12	Woodbrook Drive Recons.	Street	✓	✓		TBD	CDBG	\$0		TBD	Completed
13	Woodcrest Drive Recons.	Street		✓		TBD	CDBG	\$0		TBD	Reached out to Dallas County and awaiting a response
14	Meadowbrook Drive Sewer	Sewer	✓			TBD	\$175,000	\$0		TBD	Staff is looking at companies to line the pipe.
15	Water main replacements	Water	✓			TBD	\$453,805	\$0		TBD	Preparing for bid.
16	ARPA Sewer Main	Sewer	✓			TBD	\$600,000	\$0		TBD	Council has approved using the funds for the Rawlins Creek line.
17	Sidewalk Expansion Project	Sidewalk	✓			TBD	\$600,000	\$0		TBD	Preparing for bid and including Campbell Park walking trail.
18	DWU Water Meter Vault Upgrades	Water	✓			TBD	\$2,300,000	\$0		TBD	Bartlett & West are working on design for the 10" upgrade.
19	Facility Landscaping	Facility	✓			TBD	\$10,850	\$0		TBD	Ronn Hobbs is preparing renderings for Council.
											Has not started yet.
											Has areas of concern.
											Major delays.
											On schedule
											Completed



STAFF REPORT

MEETING DATE:	January 16, 2024
MEETING TYPE:	Council meeting
SUBMITTED BY:	S. Perry
AGENDA CAPTION:	Hutchins 911 next generation project. Presented by: S. Perry, B. Blanton, Thomas Marsh (Carbyne)

Background Information

The City of Hutchins 911 PSAP is hosted by AT&T. The last change to the 911 PSAP was in 2016.

At that time the 911 software was upgraded, and an additional layer of mapping was provided by AT&T. However now with commercial and residential growth the mapping has become antiquated.

The original contract with AT&T expired in 2023, and a new contract was presented and approved by City Council for a one-year term on October 16, 2023, by resolution # R2023-1149.

Section 771.059 of the Texas Health and Safety code establishes September 1, 2025, for all parts of the State of Texas to become "Next generation 911 compliant".

Next generation allows 911 centers to accept information from the public and responders, including text, images, video, and voice calls.

- GPS location tracking services
- Geospatial routing
- Multimedia sharing
- Cloud-based call handling systems
- IP-based Emergency Services IP Network (ES Inet)
- Incident mapping
- Cyber security capabilities

As the City has grown over the past ten years the landscape in Hutchins has changed.

Over Fourteen million square feet of warehousing space has been added on Wintergreen Road, and on West Cleveland Road, and

approximately 200 new homes have been built in the city, and 750 new homes in the Southaven addition are to be constructed over the next five years.

What was once farmland is now commercial development or new residences.

Our mapping has become outdated and does not show accurate locations due to these new developments.

Poor mapping or no mapping of these areas provides for longer response times from Police and Fire, and is a safety issue to our Police and Fire personnel and to the person(s) who may be needing lifesaving first aid or may be the victim of criminal conduct.

Thomas Marsh (Carbyne presentation)

Power point

Budget Implication

State funds received monthly through the commission of emergency communications.

General fund

Operational Impact

Becky Blanton:

Text to 9-1-1 service is soon to be a requirement nationwide. The speech and hearing-impaired communities have made move toward text to 9-1-1 technology as a preference over the TDD/TTY services we currently offer as it is more cost effective considering most everyone has access to a cellular phone without purchasing additional equipment for their homes, and for use on the go. Additionally, Carbyne offers real-time translation of more than 90 languages with more to come. The US average 9-1-1 call takes approximately 2 minutes to process. Calls utilizing language line currently average 6-9 minutes. The software provided by Carbyne helps to minimize this delay by providing dispatch with a real time translated transcription of what the caller and translator are saying to add another layer of redundancy to ensure accuracy in documentation and proper response. Carbyne also has an accuracy of approximately 12 feet when providing caller locations. We currently have a radius of over 3,000 meters. This too will expedite locating a caller when they are unsure of their location due to diminished mental capacity or injury related communication issues. This 9-1-1 software provider offers top notch technical capabilities including live streaming video and real time text communication. Carbyne is designed by and for first responders to provide the most up to date capabilities to benefit the health of the community and the safety of both the community and the responder. Our current system is so outdated that we are the very last customer our supplier has on this version of software which is nearing end of life. With the upcoming next gen 9-1-1 requirements, our systems inability to be updated requiring replacement, and the necessity to provide ALL our citizens with the best quality response possible, I believe the cost of this software will be more than justified given the improvement it provides. Those with language barriers and disabilities are required to receive the same quality of care and response as those who do not. This system will provide required updates as well as updates that will provide communications the ability to expedite response for calls and provide responders with links to live video feed, updates from callers who would otherwise not be able to speak directly to dispatch, and better locate callers who cannot provide locations.

Legal Review

N/A

Staff Recommendation

Presentation, Staff will bring back a final recommendation during the 2024/2025 budget process.

Supporting Documentation and Attachments

Spread sheet of 911 funds collected monthly.

Carbyne Quote



Carbyne APEX Quote

Chief Steve Perry

City of Hutchins Police Department
205 W Hickman Street, Hutchins, TX 75141
+1 972.225.2225 | sperry@cityofhutchins.org

January 16, 2023

Carbyne Contact:

Thomas Marsh
Channel Partner Manager
+1 336.978.8708 | thomasm@carbyne.com

Carbyne, Inc.
New York, NY 10001
www.carbyne.com

Chief Steve Perry

**City of Hutchins Police
Department
205 W Hickman Street
Hutchins, TX 75141**

**Carbyne, Inc.
45 W 27th St, Floor 2
New York, NY 10001**

Carbyne, Inc. (Carbyne) welcomes the opportunity to deploy APEX with the **City of Hutchins Police Department**. We thank you for allowing us this opportunity to partner with your agency to help you improve your service to your community.

Carbyne created the APEX solution as the first cloud-native call management solution to enable emergency communications specialists to unify the flow of audio and data (video, chat, and map) into a single platform and, from the same platform, distribute essential information to first responders.

The APEX platform is designed to empower emergency communications centers with continuous service, no matter where your emergency communications specialists are physically located. As evidenced throughout the last few years, there is a growing need for public safety answering points to have the ability to manage 9-1-1 calls from anywhere. Our APEX platform, connected to the ESInet, provides NG9-1-1 capabilities to agencies for emergency communications centers' operations from almost anywhere.

Use of Carbyne products and services is subject to the Terms and Conditions (as defined in the Quote). This proposal is valid for 90 days.

Carbyne extends its thanks to the **City of Hutchins Police Department** for allowing us to share how we can serve as your ***provider of location information with video, pictures, and chat to enhance your current 9-1-1 and computer aided dispatch systems from 9-1-1 to Live-1-1***. If you have questions related to this proposal, please contact me at +1 336.978.8708 or thomasm@carbyne.com.

Sincerely,

Thomas Marsh

Regional Sales Manager

Quote

The following pricing is for APEX licenses and any related services as described below. Any items not expressly stated below are not included. All fees are on an annual subscription basis, unless otherwise stated. The term of the subscription is five years.

Remote support for the term of subscription is included in the subscription fees. The parties will mutually agree upon a training plan determined during project kickoff discussions.

Project Fees

Description	
<p>Annual Subscription Fees</p> <ul style="list-style-type: none"> ● APEX Platform <ul style="list-style-type: none"> ○ Caller Location <ul style="list-style-type: none"> ■ Carbyne Location ■ Advanced Mobile Location ■ ANI / ALI Location ○ Video ○ Silent Chat ○ Mapping Layers ○ API <ul style="list-style-type: none"> ■ Open ■ Intelligence Pane ● Responder Connect ● Control Center <ul style="list-style-type: none"> ○ Analytics ○ Events History ○ Seat Map ○ Wallboard ● Essentials Services <ul style="list-style-type: none"> ○ Customer Success ○ Technical Support 	<p>\$43,800</p> <ul style="list-style-type: none"> ● 2 Licenses
Annual Subscription Fees Total	\$43,800
Discount	(\$6,570)

Description	
Annual fees for Carbyne Local Access <ul style="list-style-type: none"> Managed Dedicated Internet Access with Customer Provided Internet Failover SIP Trunking for Outbound Dialing 	\$23,392
Total Annual Fees	\$60,622
One-Time Implementation & Training Fees	\$46,030

The one-time implementation fees set forth above are based on the information in the pre-sales questionnaire reviewed with the Customer. These implementation fees may change if the Assumptions set forth below are not accurate. Customer also agrees to reimburse Carbyne for costs incurred due to any delays or failure by Customer or its third party vendors and subcontractors to provide required cooperation and assistance which impact Carbyne's ability to provide the Solution and Professional Services. Any changes in the fees will be communicated to the Customer.

Professional Services for implementation and training are provided as described in a mutually agreed upon Statement of Work. Any provision of Professional Services is subject to the Carbyne Professional Services Terms and Conditions. Customer agrees to reimburse Carbyne for costs incurred due to any delays or failure by Customer or its third party vendors and subcontractors to provide required cooperation and assistance which impact Carbyne's ability to provide the Solution and Professional Services. Any changes in the fees will be communicated to the Customer.

SIP Trunk monthly maintenance fees reflect pass-through costs from Carbyne's third party provider which are based on Customer's anticipated use. At the end of each year of the subscription term, Carbyne may, with written notice, revise the monthly fees based on Customer's use in the prior year.

*Excludes taxes and regulatory fees.

Quote Summary

One-Time Fees and Year One Subscription Fees	\$106,652
Year Two Subscription Fees	\$60,622
Year Three Subscription Fees	\$60,622
Year Four Subscription Fees	\$60,622
Year Five Subscription Fees	\$60,622

Total Fees	\$349,140

Annual subscription fees may be subject to a fee adjustment on each anniversary date of the subscription start date to account for changes to the U.S. Department of Labor Consumer Price Index ("CPI"). Such fee adjustments are limited to the greater of 3% or the change in the CPI for the twelve month period preceding the anniversary date.

Payment Terms

Carbyne will invoice the total fees for Year 1 upon full execution of this quote.

The subscription start date is deemed to be the sooner of three months or the first date upon which calls to the 911 call center are delivered through the APEX platform ("Cut-Over Date").

Carbyne will invoice for subsequent annual subscription fees in the amount of \$60,622 upon each anniversary of the Cut-Over Date for the remainder of the five-year subscription term.

All invoices are due Net 30 days from the date of invoice.

Additional optional features can be added at any time via a mutually agreed upon sales order(s) and applicable subscription fees will be prorated from the date such feature is added through the end of the subscription term of this sales order.

Future Features

Carbyne is currently in the process of developing new products and services, including those listed below. Carbyne will notify Customer if Carbyne makes these products and services generally available, and will advise Customer of applicable technical requirements such as any necessary integrations. Customer may choose to purchase a subscription, subject to written agreement to the applicable quote and terms and conditions. The anticipated subscription fee is provided below. Carbyne has no obligation to make these products and services generally available, whether now or in the future, and is unable to promise or guarantee that the product or service will be compatible with Customer's systems. Pricing provided below is subject to change at the time of general availability.

Product or Service	Quantity	Monthly Subscription Fee	Anticipated Annual Subscription Fee
Transcription & Translation	1	\$200	\$2,400
Discount			(\$360)
Total Anticipated Annual Subscription Fees			\$2,040

Assumptions

This Quote is based upon the following assumptions, the APEX Pre-Sales Questionnaire reviewed with Customer and Customer’s compliance with the APEX Technical Requirements (“Technical Requirements”) which are provided to Customer. By signing below, Customer acknowledges and confirms it has received and reviewed the Technical Requirements. Customer’s non-compliance with the Technical Requirements and/or any discrepancies with information in the Pre-Sales Questionnaire or the following assumptions may result in changes, delays, and/or fee adjustments to the implementation and provision of APEX and related products and services under this Quote.

Hardware & Software Responsibility

Item	Customer	Carbyne
APEX workstation and peripheral equipment	x	
Carbyne Trigger Module		x

Network Responsibility

Item	Customer	Carbyne
Gateway	x	
LAN/WAN Connection	x	

Integrations

The following summarizes anticipated integrations with APEX. Customer is responsible for providing appropriate contacts and facilitating discussions with any third-party vendor or subcontractor engaged by the Customer, whose services may be required to interact or connect with APEX or is required for Carbyne to provide APEX to Customer. Carbyne will use commercially reasonable efforts to integrate only the following interfaces with APEX.

- CAD
- Audio Arbitration
- Administrative PBX
- SIPREC Audio Recorder
- ESInet integration

Support

Except as expressly described in this Quote, all hardware and third-party licenses and any other equipment, applications, and materials (collectively “Equipment”) used with Carbyne products and services are Customer's responsibility. Carbyne's support obligations and warranties do not extend to such Equipment.

Terms and Conditions

All mutually agreed upon Quotes and any use of Carbyne's products and services are subject to Carbyne's Terms and Conditions which can be found at <https://carbyne.com/legal/> (“Terms and Conditions”). The current version of the Terms and Conditions are also attached below. By signing below, you agree to this Quote and the Terms and Conditions.

Signatures of Authority

This Quote and the Terms and Conditions are entered into by and between **Carbyne, Inc.**, with a principal place of business at 45 W 27th St, Floor 2, New York, NY 10001; and **City of Hutchins Police Department** with a principal place of business at 205 W Hickman Street, Hutchins, TX 75141.

City of Hutchins Police Department

Carbyne, Inc.

Chief Steve Perry

Rahul Sheth, CFO

+1 972.225.2225 | sperry@cityofhutchins.org

+1 516.302.7434 | rahuls@carbyne.com

Customer Signature

Carbyne Signature

Date

Date

Carbyne Terms and Conditions

These Carbyne Terms and Conditions (“**Agreement**”) govern your access to and use of the Solution offered by us or our Affiliates. By using the Solution, or upon your agreement to the Order Form for the Solution, you indicate you have read, understand and agree to the terms and conditions of this Agreement. If you use the Solution on behalf of an organization, you agree to this Agreement on behalf of that organization and you represent and warrant that you have the authority to do so. “**Carbyne**”, “**us**”, “**we**” or “**our**” refers to Carbyne Ltd., Carbyne, Inc. or Carbyne911 Mexico S. de RL de CV, as specified on the Order Form, on behalf of itself and its Affiliates, and “**Customer**”, “**you**” and “**your**” refers to the customer signing below.

DEFINITIONS

Affiliates means any other person that directly or indirectly controls, or is controlled by or under common control with a party, with ‘control’ as applied to any party being the direct or indirect ownership of more than fifty percent (50%) of the equity or voting interest in such party.

Authorized User means you or your employees, consultants, agents or contractors who are granted access to the Solution by you as part of their support of your internal business or operations.

Confidential Information means information (whether oral, written or in some other tangible form) disclosed by one party (the “disclosing party”) to the other party (the “receiving party”) that is obtained by the receiving party under or in connection with this Agreement and that is marked as confidential, is by its nature confidential or relates to the business or affairs of the disclosing party.

Documentation means the then-current standard product sheet provided or made available by us with respect to the Solutions which describes its features and functionalities. Documentation specifically excludes marketing and promotional materials and proposals.

Intellectual Property Rights means any and all intellectual property rights including patents, trademarks, design rights, copyright, rights in databases, know-how, look-and-feel, domain names and all similar rights (whether or not registered or capable of registration and whether subsisting in any part of the world), together with any and all goodwill relating or attached thereto, all derivative works and all extensions and renewals thereof.

License Designation refers to the permitted Software installation and Solution use rights as follows:

(a) **Primary License**: you may install the Software on your workstations up to the number of licenses specified on the Order Form and access and use the Solution from such workstations.

(b) **Backup License**: you may install the Software on your backup workstations up to the number of licenses specified on

the Order Form and access and use the Solution from such workstations only for backup purposes.

(c) **Concurrent License**: you may install the Software on your workstations up to the number of licenses specified on the Order Form, and you may access and use the Solution from only up to 50% of such workstations at any given time (unless otherwise indicated in the Order Form).

If no License Designation is provided on the Order Form, the License Designation is considered a Primary License.

Order Form refers to the ordering document, such as a quote, agreed to in writing between you and us which is subject to this Agreement and describes the Solution (including the number of Software licenses, as applicable) and Support Services you wish to purchase from us and the applicable fees.

Platform means the hosted platform, software as a service and/or other hosted product or service which we or our Affiliate(s) make available to you pursuant to this Agreement. The Platform excludes Software.

Privacy Policy means the policy found at <https://carbyne.com/app-privacy-policy/>, which describes how we use personal data you and your Authorized Users provide to us, including personal data which is shared with us in connection with your use of the Solutions.

Solution means the Software and Platform which we or our Affiliate(s) make available to you pursuant to this Agreement. The Solution does not include Third Party Content.

Software means the software in object code we provide to you for download under this Agreement which enables you and your Authorized Users to access the Platform. Software includes any upgrades we provide in accordance with the Support Terms and Service Level Agreement. Software excludes the Platform.

Subscription Term means the duration of your subscription to use the Solution specified in the applicable Order Form.

Support Services means the maintenance and support services provided in connection with your use of the Solution

in accordance with the Support Terms and Service Level Agreement.

Support Terms and Service Level Agreement (or SLA) means the document provided by us describing the Support Services provided by us, which includes our commitment regarding the performance of the Platform, as updated and which is incorporated into this Agreement by this reference.

Supplemental Terms means additional terms and conditions that apply to specified products and services or address specific requirements, as mutually agreed upon between the parties in writing, which are made part of this Agreement.

Third Party Content means applications, materials, services, data and information, such as location, which are provided by a third party and is made available to you through your use of the Solutions.

Your Data means data (including personal data of callers), records, reports, recordings and files you or your Authorized Users enter into the Solution, including the content of any message, video, or chat sent or received using the Platform, or which are otherwise generated by you or your Authorized Users through access or use of the Solution. Your Data includes log information from your use of the Platform, such as log data from your use of the Solution which is stored in Events History. Your Data does not include Third Party Content.

1. USE AND LICENSE OF PRODUCTS

1.1 Carbyne offers a Solution comprised of a cloud-based Platform accessed by Authorized Users through Software installed on an Authorized User's computer. During the Term, provided you are current in your payment obligations, we grant you: (i) the right to access the Platform through the Software; (ii) a non-exclusive, non-transferable, non-sublicensable, limited, revocable right to download, install and use the Software solely for purposes of exercising your rights to access the Platform as part of the Solution. In accordance with the specified License Designation, you may install the Software up to the number of licenses set forth in the Order Form, and you may access and use the Solution for your internal business purposes only. If we provide you with hardware or equipment for your use with the Solution, unless otherwise agreed upon in writing, upon expiration or termination of this Agreement, you are required to promptly return the hardware or equipment to us.

1.2 You are responsible for obtaining and maintaining your own IT infrastructure and any ancillary services needed to use the Solution (such as internet, electricity, modems, servers and operating systems) and for the security of your systems, including the Software installed on your systems, and will take commercially reasonable steps to exclude malware, viruses, spyware and Trojans from your systems. You and your

Authorized Users may use the Platform to send and receive messages, and you are solely responsible for any such messages and their content.

1.3 You may permit Authorized Users to access and use the Solution and Documentation provided you are responsible for: (i) ensuring all Authorized Users use the Solution and Documentation only for support of your internal business and operations in accordance with this Agreement, and (ii) any unauthorized use of the Solution or any breach of this Agreement by an Authorized User.

1.4 As between you and us, we or our licensors retain all rights, title and interest, including Intellectual Property Rights, in and to the Solution, Support Services, Professional Services and Documentation, including specifications, materials and user manuals provided by us. You agree not to copy, distribute, modify or make derivative works of the Solution and Documentation or any other components or content, or to use any of our Intellectual Property Rights in any way not expressly permitted by us.

1.5 As part of your use of the Solution and Support Services, you may receive access to Third Party Content. You are responsible for compliance, including compliance by your Authorized Users, with any terms which apply to Third Party Content. We make any Third Party Content available "AS IS" without support (unless otherwise specified), representations or warranties of any kind. We may suspend or terminate provision or availability of any Third Party Content at any time without any liability, and such suspension or termination will not be deemed a breach of this Agreement.

2. Orders and Fees

2.1 Orders for the Solution, and any related services, are placed when you agree in writing to an Order Form issued by us. Order Forms are subject to this Agreement. Unless otherwise set forth in the applicable Order Form or Supplemental Terms, delivery of the Solution occurs when we make the Software and Platform available to you.

2.2 You agree to pay the fees set forth on the applicable Order Form. We may also invoice you for additional fees if you exceed the permitted use. Fees are payable within 30 days of the date of the invoice we issue. All payments not made when due are subject to a late charge of 1.5% per month or the maximum amount allowed by law, compounded annually. You agree to pay fees by wire transfer or check to the account details provided by us in writing, or such other account as may be designated by us from time to time. Any fees specified on the Order Form are exclusive of applicable taxes.

2.3 If you fail to pay any fees in accordance with the terms of this Agreement and the applicable Order Form, in addition to any other rights and remedies available to us, we may suspend or limit your access to the Platform until all outstanding fees have been paid.

2.4 You agree to pay (and to reimburse us or our authorized agent, if applicable, on request if we are required to pay on your behalf) any applicable taxes, assessments and duties of any kind and nature that is levied or imposed by any governmental authority on your use of the Solution, or your receipt of support or other services, but not including taxes based on our net income. If you are exempt from taxes, then you must provide a valid exemption certificate or other government approved documentation to us.

3. Professional Services

3.1 You may request professional services, such as installation and integration services, in connection with your use of the Solution ("Professional Services"). A description of the Professional Services will be set forth in a Statement of Work ("SOW"), as mutually agreed in writing, which will be subject to this Agreement and the Professional Services Terms and Conditions. We will invoice any fees for Professional Services, and such fees are payable, in accordance with the applicable SOW.

3.2 Any changes or modifications to Professional Services will be as mutually agreed in writing in an amendment to the SOW, including any associated changes to fees for Professional Services.

4. Your Obligations and Restrictions

4.1 You represent and warrant (i) that no third party agreement prevents you from using the Solutions as contemplated under this Agreement; (ii) you will manage, secure and protect from unauthorized use or disclosure, and keep confidential, all Software license keys and login credentials used by Authorized Users in connection with use of the Software and Platform.

4.2 You shall not, directly or indirectly: (i) attempt to infiltrate, hack, reverse engineer, decompile or disassemble the Solution or any part of the Solution for any purpose; (ii) interfere with, modify, disrupt or disable features or functionality of the Solution; (iii) remove or use the name, trademarks, trade-names, logos and other proprietary notices of Carbyne contained on or in Solution or Documentation; (iv) copy any part or content of the Solution or of the Documentation other than for your own internal business purposes (except as specifically permitted in this Agreement); (v) use the Solution or any part thereof to build a competitive product or service; (vi) sell, rent, lease, sublicense, distribute, redistribute, syndicate, create derivative works of, assign or otherwise transfer or provide access to, in whole or in part, the Solution or any data accessed or created by the Solution to any third person (except to the extent expressly permitted in this Agreement); (vii) permit other individuals or entities to create links to the Platform or Solution, or "frame" or "mirror" the Platform on any other server, or wireless or Internet-based

device, or otherwise make available to a third party any token, key, password or other login credentials to the Solution; (viii) transmit software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment into the Platform or Carbyne's network environment; (ix) use the Solution or Third Party Content in violation of any applicable law or regulation or any rights of any person. You shall provide us with reasonable assistance to prevent the occurrence of any such activities by any third parties.

4.3 Furthermore, you shall not use the Solution: (i) for any illegal or fraudulent activity; (ii) to violate the rights of others; (iii) to threaten, incite, promote or actively encourage violence, terrorism or other serious harm; (iv) for any content or activity that promotes child sexual exploitation or abuse; (v) to violate the security, integrity or availability of any user, network, computer or communications system, software application, or network or computing device; (vi) to distribute, publish, send or facilitate the sending of unsolicited mass email or other messages, promotions, advertising or solicitations (or "spam").

5. Platform Availability and Support

5.1 You may request Support Services, as described in the Support Terms and Service Level Agreement. We will make the Platform available to you in accordance with the SLA, subject to operational requirements such as regularly scheduled maintenance and downtime. In the event of any downtime of the Platform, your only remedy is as set forth in the SLA or to cease use of the Platform. Our obligations and commitments in the Support Terms and Service Level Agreement only apply to the Solution and not to any other hardware, equipment, software, products or services.

5.2 We may at any time: (i) introduce new or additional products and services, (ii) update the Solution to improve or add features or functionalities to the Solution, or (iii) modify the Solution to cease providing a feature or functionality. We will make available to you any additional terms applicable to new or enhanced products and services in advance. If we materially degrade or remove a functionality from the Solution that affects your use of the Solution, we will notify you as soon as reasonably practicable and you may terminate this Agreement by notifying us in writing no later than thirty (30) days after the date of such notice. If you terminate this Agreement as permitted in this Section, the termination will be effective as of the date specified in the notice and you will remain responsible for all fees incurred up to, and including, the effective date of such termination. We will refund any prepaid fees prorated from the effective date of the termination, less any applicable discounts not earned as of the effective date of the termination. Your continued use of the Solution after the effective date of any change is deemed as

acceptance of the modified Solution. We may also share information about future enhancements or other changes to the Solution in advance, but you should not rely upon this information when deciding to subscribe. Your decision to subscribe should be based upon the functionality available at the time you are making that decision and not on any potential future functionality.

6. Confidentiality

6.1 The receiving party agrees (i) not to disclose the disclosing party's Confidential Information to any third parties other than to its directors, employees, advisors, or consultants (collectively, its "Representatives") on a "need to know" basis and provided that such Representatives are bound by confidentiality obligations not less restrictive than obligations described in this Agreement; (ii) not to use or reproduce any of the disclosing party's Confidential Information for any purposes except to carry out its rights and responsibilities under this Agreement; (iii) to keep the disclosing party's Confidential Information confidential using at least the same degree of care it uses to protect its own confidential information, which shall in any event not be less than a reasonable degree of care. Notwithstanding the foregoing, the receiving party may disclose disclosing party's Confidential Information in its possession to the extent required by legal process or applicable law, rule or regulation, provided prior to such disclosure, if legally allowed, receiving party gives prompt notice to the disclosing party to give disclosing party an opportunity to seek a protective order or other appropriate relief.

6.2 Confidential Information excludes any information that: (i) is now or subsequently becomes generally available in the public domain through no fault or breach on the part of receiving party; (ii) the receiving party has in its possession without any duty of confidentiality prior to disclosure of the Confidential Information by the disclosing party; (iii) the receiving party rightfully obtains from a third party who has the right to transfer or disclose it, without default or breach of any confidentiality obligations; (iv) the receiving party has independently developed, without breach of this Agreement and/or without any use of or reference to the Confidential Information.

7. Data, Data Privacy

7.1 Our Privacy Policy governs your rights arising from and relating to data protection and privacy, including our practices with respect to the collection, use and disclosure of certain data and/or personal information provided to us in connection with your use of the Solution. We may use contact information you provide to us to communicate with you about the Solution and send you information we think may be of interest to you based on your marketing communication preferences. Our use

of your personal data remains subject to the Privacy Policy. The parties may enter into additional Supplemental Terms governing data privacy, if necessary to comply with applicable privacy laws.

7.2 You grant us a license to use, reproduce, transmit and analyze Your Data, solely as required to provide the Solution to you (including performance of operations by the Solution in accordance with Documentation and this Agreement), and to provide Support Services and Professional Services. You retain all rights, title and interest, including Intellectual Property Rights, in and to Your Data. You are solely responsible for all Your Data. You represent and warrant that you own all Your Data, or you have all consents and rights that are necessary to share Your Data with us and to grant us the rights to Your Data under these Terms. You also represent and warrant that neither Your Data, nor your use and provision of Your Data through the Solution, nor our use of Your Data to provide the Solution, Support Services or Professional Services, will infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

7.3 Unless you provide us with written instruction otherwise, we will retain Your Data which you submit to the Platform or which is recorded or stored in the course of your use of the Solution, for a period of two years (the period we retain your data referred to as the "Data Retention Period"), provided that you acknowledge you are responsible for your compliance with any applicable data retention laws. Your Data is automatically deleted after the Data Retention Period; however, at any time prior to such deletion, you may download Your Data which has been stored on the Platform. You will be solely responsible for the retention of such data for any applicable retention periods and for the purposes of any subsequent data requests. We will have no further obligation with respect to Your Data after the Data Retention Period or after you download Your Data.

7.4 We may create anonymized and aggregated statistical data from your usage of the Solution, which does not include your personal data. We may use such anonymized and aggregated data for our own purposes, such as to develop and improve the Solution, to develop new services or products, and to identify usage trends.

8. Compliance

8.1 You agree to use the Solution in accordance with all applicable laws, including any applicable privacy and export laws. You agree to comply with all applicable sanctions (including embargoes) and re-export control laws and regulations including (to the extent applicable) those of the United States of America. We are not obligated to perform under this Agreement if doing so is in violation of national or

international foreign trade or customs requirements or any embargoes or other sanctions.

8.2 You agree to report any known or suspected misuse of the Solution to us. We have the right to monitor your use of the Solution (but not Your Data) to verify your compliance with this Agreement at any time. If your use of the Solution exceeds the License Designation, we will provide you with notice of any additional fees or increases in the annual subscription fee for the next annual period. Furthermore, if we reasonably believe that you are using the Solution in an unauthorized or improper manner, we may, without notice and at our sole discretion, without limiting any other remedy available to us, terminate or suspend your right to use the Solution (or any feature, functionality or content which we determine is being used in violation of this Agreement) or take any other action we consider appropriate.

9. Warranties; Disclaimer

9.1 Each party warrants it has the full capacity and authority and all necessary consents to enter into and perform its respective obligations under this Agreement.

9.2 We warrant that the Solution provided to you under this Agreement are in material compliance with the features and functionalities described in the applicable Documentation. If the Solution fails to perform as warranted in this Agreement, to the extent permissible under applicable law, our sole obligation, and your exclusive remedy, will be (i) to use commercially reasonable efforts to repair or restore the non-conforming Solution so that it conforms to this warranty, or (ii) if such repair or restoration may not be, in our opinion, available within a reasonable time or with reasonable efforts, to terminate the non-conforming Solution and refund to you any prepaid amounts for such Solution on a pro-rata basis for the remainder of the Term.

9.3 **YOU ACKNOWLEDGE WE DO NOT PROVIDE TELEPHONE SERVICES, INTERCONNECTED VOIP SERVICES, OR 911 SERVICES. WE MAKE NO REPRESENTATION THAT WE ARE AN INTERCONNECTED VOIP SERVICE OR A COVERED 911 SERVICE PROVIDER, AND YOU MUST OBTAIN SUCH SERVICES FROM THE APPROPRIATE THIRD PARTY SERVICE PROVIDER.**

9.4 **EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, WE PROVIDE THE SOLUTION (INCLUDING ANY INFORMATION AND DATA MADE AVAILABLE THROUGH THE SOLUTION OR ANY FEATURE), SUPPORT SERVICES AND DOCUMENTATION TO YOU ON AN "AS IS" BASIS, WITHOUT WARRANTIES OR REPRESENTATIONS OF ANY KIND. YOUR USE OF THE SOLUTION AND ANY INFORMATION OR DATA MADE AVAILABLE TO YOU IS AT YOUR DISCRETION. WE EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER STATUTORY, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE,**

OR ACCURACY. WE FURTHER DISCLAIM ANY WARRANTY THAT THE OPERATION OF THE PLATFORM OR ANY RELATED SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, FAULT TOLERANT, FAIL SAFE, FREE OF HARMFUL COMPONENTS, OR THAT ANY CONTENT, INCLUDING YOUR DATA, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED.

10. Our Indemnity; Customer Responsibilities

10.1 Provided you comply with Section 10.2 below, we will defend you from any claims brought by a third party alleging your use of the Solution in accordance with this Agreement infringes their Intellectual Property Rights ("IP Claim"). We will indemnify you from any amount finally awarded against you by a court of competent jurisdiction or amount which is agreed upon in settlement as a result of the IP Claim. This indemnity will not apply to the extent the underlying allegation arises from: (i) your breach of this Agreement or your negligence, or use of the Solution outside the scope of this Agreement; (ii) combination or use of the Solution with third party equipment, hardware, materials, components or applications; or (iii) use of the Solution after you become aware of the IP Claim (unless we agree you can continue to use it). Our entire obligation and liability in connection with any allegation that a person's intellectual property rights have been infringed are set forth in this Section 10.1.

10.2 To receive the benefit of Section 10.1, you shall (i) promptly notify us in writing of any IP Claim for which indemnity is claimed, provided that failure to so notify will not relieve us of our obligation except to the extent it is prejudiced by your delay in providing us with such notice, and (ii) allow us to solely control the investigation, defense and settlement of the IP Claim, (iii) provide us with reasonable cooperation and assistance in defending such claim (at our cost), and (iv) immediately cease use of the Software and Platform which is subject to the IP Claim.

10.3 You are responsible for any claims, suits or proceedings arising out of or relating to your (or your Authorized Users'): (i) violation of any third party rights (including third party Intellectual Property Rights or privacy rights); (ii) use of the Solution and Documentation in breach of the terms of this Agreement; (iii) the operation and your combination or use of the Solution with Your Data and third party equipment, software, applications, materials and/or services; (iv) Your Data; and (v) breach of Section 4 (Your Obligations).

11. Limitation of Liability

11.1 NOTHING IN THIS AGREEMENT LIMITS A PARTY'S LIABILITY FOR WILLFUL MISCONDUCT OR FRAUD, BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT, ITS RESPECTIVE OBLIGATIONS UNDER SECTION 10 (INDEMNITY;

RESPONSIBILITIES), OR ANY LIABILITY WHICH CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

11.2 SUBJECT TO SECTION 11.1, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY UNDER, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID OR PAYABLE BY YOU TO US DURING THE 12 MONTHS PRECEDING THE DATE THE LIABILITY FIRST ARISES.

11.3 SUBJECT TO SECTION 11.1, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA (INCLUDING YOUR DATA), COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), STATUTORY OR OTHERWISE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Term; Termination

12.1 The Subscription Term and start date are set forth on the Order Form. The subscription shall automatically renew for additional 12 month periods (each a "Renewal Term") after the initial Subscription Term unless either party provides written notice of its desire to terminate to the other party at least 30 days prior to the expiration of the then applicable term, unless otherwise set forth in the Order Form or unless the Agreement is terminated in accordance with the terms of this Section 12.

12.2 Either party may terminate an Order Form or this Agreement immediately by giving written notice to the other party if: (i) the other party breaches a material provision of this Agreement and fails to remedy the breach (if capable of remedy) within thirty (30) days after receipt of written notice; (ii) the other party breaches any of its confidentiality obligations; (iii) the other party is judged bankrupt or insolvent, makes a general assignment for the benefit of its creditors, a trustee or receiver is appointed for such party, or any petition by or on behalf of such party is filed under any bankruptcy or similar laws. Additionally, we may also terminate this Agreement if we reasonably believe you intend to undergo any of the foregoing or reasonably believe you are, or will be, unable to provide your services which require use of the Solution. Outstanding Order Forms are automatically terminated upon termination of this Agreement.

12.3 Upon expiration of the Subscription Term or termination of the Order Form, any outstanding fees shall become due and payable, and you will immediately cease use of the affected Solution. In the event of termination of this Agreement, you will also return or destroy, at our option, all Confidential Information in your possession (and certify in writing you have done so). Sections 1.4, 1.5, 6, 7, 9.3, 9.4, 10, 11, 12.3 and 14 shall survive any expiration or termination of this Agreement.

13. Betas; Evaluations

We may enable you to access and use the Software and/or Platform for beta-testing, evaluation, preview or any other free of charge purposes (collectively, "Free of Charge Services"). If we do so, you may use Free of Charge Services only for the purpose of evaluating their functionality and to provide feedback to us (which we may use freely). You may not use Free of Charge Services to process any personal data, and any production use is at your own risk. Any use of the Free of Charge Services by you or by your Authorized Users is provided "AS IS" WITHOUT WARRANTY OF ANY KIND AND "AS AVAILABLE". The SLA and any security standards in this Agreement do not apply to Free of Charge Services. We may, at our discretion and without notice, change, limit or discontinue any Free of Charge Services, including your access and use. Our entire liability for all claims, damages and indemnities arising out or related to your use of Free of Charge Services will not exceed in the aggregate USD \$1,000.00 (or equivalent in local currency). We have no obligation to make Free of Charge Services generally available.

14. General

14.1 The Solution is a commercial product that was developed exclusively at private expense. If the Solution is acquired directly or indirectly for use by the U.S. Government, then the parties agree that the Solution is considered 'Commercial Items' and 'Commercial Computer Software' or 'Computer Software Documentation', as defined in 48 C.F.R. §2.101 and 48 C.F.R. §252.227-7014(a)(1) and (a)(5), as applicable. The Solution may only be used under the terms of this Agreement as required by 48 C.F.R. §12.212 and 48 C.F.R. §227.7202. The U.S. Government will only have the rights set forth in this Agreement, which supersedes any conflicting terms or conditions in any government order document, except for provisions which are contrary to applicable mandatory federal laws. Unless otherwise expressly required, we will not be required to obtain a security clearance or otherwise be involved in accessing U.S. Government classified information.

14.2 Neither party will be liable for events beyond its reasonable control or for delay or failure to perform any obligations under this Agreement (except with respect to any payment obligations) due to any cause beyond its reasonable control. The delayed party will promptly notify the other party of any such event.

14.3 All notices shall be in writing and given in person, by an overnight courier service which provides tracking information to evidence delivery, by registered mail, or by email with confirmation of receipt, addressed to the address or email, as applicable, set forth in this Agreement or to such other address or email as a party may designate to the other in

accordance with the notice procedure. All notices delivered in person or by courier service are deemed to have been given upon delivery, notices sent by registered mail are deemed given three calendar days after posting, and notices sent by email are deemed given when received and opened as validated by the read receipt.

14.4 We may, with your prior approval, reference you as a customer or user of our products in our publicity or general marketing communications and activities.

14.5 This Agreement constitutes the entire agreement between you and us and supersedes any previous agreements or representations, either oral or written, including any additional or preprinted terms on purchase orders, with respect to the subject matter of this Agreement. All amendments will be made only in writing. We may update, amend or modify this Agreement from time to time as required to comply with applicable law or as required by our licensors or vendors with thirty (30) days prior written notice. If there is a conflict between this Agreement, Supplemental Terms and an Order Form, the Order Form, then the Supplemental Terms, will take precedence to the extent of such conflict and only with respect to the applicable Solution, Support Services and any Professional Services under such Order Form and Supplemental Terms. If any part of this Agreement is declared invalid or unenforceable for any reason, such part shall be deemed modified to the extent necessary to make it valid and operative and in a manner most closely representing the intention of the parties. Any failure by a party to insist upon or enforce performance by the other of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement or otherwise by law will not be construed as a waiver or relinquishment of any right to assert or rely upon the provision, right or remedy in that or any other instance. **If this Agreement is provided in response to a request for bid or request for proposal ("RFP"), and such RFP includes a provision requiring that no conflicting terms shall apply, then such RFP terms shall apply only to the extent of any conflict with this Agreement.**

14.6 You may transfer or assign your rights or obligations under this Agreement to a third party only with prior written consent from us. Any purported assignment contrary to this section shall be void. We may assign this Agreement to any of our Affiliates or to a successor entity in the event of a merger or acquisition without your prior written consent, and we will provide you with written notice of such assignment.

14.7 Some of our licensors and suppliers may be third-party beneficiaries under this Agreement.

14.8 If you provide any ideas or feedback regarding any products and services offered by Carbyne (including Free of Charge Services), such as suggestions for changes or enhancements, support requests (including any related

information), and error corrections (collectively "Feedback"), we may use Feedback freely.

14.9 If you are entering into this Agreement with Carbyne, Inc. this Agreement is governed by the laws of the State of New York, without regard to its conflict of law principles, and the parties agree to submit to the exclusive jurisdiction of courts in New York, New York. If you are entering into this Agreement with Carbyne Ltd. or Carbyne911 Mexico S. de RL de CV, this Agreement is governed by the laws of Israel, without regard to its conflict of law principles, and the parties agree to submit to the exclusive jurisdiction of courts in Israel. Notwithstanding the foregoing, if you are a public entity and your state law requires you to contract under your state law, then your state law shall apply to this Agreement.

	January	February	March	April	May	June	July
2017 Revenue	-\$1,858.49		-\$1,862.82	-\$1,876.70	-\$3,237.39	-\$1,886.20	
2017 Expense							\$27,702.56
2018 Revenue	-\$3,589.83	-\$4,499.46	-\$3,637.09	-\$3,331.51	-\$4,820.38	-\$3,467.30	-\$3,640.75
2018 Expense	\$2,588.97	\$2,678.44	\$2,598.73	\$2,656.17	\$2,722.57	\$2,818.84	\$1,534.26
2019 Revenue	-\$3,808.15	-\$3,733.04	-\$3,531.98	-\$3,530.20	-\$4,776.33	-\$3,614.44	-\$3,429.39
2019 Expense	\$2,208.08	\$2,204.72	\$2,300.06	\$2,208.11	\$2,208.10	\$2,208.10	\$2,296.37
2020 Revenue	-\$3,754.76	-\$4,559.48	-\$2,067.20	-\$4,541.69	-\$4,868.09	-\$3,302.19	-\$3,576.52
2020 Expense	\$2,212.22	\$2,208.70	\$2,208.70	\$2,208.70	\$2,292.01	\$2,208.67	
2021 Revenue	-\$2,485.09	-\$6,624.75	-\$4,031.39	-\$3,496.99	-\$4,774.30	-\$3,580.54	-\$3,618.73
2021 Expense	\$2,179.59	\$2,238.81	\$2,226.55	\$2,124.78	\$2,323.30	\$2,248.97	\$2,209.43
2022 Revenue	-\$3,859.31	-\$1,128.85	-\$6,706.39	-\$3,454.00	-\$4,832.60	-\$3,708.26	-\$3,208.42
2022 Expense	\$2,179.74	\$2,239.16	\$2,209.42	\$2,209.42	\$2,209.40	\$2,209.40	\$2,210.16
2023 Revenue	-\$3,838.32	-\$4,564.62	-\$3,746.98	-\$3,868.50	-\$6,743.98	-\$3,410.19	-\$3,406.48
2023 Expense	\$2,210.70	\$2,210.80	\$2,210.80	\$2,210.80	\$2,210.73	\$2,210.73	\$2,212.05

August	September	October	November	December	2017 TOTALS
-\$28,033.70	-\$5,235.31	-\$3,418.15	-\$4,415.83	-\$3,382.18	-\$55,206.77
\$4,961.68			\$2,668.25	\$2,588.97	\$37,921.46
-\$4,705.84	-\$5,590.31	-\$3,600.11	-\$4,820.26	-\$3,781.20	-\$49,484.04
\$2,425.53	\$4,725.00	\$29.02	\$2,255.92	\$2,208.08	\$29,241.53
-\$4,899.98	-\$3,633.36	-\$3,625.79	-\$4,421.45	-\$3,326.30	-\$46,330.41
\$2,205.28	\$4,452.85	\$29.36	\$2,208.75	\$2,406.97	\$26,936.75
-\$4,182.27	-\$7,041.94		-\$4,397.71	-\$2,544.49	-\$44,836.34
\$2,212.55	\$4,388.74	\$29.58	\$2,323.20	\$2,279.05	\$24,572.12
-\$4,119.36	-\$7,537.81		-\$4,354.93	-\$3,676.09	-\$48,299.98
\$2,179.77	\$4,419.02	\$143.77	\$2,209.48	\$2,209.48	\$26,712.95
-\$4,825.57	-\$3,885.25	-\$1,164.50	-\$4,433.23	-\$3,198.03	-\$44,404.41
\$2,210.77	\$4,391.04	\$30.50	\$2,324.73	\$2,210.70	\$26,634.44
-\$4,033.60					-\$33,612.67
\$2,122.82					\$17,599.43
Revenue Collected to date					-\$132,555.94



CITY COUNCIL AGENDA STAFF REPORT

MEETING DATE: January 16, 2023

SUBMITTED BY: Guy Brown, EDC Director

AGENDA CAPTION: Discuss and consider Resolution R2024-01-1164 OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, APPROVING A 4B PROJECT FOR THE PURPOSE OF INFRASTRUCTURE IMPROVEMENTS FOR PROPERTY LOCATED AT 101 SOUTH INTERSTATE 45, SUITE 9, HUTCHINS, TEXAS; AUTHORIZING THE HEDC EXECUTIVE DIRECTOR TO EXECUTE THE FINAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Background Information

In November 2023, the Hutchins Economic Development Corporation was approached by La Mancha Coffee and Tea LLC regarding assistance with expanding his business in Hutchins. The company intends to open a coffee shop and restaurant to be located at 101 South Interstate Highway 45 Suite #9 in Hutchins.

The applicant is asking for assistance with vent hood and fire suppression equipment for the location.

A public hearing regarding this project occurred earlier in the meeting. This is the action item related to this project.

Budget Implications

Approval of this item would allow the HEDC to grant \$6,000 to the applicant for the purpose of a Vent Hood system at the location.

Operational Impact

The funds would be released upon the issuance of a Certificate of Occupancy by the City of Hutchins. The agreement contains standard terms for the project. In addition, there is a stipulation that the Vent Hood improvement stay with the property and not be removed should the tenant vacate the location.

Legal Review

The attached agreement was drafted by the City Attorney.

Staff Recommendation

The HEDC Board of Directors recommends approval of the Resolution.

CITY COUNCIL AGENDA STAFF REPORT

Supporting Documentation and Attachments

1. Resolution R2024-01-1164 HEDC 4B Project at 101 S IH 45 Suite 9
2. Economic Development Agreement prepared by City Attorney

**CITY OF HUTCHINS, TEXAS
RESOLUTION R2024-01-1164**

A RESOLUTION OF THE HUTCHINS CITY COUNCIL, APPROVING A 4B PROJECT FOR THE PURPOSE OF INFRASTRUCTURE IMPROVEMENTS FOR PROPERTY LOCATED AT 101 SOUTH INTERSTATE 45, SUITE 9 IN HUTCHINS.

WHEREAS, the Hutchins City Council desires to attract new and expand existing businesses in the City of Hutchins that will generate additional property and sales tax revenue for the City of Hutchins; and

WHEREAS, the attraction and expansion of business to the City of Hutchins will promote economic development, stimulate commercial activity, generate additional sales tax, and will enhance the tax base and economic vitality of the City of Hutchins; and

WHEREAS, the City of Hutchins and the Hutchins Economic Development Corporation (HEDC) have adopted programs for promoting economic development; and

WHEREAS, the HEDC is authorized to undertake projects to promote local economic development and to stimulate business and commercial activity in the City of Hutchins; and

WHEREAS, the HEDC Board of Directors and the City Council have determined that entering into the attached agreement, Exhibit A, with La Mancha Coffee and Tea LLC. will further the objectives of the HEDC, will benefit the City of Hutchins and the City of Hutchins's inhabitants, and will promote local economic development and stimulate business and commercial activity in the City of Hutchins;

WHEREAS, the HEDC is authorized pursuant to the Development Corporation Act of 1979, as amended, to stimulate business and commercial activity in the City; and

NOW THEREFORE, in consideration of the foregoing, the City Council of the City of Hutchins hereby approves a 4B Economic Development Project located at 101 South Interstate 45, Suite 9, and authorizes the HEDC Executive Director to execute a final agreement between the HEDC La Mancha Coffee and Tea LLC.

PASSED AND APPROVED this the 16th day of January 2024.

APPROVED:

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary

EXHIBIT A

Economic Development Incentive Agreement between the Hutchins Economic Development Corporation, and La Mancha Coffee and Tea LLC, a Texas limited liability company

STATE OF TEXAS §
 § **ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**
COUNTY OF DALLAS §

This Economic Development Incentive Agreement (“Agreement”) is made by and between the Hutchins Economic Development Corporation, a Type B Sales Tax Corporation (“HEDC”), and La Mancha Coffee and Tea LLC, a Texas limited liability company (“Company”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized officers.

WITNESSETH:

WHEREAS, Company has leased or intends to lease approximately 1,200 square feet of space located at the Hutchins Plaza Shopping Center located at 101 South Interstate 45, Suite 9, Hutchins, Texas 75141 (the Improvements”), for a period of at least three (3) years (the “Lease”); and

WHEREAS, Company intends to operate La Mancha Coffee and Tea shop at the Improvements (the “Restaurant”); and

WHEREAS, Company has advised HEDC that a contributing factor that would induce Company to operate the Restaurant at the Improvements would be an agreement by HEDC to provide the Infrastructure Grant (hereinafter defined) to Company to defray a portion of the costs associated with the Infrastructure (hereinafter defined); and

WHEREAS, HEDC has adopted programs for promoting economic development; and

WHEREAS, the Development Corporation Act, Chapters 501- 505 of the Texas Local Government Code, as amended (the “Act”) authorizes HEDC to provide economic development grants for the creation and retention of primary jobs that are required for the development of manufacturing and industrial facilities and for infrastructure suitable for new or expanded industrial business enterprises; and

WHEREAS, HEDC has determined that the Infrastructure Grant (hereinafter defined) to be made hereunder is required or suitable to promote or develop manufacturing and industrial facilities, new or expanded business enterprises and constitutes a “project”, as that term is defined in the Act; and

WHEREAS, HEDC has determined that making the Infrastructure Grant to Company in accordance with this Agreement will further the objectives of HEDC, will benefit City and City’s inhabitants and will promote local economic development and stimulate business and commercial activity in City.

NOW THEREFORE, in consideration of the foregoing and other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Article I
Definitions**

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Bankruptcy or Insolvency” shall mean the dissolution or termination of Company’s existence, insolvency, employment of receiver for any part of Company’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against Company and such proceedings are not dismissed within ninety (90) days after the filing thereof.

“City” shall mean the City of Hutchins, Texas.

“Commencement of Construction shall mean that: (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Infrastructure; (ii) all necessary permits for the construction of the Infrastructure pursuant to the plans therefore have been issued by all the applicable governmental authorities; and (iii) construction of the Infrastructure has commenced.

“Commencement Date” shall mean the date the certificate of occupancy is issued by the City for the Company’s occupancy of the Improvements following the date of Completion of Construction of the Infrastructure.

“Company” shall mean La Mancha Coffee and Tea LLC, a Texas limited liability company.

“Completion of Construction” shall mean that: (i) substantial completion of the Infrastructure has occurred; and (ii) the City has verified completion of the Infrastructure and issued a certificate of occupancy for Company to occupy the Improvements.

“Effective Date” shall mean the last date of execution hereof.

“Expiration Date” shall mean the third (3rd) anniversary date of the date of Commencement Date.

“Force Majeure” shall mean an occurrence of any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, terrorism, civil commotion, insurrection, government or de facto governmental action, restrictions or interferences (unless caused by the intentional acts or omissions of the Party), fires, explosions, floods or other inclement weather, strikes, slowdowns or work stoppages, incidence of disease or other illness that reaches outbreak, epidemic, or pandemic proportions or similar causes affecting the area in which the Improvements is located that results in a reduction of labor force or work stoppage in order to comply with

local, state, or national disaster orders, construction delays, shortages or unavailability of supplies, materials or labor, necessary condemnation proceedings, or any other circumstances which are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstances are similar to any of those enumerated or not, in which case the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or performance shall be extended for a period of time equal to the period such Party was delayed, provided the Party whose performance is delayed provides written notice to the other Party not later than fifteen (15) business days after the last day of the month of the occurrence of the event(s) or condition(s) causing the delay or the date the Party whose performance has been delayed becomes aware or should have reasonably known of the event, describing such event(s) and/or condition(s) and the date on which such event(s) and/or condition(s) occurred.

“HEDC” shall mean the Hutchins Economic Development Corporation.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Company with respect to the Improvements or any property or any business owned by Company within the City.

“Improvements” or “Leased Premises” shall mean approximately 1,200 square feet of space at the Hutchins Plaza Shopping Center located at 101 South Interstate 45, Suite 9, Hutchins, Texas 75141.

“Infrastructure” shall mean a Vent Hood system to be installed at the Improvements by Company in accordance with plans approved by City.

“Infrastructure Grant” shall mean an economic development grant to offset the costs of installation of the Infrastructure in an amount not to exceed Six Thousand and No/100 Dollars (\$6,000.00), to be paid as set forth herein.

“Lease” shall have the meaning assigned in the Recitals

“Payment Request” shall mean a written request from Company to HEDC for payment of the Infrastructure Grant accompanied by copies of paid invoices, receipts and other evidence of the costs incurred and paid by the Company for the Infrastructure, and such other information as may reasonably be requested by the HEDC.

“Related Agreement” shall mean any agreement (other than this Agreement) by and between the HEDC and/or the City and the Company, or any of its affiliated or related entities.

“Required Use” shall mean the continuous occupancy and use of the Improvements the Restaurant open to the public and serving the citizens of the City.

“Restaurant” shall have the meaning assigned in the Recitals.

**Article II
Term**

The term of this Agreement shall begin on the Effective Date and continue until the Expiration Date, unless sooner terminated as provided herein.

**Article III
Infrastructure Grant**

3.1 Infrastructure Grant. Subject to the continued satisfaction of all the terms and conditions of this Agreement by Company, and the obligation of Company to repay the Infrastructure Grant pursuant to Section 5.2 hereof, HEDC agrees to provide the Infrastructure Grant to Company within thirty (30) days after HEDC receipt of a Payment Request from Company following the Commencement Date, provided Company has caused Completion of Construction of the Infrastructure. Company may submit the Payment Request to HEDC not earlier than thirty (30) days after the Commencement Date and no later than ninety (90) days thereafter. Failure of Company to timely submit the Payment Request for the Infrastructure Grant shall result in forfeiture of the payment of the Infrastructure Grant by HEDC to Company.

3.2 Current Revenue. The Infrastructure Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by HEDC; provided, however, HEDC agrees during the term of this Agreement to make a good faith effort to appropriate funds to pay the Infrastructure Grant. Consequently, notwithstanding any other provision of this Agreement, HEDC shall have no obligation or liability to pay Infrastructure Grant except as allowed by law.

3.3 Grant Limitations. Under no circumstances shall the obligations of HEDC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, HEDC shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by Company. None of the obligations of HEDC under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

**Article IV
Conditions to Economic Development Grant**

The obligation of HEDC to provide the Infrastructure Grant shall be conditioned upon the compliance and satisfaction by Company of the terms and conditions of this Agreement and each of the following conditions. provided however that failure to meet a condition shall not prevent the payment of the Infrastructure Grant prior to the specified deadline for satisfaction of the condition.

4.1 Payment Request. Company shall, as a condition precedent to the payment of the Infrastructure Grant, provide timely HEDC with the Payment Request.

4.2 Good Standing. Company shall not have an uncured breach or default of this Agreement, or a Related Agreement.

4.3 Required Use. During the term of this Agreement following the Effective Date and continuing thereafter until the Expiration Date, the Improvements shall not be used for any purpose other than the Required Use, and the operation and occupancy of the Improvements in conformance with the Required Use shall not cease for more than thirty (30) days, except in connection with and to the extent of an event of Force Majeure.

4.4 Completion of Construction. Company shall, subject to events of Force Majeure, cause Commencement of Construction of the Infrastructure to occur on or before February 1, 2024, and subject to events of Force Majeure, cause Completion of Construction thereof to occur on or before June 30, 2024.

4.5 Continuous Occupancy. Company shall, beginning on the Commencement Date and continuing thereafter until the Expiration Date, continuously lease and occupy the Improvements, and operate the Restaurant.

4.6 Infrastructure to Remain. The Infrastructure following the Completion of Construction of the Infrastructure shall not be removed from the Improvements.

**Article V
Termination; Repayment**

5.1 Termination. This Agreement shall terminate upon any one of the following:

- (a) By mutual written agreement of the Parties;
- (b) Upon the Expiration Date;
- (c) Upon the date set forth in written notice by either Party, if the other Party defaults or breaches any of the terms or conditions of this Agreement, or a Related Agreement, and such default or breach is not cured within thirty (30) days after written notice thereof;
- (d) Upon the date set forth in written notice by HEDC, if Company suffers an event of Bankruptcy or Insolvency;
- (e) Upon the date set forth in written notice by HEDC, if any Impositions owed to the HEDC or the State of Texas by Company shall have become delinquent (provided, however, Company retains the right to timely and properly protest and contest any such Impositions); or

- (f) Upon the date set forth in written notice by either Party, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.2. Repayment. In the event the Agreement is terminated by HEDC pursuant to Section 5.1(c), (d), (e), or (f), Company shall immediately repay to HEDC an amount equal to the Infrastructure Grant previously paid by HEDC to Company immediately preceding the date of such termination, plus interest at the rate of interest periodically announced by the *Wall Street Journal* as the prime or base commercial lending rate, or if the *Wall Street Journal* shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by HEDC) as its prime or base commercial lending rate, from the date on which the Infrastructure Grant is paid by HEDC until such Infrastructure Grant is refunded by Company. The repayment obligation of Company set forth in this section 6.2 hereof shall survive termination.

5.3 Right of Offset. HEDC may at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to HEDC from Company, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement or otherwise, and regardless of whether the debt due HEDC has been reduced to judgment by a court.

Article VI Miscellaneous

6.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties hereto.

6.2 Limitation on Liability. It is understood and agreed between the Parties that Company and HEDC, in satisfying the conditions of this Agreement, have acted independently, and HEDC assumes no responsibilities or liabilities to third parties in connection with these actions. Company agrees to indemnify and hold harmless HEDC from all such claims, suits, and causes of actions, liabilities, and expenses, including reasonable attorney’s fees, of any nature whatsoever by a third party arising out of Company’s performance of the conditions under this Agreement.

6.3 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture between the Parties.

6.4 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered:

If intended for HEDC, to:

With a copy to:

Attn: Guy D. Brown
Executive Director
Hutchins Economic Development Corporation
103 W. Palestine Street
P.O. Box 361
Hutchins, Texas 75141

Attn: Peter G. Smith
General Counsel
Nichols, Jackson, Dillard,
Hager & Smith, L.L.P.
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Company, to:

Attn: Martin E. Mancha, Owner
La Mancha Coffee and Tea LLC
1423 Dowdy Ferry Road
Hutchins, Texas 75141

6.5 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.6 Severability. In the event any section, subsection, paragraph, sentence, phrase, or word herein is held invalid, illegal, or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the Parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word.

6.7 Governing Law. This Agreement shall be governed by the laws of the State of Texas without regard to any conflict of law rules. Exclusive venue for any action under this Agreement shall be the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

6.9 Entire Agreement. This Agreement embodies the complete agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties and relating to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the Parties to be attached to and made a part of this Agreement.

6.10 Recitals. The Recitals to this Agreement are hereby incorporated herein.

6.11 Exhibits. Any exhibits to this Agreement are incorporated herein.

6.12 Amendment. This Agreement may only be amended by the mutual written agreement of the Parties.

6.13 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.14 Assignment. This Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. This Agreement may not be assigned by Company without the prior written consent of the HEDC.

6.15 Employment of Undocumented Workers. During the term of this Agreement Company agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay the Infrastructure Grant herein and any other funds received by Company from HEDC as of the date of such violation within thirty (30) days after the date Company is notified by HEDC of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid. Company is not liable for a violation of this section by a subsidiary, affiliate, or franchisee of Company or by a person with whom Company contracts.

6.14 Conditions Precedent. This Agreement is subject to, and the obligations of the Parties are expressly conditioned upon Company having entered into the Lease within ninety (90) days after the Effective Date.

[Signature Page to Follow]

EXECUTED on this _____ day of _____, 2024.


HUTCHINS ECONOMIC DEVELOPMENT CORPORATION

By: _____
Guy D. Brown, Executive Director

EXECUTED on this _____ day of _____, 2024.

LA MANCHA COFFEE AND TEA LLC

By: _____
Martin E. Mancha, Owner

	<h1>STAFF REPORT</h1>
MEETING DATE:	1-16-2024
MEETING TYPE:	CITY COUNCIL
SUBMITTED BY:	TIM RAWLINGS BUILDING, OFFICIAL
AGENDA CAPTION:	<p>ORDINANCE 2024-01-1187 OF THE CITY OF HUTCHINS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF HUTCHINS, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING BY GRANTING A SPECIFIC USE PERMIT (“SUP”) WITH SPECIAL CONDITIONS TO ALLOW A TRUCK SALES AND STORAGE FACILITY ON LAND ZONED LIGHT INDUSTRIAL (“LI”) CONSISTING OF ±7.925 ACRES OF LAND, SITUATED IN THE WILLIAM GATLIN SURVEY, ABSTRACT NO. 499, CITY OF HUTCHINS, DALLAS COUNTY, TEXAS, MORE COMMONLY KNOWN AS 1301 EAST WINTERGREEN ROAD, HUTCHINS,</p>

Background Information

Chris Cate representing Provident Realty Advisors has made an application for a Specific Use Permit (SUP) to allow truck sales and storage at their new facility located at 1301 E. Wintergreen Rd. This site has a newly constructed 20,000 SF building on 7.93 acres in the Light Industrial (LI) district located just south of the newly constructed Lennar Homes sub-division and just west of the Hutchins Fire Station #2. The property has been developed and built according to the City of Hutchins Zoning Ordinance and building codes. The building has now been completed and Provident has a tenant interested that wishes to sell heavy load trucks, they also plan to install a wash bay for trucks in one end of the building (not open to the public) maintenance and minor repairs will be made on site only to truck offered for sale.

At their 12-21-2023 meeting, the Planning and Zoning Commission voted 5-0 in favor of forwarding a recommendation of approval to the City Council.

Budget Implications

N/A

Operational Impact

N/A

Legal Review

Yes

Staff Recommendation

Staff recommends Council discuss and consider this item.

Supporting Documentation and Attachments

**CITY OF HUTCHINS
ORDINANCE NO. 2024-01-1187**

AN ORDINANCE OF THE CITY OF HUTCHINS, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE AND MAP OF THE CITY OF HUTCHINS, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING BY GRANTING A SPECIFIC USE PERMIT (“SUP”) WITH SPECIAL CONDITIONS TO ALLOW A TRUCK SALES AND STORAGE FACILITY ON LAND ZONED LIGHT INDUSTRIAL (“LI”) CONSISTING OF ±7.925 ACRES OF LAND, SITUATED IN THE WILLIAM GATLIN SURVEY, ABSTRACT NO. 499, CITY OF HUTCHINS, DALLAS COUNTY, TEXAS, MORE COMMONLY KNOWN AS 1301 EAST WINTERGREEN ROAD, HUTCHINS, DALLAS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” ATTACHED HERETO; PROVIDING FOR THE APPROVAL OF THE PROPOSED SITE PLAN ATTACHED HERETO AS EXHIBIT “B”; PROVIDING A CONFLICTS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hutchins, in compliance with the laws of the State of Texas, with references to the granting of zoning classification changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; the said governing body is of the opinion that the Specific Use Permit zoning application should be approved; and, in the exercise of legislative discretion, has concluded that the Comprehensive Zoning Ordinance and Map of the City of Hutchins should be amended.

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

SECTION 1. That the Comprehensive Zoning Ordinance and Map of the City of Hutchins, Texas, be and the same are hereby amended by granting a Specific Use Permit (“SUP”) to allow a truck sales and storage facility on land zoned Light Industrial (“LI”) consisting of ±7.925 acres of land, situated in the William Gatlin Survey, Abstract No. 499, City of Hutchins, Dallas County, Texas, more commonly known as 1301 East Wintergreen Road, Hutchins, Dallas County, Texas, (the “Property”) and being more particularly described in Exhibit “A” attached hereto and made a part hereof for all purposes.

SECTION 2. That the Property shall be developed and used in accordance with the development regulations for Light Industrial (“LI”) as established in Section 28 of the Hutchins Zoning Code, with the following special conditions:

- A. Site Plan. The Property shall be developed and used substantially in accordance with the Site Plan attached hereto as Exhibit “B” which is hereby approved.

SECTION 3. That the property shall be used only in the manner and for the purposes provided for by the Comprehensive Zoning Ordinance of the City of Hutchins, Texas, as heretofore amended, and as amended herein; and which is hereby approved.

SECTION 4. That, to the extent of any irreconcilable conflict with the provisions of this ordinance and other ordinances of the City of Hutchins governing the use and development of the Property and which are not expressly amended by this ordinance, the provisions of this ordinance shall be controlling.

SECTION 5. That all provisions of the Ordinances of the City of Hutchins, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City of Hutchins, Texas, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 6. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 7. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Ordinances of the City of Hutchins, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 8. That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Hutchins, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 9. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provides.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS ON THIS THE 16th DAY OF JANUARY 2024.

APPROVED:

Mario Vasquez, Mayor

APPROVED AS TO FORM:

Joseph J. Gorfida Jr., City Attorney
(01-05-2024: 4881-1716-8794, v. 1)

ATTEST:

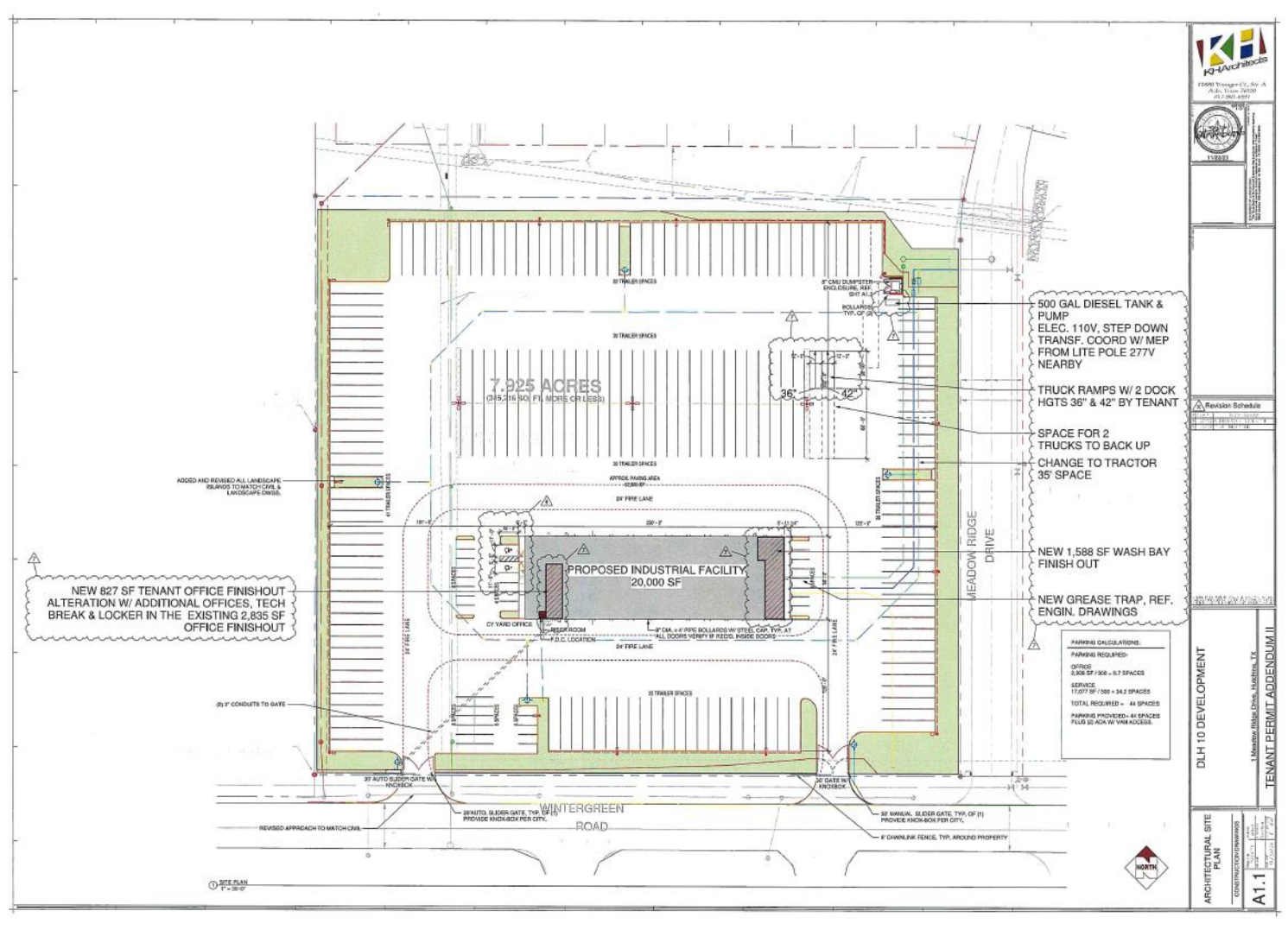
Cynthia Olguin, City Secretary

Exhibit "A"
Property Description

1301 E Wintergreen Road, Hutchins, TX

BEING a 7.925 acre tract of land, situated in William Gatlin Survey, Abstract No. 499, City of Hutchins, Dallas County, Texas, and being all of Lot 1, Block S of Replat of Skyline Estates Addition Phase 1 & 2, an addition to the City of Hutchins, Dallas County, Texas, recorded in Instrument Number 201900338511 of the Official Public Records of Dallas County, Texas (O.P.R.D.C.T.), as affected by that Certificate of Correction, recorded in Instrument No. 202000139040 (O.P.R.D.C.T.) and being a portion of a tract of land described in a deed to DLH Logistics LLC, recorded in Instrument Number 201700256958 (O.P.R.D.C.T.).

Exhibit "B" Site Plan



4881-1716-8794, v. 1



STAFF REPORT

MEETING DATE:	January 16, 2024
MEETING TYPE:	City Council
SUBMITTED BY:	Cynthia Olguin, City Secretary
AGENDA CAPTION:	Discuss and consider Resolution R2024-01-1163 of the City of Hutchins, Casting Its Vote for the Fourth Member of the Board of Directors of the Dallas Central Appraisal District.

Presented by: Cynthia Olguin, City Secretary

Background Information

On December 21, 2023, the Dallas Central Appraisal District notified the City of Hutchins that the recent election for the fourth member of the Board of Directors of the Dallas Central Appraisal District resulted in a runoff.

Since no one candidate received 16 votes, (majority of the 30 votes), a runoff is required between to top two finishers: Michael Hurtt of Desoto and Brett Franks of Sachse.

The council shall consider and cast its vote through the attached Resolution.

Budget Implications – N/A

Operational Impact – N/A

Legal Review – N/A

Staff Recommendation

Staff recommends that the city council consider the attached Resolution and ballot with nominees and cast its vote for one (1) candidate from the ballot provided in the Resolution.

A motion shall be made to:

Approve Resolution R2024-01-1162 for the City of Hutchins to cast its vote for : _____ as the suburban cities' representative to the Board of Directors of the Dallas Central Appraisal District.

Supporting Documentation and Attachments

Dallas Central Appraisal District instructions and candidate information.

Resolution R2024-01-1163



Dallas Central Appraisal District

DATE: December 21, 2023
TO: Suburban Cities Mayors, City Managers, City Secretaries and Finance Directors
FROM: W. Kenneth Nolan, Executive Director/Chief Appraiser
RE: Runoff for 2023 Election of Suburban Cities Representative to DCAD Board of Directors

State law requires the Chief Appraiser to conduct an election of representatives to the Board of Directors in odd numbered years. The process outlined in the Texas Property Tax Code requires the election to be conducted and the individual entities notified of the results once the process is complete.

1. Suburban Cities Election

The election process requires a runoff. The following suburban cities participated in the election. Each of their selections is noted below. The current tally indicates Michael Hurtt of Desoto received 13, Brett Franks of Sachse received 4, Shante L. Allen of Glenn Heights received 2, Diane Cartwright of Irving received 1, and Steve Nichols of Hutchins received 1 of the 21 votes cast.

The current tally indicates Michael Hurtt of Desoto received 11, Brett Franks of Sachse received 4, Terry Lynne of Farmers Branch received 3, Carrie Gordon received 2, Mark Jones of Desoto received 1, and Steve Nichols of Hutchins received 1 of the 22 votes cast. Since there was no one candidate receiving 16 votes (majority of the 30 votes eligible), a runoff election is necessary between the top two finishers: Michael Hurtt of Desoto and Brett Franks of Sachse.

Table with 2 columns: City and Candidate Selected. Lists 15 cities and their corresponding candidates or abstentions.

- | | |
|---------------------|---------------|
| 16. Highland Park | Brett Franks |
| 17. Hutchins | Steve Nichols |
| 18. Irving | Terry Lynne |
| 19. Lancaster | Michael Hurtt |
| 20. Lewisville | Abstain |
| 21. Mesquite | Michael Hurtt |
| 22. Ovilla | Michael Hurtt |
| 23. Richardson | Michael Hurtt |
| 24. Rowlett | Carrie Gordon |
| 25. Sachse | Brett Franks |
| 26. Seagoville | Michael Hurtt |
| 27. Sunnyvale | Brett Franks |
| 28. University Park | Michael Hurtt |
| 29. Wilmer | Michael Hurtt |
| 30. Wylie | Brett Franks |

A runoff ballot is enclosed.

Please make plans on your council agenda during January to vote for a Suburban Cities Representative. The person who receives the most votes from the suburban cities in the runoff election is then declared the Fourth member of the DCAD Board of Directors. We appreciate your cooperation in this important process.

Enclosure
Runoff Ballot

Cc w/o Encl:
DCAD Board of Directors

Michael Hurtt
217 South Hampton Rd
Desoto, TX 75115

Brett Franks
4811 West Creek Ln.
Sachse, TX 75048-4301

**CITY OF HUTCHINS, TEXAS
RESOLUTION R2024-01-1163**

A RESOLUTION OF THE CITY OF HUTCHINS, DALLAS COUNTY, TEXAS, CASTING ITS VOTE FOR THE FOURTH MEMBER OF THE BOARD OF DIRECTORS OF THE DALLAS CENTRAL APPRAISAL DISTRICT.

WHEREAS, Dallas County eligible taxing entities have expressed and approved an option which allows for representation to the Appraisal District Board of Directors (in accordance with Section 6.03 of the Texas Property Tax Code) as follows:

1. The City of Dallas shall appoint one (1) member to the Board.
2. The Dallas Independent School District shall appoint one (1) member to the Board.
3. The Dallas County Commissioners Court shall appoint one (1) member to the Board. The member appointed by the Dallas County Commissioners Court shall not be a resident of either the City of Dallas or the Dallas Independent School District.
4. Each of the incorporated cities and towns, except for the City of Dallas, shall have the right to nominate by an official resolution one (1) candidate as the fourth member of the Board of Directors. The said cities and towns shall, from the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, the fourth member of the Board of Directors.
5. Each of the School Districts, and the Dallas County Community College District, except the Dallas Independent School District, shall have the right to nominate by an official resolution one (1) candidate as the fifth member of the Board of Directors. The said school districts shall, from the nominations received, elect by a majority vote, with each school district and the community college district being entitled to one (1) vote, the fifth member of the Board of Directors.

The votes required for election to the Board of Directors in 4 and 5 hereof shall be by a majority of those authorized to vote in 4 and 5 respectively and not by a majority of the quorum, and

WHEREAS, the City of Hutchins does hereby cast its vote by marking the ballot below:
(Check one only)

Michael Hurtt

Brett Franks

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Hutchins does hereby confirm its one (1) vote for the election of _____ as the suburban cities' representative to the Board of Directors of the Dallas Central Appraisal District.

PASSED AND APPROVED, this 16th day of January 2024.

MARIO VASQUEZ, MAYOR

ATTEST:

CYNTHIA OLGUIN, CITY SECRETARY

SEAL:



STAFF REPORT

MEETING DATE:	January 16, 2024
MEETING TYPE:	City Council Regular Meeting
SUBMITTED BY:	Katherine Lindsey
AGENDA CAPTION:	Consider and act on Resolution No. R2024-01-1165 APPROVING AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF HUTCHINS AND RENÉ BATES AUCTIONEERS, INC. (RBAI) TO CONDUCT ONLINE AUCTIONS OF SURPLUS INVENTORY FOR THE CITY OF HUTCHINS; AND PROVIDING FOR AN EFFECTIVE DATE. Presented by: Katherine Lindsey, Assistant to the City Administrator

Background Information

Through years of gradually decommissioning obsolete, redundant, expended, or broken equipment, the City has accumulated a large amount of surplus inventory. Most of these items are obsolete computer equipment, such as old computer monitors, printers, and peripherals, as well as some furniture. Following the guidelines set in Resolution 2010-0419, as well as inventory best practices, Staff would like to regularly auction any surplus items to be deemed of value, as a way to relieve the city of the accumulated items, as well as providing a small source of revenue.

René Bates Auctioneers Inc (RBAI) is a long-standing and well respected local auction house that specializes in municipal auctions that the City worked with in the past, and would fit the needs of the City for the duration of this calendar year.

Budget Implications

There will be some revenue generated from the sale of surplus items that will go into the general fund, though only the sale of vehicles and other "big ticket" items will generate any substantial revenue.

Operational Impact

This contract would allow the City to have an auctioneer firm on standby for whenever a surplus auction is deemed necessary during the 2024 calendar year.

Legal Review

The City Attorney has reviewed and approved the contract and accompanying resolution.

Staff Recommendation

Staff recommends that the City Council adopts the resolution authorizing the City Administrator to negotiate and execute the agreement between the City of Hutchins and René Bates Auctioneers, Inc.

Supporting Documentation and Attachments

- 1. Resolution No. R2024-01-1165

**CITY OF HUTCHINS
RESOLUTION NO. R 2024-01-1165**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, APPROVING AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF HUTCHINS AND RENÉ BATES AUCTIONEERS, INC. (RBAI) TO CONDUCT ONLINE AUCTIONS OF SURPLUS INVENTORY FOR THE CITY OF HUTCHINS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City, through years of decommissioning property and equipment, has accumulated an assortment of surplus inventory; and

WHEREAS, the City, in accordance with established best practices and the regulations set forth in Resolution 2010-0419 regarding the disposal of city property, seeks to dispose of surplus inventory; and

WHEREAS, the City, recognizing the benefits of establishing a surplus inventory disposal program, supports the sale of surplus items via auction through a reputable auction house;

WHEREAS, the City Council of the City of Hutchins has been provided with the Agreement for René Bates Auctioneers, Inc. (RBAI) to conduct online auctions of surplus inventory for the City of Hutchins (the “Agreement”); and

WHEREAS, upon full review and consideration of the Agreement and all matters related thereto, the City Council is of the opinion and finds that the terms and conditions thereof should be approved, and that the City Administrator should be authorized to negotiate and execute the Agreement and all related documents thereto on behalf of the City of Hutchins, Texas;

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

SECTION 1. The City Administrator is hereby authorized to execute the Agreement which is attached as Exhibit “A,” on behalf of the City of Hutchins, Texas, for the online auctions of surplus inventory.

SECTION 2. This resolution shall take effect immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Hutchins, Texas, this the 16th day of January 2024.

CITY OF HUTCHINS, TEXAS

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary
(01-05-2024:4896-2167-8234, v. 1)

EXHIBIT "A"



René Bates Auctioneers, Inc. (hereinafter referred to as RBAI) proposes to conduct Online Auctions for the City of Hutchins, Texas on an as needed basis under the following terms and conditions:

René Bates Auctioneers, Inc.’s Responsibilities:

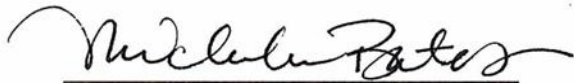
1. Conduct online auctions for the City of Hutchins, Texas at their request.
2. Set starting prices for each online auction item or coordinate with your designee to set starting prices for each online auction item, if so desired.
3. Post all online auction information on www.renebates.com.
4. Conduct and monitor auction items for approximately two weeks prior to the closing date of each online auction conducted.
5. Advertise your online auction, as necessary, through our normal channels such as, but not limited to, newspapers, trade journals, and print brochures at our sole discretion. RBAI shall not be responsible for advertising required of governmental entities under state law.
6. Generate and send a minimum of two email blast notices to our entire email database when your auction has been posted.
7. Invoice all successful bidders once your auction has closed.
8. Collect all auction proceeds including any applicable sales tax from the successful bidder(s).
9. Generate paid receipts to the buyer with a copy to your approved distribution list.
10. Balance all auction payments received with actual sales results.
11. Remit all monies, less commission and sales tax, to your designee.
12. Remit all sales tax collected to the State of Texas Comptroller under our Texas Sales and Use Tax Permit #17517183822 on a monthly basis.
13. Maintain all documentation for exemptions, resale certificates, and export certifications for sales tax for the State of Texas.
14. Maintain records of all your auctions for three years.

City of Hutchins, Texas’ Responsibilities:

1. Provide a list of all items to be sold and gather information on all auction items and take digital photographs of each auction and send to RBAI.
2. Have auction contact person (Fleet Manager or designee) complete Vehicle Information Sheets on all vehicles and heavy equipment and forward to RBAI.
3. Conduct onsite viewing of all auction items before the closing of each online auction in

- order for bidders to physically inspect auction items.
- 4. Contact local news media for a Public Service Announcement informing the local public of the upcoming online auction and handle all legal advertising as required by the City of Hutchins, Texas. Provide a link on your website to www.renebates.com to direct potential buyers to your auction.
- 5. Transfer all titles to successful buyers after the City of Hutchins, Texas has received an electronic paid receipt from RBAI.
- 6. Oversee removal and checkout of all paid auction items.

René Bates Auctioneers, Inc. proposes to conduct Online Auctions for the City of Hutchins, Texas and will charge and retain a 10% Buyer’s Premium in lieu of a commission on all fleet vehicles, heavy equipment, and miscellaneous items. These auctions will be conducted on an as needed basis for the City of Hutchins, Texas.



Michelle Bates, Vice President
René Bates Auctioneers, Inc.

Date: 1/5/24

City of Hutchins, Texas
Authorized Signer*

Date:

*Any items submitted for public auction via this contract have been declared surplus through the appropriate channels of the selling entity.

Texas Auctioneer License No. 's 15025 & 12100. All auctioneers are licensed and regulated by the Texas Department of Licensing and Regulation and are covered by a Recovery Fund administered by the Department. Licensure with the Department does not imply approval or endorsement by the State of Texas. If you have an unresolved complaint it should be directed to: Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, (512) 463-2906, www.tdlr.texas.gov.



STAFF REPORT

MEETING DATE: January 16, 2024

MEETING TYPE: City Council Regular Meeting

SUBMITTED BY: Katherine Lindsey

AGENDA CAPTION: Consider and act on Resolution No. R2024-01-1166 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, DECLARING CERTAIN PROPERTY SURPLUS OR OBSOLETE, AND AUTHORIZING THE AUCTION OF SAME; AND PROVIDING FOR AN EFFECTIVE DATE. Presented by: Katherine Lindsey, Assistant to the City Administrator

Background Information

Through years of gradually decommissioning obsolete, redundant, expended, or broken equipment, the City has accumulated a large amount of surplus inventory. Most of these items are obsolete computer equipment, such as old computer monitors, printers, and peripherals, as well as some furniture. Following the guidelines set in Resolution 2010-0419, as well as inventory best practices, Staff would like to auction the surplus items listed in Exhibit A of the Resolution.

Budget Implications

There will be some revenue generated from the sale of surplus items that will go into the general fund, though it is not expected to be substantial.

Operational Impact

Auctioning these items would free space in the bay to allow storage of equipment for the new City Hall during its construction, including HVAC systems.

Legal Review

The City Attorney has reviewed the resolution.

Staff Recommendation

Staff recommends that the City Council adopts the resolution approving the item list.

Supporting Documentation and Attachments

- 1. Resolution No. R2024-01-1166

**CITY OF HUTCHINS, TEXAS
RESOLUTION NO. R2024-01-1166**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUTCHINS, TEXAS, DECLARING CERTAIN PROPERTY SURPLUS OR OBSOLETE, AND AUTHORIZING THE AUCTION OF SAME; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hutchins, Texas, is in possession of surplus and/or obsolete property (“Property”) as listed on the inventory attached hereto as Exhibit “A”; and

WHEREAS, the continued use and maintenance of this Property by the City of Hutchins does not serve a public purpose; and

WHEREAS, the City Administrator is authorized to coordinate the auction of the Property; and

WHEREAS, all proceeds from the auction of the Property shall be deposited into the City of Hutchins’ general fund;

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

SECTION 1. That the City Administrator is hereby authorized to coordinate the auction of the Property listed on Exhibit “A” attached hereto; and, all proceeds from the auction shall be deposited in the City of Hutchins’ general fund.

SECTION 2. That this Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Hutchins, Texas, on the 16th day of January 2024.

CITY OF HUTCHINS, TEXAS

Mario Vasquez, Mayor

ATTEST:

Cynthia Olguin, City Secretary

EXHIBIT "A"
INVENTORY OF PROPERTY

Lot Number	Description	Photo Name
1	Wood desk that has a broken drawer and missing two handles.	1.jpg; 1a.jpg
2	Wood desk	2.jpg
3	Red lantern, condition unknown	3.jpg
4	Two wooden folding trays	4.jpg
5	Wood cabinet with lock but no key	5.jpg
6	Black folding chair	6.jpg
7	Small Dell copier, condition unknown	7.jpg
8	Sets of floor stickers for social distancing	8.jpg
9	Storage device on wheels	9.jpg
10	Wood podium	10.jpg
11	Folding caution signs with inserts for social distancing	11.jpg
12	File storage cabinet. One shelf has a peg missing	12.jpg
13	Inflatables, condition unknown including an Easter bunny, orange ring, 3 in a row board, football player with a goal; plastic colored banner for decoration; metal stakes in a blue carrying case	13.jpg
14	Filing cabinet	14.jpg
15	Magic Chef freezer, condition unknown	15.jpg
16	Step stool with stains	17.jpg
17	Two chairs, need cleaning	18.jpg
18	Mail machine, condition unknown	19.jpg
19	Dell H825cdw copier, condition unknown	20.jpg
20	Keyboard (Logitech Comfort Wave) and mouse - Bluetooth usb missing	21.jpg
21	Miscellaneous electronics including two monitors, four keyboards, monitor mounts, and various cables	22.jpg
22	Two mobile hotspots, one keyboard, two computer plug towers, and miscellaneous cables	23.jpg
23	Plastic cabinet, one door partially broken	24.jpg
24	Office chair	25.jpg
25	Approximately 30 chairs, off-white and gold in color	26.jpg
26	Clear plastic wall pane	27.jpg
27	Cabinet on wheels, mediocre condition	28.jpg
28	Tabletop microphones	29.jpg

Lot 1



Lot 2



Lot 3



Lot 4



Lot 5



Lot 6



Lot 7



Lot 8



Lot 9



Lot 10



Lot 11



Lot 12



Lot 13



Lot 14



Lot 15



Lot 16



Lot 17



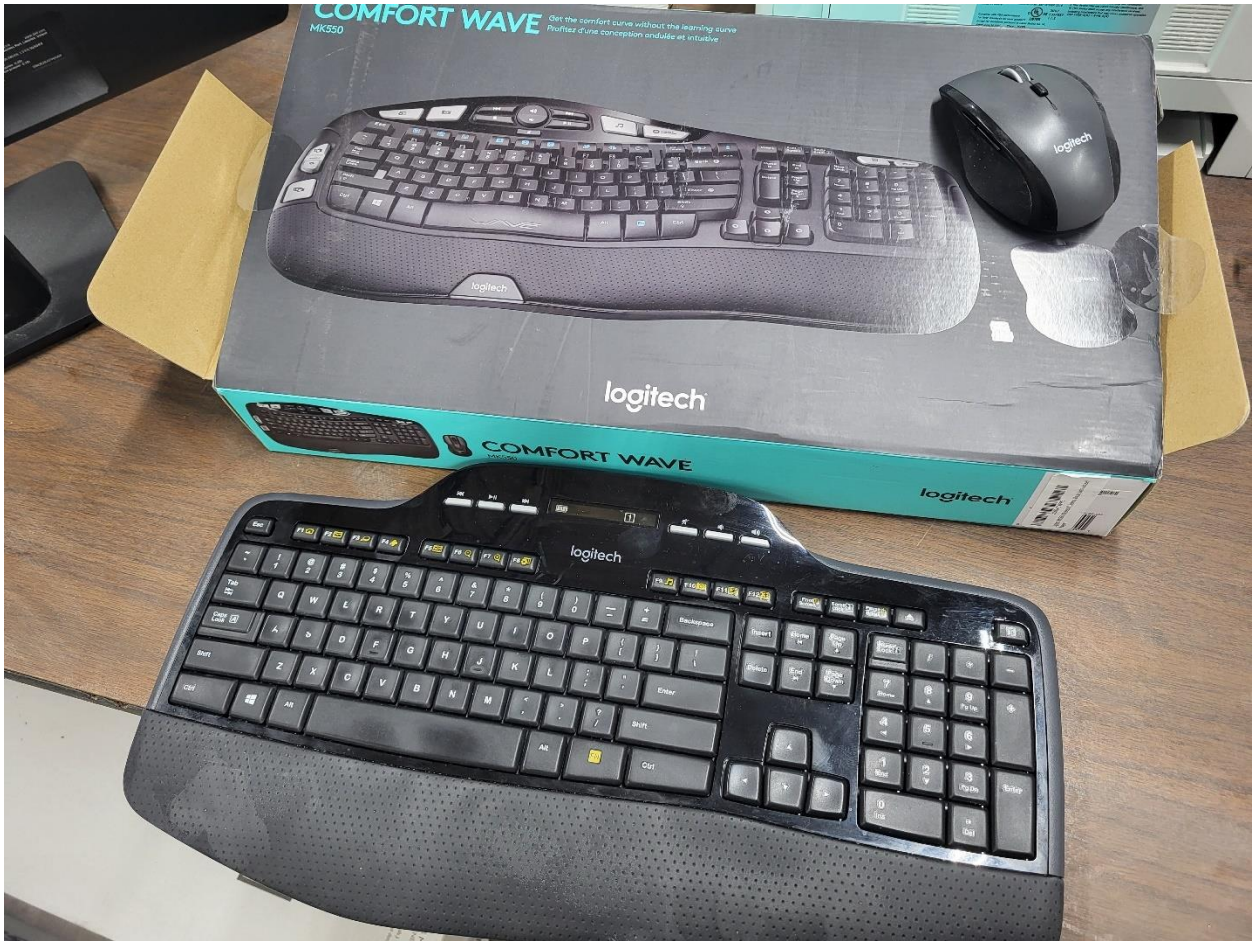
Lot 18



Lot 19



Lot 20



Lot 21



Lot 22



Lot 23



Lot 24



Lot 25



Lot 26



Lot 27



Lot 28

