



MEETING AGENDA
City Council
REGULAR SESSION CITY COUNCIL
May 11, 2021

HAL BALDWIN MUNICIPAL COMPLEX COUNCIL CHAMBERS
1400 SCHERTZ PARKWAY BUILDING #4
SCHERTZ, TEXAS 78154

CITY OF SCHERTZ CORE VALUES

Do the right thing

Do the best you can

Treat others the way you want to be treated

Work cooperatively as a team

AGENDA

TUESDAY, MAY 11, 2021 at 6:00 p.m.

City Council will hold its regularly scheduled meeting at 6:00 p.m., Tuesday, May 11, 2021, at the City Council Chambers. In lieu of attending the meeting in person, residents will have the opportunity to watch the meeting via live stream on the City's YouTube Channel.

Call to Order

**Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas.
(Councilmember Scott)**

Presentations

- Proclamation naming May 9-15, 2021 as Economic Development Week in the City of Schertz. (Mayor/EDC Department)
- Proclamation designating May 16-22, 2021 as Emergency Medical Services Week. (Mayor/EMS Department)
- Proclamation observing the week of May 9, 2021 through May 14, 2021 as National Police Week (Mayor/Police Department)
- Proclamation designating May 16 - 22, 2021 as National Public Works Week. (Mayor/Public Works)

Employee Recognition

- EMS: Meghan Stevens - EMS Billing Clerk; Felipe (Phillip) Garcia, Jason Lelek - EMS Paramedics (J. Mabbitt/B. Hill)
- Facility Services: Travis Hodges - Facilities Manager (S. Williams)
- Public Works: Service Worker 1 Wilfredo Marroquin, Ruben Rodriguez; Caleb West Service Worker 1 (S. Williams/D. Letbetter)
- Utility Billing: Charis Kempen - Utility Billing Clerk (J. Walters/D. HardinTrussel/R. Rosales)

City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)
- Announcements and recognitions by the City Manager (M. Browne)
- Announcements and recognitions by the Mayor (R. Gutierrez)

Hearing of Residents

Residents who choose to watch the meeting via live stream, but who would like to participate in Residents to be Heard, should email their comments to City Secretary, Brenda Dennis, at bdennis@schertz.com by 5:00 p.m. on Monday, May 10, 2021, SO THAT THE CITY SECRETARY MAY READ THE PUBLIC COMMENTS INTO THE RECORD UNDER THE HEARING OF RESIDENTS. In the body of the email please include your name, your address, phone number, agenda item # if applicable or subject of discussion, and your comments.

This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.

All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.

Discussion by the Council of any item not on the agenda shall be limited to statements of specific factual information given in response to any inquiry, a recitation of existing policy in response to an inquiry, and/or a proposal to place the item on a future agenda. The presiding officer, during the Hearing of Residents portion of the agenda, will call on those persons who have signed up to speak in the order they have registered.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

- 1. Minutes** – Consideration and/or action regarding the approval of the minutes of the regular meeting of May 5, 2021. (B. Dennis)

2. **Appointments/Resignation to Boards and Commissions/Committees** - Consideration and/or action regarding appointments/resignations to various Boards and Commissions/Committees. (Council/B. Dennis)
 - Resignation of Paul Ryson - Transportation Safety Advisory Board
 - Resignations of John Baker, Sabrina Allen and Sue Boissonneault - Historical Preservation Committee
 - Appointments of Jesse Gonzales, Jason Baltaric - Historical Preservation Committee
 - Appointment of Ronald Stevens - Transportation Safety Advisory Commission
3. **Resolution No. 21-R-39** – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing a contract with Myers Concrete Construction, LP relating to the 2020 Silt Removal Projects and authorizing the budget expenditures for the project. (B. James/K. Woodlee/J. Shortess)
4. **Resolution 21-R-42** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz authorizing the City Manager to enter into a Design-Build Agreement with Team Mechanical of Texas, LLC for the Animal Adoption Center HVAC Replacement Project and other matters in connection therewith. (C. Kelm/S. Williams/S. McClelland)
5. **Resolution No. 21-R-40** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz Texas, amending the Schertz/Seguin Local Government Corporation (SSLGC) Fiscal Year 2021 Annual Budget (C. Kelm/S. Williams/A. Beard)
6. **Resolution No. 21-R-41** – Consideration and/or action approving a Resolution by the City Council of the City of Schertz Texas, authorizing the submission of a grant application in an amount up to \$36,950.06 to the Office of the Governor, Homeland Security Division, for the 2021 State Homeland Security Grant Urban Area Security Initiative (UASI) Program; and authorizing the acceptance of the funds, upon award. (C. Kelm/K. Long/S. Hall)
7. **Resolution No. 21-R-43** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into an Interlocal Agreement for Fire Protection Services with Bexar County, and other matters in connection therewith. (C. Kelm/K. Long)
8. **Ordinance No. 21-T-19** – Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021 Budget to provide funding for professional services related to the Corbett Ground Storage Tank, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. **First Reading** (B. James/K. Woodlee/J. Shortess)
9. **Ordinance 21-A-13** - Consider and/or take action on a request for voluntary annexation of approximately 35.5 acres of land generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, Bexar County, Texas. **Final Reading** (B. James, L. Wood, E. Delgado)

10. **Ordinance 21-S-14** Consider and/or take action on a request to rezone approximately 39.5 acres of land to Planned Development District (PDD), generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, Bexar County, Texas. ***Final Reading*** (B. James, L. Wood, E. Delgado)
11. **Ordinance 21-S-15** Consideration and/or take action on a request to rezone approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD), generally located southwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas. ***Final Reading*** (B. James, L. Wood, E. Delgado)

Roll Call Vote Confirmation

Workshop

12. **Workshop Discussion and Update (Ordinance 20-H-18)** - Discussion and update regarding the COVID-19 virus and our current Ordinance No. 20-H-18 Declaration of Local Disaster. (M. Browne/K. Long/S. Hall)

Closed Session

13. City Council will meet in closed session under Section 551.087 of the Texas Government Code, Deliberation Regarding Economic Development Negotiations; Closed Meeting. The governmental body is not required to conduct an open meeting (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect.
 - Project E-065
 - Project E-066
 - Project E-067
 - Project E-068

Reconvene into Regular Session

- 13a. Take any action based on discussion held in closed session under Agenda Item 13.

Roll Call Vote Confirmation

Information available in City Council Packets - NO DISCUSSION TO OCCUR

14. Monthly update - on major projects in progress/CIP. (B. James/K. Woodlee)

15. Quarterly Financial Reports.

Requests and Announcements

- Announcements by the City Manager.
- Requests by Mayor and Councilmembers for updates or information from staff.
- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.
- Announcements by Mayor and Councilmembers
 - City and community events attended and to be attended
 - City Council Committee and Liaison Assignments (see assignments below)
 - Continuing education events attended and to be attended
 - Recognition of actions by City employees
 - Recognition of actions by community volunteers

Adjournment

CERTIFICATION

I, BRENDA DENNIS, CITY SECRETARY OF THE CITY OF SCHERTZ, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AGENDA WAS PREPARED AND POSTED ON THE OFFICIAL BULLETIN BOARDS ON THIS THE 7th DAY OF MAY 2021 AT 3:30 P.M., WHICH IS A PLACE READILY ACCESSIBLE TO THE PUBLIC AT ALL TIMES AND THAT SAID NOTICE WAS POSTED IN ACCORDANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

BRENDA DENNIS

I CERTIFY THAT THE ATTACHED NOTICE AND AGENDA OF ITEMS TO BE CONSIDERED BY THE CITY COUNCIL WAS REMOVED BY ME FROM THE OFFICIAL BULLETIN BOARD ON ____ DAY OF _____, 2021. TITLE: _____

This facility is accessible in accordance with the Americans with Disabilities Act. Handicapped parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 210-619-1030.

The City Council for the City of Schertz reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Open Meetings Act.

Closed Sessions Authorized: This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Closed Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may

be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

COUNCIL COMMITTEE AND LIAISON ASSIGNMENTS

Mayor Gutierrez Audit Committee Investment Advisory Committee Main Street Committee	Councilmember Scagliola – Place 5 Cibolo Valley Local Government Corporation - Alternate Hal Baldwin Scholarship Committee Interview Committee for Boards and Commissions - Alternate Schertz-Seguin Local Government Corporation
Councilmember Davis– Place 1 Interview Committee for Boards and Commissions Main Street Committee - Chair Schertz Housing Authority Board TIRZ II Board	Councilmember Scott – Place 2 Interview Committee for Boards and Commissions Schertz Animal Services Advisory Commission
Councilmember Whittaker – Place 3 Audit Committee TIRZ II Board	Councilmember Dahle – Place 4 Cibolo Valley Local Government Corporation Interview Committee for Boards and Commissions TIRZ II Board
Councilmember Heyward – Place 6 Audit Committee Investment Advisory Committee Main Street Committee	Councilmember Brown – Place 7 Main Street Committee Schertz-Seguin Local Government Corporation - Alternate

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: City Secretary
Subject: Minutes – Consideration and/or action regarding the approval of the minutes of the regular meeting of May 5, 2021. (B. Dennis)

BACKGROUND

The City Council held a Regular City Council meeting on May 4, 2021.

RECOMMENDATION

Recommend Approval.

Attachments

5-4-2021 Draft minutes

DRAFT

MINUTES REGULAR MEETING May 4, 2021

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on May 4, 2021, at 6:00 p.m. in the Hal Baldwin Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas. The following members present to-wit:

Present: Mayor Ralph Gutierrez; Mayor Pro-Tem Jill Whittaker; Councilmember Mark Davis; Councilmember Rosemary Scott; Councilmember Michael Dahle; Councilmember David Scagliola; Councilmember Allison Heyward; Councilmember Tim Brown

City City Manager Dr. Mark Browne; Assistant City Manager Brian James;
Staff: Assistant City Manager Charles Kelm; City Attorney Daniel Santee; City Secretary Brenda Dennis; Assistant to the City Manager Sarah Gonzalez; Deputy City Secretary Sheila Edmondson

Call to Order

Mayor Gutierrez called the meeting to order at 6:00 p.m.

Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas. (Mayor Gutierrez)

Mayor Gutierrez provided the opening prayer followed by the Pledges of Allegiance to the Flags of the United States and the State of Texas.

Mayor Gutierrez provided the following announcement: "Guests, Council and staff, it is your option to wear a face mask if you wish to do so"

Presentations

- Proclamation recognizing National Small Business Week. (Mayor/M. Titterington)

Mayor Gutierrez read and presented the proclamation recognizing "National Small Business Week" to Ms. Titterington President of The Chamber. Mayor and Council thanked Ms. Titterington for all the work the Chamber does for all our

small businesses. Mayor Gutierrez also thanked all our Small Businesses as they are the heart of our Community. He thanked the businesses for all they had to endure during this past year.

City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)

Mayor Gutierrez recognized Assistant to the City Manager Sarah Gonzalez who provided the following information:

- Saturday, May 8th

Nature Discovery Series

10:00-11:00 AM

Crescent Bend Nature Park

Discover the Forest – Every living thing has a role in the forest

Pre-registration required. For more information go to Schertz.com, Parks & Recreation.

- Monday, May 10th

Public Meeting Notice

Proposed Hilltop/Homestead Park to be located at 6300 block of Jimmy Walker Drive

5:30-6:30 PM

North Center, 3501 Morning Drive

- Tuesday, May 11th

Next regular scheduled Council meeting

- Sweetheart Court Scholarship Program 2021-22

More information and applications for the Sweetheart Court are available through the City's website at Schertz.com. Deadline to apply is Thursday, May 20th.

Tuesday, May 18th - Save the date

- Council on the Go Meeting

Meet and Greet from 6:00-7:00 PM

Meeting from 7:00-8:30 PM

St. John Paul II Catholic High School Cafeteria

6720 FM 482, New Braunfels

- Announcements and recognitions by the City Manager (M. Browne)

Dr. Browne stated that this Thursday, May 6th is National Day of Prayer, we will

be gathering at the YMCA at 9:00 a.m. in the lobby. Please come out and support this event.

- Announcements and recognitions by the Mayor (R. Gutierrez)

No announcements at this time.

Hearing of Residents

This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.

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Mayor Gutierrez stated that there are several in the audience and stated if you wish to speak during the hearing of residents section you are welcome to do so, even if the topic is on the agenda, or you may choose to speak during the public hearings, but will be limited to that certain topic, or you may speak at both, it is your option.

Mayor Pro-Tem Whittaker recognize the following who spoke:

- Mr. Steve Cicherski, 3509 Summer Glade - he deferred his time to the public hearing.
- Ms. Maggie Titterington, 1730 Schertz Parkway who provided the following updates:
 - May 7, May 12, May 24 - At the Chamber Ribbon Cutting events for home based businesses at 10:30 a.m.
 - Monday, May 10th Chamber Open, Bandit Golf Course - Sold out sponsorships and players
 - May 10th - Proposed Hilltop/Homestead Park Meeting - the Fairhaven HOA Board is in support of this, she is the Vice President of the Board. Great benefit for the Homestead Subdivision as well as their Subdivision.
 - May 18th Chamber luncheon, Santikos, TxDOT will provide a presentation on construction and other projects that are going on in our area. The Chamber will also be providing a presentation regarding the DECA program, and 10-year anniversary for members recognition.

- June 2, from 5:30 to 8:30 p.m., Bluebonnet Palace will be hosting a celebration thanking all those that are Chamber members.
- Ms. Michele Tereletsky, 705 Marilyn Drive, who had a quick comment - remind Council that they are elected at large and represent all the citizens of Schertz and not just the citizens in the area in which they live.
- Mr. Gary Fairley, 12310 Lower Seguin, who addressed Council regarding his concerns with the Planning and Zoning hearing format he attended last week. He indicated that it was hard to hear, the PA system, it was hard to understand what individuals were saying, overhead projector was fuzzy, he even moved forward and still had issues understanding what was being said. He indicated that when he arrived at the hearing he didn't see anything showing the plat of the subdivision that they were going to vote on this evening, and yet he lives within the 200 ft radius of the subdivision, he did not receive any notification. He also addressed the format, wondering why when it came to the public comment section that a Schertz employee gave the presentation for the developer, this should have been the developer speaking. The format made it feel like it was a done deal before the developer walked in. He expressed his concern how this was done.
- Mr. Herman Harlohs, 11564 Ware Seguin, who addressed the council regarding the need of maintenance on the Ware Seguin Road. He also addressed the council regarding a recent incident that happened Sunday evening where it started about 8:00 p.m. and went on until 11:00 p.m., one of the neighbors on a larger parcel next to him were target shooting with several different types of guns, he is not anti-gun, just concerned that this went on for several hours and concerned about the noise, safety and consideration of other neighbors in the area. He did contact the Police Department where he was told that they could do this on their property due to the size of the parcel. They did stop after he went out. He indicated that this might be an on-going problems as they have done this before.
- Ms. Petrina McIntyre, 2964 Sunridge Drive, who addressed the Council regarding speeding traffic behind her home in the Riata Subdivision - Old Wiederstein Road. She indicated that more speed limit sign are needed.

Consent Agenda Items

Mayor Gutierrez recognized Precinct 3 Guadalupe Commissioner Michael Carpenter who was in the audience this evening.

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

Mayor Gutierrez read the following consent items into record.

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the regular meeting of April 27, 2021. (B. Dennis)

2. **Ordinance No. 21-T-16** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas authorizing an adjustment to the Fiscal Year 2020-2021 Budget to provide funding for an amendment to the 2017 Roadway Impact Fee Program, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. ***Final reading*** (B. James/K. Woodlee)
3. **Ordinance No. 21-T-18** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas authorizing an adjustment to the Fiscal Year 2020-2021 Budget to provide funding for professional services related to the relocation of water and wastewater utilities along FM 1518 between FM 78 and IH 10, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. ***Final reading*** (B. James/K. Woodlee/E. Schulze)
4. **Ordinance No. 21-T-17** - Consideration and/or action approving an ordinance by the City Council of the City of Schertz, Texas authorizing a budget adjustment to the FY 2020-21 Budget for electricity usage fees related to the Winter Storm, repealing all ordinances in conflict with this ordinance; and providing an effective date. (M. Browne/B. James/J. Walters) ***Final Reading***
5. **Resolution No. 21-R-37**— Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing the City Manager to enter into an agreement with Halff Associates, Inc., for design, bid, and construction phase engineering services for the FM 1518 Water and Wastewater Utility Relocation project in advance of the FM 1518 road widening project. (B. James/K. Woodlee/E. Schulze)

Mayor Gutierrez asked Council if there were any items they wished removed for separate action. No items were removed.

Moved by Councilmember Mark Davis, seconded by Councilmember Michael Dahle to approve consent agenda items 1-5.

AYE: Councilmember Rosemary Scott, Councilmember Mark Davis,
Mayor Pro-Tem Jill Whittaker, Councilmember Michael Dahle,
Councilmember David Scagliola, Councilmember Allison Heyward,
Councilmember Tim Brown

Passed

Discussion and Action Items

6. **Resolution No. 21-R-35** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to amend the existing License and Management Agreements with the YMCA, by canceling the Management of the Wendy Swan Memorial Park Pool. (B. James/L. Shrum)

Mayor Gutierrez indicated that staff asked that this item be tabled to the next meeting. No action taken.

Public Hearings

Mayor Gutierrez read the following items into record.

7. **Ordinance 21-A-13** - Conduct a public hearing, consider and/or take action on a request for voluntary annexation of approximately 35.5 acres of land generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, Bexar County, Texas.*First Reading* (B. James, L. Wood, N. Kopyay)

Mayor Gutierrez recognized Senior Planner Emily Delgado who introduced this item stating the property owners are requesting voluntary annexation into the City of Schertz, because they want the subject property to be located within the Schertz City limits in order to develop the land as a residential subdivision under the Planned Development Zoning District (PDD).

On April 6, 2021, City Council approved Resolution 21-R-22, accepting a petition for voluntary annexation, therefore allowing this annexation ordinance to be heard by the City Council. The property owners are also requesting to zone the subject property to Planned Development District (PDD) immediately following action on Ordinance 21-A-13.

A public hearing notice was published in the San Antonio Express News for the public hearing associated with the annexation ordinance on April 14, 2021. City Staff also sent written notice of the proposed annexation to the Board of Trustees for Schertz-Cibolo-Universal City ISD and all property owners within 200 feet on April 20, 2021. Additionally, a public hearing notice has been published on the City of Schertz website since April 21, 2021. At the time of this report, Staff have not received any responses to the annexation public hearing notice.

Mayor Gutierrez opened the public hearing and as no one spoke; closed the public hearing for Council comments. Ms. Delgado addressed council questions.

Moved by Councilmember Michael Dahle, seconded by Councilmember Tim Brown to approve Ordinance No. 21-A-13 on first reading.

AYE: Councilmember Rosemary Scott, Councilmember Mark Davis, Mayor Pro-Tem Jill Whittaker, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

8. **Ordinance 21-S-14** Conduct a public hearing, consider and/or take action on a request to rezone approximately 39.5 acres of land to Planned Development District (PDD), generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, Bexar County, Texas. ***First Reading*** (B. James, L. Wood, N. Koplyay)

Mayor Gutierrez recognized Senior Planner Emily Delgado who introduced this item stating the applicant is proposing to rezone 39.624 acres of land to Planned Development District (PDD). Currently, 4.217 acres of the subject property along Lower Seguin Road are located within the City limits and zoned Single-Family Residential Agricultural District (R-A), and the remaining 35.407 acres are outside the City limits and under a delayed annexation development agreement. The approximately 35.5 acres of land outside the City limits will also go through voluntary annexation proceedings along with this zone change application. The applicant is requesting to rezone all 39.624 acres of land to Planned Development District (PDD), which will consist of single-family residential uses and private parkland.

Fourteen (14) public hearing notices were mailed to surrounding property owners on April 2, 2021, prior to the Planning and Zoning Commission public hearing, and a public hearing notice was published in the "San Antonio Express" on April 14, 2021, prior to the City Council public hearing. At the time of this report Staff have received 9 responses in favor of the proposed zone change that represent 6 properties inside the 200' notification buffer, and 1 response opposed to the proposed zone change from properties inside the 200' notification buffer. The owner of approximately 14.25 per of the property within the 200' notice area has protested in writing.

The Conceptual Land Plan is being revised by the Project Engineer following the Planning and Zoning Commission in order to more accurately depict the planned Residential Collector roadway that runs through the middle of the subject property. The Schertz Master Thoroughfare Plan (MTP) identifies a Residential Collector roadway with a 70' ROW section to extend from Lower Seguin Road to Interstate Highway 10, which was not clearly shown on the

original Conceptual Land Plan presented to the Planning and Zoning Commission. The revised conceptual land plan will show the full 70' section intersecting with Lower Seguin Road across from St. Vincent Way in Rhine Valley Subdivision Unit 2, and then traveling southbound and stubbing for future development at the southern property boundary.

The Carmel Ranch PDD Development Standards proposes to modify the regulations for Subdivision Entry Signs and Development Signs. Please see the below tables for the proposed changes to UDC Sec. 21.11.15 and Sec. 21.11.18 and a comparison to the current sign regulations. Please note that the Development Sign regulations in UDC Sec. 21.11.18 have been split into two different categories: wayfinding signs and model ID signs. Wayfinding signs will give directional cues to drivers to locate the Parks, trail heads and builder model homes. The Model ID Signs may be monument signs and are made of wood, masonry, or metal built signs that are located at a builder's Model Home, identifying the builder name and to clearly designate that the home is a Model Home.

Proposed Sign Regulations: UDC Sec. 21.11.15 Subdivision Entry Signs

UDC Section	Current Regulation	Proposed Regulation
UDC Sec. 21.11.15C Max Area	32 square feet per sign face	32 square feet per sign face
UDC Sec. 21.11.15D Max Number of Signs	1 sign at primary entrance; 1 sign per secondary entrance w/75% max area	2 signs (1 on both sides of the entrance) for the primary entrance on Lower Seguin Road; 1 sign per secondary entrance w/75% max area

Proposed Sign Regulations: UDC Sec. 21.11.18 Development Signs

UDC Section	Current Regulation	Proposed Regulation
UDC Sec. 21.11.15A Max Area	32 square feet	32 square feet per sign face
UDC Sec. 21.11.15B Max Height	6 feet	Wayfinding Signs: 8 feet Model ID Signs: 6 feet

UDC Sec. 21.11.15 C Number of Signs	1 sign per residential entry, not to exceed 2 total	Wayfinding Signs: 1 sign per number of recorded units Model ID Signs: 1 sign per Model Home
UDC Sec. 21.11.15D Duration	Installed after final plat approval and removed after 3 years or 75% build-out (whichever is soonest) for residential	Wayfinding Signs: Installed following recordation of final plat for each unit Model ID Signs: Installed following recordation of final plat and removed when model home is sold and closed

The Schertz Planning and Zoning Commission met on April 14, 2021 and voted to recommend that City Council approve Ordinance 21-S-14 (ZC2021-002) by unanimous vote (7-0).

The proposed zone change to PDD, which proposes a mix of detached single-family residential housing and an interconnected system of private trails and parkland, would allow the property to develop in accordance with the recently-approved Single-Family Residential future land use designation. Therefore, the proposed zone change meets the goals and objectives of the Comprehensive Land Use Plan. During the public hearings for the owner-requested comprehensive plan amendment for this subject property, City Council spoke extensively regarding their vision for new residential development; City Council indicated their preference for Staff to allow a greater range of lot sizes and housing types in order to potentially allow for more affordable housing options, as well as pull back on neighborhood design element oversight to show more deference to the evolving market. Staff believes the proposed Carmel Ranch Planned Development District is compatible with City Council's direction. Therefore, Staff recommends approval of the proposed zone change to Planned Development District as submitted.

Mayor Gutierrez opened the public hearing and recognized the following:

- Mr. Gary Fairley, 12310 Lower Seguin who addressed concerns regarding drainage and possible flooding onto his adjacent property, water quality with possible use of pesticides

As no one else spoke; Mayor Gutierrez closed the public hearing for Council comments and questions.

Mayor recognized the following:

Councilmember Scott who addressed questions regarding the percentage of responses of those opposing the zoning case. Ms. Delgado provided Councilmember Scott with how the calculations are determined.

Councilmember Scott provided the following comments received by Gary and Penny Fairley, 12310 Lower Seguin:

- 90% of better of the land that lies from Lower Seguin Rd to Trainer Hale Rd or better is either zoned Ag or Wildlife at the present time, which makes the request not compatible with present land use
- Lots of wildlife frequent the area and to put that type of zoning will block off their movements and feeding
- It is of my opinion that the process of just changing the zoning on a parcel of land to planned development district without some preliminary studies being done is like putting the horse before the cart.
- Traffic issues
- Sewer - There are some subdivisions that are running on temporary sewer systems now and the elevation of the land in question would require a lift station if it is tied into the proposed sanitation plant.
- What about water and drainage? There is only a 6-inch Main, running down Lower Seguin Rd. More than likely, that would not be large enough to furnish enough water for that size of development.
- Drainage and safety is the other part that needs to be considered.
- Considering factors like roads, sidewalks, and structures (at least 5 to the acre), runoff will be a major concern.
- Sanctuary for animals being displaced by development.
- Stormwater runoff causing erosion.

Councilmember Scagliola stated that in looking at the lots and the numbers, seems like almost half houses are in the 55 ft range and asked if that was correct. In answer Ms. Delgado indicated yes, but as a reminder this is only the conceptual plan, during the master development plan process is when actually identify how many of each lot and the actual configuration of the lots. This is also the time that the drainage will be reviewed and studied through our engineering department as well as traffic concerns. Councilmember Scagliola indicated that he did like the design, and asked if there was an amenity center, he indicated he does see a park. Assistant City Manager Brian James came forward indicating they do not believe the developer is planning an amenity center - they have a park and it looks like there may be playground equipment. Mr. James further explained why an amenity center would not work in this subdivision due to the maintenance. Mr. James provided further information regarding parkland dedication. Councilmember Scagliola indicated that he did like the walking trails within the area.

Mayor Pro-Tem Whittaker who asked what is the alternative to PDD's. In answer, Ms. Delgado stated that there could be base zoning - most common is the R1 120-x80, other is R2 120x70, these limit designs like curving, landscaping designs, straight grid type. Mayor Pro-Tem Whittaker stated that there is a demand for PDD's with small lots, curve streets, these are selling and we will be seeing more PDD's in the future as Schertz develops. If there is something as a City that we are looking for then we need to incorporate that in the PDD's i.e., drainage, more of the numbers. She just wants to make sure that we have the opportunity to discuss and not just pass the next PDD.

Assistant City Manager Brian James came forward to clarify, keep in mind that this is not likely that the Council will see this property. The master plan and the plats will go to the Planning and Zoning Commission for approval, it is only if the applicant requests a variance that the Planning and Zoning Commission denies will they appeal that to City Council. This is Council's opportunity, Emily brought forward a general representation, they have to come in with a Master Plan - to be clear this is generally what the subdivision has to look like, how it has to lay out when they come in with that Master Plan, because the PDD locks this in - this is one of the advantages of the PDD vs the straight zoning. Mr. James provided the options that Council could consider when approving this PDD. He pointed out the changes that the applicant has made since presenting to the Planning and Zoning Commission. It is his recommendation to not approve a zoning that the applicant is not comfortable with, it is extremely problematic for the applicant and staff.

City Manager Dr. Browne stated we have worked with the applicant and based on past developments this is generally what the Council has been approving. Mr. James stated that this is not inconsistent with what Council has been approving. We have over the last several months been talking about affordability of housing, the greater variations of lot sizes - this is a little different than what we would have seen three or five years ago but is consistent with what we did with Saddle Brook, they feel this is pretty consistent with an oddly sized property. Dr. Browne stated that there was a lot of thought and a lot of planning work that has been done with the developer on this project. Mr. James again stated that working with the developer and since they came to Planning and Zoning Commission significant changes have been made to deal with concerns brought up by the Commission.

Mayor Pro-Tem Whittaker thanked Mr. James for the explanation and is fine with the zoning change.

Councilmember Brown stated that on this zoning request he didn't see any variances with the exception of the signs. In answer the signs and the three proposed lot size requirements were mentioned. Most of the zoning request is within our planning guidelines, they are meeting everything we have asked them

to meet. As Mayor Pro-Tem Whittaker mentioned the market is willing to accept the smaller lots and if the request meets our requirements he is willing to accept the smaller lots.

Councilmember Dahle stated the conversation that Mayor Pro-Tem Whittaker brought up is a conversation as we work on the comp plan amendments. Where this development is meets the requirements for the development in this area. He appreciates the changes that have been made since the last Planning and Zoning meeting.

Councilmember Scagliola stated that if you are going to have a smaller house on a smaller lot he does not have an issue, but the 55ft lot you are going to have parking issues, cars on the street, creates a safety hazard. There are ways to fix these concerns. He asked how long a house is on the market in Schertz, Councilmember Brown stated 30 days, regardless of the size or cost. He stated that he was going to suggest at the end of the meeting that we have a sit down meeting to start discussing the density issues, side yard set backs, minimum driveway lengths and also positioning of mailboxes - this provided his opportunity to bring these issues up now.

Councilmember Scott stated that she appreciates staff as they do, and she has done a great job. She appreciates the comments from Mayor Pro-Tem Whittaker, Councilmember Scagliola and Dahle - this is a conversation that we must have. She spoke on the need to conserve greenspace and take care of our planet, birds, wildlife etc. We need to be good stewards of our City and be the premier destination that why people want to move here. We don't want cookie cutter type development because it will change what we have in Schertz. She agrees that we need to start talking about this.

Mayor Pro-Tem Whittaker agreed that this type of neighborhood is well-placed for that future development and people are looking forward to this. Secondly, affordability and what type of economic picture we are creating by these smaller lot sizes, 55ft lot is going to have a house placed on it that costs around \$300,000. These are not starter homes, new construction on 55ft lots are starting in the mid \$200,000. She disagrees that smaller lots mean a lower economic profile for incoming residents of the City of Schertz.

No further comments were provided and Mayor Gutierrez asked if there was a motion to approve.

Moved by Councilmember Allison Heyward, seconded by Councilmember Tim Brown to approve Ordinance No. 21-S-14 on first reading.

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Mark Davis, Councilmember Michael Dahle, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

NAY: Councilmember Rosemary Scott

Passed

9. **Ordinance 21-S-15** Conduct a public hearing and consideration and/or take action on a request to rezone approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD), generally located southwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas. ***First Reading*** (B. James, L. Wood, N. Kopyay)

Mayor Gutierrez recognized Senior Planner Emily Delgado who introduced this item providing background information on this project. She stated on April 2, 2021: 60 letters were sent out to landowners within the 200' legal notice listing near the property. On April 14, 2021 a Public Hearing Notice in SA Express, May 5, 2021: Planning Dept. received 18.7% of the adjoining/200' buffer properties in opposition to the proposed zone change. At this time a super majority is not required.

Ms. Delgado went over what areas would need to be addressed to meet current standards:

Live Oak Hills Subdivision was recorded in 1963. It does not have any infrastructure systems: i.e. water, sewer, roads. It is what is considered a "paper subdivision", it exists on paper as a platted residential subdivision, but in reality, it is not actually there. Even though the improvements were not installed these lots were bought and sold since 1963. It consists of 45 acres with the Live Oak Hills subdivision plat. Currently, 180 lots, sized 8400 s.f. (70' x 120') oriented in a traditional grid and would require a zone change from NS to R-2. The additional 21 acres that is not platted would go through preliminary and final plat process to develop approx. 70 single family residential lots.

Ms. Delgado continued to explain the proposed conceptual plan of Heritage Oaks PDD includes coving-implementing winding roads, fluctuating building setbacks by reducing impervious coverage, and limiting infrastructure costs. This leads to more open spaces preservation than existing plat. Other areas

discussed were street requirements, lot size and density, side setbacks with no permanent structures or equipment will be allowed in side yards less than 10 ft. Proposed block length regulations, park and open spaces dedication requirements, landscaping and tree mitigation. There is a Trail Plan planned for this site. Wiederstein Road has several modifications added to this PDD to address the additional curving, driveways along the front with “T” turnarounds and adding alleys.

At the Planning & Zoning meeting on April 14, 2021, several issues were brought up by numerous citizens opposing the proposed zone change. Their concerns included traffic impact, safety with the curvilinear roads and alleys. Lots and density sizes, landscape and tree preservation, environmental concerns with wildlife, drainage, and water. The Planning & Zoning Commission voted to recommend denial to the City Council of this proposed zone change with a 6-1 vote.

Mr. Anthony Eugenio, the developer requests changes to the following sections within the PDD to address these issues which included side yard setbacks, the “T” turnarounds in driveways, Park and Open Space Dedications requirements, street improvements, curbs, and hike and bike trails. Staff believes the proposed Heritage Oaks PDD resembles a marked improvement over the existing Live Oak Hills Subdivision plan, while reducing the overall density. Given the less than desirable current lotting pattern, staff is willing in this case to support a creative development proposal.

Mayor Gutierrez spoke before the Public Hearing and explained that Mr. Anthony Eugenio has been working on the planned development for 20 yrs. He has made various improvements and numerous modifications to the original plan. After the Planning & Zoning meeting on April 14, 2021, Mr. Eugenio addressed many of the issues that were brought up by residents and made changes to his proposed PDD.

Mayor Gutierrez opened the Public Hearing and the following spoke:

- Steve Cicherski : 3509 Sumpter Glade: Representing: Ridge at Carolina Crossing, Board of Directors and many homeowners. The 43 property owners within or directly near the boundaries of the proposed plan were opposed. While it was a very thought-out plan, there are some very complex issues. Major concerns of flood zone. We currently have 3 dry creek beds, Cibolo, Dietz and Deer Creeks that with a major event will flood the city. GVEC, LCRA, FEMA, Texas Park and Wildlife were not aware of this project. Other topics: setbacks, cul-de-sac diameters, fire equipment being used safely being so close to GVEC substation. Concerns for neighborhood and board of directors are safety for firefighters, pedestrians, flood damage and potential life worth.

- Michael Carpenter: 3613 Calvert Street-Carolina Crossing North- Commissioner Carpenter stated this subdivision and another subdivision coming forward, Freeway Manor were platted before they were in the City of Schertz and pose a unique problem. The current zoning, current plat, current entitlement that could be built now is significantly problematic. This proposal is a cumulative of hundreds of hours of work by staff, engineers, developers. He asked if it is perfect, no, there is no silver bullet answer. He asked council that they consider of what it would look like if it was allowed to built as is.
- Michelle Terelesky: 705 Marilyn Drive- She stated she has lived here in Schertz for 42 years. Flooding is an issue and water flows downhill, and even though we have this FEMA ditch, we all need to start thinking about drainage. Kramer Farms was built 18 inches up higher than her property and during heavy rainfalls, she had level water in her easement. With all the building, more houses equal more water.
- Amanda Willmann: 3429 Abbeville Dr- The Ridge at Carolina Crossing: She brought up several concerns at the April 14, 2021 Planning & Zoning Meeting but wanted to ask Council to not lower our standards. Safety requirements, widths of road, putting in an alleyway, curving of the Wiederstein Rd. that will connect FM 1518 to Schertz Parkway were some of her safety concerns. It is a very well-traveled road and adding homes with driveways exiting onto the road and heavily populated with families, the safety concerns are troubling. She noted that there are decades of research that alley ways increase crime rate and with the proximity of I-35 nearby, the possibility would bring crime to all of us. The land that the developer wants to build on, is a beautiful forest teeming with wildlife and wishes it could stay that way.
- Dana Eldridge: 2628 Gallant Fox Drive- Mr. Eldridge brought up that the construction on I-35 that is coming up will cause problems. Traffic will back up and drivers will find ways to bypass it. When something happens on I35 around FM 3009-Schwab Rd, Old Wiederstein Rd becomes a racetrack to bypass traffic, and it is not set up for that. Asked Council to be aware, that traffic will be bad, and drivers will exit I-35 and bypass the frontage road and use Wiederstein to get through.
- Mr. Orejando: 3700 Florence Rd- Mr. Orejando recognizes the hard work put into this plan and understands change is constant. He would like something that will work for the developer and the current neighbors around this area. His concerns are increasing traffic, increasing city resources, and the beautiful habitat. That area is a beautiful spot that brings life to him and his neighbors. He asked that they keep some of that forest that is over there with heritage trees.

- City Secretary Brenda Dennis read an email from Mr. Justin Willmann: 3429 Abbeville Dr- Mr. Willmann wrote to voice his objections and issues with the Heritage Oaks Planned Development District. He brought up the following safety the concerns that should prevent this development to occur. The curving radius of Wiederstein road DO NOT meet the City of Schertz Engineering Department Standards. Cul-de-sac's radius is reduced to 100 feet vs. the currently required minimum of 150 feet. Alley way width are less than the minimum standard of 24 feet. The side setback between houses is reduced from 10 ft. to 5 ft. All these issues are putting neighbors and first responders at risk. Believes the large electrical power plant in the middle of the neighborhood will reduce property value in the area. See attached picture. Has concerns of the planned green space and tree mitigation plan.

Mayor Gutierrez closed the public hearing and recognized Mr. Anthony Eugenio and Mr. Richard Harris who gave a detailed PowerPoint of the proposed conceptual plan of Heritage Oaks PDD. After the presentation, Mayor Gutierrez then opened the floor to discussion by Council.

Councilmember Brown thanked Mr. Eugenio and Mr. Harris for the great presentations. He recognized the emotional impact with the parklike wildlife. Stated the city is going to develop and asked that we develop smart and take in modern engineering. Believes the best use of land is the best use of plan. He appreciates the concerns from P&Z have been addressed.

Councilmember Heyward stated she liked the layout of the PDD, which included curves that look like a parkland and appreciates that anywhere you step out you will see green. She would like to find a way to save the heritage oak trees and the older trees. Understands the concerns citizens have with the current area being filled with wildlife. We have seen the growth and would love to keep it the same, but Schertz will grow. The price point will have premier homes with amenities, walking trails and green cul-de-sacs are a great addition. She said this plan gives us all what we like and will not add density.

Councilmember Scagliola stated he has seen Mr. Eugenio bring plans to the city and each time the plans get better. He thanked Mr. Eugenio and Mr. Harris for presenting their plan. He listened to the Planning & Zoning Meeting on April 14, 2021 and Planning and Zoning did not send a recommendation for approval to City Council. The biggest problem he has with this plan is Wiederstein Rd is the curves. Other concerns were with drivers backing out of a driveway onto a collector streets and setbacks. His other concerns about cul-de-sacs, a tree buffer zone, and drainage were addressed, however he would like to table this decision and bring it back with changes to fix Wiederstein Rd.

Councilmember Dahle recognized that this plan has been in the works for 20

years, but it does not guarantee that we should approve it. He watched the Planning and Zoning Meeting from April 14, 2021 and appreciates the changes the developer made to those concerns that were mentioned at that meeting. Understands the citizens wanting to keep it a greens space, but this is private property the owners have the rights to develop this land. The curves, driveways exiting onto Wiederstein are some of his biggest concerns about the PDD. However, after doing some research he believes this plan is something the city can work with. We are trying to not over regulate development and with that, sometimes we are not going to get everything we want in every plan. This PDD is much better for us than the current platting.

Mayor Pro-Tem Whittaker thanked Mr. Eugenio and Mr. Harris for their excellent presentation. She feels enthusiastic about this proposed plan which included cul-de-sac islands and the added greenspace. It is nice aesthetically and loves how streets are efficiently planned. She liked the curves in the Wiederstein Rd design. Straight roads lead to speeding and a curvy road will stop people from cutting through and slow them down to pay attention. Again, she expressed how enthusiastic she is in favor of this design and look forward to seeing it come into fruition.

Councilmember Scott asked Ms. Emily Delgado and Mr. Brian James to explain how the responses were being counted. She understood the citizens and their concerns are an emotion issue. She stated she feels very conflicted because this is a very good-looking plan with a beautiful layout, aesthetically pleasing but does not want to turn her on her citizens who have real concerns about flooding and greenspace issues. Our citizens' voices matter.

Councilmember Davis thanked all the residents who spoke. He stated the proposed plan is an impressive design compared to original plat. The plan is good and appreciates the tree mitigation plan. His biggest concern was with Wiederstein Rd and once developed will get a lot of traffic usage. Kensington Ranch will use this route to get to FM 3009. The curving in the plan is a natural way to slow down traffic, but drivers don't pay attention. The 23 houses that enter onto Wiederstein Rd with curves, reduced visibility, limited sight distance is a safety concern. The plan is fantastic except for the driver access to Wiederstein.

Mayor Gutierrez recognized Councilmember Scagliola who stated he would like to table this item, love the concept, but have problem with Wiederstein road but doesn't have a solution.

Moved by Councilmember David Scagliola, seconded by Councilmember Rosemary Scott motion to table this item.

AYE: Councilmember Mark Davis, Councilmember Rosemary Scott,
Councilmember David Scagliola

NAY: Mayor Pro-Tem Jill Whittaker, Councilmember Michael Dahle,
Councilmember Allison Heyward, Councilmember Tim Brown
Failed

Moved by Mayor Pro-Tem Jill Whittaker, seconded by Councilmember
Michael Dahle to approve Ordinance No. 21-S-15 on first reading

AYE: Mayor Pro-Tem Jill Whittaker, Councilmember Michael Dahle,
Councilmember David Scagliola, Councilmember Allison Heyward,
Councilmember Tim Brown

NAY: Councilmember Mark Davis, Councilmember Rosemary Scott
Passed

Roll Call Vote Confirmation

Mayor Gutierrez recognized City Secretary Brenda Dennis who provided the roll call vote confirmation for agenda items 1 through 9.

Information available in City Council Packets - NO DISCUSSION TO OCCUR

Mayor Gutierrez mentioned that agenda item 10 is an informational only item and was provided in their packets as well as can be found online.

10. COVID-19 UPDATE - Bi-Weekly COVID-19 Update.(C. Kelm/ K.Long/S.Hall)

Requests and Announcements

- Announcements by the City Manager.

No further announcements.

- Requests by Mayor and Councilmembers for updates or information from staff.

Mayor Gutierrez recognized Councilmember Scagliola who stated that he was interested in the COVID payments that were coming in to the City and was wondering about the Hazardous Duty Pay for First Responders. He doesn't want to make it an agenda item, but he would like information on how the money is going to be disbursed. Mayor Gutierrez if he was referring to the American Relief Act, we have a workshop scheduled in June on how Council is going to proceed with the disbursement of the funds. City Secretary Brenda Dennis stated that we do have

a Workshop scheduled for June 17, 2021 and Council received a new invite for that meeting. This is a special workshop.

- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.

Mayor Gutierrez recognized Councilmember Dahle who stated as Councilmember Scagliola and Mayor Pro-Tem Whittaker mentioned he would like to have a Workshop regarding PDD's, see if we can find some definitions for staff and provide them some guidance on what we want to see in the PDD's. What's important, what's not important, this would make the process easier for staff. Mayor Gutierrez agreed, this is what will place the Council in alignment with Planning and Zoning in setting up the PDD standards. Mayor indicated that he would get with Dr. Browne and see what we can arrange.

Mayor recognized Councilmember Scagliola who stated that there were four (4) things he would like to look at specifically:

- Proportion of densities or percentages
- Side yard set backs
- Minimum drive-way lengths
- Mailbox locations

Mayor Gutierrez also stated we discussed square footage of lot sizes.

- Announcements by Mayor and Councilmembers
 - City and community events attended and to be attended
 - City Council Committee and Liaison Assignments (see assignments below)
 - Continuing education events attended and to be attended
 - Recognition of actions by City employees
 - Recognition of actions by community volunteers

Mayor Gutierrez recognized the following:

Mayor Pro-Tem Whittaker who stated she attended the Citizens Police Academy, second to last class. This week we graduate.

Councilmember Heyward who stated she attended South Texas Pregnancy Care Center, they are going to be opening up a new facility. It's a facility that if you are pregnant, and you need assistance, they are there to help and provide counseling.

Adjournment

Mayor Gutierrez adjourned the meeting at 10:06 p.m.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: City Secretary
Subject: Appointments/Resignation to Boards and Commissions/Committees - Consideration and/or action regarding appointments/resignations to various Boards and Commissions/Committees. (Council/B. Dennis)

- Resignation of Paul Ryson - Transportation Safety Advisory Board
- Resignations of John Baker, Sabrina Allen and Sue Boissonneault - Historical Preservation Committee
- Appointments of Jesse Gonzales, Jason Baltaric - Historical Preservation Committee
- Appointment of Ronald Stevens - Transportation Safety Advisory Commission

BACKGROUND

The City Secretary's office has received resignations from Paul Ryson, Transportation Safety Advisory Commission, John Baker, Sabrina Allen and Sue Boissonneault - Historical Preservation Committee.

The City Secretary's office also received new volunteer applications from Jesse Gonzales, Jason Baltaric who applied to serve on the Historical Preservation Committee and from Ronald Stevens who applied to serve on the Transportation Safety Advisory Commission.

All applicants were vetted through the Interview Committee, and it was the consensus of the Committee to recommend to Council for appointment.

Staff recommends the appointments of Jesse Gonzales and Jason Baltaric to the Historical Preservation Committee and the appointment of Ronald Stevens to Transportation Safety Advisory Commission.

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Engineering
Subject: Resolution No. 21-R-39 – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing a contract with Myers Concrete Construction, LP relating to the 2020 Silt Removal Projects and authorizing the budget expenditures for the project. (B. James/K. Woodlee/J. Shortess)

BACKGROUND

Previously, the City authorized survey and civil engineering design for drainage improvements to Sycamore Creek at Westchester Drive, Savannah Drive Detention Basin, and Dietz Creek at Arroyo Verde.

The Sycamore Creek at Westchester Drive project includes establishing the channel section by removing silt, grading, installation of concrete riprap at existing pipe outfalls, and providing erosion control. The Savannah Square Detention Basin project includes deepening of the basin and ensuring positive drainage to the outfall point. The Dietz Creek at Arroyo Verde project includes excavation of silt, filling and erosion control to protect existing sanitary sewer and water line crossings, and installing permanent erosion control. Erosion control methods employed by this project minimize soil loss and turbidity of effluent runoff.

Bids for 2020 Silt Removal Projects were opened on April 20, 2021. Two bids were received. Of the two bids, the lowest bid was from Myers Concrete Construction, LP. Staff has reviewed the bids and supporting documentation and determined that the bid from Myers Concrete Construction, LP is acceptable.

GOAL

To obtain authorization from Council to execute a contract with Myers Concrete Construction, LP for \$291,627.47, and a not to exceed amount of \$320,000, for the 2020 Silt Removal Projects.

COMMUNITY BENEFIT

Silt removal leads to an increase in water depth of these watercourses and detention basin and decreases the risk of flooding. Further, providing erosion protection over existing sanitary sewer and water line crossings protect the City's ability to safely dispose of effluent and provide safe drinking water.

SUMMARY OF RECOMMENDED ACTION

Authorize execution of the construction contract for the 2020 Silt Removal Projects with Myers Concrete Construction, LP, for \$291,634.58 and a not to exceed amount of \$320,000.

FISCAL IMPACT

The cost of the project shall not exceed \$320,000 and funding is available from the General Fund. The General Fund allocated a total of \$1.1 million to drainage projects. Currently, \$500,000 is allocated to other projects, with \$320,000 available for the 2020 Silt Removal project.

RECOMMENDATION

Staff recommends Council approve Resolution 21-R-39 and authorize award of the bid for the 2020 Silt Removal Project to Myers Concrete Construction, LP for \$291,627.47, and a not to exceed amount of \$320,000.

Attachments

Resolution 21-R-39

Bid Tabulation

Recommendation for Award

Agreement

RESOLUTION NO. 21-R-39

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING A CONTRACT WITH MYERS CONCRETE CONSTRUCTION, LP RELATING TO THE 2020 SILT REMOVAL PROJECTS AND AUTHORIZING THE BUDGET EXPENDITURES FOR THE PROJECT

WHEREAS, The City staff of the City of Schertz (the “City”) has recommended that the City accept the bid from Myers Concrete Construction, LP relating to the 2020 Silt Removal Project and approve the project expenditures; and

WHEREAS, City staff has received qualifications indicating that Myers Concrete Construction, LP is qualified to provide such services for the City; and

WHEREAS, the project will be funded from the General Fund,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute and deliver the contract with Myers Concrete Construction, LP for an amount of \$291,627.47, with an amount not to exceed \$320,000.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of May, 2021.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

City of Schertz - 2020 Silt Removal Projects Bid Tabulation Bid date: April 20,2021 - 8:30 AM							
Project No. 1124.9405				BIDDERS			
				C3 Environmental Specialties, LP		Myers Concrete Construction, LP	
ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL	UNIT PRICE	*TOTAL
BASE BID							
1.0	Mobilization	L.S.	1.00	\$27,000.00	\$27,000.00	\$20,000.00	\$20,000.00
2.0	Storm Water Pollution Control	L.S.	1.00	\$15,750.00	\$15,750.00	\$13,743.50	\$13,743.50
3.0	Remove Concrete Rip Rap	S.Y.	33.30	\$25.00	\$832.50	\$163.44	\$5,442.55
4.0	Channel Excavation	C.Y.	1,790.00	\$76.50	\$136,935.00	\$38.72	\$69,308.80
5.0	Conrete Rip Rap (5")	S.Y.	67.30	\$79.00	\$5,316.70	\$144.52	\$9,726.20
6.0	Hydromulch	S.Y.	10,310.00	\$1.10	\$11,341.00	\$0.54	\$5,567.40
7.0	Flexible Growth Medium (Flexterra)	S.Y.	8,172.00	\$2.15	\$17,569.80	\$3.83	\$31,298.76
8.0	Erosion Control Matting (Straw Mat)	S.Y.	10,310.00	\$1.25	\$12,887.50	\$2.82	\$29,074.20
9.0	Erosion Control Matting (Pyramat 25)	S.Y.	1,253.00	\$38.50	\$48,240.50	\$30.97	\$38,805.41
10.0	Sodding	S.Y.	6,003.00	\$7.25	\$43,521.75	\$9.18	\$55,107.54
11.0	9" Rock Rubble	S.Y.	45.00	\$19.00	\$855.00	\$70.76	\$3,184.20
12.0	Select Fill	C.Y.	130.00	\$67.25	\$8,742.50	\$69.70	\$9,061.00
13.0	Flowable Fill	C.Y.	1.40	\$300.00	\$420.00	\$934.22	\$1,307.91
BASE BID TOTAL				\$329,412.25		\$291,627.47	
				Per Bid Proposal \$329,412.50		Per Bid Proposal \$291,634.58	

Low Bidder Verification					Myers Concrete Construction, LP		Engineer		Average Unit Price		Lowest Unit Price Bid		
Item No.	SPEC	Item Description	UNIT	Quantity	Unit Price	Extended		% Diff		% Diff		Diff	
1		Mobilization	L.S.	1	\$ 20,000.00	\$ 20,000.00	\$ 21,759.95	-8%	\$ 23,500.00	-15%	\$ 20,000.00	\$ -	
2		Storm Water Pollution Control	L.S.	1	\$ 13,743.50	\$ 13,743.50	\$ 6,527.99	111%	\$ 14,746.75	-7%	\$ 13,743.50	\$ -	
3		Remove Concrete Rip Rap	S.Y.	33.3	\$ 163.44	\$ 5,442.55	\$ 31.75	415%	\$ 94.22	73%	\$ 25.00	\$ 138.44	
4		Channel Excavation	C.Y.	1790	\$ 38.72	\$ 69,308.80	\$ 24.00	61%	\$ 57.61	-33%	\$ 38.72	\$ -	
5		Conrete Rip Rap (5")	S.Y.	67.3	\$ 144.52	\$ 9,726.20	\$ 115.00	26%	\$ 111.76	29%	\$ 79.00	\$ 65.52	
6		Hydromulch	S.Y.	10310	\$ 0.54	\$ 5,567.40	\$ 1.50	-64%	\$ 0.82	-34%	\$ 0.54	\$ -	
7		Flexible Growth Medium (Flexterra)	S.Y.	8172	\$ 3.83	\$ 31,298.76	\$ 7.00	-45%	\$ 2.99	28%	\$ 2.15	\$ 1.68	
8		Erosion Control Matting (Straw Mat)	S.Y.	10310	\$ 2.82	\$ 29,074.20	\$ 2.00	41%	\$ 2.04	39%	\$ 1.25	\$ 1.57	
9		Erosion Control Matting (Pyramat 25)	S.Y.	1253	\$ 30.97	\$ 38,805.41	\$ 19.00	63%	\$ 34.74	-11%	\$ 30.97	\$ -	
10		Sodding	S.Y.	6003	\$ 9.18	\$ 55,107.54	\$ 8.00	15%	\$ 8.22	12%	\$ 7.25	\$ 1.93	
11		9" Rock Rubble	S.Y.	45	\$ 70.76	\$ 3,184.20	\$ 10.00	608%	\$ 44.88	58%	\$ 19.00	\$ 51.76	
12		Select Fill	C.Y.	130	\$ 69.70	\$ 9,061.00	\$ 7.00	896%	\$ 68.48	2%	\$ 67.25	\$ 2.45	
13		Flowable Fill	C.Y.	1.4	\$ 934.22	\$ 1,307.91	\$ 300.00	211%	\$ 617.11	51%	\$ 300.00	\$ 634.22	
BASE BID TOTAL					\$ 291,627.47		\$ 246,944.72		\$ 291,627.47				
					Red items are where the % change to average is greather than 50%								



FORD ENGINEERING, INC

April 26, 2021
Project No. 1124.9405

Jennifer R Shortess, PE
City of Schertz
10 Commercial Place, Building 2
Schertz, TX 78154

Re: City of Schertz – 2020 Silt Removal Projects, #2021-010
Recommendation of Award

Two (2) bids were received on the above referenced project at City of Schertz City Hall on April 20, 2021.

The bid is to be awarded per a qualified bidder criteria established by the City of Schertz.

Review of the tabulation and scoring of bid packages received indicates that the apparent low bidder is Myers Concrete Construction, LP. with a listed a base bid of \$291,634.58. The bid tabulation indicated some minor irregularities in the extension of the unit prices. The corrected base bid is \$291,627.47.

The Engineer's Estimate for the Base Bid construction was \$246,944.72. The average Base Bid was \$310,519.86. The second bid by C3 Environmental, also contained a minor irregularity in the total sum of their bid proposal.

FEI has contacted the provided references for the apparent low bidder, and found all responses to be positive. Myers Concrete Construction, LP has performed work for the City on previous drainage projects and the quality of work was viewed favorably.

It is FEI's recommendation that the project be awarded to Myers Concrete Construction, LP, in the amount of **\$291,627.47**. The contractor has been contacted about the minor irregularities and has agreed to the calculated amount, see attached written acknowledgement.

Should there be questions, or if further information is needed, please do not hesitate to call me at 210-590-4777.

Sincerely,

Mark B. Hill, PE
FORD ENGINEERING, INC.

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Schertz ("Owner") and
____ ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: *2020 Silt Removal Projects*

ARTICLE 3 – ENGINEER

- 3.01 The part of the Project that pertains to the Work has been designed by Ford Engineering Inc.
- 3.02 The Owner has retained the City of Schertz Engineering Department ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

- 4.01 *Time of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Days*
- A. The Work is expected to be substantially completed within 270 calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 30 calendar days after the date of substantial completion.
- 4.03 *Liquidated Damages*
- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The Contractor acknowledges and recognizes that the Owner is entitled to full and beneficial occupancy and use of the completed work following expiration of the Contract Time. The Contractor further acknowledges and agrees that, if the Contractor fails to substantially, or cause the Substantial Completion of any portion of the Work within the Contract time, the Owner will sustain

actual damages as a result of such failure. The exact amount of such damages will be difficult to ascertain. Therefore, the Owner and Contractor agree that, if the Contractor shall neglect, fail, or refuse to achieve substantial completion of the Work by the Substantial Completion date, subject to proper extension granted by the Owner, then the Contractor agrees to pay the Owner the sum of:

1. **Six hundred dollars (\$600.00) per day** for each day in which such Work is not completed, not as penalty, but as liquidated damages, for the damages ("Liquidated Damages") that would be suffered by Owner as a result of delay for each and every calendar day that the Contractor shall have failed to have completed the Work as required herein. The Liquidated Damages shall be in lieu of any and all other damages which may be incurred by Owner as a result of the failure of Contractor to complete within the Contract Time.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 95 percent of Work completed (with the balance being retainage); and
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to the full amount of the contract, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less such amounts as the Engineer shall determine for incomplete Work, retainage applicable to such work and unsettled claims.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the maximum rate allowed by law, not to exceed 1% per month.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2)

reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages A-1 to A-7, inclusive).
 - 2. Performance bond (pages PB-1 to PB-3, inclusive).
 - 3. Payment bond (pages PYB-1 to PYB-3, inclusive).
 - 4. General Conditions consisting of 73 pages of a modified version of EJCDC C-700, having a title page with the general title: STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT.
 - 5. Supplementary Conditions (pages SC-1 to SC-2, inclusive).
 - 6. Specifications as listed in the table of contents of the Project Manual.
 - 7. Drawings (not attached but incorporated by reference) consisting of 26 sheets with each sheet bearing the following general title: 2020 Silt Removal Projects.
 - 8. Addenda (numbers to , inclusive).
 - 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages BF-1 to BF-5, inclusive).

10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or “track changes” (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

License No.: _____
(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

Note: The City of Schertz, Texas has modified this document. The modified language is indicated by strikeout and/or underlining

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The Office of the City Engineer, or its agent.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that ~~amends or~~ supplements these General Conditions, provides technical requirements for the Work, and Owner provided information.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 *Terminology*

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. ~~Bonds: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish. Engineer shall furnish to Contractor an electronic copy of the Agreement and other Contract Documents bound herewith. Contractor shall execute the Agreement, insert executed copies of the required Bonds and power of attorney and certificate of insurance and submit an electronic copy to Owner. Owner shall execute and return an electronic copy to the Contractor, who shall promptly deliver one copy to its surety.~~
- B. ~~Evidence of Contractor's Insurance: When Contractor delivers the executed counterparts of the Agreement to Owner, Before Owner will execute Agreement and before any Work at the site is started~~ Contractor shall ~~also~~ deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. ~~Evidence of Owner's Insurance: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.~~

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor ~~four one electronic printed copies copy~~ of the Contract (including one fully executed counterpart of the Agreement), ~~and one copy in electronic portable document format (PDF).~~ Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one ~~original printed record~~ electronic version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
2. a preliminary Schedule of Submittals; and
3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility

inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge of knew or reasonably should have known thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers and any other individual or entity performing or furnishing all of the work under direct or indirect contract with Contractor shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. ~~In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.~~

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the

established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance ~~(to the extent indicated in Paragraph 2.05)~~ an updated Progress Schedule reflecting the amount of work completed and proposed adjustments in the Progress Schedule that will not result in changing the Contract Times with each application for payment. No progress payment will be made to Contractor until the updated Progress Schedule are submitted and acceptable to Owner and Engineer.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. Contractor will be allowed delays for weather conditions, based on the concurrence of Contractor and Engineer, for isolated inclement weather, wherein the project site is determined to be unworkable for days of precipitation and days following for short

times between otherwise good weather. If Contractor believes this condition applies, a request shall be made to Engineer for a meeting and a joint determination of the site conditions and approval of the delay. Engineer will document these approved delays and will incorporate them into a final reconciling Change Order for signature of Owner and Contractor at the completion of the project.~~abnormal weather conditions;~~

3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment. If it is necessary or desirable that Contractor use land outside the Owner's easement or right-of-way for materials delivery or occupy for any other purpose with workers, tools, equipment, construction materials, or excavated materials, Contractor shall obtain written consent from the property owner and tenant of the land.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent

areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.

- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, ~~promptly by the next business day~~^{fifteen (1)} after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement

to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Price and Times Adjustments:*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;

- b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
- 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
 - 1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 - 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the

costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 Insurance—General Provisions

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state State or jurisdiction in which the Project is located, to issue insurance policies of Texas, with minimum “A.M. Best Rating” of A-, VI, as will protect the Contractor, the vicarious acts of Subcontractors, the Owner and Engineer and their agents and employees for the required limits and coverages. ~~Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.~~
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- ~~D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.~~
- ~~E.D.~~ Failure of Owner ~~or Contractor~~ to demand such certificates or other evidence of the other party’s full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party’s obligation to obtain and maintain such insurance.
- ~~F.E.~~ If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- ~~G.F.~~ If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner’s termination rights under Article 16.
- ~~H.G.~~ Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other

party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.

7.H. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.

7.I. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
4. Foreign voluntary worker compensation (if applicable).

B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:

1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
2. claims for damages insured by reasonably available personal injury liability coverage.
3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Broad form property damage coverage.
4. Severability of interest.
5. Underground, explosion, and collapse coverage.
6. Personal injury coverage.

7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
 - E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
 - F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
 - G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
 - H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
 - I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
 1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has

been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.

4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler

explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.

3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least ~~10~~ 30 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.

- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday, 7:00 am to 6:00 pm and Saturday 9:00 am to 5:00 pm. Contractor will not perform Work on a ~~Saturday, Sunday, or any legal holiday~~. Contractor may perform Work outside regular working hours or on ~~Saturdays, Sundays, or legal holidays~~ only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and

- 4) it is not objectionable to Owner.
- b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 *Substitutes*

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

- a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.

- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees,

agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 Record Documents

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 Safety and Protection

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction; and
 - 3.4. Contractor shall immediately notify utility owner/operator of any damage. Utility owner/operator shall determine the appropriate repair. If the damage results in a release of natural gas or other hazardous substance, or potentially endangers life, health, or property, then the Contractor shall immediately contact the utility owner/operator, call 911, and take immediate action to protect the public and property.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or

Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

- A. *Shop Drawing and Sample Submittal Requirements:*
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. While Owner and Engineer may have the right under this Contract to observe or otherwise review the Work, progress, and operations of the contractor, it is expressly understood and agreed that such observations shall not reliverelieve the Contractor from any of its covenants and obligations hereunder.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior

to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.

- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable

adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

- 9.04 *Pay When Due*
- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.
- 9.05 *Lands and Easements; Reports, Tests, and Drawings*
- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
 - B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
 - C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.
- 9.06 *Insurance*
- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.
- 9.07 *Change Orders*
- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 *Inspections, Tests, and Approvals*
- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 *Limitations on Owner's Responsibilities*
- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 *Undisclosed Hazardous Environmental Condition*
- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.
- 9.11 *Evidence of Financial Arrangements*
- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).
- 9.12 *Safety Programs*
- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
 - B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

10.01 *Owner’s Representative*

- A. Engineer will be Owner’s representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner’s representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor’s executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer’s efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer’s visits and observations are subject to all the limitations on Engineer’s authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer’s visits or observations of Contractor’s Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer’s consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer’s authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer’s authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer’s authority as to Change Orders is set forth in Article 11.
- D. Engineer’s authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

1. *Change Orders:*

- a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.
3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or
 - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;

- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
 - 1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 - 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 - 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer

is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 - 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its

information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.
 - 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval:* If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 Cost of the Work

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:

1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
 5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and

hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

- c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee*: When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
 - E. *Documentation*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances*: Contractor agrees that:
 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any a major item (total cost of item amounts to 25% or more of the Contract Price which is the sum of all schedules) of Unit Price Work performed by Contractor differs materially and significantly by more than 25% from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 Access to Work

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 3. by manufacturers of equipment furnished under the Contract Documents;
 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims,

costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to

exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 Owner May Correct Defective Work

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 Progress Payments

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
 - 1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate

property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

- ~~3.4.~~ Each application for progress payment shall be accompanied by Contractor's updated progress schedule, shop drawing schedule, procurement schedule, and other data specified herein or reasonably required by Owner or Engineer. The Owner reserves the right to require submission of monthly certified payrolls by the Contractor.

C. *Review of Applications:*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Payment Becomes Due:

1. ~~Ten~~ Thirty (30) days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. Reductions in Payment by Owner:

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
- a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

- e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly Within a reasonable time after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies. After Contractor has remedied all deficiencies to the satisfaction of the Engineer and delivered all construction records, maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, test results, and other documents (as required by the Contract Documents), Owner and Contractor shall be promptly notified in writing by Engineer that the work is acceptable.

15.06 *Final Payment*

- A. *Application for Payment:*
 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.
 2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any

way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within ~~one~~two years after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that

Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such other adjacent areas;
 2. correct such defective Work;
 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of ~~one~~ two years after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30-60 days after it is submitted, or (3) Owner fails for 30-60 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30-60 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.

- B. *Final Resolution of Disputes:* ~~For a~~Any dispute subject to resolution under this Article, ~~Owner or Contractor may; shall be referred to the City Manager, City of Schertz for attempted resolution prior to commencement of legal action to resolve same.~~
- ~~1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or~~
 - ~~2. agree with the other party to submit the dispute to another dispute resolution process; or~~
 - ~~3.1. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, If legal action is pursued, the Owner or Contractor must~~ give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.
 - 2.3. The mailing address for giving notices to Contractor given in the Agreement is hereby designated as the place which all notices, letters, and other communication to Contractor will be mailed or delivered. The mailing address for giving notices to Owner given in the Agreement is hereby designated as the place which all notices, letters, and other communication to Owner will be mailed or delivered. Either party may change the mailing address at any time by an instrument in writing delivered to the Engineer and to the other party.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors,

members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTAL CONDITIONS

DIVISION 1 - GENERAL REQUIREMENTS

01010 Summary of Work (Included herein)

(Included by Reference to City of Schertz Standard **Public Works Technical Specifications**)

01145	Use of Premises
01255	Change Order Procedures
01270	Measurement and Payment
01292	Schedule of Values
01312	Coordination and Meetings
01321	Construction Photographs
01325	Construction Schedule
01326	Construction Schedule (Bar Chart)
01330	Submittal Procedures
01340	Shop Drawings, Product Data, and Samples
01410	TPDES Requirements (with Attachments)
01422	Reference Standards
01450	Contractor's Quality Control
01452	Inspection Services
01454	Testing Laboratory Services
01502	Mobilization
01504	Temporary Facilities and Controls
01520	Temporary Field Office
01555	Traffic Control and Regulations
01570	Storm Water Pollution Control
01576	Waste Material Disposal
01580	Project Identification Signs
01610	Basic Product Requirements
01630	Product Substitution Procedures
01725	Field Surveying
01731	Cutting and Patching
01732	Procedures for Water Valve Assistance (with Attachments)
01740	Site Restoration
01755	Starting Systems
01770	Closeout Procedures
01782	Operation and Maintenance Data
01785	Project Record Documents

DIVISION 2 - SITE WORK (Included by Reference to City of Schertz Standard Public Works Technical Specifications)

02221	Remove Concrete Rip Rap
02314	Channel Excavation
02751	Concrete Rip Rap (5")
02921	Hydromulch
02922	Sodding
02925	Flexible Growth Medium
02926	Erosion Control Matting

MISC	9" Rock Rubble
MISC	Select Fill

TEXAS DEPARTMENT OF TRANSPORTATION
STANDARD SPECIFICATIONS FOR CONSTRUCTION AND MAINTENANCE OF
HIGHWAYS, STREETS, AND BRIDGES NOVEMBER, 2014

401	Flowable Fill
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**SECTION 01010
SUMMARY OF WORK**

PART 1 – GENERAL:

1.01 DESCRIPTION OF WORK:

- A. The work proposed in this contract includes, but is not limited to:
 - 1. Approximately 800 linear feet of channel excavation, erosion control matting, and hydromulching for drainage improvements along East Dietz Creek at Arroyo Verde.
 - 2. Approximately 1,400 linear feet of channel excavation, erosion control matting, and hydromulching for drainage improvements along Sycamore Creek at Westchester Drive.
 - 3. Excavation, grading, and revegetation of Savannah Square Detention Basin.
- B. The CONTRACTOR shall include in his Bid Proposal all labor, equipment, material, tools, supplies, and incidentals necessary to complete all work required by this Contract in accordance with the included plans, specifications, and referenced documents.
- C. All work done under this Contract shall conform to all local ordinances. CONTRACTOR shall arrange and pay all cost of permits and inspection fees and shall confine his operations to the limits set by law.
- D. The CONTRACTOR shall take care to protect existing trees in accordance with the City Schertz Standards. He shall avoid damage to mature trees and native brush outside the project limits and shall replace any vegetation, which requires removal with equivalent vegetation.
- E. It is the intent of the OWNER to award this project to one CONTRACTOR.
- F. Portions of this project may be subject to review and acceptance by various agencies. The CONTRACTOR will be required to coordinate with these agencies for such items as issuance of permits or work orders, inspections during construction, and final acceptance. The agencies for this project that may require coordination include but are not limited to the following:
 - 1. City of Schertz Public Works Department
- G. Contract time for this project shall be **270** calendar days.

1.02 EXISTING CONDITIONS:

- A. Locate and protect all existing utilities impacted by this project. Those affected by this project include as a minimum:
 - 1. City of Schertz
 - 2. Guadalupe Valley Telephone Cooperative
 - 3. Spectrum
 - 4. CPS Energy
 - 5. Green Valley SUD
 - 6. Fiber Light LLC
 - 7. Centerpoint Energy
 - 8. AT&T
 - 9. Zayo Group

10. MCI

1.03 WORK SEQUENCE:

- A. Construct work in stages to provide proper coordination with work by others. Coordinate the construction schedule and operations with the OWNER's representative. Reference to General Conditions Item 5.15, Sequence of Work and Section 01110, 1.03.

Construction activities involved in the phasing outlined below may be performed concurrently as long as the steps in each phase are performed as stipulated.

PHASE 1

Contractor shall make all required submittals, and, upon approval, order materials required. Mobilize to the site and install required pollution prevention controls.

PHASE 2-EAST DIETZ CREEK AT ARROYO VERDE

Clear brush, excavate channel, and grade per plans. Place erosion control matting and hydromulching. Revegetate disturbed areas as needed.

PHASE 3- SYCAMORE CREEK AT WESTCHESTER DRIVE

Clear brush, excavate channel, and grade per plans. Place erosion control matting and hydromulching. Revegetate disturbed areas as needed.

PHASE 4- SAVANNAH SQUARE DETENTION BASIN

Excavate and regrade detention basin per plan. Revegetate disturbed areas.

PHASE 5

Contractor to perform any required cleanup and demolition as required.

1.04 CONTRACTOR'S USE OF PREMISES:

- A. CONTRACTOR shall limit his use of the premises for Work and for storage, to allow for work by other contractors.
- B. Coordinate use of premises under direction of OWNER
- C. Contractor assumes full responsibility for the protection and safekeeping of products under this Contract, stored on the site.
- D. Move any stored products, under CONTRACTOR's control, which interfere with operations of the OWNER or separate contractor.
- E. Contractor to obtain and pay for the use of additional storage or work areas needed for operations.

END OF SECTION

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Public Works
Subject: Resolution 21-R-42 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz authorizing the City Manager to enter into a Design-Build Agreement with Team Mechanical of Texas, LLC for the Animal Adoption Center HVAC Replacement Project and other matters in connection therewith. (C. Kelm/S. Williams/S. McClelland)

BACKGROUND

The Animal Adoption Center was completed in 2014. The HVAC system is a Variable Refrigerant Flow (VRF) design and only services the main core of the facility. Only heating, independent of the main system, is supplied in the kennel areas.

For the first 12 – 18 months the system functioned with minor service call-backs. However after that time period the system started to have issues with cooling, pressurization, and dehumidification. From that point in time until the present the system has not operated at a satisfactory level and the City has been required to bring in temporary cooling and dehumidification equipment to keep the central core environment at an acceptable level for City staff.

Several attempts have been made over the years to repair/adjust the system to no avail. This includes the architect, engineer, contractor, and equipment manufacturer responsible for the initial design and construction of the HVAC system. Because none of these efforts resulted in obtaining a resolution to the problems, an outside forensic engineering firm was retained to review the initial system design and the resulting information obtained from various tests run on the entire system.

Following this investigation, the engineering firm was retained to provide and complete re-commissioning of the entire HVAC system and to provide reports, data and recommendations for corrective actions. The final report recommends complete replacement of the existing VRF system including the control wiring system with new HVAC equipment providing a split DX system in lieu of the existing VRF system.

In order to complete the HVAC replacement, the City issued a Request for Qualifications (RFQ) to select a qualified Design-Build Firm who could provide a "turnkey" project delivery. The City received two (2) RFQ responses. After evaluating the RFQ responses, Staff identified Team Mechanical of Texas as the most qualified firm.

After negotiations on scope and fee, City Staff was able to reach agreement with Team Mechanical of Texas, which is being recommended for award. Although the base proposal is \$596,188.00, Staff is recommending to Council to award two additive alternates to the contract in order to provide gas heat to the building for a total contract value of \$618,443.00. Staff is recommending Council approve a total not to exceed amount for the project of \$675,000.00 to allow for project contingency.

GOAL

Enter into a Design-Build agreement with Team Mechanical of Texas, LLC for the design and replacement of the Animal Adoption Center HVAC Replacement Project.

COMMUNITY BENEFIT

The City of Schertz Animal Adoption Center is a premier facility that provides an important service to our community. The facility services guests from Schertz and surrounding areas and the comfort of those guests is important to their experience which reflects back to their view of the City as a whole. Providing a reliable system also provides safe living conditions for the animals being housed at the facility both from a heating and cooling perspective but also from a ventilation standpoint to limit the spread of disease.

SUMMARY OF RECOMMENDED ACTION

City Staff recommends approval of Resolution 21-R-42.

FISCAL IMPACT

The project will be funded out of Contingencies. The City continues to pursue litigation on the original HVAC installation in order to recoup a portion of the project cost.

RECOMMENDATION

Staff is recommending Council approve Resolution 21-R-42.

Attachments

Resolution 21-R-42

Exhibit A

Exhibit B

RESOLUTION NO. 21-R-42

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO A DESIGN-BUILD AGREEMENT WITH TEAM MECHANICAL OF TEXAS, LLC FOR THE ANIMAL ADOPTION CENTER HVAC REPLACEMENT PROJECT AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz (the “City”) has a need to replace the entire HVAC system at the Animal Adoption Center; and

WHEREAS, City staff conducted a Request for Qualifications to identify firms with the capabilities to complete the project; and

WHEREAS, City staff has identified Team Mechanical of Texas, LLC as the firm that is both qualified and provides the best value to the City; and

WHEREAS, City has dedicated Contingency funds for the completion of this project.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute and deliver an agreement in substantially the same form as Exhibit A with Team Mechanical of Texas, LLC for an amount not to exceed \$675,000.00 based on the proposal in Exhibit B.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of May, 2021

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

AIA® Document A141™ – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Schertz
1400 Schertz Parkway Building #2
Schertz, Texas 78154

and the Design-Builder:
(Name, legal status, address and other information)

Team Mechanical of Texas, LLC
131 Gattuso Road
New Braunfels, Texas 78132
210-310-6363

for the following Project:
(Name, location and detailed description)

Replacement of the Animal Adoption Center HVAC System
800 Community Circle Drive
Schertz, Texas 78154

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	COMPENSATION AND PROGRESS PAYMENTS
3	GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT
4	WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT
5	WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT
6	CHANGES IN THE WORK
7	OWNER'S RESPONSIBILITIES
8	TIME
9	PAYMENT APPLICATIONS AND PROJECT COMPLETION
10	PROTECTION OF PERSONS AND PROPERTY
11	UNCOVERING AND CORRECTION OF WORK
12	COPYRIGHTS AND LICENSES
13	TERMINATION OR SUSPENSION
14	CLAIMS AND DISPUTE RESOLUTION
15	MISCELLANEOUS PROVISIONS
16	SCOPE OF THE AGREEMENT

TABLE OF EXHIBITS

A	DESIGN-BUILD AMENDMENT
B	INSURANCE AND BONDS
C	SUSTAINABLE PROJECTS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

Replacement of the existing HVAC system, duct work, and controls as required to produce the City requirements as stated in Section 1.1.2.

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

The Project shall consist of the demolition and removal of the existing HVAC system and controls and the design and construction of a new DX split system to serve the Animal Adoption Center and provide proper temperature/humidity control and building pressurization. For additional information, the reports from Tom Green & Company Engineers, Inc., dated August 6, 2019 and August 7, 2020 are attached hereto as Exhibit C

§ 1.1.3 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

The Project consists of replacing the existing HVAC system which serves approximately 10,000 square feet. This area is referred to as the Core. For additional information see Exhibit C

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™-2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

The Owner's budget is as follows:

Base Budget: Five Hundred Ninety-Six Thousand, One Hundred Eighty-Eight Dollars and zero cents (\$596,188.00)

Add Alternates, only if selected by the City: Thirty-Eight Thousand, Six Hundred Five Dollars and zero cents (\$38,605.00)

Total Not to Exceed Budget: Six Hundred Seventy-Five Thousand Dollars and zero cents (\$675,000.00)

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

See Exhibit A

.2 Submission of Design-Builder Proposal:

See Exhibit A

.3 Phased completion dates:

See Exhibit A

.4 Substantial Completion date:

See Exhibit A

.5 Other milestone dates:

City review and approval of the Design-Build Amendment within 15 days of submission

§ 1.1.8 The Design-Builder will retain Engineers, Consultants and Contractors at the Design-Builder's cost. The Engineers, Consultants, and Contractors shall be listed in Exhibit A.
(Paragraphs deleted)

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Mr. Scott McClelland, PE
1400 Schertz Parkway, Building #2
Schertz, Texas 78154

210-619-1000

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

City Building Department for required permits and code conformance

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2. The Design-Builder's representative shall be available to the Owner at all reasonable times for consultation with the

Owner. The Design-Builder may not change its representative without written approval of the Owner. Such approval shall not be unreasonably withheld.
(List name, address and other information.)

Chris Humphries
Team Mechanical of Texas, LLC
131 Gattuso Road
New Braunfels, Texas 78132
210-310-6363

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- ☐ Arbitration pursuant to Section 14.4
- ☒ Litigation in the District Court of Guadalupe County, Texas
- ☐ Other: *(Specify)*

§ 1.4 Definitions

§ 1.4.1 **Design-Build Documents.** The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 **The Contract.** The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 **The Work.** The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 **The Project.** The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 **Instruments of Service.** Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Engineer, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 **Submittal.** A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 **Owner.** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 **Design-Builder.** The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 **Consultant.** A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 **Engineer.** The Engineer is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice engineering in the applicable jurisdiction. The Engineer is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 **Contractor.** A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 **Confidential Information.** Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 **Contract Time.** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 **Day.** The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 **Contract Sum.** The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Engineer, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Individual or Position

Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Engineer, Consultants, and Contractors, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 Printing, reproductions, plots, standard form documents;
- .4 Postage, handling and delivery;

(Paragraph deleted)

- .5 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner; and,

(Paragraph deleted)

- .6 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Engineer, Consultants and Contractors incurred, plus an administrative fee of zero percent (0 %) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's

(Paragraphs deleted)

invoice to the Owner. Timeliness and interest on any late payments are governed by chapter 2251 of the Texas Government Code. Such obligations contained in that chapter apply equally to Owner and Design-Builder. Further, with respect to payments made by Owner, such funds are considered Trust Funds and shall be safeguarded and used as represented by Design-Builder to pay any consultants and subcontracts that may be due pursuant to the schedule of values.

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner with each application for payment or invoice on which any charges for reimbursable expenses appears. Design-Builder shall maintain, at its office, a complete record of all costs and accounting data generated in relation to Reimbursable Expenses and services performed for a period of five years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first. Upon request of Owner, and within a reasonable time following such request, Design-Builder will make available for inspection and duplication all records required to be maintained by this section or elsewhere in the Design-Build Documents.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

Notwithstanding any terms to the contrary, the provisions of this Article 2 shall control the obligations of the Parties with respect to payments made pursuant to the Design-Build Documents.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Engineer shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Engineer, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 **General Consultation.** The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals in accordance with the Texas Occupations Code and all applicable legal standards of care applicable to design professionals.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for

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periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. In no circumstance shall the preparation and presentation of a schedule extending the completion beyond the time limits contained in the Design-Build Documents entitle the Design-Builder to an extension of time absent a fully executed change order extending such contract time.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 **Certifications.** Upon the Owner's written request, the Design-Builder shall obtain from the Engineer, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Engineer, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications.

§ 3.1.11 **Design-Builder's Submittals**

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 **Warranty.** The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.12.1 The Design-Builder warrants and guarantees for one (1) year from Final Completion, or for a longer period if expressly stated in the Design-Build Documents, the Work. This includes a Warranty and Guarantee against any and all defects. The Design-Builder must correct any and all defects in material and/or workmanship which may appear during the Warranty and Guarantee period, or any defects that occur within one (1) year of Final Completion even if discovered more than one (1) year after Final Completion, by repairing (or replacing with new items or new materials, if necessary) any such defect at no cost to the Owner, within a reasonable period of time, and to the Owner's satisfaction.

§ 3.1.12.2 The Design-Builder's general warranty and any additional or special warranties are not limited by the Design-Builder's obligations to specifically correct defective or nonconforming Work, nor are they limited by any other remedies provided in the Design-Build Documents. The Design-Builder shall also be liable for any damage to property or persons (including death) including direct and consequential damages relating to any breach of the Design-Builder's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.1.12.3 The Design-Builder must furnish all special warranties required by the Design-Build Documents to the Owner no later than Final Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work which is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE DESIGN-BUILDER SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, INCLUDING THE OWNER'S CONSULTANTS, AGENTS, AND EMPLOYEES, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, IF CAUSED IN WHOLE OR IN PART BY THE NEGLIGENT ACTS OR OMISSIONS OF THE DESIGN-BUILDER, ARCHITECT, ENGINEER, A CONSULTANT, A CONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY THAT WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 3.1.14.

§ 3.1.14.2 THE INDEMNIFICATION OBLIGATION UNDER THIS SECTION 3.1.14 SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR DESIGN-BUILDER, ENGINEER, ARCHITECT, A CONSULTANT, A CONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1** assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Engineer, Consultants, and Contractors whose agreements are accepted for assignment; and

- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 **Design-Builder's Insurance and Bonds.** The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- .1 Confirmation of the allocations of program functions;
- .2 Site plan;
- .3 Building plans, sections and elevations;
- .4 Structural system;
- .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- .6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;
- .3 The proposed date the Design-Builder shall achieve Substantial Completion;
- .4 An enumeration of any qualifications and exclusions, if applicable;
- .5 A list of the Design-Builder's key personnel, Contractors and suppliers; and
- .6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site, evaluated the conditions and features of the site and existing building, made determinations relevant to design and construction relating to such evaluations, and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information and approval. If the Design-Builder has included any deviations between the Construction Documents and the Design-Build Documents, the Design-Builder shall promptly notify the Owner of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Owner enjoys tax exempt status as a municipality. To enjoy the cost-savings benefits of its tax exempt status, the Owner will provide a Tax Exemption Certificate to the Design-Builder for use on the Project. The Design-Builder shall use that certificate to exempt any purchases made for the Work from taxes. All savings for the tax exempt status will be passed on to the Owner by the Design-Builder. The Design-Builder agrees to bind all Subcontractors of any tier to the obligation to present and use the Tax Exemption Certificate and pass all savings to the Owner.

Subject to the terms above, the Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the

site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased

by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, including a current Construction Schedule, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. At all times during construction, the Design-Builder shall display a current Construction Schedule at the site for reference and reliance by the Owner. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment. The Design-Builder understands the animal kennels, which are in an unconditioned portion of the building, and the IT room, which has a standalone HVAC not part of this Project, will remain occupied during the Work. The Design-Builder acknowledges the need to ensure its material delivery, storage if applicable, and prosecution of the Work does not impact the City's operation of the animal kennels and IT room.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate

with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.1.4 No Work, or portion of the Work, performed by the Design-Builder in excess or deviation from the Contract Documents will be subject to adjustments in the Contract Sum or Contract Time without prior written authorization as provided in this Article.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- .1 Additional costs of professional services;
- .2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
- .5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.6 Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost and any overhead and profit on such deleted work. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 For all matters requiring the Owner's determination, input, approval, or other decision-making, the Owner shall render decisions in accordance with the Construction Schedule agreed to by the Owner.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project. Failure or delay in obtaining easements or other authorizations providing access for performance of the Work will entitle Design-Builder to an equitable adjustment of the Contract Time.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

Init.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Engineer, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Engineer, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. In all aspects of the Work, time is of the essence of the Contract. Additionally, time limits stated in the Design-Build Documents are of the essence. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§8.2.3 Should the Design-Builder default on its obligations to make progress and complete the Work on time, as allowed in the Contract Documents, the Owner may withhold or deduct all costs and damages for compensable delay caused by the Design-Builder from the Contract Sum. Such costs shall include any attorney's fees, and all other costs, expenses, and damages actually incurred by the Owner as a result of such delay.

§8.2.4 The Design-Builder shall receive no financial compensation for delay or hindrance of the Work. In no event shall the Owner be liable to the Design-Builder for any damages arising out of or associated with any delay or hindrance to the Work, regardless of the source of the delay or hindrance. The Design-Builder's sole remedy for delay or hindrance shall be an extension of time.

§8.2.5 The procedure for the determination of time extensions for unusually severe weather. In order for the Owner to award a time extension under this clause, the following conditions must be satisfied.

- (1) The weather experienced at the Project site during the Contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the Project location during any given month.
- (2) The unusually severe weather must actually cause a delay to the completion of the Project. The delay must be beyond the control and without the fault of negligence of the Design-Builder.

§8.2.6 The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the Project location and will constitute the base line for monthly weather time evaluations. The Design-Builder's activity durations provided in the progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

**MONTHLY ANTICIPATED ADVERSE WEATHER DELAY
WORK DAYS BASED ON FIVE (5) DAY WORK WEEK**

JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
(4)	(4)	(5)	(4)	(5)	(5)	(4)	(3)	(4)	(4)	(4)	(4)

For the duration of the Contract, the Design-Builder shall maintain in its daily reports an accurate and contemporaneous record of the occurrence of adverse weather and resultant impact to normally scheduled Work. There is no delay from adverse weather unless Work on the overall Project's critical activities is prevented for 50 percent or more of the Design-Builder's scheduled work day. The number of actual adverse weather days shall be calculated monthly. If the number of actual adverse weather delay days in a month exceed the number of days for that month as referenced above, the Owner upon notification by the Design-Builder, will cover any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and a modification of time shall be issued in accordance with the Contract.

(Paragraph deleted)

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

(Paragraphs deleted)

§ 9.2 PREVAILING WAGE REQUIREMENTS

Contractor shall provide and pay for labor in accordance with the prevailing wage in the locality and shall not pay less than the prevailing wage.

(Paragraphs deleted)

§ 9.3 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.4 Applications for Payment

§ 9.4.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Engineer, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.4.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.4.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Engineer, Consultant, Contractor, material supplier, or other

persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.4.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. Cost of materials stored off the construction site may be included in Contractor's request at the sole discretion of the Owner for progress payment, if the following submittals are made and conditions are met:

1. Contractor shall submit a written narrative giving location of stored materials, provisions for protection of same, and arrangements for transportation of materials to the job site.
2. Contractor shall submit separate Bills of Sale or Invoices on all materials stored off site.
3. Contractor shall submit suitable written evidence that materials stored off site are covered by insurance protection adequate to cover Owner's interests.
4. Contractor shall store materials in facilities which are suitable to protect same from loss and deterioration. Materials shall be separated from other stored materials and shall be clearly labeled as to description, OWNERSHIP and PROJECT destination. Access to stored materials shall be made convenient for inspection which will be made by Owner's representative prior to the issue of EACH CERTIFICATE OF PAYMENT which includes payment for materials stored off site.
5. Payment for materials stored off site shall not affect warranty period for such materials, which period shall commence upon date of final completion of the Work.

§ 9.4.3 The Design-Builder warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Engineer, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.5 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.6 Decisions to Withhold Certification

§ 9.6.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Engineer, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.6.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.6.3 If the Owner withholds certification for payment under Section 9.6.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect, Engineer, or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

(Paragraphs deleted)

§ 9.7 Progress Payments

§ 9.7.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.7.2 The Design-Builder shall pay each Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven (7) days after receipt of payment from the Owner the amount to which the Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Engineer, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.7.3 The Owner will, on request and if practicable, furnish to the Architect, Engineer, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Engineer, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.7.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Engineer, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Engineer, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.7.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.7.2, 9.7.3 and 9.7.4.

§ 9.7.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.7.7 Payments received by the Design-Builder for Work properly performed by the Architect, Engineer, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect, Engineer and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision. However, Contractor shall comply with the provisions of the Texas Trust Fund Act, Chapter 162 of the Texas Property Code.

(Paragraphs deleted)

§ 9.8 Failure of Payment

Failure of payment by Owner within the time limits proscribed by chapter 2251 of the Texas Government Code shall entitle the Contractor to the remedies contained in that chapter. Further, should the Owner fail to pay the Design-Builder any sums for which a Certificate for Payment has been issued within sixty (60) days, the Design-Builder may, upon seven (7) additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of suspension provided the Design-Builder files a claim in Accordance with Article 15 herein.

§ 9.9 Substantial Completion

§ 9.9.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The Design-Builder understands the animal kennels, which are in an unconditioned portion of the building, and the IT room, which has a standalone HVAC not part of the Work, will remain occupied during the Work. Any City utilization of the kennels or the IT room shall not constitute an occupation of the Work as described in this Article 9 and shall not trigger any determination of substantial completion. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.9.

§ 9.9.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.9.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.9.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.9.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.9.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.9.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.10 Partial Occupancy or Use

§ 9.10.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and

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insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.9.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.10.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.10.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

(Paragraphs deleted)

§ 9.11 Final Completion and Final Payment

§ 9.11.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. The Design-Builder's written notice and request for final inspection constitutes a representation by the Design-Builder to the Owner that the Work has been completed in full and strict accordance with terms and conditions of the Design-Build Documents. The Owner will promptly notify the Design-Builder if the Owner does not concur that the Work is finally complete. In such case, the Design-Builder must bear the cost of any additional Work or services of the Owner until the Work is determined to be finally complete. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.11.2, promptly issue a final Certificate for Payment.

§ 9.11.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a release or waiver of payment claims on behalf of the Design-Builder and a similar release or waiver on behalf of each Subcontractor and supplier; (3) a certificate evidencing that the Design-Builder's liability insurance will remain in effect after final payment and will not be cancelled or allowed to expire prior to the period required by these contract documents; (4) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (5) consent of surety, if any, to final payment, (6) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (7) all warranties and bonds required by the Design-Build Documents, product data, and maintenance and operations manuals, (8) a certified building location survey and as-built site plan in the form and number required by the Design-Build Documents; and (9) other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner.

§ 9.11.3 If the Design-Builder is unable to secure from any consultant, subcontractor or supplier a release or waiver required under the Contract, the Design-Builder shall be liable for any and all costs, including attorney's fees, incurred by the Owner in addressing, removing, discharging, or otherwise settling a subcontractor or supplier payment.

§ 9.11.4 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.11.5 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or

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- .3 terms of special warranties required by the Design-Build Documents.

§ 9.11.6 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 all persons at the site and other persons who may be affected by the Work or other operations of the Design-Builder;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Engineer, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, Engineer, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials.

(Paragraphs deleted)

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

(Paragraph deleted)

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder must take all necessary action to prevent threatened damage, injury or loss. The Design-Builder must promptly but in all events within twenty-four (24) hours of the occurrence report such action in writing to the Owner.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, pursuant to the warranties provided, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. As part of the total compensation which Owner has agreed to pay Design-Builder for the professional services to be rendered under this Contract, Design-Builder agrees that all finished and unfinished "Instruments of Service" including but not limited to documents, data, studies, surveys, drawings, specifications, field notes, maps, models, photographs, preliminary reports, reports, bid packet/construction contract documents/advertisement for bids incorporating any Owner standard provisions provided by Design-Builder, all of which are produced by Design-Builder and paid for by Owner are, and will remain, the property of the Owner. Engineer will furnish Owner with electronic copies in .PDF format, to the extent they are available, of all of the foregoing to facilitate coordination; however, ownership of the underlying work product shall remain the intellectual property of the Design-Builder. Design-Builder shall have the right to use such work products for Design-Builder's purposes on this Project. However, such documents are not intended to be suitable for reuse by Owner or others. The above notwithstanding, Design-Builder shall retain all rights in its standard drawing details, designs, specifications, databases, computer software and any other proprietary and intellectual property information provided pursuant to this Contract.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 The Design-Builder shall obtain non-exclusive licenses from the Architect, Engineer, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12.

(Paragraph deleted)

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization, the Owner releases the Design-Builder, Architect, Engineer, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no

liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, Engineer, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be

(Paragraphs deleted)
stopped.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, Engineer, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

(Paragraph deleted)

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2 repeatedly refuses or fails to supply an Architect, Engineer, or enough properly skilled Consultants, Contractors, or workers or proper materials;

- .3 fails to make payment to the Architect, Engineer, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Engineer, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.2.5 In completing the Work following termination for cause, the Owner is not required to solicit competitive bids or to award completion work to the lowest bidder, but may obtain such completion work and related services on the basis of emergency, and other applicable exemptions pursuant to controlling procurement law. In the event of a claim by Owner for completion costs following termination by the Owner or abandonment by the Contractor, the exercise of Owner's rights under this section shall not be grounds for challenging the reasonableness of the costs incurred or the Owner's damages.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice and, if required by Owner, participate in an inspection of the Work with the Owner to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Engineer, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 **Time Limits on Claims.** The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 **Prior To Final Payment.** Notice of claims should be provided contemporaneously with the events giving rise to the claim or concurrent to the time the claimant recognizes the condition giving rise to the claim. Failure to provide timely notice and preserve conditions and records to substantiate a claim may result in the diminishment or denial of a claim. Failure to provide notice required by the Contract Documents and this Section 14.1.3.1 within ninety (90) days of the occurrence or event giving rise to the claim shall constitute an express waiver and complete bar to recovery for any adjustment to the Contract Time, Contract Sum, or other damages and accommodations.

§ 14.1.3.2 **Claims Arising After Final Payment.** After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party.

§ 14.1.4 **Continuing Contract Performance.** Pending final resolution of a Claim, except as otherwise agreed in writing, the Design-Builder shall proceed diligently with performance of the Contract in accordance with the Design-Build Documents.

§ 14.1.5 **Claims for Additional Cost.** If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. Otherwise, failure to provide notice in accordance with the Contract Documents constitutes an express waiver of the claim by the Design-Builder.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. Failure to provide notice constitutes an express waiver by the Design-Builder.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction. Any Claim relating to adverse weather will be subject to the provisions contained in Section 8.2.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

- .2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable.

§ 14.2 Mediation

§ 14.2.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for herein, shall be subject to mediation as a condition precedent to filing suit.

§ 14.2.2 The parties shall endeavor to resolve their Claims by mediation. A request for mediation shall be made in writing.

(Paragraphs deleted)

§ 14.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

(Paragraphs deleted)

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the state of Texas.

(Paragraphs deleted)

§ 15.2 Venue

This Agreement is entered into and performed in Guadalupe County, Texas, and the Design-Builder and the Owner agree that mandatory venue for any legal action related to this contract shall be in the District Courts of Guadalupe County, Texas.

§ 15.3 Successors and Assigns

§ 15.3.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract and the attempted assignment shall be of no legal force or effect as to the other party.

§ 15.4 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. Written notice sent or transmitted by electronic mail or facsimile must be actually received to be considered delivered and to comply with notice requirements herein. Transmission alone by electronic mail or facsimile does not constitute delivery.

§ 15.5 Rights and Remedies

§ 15.5.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.5.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(Paragraphs deleted)

§ 15.6 Tests and Inspections

§ 15.6.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

(Paragraphs deleted)

§ 15.6.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.6.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.6.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.6.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.6.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6.7 In addition to the tests required by this Section 15.6, the Owner may at any time arrange for other tests, inspections and specific approvals to be performed by others selected by the Owner, at the Owner's expense. The Contractor must cooperate with the Owner and provide access to the Work for such tests, inspections and approvals.

§ 15.7 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.7.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.8 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.9 Interpretation

§ 15.9.1 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed
- .3 Exhibit B, Insurance and Bonds
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

.6 Other:

Exhibit C – Reports from Tom Green & Company Engineers, Inc., dated August 6, 2019 and August 7, 2020

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

DESIGN-BUILDER (Signature)

(Printed name and title)

(Printed name and title)

Additions and Deletions Report for **AIA® Document A141™ – 2014**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:15:22 ET on 05/06/2021.

PAGE 1

City of Schertz
1400 Schertz Parkway Building #2
Schertz, Texas 78154

...

Team Mechanical of Texas, LLC
131 Gattuso Road
New Braunfels, Texas 78132
210-310-6363

...

Replacement of the Animal Adoption Center HVAC System
800 Community Circle Drive
Schertz, Texas 78154

PAGE 2

Replacement of the existing HVAC system, duct work, and controls as required to produce the City requirements as stated in Section 1.1.2.

PAGE 3

The Project shall consist of the demolition and removal of the existing HVAC system and controls and the design and construction of a new DX split system to serve the Animal Adoption Center and provide proper temperature/humidity control and building pressurization. For additional information, the reports from Tom Green & Company Engineers, Inc., dated August 6, 2019 and August 7, 2020 are attached hereto as Exhibit C

...

The Project consists of replacing the existing HVAC system which serves approximately 10,000 square feet. This area is referred to as the Core. For additional information see Exhibit C

...

The Owner's budget is as follows:

Base Budget: Five Hundred Ninety-Six Thousand, One Hundred Eighty-Eight Dollars and zero cents (\$596,188.00)
Add Alternates, only if selected by the City: Thirty-Eight Thousand, Six Hundred Five Dollars and zero cents (\$38,605.00)

Total Not to Exceed Budget: Six Hundred Seventy-Five Thousand Dollars and zero cents (\$675,000.00)

...

See Exhibit A

...

See Exhibit A

...

See Exhibit A

PAGE 4

See Exhibit A

...

City review and approval of the Design-Build Amendment within 15 days of submission

~~§ 1.1.8 The Owner requires the Design Builder to retain the following Architect, Design-Builder will retain~~
~~Engineers, Consultants and Contractors at the Design-Builder's cost;~~
~~(List name, legal status, address and other information.)~~

~~.1 Architect~~

~~.2 Consultants~~

~~.3 Contractors~~

cost. The Engineers, Consultants, and Contractors shall be listed in Exhibit A.

...

Mr. Scott McClelland, PE
1400 Schertz Parkway, Building #2
Schertz, Texas 78154

...

210-619-1000

...

City Building Department for required permits and code conformance

...

~~§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2; Section 3.1.2. The~~
~~Design-Builder's representative shall be available to the Owner at all reasonable times for consultation with the~~
~~Owner. The Design-Builder may not change its representative without written approval of the Owner. Such approval~~
~~shall not be unreasonably withheld.~~

PAGE 5

Chris Humphries

Team Mechanical of Texas, LLC
131 Gattuso Road
New Braunfels, Texas 78132
210-310-6363

...

[] ~~Litigation in a court of competent jurisdiction~~ **X** Litigation in the District Court of Guadalupe County, Texas

...

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Build, Contractor(s), ~~Architect, Engineer,~~ and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.
PAGE 6

§ 1.4.10 ~~Architect.~~ The Architect-Engineer. The Engineer is a person or entity providing design services for the Design-Build for all or a portion of the Work, and is lawfully licensed to practice architecture engineering in the applicable jurisdiction. The ~~Architect-Engineer~~ is referred to throughout the Design-Build Documents as if singular in number.

...

§ 2.1.2 The hourly billing rates for services of the Design-Build and the Design-Build's ~~Architect, Engineer,~~ Consultants and Contractors, if any, are set forth below.
PAGE 7

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Build and the Design-Build's ~~Architect, Engineer,~~ Consultants, and Contractors, as follows:

...

- ~~.2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;~~
- ~~.3 Fees paid for securing approval of authorities having jurisdiction over the Project;~~
- ~~.4 .3 Printing, reproductions, plots, standard form documents;~~
- ~~.5 .4 Postage, handling and delivery;~~
- ~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
- ~~.7 .5 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner; and,~~
- ~~.8 All taxes levied on professional services and on reimbursable expenses; and~~
- ~~.9 .6 Other Project-related expenditures, if authorized in advance by the Owner.~~

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Build and the Design-Build's ~~Architect, Engineer,~~ Consultants and Contractors incurred, plus an administrative fee of zero percent (0 %) of the expenses incurred.

...

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Build's ~~invoice. Amounts unpaid (—) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Build.~~
~~(Insert rate of monthly or annual interest agreed upon.)~~

~~—%—~~invoice to the Owner. Timeliness and interest on any late payments are governed by chapter 2251 of the Texas Government Code. Such obligations contained in that chapter apply equally to Owner and Design-Builder. Further, with respect to payments made by Owner, such funds are considered Trust Funds and shall be safeguarded and used as represented by Design-Builder to pay any consultants and subcontracts that may be due pursuant to the schedule of values.

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner ~~at mutually convenient times for a period of two with each application for payment or invoice on which any charges for reimbursable expenses appears.~~ Design-Builder shall maintain, at its office, a complete record of all costs and accounting data generated in relation to Reimbursable Expenses and services performed for a period of five years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first. Upon request of Owner, and within a reasonable time following such request, Design-Builder will make available for inspection and duplication all records required to be maintained by this section or elsewhere in the Design-Build Documents.

...

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment. Notwithstanding any terms to the contrary, the provisions of this Article 2 shall control the obligations of the Parties with respect to payments made pursuant to the Design-Build Documents.

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§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or ~~Architect-Engineer~~ shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, ~~Architect-Engineer~~, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

...

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. ~~The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder, professionals in accordance with the Texas Occupations Code and all applicable legal standards of care applicable to design professionals.~~

...

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. In no circumstance shall the preparation and presentation of a schedule extending the completion beyond the time limits contained in the Design-Build Documents entitle the Design-Builder to an extension of time absent a fully executed change order extending such contract time.

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§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the ~~Architect, Engineer, Consultants, and Contractors~~, and furnish to the Owner, certifications with respect to the documents and services provided by the ~~Architect, Engineer, Consultants, and Contractors~~ (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. ~~The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.~~

...

§ 3.1.11.4 The Work shall be in accordance with approved Submittals ~~except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents.~~ Submittals. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

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§ 3.1.12.1 The Design-Builder warrants and guarantees for one (1) year from Final Completion, or for a longer period if expressly stated in the Design-Build Documents, the Work. This includes a Warranty and Guarantee against any and all defects. The Design-Builder must correct any and all defects in material and/or workmanship which may appear during the Warranty and Guarantee period, or any defects that occur within one (1) year of Final Completion even if discovered more than one (1) year after Final Completion, by repairing (or replacing with new items or new materials, if necessary) any such defect at no cost to the Owner, within a reasonable period of time, and to the Owner's satisfaction.

§ 3.1.12.2 The Design-Builder's general warranty and any additional or special warranties are not limited by the Design-Builder's obligations to specifically correct defective or nonconforming Work, nor are they limited by any other remedies provided in the Design-Build Documents. The Design-Builder shall also be liable for any damage to property or persons (including death) including direct and consequential damages relating to any breach of the Design-Builder's general warranty or any additional or special warranties required by the Contract Documents.

§ 3.1.12.3 The Design-Builder must furnish all special warranties required by the Design-Build Documents to the Owner no later than Final Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions. Allowance items, Work which is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.

...

§ 3.1.14.1 ~~To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.~~ TO THE FULLEST EXTENT PERMITTED BY LAW, THE DESIGN-BUILDER SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, INCLUDING THE OWNER'S CONSULTANTS, AGENTS, AND EMPLOYEES, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, IF CAUSED IN WHOLE OR IN PART BY THE NEGLIGENT ACTS OR OMISSIONS OF THE DESIGN-BUILDER, ARCHITECT, ENGINEER, A CONSULTANT, A CONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR

REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY THAT WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 3.1.14.

~~§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.~~ THE INDEMNIFICATION OBLIGATION UNDER THIS SECTION 3.1.14 SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR DESIGN-BUILDER, ENGINEER, ARCHITECT, A CONSULTANT, A CONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

...

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the ~~Architect, Engineer, Consultants, and Contractors~~ whose agreements are accepted for assignment; and

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§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site, evaluated the conditions and features of the site and existing building, made determinations relevant to design and construction relating to such evaluations, and become familiar with local conditions under which the Work is to be completed.

...

~~§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers information and approval. If the Design-Builder has included any deviations between the Construction Documents and the Design-Build Documents, the Owner-Design-Builder shall promptly notify the Design-Builder-Owner of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.~~

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The Owner enjoys tax exempt status as a municipality. To enjoy the cost-savings benefits of its tax exempt status, the Owner will provide a Tax Exemption Certificate to the Design-Builder for use on the Project. The Design-Builder shall use that certificate to exempt any purchases made for the Work from taxes. All savings for the tax exempt status will be passed on to the Owner by the Design-Builder. The Design-Builder agrees to bind all Subcontractors of any tier to the obligation to present and use the Tax Exemption Certificate and pass all savings to the Owner.

Subject to the terms above, the Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

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The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, including a current Construction Schedule, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. At all times during construction, the Design-Builder shall display a current Construction Schedule at the site for reference and reliance by the Owner. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

...

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment. The Design-Builder understands the animal kennels, which are in an unconditioned portion of the building, and the IT room, which has a standalone HVAC not part of this Project, will remain occupied during the Work. The Design-Builder acknowledges the need to ensure its material delivery, storage if applicable, and prosecution of the Work does not impact the City's operation of the animal kennels and IT room.

PAGE 16

§ 6.1.4 No Work, or portion of the Work, performed by the Design-Builder in excess or deviation from the Contract Documents will be subject to adjustments in the Contract Sum or Contract Time without prior written authorization as provided in this Article.

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§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, ~~or if no such amount is set forth in the Agreement, a reasonable amount.~~ Agreement. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

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§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net ~~cost~~-cost and any overhead and profit on such deleted work. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

...

§ 7.1.2 ~~The Owner shall render decisions in a timely manner and in accordance with the Design Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein. For all matters requiring the Owner's determination, input, approval, or other decision-making, the Owner shall render decisions in accordance with the Construction Schedule agreed to by the Owner.~~

...

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project. Failure or delay in obtaining easements or other authorizations providing access for performance of the Work will entitle Design-Builder to an equitable adjustment of the Contract Time.

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§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. ~~Thereafter, the Design Builder may only request such evidence if (1) the Owner fails to make payments to the Design Builder as the Design Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected~~

by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

...

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. ~~The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.~~

...

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, ~~Architect, Engineer,~~ Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the ~~Architect, Engineer,~~ Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. In all aspects of the Work, time is of the essence of the Contract. Additionally, time limits stated in the Design-Build Documents are of the essence. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

...

§8.2.3 Should the Design-Builder default on its obligations to make progress and complete the Work on time, as allowed in the Contract Documents, the Owner may withhold or deduct all costs and damages for compensable delay caused by the Design-Builder from the Contract Sum. Such costs shall include any attorney's fees, and all other costs, expenses, and damages actually incurred by the Owner as a result of such delay.

§8.2.4 The Design-Builder shall receive no financial compensation for delay or hindrance of the Work. In no event shall the Owner be liable to the Design-Builder for any damages arising out of or associated with any delay or hindrance to the Work, regardless of the source of the delay or hindrance. The Design-Builder's sole remedy for delay or hindrance shall be an extension of time.

§8.2.5 The procedure for the determination of time extensions for unusually severe weather. In order for the Owner to award a time extension under this clause, the following conditions must be satisfied.

- (1) The weather experienced at the Project site during the Contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the Project location during any given month.
- (2) The unusually severe weather must actually cause a delay to the completion of the Project. The delay must be beyond the control and without the fault of negligence of the Design-Builder.

§8.2.6 The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the Project location and will constitute the base line for monthly weather time evaluations. The Design-Builder's activity durations provided in the progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY
WORK DAYS BASED ON FIVE (5) DAY WORK WEEK

<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>JULY</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>
(4)	(4)	(5)	(4)	(5)	(5)	(4)	(3)	(4)	(4)	(4)	(4)

For the duration of the Contract, the Design-Builder shall maintain in its daily reports an accurate and contemporaneous record of the occurrence of adverse weather and resultant impact to normally scheduled Work. There is no delay from adverse weather unless Work on the overall Project's critical activities is prevented for 50 percent or more of the Design-Builder's scheduled work day. The number of actual adverse weather days shall be calculated monthly. If the number of actual adverse weather delay days in a month exceed the number of days for that month as referenced above, the Owner upon notification by the Design-Builder, will cover any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and a modification of time shall be issued in accordance with the Contract.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

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§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design Builder, unless such Work has been performed by others whom the Design Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

~~§ 9.3.3~~ The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

~~§ 9.4 Certificates for Payment~~

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

~~§ 9.5 Decisions to Withhold Certification~~

~~§ 9.5.1~~ The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- ~~.1~~ — defective Work, including design and construction, not remedied;
- ~~.2~~ — third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- ~~.3~~ — failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- ~~.4~~ — reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- ~~.5~~ — damage to the Owner or a separate contractor;
- ~~.6~~ — reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- ~~.7~~ — repeated failure to carry out the Work in accordance with the Design-Build Documents.

~~§ 9.5.2~~ When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.2 PREVAILING WAGE REQUIREMENTS

Contractor shall provide and pay for labor in accordance with the prevailing wage in the locality and shall not pay less than the prevailing wage.

~~§ 9.5.3~~ If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

~~§ 9.6 Progress Payments~~

§ 9.3 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.4 Applications for Payment

§ 9.4.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Engineer, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.4.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.4.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Engineer, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.4.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. Cost of materials stored off the construction site may be included in Contractor's request at the sole discretion of the Owner for progress payment, if the following submittals are made and conditions are met:

1. Contractor shall submit a written narrative giving location of stored materials, provisions for protection of same, and arrangements for transportation of materials to the job site.
2. Contractor shall submit separate Bills of Sale or Invoices on all materials stored off site.
3. Contractor shall submit suitable written evidence that materials stored off site are covered by insurance protection adequate to cover Owner's interests.
4. Contractor shall store materials in facilities which are suitable to protect same from loss and deterioration. Materials shall be separated from other stored materials and shall be clearly labeled as to description, OWNERSHIP and PROJECT destination. Access to stored materials shall be made convenient for inspection which will be made by Owner's representative prior to the issue of EACH CERTIFICATE OF PAYMENT which includes payment for materials stored off site.
5. Payment for materials stored off site shall not affect warranty period for such materials, which period shall commence upon date of final completion of the Work.

§ 9.4.3 The Design-Builder warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Engineer, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.5 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.6 Decisions to Withhold Certification

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably

necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builders Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Engineer, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner. When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity. If the Owner withholds certification for payment under Section 9.6.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect, Engineer, or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder. Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.7 Progress Payments

§ 9.7.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.7.2 The Design-Builder shall pay each Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven (7) days after receipt of payment from the Owner the amount to which the Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Engineer, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Engineer, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.7.3 The Owner will, on request and if practicable, furnish to the Architect, Engineer, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Engineer, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.7.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Engineer, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Engineer, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.7.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.7.2, 9.7.3 and 9.7.4.

§ 9.7.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

~~§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum,~~
§ 9.7.7 Payments received by the Design-Builder for Work properly performed by the Architect, Engineer, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect, Engineer and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision. However, Contractor shall comply with the provisions of the Texas Trust Fund Act, Chapter 162 of the Texas Property Code.

§ 9.7 Failure of Payment

~~If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut down, delay and start up, plus interest as provided for in the Design-Build Documents.~~

§ 9.8 Substantial Completion

~~§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.~~

~~§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list~~

of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.8 Failure of Payment

Failure of payment by Owner within the time limits proscribed by chapter 2251 of the Texas Government Code shall entitle the Contractor to the remedies contained in that chapter. Further, should the Owner fail to pay the Design-Builder any sums for which a Certificate for Payment has been issued within sixty (60) days, the Design-Builder may, upon seven (7) additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of suspension provided the Design-Builder files a claim in Accordance with Article 15 herein.

§ 9.9 Substantial Completion

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The Design-Builder understands the animal kennels, which are in an unconditioned portion of the building, and the IT room, which has a standalone HVAC not part of the Work, will remain occupied during the Work. Any City utilization of the kennels or the IT room shall not constitute an occupation of the Work as described in this Article 9 and shall not trigger any determination of substantial completion. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.9.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents. Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.10 Final Completion and Final Payment

§ 9.9.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.9.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.9.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.9.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.10 Partial Occupancy or Use

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment. The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.9.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required

by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Build knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Build, refuses to furnish a release or waiver required by the Owner, the Design-Build may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Build shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees. Immediately prior to such partial occupancy or use, the Owner and Design-Build shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Build or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Build, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Build to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims. Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from
1. ~~liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;~~
2. ~~failure of the Work to comply with the requirements of the Design-Build Documents; or~~
3. ~~terms of special warranties required by the Design-Build Documents.~~

§ 9.10.5 Acceptance of final payment by the Design-Build shall constitute a waiver of claims by the Design-Build except those previously made in writing and identified by the Design-Build as unsettled at the time of final Application for Payment.

§ 9.11 Final Completion and Final Payment

§ 9.11.1 Upon receipt of the Design-Build's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. The Design-Build's written notice and request for final inspection constitutes a representation by the Design-Build to the Owner that the Work has been completed in full and strict accordance with terms and conditions of the Design-Build Documents. The Owner will promptly notify the Design-Build if the Owner does not concur that the Work is finally complete. In such case, the Design-Build must bear the cost of any additional Work or services of the Owner until the Work is determined to be finally complete. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.11.2, promptly issue a final Certificate for Payment.

§ 9.11.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Build submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a release or waiver of payment claims on behalf of the Design-Build and a similar release or waiver on behalf of each Subcontractor and supplier; (3) a certificate evidencing that the Design-Build's liability insurance will remain in effect after final payment and will not be cancelled or allowed to expire prior to the period required by these contract documents; (4) a written statement that the Design-Build knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (5) consent of surety, if any, to final payment, (6) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (7) all warranties

and bonds required by the Design-Build Documents, product data, and maintenance and operations manuals, (8) a certified building location survey and as-built site plan in the form and number required by the Design-Build Documents; and (9) other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner.

§ 9.11.3 If the Design-Builder is unable to secure from any consultant, subcontractor or supplier a release or waiver required under the Contract, the Design-Builder shall be liable for any and all costs, including attorney's fees, incurred by the Owner in addressing, removing, discharging, or otherwise settling a subcontractor or supplier payment.

§ 9.11.4 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.11.5 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.11.6 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

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- .1 ~~employees on the Work~~ all persons at the site and other persons who may be affected thereby; by the Work or other operations of the Design-Builder;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Engineer, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and

...

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, Engineer, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

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§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. ~~If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.~~

~~§ 10.3.2 Upon receipt of the Design Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design Build Documents, the Owner shall furnish in writing to the Design Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design Builder will promptly reply to the Owner in writing stating whether or not the Design Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design Builder's reasonable additional costs of shut down, delay and start-up.~~

~~§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.~~

~~§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design Builder's fault or negligence in the use and handling of such materials or substances.~~

~~§ 10.3.6 If, without negligence on the part of the Design Builder, the Design Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design Build Documents, the Owner shall indemnify the Design Builder for all cost and expense thereby incurred.~~

~~In an emergency affecting safety of persons or property, the Design Builder shall act, at the Design Builder's discretion, must take all necessary action to prevent threatened damage, injury or loss. The Design Builder must promptly but in all events within twenty-four (24) hours of the occurrence report such action in writing to the Owner.~~
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~~§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design Builder to correct the Work, pursuant to the warranties provided, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design Builder's liability with respect to the Design Builder's obligations other than specifically to correct the Work.~~

...

~~§ 12.1 Drawings, specifications, and other documents furnished by the Design Builder, including those in electronic form, are Instruments of Service. The Design Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design Builder and the Architect, Consultants, and Contractors, and any other~~

~~person or entity providing services or work for any of them.~~ As part of the total compensation which Owner has agreed to pay Design-Builder for the professional services to be rendered under this Contract, Design-Builder agrees that all finished and unfinished "Instruments of Service" including but not limited to documents, data, studies, surveys, drawings, specifications, field notes, maps, models, photographs, preliminary reports, reports, bid packet/construction contract documents/advertisement for bids incorporating any Owner standard provisions provided by Design-Builder, all of which are produced by Design-Builder and paid for by Owner are, and will remain, the property of the Owner. Engineer will furnish Owner with electronic copies in .PDF format, to the extent they are available, of all of the foregoing to facilitate coordination; however, ownership of the underlying work product shall remain the intellectual property of the Design-Builder. Design-Builder shall have the right to use such work products for Design-Builder's purposes on this Project. However, such documents are not intended to be suitable for reuse by Owner or others. The above notwithstanding, Design-Builder shall retain all rights in its standard drawing details, designs, specifications, databases, computer software and any other proprietary and intellectual property information provided pursuant to this Contract.

...

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate. The Design-Builder shall obtain non-exclusive licenses from the Architect, Engineer, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12.

~~§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.~~

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, ~~authorization~~, the Owner releases the Design-Builder, Architect, Engineer, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. ~~The action. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.cause.~~

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§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, Engineer, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

...

- ~~.2~~ An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- ~~.3~~ Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- ~~.4~~ The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, Engineer, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

...

~~§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.~~

...

- .2 repeatedly refuses or fails to supply an Architect, Engineer, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Engineer, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;

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- .2 Accept assignment of the Architect, Engineer, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. ~~Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.~~

...

§ 13.2.2.5 In completing the Work following termination for cause, the Owner is not required to solicit competitive bids or to award completion work to the lowest bidder, but may obtain such completion work and related services on the basis of emergency, and other applicable exemptions pursuant to controlling procurement law. In the event of a claim by Owner for completion costs following termination by the Owner or abandonment by the Contractor, the exercise of Owner's rights under this section shall not be grounds for challenging the reasonableness of the costs incurred or the Owner's damages.

...

- .1 cease operations as directed by the Owner in the ~~notice~~; notice and, if required by Owner, participate in an inspection of the Work with the Owner to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work;

...

- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Engineer, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

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§ 14.1.3.1 Prior To Final Payment. ~~Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Notice of claims should be provided contemporaneously with the events giving rise to the claim or concurrent to the time the claimant recognizes the condition giving rise to the claim. Failure to provide timely notice and preserve conditions and records to substantiate a claim may result in the diminishment or denial of a claim. Failure to provide notice required by the Contract Documents and this Section 14.1.3.1 within ninety (90) days of the occurrence or event giving rise to the claim shall constitute an express waiver and complete bar to recovery for any adjustment to the Contract Time, Contract Sum, or other damages and accommodations.~~

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. ~~The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.~~

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in ~~writing or as provided in Section 9.7 and Article 13, writing,~~ the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. Otherwise, failure to provide notice in accordance with the Contract Documents constitutes an express waiver of the claim by the Design-Builder.

...

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. ~~The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Failure to provide notice constitutes an express waiver by the Design-Builder.~~

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction. Any Claim relating to adverse weather will be subject to the provisions contained in Section 8.2.

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This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when ~~applicable, in accordance with the requirements of the Design-Build Documents applicable.~~

§ 14.2 Initial Decision

§ 14.2 Mediation

§ 14.2.1 ~~An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims, disputes, or other matters in controversy arising out of or~~

related to the Contract, except those waived as provided herein, shall be subject to mediation as a condition precedent to filing suit.

§ 14.2.2 Procedure The parties shall endeavor to resolve their Claims by mediation. A request for mediation shall be made in writing.

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design Builder. If the Design Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.2.4 If the Owner requests the Design Builder to provide a response to a Claim or to furnish additional supporting data, the Design Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending

mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

~~§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.~~

§ 14.4 Arbitration

~~§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~

~~§ 14.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

~~§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.~~

~~§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

§ 14.4.4 Consolidation or Joinder

~~§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 14.4.4.3 The Owner and Design Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design Builder under this Agreement.~~

...

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.state of Texas.

§ 15.2 Successors and Assigns

~~§ 15.2.1 The Owner and Design Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design Build Documents. Except as~~

provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.2 Venue

This Agreement is entered into and performed in Guadalupe County, Texas, and the Design-Builders and the Owner agree that mandatory venue for any legal action related to this contract shall be in the District Courts of Guadalupe County, Texas.

§ 15.3 Successors and Assigns

§ 15.3.1 The Owner and Design-Builders, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract and the attempted assignment shall be of no legal force or effect as to the other party.

§ 15.4 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. Written notice sent or transmitted by electronic mail or facsimile must be actually received to be considered delivered and to comply with notice requirements herein. Transmission alone by electronic mail or facsimile does not constitute delivery.

§ 15.5 Rights and Remedies

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public

authorities. Unless otherwise provided, the Design Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design Builder. Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

~~§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense. No action or failure to act by the Owner or Design Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.~~

~~§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design Builder's expense.~~

~~§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design Builder and promptly delivered to the Owner.~~

~~§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.~~

~~§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.~~

~~§ 15.6 Confidential Information~~

~~If the Owner or Design Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.~~

~~§ 15.6 Tests and Inspections~~

~~§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract. Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Build Documents shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Build Documents shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Build Documents.~~

§ 15.7 Capitalization

~~Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.~~

§ 15.8 Interpretation

~~§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.~~

~~§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.~~

§ 15.6.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.6.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.6.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.6.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.6.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6.7 In addition to the tests required by this Section 15.6, the Owner may at any time arrange for other tests, inspections and specific approvals to be performed by others selected by the Owner, at the Owner's expense. The Contractor must cooperate with the Owner and provide access to the Work for such tests, inspections and approvals.

§ 15.7 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.7.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.8 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.9 Interpretation

§ 15.9.1 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

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- ~~.3~~ AIA Document A141TM 2014, Exhibit B, Insurance and Bonds
- ~~.4~~ AIA Document A141TM 2014, Exhibit C, Sustainable Projects, if completed
- ~~.5~~ AIA Document E203TM 2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

...

Exhibit C – Reports from Tom Green & Company Engineers, Inc., dated August 6, 2019 and August 7, 2020

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, The Chapman Firm, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:15:22 ET on 05/06/2021 under Order No. 4397921665 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A141™ – 2014, Standard Form of Agreement Between Owner and Design-Builder, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



5/5/2021

Mr. Scott McClelland, PE
City of Schertz
10 Commercial Place, Bldg. 2
Schertz, TX 78154



Re: City of Schertz Animal Center
HVAC Installation
Bid Number: # 4016

Dear Mr. McClelland, PE;

We appreciate the opportunity to bid this Project. Our proposal is as follows:

I. DOCUMENTS:

- **Drawings – TMech and M&S Design**

II. SCOPE OF WORK:

Design Drawings

MEP – Develop overall design of MEP system

Mechanical Design

- Analyze heating and cooling loads in accordance with local energy code
- Specify packaged VAV and dedicated outside air HVAC equipment given heating and cooling loads, anticipated building occupancy/activity based on as-built conditions, and maintenance requirements
- Calculate exhaust and ventilation requirements, to verify existing equipment and specify new equipment required
- Design for new mechanical system. Provide a mechanical floor plan showing the locations of HVAC equipment, sized ductwork, condensate piping, and supply and return grilles
- Select and specify HVAC controls
- Complete code compliance documentation (COM Check) for mechanical systems

Electrical Design

- Analyze and compare the new air conditioning system with the existing electrical infrastructure. Engineer upgrades to the systems as required to accommodate the installation of the new air conditioning system
- Provide one-line diagram and applicable panel schedules
 - Conduit (number and size), number of spares, and wireway size
 - Size secondary feeder cables
- Provide electrical floor plans of power equipment connections

Structural Design

- No scope will be inside the existing building. We will not connect to the existing building nor impose additional load on the existing building
- Mechanical equipment platform at back of building
 - Provide the foundation and steel superstructure design for an awning
 - This addition will be structurally separate from the existing building
 - Base plates and anchorage
 - Connection between beam and column, welded only
 - Connection between purlin and column/beam
 - W-shape columns, W-shape beams, 8" Cee or Zee purlins
 - Only designing framing
 - Foundation layout showing individual footers under each column
 - Show handrail around the edge with a single gate for maintenance access
 - Show location of access ladder and assist with the selection of a prefabricated ladder
 - Show loading criteria and construction notes on the plans
 -

Subsurface Utility Engineering (SUE):

- In support of the structural design the following services shall be included. SUE scope would be limited to the area of the mechanical equipment platform.
- All work described herein is based strictly upon "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data (CI/ASCE 38-02)".
- Sherwood Surveying & SUE shall apply SUE Quality Levels B, C, and D of the area that will have a new equipment platform installed as described in the structural section above to deliver an accurate depiction of as many of the existing underground utilities near the new equipment platform as can be designated within one day's field investigation.
 - i. Utility quality level B: Information obtained through the application of appropriate surface geophysical methods to determine the existence and approximate horizontal position of subsurface utilities. This information is surveyed to applicable tolerances defined by the project and reduced onto plan documents.
 - ii. Utility quality level C: Information obtained by surveying and plotting visible above-ground utility features and by using professional judgment in correlating this information to quality level D information.
 - iii. Utility quality level D: Information derived from existing records or oral recollections.
- There are limitations for utilities such as water & sewer which consist of non-metallic pipe, and therefore might not be obtainable. For the sewer lines, we can use a steel fish tape to pick up where the line is going, but this will be limited to how far down the line we can get the tape. Thus, we cannot provide any guarantee for locating these utilities.

General Construction

- Furnish Structural Design Drawings for platform
- Furnish dumpsters and temporary restrooms
- Furnish labor and materials to install concrete footings/support
- Furnish labor and materials to install galvanized structural steel platform for AC Units
- Furnish and install metal exterior side panels to match existing roof
- Furnish labor and materials to protect existing floors
- Furnish labor to remove (as needed) ceiling grid and tile
- Furnish labor to reinstall existing ceiling grid and tile (if not damaged)
- Furnish labor and materials to replace all damaged ceiling grid and tile
- Furnish labor and materials to touch up walls that have been damaged during construction
- Furnish roof support for new duct work
- Furnish labor and materials to dry in all roof penetrations

HVAC Construction

- Furnish labor to demo and remove all HVAC materials to from site
- Furnish labor and materials to install the following equipment:
 - One (1) VAV Package Unit
 - One (1) DOAS
 - Fifteen (15) Air Terminal Units
 - ID Tags/Labels
 - Air Devices
- Furnish labor and materials to install galvanized metal duct indoors
- Furnish labor and materials to install double wall insulated duct outdoors
- Furnish labor and materials to install flexible duct at supply air devices
- Furnish labor and materials to install condensate piping
- Furnish and install insulation for piping and duct as specified
- Furnish DDC Controls by Trane
- Furnish Certified Test and Balance
- Furnish Start – up and Owner Training on all new equipment
- Furnish as-built drawings and O&Ms

Electrical Construction

- Furnish and installation of new 225 Amp 42 circuit subpanel
- Furnish and installation of thermostat drops
- Furnish and installation of line voltage power to HVAC equipment
- Furnish fire caulking MES penetrations
- Furnish demolition of power to existing HVAC equipment being removed

III. CLARIFICATIONS

- All owner furniture, equipment, etc. shall be removed and reinstalled by others
- We have not provided any temporary cooling and/or heating during construction
- All animals shall be relocated except for animals in the outdoor kennels



- Gas piping and gas heaters for kennels are not included in this proposal
- Davis Bacon Wages are included
- Payment and Performance Bond is included

IV. EXCLUSIONS:

- Any Temporary services
- No hazardous materials testing, removal or abatement
- Premium Time
- Work in the Dog Kennel Areas
- Landscaping
- Sales Tax

V. SUMMARY PRICING(Breakout pricing is for accounting purposes only):

Total Price \$ 596,188.00


























































Adder for Gas to Building (no utility fees, no meter)	\$ 19,150.00
Adder for Gas Furnace for AAON Unit	\$ 3,105.00
Heat in Kennels	\$ 16,350.00

We are basing our labor prices per the attached wage determination sheet.

Team Mechanical's bid is submitted with it being an express condition precedent that the parties mutually negotiate and agree on contract terms prior to any obligation by Team Mechanical to perform, and General Contractor should not rely on this bid to the extent General Contractor is not willing or able to negotiate the terms of the agreement.

If you should have any questions, please do not hesitate to give me a call.

Sincerely,
Team Mechanical of Texas, LLC.
Chris Humphries
Managing Partner
210-310-6363

Schertz Animal Center HVAC Replacement																																							
ID		Task Mode	Task Name	Duration	Start	Finish	Predecess	Resource Names	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W			
1			Bid Award	1 day	Fri 5/28/21	Fri 5/28/21																																	
2			Design Durations	40 days	Tue 6/1/21	Mon 7/26/21																																	
3			Permit	25 days	Tue 7/27/21	Mon 8/30/21	2																																
4			Pre-Constuction - submittals	10 days	Tue 8/31/21	Mon 9/13/21	3																																
5			Order Equipment (M&E)	45 days	Mon 7/5/21	Fri 9/3/21																																	
6			Order VAVs	25 days	Tue 9/14/21	Mon 10/18/21	4																																
7			Order RTU	40 days	Tue 9/14/21	Mon 11/8/21	4																																
8			Order DOAS	45 days	Tue 9/14/21	Mon 11/15/21	4																																
9			Order Steel for Platform	25 days	Tue 9/14/21	Mon 10/18/21	4																																
10			Owner Remove Furniture/Equip	5 days	Mon 8/23/21	Fri 8/27/21																																	
11			Mobilization	3 days	Tue 8/31/21	Thu 9/2/21	3																																
12			Site Work - Structural Platform	33 days	Thu 7/8/21	Mon 8/23/21																																	
13			Asphalt Removal	2 days	Tue 9/14/21	Wed 9/15/21	4																																
14			Excavate Foundation/Footings	5 days	Thu 9/16/21	Wed 9/22/21	13																																
15			Rebar, Concrete	5 days	Thu 9/23/21	Wed 9/29/21	14																																
16			Erect Steel	12 days	Tue 10/19/21	Wed 11/3/21	9																																
17			HVAC	62 days	Tue 8/31/21	Wed 11/24/21																																	
18			Protect Flooring	2 days	Tue 8/31/21	Wed 9/1/21	3																																
19			Demo Partial Ceilings	3 days	Thu 9/2/21	Mon 9/6/21	18																																
20			Demo HVAC Duct and Equipment	4 days	Tue 9/7/21	Fri 9/10/21	19																																
21			Set new VAVs	3 days	Tue 10/19/21	Thu 10/21/21	6																																
22			Set HVAC Equipment	1 day	Tue 11/9/21	Tue 11/9/21	7																																
23			Rough In Duct	20 days	Mon 10/11/21	Fri 11/5/21																																	
24			Final Duct Connections (Outside)	5 days	Thu 11/11/21	Wed 11/17/21	22																																
25			HVAC Trim Out	5 days	Fri 11/12/21	Thu 11/18/21	24																																
26			Test and Balance	3 days	Fri 11/19/21	Tue 11/23/21	25																																
27			Electrical	39 days	Mon 9/20/21	Thu 11/11/21																																	
28			Rough In Conduit and Wire	15 days	Mon 9/20/21	Fri 10/8/21																																	
29			Installation of Electrical Panels	5 days	Mon 10/11/21	Fri 10/15/21	28																																
30			Termination to Equipment	5 days	Fri 11/5/21	Thu 11/11/21	22																																
31			Final General Construction	30 days	Thu 10/14/21	Wed 11/24/21																																	
32			Reinsall Ceiling Grid/Tile	5 days	Thu 10/14/21	Wed 10/20/21	23																																
33			Touch Up Paint	2 days	Wed 10/20/21	Thu 10/21/21	32																																
34			Final Punch List	5 days	Fri 11/12/21	Thu 11/18/21	24																																
35			Owner Final Acceptance	1 day	Wed 11/24/21	Wed 11/24/21	26																																
Project: Schertz Animal Center Date: Thu 5/6/21			Task		Project Summary		Manual Task		Start-only		Deadline																												
			Split		Inactive Task		Duration-only		Finish-only		Progress																												
			Milestone		Inactive Milestone		Manual Summary Rollup		External Tasks		Manual Progress																												
			Summary		Inactive Summary		Manual Summary		External Milestone																														
Team Mechanical of TX Construction Schedule																																							

Schertz Animal Center
HVAC Replacement

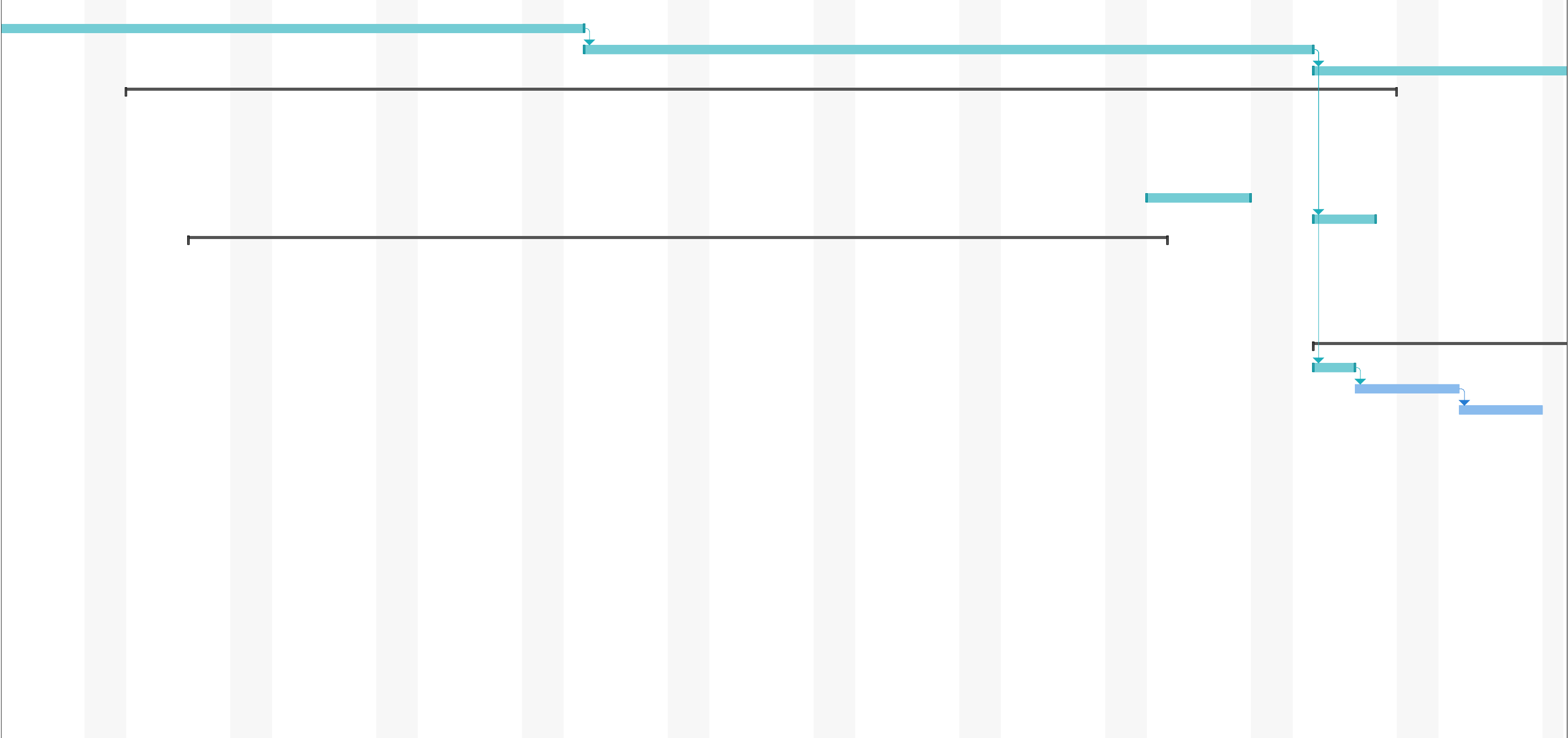
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Project: Schertz Animal Center
Date: Thu 5/6/21





Task		Project Summary		Manual Task		Start-only		Deadline	
Split		Inactive Task		Duration-only		Finish-only		Progress	
Milestone		Inactive Milestone		Manual Summary Rollup		External Tasks		Manual Progress	
Summary		Inactive Summary		Manual Summary		External Milestone			





Team Mechanical of TX
Construction Schedule





Schertz Animal Center HVAC Replacement





[illegible]


Project: Schertz Animal Center
Date: Thu 5/6/21

Task		Project Summary
Split		Inactive Task
Milestone		Inactive Milestone
Summary		Inactive Summary

	Manual Task
	Duration-only
	Manual Summary Rollup
	Manual Summary

	Start-only
	Finish-only
	External Tasks
	External Milestone

	Deadline
	Progress
	Manual Progress
	



Team Mechanical of TX
Construction Schedule

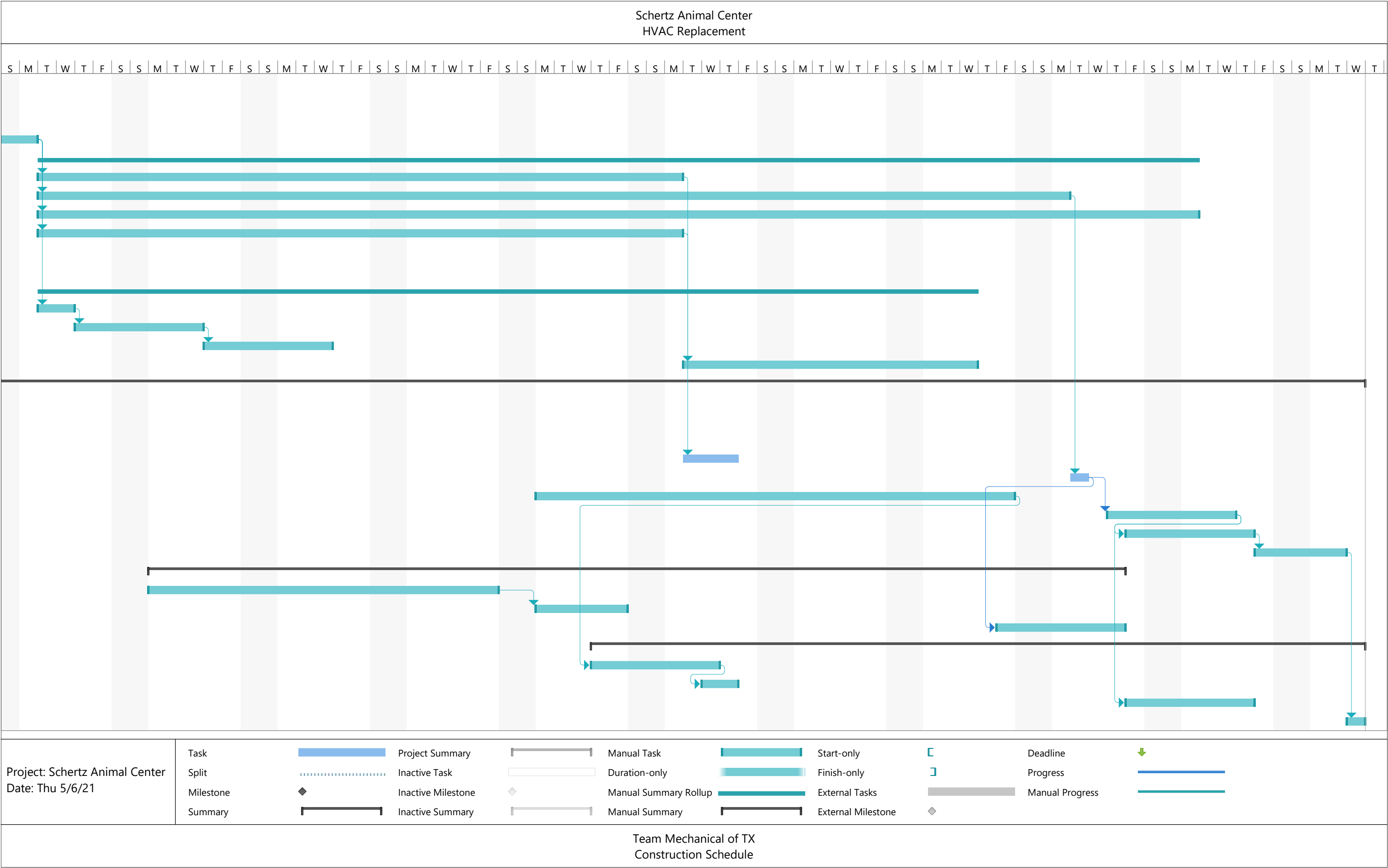


Exhibit B to Contract Agreement
Owner's Insurance Requirements of Design-Builder

1. Specific Insurance Requirements

The following insurance shall be maintained in effect with limits not less than those set forth below at all times during the term of this Agreement and thereafter as required:

Insurance	Coverage/Limits	Other Requirements
Commercial General Liability (Occurrence Basis)	Amounts of coverage shall be no less than: <ul style="list-style-type: none">▪ \$1,000,000 Per Occurrence▪ \$2,000,000 General Aggregate▪ \$2,000,000 Products/Completed Operations Aggregate▪ \$1,000,000 Personal and Advertising Injury▪ Designated Construction Project(s) General Aggregate Limit	<ul style="list-style-type: none">▪ Current ISO edition of CG 00 01▪ Additional insured status shall be provided in favor of Owner Parties on a combination of ISO forms CG 20 10 04 13 and CG 20 37 04 13.▪ This coverage shall be endorsed to provide primary and non-contributing liability coverage. It is the intent of the parties to this Agreement that all insurance coverage required herein shall be primary to and will not seek contribution from any other insurance held by Owner Parties, with Owner Parties' insurance being excess, secondary and non-contributing.▪ Stop Gap coverage shall be provided if any work is to be performed in a monopolistic workers' compensation state.▪ The following exclusions/limitations (or their equivalent(s), are prohibited:<ul style="list-style-type: none">○ Contractual Liability Limitation CG 21 39○ Amendment of Insured Contract Definition CG 24 26○ Limitation of Coverage to Designated Premises or Project, CG 21 44○ Exclusion-Damage to Work Performed by Subcontractors on Your Behalf, CG 22 94 or CG 22 95○ Exclusion-Explosion, Collapse and Underground Property Damage Hazard, CG 21 42 or CG 21 43○ Any Classification limitation○ Any Construction Defect Completed Operations exclusion○ Any endorsement modifying the Employer's Liability exclusion or deleting the exception to it○ Any endorsement modifying or deleting Explosion, Collapse or Underground coverage○ Any Habitational or Residential exclusion applicable to the Work○ Any "Insured vs. Insured" exclusion except Named Insured vs. Named Insured○ Any Punitive, Exemplary or Multiplied Damages exclusion○ Any Subsidence exclusion

Business Auto Liability	<p>Amount of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Per Accident 	<ul style="list-style-type: none"> ▪ Current ISO edition of CA 00 01 ▪ Arising out of any auto (Symbol 1), including owned, hired and non-owned
Workers' Compensation and Employer's Liability	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ Statutory Limits ▪ \$1,000,000 Each Accident and Disease ▪ Alternate Employer endorsement ▪ USL&H must be provided where such exposure exists. 	<ul style="list-style-type: none"> ▪ The State in which work is to be performed must listed under Item 3.A. on the Information Page ▪ Such insurance shall cover liability arising out of the Contractor's employment of workers and anyone for whom the Contractor may be liable for workers' compensation claims. Workers' compensation insurance is required, and no "alternative" forms of insurance shall be permitted. ▪ Where a Professional Employer Organization (PEO) or "leased employees" are utilized, Contractor shall require its leasing company to provide Workers' Compensation insurance for said workers and such policy shall be endorsed to provide an Alternate Employer endorsement in favor of Contractor and Owner. Where Contractor uses leased employees with Workers' Compensation insurance provided by a PEO or employee leasing company, Contractor is strictly prohibited from subletting any of its work without the express written agreement of Owner.
Excess Liability (Occurrence Basis)	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$5,000,000 Each Occurrence ▪ \$5,000,000 Annual Aggregate 	<ul style="list-style-type: none"> ▪ Such insurance shall be excess over and be no less broad than all coverages described above. ▪ Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits and shall include a duty to defend any insured.
Professional Liability	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Each Occurrence ▪ \$2,000,000 Annual Aggregate ▪ If a combined Contractor's Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate. ▪ Such insurance shall cover all services rendered by the Contractor and its consultants under the Agreement, including but not limited to design or design/build services. 	<ul style="list-style-type: none"> ▪ Such insurance shall cover all services rendered by the Contractor and its subcontractors under the Agreement. ▪ This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from: <ul style="list-style-type: none"> ○ bodily injury or property damage where coverage is provided in behalf of design professionals or design/build contractors ○ habitational or residential operations ○ mold and/or microbial matter and/or fungus and/or biological substance ○ punitive, exemplary or multiplied damages. ▪ Any retroactive date must be effective prior to beginning of services for the Owner.

	<ul style="list-style-type: none"> ▪ Policies written on a Claims-Made basis shall be maintained for at least two years beyond termination of the Agreement. 	<ul style="list-style-type: none"> ▪ Policies written on a Claims-Made basis shall have an extended reporting period of at least two years beyond termination of the Agreement. Vendor shall trigger the extended reporting period if identical coverage is not otherwise maintained with the expiring retroactive date.
Contractors Pollution Liability	<p>Amounts of coverage shall be no less than:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 Each Loss ▪ \$2,000,000 Annual Aggregate ▪ If a combined Contractor's Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate. ▪ The policy must provide coverage for: <ul style="list-style-type: none"> ○ the full scope of the named insured's operations (on-going and completed) as described within the scope of work for this Agreement ○ loss arising from pollutants including but not limited to fungus, bacteria, biological substances, mold, microbial matter, asbestos, lead, silica and contaminated drywall ○ third party liability for bodily injury, property damage, clean up expenses, and defense arising from the operations; ○ diminution of value and Natural Resources damages ○ contractual liability ○ claims arising from non-owned disposal sites utilized in the performance of this Agreement. 	<ul style="list-style-type: none"> ▪ The policy must insure contractual liability, name Owner Parties as an Additional Insured, and be primary and noncontributory to all coverage available to the Additional Insured. ▪ This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from: <ul style="list-style-type: none"> ○ Insured vs. insured actions. However, exclusion for claims made between insured within the same economic family are acceptable. ○ impaired property that has not been physically injured ○ materials supplied or handled by the named insured. However, exclusions for the sale and manufacture of products are allowed. Exclusionary language pertaining to materials supplied by the insured shall be reviewed by the certificate holder for approval. ○ property damage to the work performed by the contractor ○ faulty workmanship as it relates to clean up costs ○ punitive, exemplary or multiplied damages ○ work performed by subcontractors ▪ If coverage is provided on a Claims Made basis, coverage will at least be retroactive to the earlier of the date of this Agreement or the commencement of contractor services relation to the Work. ▪ The policy will offer an extended discovery or extended reporting clause of at least three (3) years. ▪ Completed Operations coverage shall be maintained through the purchase of renewal policies to protect the insured and additional insured for at least two (2) years after the property owner accepts the project or this contract is terminated. The purchase of an extended discovery period or an extended reporting period on a Claims Made policy or the purchase of occurrence-based Contractors

		Environmental Insurance will not be sufficient to meet the terms of this provision.
Builders Risk	<ul style="list-style-type: none"> ▪ Coverage shall be provided in an amount equal at all times to the full contract value, including change orders, and cost of debris removal for any single occurrence. ▪ Coverage shall be at least as broad as an unmodified ISO Special form, shall be provided on a completed-value basis, and shall be primary to any other insurance coverage available to the named insured parties, with that other insurance being excess, secondary and non-contributing. ▪ The policy must provide coverage for: 	<ul style="list-style-type: none"> ▪ Insureds shall include Owner, General Contractor, all Loss Payees and Mortgagees, and subcontractors of all tiers in the Work as Insureds. ▪ Such insurance shall cover: <ul style="list-style-type: none"> ○ all structure(s) under construction, including retaining walls, paved surfaces and roadways, bridges, glass, foundation(s), footings, underground pipes and wiring, excavations, grading, backfilling or filling; all temporary structures (e.g., fencing,

<ul style="list-style-type: none"> ○ Agreed Value ○ Damage arising from error, omission or deficiency in construction methods, design, specifications, workmanship or materials, including collapse ○ Debris removal additional limit ○ Earthquake and Earthquake Sprinkler Leakage ○ Flood ○ Freezing ○ Mechanical breakdown including hot & cold testing ○ Ordinance or law ○ Pollutant clean-up and removal ○ Preservation of property ○ Theft • Deductible shall not exceed ○ All Risks of Direct Damage, Per Occurrence, except ○ Named Storm, Earthquake and Earthquake Sprinkler Leakage, Per Occurrence ○ Flood, Per Occurrence or excess of NFIP if in Flood Zone A or V 	<ul style="list-style-type: none"> Included Included \$1,000,000 \$5,000,000 \$5,000,000 Included Included \$1,000,000 \$ 25,000 Included Included \$10,000 2% subject to \$50,000 minimum \$100,000 \$100,000 	<ul style="list-style-type: none"> scaffolding, cribbing, false work, forms, site lighting, temporary utilities and buildings) located at the site; ○ all property including materials and supplies on site for installation; ○ all property including materials and supplies at other locations but intended for use at the site; ○ all property including materials and supplies in transit to the site for installation by all means of transportation other than ocean transit; and ○ other Work at the site identified in the Agreement to which this Exhibit is attached. • No protective safeguard warranty shall be permitted. • The termination of coverage provision shall be endorsed to permit occupancy of the covered property being constructed. This insurance shall be maintained in effect, unless otherwise provided for the Agreement Documents, until the earliest of: <ul style="list-style-type: none"> ○ the date on which all persons and organizations who are insureds under the policy agree that it shall be terminated; ○ occupancy, in whole or in part; ○ the date on which release of substantial completion is executed; or ○ the date on which the insurable interests of Contractor in the Covered Property has ceased. • A waiver of subrogation provision shall be provided in favor of all insureds.
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2. General Insurance Requirements

A. Definitions. For purposes of this Agreement:

- i. "ISO" means Insurance Services Office.
- ii. "Contractor" shall include the Builder and its subcontractors of any tier.
- iii. "Owner Parties" means (a) City of Schertz, Texas (collectively referred to as "Owner"), (b) the Project, (c) any lender whose loan is secured by a lien against the Work, (d) their respective shareholders, members, partners, joint venturers, affiliates, subsidiaries, successors and assigns, (e) any directors, officers, employees, or agents of such persons or entities, and (f) others as required by the Contract Documents.

B. Policies.

- i. Contractor shall maintain such Excess Liability, Professional and Pollution insurance in identical coverage, form and amount, including required endorsements, for at least two (2) years following Date of Substantial Completion of the Work to be performed under this Agreement. Contractor shall maintain such General Liability insurance in identical coverage, form and amount, including required endorsements, for at least ten (10) years following Date of Substantial Completion of the Work to be performed under this Agreement. Contractor shall provide written representation to Owner stating Work completion date.
- ii. All policies must:
 - a. Be written through insurance companies authorized to do business in the State in which the work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best's Key Rating Guide at all times Work is to be performed.
 - b. Provide a waiver of subrogation in favor of Owner Parties on all insurance coverage carried by Contractor, whether required herein or not.
 - c. Contain an endorsement providing for thirty (30) days prior written notice of cancellation to Owner.
 - d. Be provided to the Owner Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage required herein in any manner without the prior express written approval of the Owner.
- iii. Failure of any Owner Party to demand such certificate or other evidence of full compliance with these insurance requirements or failure of any Owner Party to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.
- iv. Contractor shall provide to the Owner a certified copy of all insurance policies required herein within ten (10) days of any such request. Renewal policies, if necessary, shall be delivered to the Owner prior to the expiration of the previous policy.
- v. Commencement of Work without provision of the required certificate of insurance, evidence of insurance or required endorsements, or without compliance with any other provision of this Agreement, shall not constitute a waiver by any Owner Party of any rights. The Owner shall have the right, but not the obligation, of prohibiting the Contractor or any subcontractor from performing any Work until such certificate of insurance, evidence of insurance and/or required endorsements are received and approved by the Owner.

C. Limits, Deductibles and Retentions

- i. The limits of liability may be provided by a single policy of insurance or by a combination of primary and excess policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
- ii. No deductible or self-insured retention shall exceed \$25,000 without prior written approval of the Owner, except as otherwise specified herein. All deductibles or retentions shall be paid by, assumed by, for the account of, and at the Contractor's sole risk. The Contractor shall not be reimbursed for same.

D. Forms

- i. If the forms of policies, endorsements, certificates or evidence of insurance required by this Exhibit A are superseded or discontinued, Owner will have the right to require other equivalent forms.
- ii. Any policy or endorsement form other than a form specified in this Exhibit A must be approved in advance by Owner.

E. Evidence of Insurance. Insurance must be evidenced as follows:

- i. ACORD Form 25 Certificate of Liability Insurance for liability coverages.
- ii. ACORD Form 28 Evidence of Commercial Property Insurance for property coverages.
- iii. Evidence shall be provided to Owner prior to commencing Work and prior to the expiration of any required coverage.
- iv. ACORD Forms specify:
 - a. Owner as certificate holder at Owner's mailing address;
 - b. Insured's name, which must match that on this Agreement;

- c. Insurance companies producing each coverage and the policy number and policy date of each coverage;
- d. Producer of the certificate with correct address and phone number and have the signature of the authorized representative of the producer;
- e. Additional Insured status in favor of Owner Parties;
- f. Amount of any deductible or self-insured retention in excess of \$25,000;
- g. Designated Construction Project(s) General Aggregate Limit;
- h. Primary and non-contributory status;
- i. Waivers of subrogation; and
- j. All exclusions and limitations added by endorsement to the General Liability coverage. This can be achieved by attachment of the Schedule of Forms and Endorsements page.
- v. Copies of the following shall also be provided:
 - a. General Liability Additional insured endorsement(s);
 - b. General Liability Schedule of Forms and Endorsements page(s); and
 - c. 30 Day Notice of Cancellation endorsement applicable to all required policies.

F. Contractor Insurance Representations to Owner Parties

- i. It is expressly understood and agreed that the insurance coverages required herein (a) represent Owner Parties' minimum requirements and are not to be construed to void or limit the Contractor's indemnity obligations as contained in this Agreement nor represent in any manner a determination of the insurance coverages the Contractor should or should not maintain for its own protection; and (b) are being, or have been, obtained by the Contractor in support of the Contractor's liability and indemnity obligations under this Agreement. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy or failure of any insurance company carrying insurance of the Contractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate or waive any of the provisions of this Agreement.
- ii. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Agreement. If the Contractor shall fail to remedy such breach within five (5) business days after notice by the Owner, the Contractor will be liable for any and all costs, liabilities, damages and penalties resulting to the Owner Parties from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Contractor by the Owner. In the event of any failure by the Contractor to comply with the provisions of this Agreement, the Owner may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Contractor, purchase such insurance, at the Contractor's expense, provided that the Owner shall have no obligation to do so and if the Owner shall do so, the Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.
- iii. This Exhibit A is an independent contract provision and shall survive the termination or expiration of the Contract Agreement.

G. Insurance Requirements of Contractor's Subcontractors

- i. Insurance similar to that required of the Contractor shall be provided by all subcontractors (or provided by the Contractor on behalf of subcontractors) to cover operations performed under any subcontract agreement. The Contractor shall be held responsible for any modification in these insurance requirements as they apply to subcontractors. The Contractor shall maintain certificates of insurance from all subcontractors containing provisions similar to those listed herein (modified to recognize that the certificate is from subcontractor) enumerating, among other things, the waivers of subrogation, additional insured status, and primary liability as required herein, and make them available to the Owner upon request.
- ii. The Contractor is fully responsible for loss and damage to its property on the site, including tools and equipment, and shall take necessary precautions to prevent damage to or vandalism, theft, burglary, pilferage and unexplained disappearance of property. Any insurance covering the Contractor's or its subcontractor's property shall be the Contractor's and its subcontractor's sole and complete means or recovery for any such loss. To the extent any loss is not covered by said insurance or subject to any deductible or co-insurance, the

Contractor shall not be reimbursed for same. Should the Contractor or its subcontractors choose to self-insure this risk, it is expressly agreed that the Contractor hereby waives, and shall cause its subcontractors to waive, any claim for damage or loss to said property in favor of the Owner Parties.

H. Use of the Owners Equipment

The Contractor, its agents, employees, subcontractors or suppliers shall use the Owners equipment only with express written permission of the Owners designated representative and in accordance with the Owners terms and condition for such use. IF THE CONTRACTOR OR ANY OF ITS AGENTS, EMPLOYEES, SUBCONTRACTORS OR SUPPLIERS UTILIZE ANY OF THE OWNERS EQUIPMENT FOR ANY PURPOSE, INCLUDING MACHINERY, TOOLS, SCAFFOLDING, HOISTS, LIFTS OR SIMILAR ITEMS OWNED, LEASED OR UNDER THE CONTROL OF THE OWNER, THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND BE LIABLE TO THE OWNER PARTIES FOR ANY AND ALL LOSS OR DAMAGE WHICH MAY ARISE FROM SUCH USE.

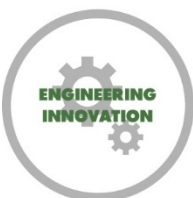
I. Release and Waiver

The Contractor hereby releases, and shall cause its subcontractors to release, the Owner Parties from any and all claims or causes of action whatsoever which the Contractor or its subcontractors might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible or uninsured portion thereof, maintained or required to be maintained by the Contractor or its subcontractors pursuant to this Agreement. **THE FOREGOING RELEASE AND WAIVER APPLY EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF THE OWNER PARTIES.**



**CITY OF SCHERTZ
ANIMAL ADOPTION CENTER**

August 6, 2019



CITY OF SCHERTZ ANIMAL ADOPTION CENTER

HVAC Findings & Recommendations

Presented to:

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The Chapman Firm PLLC
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PRELIMINARY

THIS DOCUMENT IS RELEASED FOR
THE PURPOSE OF INTERIM REVIEW.
IT IS NOT TO BE USED FOR
CONSTRUCTION OR BIDDING
PURPOSES.

MEILANI B. LEOS	120259
DATE RELEASED	8/06/19

August 6, 2019

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EXECUTIVE SUMMARY

At the request of The Chapman Firm PLLC, Tom Green & Company Engineers, Inc. (TGCE) has investigated and prepared this report of the heating, ventilation, and air conditioning (HVAC) systems for the original construction, and for subsequent audits and repair plans of the City of Schertz Animal Adoption Center. Reported herein are TGCE's findings and opinions regarding the systems and conditions being experienced at the building.

The building consists of roughly 6,000 square feet of conditioned/occupied space served by 13 direct expansion (DX) variable refrigerant flow (VRF) heat pump indoor fan coil units manufactured by LG. There are two outdoor condensing units with a total capacity of 16 tons. All of the ducted units are installed in an attic/mezzanine area. Outside air (OA) is ducted from a roof mounted intake hood directly to each cassette or to the return air (RA) duct of the ducted units. Manual volume balancing dampers are provided at each OA and RA duct.

In addition to the conditioned space, approximately 6,000 square feet of kennel space is adjacent to the conditioned portions of the building.

Two main issues are present in the building: inadequate temperature/humidity control; and insufficient overall and zone-to-zone building pressurization. It is of this Engineer's opinion that the root cause of this building's issues is attributed to both design and construction.

Controls sequences were not available for review. However, project correspondence implies that the building was designed to be constant air volume with temperature control achieved by variable refrigerant volume cooling coils. This design approach is capable of maintaining proper building pressurization; however, the design would not properly condition the ventilation air, predictably resulting in building humidity issues.

As constructed, the building operates with variable air volume (VAV) for both the supply and outside air. This operation approach results in improper building pressurization and insufficient humidity control of the infiltration air introduced.

Further, the LG control system is somewhat of a "black box". Programmed control sequences were not apparent during TGCE's site observations and setpoints were not clear.

In addition to implementing/correcting some of the issues noted in DBR's Comprehensive Repair Plan, a full recommissioning and rebalance of the building is the first step recommended to improve building HVAC operation with confidence. After the recommissioning effort, if the systems in large part are found to be suitable for continued use, a further recommended approach to control building pressurization, temperature, and humidity is to provide a pretreatment dedicated VRF outside air unit (DOAU). Providing a DX DOAU and dedicated condensing unit will allow humidity control of the OA and allow the humidity control in the spaces in the building to be decoupled from the existing VRF units, while maintaining constant air volume in the OA system. Alternatively, if the recommissioning effort reveals additional operational problems not yet discovered during this study, a potential full system redesign and replacement may be warranted. The potential for this more extensive replacement can be further evaluated after the initial recommissioning effort.

1.0 BACKGROUND, OBJECTIVES, AND METHODS

At the request of The Chapman Firm PLLC, Tom Green & Company Engineers, Inc. (TGCE) has investigated and prepared this report of the heating, ventilation, and air conditioning (HVAC) systems for the original construction, and for subsequent audits and repair plans of the City of Schertz Animal Adoption Center. Available information suggests that the project was completed in 2014 in one phase.

Reported herein are TGCE's findings and opinions regarding the systems and conditions being experienced at the building. This report does not address Electrical or Plumbing related work, as those disciplines were not within the scope of the investigation, except where they are directly coupled to HVAC items.

TGCE's overall role to date has been to review the design documents, constructed conditions, TAB (Test, Adjust, Balance) reports, and occupancy conditions, so that design, construction, and potential operational concerns, if any, might be identified. The process to date has also included review of a Comprehensive Repair Plan provided by the design and construction team.

Mechanical drawings and select construction documentation (correspondence, TAB reports) were provided to TGCE. Architectural drawings, electrical drawings, project specifications, and submittals were not available for review.

Because it is logical to place some reasonable bounds on the scope and methods of review, TGCE has not attempted a detailed examination of all the documents provided to it. Likewise, it has not attempted review of all possible engineering items that might be considered, calculated, designed, or constructed in the course of such a project. Accordingly, a complete critique of all design, construction, and occupancy elements has not been attempted, though certainly some critique is inevitable in the course of the reviews performed.

It should also be understood that the focus of this review has primarily been on design issues and the proposed corrective actions provided in the Comprehensive Repair Plan. Typically the root cause of issues being experienced in buildings could be attributed to design, construction, or facility operation/maintenance. In the absence of having received any maintenance logs or protocol, it is of this Engineer's opinion through document review and site observations that the root cause of this building's temperature, humidity, and pressurization issues is attributed to both design and construction, rather than operation/maintenance (or lack thereof). Systems of this kind, however, do warrant maintenance and troubleshooting to be performed by a skilled technician familiar with not only variable refrigerant flow (VRF) systems in general, but this specific brand of system (LG).

As with any such work in progress, the author reserves the right to modify this report to respond to new or changing information.

2.0 REPORT FORMAT

In a review such as this one, it is reasonable that the results be presented as clearly yet as succinctly as possible. In an attempt to accomplish this objective, a list of identified items which most merit attention is presented in addition to the action items listed in the Engineer of Record's Comprehensive Repair Plan. Each item is discussed as extensively or as briefly as is deemed appropriate. The discussion emphasis is in the facts as observed by TGCE, the understandings reported to TGCE, and their resulting significance. Where professional opinions are offered, they are identified as such.

3.0 HVAC SYSTEM ASSESSMENT

3.1 Existing System Description

- A. The City of Schertz Animal Adoption Center is a single story, roughly 12,000 square foot building. The building consists of roughly 6,000 square feet of conditioned/occupied space and roughly 6,000 square feet of unconditioned kennel areas and outdoor storage. The conditioned spaces are served by 13 variable refrigerant flow (VRF) heat pump indoor fan coil units (marked "DS-XX") manufactured by LG. There are two outdoor condensing units with a total capacity of 16 tons. Eight of the indoor units are ducted fan coil units and five of the indoor units are ceiling cassette type units. All of the ducted units are installed in an attic/mezzanine area. Outside air (OA) is ducted from a roof mounted intake hood directly to each cassette or to the return air (RA) duct of the ducted units. Manual volume balancing dampers are provided at each OA and RA duct. Refer to Table 1 below for a summary of each indoor unit.

Table 1: VRF Unit Summary

	AREA SERVED	UNIT TYPE	DESIGN SUPPLY AIRFLOW (1)	DESIGN OUTSIDE AIRFLOW (2)
DS-01	DOG QUARANTINE	CASSETTE	265	25
DS-02	BACK OF HOUSE	DUCTED	475	195
DS-03	BACK OF HOUSE	DUCTED	430	150
DS-04	ISOLATION	DUCTED	115	150
DS-05	ANIMAL AREAS	DUCTED	330	90

DS-06	ANIMAL CONTROL	CASSETTE	671	67
DS-07	OFFICE AREAS	DUCTED	420	150
DS-08	LOBBY/OFFICES	DUCTED	785	485
DS-09	LOBBY/FRONT OF HOUSE	DUCTED	1635	500
DS-10	ADOPTION AREAS	DUCTED	500	150
DS-11	STRAY CAT HOLDING	CASSETTE	307	30
DS-12	TRAINING	CASSETTE	265	25
DS-13	BREAK ROOM	CASSETTE	396	40
TOTAL			6594	2057

Note 1: Design supply airflow indicated is the sum of room supply airflows from duct plans. In some cases the sum of room supply did not equal the scheduled supply airflow value for the respective unit.

Note 2: Design outside airflow indicated is the scheduled value for each unit.

3.2 Review of DBR's Comprehensive Repair Plan

- A. On March 26, 2018, DBR, Inc. (the Engineer Firm of Record) provided a Comprehensive Repair Plan at the direction of the Owner. DBR's proposed action items are presented below, followed by TGCE's comments.

1. **DBR Recommendation:** The existing DS-02, DS-03, DS-09, and DS-10 are delivering significantly less airflow than intended per design. These four units will be removed and replaced with three new stand-alone DX split systems. DS-02 and DS-03 will be replaced with one DX split system. DS-09 and DS-10 will each be replaced with a single split system. Each of these three new split systems will have stand-alone programmable thermostats for ease of operation. Replace DS-02, DS-03, DS-09, and DS-10 with standalone DX split systems.

TGCE Comment: Special consideration should be given to duct design of inlet conditions to eliminate any system effect (i.e., inordinately high pressure drop) issues that may be causing reduced fan flow. See discussion 3.3.C below. Additionally, replacement of said units would only address the issue of low airflow/not meeting

temperature setpoint. If the new split systems continue to operate in a constant volume manner, a continued lack of humidity control due to the high quantity of untreated OA supplied by these zones will result. Not addressed in the comprehensive repair plan is the replacement of DS-04 which was also underperforming per the original TAB report (see discussion 3.3.A below).

2. DBR Recommendation: Proposed throw pattern adjustments to various supply diffusers (refer to Appendix A for full Repair Plan).

TGCE Comment: Engineer sees no harm in retrofitting throw pattern of supply air diffusers to avoid any possible short cycling. Minor thermal comfort improvement may result from the proposed alterations.

3. DBR Recommendation: Return air grilles will be added in the lobby clerestory space to reduce sensible heat gain in the lobby.

TGCE Comment: It is this Engineer's opinion that retaining a condition of thermal stratification of the clerestory area alone would not result in substantial heat gain in the occupied zone. Returning this warm, stratified air would result in additional load on the VRF fan coils which may not have been accounted for in the original design. Recommend re-evaluating loads before making proposed change.

4. DBR Recommendation: The copy machine was not anticipated to be located in its current position in the Administration area. The current location of the thermostat may result in a false demand for cooling, resulting in over-cooling of the space. Because over-cooling of this space has not been a complaint, we believe that the thermostat may remain in this location

TGCE Comment: Do not disagree.

5. DBR Recommendation: The existing outside air intake hood on the roof will be removed and a new make-up air fan will be installed in its place. Upon completion of the installation of this fan and the new DX split systems, the outside air flow rate to all fan coil units will be re-balanced.

TGCE Comment: Two points are relevant to this recommendation.

1. With respect to the outside air for the existing system: Correspondence indicates that initial TAB was performed with a single unit operating at a time, and therefore recorded OA airflows are likely not reliable even at full cooling operation. Furthermore, the installed VAV operation reduces the outdoor air as indoor units' fan speeds decrease, thereby creating greater pressurization issues. Also see the discussions in 3.2.A.6 and 3.3.A below regarding observed OA damper positions. The TAB part of the recommissioning process can quantify OA in current operation.
2. With respect to the proposed OA fan addition: A fan alone may adequately address pressurization issues but will not address the temperature and humidity issues without proper conditioning of the large quantities of OA. A pretreatment dedicated outdoor air unit (DOAU) is needed in lieu of an OA fan in order to properly address the building humidity issues. See further discussion in 4.0 Recommended Improvements/Corrections below.

6. DBR Recommendation: Per LG's request (VRF manufacturer), the airflow of the problematic fan coil units was tested on March 15, 2018. The results are tabulated in this report. The testing indicated that there has been virtually no change to the airflow from these units since the previous testing in November, 2017. Any adjustments made by LG representatives in January of 2018 did not change the airflow.

TGCE Comment: Report indicates that the fan coil units continue to operate in a variable volume mode while constant volume was intended by design. Operating the fan coil units in a variable volume manner as currently constructed results in variable volume OA, negative building pressurization, and building infiltration. Refer to 3.4A for further discussion on Building Pressurization and why variable volume OA operation is problematic.

7. DBR Recommendation: The refrigerant piping at the connection to the coil of DS-09 is currently not insulated. This unit will be removed and replaced with a new split system.

TGCE Comment: Any missing or damaged piping insulation should be addressed as required.

8. DBR Recommendation: The control wiring is currently spliced at units DS-09 and DS-10. These units will both be removed and replaced with new split systems. The new DX split systems will have stand-alone programmable thermostats.

TGCE Comment: Refer to TGCE Comment on 3.2.A.1 above.

9. DBR Recommendation: Gaskets will be added to the return air filter access panels at all the remaining ducted fan coil units in the mezzanine space (DS-04, 05, 07, 08).

TGCE Comment: Concur, though gaskets alone will not close the large air bypass gaps between the filters and the units casing. Additionally, TGCE recommends bypass safing plates and thorough cleaning of coils (due to delayed filter maintenance and significant air bypass and coil fouling likely to have occurred). Not addressed in the DBR recommendation is the likely high static pressure loss associated with the size and location of the installed filters. See further discussion in 3.3.C.5 below.

10. DBR Recommendation: One training session of up to 4 hours will be provided for City of Schertz staff. The training will include hands on demonstrations of the operation and maintenance procedures for the LG VRF system and the new DX split systems. Documentation will be provided for future reference.

TGCE Comment: Concur.

3.3 Variable Refrigerant Flow System Observations

The building HVAC system primarily consists of Variable Refrigerant Flow (VRF) air handling units (a combination of ducted indoor units and cassette type units).

A. Cooling & Dehumidification:

1. Leaving Air Temperatures: Initial unit test data (conducted on February 4, 2014) included in the original TAB report (dated May 19, 2014) indicated potential cooling/dehumidification problems with DS-02, 03, 04, and 09. With the outdoor ambient temperature at 63°F, the DS units were recording leaving air temperatures

ranging from 58°F to 63°F. Although design leaving air temperatures were not included in the equipment schedules, it is this Engineer's experience that a maximum leaving air temperature of 55°F would be desirable to maintain relative humidity below the normally accepted industry threshold of 60%. However, with unprocessed outside air being brought into these units, based on typical psychrometrics, a design leaving air temperature of 50-52°F would be a more appropriate target for proper dehumidification control.

2. Latent Capacity: VRF systems were selected by the Engineer of Record using ASHRAE 0.4% cooling condition (99°F DB/75°F WB) for the outside air. It is this Engineer's experience that although the sensible (space temperature) cooling peak will be driven by this condition, the latent (space humidity) cooling peak occurs at the ASHRAE 0.4% dehumidification condition (80.2°F DB/77°F WB) which results in a roughly 10% higher total cooling load on the system due to the increased dehumidification required. This difference is especially important in systems (such as this one) with high percentages of outdoor airflow.
3. Capacity & Diversity: Additionally, the total scheduled cooling load by design was 18 tons, while the total scheduled (and installed) outdoor units' capacity is 16 tons. It is not uncommon in a VAV system to design around some peak diversity, though given this building's size and that it was designed to operate in a constant air volume condition, a 12% diversity may be overly generous.
4. Site Observations: TGCE did not observe high room temperatures on site due to spot coolers being used throughout the occupied spaces. TGCE did observe, however, elevated levels of relative humidity (>60% RH), indicating the VRF system was not properly dehumidifying the building. TGCE also observed all OA dampers to be in the full closed position. With building exhaust running 23 hours per day, outside air finds its way into the building as infiltration through cracks around doors, windows, etc. This condition not only results in difficult control of building humidity, but also could lead to dirt/dust infiltration and moisture/condensation within exterior walls.

B. Airflow Controls:

1. Intended Sequences of Operation are Uncertain: Intended controls sequence of operations were not found in the documents provided to TGCE. Engineer of Record's correspondence indicates that a constant air volume (CAV) airflow system was intended for both the VRF units and the building exhaust fans, though the VRF units have been and continue to operate in a variable speed manner. TGCE on-site observations indicate the installed condition is consistent with the intended exhaust constant volume operation (exhaust fans are controlled by a programmable time clock and have no installed means of variable air volume operation). See further discussion of this subject in 3.4 Building Pressure Observations below.
2. Constant Volume without Pre-conditioning of Outdoor Air: With a constant air volume system, temperature control must be handled by the unit leaving air temperatures (in lieu of reducing airflow) or subcooling of zones would occur. No reheat capability was observed in this system design, indicating that the method for controlling leaving air temperatures would be to reduce the cooling capacity of the units (by reducing refrigerant flow). This control method would be appropriate if the OA were being acceptably preconditioned. However in the absence of any OA preconditioning, reduced cooling at the VRF units results in the inability to control building relative

humidity. The predictable result would be high humidity and temperature issues in the cooling season, consistent with what is occurring in the building.

3. Intended Airflows are Uncertain: Several of the scheduled airflow values were not consistent with the sum of the airflows indicated on the ductwork plans. It is unclear if the Engineer approved of the TAB contractor's airflow setpoints in cases where inconsistencies were present.

C. Duct Design & Construction:

1. Unit Inlet Conditions: Highly undesirable inlet conditions were observed at all of the ducted VRF units that may contribute to increased system effect and result in reduced airflow capability for the supply fans. The installation of ductwork is consistent with the original design documents. Refer to Figure 1 below.
2. OA Duct Design: Additionally, high static pressure loss conditions were observed with the ducted OA which may contribute to the reduced OA experienced by TAB. Per the original design documents, many of the OA branch ducts were sized with higher than desirable static pressure losses, especially for the equipment and systems used in the project. Standard engineering practice is to size low pressure ductwork not to exceed a pressure loss of 0.08 inches of water column (")/100 ft of duct (and often a lower value for return and outdoor air ducts). It is especially important for OA ducts to have low pressure drops when the OA system is absent of a dedicated fan and relies on induction, such as this system. OA ducts serving DS-03 and DS-04 have a pressure drop of 0.17"/100 ft (twice the standard loss). OA ducts serving DS-08 and DS-09 also have higher than desirable pressure drops at 0.13"/100 ft.



Figure 1: High Loss Elbow into Fan Inlet

3. **Duct Liner:** Return and supply ducts were not externally wrapped with insulation and site investigation indicated that the thermal insulation is achieved through lined ductwork. Lined ductwork is undesirable, especially in systems with humidity issues, as it can allow microbial growth. This finding is consistent with those in the report provided by Argus Environmental Consultants, LCC, dated June 24, 2016. It is this Engineer's opinion that microbial growth reported by Argus will, in the absence of a DOAU, continue to be an issue in the lined supply ductwork as the fan coil units deliver supply air at a nearly saturated condition on a regular basis.
4. **Damper Design:** Per the original design documents, OA ducts were to have one control damper at the main intake hood, and both control dampers and manual volume dampers in each branch to the VRF units. Additionally, by design, the RA ducts were to have only manual volume dampers in each branch serving the VRFs, located upstream of the OA duct connection.

Field observations indicated that there were no volume dampers (manual or control) present in the RA ductwork located in the mezzanine. Some RA grilles in the occupied spaces had dampers, while others did not. Only manual volume dampers were observed to be installed in the OA branches; no control dampers were found. Without volume dampers in the RA ductwork, it would be difficult to achieve design OA, even if operating as constant volume systems, since the OA ductwork system by design has a higher pressure drop than does the return air duct system. If operating as variable air volume as is currently done, without control dampers in the RA system, any reduction in system supply air would lead to a reduction in OA which would be undesirable paired with a constant volume exhaust system, as it would lead to a negatively pressurized building.

5. **Insufficient Filter Access:** Original design/construction did not allow for sufficient filter access. Field-built filter access doors were provided after occupancy. See Figure 2 below. Filter frames and access doors appear to be improperly constructed (access doors not sealed, filter trays not square) which will allow significant air bypass and has resulted in fouling of the coils. Additionally, the location and size of the filters results in an inordinately high pressure drop which may be contributing to reduced airflow capacity of the fan coil units. For example, based on the duct sizes indicated in the original construction documents, the filter location for DS-09 results in a filter velocity of over 1200 fpm at design condition. Standard recommended filter velocity is 500 fpm maximum.

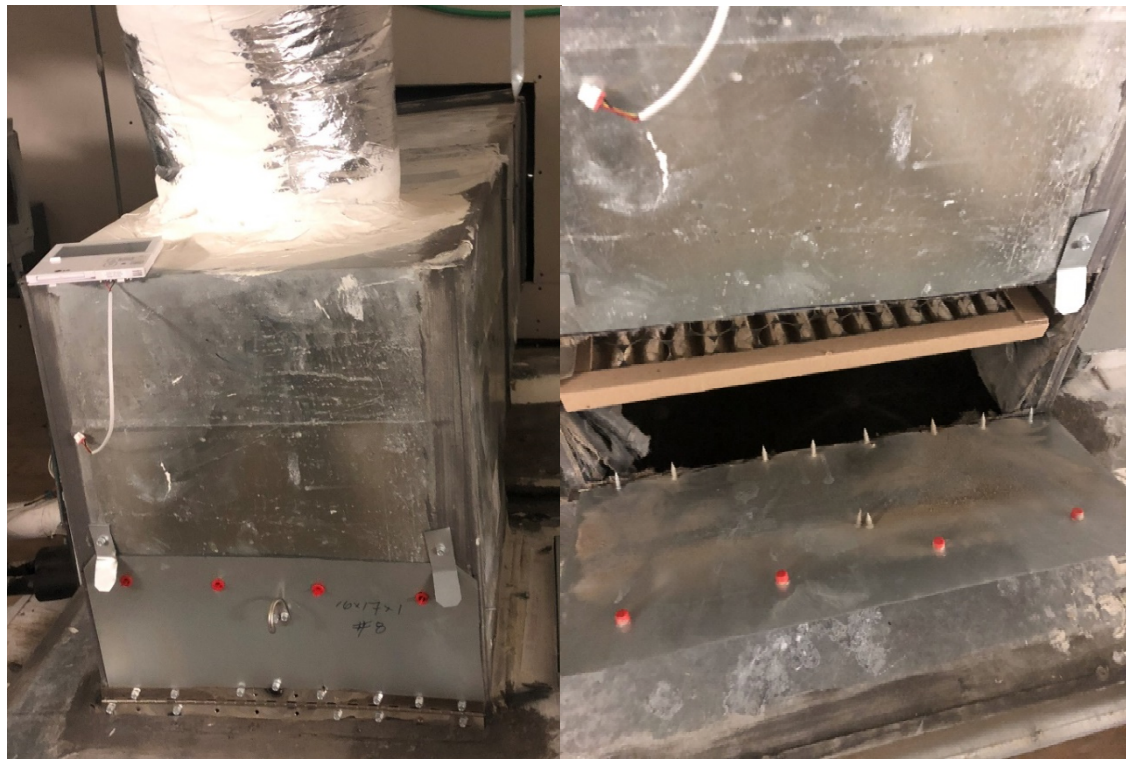


Figure 2: Field-Built Filter Access

3.4 Building Pressurization Observations

A. Pressurization Offset:

1. Marginal Positive Building Pressurization by Design: Original design and reported TAB airflows are tabulated below. The building was designed to be positively pressurized by roughly 1% to 3% (assuming constant volume OA and exhaust operation). The 3% is net positive pressurization, expressed as: $(\text{outdoor air cfm} - \text{exhaust air cfm}) \div \text{supply air cfm}$. Three percent (3%) is considered to be on the low end for this type of building in this climate.
2. Negative Building Pressurization by Operation: The latest full TAB audit (June 24, 2016) indicated much lower outside airflow rates than design, resulting in a highly negatively pressurized building (-22%). The subsequent TAB audit performed in November 2017 did not include OA or exhaust airflows. The November audit did also not include any of the cassette airflows. Due to the limited information provided, the November audit was not included in Table 2 below.

Table 2: Building Pressurization Summary

	SUPPLY	OUTSIDE AIR	EXHAUST	NET. PRESS.
ORIGINAL DESIGN SCHEDULED	7273	2057	1960	1.3%
ORIGINAL DESIGN PLANS	6594	2057	1830	3.4%
INITIAL TAB	6131	1940 ⁽¹⁾	1840	1.6%
TAB AUDIT 6/24/16	5095	480	1597	(-21.9%)

Note 1: DBR, Inc. reports that this outside air value is the sum of the OA to each VRF unit operating in isolation (not the total OA when all units are operating).

On-site building pressurization measurements taken on the May 30th site visit indicated nearly all pressurization readings were opposite of those which should be provided for this building and spaces within (spaces which were expected to be positive measured negative, and vice versa). Results are presented in Table 3 below.

Table 3: Building Pressurization Measurements

	EXPECTED PRESSURIZATION	ACTUAL MEASURED
MAIN ENTRY TO OUTSIDE	+0.05"	(-0.008")
ANIMAL CORRIDOR TO LOBBY	(-0.02")	+0.001
QUARANTINE 1 TO ANIMAL CORRIDOR	(-0.02")	+0.001"
QUARANTINE 2 TO ANIMAL CORRIDOR	(-0.02")	0"
QUARANTINE 3 TO ANIMAL CORRIDOR	(-0.02")	(-0.002")

BACK OF HOUSE TO ANIMAL CORRIDOR	+0.02"	(-0.0004")
BACK OF HOUSE QUARANTINE 1 TO CORRIDOR	(-0.02")	+0.002"
BACK OF HOUSE QUARANTINE 2 TO CORRIDOR	(-0.02")	0"
BACK EXIT DOOR TO OUTSIDE	+0.03"	+0.002"

Note 1: Pressure reading indicates relative pressure from reference point to adjacent space. Pressurization measurements taken on the May 30th site visit during calm to low wind conditions.

3. Variable Speed Operation: The comprehensive repair plan from DBR, Inc. indicates that as of March 15, 2018, the VRF units were operating in a variable speed manner. Field measurements and observations by TGCE in July of 2018 indicate the building was operating in a neutral condition. Follow up site observations by TGCE in May 2019 indicated even with VRF units operating at maximum fan speed (as overridden by Dilmack technician upon our arrival) the building operates in a slightly negative condition (negative at the building entrance and positive at the back of the building, consistent with windward/leeward directions). Site measurements were taken with generally calm exterior wind conditions.
4. Recommended Pressurization: A properly constructed and (positively) pressurized building of this type should typically experience a positive pressurization of approximately 0.03" w.c. to 0.05" w.c. with respect to outside (correlates to roughly 10-15% net pressurization). Warm and humid climates merit pressurization on the upper part of the range. Any negative building pressure is undesirable.

In order to contain odors and airborne particles from the animal holding and quarantine rooms, this building should operate with cascading pressurization. For example, quarantine rooms should operate negatively pressurized with respect to adjacent spaces, yet also positively pressurized with respect to the outdoors. Similarly, the animal holding areas should operate negatively pressurized with respect to the lobby and other common areas, and positively pressurized with respect to the outdoors. Follow-up site observations by TGCE in May 2019 indicated nearly all opposite pressurization readings than expected.

B. Airflow Controls:

1. Intended Control Sequence Unclear: Intended controls sequence of operations were not found in the documents provided to TGCE. Engineer of Record's correspondence indicates that a constant air volume (CAV) airflow system was intended for both the VRF units and the building exhaust fans. Post construction correspondence indicates that VRF units are operating in a variable speed mode while exhaust fans were running at a constant speed 24/7. Site observation indicates building exhaust fans are

controlled off a timeclock and run 23 hours per day (with a one-hour shutdown occurring overnight) and VRF units operate in a variable speed manner.

2. Variable OA: The mechanical ductwork design consists of ducted OA from a common intake hood into each individual VRF unit. Because the OA is not decoupled or on a separate fan, any variable flow operation of the VRF units results in a reduction of OA supplied to the building for ventilation and pressurization and is therefore undesirable and improper.

4.0 RECOMMENDED IMPROVEMENTS/CORRECTIONS

4.1 Baseline Premise

While TGCE may have selected an engineering approach to the building different than the designed and installed system, a baseline premise is that the existing components be retained to the extent they can properly serve the long term needs of the building. This approach will generally be more cost-effective due not only to the HVAC system costs, but also the “dominoes” related to structural and architectural accommodations, electrical distribution, and building disruption or closures. The recommissioning process will either validate this premise or give rise to other considerations.

4.2 Building Recommissioning

Existing controls documentation were not provided to TGCE for review. Project correspondence documents indicated the intended program sequence to be constant air volume, however site investigations revealed current controls operation to be variable air volume. Further, the existing LG controllers are a bit of a black box and existing programmed controls are not apparent. Due to the lack of clarity from the existing controls and building operation, a full recommissioning and rebalance of the building is the first step recommended in order to improve building HVAC operation with confidence.

This recommissioning effort should be led by engineers experienced in field commissioning verifications and troubleshooting controls and supported by programmers and technicians skilled in LG VRF controls systems. TGCE’s Opinion of Probable Construction Cost (OPCC) for the recommissioning and rebalance effort is estimated at \$45,000 +/- 30%. This rough estimated cost includes on site commissioning by an Engineer, accompanied by an LG technician, and a full TAB audit and rebalance.

If the recommissioning effort reveals additional operational problems not yet identified, a potential full system redesign and replacement may be warranted. This more extensive replacement can be further evaluated (for both necessity and cost) after the initial recommissioning effort.

4.3 Building Pressurization, Cooling, & Dehumidification

The operation of the system must be corrected such that a constant volume of OA is supplied on the same schedule as the exhaust fans in order to maintain positive pressure in the building. It is predictably assured that modifying only the building pressurization offset alone will not be sufficient to remedy the humidity and cooling issues the building is currently experiencing. Assuming the recommissioning effort indicates existing system is mostly suitable for continued use (with modifications/repairs as indicated in the body of the report, plus others that may be identified in recommissioning), the primary recommendation for improving the building’s

pressurization, humidity, and cooling issues is the installation of a Pretreatment Dedicated Outside Air Unit (DOAU).

A. Pretreatment Dedicated Outside Air Unit (DOAU)

The recommended approach to control building humidity is to provide a pretreatment dedicated outside air unit (DOAU). Providing a DX DOAU and dedicated condensing unit will allow humidity control of the OA and the spaces in the building to be decoupled from the VRF units. Site investigation in May 2019 revealed a possible location for a DOAU hung high in the attic/mezzanine above existing VRF units and ductwork. Preliminary calculations indicate a roughly 15-ton system would be needed for OA preconditioning. Structural modifications may accompany the DOAU installation. Selective demolition and re-construction of ceilings and partitions will likely be needed.

The system would include a DX VRF heat pump condensing unit and a custom air handling unit containing filters, wrap around heat pipe, cooling coil (potentially also a hot gas reheat coil), and a supply fan. This size DOAU correlates to roughly 80 amps of spare electrical capacity required. Site investigation and review of onsite electrical drawings indicate an original spare capacity of 140 amps, some of which has been consumed due to recent renovations ("big ass" fans). However, it is believed that there is enough spare electrical capacity to serve a DOAU.

If further engineering analysis warranted, consideration of a DOAU with active desiccant dehumidification could be an option.

4.4 Additional Recommendations

A. Lined Ductwork:

1. **Removal of Lined Ductwork:** As mentioned above, with the existing system's supply air delivery near saturated conditions on a regular basis, microbial growth will continue to be encouraged especially in the supply ductwork. In the absence of a new DOAU, all lined supply ductwork should be removed and replaced with externally wrapped ductwork to avoid further microbial growth in the ductwork system. Replacement of ductwork may require de-occupying select spaces for a short duration, though due to minimal duct lengths over hard ceilings it would be feasible to replace all lined duct in stages (one or two zones at a time) over nights and/or weekends to minimize building occupancy disruption.
2. **Clean/Coat Lined Ductwork:** If a DOAU were provided, a lower cost and less disruptive option to remedy the microbial potential of lined ductwork would be to clean, disinfect, and treat the liner with an antimicrobial coating similar to Fosters 40-20 Fungicidal Protective Coating.

B. Filters Bypass and High Velocity:

1. Field-built filter access doors provided after occupancy appear to be improperly constructed (access doors not sealed, filter trays not square) which will allow significant air bypass and has resulted in fouling of the coils. It is recommended that gasketing be added to the new filter trays to minimize air bypass and fouling of coils. It is also recommended that a thorough coil cleaning be performed to improve the performance of the VRF units.

2. As discussed in 3.3.C.5, the location and size of the field built filters results in an inordinately high pressure drop which may be contributing to reduced airflow capacity of the fan coil units. It is recommended that return ducts be reconfigured to allow for larger face area for filters (reduced face velocity) in order to improve filter efficiency, decrease system pressure drop, and improve airflow capacity.
- C. Rebalancing of Air Duct System: Several holding rooms and other spaces not originally designed to be used as Quarantine Rooms are currently being used in that manner. It is recommended that a full HVAC system air rebalance occur to properly pressurize all rooms to match their current operating needs.
- D. It should be noted that the complex recommendations presented in 4.2 and 4.3 above necessitate not only a properly qualified and experienced engineering design, but just as necessary qualified construction implementation and commissioning of systems. Special care should be given to evaluating/selecting professionals to carry out the recommended actions presented in this report.

-END-



RETRO-COMMISSIONING REPORT

CITY OF SCHERTZ
ANIMAL ADOPTION CENTER

August 7, 2020

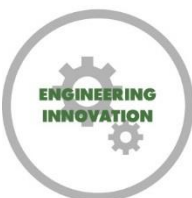


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1.0 EXECUTIVE SUMMARY

The City of Schertz sought professional retro-commissioning (Retro-Cx) services at the City of Schertz Animal Adoption Center to apply a systematic investigation process for evaluating the operation of the building's HVAC system.

TGCE's prior Assessment Phase report on "HVAC Findings and Recommendations" dated August 6, 2019, identified a number of conditions that would preclude the designed and installed system from properly serving the facility. An objective of this Retro-Cx project has therefore been to establish to what extent parts of the existing system could be retained in the envisioned improvements to occur.

Retro-Cx is an important early step in the HVAC improvement process. It typically precedes any pre-design or design efforts. Retro-Cx comes early because it provides an understanding of how closely the HVAC system comes to operating as intended and needed. It helps to identify improper equipment performance, equipment or system needs, actions to improve HVAC system performance, and sometimes opportunities to reduce operating expenses.

In the aforementioned Assessment Phase, Tom Green & Company Engineers, Inc. (TGCE) conducted a series of phone conversations and virtual web meetings, reviewed available building documentation, interviewed building stakeholders, performed building walk-throughs, and incorporated observations, spot measurements, and information into an Assessment Report.

The Retro-Cx Phase included the creation of a Cx Plan, on-site functional testing and measurements, and analysis of the data collected. Our analyses compared the actual building ("as-found") conditions and system performance with the design intent, while also comparing with standard engineering practices and applications. This report is the conclusion of the Retro-Cx Phase. It includes recommendations to replace the existing HVAC system in its entirety, excepting possibly duct systems beyond the mechanical mezzanine platform.

The Retro-Cx process used was systematic and documented. An overall summary of the activities are as follows:

- Prepare a Retro-Cx plan that describes the process for investigating and analyzing relevant building systems to verify if they are working as intended.
- Conduct field investigations and analysis; compile and review findings; conduct interviews of key staff members; utilize trend logs from building automation controls, portable testing instruments, and functional testing to evaluate the operational and performance capabilities of the existing HVAC system.
- Identify and recommend building system improvement options and provide associated cost estimates.

Two replacement options have been recommended for further consideration. The Opinions of Probable Construction Cost (OPCC) for either option is \$1,145,000 (+/- 30%).

2.0 OVERVIEW

2.1 Building Information

Owner/Agency:	City of Schertz
Project Name:	Animal Adoption Center

2.2 Retro-Cx Team

TEAM MEMBER	NAME/ADDRESS	CONTACT INFO
Owner's Representative	City of Schertz Animal Adoption Center 800 Community Circle Drive Schertz, TX 78154	Philip Gaudreau 214-673-7557 PGaudreau@schertz.com
Owner's Representative	City of Schertz Animal Adoption Center 800 Community Circle Drive Schertz, TX 78154	Brenda Spinelli BSpinelli@ntdmechanical.com
Owner's Representative	City of Schertz Animal Adoption Center 800 Community Circle Drive Schertz, TX 78154	Chad Lonsberry clonsberry@schertz.com
Commissioning Authority (CxA)	Tom Green & Company Engineers 3701 Executive Center Dr., Ste. 257 Austin, Texas 78731	Tom Green, PE 512-345-7793 tomg@tgce.com
Commissioning Authority (CxA)	Tom Green & Company Engineers 3701 Executive Center Dr., Ste. 257 Austin, Texas 78731	Greg Maxwell, LEED AP 512-345-7793 gregm@tgce.com
Commissioning Authority (CxA)	Tom Green & Company Engineers 3701 Executive Center Dr., Ste. 257 Austin, Texas 78731	Yinling Ng, PE 512-345-7793 yinlingn@tgce.com
Mechanical Contractor/Manuf. Representative (MC)	Texas Air Systems 1340 Airport Commerce Dr., Ste. 450 Austin, TX 78741	Jon-Erik Johnson 210-842-2329 jon-erik.johnson@texasairsystems.com
Mechanical Contractor/Manuf. Representative (MC)	Texas Air Systems 1340 Airport Commerce Dr., Ste. 450 Austin, TX 78741	Daniel Fitzpatrick 512-695-5384 daniel.fitzpatrick@texasairsystems.com
TAB Contractor (TAB)	Air Technologies, Inc. P.O. Box 129 Manchaca, Texas 78652	Victor Rodriguez 512-947-0606 victor@airtechtx.com
TAB Contractor (TAB)	Air Technologies, Inc. P.O. Box 129 Manchaca, Texas 78652	Damian Albiter 512-947-0606 damian@airtechtx.com

2.3 Equipment Inventory

The following table summarizes the equipment tested during Retro-Cx activities. Note: This list is not all-inclusive; other mechanical equipment (e.g., fans and electric unit heaters) that were not the primary focus of Retro-Cx activities exist within this facility.

EQUIP. TAG	MANUF. IDU IDENTIFICATION	TYPE	AC SMART ZONE IDENTIFICATION	ROOM(S) SERVED
DS-01	IDU-2	Cassette	Rabies Observation	Dog Quar. 127
DS-02	IDU-13	Ducted	Intake Dog Grooming	Corridor 116B, E-Room/Freezer 125, Grooming Intake 126
DS-03	IDU-7	Ducted	Feeding Room	Laundry 119, Food Prep 122
DS-04	IDU-6	Ducted	Dog Quarantine	Jan./Stor. 121, Iso. 124
DS-05	IDU-8	Ducted	Cat Quarantine	Corridor 116C, Corridor 116D, Supp. Adopt. 130
DS-06	IDU-1	Cassette	ASO Office	Animal Control Officers 133
DS-07	IDU-9	Ducted	Manager's Office	Adopt. CNSL 105, Storage 114A, Shelter Manager 131
DS-08	IDU-11	Ducted	Admin	Admin. 101B, Lost & Found Lobby 102, Vestibule 103, Cat Adopt. 106
DS-09	IDU-12	Ducted	Lobby	Vestibule 100, Adopt. Lobby 101, Adopt. Serv. 101A, Dog Display 107, Get Acquainted Room 108, Men's RR 109, Women's RR 110
DS-10	IDU-10	Ducted	Retail Dog	Retail Dog Adoption 112, Corridor 113, Puppy Adoption 115, Staff T/R 120
DS-11	IDU-3	Cassette	Cat Intake	Stray Cat Holding 128
DS-12	IDU-4	Cassette	Training	Training 114
DS-13	IDU-5	Cassette	Break Room	Break Room 118

3.0 FACILITY PERFORMANCE ANALYSIS

The following analysis is intended, in part, to address findings and questions from TGCE's prior assessment, and to determine if existing equipment can be reused.

3.1 Building Pressurization

- A. Marginal Positive Building Pressurization by Design: As a reminder from our Assessment Report dated 8/6/2019, we established that the building was designed to be positively pressurized by roughly 1% to 3% (assuming constant volume OA and EA operation), which is considered to be low for this type of building in the Schertz hot-humid climate.
- B. Negative Building Pressurization by Operation: Similar to previous TAB Audits performed at the facility, a negative net pressurization (-12%) was found by our Team during Retro-Cx activities.

Table - 3.1.1: Building Pressurization Summary

$Net\ Pressurization\ \% = \frac{OA - EA}{SA}$	SUPPLY AIR (SA)	OUTSIDE AIR (OA)	EXHAUST AIR (EA)	NET PRESS.
Design (Scheduled)	7273	2057	1960	1.3%
Design (Sum of Devices)	6594	2057	1830	3.4%
Initial TAB	6131	1940 ⁽¹⁾	1840	1.6%
TAB Audit (6/24/16)	5095	480	1597	(-21.9%)
TAB Retro-Cx (6/23/20)	5165	459 ⁽²⁾	1081 ⁽³⁾	(-12%)

(1) DBR, Inc. reports that this outside air value is the sum of the OA to each VRF unit operating in isolation (not the total OA when all units are operating). It, therefore, is in error as it does not reflect normal building operation.

(2) All OA serving cassette type units were measured with negative/reverse airflow and, therefore, are subtracted from the system outside airflow total.

(3) Exhaust fans (EFs-1, 2, & 3) operate on a dedicated timeclock (independent of LG AC Smart control system). Facility managers indicate the timeclock is programmed to run 23 hours a day (with a one-hour shutdown occurring overnight).

- C. Building Pressurization Measurements: Consistent with previous site visits, our pressurization measurements performed during Retro-Cx activities, in most cases, yielded the opposite of what should exist for this building and the spaces within. Results are provided on [page 6 of Appendix C – Test and Balance \(TAB\) Report](#).

A properly pressurized building in a hot-humid climate should generally experience exfiltration (leaks inside to outside) rather than infiltration (leaks outside to inside). Nearly all measurements taken at exterior doors were experiencing infiltration.

- D. Recommended Pressurization: As previously communicated in our 8/6/2019 Assessment Report, we suggested 10-15% net pressurization. After a closer review of building conditions during Retro-Cx activities, a recommendation of ~18% is more likely to yield acceptable performance at this building.

3.2 System Capacities Comparisons

Detailed HVAC load calculations were not performed by TGCE to determine the appropriateness of the design capacities. Since actual cooling required in a building is dependent on a multitude of factors, including building shape and orientation, windows, occupancy quantity and types, and miscellaneous heat loads from equipment, among other things, an estimate of the cooling load in the building was beyond the scope of this effort.

However, a holistic analysis of system capacities, both sensible and latent, allows us to compare the scheduled design intent versus the actual measured and calculated performance. The tables below summarize these comparisons. *Note: Due to the inability to accurately measure supply and return airflows on the cassette type units, our analysis is limited to the ducted fan coil units only, although similar trends can likely be expected on the cassette units.*

A. Design Conditions

1. Overview: To properly examine the design condition information presented in [Table 3.2.1](#) below, we are reminded of the difference between sensible and latent capacities. Sensible capacity is the capacity required to lower the temperature while latent capacity is the capacity required to remove moisture from the air. By design, it is typical to see higher sensible capacities to serve building cooling loads. However, if latent loads are not adequately addressed, especially those from high quantities of outdoor air, increased humidity levels within the spaces result.

Table 3.2.1 – Design System Capacities

DESIGN CONDITIONS										TOTALS
DESIGN	Ducted Unit Tags	DS-02	DS-03	DS-04	DS-05	DS-07	DS-08	DS-09	DS-10	-
	SA CFM (Scheduled) ⁽¹⁾	454	425	425	245	425	1335	1635	425	5369
	SA CFM (Sum of Devices) ⁽²⁾	550	430	425	270	420	785	1125	500	4505
	Entering air condition (°F db/ %RH)	85 / 42	85 / 42	85 / 42	85 / 42	85 / 42	85 / 42	85 / 42	85 / 42	-
	Total Cooling (MBH)	18.4	11.1	11.8	6.7	10.6	39.9	50.0	10.8	159.3
ESTIMATED	Leaving air condition (°F db/ %RH) ⁽³⁾	57.5 / 87	64 / 80	63 / 82	63.3 / 81	64 / 82	62 / 83	62 / 82	64 / 81	-
	Sensible capacity (MBH)	13.5	9.6	10.1	5.7	9.6	33.2	40.6	9.6	131.9
	Latent capacity (MBH)	4.9	1.5	1.7	1.0	1.0	6.7	9.4	1.2	27.4

(1) Supply air CFM used in calculations/selections within the Retro-Cx analysis.

(2) Supply air CFM presented to illustrate the discrepancy between some scheduled design values and the sum of air devices (diffusers) on Contract Documents.

(3) Estimated using psychrometric analysis and scheduled CFM, MBH, and Entering air (EA) conditions.

2. Discussion of total, sensible, and latent capacities

Total Capacity: For the design condition, the total capacity is the scheduled value of each unit. This total capacity, along with entering air conditions, airflow rate, and typical coil performance curves, enables estimation of leaving air conditions. This is a straightforward psychrometric analysis.

Sensible Capacity: Sensible capacity relates to the temperature (only) cooling. The sensible capacity excludes dehumidifying properties of the cooling coil. These values are readily estimated using airflow rates and “delta T,” or difference between entering and leaving dry bulb temperature.

Latent Capacity: The latent capacity relates to the dehumidifying properties of the cooling coil. These values were obtained by subtracting sensible capacity from the total capacity.

B. As-found Conditions

Table 3.2.2 – As-found System Capacities

AS-FOUND CONDITIONS										TOTALS
MEASURED	Ducted Unit Tags	DS-02	DS-03	DS-04	DS-05	DS-07	DS-08	DS-09	DS-10	-
	SA CFM (Measured) ⁽¹⁾	272	260	129	369	446	630	772	383	3261 ⁽²⁾
	Entering air condition (°F db/ %RH)	71.4 / 79.4	72 / 81.4	72.2 / 73.2	69.7 / 70.6	70.6 / 74.5	74.1 / 67.1	79.8 / 68.8	74.3 / 72.4	-
	Leaving air condition (°F db/ %RH)	55.0 / 92.1	55.0 / 94.7	55.2 / 92.9	53.9 / 92.6	56.0 / 96.5	54.5 / 100	57.7 / 94.5	58.2 / 93.6	-
ESTIMATED	Total Cooling (MBH)	11.1	11.2	4.8	11.4	13.1	23.0	39.5	13.3	127.4 ⁽³⁾
	Sensible capacity (MBH)	4.8	4.8	2.4	6.3	7.0	13.3	18.4	6.7	63.7
	Latent capacity (MBH)	6.3	6.4	2.4	5.1	6.1	9.8	21.1	6.6	63.8

(1) Measured as-found CFM with fan speeds set to 'High'. Typical all units.

(2) A 40% shortfall below scheduled values in design.

(3) A 20% shortfall below scheduled values in design.

1. Discussion of as-found tests

Leaving air temperatures (LATs) measured during Retro-Cx activities ranged from approx. 54-58°F, with an average close to 55°F. However, because the measured LATs occurred at deficient airflows (total and OA), the values are deceptive: they would be higher with greater airflows. TGCE maintains that a design LAT of approx. 50°F would be needed for proper dehumidification in the absence of processed outside air, assuming a VAV operation with reheat available (neither of which exists).

Additionally, consistent with previous TAB reports and assessments, our findings illustrate that airflow remains problematic. Several of these units are still underperforming as compared to intended design airflows. With fan speeds already set on “high,” it is evident that this VRF system cannot adequately meet intended performance.

The lower airflows and higher entering humidities result in higher latent capacities than would be expected under acceptable operating conditions. This is purely a function of psychometrics. The resulting latent capacities are therefore also deceptive: they would be lower under proper airflow and acceptable humidities. With higher latent capacities, humidity control is enhanced. However, our Retro-Cx findings addressed in [Appendix B – Functional Performance Tests \(Forms\)](#) show that all of the spaces served by ducted units exceed the normally accepted industry threshold of 60% relative humidity.

As a summary comparison to design conditions, our as-found conditions reflect a significant reduction in performance. In addition, with airflows at maximum condition, approximating the design performance with installed equipment will not be possible. Furthermore, there are other factors that contribute to our recommendations, such as filters access, filter bypass, duct lining, and duct leakage, all of which have been observed to exist.

C. High-heat Load Simulation

In an effort to reproduce cooling a “hot” building and evaluate max cooling capacities of each zone, an impromptu high-heat load simulation test was added to our functional performance testing script. In this scenario, all units were commanded to full heat for a period of approximately 1-hour. Once space temperatures neared approximately 80°F, a single zone was released to full cooling while the others remained in full heat. Sequentially, additional zones were released to full cooling, and system performance was logged and documented.

This simulation did not yield the max cooling capacity data envisioned. However, it did yield confirmation of the general operations of a VRF system. These operations allow simultaneous cooling and heating as expected, but do not provide high-level cooling simultaneously with heating. The VRF control system monitors the cooling and heating demands from each zone fan coil unit, and adjusts operation (e.g., EEV – electronic expansion valves) to balance refrigerant flow according to total system need. Consequently, the performance was very dynamic in this simulation, and specific units’ spot test results could not be considered as useful for diagnosis and evaluation.

We have included the data and analysis from this simulation in [Table 3.2.3](#) as a matter of documentation of our testing. It can be noted that the calculated total capacities reasonably approximate the values from [Table 3.2.2](#), and that both of these tables show a significantly lesser total capacity (approximately 20%) than intended by the design objectives illustrated in [Table 3.2.1](#).

An important footnote to this discussion is that the design values of [Table 3.2.1](#) did not represent appropriate fan coil unit entering air design conditions, and hence the values shown are less than what is needed. Accordingly, the percentage shortfall in actual versus needed is likely higher than 20%.

Table 3.2.3 – High-Heat Load Simulation System Capacities

HIGH-HEAT LOAD SIMULATION CONDITIONS										TOTALS
ACTUAL	Ducted Unit Tags	DS-02	DS-03 (4)	DS-04	DS-05	DS-07	DS-08	DS-09	DS-10	-
	SA CFM (Measured) ⁽¹⁾	272	260	129	369	446	630	772	383	3261 ⁽²⁾
	Entering air condition (°F db/ %RH)	81.5 / 62.1	DNT	81.1 / 60.4	75.8 / 62	76.3 / 62.2	77 / 55.3	77.5 / 60.9	81.2 / 51	-
	Leaving air condition (°F db/ %RH)	58.6 / 89.5	DNT	58.6 / 86.8	58.0 / 92	61.8 / 94.8	58.5 / 90	59.7 / 91.6	59.2 / 91.7	
ESTIMATED	Total Cooling MBH	13.5	DNT	6.1	11.5	9.1	17.6	23.9	12.6	94.3 ⁽³⁾

- (1) Measured as-found CFM with fan speeds set to 'High'. Typical all units.
(2) A 40% shortfall below scheduled values in design.
(3) Excluding DS-03, a 19% shortfall below the scheduled values in design.
(4) Did Not Test. TGCE instrument malfunctioned during testing.

3.3 Outside Air

A. Outside Air Percentages

The table below is provided to point out that the typical allowable percentage of design OA for a system of this type is approximately 10%. These systems simply cannot perform sufficient dehumidification with a design range between 30-62% of OA. Pre-treatment of OA is essential to provide the appropriate dehumidification in order to process the latent loads present in the outdoor air. While some of the actual measured %OA is closer to that of typical range, the overall outside air is deficient, creating improper pressure relationships. In addition, the cooling/dehumidification capacity is not available in the existing system for processing continuous ventilation/outdoor loads.

Table 3.3.1 – Outside Air Percentage Summary

% OA SUMMARY										TOTALS
DESIGN	Ducted Unit Tags	DS-02	DS-03	DS-04	DS-05	DS-07	DS-08	DS-09	DS-10	-
	SA CFM (Sum of Devices)	550	430	425	270	420	785	1125	500	4505
	OA CFM (Scheduled)	195	150	150	90	150	485	500	150	1870
	% OA	35%	35%	35%	33%	36%	62%	44%	30%	-
MEASURED	SA CFM (Measured)	272	260	129	369	446	630	772	383	3261
	OA CFM (Measured)	65	99	37	136	59	65	123	57	641
	% OA	24%	38%	29%	37%	13%	10%	16%	15%	-

B. Outside Air Performance

As noted in [Table 3.1.1](#) above, our Retro-Cx activities found that all OA ducts serving cassette units were measured with negative/reverse airflow, further contributing to negative building pressurization.

Upon review of LG's VRF building ventilation design guide ([Figure 3.3.2](#)), "inline fan(s) are required to push outdoor air to the indoor (cassette style) unit." Interestingly, the same document claims that "unconditioned outdoor air may affect indoor unit performance, which may necessitate oversizing the indoor unit." Although these statements seem logical from an engineering perspective and are also proven through TGCE's Assessment Report and herein, they appear to have been an oversight during the design and construction of this facility.

Figure 3.3.2 - LG's VRF Building Ventilation Design Guide (p. 180)

Method 3: Unconditioned Outdoor Air Ducted to Indoor Units

Untreated outdoor air is channeled through a duct system that is piped to the return air duct on Multi F ducted indoor units or to the frame of Multi F four-way cassettes.

Note:

Outside air may flow backward through the return air-filter grille when the indoor unit fan speed slows or stops in response to changes in the space load. This may result in captured particulate on the filter media being blown back into the conditioned space.

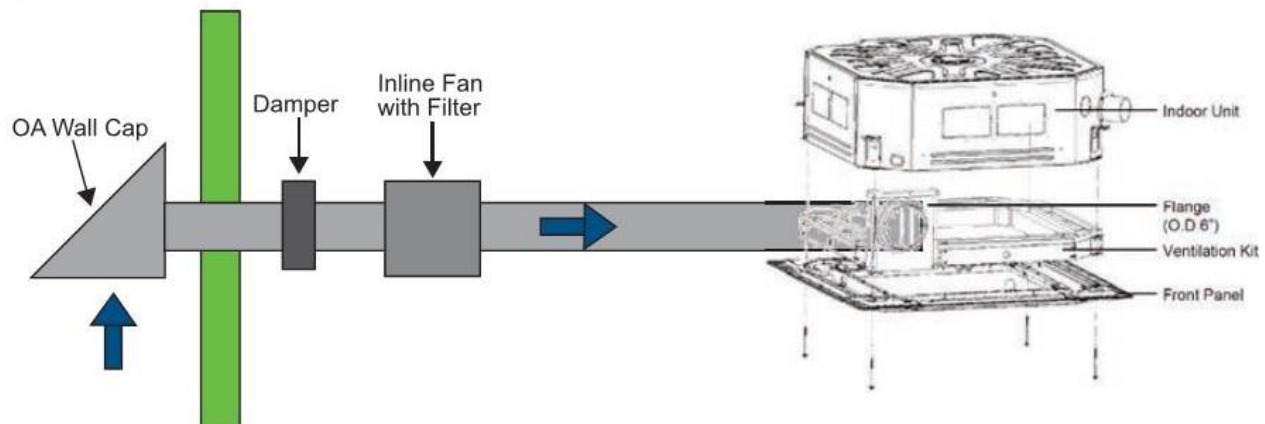
Advantages

- May require less ductwork if indoor units are placed near outdoor walls or a roof deck.
- Controls must be interlocked to shut off the outdoor air supply fan when the space is unoccupied.
- Third-party demand-control ventilation controls may be installed to regulate outdoor intake based on the CO₂ levels of the occupied space.

Disadvantages

- Fan(s) will be required to push outdoor air to the indoor unit to overcome the additional static pressure.
- Filter required to be added to the outdoor air duct.
- Ducted and four-way cassette models are the only indoor units that accept the connection of an outdoor air duct to the unit case.
- In most cases, in lieu of using the factory mounted return-air thermistor on indoor units, a remote wall temperature sensor or zone controller will be needed to provide an accurate reading of the conditioned area temperature.
- Unconditioned outdoor air may affect indoor unit performance, which may necessitate oversizing the indoor unit.

Figure 241: Unconditioned Outdoor Air Ducted to Indoor Units.



4.0 RECOMMENDED CORRECTIVE ACTIONS

4.1 Existing Systems Evaluations

A. Equipment Retainage

1. TGCE Assessment Report of 8/6/2019: The investigative findings previously illustrated underlying design and construction issues that present logical arguments that this system requires modifications. A summary of these findings includes, but is not limited to: undesirable unit inlet air conditions (due to absence of proper OA conditioning), high static pressure loss OA duct conditions, lined ductwork exhibiting potential microbial growth, inadequate manual and/or automatic damper provisions, insufficient filter access, filter bypass conditions, and exposed/damaged control wiring.
2. TGCE Retro-Cx Activities: As presented herein, TGCE believes that the existing system is incapable of providing the necessary capacities and airflows required to satisfy the facility demands, especially in hot-humid seasons.

Refer also to [Appendix D - Cx Assist/Issues Log](#) for a quick list of zones not obtaining adequate airflows.

3. Summary: Retaining existing system components, even with the addition of a dedicated outside air unit (as previously discussed), would still, in TGCE's opinion, fall short of a system that would respond to the building's needs. Improvements would be seen to overall building pressurization and humidity control, but zone airflows would still suffer significantly as TGCE has established, based on the original design intent, the system zone air delivery is insufficient.

Providing a dedicated outside air unit without the replacement of the fan coil units is, in the Author's opinion, ill-advised. It retains the shortcomings described in the existing system, including those related to performance, installation, and maintenance. Therefore, a warrantable full systems replacement is concluded.

4.2 Systems Replacement Recommendations

A. Option 1 – DX VAV/VRF AHU

Provide an approximately 35-ton split-system variable air volume (VAV), variable refrigerant flow (VRF), air handling unit (AHU) coupled with single-duct VAV terminal units with electric reheat, serving each zone. It is anticipated that the new AHU could be located on the existing mechanical mezzanine platform. The AHU would be fully-custom panelized construction that would allow all components to be delivered to the platform via strategic opening(s) not significantly larger than the existing pull-down stair opening. Zone terminal boxes would be located above the mechanical platform for ease of maintenance access. The DX VRF heat pump condensing unit(s) would be located in the rear of the building, in the same vicinity as the existing condensing unit. The existing ductwork systems would be replaced in the mechanical mezzanine. The objective would be to use existing ducts beyond the mezzanine if microbial testing indicated either no growth or growth that could be mitigated by cleaning and coating of the duct interior.

Envisioned features of this Option 1 would include: more conventional system approach using multi-party available controls systems and service options beyond the specialized service of VRF systems; more consolidated maintenance needs (e.g., filter changers, OA controls/dampers); N+1 redundancy

for supply fans; multi-circuit refrigeration systems for staging/modulation and absence of single point mechanical failures in the refrigeration system.

B. Option 2 – DX DOAU/VRF

Provide an approximately 16-ton split system constant air volume (CAV), variable refrigerant flow, dedicated outside air unit (DOAU) coupled with VRF terminal units totaling approximately 16-ton capacity. The DOAU would include a hot gas reheat coil for delivery of “neutral” temperature dehumidified outdoor air. This approach is similar to the existing systems, except a DOAU is added. Terminal units and condensing unit(s) would be replaced/upsized to satisfy facility load demands. Similarly to Option 1, the new DOAU would be located on the existing mechanical mezzanine platform. This Option may not be able to use fully-custom panelized construction and may require larger openings into the mechanical mezzanine to accommodate a section-by-section assembly. The zone terminal boxes and DX VRF heat pump condensing unit(s) would be placed in their respective existing “vicinities.” The existing ductwork systems would be replaced in the mechanical mezzanine. The objective would be to use existing ducts beyond the mezzanine if microbial testing indicated either no growth or growth that could be mitigated by cleaning and coating of the duct interior.

Envisioned features of this Option 2 would include: a user-friendly control system that allowed Owner operation and adjustment of appropriate functions via mapping VRF control points to a third-party digital controls system; DOAU and VRF fan coil units (FCUs) system independence so that DOAU would not be affected by maintenance issues of the VRF FCUs, and vice-versa; and an improved system efficiency compared to Option 1.

C. Design Considerations

With either Option presented above, it is acknowledged that: conceptual design test fits are needed to determine if components will fit as conceived; ductwork outside the mezzanine is subject to being replaced; all mechanical equipment be replaced; existing electrical service capacity must be explored/verified and potentially upgraded; a structural analysis is performed, as modifications are likely required to support the additional equipment load; selective demolition and reconstruction of ceilings and partitions can be expected.

D. Pre-Design Phase

A decision regarding which Option to pursue will be needed. While both have some similarities, each also has distinct pros. Accordingly, a pre-design phase is recommended to assist this selection. It would address the items described in “C. *Design Considerations*” above, creating concept designs for either or both systems. It would also update the Opinion of Probable Construction Cost to achieve higher confidence (lower uncertainty) in the cost. Most importantly, it would involve facility stakeholders in the selection of the system.

5.0 OPINIONS OF PROBABLE CONSTRUCTION COST

5.1 Summary

Table 5.1.1 below presents a conceptual, or pre-program, Opinion of Probable Construction Cost (OPCC). The method used for the OPCCs is that which has been used successfully in our firm for 20-plus years. It uses project comparables with appropriate adjustments for the various differences in previous projects and the envisioned project. It also recognizes the uncertainties inherent with any cost estimate, those uncertainties being high in early phases. Please refer to *Appendix A – OPCC Uncertainties* for a more complete discussion of uncertainties.

It may be noted that only one OPCC is presented, yet two system options are presented. The single OPCC applies to both systems, as the relatively small differences in cost are contained within the stated uncertainties.

Table 5.1.1 – OPCC Summary Table

SCOPE SUMMARY	OPCC ⁽¹⁾ ⁽²⁾	
Mechanical and Plumbing	\$633,000	+/- 35%
Electrical	\$132,000	+/- 35%
Architectural	\$117,000	+/- 35%
Structural	\$93,000	+/- 35%
Subcontractor Cost of Work Subtotal	\$975,000	+/- 35%
CM GCs & Fees	\$170,000	+/- 35%
TOTAL	\$1,145,000	+/- 30%

(1) Costs are presented in 2021 dollars. As illustrated, the uncertainty of each system is judged to be approximately +/-35%, and the total approximately +/-30%.

(2) Costs do not include additional expense incurred by Owner for project management, project design, TAB (Test Adjust Balance), commissioning, and/or building occupant disruption/displacement.

- End of Report -

Appendix A

OPCC UNCERTAINTIES

OPCC UNCERTAINTIES

A. Discussion of Uncertainties

There is a saying that occasionally is heard amongst those in almost any field of endeavor, including construction or design. It goes something like this:

“In any project there are three variables: quality, scope, and cost. If any two are fixed, the third varies according to the other two.”

A corollary in the case of building design and construction might go something like this:

“As design progresses and intended results are better defined, the costs of the construction project become progressively more certain.”

In short, the uncertainties in the cost of a construction project are high at the beginning phases and **diminish to zero only once the warranty is completed.**

So how might one describe this uncertainty in real, quantifiable terms? Our experience and judgment over the decades has shown that cost estimates can generally be characterized by the following uncertainties. Note that smaller projects have characteristically higher uncertainties.

These uncertainties might best be understood when looking at the construction documents phase. In a medium-sized renovation project, for example, the actual bids received commonly vary by 10 to 15%. Hence, $\pm 8\%$ variations are experienced even by the contractors who do all the detailed estimating and investigation, and who have a very highly vested interest (their livelihood) in correctly estimating the work. It logically follows, then, that an engineering/architectural team is not likely able to present an estimate with accuracy better than $\pm 10\%$ at this phase.

Uncertainties for MEP Project Sizes (at 95% Confidence Interval)

Project Status	Small (<\$2 million)		Medium (\$2-6 million)		Large (>\$6 million)	
	New	Renov.	New	Renov.	New	Renov.
Pre-Program	$\pm 30\%$	$\pm 35\%$	$\pm 25\%$	$\pm 30\%$	$\pm 20\%$	$\pm 25\%$
Program	$\pm 25\%$	$\pm 30\%$	$\pm 20\%$	$\pm 25\%$	$\pm 15\%$	$\pm 20\%$
Sch. Design	$\pm 20\%$	$\pm 25\%$	$\pm 15\%$	$\pm 20\%$	$\pm 10\%$	$\pm 15\%$
Des. Dev.	$\pm 15\%$	$\pm 20\%$	$\pm 10\%$	$\pm 15\%$	$\pm 8\%$	$\pm 12\%$
Const. Doc.	$\pm 10\%$	$\pm 15\%$	$\pm 5\%$	$\pm 10\%$	$\pm 5\%$	$\pm 10\%$
Bidding +/- 5%	$\pm 8\%$	$\pm 3\%$	$\pm 5\%$	$\pm 3\%$	$\pm 5\%$	$\pm 5\%$
Const. Compl.	$\pm 1\%$	$\pm 2\%$	$\pm 1\%$	$\pm 1\%$	$\pm 1\%$	$\pm 1\%$
Warranty Compl.	$\pm 0\%$	$\pm 0\%$	$\pm 0\%$	$\pm 0\%$	$\pm 0\%$	$\pm 0\%$

Also, please note that the uncertainties might best be viewed as a normal distribution on the familiar bell curve. For example, a “two sigma” (two standard deviations) departure from the mean yields a confidence interval of roughly 95%, and a “one sigma” departure yields a confidence interval of roughly 68%. Hence, if the total judged uncertainty is $\pm 30\%$, 20% might be approximated as “one sigma”, and 29% as “two sigma”. Using this approach, it can be seen that the bell curve gets taller and thinner as design progresses because fewer uncertainties exist. This process is simply a natural evolution that applies to most all activities, even those outside the realm of construction.

All this being said, it may be important to also relay our track record in estimating construction costs. With few exceptions (usually on smaller projects), our MEP OPCC’s are within 10% of the MEP bids received. It is not uncommon for our estimates to be within five percent. We are able to accomplish these accuracies by properly judging the complexities of a given project and factoring them into the cost opinions.

Even so, we must not lose sight of the reality that “scope” and “detail” uncertainties in the early project phases can be high. Accordingly, cost uncertainties are equally real and it is our responsibility and duty not to ignore them.

Appendix B

FUNCTIONAL PERFORMANCE TESTS

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-01

LG Service Tool Identification: IDU-2

AC Smart Identification: Rabies Observation

Room(s) Served: Dog Quarantine 127

Tom Green & Company Engineers, Inc.

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	
3	Test and Balance (TAB) addressed for the system.	Y	
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	
5	AC Smart is operational.	Y	

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions.	Front end communication with system equipment has been established. Actual: 89°F / 51%RH, Wind: WSW @ 4 mph AC Smart: 98.8°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefore, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor.	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: _____ °F (db) Refrigerant In temp: _____ °F Refrigerant Out temp: _____ °F EEV (valve) position: _____ (40 min.-1350 max.)	DNT	-
Notes:	a. This Cx test was not performed on cassette style units. DNT = Did Not Test			-
3	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 3:16 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 71.2°F (db) Refrigerant In temp: 43.2°F Refrigerant Out temp: 51.8°F EEV (valve) position: 199 (40 min.-600 max.)	Pass	
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-
	b. Observed excessive fan noise. Texas Air Systems believes the noise is caused by failing fan motors.			3

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
4	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 65.3°F / 73.4%RH Outside air temp/humidity: DNM / DNM Mixed air temp/humidity: See notes below Supply air temp/humidity: 53.9°F / 85.9%RH Fan speed setting: High Return air CFM: 406 Approx. % of Outside air: 0% Outside air CFM: - 43 CFM	Fail	-
Notes:	a. Upon traverse of O/A, reverse airflow was observed and therefore, design outside airflow is not being obtained. This condition was typical for all cassette style units. The LG Engineering Manual states that inline fans are required to push outdoor air to the indoor cassette unit to overcome the static pressure. This building is not equipped with inline fans on the outside air ductwork.			4
	b. Supply airflow cannot be accurately measured on cassette style units.			5
	c. Mixed air conditions could not be measured on cassette style units.			6
5	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

- END OF TEST -

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-02

LG Service Tool Identification: IDU-13

AC Smart Identification: Intake Dog Grooming

Room(s) Served: Corridor 116B, E-Room/Freezer 125, Grooming Intake 126

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 11:28 am	Front end communication with system equipment has been established. Actual: 72°F / 92%RH, Wind: SE @ 9 mph AC Smart: 84°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:18 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 72.9°F (db) Refrigerant In temp: 112.2°F Refrigerant Out temp: 163.4°F EEV (valve) position: 220 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 76.8°F / 74.0%RH Supply air temp/humidity: 108.5°F / 35.0%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 11:40 am	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 72.4°F (db) Refrigerant In temp: 42.6°F Refrigerant Out temp: 56.02°F EEV (valve) position: 124 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 71.9°F / 65.7%RH Outside air temp/humidity: 75.6°F / 78.4%RH Mixed air temp/humidity: 71.4°F / 79.4%RH Supply air temp/humidity: 55.0°F / 92.1%RH Fan speed setting: High Supply air CFM: 272 Approx. % of Outside air: 24% Outside air CFM: 65 CFM	Fail	-
Notes:	a. Design supply airflow of 454 CFM is not being obtained.			7
	b. Design outside airflow of 195 CFM is not being obtained.			8
6*	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved. Time: 8:22 pm	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: 75.4°F (db) EEV (valve) position: 154 (40 min.-600 max.) TAB: Mixed air temp/humidity: 81.5°F / 62.1%RH Supply air temp/humidity: 58.6°F / 89.5%RH	*	-
Notes:	a. Mixed air temperature sensor feedback was not tracking with manual instrumentation measurement. This could be caused by a lag in sensor/instrument response times.			-
	b. VRF system struggled to meet zone cooling setpoint of 66°F within a timeframe of 1-hour. TGCE believes the struggle was caused by simultaneous cooling and heating demands (i.e., some zones calling for heat while some zones calling for cooling).			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

*Pass/Fail not assigned because conditions were not adequately represented by the test.

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-03

LG Service Tool Identification: IDU-7

AC Smart Identification: Feeding Room

Room(s) Served: Laundry 119, Food Prep 122

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 11:57 am	Front end communication with system equipment has been established. Actual: 72°F / 92%RH, Wind: SSE @ 8 mph AC Smart: 84°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:19 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 72.9°F (db) Refrigerant In temp: 109.5°F Refrigerant Out temp: 151.8°F EEV (valve) position: 200 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 76.4°F / 83.9%RH Supply air temp/humidity: 101.1°F / 40.0%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 11:55 am	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 71.2°F (db) Refrigerant In temp: 46.9°F Refrigerant Out temp: 51.8°F EEV (valve) position: 208 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 69.6°F / 69.8%RH Outside air temp/humidity: 78.1°F / 75.9%RH Mixed air temp/humidity: 72.0°F / 81.4%RH Supply air temp/humidity: 55.0°F / 94.7%RH Fan speed setting: High Supply air CFM: 260 Approx. % of Outside air: 38% Outside air CFM: 99 CFM	Fail	-
Notes:	a. Design supply airflow of 425 CFM is not being obtained.			9
	b. Design outside airflow of 150 CFM is not being obtained.			10
6	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved.	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: DNT EEV (valve) position: DNT TAB: Mixed air temp/humidity: DNT Supply air temp/humidity: DNT	DNT	-
Notes:	a. TGCE instrument malfunctioned during testing. Could not fully test and therefore, measurements not taken. DNT = Did not Test			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-04

LG Service Tool Identification: IDU-6

AC Smart Identification: Dog Quarantine

Room(s) Served: Janitor 121, Isolation 124

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 12:20 pm	Front end communication with system equipment has been established. Actual: 74°F / 87%RH, Wind: SE @ 3 mph AC Smart: -°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:27 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 69.4°F (db) Refrigerant In temp: 115.1°F Refrigerant Out temp: 143.7°F EEV (valve) position: 130 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 79.3°F / 64.3%RH Supply air temp/humidity: 99.0°F / 39.7%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 12:06 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 67.6°F (db) Refrigerant In temp: 49.4°F Refrigerant Out temp: 51.8°F EEV (valve) position: 139 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 69.3°F / 62.4%RH Outside air temp/humidity: 79.7°F / 73.7%RH Mixed air temp/humidity: 72.2°F / 73.2%RH Supply air temp/humidity: 55.2°F / 92.9%RH Fan speed setting: High Supply air CFM: 129 Approx. % of Outside air: 29% Outside air CFM: 37 CFM	Fail	-
Notes:	a. Design supply airflow of 425 CFM is not being obtained.			11
	b. Design outside airflow of 150 CFM is not being obtained.			12
6*	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved. Time: 8:27 pm	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: 71.2°F (db) EEV (valve) position: 116 (40 min.-600 max.) TAB: Mixed air temp/humidity: 81.1°F / 60.4%RH Supply air temp/humidity: 58.6°F / 86.8%RH	*	-
Notes:	a. Mixed air temperature sensor feedback was not tracking with manual instrumentation measurement. This could be caused by a lag in sensor/instrument response times.			-
	b. VRF system struggled to meet zone cooling setpoint of 66°F within a timeframe of 1-hour. TGCE believes the struggle was caused by simultaneous cooling and heating demands (i.e., some zones calling for heat while some zones calling for cooling).			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

*Pass/Fail not assigned because conditions were not adequately represented by the test.

- END OF TEST -

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-05

LG Service Tool Identification: IDU-8

AC Smart Identification: Cat Quarantine

Room(s) Served: Corridor 116C, Corridor 116D, Supp. Adopt. 130

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 12:30 pm	Front end communication with system equipment has been established. Actual: 74°F / 87%RH, Wind: SE @ 3 mph AC Smart: -°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:28 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 70.6°F (db) Refrigerant In temp: 101.8°F Refrigerant Out temp: 157.3°F EEV (valve) position: 273 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 75.2°F / 63.7%RH Supply air temp/humidity: 102.6°F / 29.0%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 12:25 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 68.8°F (db) Refrigerant In temp: 44.5°F Refrigerant Out temp: 56.6°F EEV (valve) position: 166 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 69.3°F / 64.0%RH Outside air temp/humidity: 84.8°F / 61.3%RH Mixed air temp/humidity: 69.7°F / 70.6%RH Supply air temp/humidity: 53.9°F / 92.6%RH Fan speed setting: High Supply air CFM: 369 Approx. % of Outside air: 37% Outside air CFM: 136 CFM	Fail	-
Notes:	a. Design supply airflow of 245 CFM is exceeded.			13
	b. Design outside airflow of 90 CFM is exceeded.			14
6*	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved. Time: 8:31 pm	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: 72.9°F (db) EEV (valve) position: 213 (40 min.-600 max.) TAB: Mixed air temp/humidity: 75.8°F / 62.0%RH Supply air temp/humidity: 58.0°F / 92.0%RH	*	-
Notes:	a. Mixed air temperature sensor feedback was not tracking with manual instrumentation measurement. This could be caused by a lag in sensor/instrument response times.			-
	b. VRF system struggled to meet zone cooling setpoint of 66°F within a timeframe of 1-hour. TGCE believes the struggle was caused by simultaneous cooling and heating demands (i.e., some zones calling for heat while some zones calling for cooling).			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

*Pass/Fail not assigned because conditions were not adequately represented by the test.

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-06

LG Service Tool Identification: IDU-1

AC Smart Identification: ASO Office

Room(s) Served: Animal Control Officers 133

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	
3	Test and Balance (TAB) addressed for the system.	Y	
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	
5	AC Smart is operational.	Y	

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 3:49 pm	Front end communication with system equipment has been established. Actual: 90°F / 49%RH, Wind: SW @ 7 mph AC Smart: 99.5°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefore, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor.	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: _____ °F (db) Refrigerant In temp: _____ °F Refrigerant Out temp: _____ °F EEV (valve) position: _____ (40 min.-1350 max.)	DNT	-
Notes:	a. This Cx test was not performed on cassette style units. DNT = Did Not Test			-
3	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 3:49 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 67.6°F (db) Refrigerant In temp: 47.6°F Refrigerant Out temp: 49.9°F EEV (valve) position: 165 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
4	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 65.1°F / 71.6%RH Outside air temp/humidity: DNM / DNM Mixed air temp/humidity: See notes below Supply air temp/humidity: 52.0°F / 94.6%RH Fan speed setting: High Return air CFM: 634 Approx. % of Outside air: 0% Outside air CFM: - 56 CFM	Fail	-
Notes:	a. Upon traverse of O/A, reverse airflow was observed and therefore, design outside airflow is not being obtained. This condition was typical for all cassette style units. The LG Engineering Manual states that inline fans are required to push outdoor air to the indoor cassette unit to overcome the static pressure. This building is not equipped with inline fans on the outside air ductwork.			4
	b. Supply airflow cannot be accurately measured on cassette style units.			5
	c. Mixed air conditions could not be measured on cassette style units.			6
5	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-07

LG Service Tool Identification: IDU-9

AC Smart Identification: Manager's Office

Room(s) Served: Adopt. Cnsl 105, Storage 114A, Shelter Manager 131

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 1:30 pm	Front end communication with system equipment has been established. Actual: 82°F / 64%RH, Wind: SSE @ 5 mph AC Smart: 91°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:43 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 68.8°F (db) Refrigerant In temp: 101.0°F Refrigerant Out temp: 150.1°F EEV (valve) position: 300 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 79.5°F / 71.1%RH Supply air temp/humidity: 96.5°F / 42.8%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 1:30 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 67.0°F (db) Refrigerant In temp: 46.3°F Refrigerant Out temp: 56.0°F EEV (valve) position: 177 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 66.0°F / 71.0%RH Outside air temp/humidity: 89.5°F / 48.6%RH Mixed air temp/humidity: 70.6°F / 74.5%RH Supply air temp/humidity: 56.0°F / 96.5%RH Fan speed setting: High Supply air CFM: 446 Approx. % of Outside air: 13% Outside air CFM: 59 CFM	Fail	-
Notes:	a. Design supply airflow of 425 CFM is exceeded.			15
	b. Design outside airflow of 150 CFM is not being obtained.			16
6*	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved. Time: 8:01 pm	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: 75.4°F (db) EEV (valve) position: 395 (40 min.-600 max.) TAB: Mixed air temp/humidity: 76.3°F / 62.2%RH Supply air temp/humidity: 61.8°F / 94.8%RH	*	-
Notes:	a. Mixed air temperature sensor feedback was not tracking with manual instrumentation measurement. This could be caused by a lag in sensor/instrument response times.			-
	b. VRF system struggled to meet zone cooling setpoint of 66°F within a timeframe of 1-hour. TGCE believes the struggle was caused by simultaneous cooling and heating demands (i.e., some zones calling for heat while some zones calling for cooling).			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

*Pass/Fail not assigned because conditions were not adequately represented by the test.

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-08

LG Service Tool Identification: IDU-11

AC Smart Identification: Admin

Room(s) Served: Admin 101B, Lobby 102, Vestibule 103, Cat Adopt. 106

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 1:43 pm	Front end communication with system equipment has been established. Actual: 87°F / 63%RH, Wind: SSE @ 5 mph AC Smart: 93.7°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:43 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 70.6°F (db) Refrigerant In temp: 105.9°F Refrigerant Out temp: 165.5°F EEV (valve) position: 500 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 79.3°F / 73.4%RH Supply air temp/humidity: 106.3°F / 33.7%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 1:42 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 70.1°F (db) Refrigerant In temp: 50.6°F Refrigerant Out temp: 54.2°F EEV (valve) position: 174 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 68.0°F / 71.1%RH Outside air temp/humidity: 89.6°F / 48.2%RH Mixed air temp/humidity: 74.1°F / 67.1%RH Supply air temp/humidity: 54.5°F / 100%RH Fan speed setting: High Supply air CFM: 630 Approx. % of Outside air: 10% Outside air CFM: 65 CFM	Fail	-
Notes:	a. Design supply airflow of 1335 CFM is not being obtained.			17
	b. Design outside airflow of 485 CFM is not being obtained.			18
6*	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved. Time: 7:44 pm	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: 79.1°F (db) EEV (valve) position: 331 (40 min.-600 max.) TAB: Mixed air temp/humidity: 77.0°F / 55.3%RH Supply air temp/humidity: 58.5°F / 90.0%RH	*	-
Notes:	a. Mixed air temperature sensor feedback was not tracking with manual instrumentation measurement. This could be caused by a lag in sensor/instrument response times.			-
	b. VRF system struggled to meet zone cooling setpoint of 66°F within a timeframe of 1-hour. TGCE believes the struggle was caused by simultaneous cooling and heating demands (i.e., some zones calling for heat while some zones calling for cooling).			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

*Pass/Fail not assigned because conditions were not adequately represented by the test.

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-09

LG Service Tool Identification: IDU-12

AC Smart Identification: Lobby

Room(s) Served: Vestibule 100, Adoption Lobby 101, Adopt. Serv. 101A, Dog Display 107, Get Acquainted Room 108, Men's RR 109, Women's RR 110

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 2:15 pm	Front end communication with system equipment has been established. Actual: 86°F / 56%RH, Wind: WSW @ 5 mph AC Smart: 95.9°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:45 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 71.2°F (db) Refrigerant In temp: 105.1°F Refrigerant Out temp: 161.3°F EEV (valve) position: 440 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 80.8°F / 68.5%RH Supply air temp/humidity: 106.7°F / 33.3%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 2:15 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 68.8°F (db) Refrigerant In temp: 51.2°F Refrigerant Out temp: 56.6°F EEV (valve) position: 176 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 68.4°F / 67.3%RH Outside air temp/humidity: 93.2°F / 43.7%RH Mixed air temp/humidity: 79.8°F / 68.8%RH Supply air temp/humidity: 57.7°F / 94.5%RH Fan speed setting: High Supply air CFM: 772 Approx. % of Outside air: 16% Outside air CFM: 123 CFM	Fail	-
Notes:	a. Design supply airflow of 1635 CFM is not being obtained.			19
	b. Design outside airflow of 500 CFM is not being obtained.			20
6*	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved. Time: 7:30 pm	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: 77.2°F (db) EEV (valve) position: 415 (40 min.-600 max.) TAB: Mixed air temp/humidity: 77.5°F / 60.9%RH Supply air temp/humidity: 59.7°F / 91.6%RH	*	-
Notes:	a. Mixed air temperature sensor feedback was not tracking with manual instrumentation measurement. This could be caused by a lag in sensor/instrument response times.			-
	b. VRF system struggled to meet zone cooling setpoint of 66°F within a timeframe of 1-hour. TGCE believes the struggle was caused by simultaneous cooling and heating demands (i.e., some zones calling for heat while some zones calling for cooling).			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

*Pass/Fail not assigned because conditions were not adequately represented by the test.

- END OF TEST -

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-10

LG Service Tool Identification: IDU-10

AC Smart Identification: Retail Dog

Room(s) Served: Retail Dog Adopt. 112, Corridor 113, Puppy Adoption 115, Staff T/R 120

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	-
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	-
3	Test and Balance (TAB) addressed for the system.	Y	-
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	-
5	AC Smart is operational.	Y	-

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 2:03 pm	Front end communication with system equipment has been established. Actual: 85°F / 57%RH, Wind: SSE @ 6 mph AC Smart: 93.7°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefor, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor. Time: 4:45 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: 71.2°F (db) Refrigerant In temp: 101.9°F Refrigerant Out temp: 151.8°F EEV (valve) position: 244 (40 min.-1350 max.)	Pass	-
3	Conduct 'Heating Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 75.7°F / 54.5%RH Supply air temp/humidity: 94.8°F / 36.7%RH	Pass	-
4	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 2:03 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 71.2°F (db) Refrigerant In temp: 48.2°F Refrigerant Out temp: 56.6°F EEV (valve) position: 185 (40 min.-600 max.)	Pass	-
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
5	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 70.5°F / 63.4%RH Outside air temp/humidity: 92.8°F / 43.3%RH Mixed air temp/humidity: 74.3°F / 72.4%RH Supply air temp/humidity: 58.2°F / 93.6%RH Fan speed setting: High Supply air CFM: 383 Approx. % of Outside air: 15% Outside air CFM: 57 CFM	Fail	-
Notes:	a. Design supply airflow of 425 CFM is not being obtained.			21
	b. Design outside airflow of 150 CFM is not being obtained.			22
6*	"High-Heat Load Simulation": Force all indoor units into 'Heating Mode' for a duration of 30 minutes to simulate a hot building. Command selected spaces to 'Cooling Mode' to verify proper cooling of space is achieved. Time: 7:30 pm	Spaces commanded to cooling properly meet cooling setpoint. Laptop Service Tool: Mixed air temp: 73.5°F (db) EEV (valve) position: 245 (40 min.-600 max.) TAB: Mixed air temp/humidity: 81.2°F / 51.0%RH Supply air temp/humidity: 59.2°F / 91.7%RH	*	-
Notes:	a. Mixed air temperature sensor feedback was not tracking with manual instrumentation measurement. This could be caused by a lag in sensor/instrument response times.			-
	b. VRF system struggled to meet zone cooling setpoint of 66°F within a timeframe of 1-hour. TGCE believes the struggle was caused by simultaneous cooling and heating demands (i.e., some zones calling for heat while some zones calling for cooling).			-
7	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

*Pass/Fail not assigned because conditions were not adequately represented by the test.

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-11

LG Service Tool Identification: IDU-3

AC Smart Identification: Cat Intake

Room(s) Served: Stray Cat Holding 128

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	
3	Test and Balance (TAB) addressed for the system.	Y	
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	
5	AC Smart is operational.	Y	

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions.	Front end communication with system equipment has been established. Actual: AC Smart:	DNT	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor.	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: _____ °F (db) Refrigerant In temp: _____ °F Refrigerant Out temp: _____ °F EEV (valve) position: _____ (40 min.-1350 max.)	DNT	-
Notes:	a. This Cx test was not performed on cassette style units. DNT = Did Not Test			-
3	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor.	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: _____ °F (db) Refrigerant In temp: _____ °F Refrigerant Out temp: _____ °F EEV (valve) position: _____ (40 min.-600 max.)	DNT	-
Notes:	a. EEV (electronic expansion valve) was found failed – Unit is currently not cooling and could not be commissioned. DNT = Did Not Test			23

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
4	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: ____°F / ____%RH Outside air temp/humidity: ____°F / ____%RH Mixed air temp/humidity: ____°F / ____%RH Supply air temp/humidity: ____°F / ____%RH Fan speed setting: _____ Return air CFM: _____ Approx. % of Outside air: _____ % Outside air CFM: _____	DNT	-
5	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	DNT	-

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-12

LG Service Tool Identification: IDU-4

AC Smart Identification: Training

Room(s) Served: Training 114

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	
3	Test and Balance (TAB) addressed for the system.	Y	
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	
5	AC Smart is operational.	Y	

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 2:59 pm	Front end communication with system equipment has been established. Actual: 88°F / 52%RH, Wind: SSW @ 5 mph AC Smart: 96.6°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefore, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor.	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: _____ °F (db) Refrigerant In temp: _____ °F Refrigerant Out temp: _____ °F EEV (valve) position: _____ (40 min.-1350 max.)	DNT	-
Notes:	a. This Cx test was not performed on cassette style units. DNT = Did Not Test			-
3	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 3:00 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 67.6°F (db) Refrigerant In temp: 47.6°F Refrigerant Out temp: 54.2°F EEV (valve) position: 184 (40 min.-600 max.)	Pass	-

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
4	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 63.8°F / 76.8%RH Outside air temp/humidity: DNM / DNM Mixed air temp/humidity: See notes below Supply air temp/humidity: 49.7°F / 99.0%RH Fan speed setting: High Return air CFM: 406 Approx. % of Outside air: 0% Outside air CFM: - 43 CFM	Fail	-
Notes:	a. Upon traverse of O/A, reverse airflow was observed and therefore, design outside airflow is not being obtained. This condition was typical for all cassette style units. The LG Engineering Manual states that inline fans are required to push outdoor air to the indoor cassette unit to overcome the static pressure. This building is not equipped with inline fans on the outside air ductwork.			4
	b. Supply airflow cannot be accurately measured on cassette style units.			5
	c. Mixed air conditions could not be measured on cassette style units.			6
5	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

- END OF TEST -

Tom Green & Company Engineers, Inc.

FUNCTIONAL PERFORMANCE TEST

VARIABLE REFRIGERANT FLOW (VRF) SPLIT SYSTEMS

Owner	City of Schertz	Date	6/23/20
Project	Animal Adoption Center Retro-Cx	Project #	1393.00

Personnel Present

Tom Green, PE	TGCE	Daniel Fitzpatrick	TAS
Cx Authority	Company	Mechanical Contractor	Company
Yin Ling Ng, PE	TGCE		
Cx Authority	Company	Mechanical Contractor	Company
Greg Maxwell, LEED AP	TGCE		
Cx Authority	Company	Electrical Contractor	Company
Phil Gaudreau	COS		
Owner's Representative	Company	Electrical Contractor	Company
Brenda Spinelli	COS		
Owner's Representative	Company	Controls Contractor	Company
Chad Lonsberry	COS		
Owner's Representative	Company	Controls Contractor	Company
		Victor Rodriguez	ATI
General Contractor	Company	Test and Balance	Company
		Damien Albiter	ATI
General Contractor	Company	Test and Balance	Company
General Contractor	Company		
General Contractor	Company		

Equipment Included

Equipment #: DS-13

LG Service Tool Identification: IDU-5

AC Smart Identification: Break Room

Room(s) Served: Break Room 118

Tom Green & Company Engineers, Inc.

Pre-requisite Checklist

Mark 'Y' if the item is complete/acceptable. If not, mark 'N' and enter note/deficiency on Cx Assist/Issues Log.

Item	Pre-requisite Item Details to be verified prior to or coincidentally with Test Procedure	Y/N	Log #
1	All control system functions for this and all interlocking systems are programmed and operable per Contract Documents, including final setpoints and schedules set in AC Smart controller.	Y	
2	Pre-Functional Performance Checklists (PFPCs) are addressed for the specific system.	N/A	
3	Test and Balance (TAB) addressed for the system.	Y	
4	These Functional Performance Test (FPT) procedures have been reviewed, with select preliminary checks having already been performed by Contractors.	Y	
5	AC Smart is operational.	Y	

Test Procedure

Check each item as verified. Adjust specified time delays as directed by CxA at time of testing. Enter note/deficiency on Cx Assist/Issues Log.

No.	Test Procedure	Expected Result	Pass/Fail	Log #
1	Verify communication, all IDUs are on AC Smart control screen. Record Ambient/Weather Conditions. Time: 3:30 pm	Front end communication with system equipment has been established. Actual: 89°F / 50%RH, Wind: SSW @ 6 mph AC Smart: 101.1°F	Pass	-
Notes:	a. IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.			1
	b. The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefore, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.			2
2	'Heating Mode': Force/Override space temperature setpoint to 84°F from space (room) temperature sensor.	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Mixed air temp: _____ °F (db) Refrigerant In temp: _____ °F Refrigerant Out temp: _____ °F EEV (valve) position: _____ (40 min.-1350 max.)	DNT	-
Notes:	a. This Cx test was not performed on cassette style units. DNT = Did Not Test			-
3	'Cooling Mode': Force/Override space temperature setpoint to 64°F from space (room) temperature sensor. Time: 3:30 pm	Does AC Smart show Temp change. After a 15-minute period, record the following AC Smart sensor feedback: Fan Speed: High Mixed air temp: 67.6°F (db) Refrigerant In temp: 46.9°F Refrigerant Out temp: 55.4°F EEV (valve) position: 126 (40 min.-600 max.)	Pass	
Notes:	a. Measurements were taken at 66°F setpoint in lieu of 64°F.			-
	b. Observed excessive fan noise. Texas Air Systems believes the noise is caused by failing fan motor.			3

**Tom Green & Company
Engineers, Inc.**

No.	Test Procedure	Expected Result	Pass/ Fail	Log #
4	Conduct 'Cooling Mode' TAB measurements/calculations and record results.	Return air temp/humidity: 64.6°F / 70.2%RH Outside air temp/humidity: DNM / DNM Mixed air temp/humidity: See notes below Supply air temp/humidity: 53.6°F / 100%RH Fan speed setting: High Return air CFM: 514 Approx. % of Outside air: 0% Outside air CFM: - 27 CFM	Fail	-
Notes:	a. Upon traverse of O/A, reverse airflow was observed and therefore, design outside airflow is not being obtained. This condition was typical for all cassette style units. The LG Engineering Manual states that inline fans are required to push outdoor air to the indoor cassette unit to overcome the static pressure. This building is not equipped with inline fans on the outside air ductwork.			4
	b. Supply airflow cannot be accurately measured on cassette style units.			5
	c. Mixed air conditions could not be measured on cassette style units.			6
5	Return all changed/adjusted control parameters and conditions to their pre-test values per as-found conditions.	Verify all IDUs are in auto mode.	Pass	-

- END OF TEST -

Appendix C

TEST AND BALANCE (TAB) REPORT

CERTIFIED TEST, ADJUST, AND BALANCE REPORT

JOB #: 6834

DATE: 6/25/20

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

ADDRESS: 800 COMMUNITY CIRCLE
SCHERTZ, TX 78156

ARCHITECT: N/A

ENGINEER: N/A

HVAC CONTRACTOR: N/A

TAB FIRM: *AIR TECHNOLOGIES, INC.*
P. O. BOX 129
MANCHACA, TX 78652-0129

Phone: (512) 280-3398



PROJECT: **SCHERTZ ANIMAL ADOPTION CENTER**
ADDRESS: **SCHERTZ, TEXAS**

"THE DATA PRESENTED IN THIS REPORT IS A RECORD OF SYSTEM MEASUREMENTS AND FINAL ADJUSTMENTS THAT HAVE BEEN OBTAINED IN ACCORDANCE WITH THE CURRENT EDITION OF THE NEBB *PROCEDURAL STANDARDS FOR TESTING, ADJUSTING, AND BALANCING OF ENVIRONMENTAL SYSTEMS*. ANY VARIANCES FROM DESIGN QUANTITIES, WHICH EXCEED NEBB TOLERANCES, ARE NOTED IN THE TEST-ADJUST-BALANCE REPORT PROJECT SUMMARY."

ADJUSTMENTS MADE IN ACCORDANCE WITH NEBB "PROCEDURAL STANDARDS FOR TESTING, ADJUSTING, BALANCING OF ENVIRONMENTAL SYSTEMS" AND THE PROJECT SPECIFICATIONS.

NEBB TAB FIRM **AIR TECHNOLOGIES, INC.** REG. NO. **3035**
CERTIFIED BY **MICHAEL J. HUBER** DATE **6/25/20**

NEBB TAB FIRM **AIR TECHNOLOGIES, INC.** REG. NO. **3035**
TAB SUPERVISOR **MICHAEL J. HUBER** DATE **6/25/20**

SIGNATURE 

CERTIFICATION EXPIRATION DATE **3/31/2021**



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SCHERTZ ANIMAL ADOPTION CENTER

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INSTRUMENT CALIBRATION REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

[illegible]

DATE: 6/23/20

READINGS BY: VR / DA

ABBREVIATIONS and NOTATIONS

ACT.	ACTUAL	MAX. FC	MAXIMUM FLOW CORRECTION FACTOR
AF	AIRFOIL FAN WHEEL	MIN.	MINIMUM
AHU	AIR HANDLING UNIT	MIN. FC	MINIMUM FLOW CORRECTION FACTOR
AVG.	AVERAGE	ML	MIXING LATERAL
AX	AXIAL FAN WHEEL	MD	MOTORIZE DAMPER
BC	BACKWARD CURVE (FAN BLADE TYPE)	N/A	NOT APPLICABLE
BI	BACKWARD INCLINE (FAN BLADE TYPE)	NG	NOT GIVEN
CD	CEILING DIFFUSER	NO.	NUMBER
CF	CORRECTION FACTOR	O.D.	OUTSIDE DIAMETER
CFM	CUBIC FEET PER MINUTE	O/A	OUTSIDE AIR
DB	DRY BULB	OBD	OPPOSED BLADE DAMPER
DDC	DIRECT DIGITAL CONTROLS	ODP	OPEN DRIP PROOF
DES.	DESIGN	PD	PITCH DIAMETER
DIA.	DIAMETER	PERF.	PERFORATED
DIFF.	DIFFERENTIAL	PF	PERFORMANCE FACTOR
DISP.	DISPOSABLE	PG	PICKUP GAIN
Δh	DIFFERENTIAL ENTHALPY	PRD	PRESSURE DEPENDENT TERMINAL UNIT
ΔP	DIFFERENTIAL PRESSURE	PRI	PRESSURE INDEPENDENT TERMINAL UNIT
ΔT	DIFFERENTIAL TEMPERATURE	CO	COOLING ONLY
E/A	EXHAUST AIR	RH	COOLING W/ REHEAT
EAT	ENTERING AIR TEMPERATURE	PFP	PARALLEL FAN POWERED
ENT	ENTERING	SFP	SERIES FAN POWERED
EXT	EXTERNAL	PROP	PROPELLER (FAN BLADE TYPE)
EXT. S.P.	EXTERNAL STATIC PRESSURE	PSI	POUNDS PER SQUARE INCH
F/S	FIRE / SMOKE	R/A	RETURN AIR
FC	FORWARD CURVE (FAN BLADE TYPE)	REFRIG.	REFRIGERANT
FCU	FAN COIL UNIT	RND	ROUND
FL	FULL LOAD	RPM	REVOLUTIONS PER MINUTE
FOC	FULL OPEN CORRECTION FACTOR	RTU	ROOFTOP UNIT
FPB	FAN POWERED TERMINAL BOX	S.P.	STATIC PRESSURE
FPM	FEET PER MINUTE	SA	SUPPLY AIR
FT.	FEET	SC	FLOW CALIBRATION FACTOR
GPM	GALLONS PER MINUTE	SF	SERVICE FACTOR
H ₂ O	WATER	SQ. FT.	SQUARE FEET
HG	MERCURY	SURF.	SURFACE MOUNT DIFFUSER
HP	HORSEPOWER	SW	SIDEWALL DIFFUSER
HRU	HEAT RECOVERY UNIT	TA	TUBE AXIAL (FAN BLADE TYPE)
HZ	HERTZ	TEMP.	TEMPERATURE
IN	INCH(ES)	VA	VANE AXIAL FAN WHEEL
KW	KILOWATT	VAV	VARIABLE AIR VOLUME TERMINAL BOX
LAT	LEAVING AIR TEMPERATURE	VDC	VOLTS DIRECT CURRENT
LD	LINEAR DIFFUSER	VFD	VARIABLE FREQUENCY DRIVE
LID	LAY IN DIFFUSER	VP	VELOCITY PRESSURE
LT	LIGHT TROFFER DIFFUSER	W.C.	WATER COLUMN
LVG	LEAVING	WASH.	WASHABLE
MAX.	MAXIMUM	WB	WET BULB

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

DESCRIPTION:

THE SCOPE OF WORK CONSISTED OF PERFORMING AN AUDIT OF THE HVAC SYSTEMS AIR QUANTITIES AND PRESSURES IN AN EFFORT TO AID IN TROUBLESHOOTING OF INDOOR COMFORT COMPLAINTS. THE SYSTEMS TESTED CONSIST OF 13 SPLIT DX FAN COIL UNITS THAT ARE PART OF A VARIABLE REFRIGERANT SYSTEM ALONG WITH 3 EXHAUST FANS AND ALL ASSOCIATED AIR DEVICES.

TESTING PROCEDURES

FAN COIL UNITS

EACH FAN COIL UNIT SUPPLY AIR SYSTEM WAS TRAVERSED TO DETERMINE TOTAL CFM. SUPPLY OUTLET AIRFLOWS WERE MEASURED AND RECORDED VIA FLOW HOOD READINGS. OUTSIDE AIR AND STATIC PRESSURES WERE ALSO MEASURED AND RECORDED. EXHAUST SYSTEMS WERE TESTED IN A SIMILAR MANNER.

ALL AIR TEMPERATURES MEASURED WERE RECORDED ELSEWHERE BY THE COMMISSIONING TEAM.

SYSTEM: DS-01 THRU DS-13,
EF-1 THRU EF-3 &
ACTUAL SUPPLY OUTLETS CFM

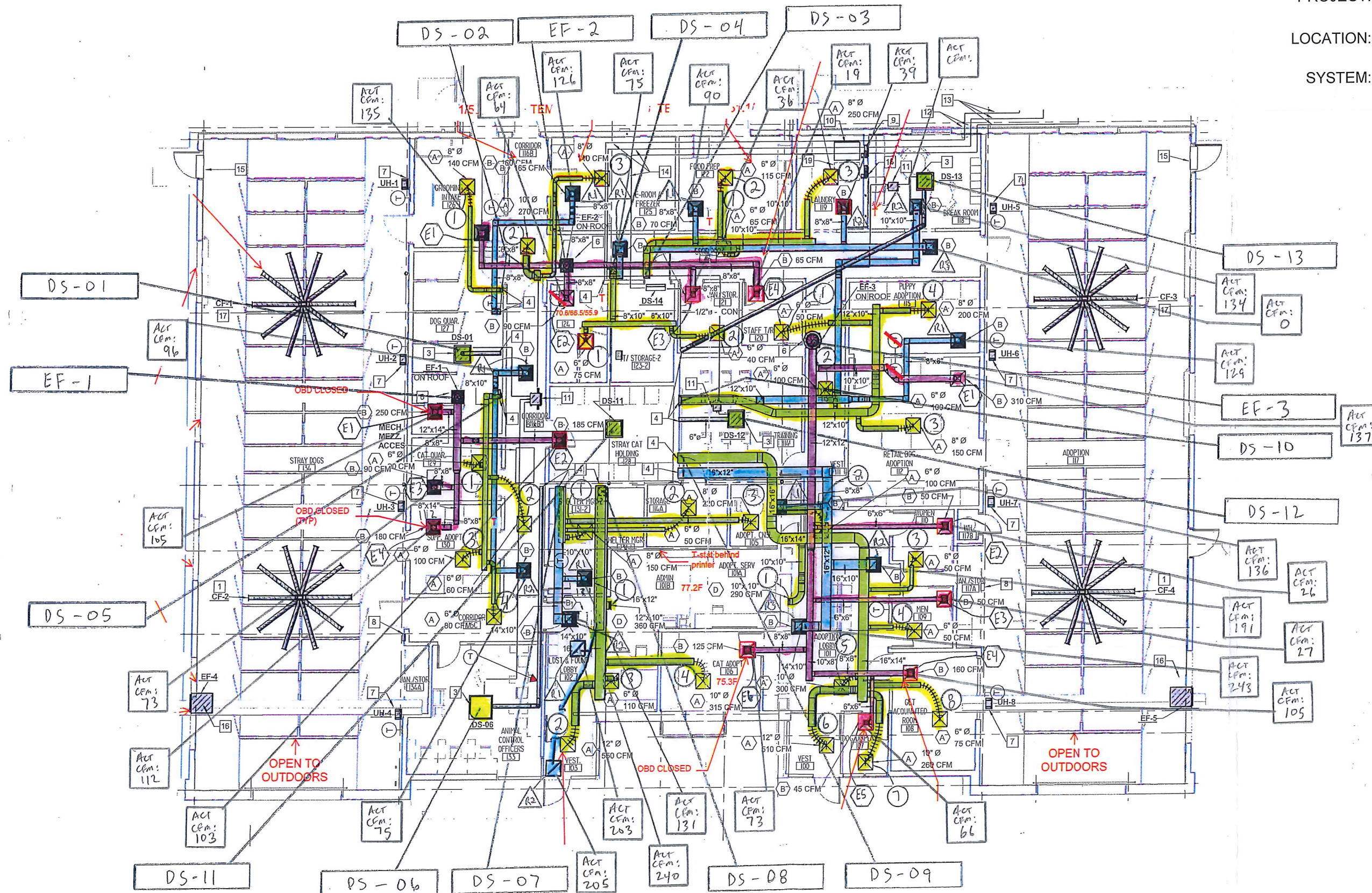


SYSTEM DIAGRAM

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

LOCATION: ENTIRE PROJECT

SYSTEM: ACTUAL EXHAUST & RETURN INLET CFM



SYSTEM: BUILDING & ROOM PRESSURES



AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-02
AREA SERVED: VARIOUS AREAS

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU183BHA2
Serial No.	306KAAE0008
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	454	272
Outlet CFM	550	232
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	195	65
Return Air CFM	355	207

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .49
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-02
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	10	SQ FT	0.83	FPM	660	CFM	550	FPM	326	CFM	272
HEIGHT	12	S.P.	0.01								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	347	321	264	0								
2	410	398	469	309								
3	397	455	344	531								
4	300	359	317	0								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1454	1533	1394	840								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
5221	16	326	272

REMARKS:

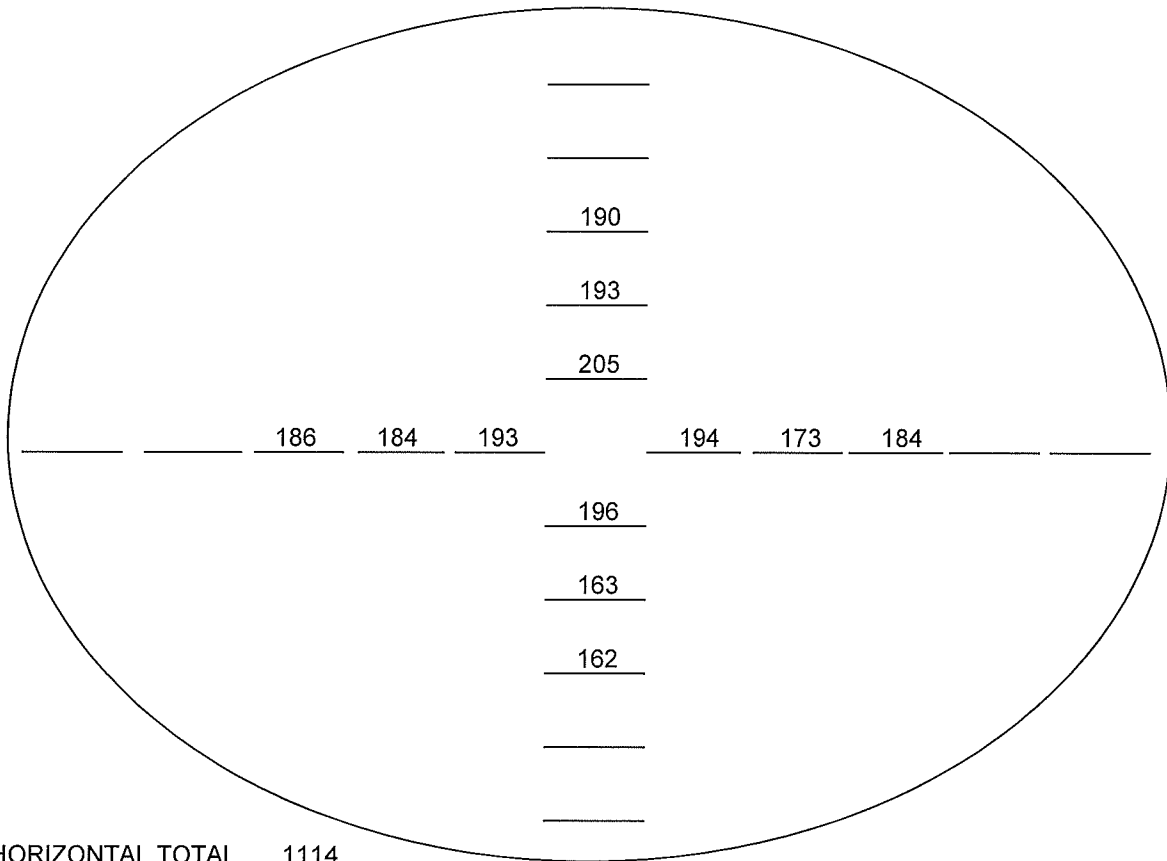
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-02
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	8 "(DIA)	SQ FT	0.349	FPM	559	CFM	195	FPM	185	CFM	65
		S.P.	-0.04								



HORIZONTAL TOTAL 1114

VERTICAL TOTAL 1109

TOTAL FPM 2223

NO. READINGS 12 AVG. FPM 185 X SQ. FT. 0.349 = CFM 65

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-02
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	8	SQ FT	0.44	FPM	630	CFM	280	FPM	320	CFM	142
HEIGHT	8	S.P.	-0.05								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	185	317	303	161								
2	384	417	359	327								
3	313	402	380	309								
4	299	391	365	215								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1181	1527	1407	1012								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
5127	16	320	0.44
			142

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: DS-02

[illegible]

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-03
AREA SERVED: VARIOUS AREAS

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU123BHA2
Serial No.	303KANY00151
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	425	260
Outlet CFM	430	246
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	150	99
Return Air CFM	280	161

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .48
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-03
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	10	SQ FT	0.69	FPM	619	CFM	430	FPM	375	CFM	260
HEIGHT	10	S.P.	0.11								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	370	370	346	379								
2	381	435	383	398								
3	330	431	342	411								
4	309	398	331	382								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1390	1634	1402	1570								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
5996	16	375	260

REMARKS:

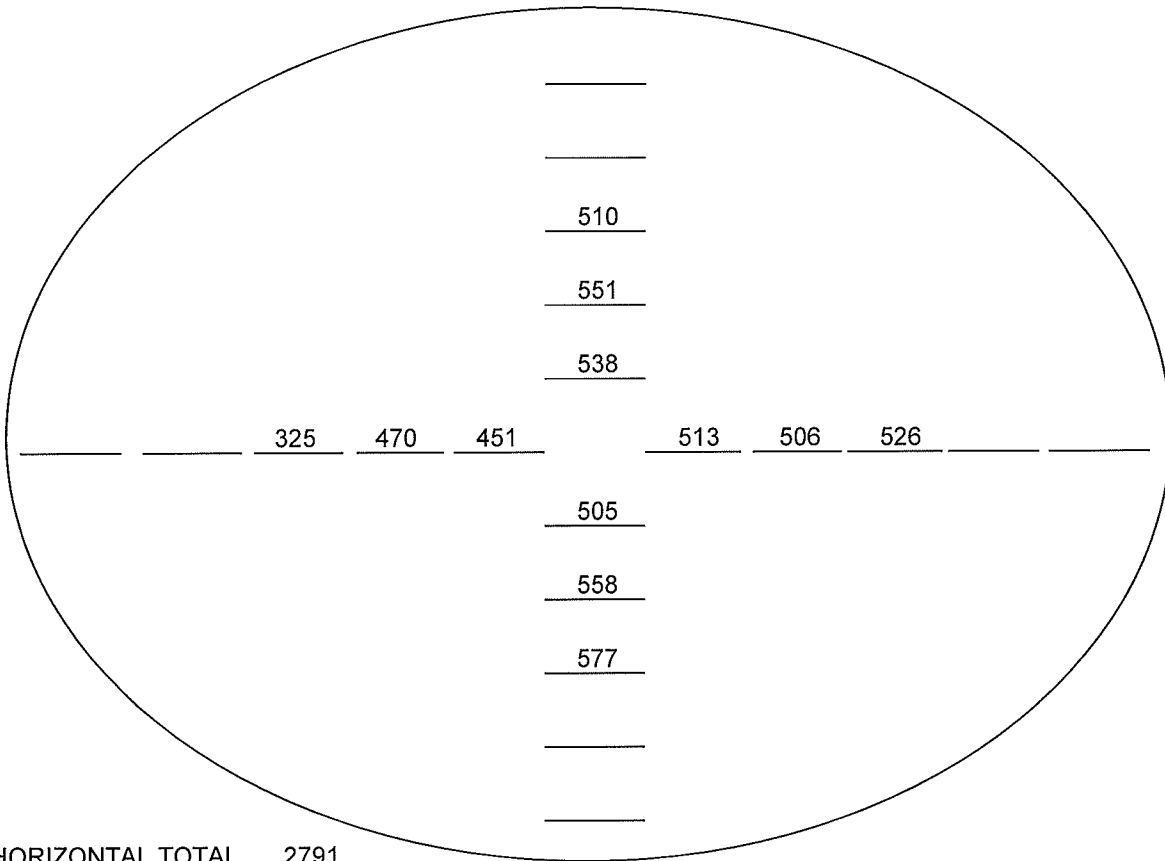
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-03
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	764	CFM	150	FPM	503	CFM	99
		S.P.	-0.06								



HORIZONTAL TOTAL 2791

VERTICAL TOTAL 3239

TOTAL FPM 6030

NO. READINGS 12 AVG. FPM 503 X SQ. FT. 0.196 = CFM 99

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-03
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	8	SQ FT	0.44	FPM	630	CFM	280	FPM	296	CFM	132
HEIGHT	8	S.P.	-0.06								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	263	267	293	264								
2	302	321	345	332								
3	226	329	335	315								
4	176	299	355	312								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	967	1216	1328	1223								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
4734	16	296	132

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: DS-03

[illegible]

REMARKS: (1) EXISTING RETURN INLET IS NOT INSTALLED.

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-04
AREA SERVED: QUARANTINE 124 / JAN. / STOR. 121

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU123BHA2
Serial No.	303KAWQ00153
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	425	129
Outlet CFM	115	120
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	150	37
Return Air CFM	(3)	92

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .25
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.
(3) DESIGN OUTLET CFM IS LOWER THAN DESIGN OUTSIDE AIR CFM.

TEST DATE: 6/24/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-04
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	10	SQ FT	0.69	FPM	166	CFM	115	FPM	186	CFM	129
HEIGHT	10	S.P.	0.17								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	52	194	223	205								
2	76	198	202	218								
3	105	197	245	206								
4	172	235	247	200								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	405	824	917	829								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
2975	16	186	129

REMARKS:

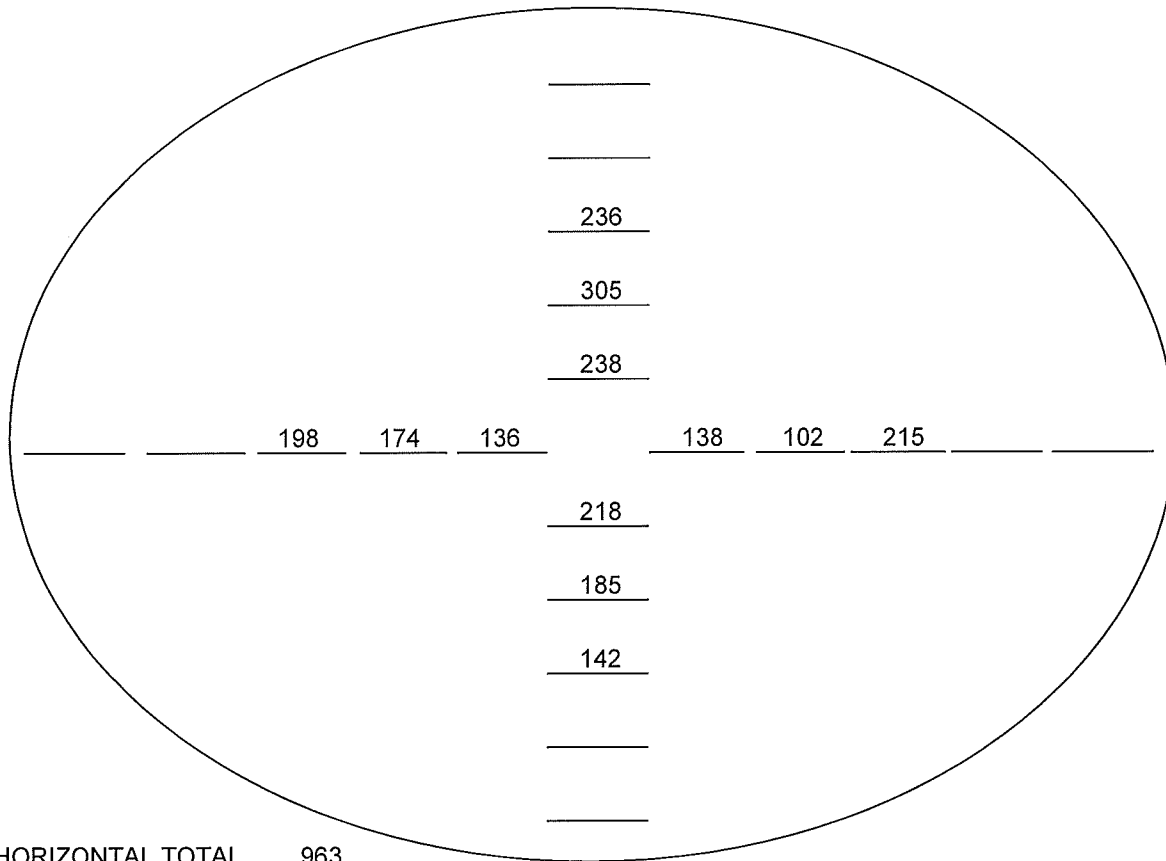
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-04
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	764	CFM	150	FPM	191	CFM	37
		S.P.	-0.03								



HORIZONTAL TOTAL 963

VERTICAL TOTAL 1324

TOTAL FPM 2287

NO. READINGS 12 AVG. FPM 191 X SQ. FT. 0.196 = CFM 37

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-04
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	10	SQ FT	0.83	FPM	(1)	CFM	(1)	FPM	75	CFM	62
HEIGHT	12	S.P.	-0.02								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	63	77	87	75								
2	77	93	88	83								
3	63	70	66	78								
4	55	68	73	81								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	258	308	314	317								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
1197	16	75	0.83
			62

REMARKS: (1) DESIGN OUTLET CFM LOWER THAN DESIGN OUTSIDE AIR CFM.

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: DS-04

[illegible]

REMARKS: (1) UNIT SCHEDULED FOR 425.

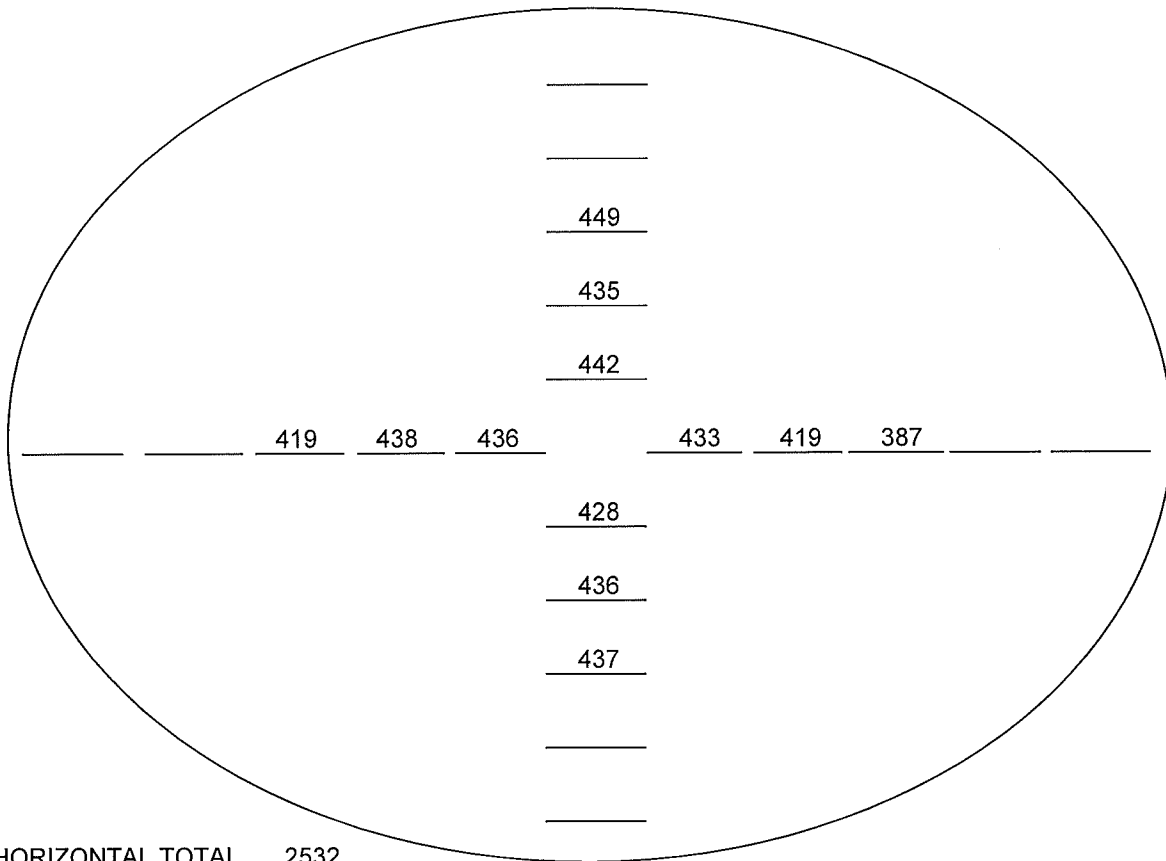
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-04
 AIRSTREAM: OUTLET 1

SIZE	DUCT 6 "(DIA)	SQ FT	0.196	REQUIRED				ACTUAL			
				FPM	382	CFM	75	FPM	430	CFM	84
		S.P.	0.05								



HORIZONTAL TOTAL 2532

VERTICAL TOTAL 2627

TOTAL FPM 5159

NO. READINGS 12 AVG. FPM 430 X SQ. FT. 0.196 = CFM 84

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-05
AREA SERVED: VARIOUS AREAS

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU073BHA2
Serial No.	304KAKN00013
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	245	369
Outlet CFM	270	335
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	90	136
Return Air CFM	180	233

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .33
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-05
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	8	SQ FT	0.44	FPM	608	CFM	270	FPM	830	CFM	369
HEIGHT	8	S.P.	0.13								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	991	974	1003	816								
2	965	700	802	820								
3	805	697	729	790								
4	904	747	782	753								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	3665	3118	3316	3179								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM	
13278	16	830	0.44	369

REMARKS:

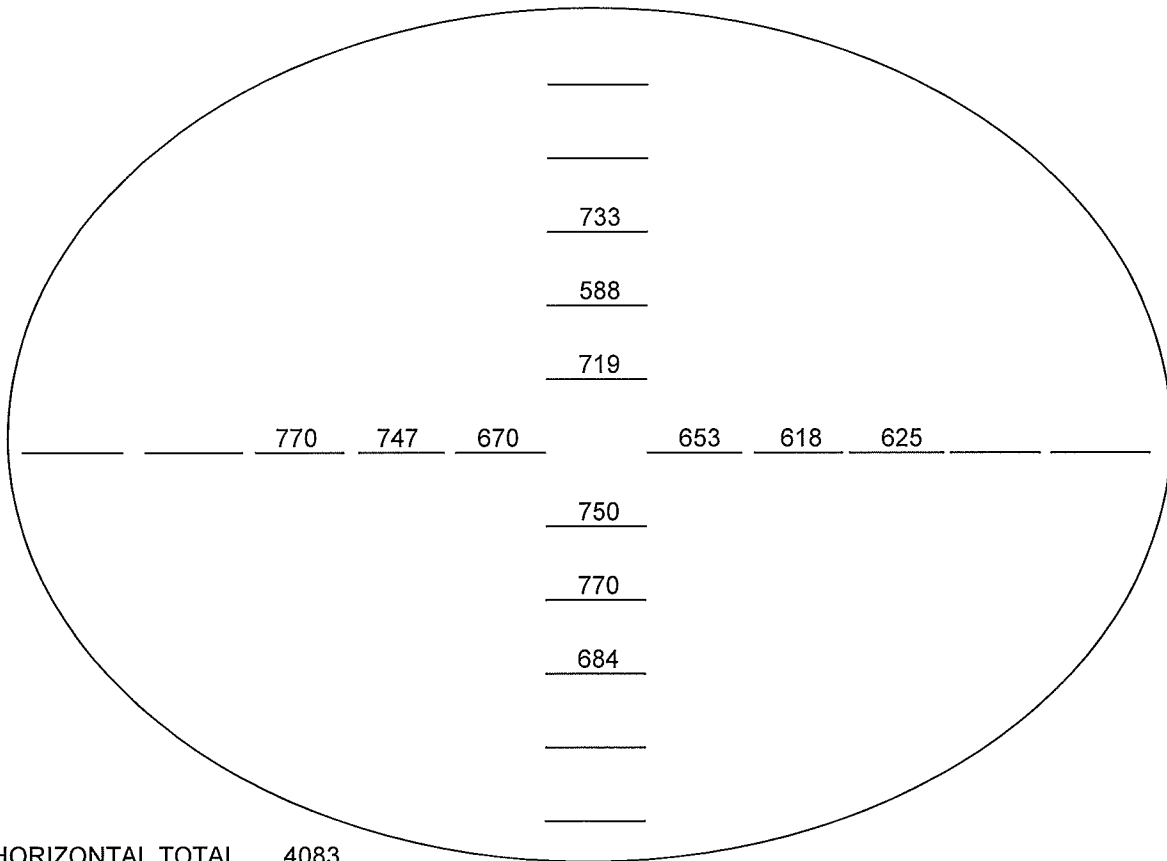
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-05
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	458	CFM	90	FPM	694	CFM	136
		S.P.	-0.10								



HORIZONTAL TOTAL 4083

VERTICAL TOTAL 4244

TOTAL FPM 8327

NO. READINGS 12 AVG. FPM 694 X SQ. FT. 0.196 = CFM 136

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-05
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	8	SQ FT	0.44	FPM	80	CFM	180	FPM	374	CFM	166
HEIGHT	8	S.P.	-0.05								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	212	424	341	320								
2	390	414	443	372								
3	405	326	477	366								
4	311	380	455	342								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1318	1544	1716	1400								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
5978	16	374	166

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: DS-05

[illegible]

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-07
AREA SERVED: VARIOUS AREAS

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU123BHA2
Serial No.	303KAN00149
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	425	446
Outlet CFM	420	427
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	150	59
Return Air CFM	270	387

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .43
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-07
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	10	SQ FT	0.69	FPM	605	CFM	420	FPM	643	CFM	446
HEIGHT	10	S.P.	0.08								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	0	560	676	158								
2	607	758	891	906								
3	759	672	743	885								
4	656	632	704	680								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	2022	2622	3014	2629								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
10287	16	643	446

REMARKS:

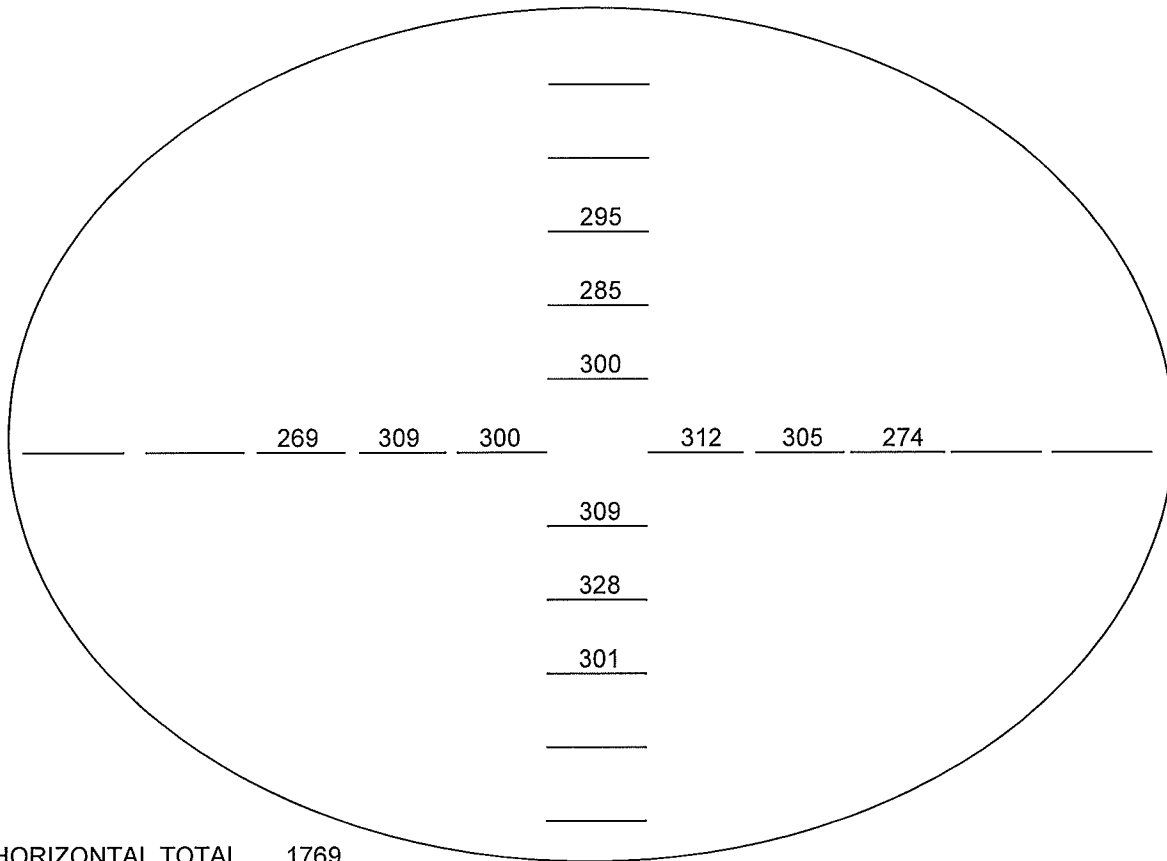
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-07
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	764	CFM	150	FPM	299	CFM	59
		S.P.	-0.08								



HORIZONTAL TOTAL 1769

VERTICAL TOTAL 1818

TOTAL FPM 3587

NO. READINGS 12 AVG. FPM 299 X SQ. FT. 0.196 = CFM 59

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-07
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	14	SQ FT	0.97	FPM	263	CFM	270	FPM	360	CFM	350
HEIGHT	10	S.P.	-0.09								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	313	397	340	270								
2	356	407	406	355								
3	333	391	390	382								
4	372	382	367	306								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1374	1577	1503	1313								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
5767	16	360	350

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: DS-07

[illegible]

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-08
AREA SERVED: VARIOUS AREAS

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU363BGA2
Serial No.	305KACA00059
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	1335	630
Outlet CFM	(3) 785	610
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	485	65
Return Air CFM	300	565

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .33
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.
(3) EXISTING OUTLET TWO IS NOT INSTALLED AND HAS A DESIGN CFM OF 550, ESSENTIALLY REDUCING TOTAL DESIGN CFM OF SYSTEM.

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: ABOVE CEILING SHELTER MNGR. 131-2
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-08
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	16	SQ FT	1.56	FPM	505	CFM	785	FPM	405	CFM	630
HEIGHT	14	S.P.	0.07								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	0	0	484	419								
2	444	507	532	509								
3	337	522	525	504								
4	253	487	504	455								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1034	1516	2045	1887								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM	
6482	16	405	1.56	630

REMARKS:

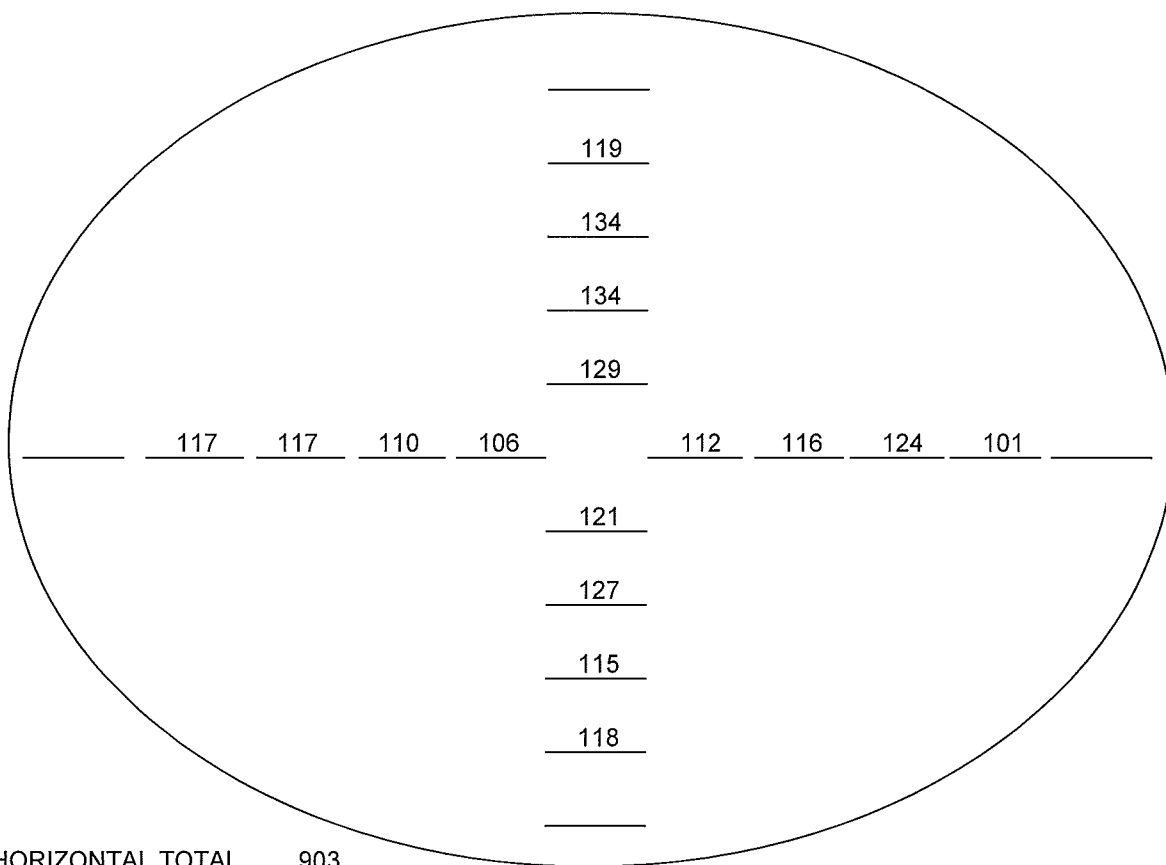
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-08
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	10 "(DIA)	SQ FT	0.545	FPM	889	CFM	485	FPM	119	CFM	65
		S.P.	-0.05								



HORIZONTAL TOTAL 903

VERTICAL TOTAL 997

TOTAL FPM 1900

NO. READINGS 16 AVG. FPM 119 X SQ. FT. 0.545 = CFM 65

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-08
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	16	SQ FT	1.56	FPM	193	CFM	300	FPM	303	CFM	471
HEIGHT	14	S.P.	-0.05								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	194	362	319	279								
2	221	380	369	318								
3	181	427	390	357								
4	93	324	318	316								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	689	1493	1396	1270								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
4848	16	303	471

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: DS-08

[illegible]

REMARKS: (1) EXISTING OUTLET NOT INSTALLED, ENTIRE ROOM IS MISSING.

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-09
AREA SERVED: VARIOUS AREAS

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU423BGA2
Serial No.	306KANY00031
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	1635	772
Outlet CFM	(3) 1125	758
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	500	123
Return Air CFM	625	649

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .44
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.
(3) EXISTING OUTLET TWO IS NOT INSTALLED AND HAS A DESIGN CFM OF 510, ESSENTIALLY REDUCING TOTAL DESIGN CFM OF SYSTEM.

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-09
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	16	SQ FT	1.56	FPM	723	CFM	1125	FPM	496	CFM	772
HEIGHT	14	S.P.	0.05								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	411	0	0	0								
2	552	665	920	1028								
3	511	545	953	903								
4	331	522	599	0								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1805	1732	2472	1931								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
7940	16	496	772

REMARKS:

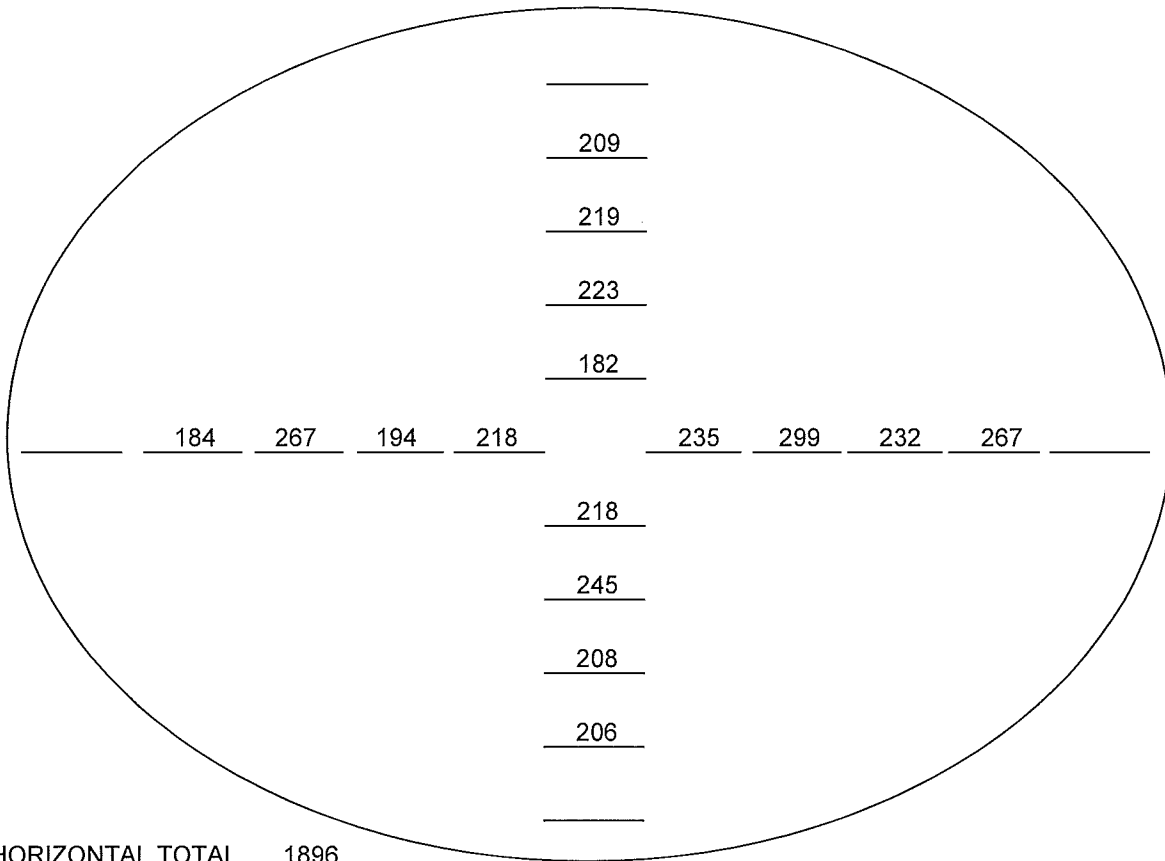
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-09
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	10 "(DIA)	SQ FT	0.545	FPM	917	CFM	500	FPM	225	CFM	123
		S.P.	-0.10								



HORIZONTAL TOTAL 1896

VERTICAL TOTAL 1710

TOTAL FPM 3606

NO. READINGS 16 AVG. FPM 225 X SQ. FT. 0.545 = CFM 123

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-09
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	16	SQ FT	1.33	FPM	469	CFM	625	FPM	411	CFM	548
HEIGHT	12	S.P.	-0.11								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	294	486	514	356								
2	522	565	557	257								
3	365	528	545	255								
4	337	397	382	214								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1518	1976	1998	1082								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
6574	16	411	548

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: DS-09

AREA SERVED	OUTLET			DESIGN	PRELIMINARY	FINAL	PERCENT OF DESIGN	NOTES
	NO.	TYPE	SIZE (INCH)	CFM	CFM	CFM		
ADOPT SERVE 101A	1	SW	10X10	290	275	275	95%	
VESTIBULE 111	2	LID	6	100	61	61	61%	
WOMEN 110	3	LID	6	50	41	41	82%	
MEN 109	4	LID	6	50	40	40	80%	
ADOPTION LOBBY 101	5	LID	10	300	221	221	74%	
VESTIBULE 100	6	LID	12	510				(1)
DOG DISP. 107	7	LID	10	260	66	66	25%	
GET ACQ. RM. 108	8	LID	6	75	54	54	72%	
				1635	758	758	46%	
ADOPT CAGE 105	R1	LID	8X8	NOT GIVEN	136	136		
ADOPTION LOBBY 101	R2	LID	16X10	NOT GIVEN	191	191		
ADOPTION LOBBY 101	R3	LID	16X10	NOT GIVEN	243	243		
				NOT GIVEN	570	570		

REMARKS: (1) EXISTING OUTLET NOT INSTALLED, ENTIRE ROOM IS MISSING.

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR APPARATUS TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION: MEZZANINE

SYSTEM/UNIT: DS-10
AREA SERVED: VARIOUS AREAS

UNIT DATA	
Make/Type	LG / FC
Model No.	ARNU123BHA2
Serial No.	303KLAC00144
Arrangement	(1)
Discharge	HORIZONTAL
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
No. Belts/Make/Size	DIRECT DRIVE
No. Filters/Type/Size	(1)

MOTOR DATA	
Make/Frame	(1)
H.P./RPM	(1)
Volts/Phase/Hertz	(1)
F.L. Amps/S.F.	(1)
Make Sheave	DIRECT DRIVE
Sheave Diam/Bore	DIRECT DRIVE
Sheave Ctr. Distance	DIRECT DRIVE
Sheave Operating P.D.	DIRECT DRIVE
Motor Speed	HIGH
Static Press. Setpoint	N/A

TEST DATA	DESIGN	ACTUAL
Total CFM	425	383
Outlet CFM	500	363
Fan RPM	DIRECT DRIVE	DIRECT DRIVE
Motor Volts	(1)	(1)
Motor Amps	(1)	(1)
Outside Air CFM	150	57
Return Air CFM	350	326

TEST DATA	DESIGN	ACTUAL
Discharge S.P.	NOT GIVEN	(1)
Suction S.P.	NOT GIVEN	(1)
Total S.P.	NOT GIVEN	(1)
Ext. S.P.	NOT GIVEN	(2) .21
Reheat Coil Diff. S.P.	N/A	N/A
Cooling Coil Diff. S.P.	NOT GIVEN	(1)
Preheat Coil Diff. S.P.	N/A	N/A
Filters Diff. S.P.	NOT GIVEN	(1)
O/A Damper Pos.	NOT GIVEN	(1)
R/A Damper Pos.	NOT GIVEN	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.
(2) ENTERING STATIC PRESSURE WAS OBTAINED DOWNSTREAM OF FILTER.

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: ABOVE CEILING TRAINING 114
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-10
AIRSTREAM: TOTAL SUPPLY

DUCT				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	0.83	FPM	600	CFM	500	FPM	460	CFM	383
HEIGHT	10	S.P.	0.06								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	442	525	511	510								
2	450	529	501	515								
3	437	474	455	477								
4	297	402	391	439								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1626	1930	1858	1941								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
7355	16	460	383

REMARKS:

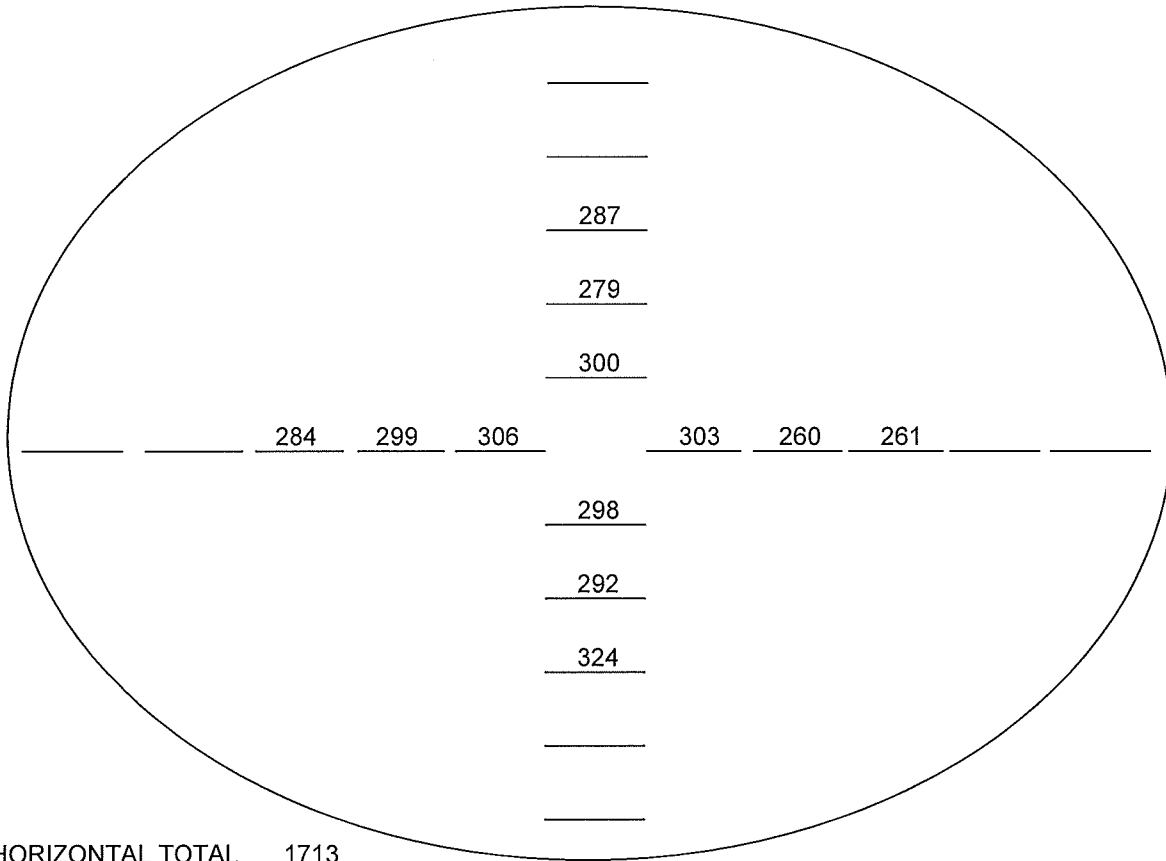
TEST DATE: 6/23/20
READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-10
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	764	CFM	150	FPM	291	CFM	57
		S.P.	-0.07								



HORIZONTAL TOTAL 1713

VERTICAL TOTAL 1780

TOTAL FPM 3493

NO. READINGS 12 AVG. FPM 291 X SQ. FT. 0.196 = CFM 57

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: MEZZANINE
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-10
AIRSTREAM: RETURN AIR

DUCT				REQUIRED				ACTUAL			
WIDTH	16	SQ FT	1.56	FPM	225	CFM	350	FPM	188	CFM	292
HEIGHT	14	S.P.	-0.08								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	151	224	236	286								
2	229	320	359	328								
3	158	142	203	217								
4	0	0	50	99								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	538	686	848	930								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
3002	16	188	292

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

SYSTEM: DS-09

47

REMARKS: (1) TRAVERSE READINGS INDICATE OUTSIDE AIR IS LEAVING UNIT INSTEAD OF ENTERING UNIT.
(2) ACTUAL CFM SHOWN READ VIA FLOW HOOD.

48

FACE VELOCITY REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: DOG QUARANTINE 127
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-01
 AIRSTREAM: RETURN AIR

FACE OPENING				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	1.00	FPM	240	CFM	240	FPM	406	CFM	406
HEIGHT	12										

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	410	391										
2	410	412										
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
	820	803										

TOTAL FPM	/ NO. READINGS = AVG. FPM		x SQ FT.	= CFM
1623	4	406	1.00	406

REMARKS:

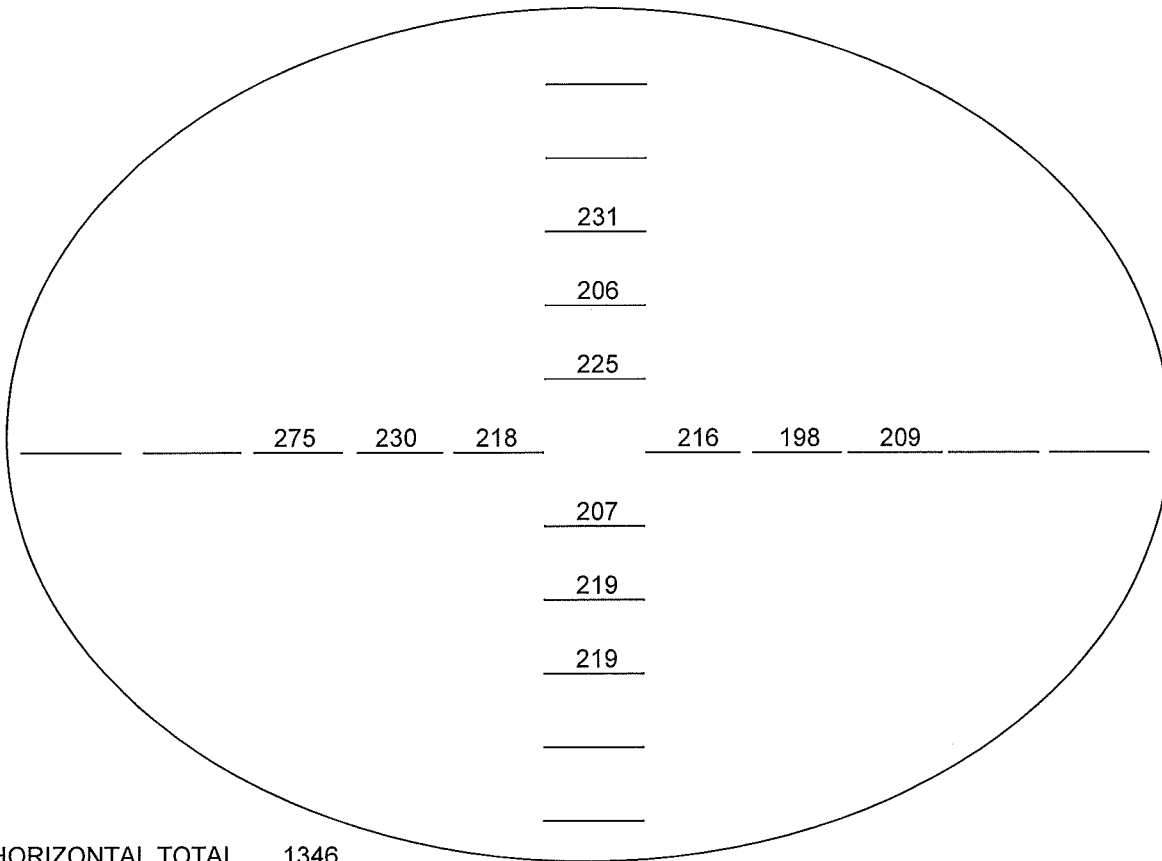
TEST DATE: 6/23/20
 READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-01
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	127	CFM	25	FPM	221	CFM	43
		S.P.	-0.04								



HORIZONTAL TOTAL 1346

VERTICAL TOTAL 1307

TOTAL FPM 2653

NO. READINGS 12 AVG. FPM 221 X SQ. FT. 0.196 = CFM 43

REMARKS: (1) READINGS INDICATE OUTSIDE AIR IS LEAVING UNIT INSTEAD OF ENTERING UNIT.

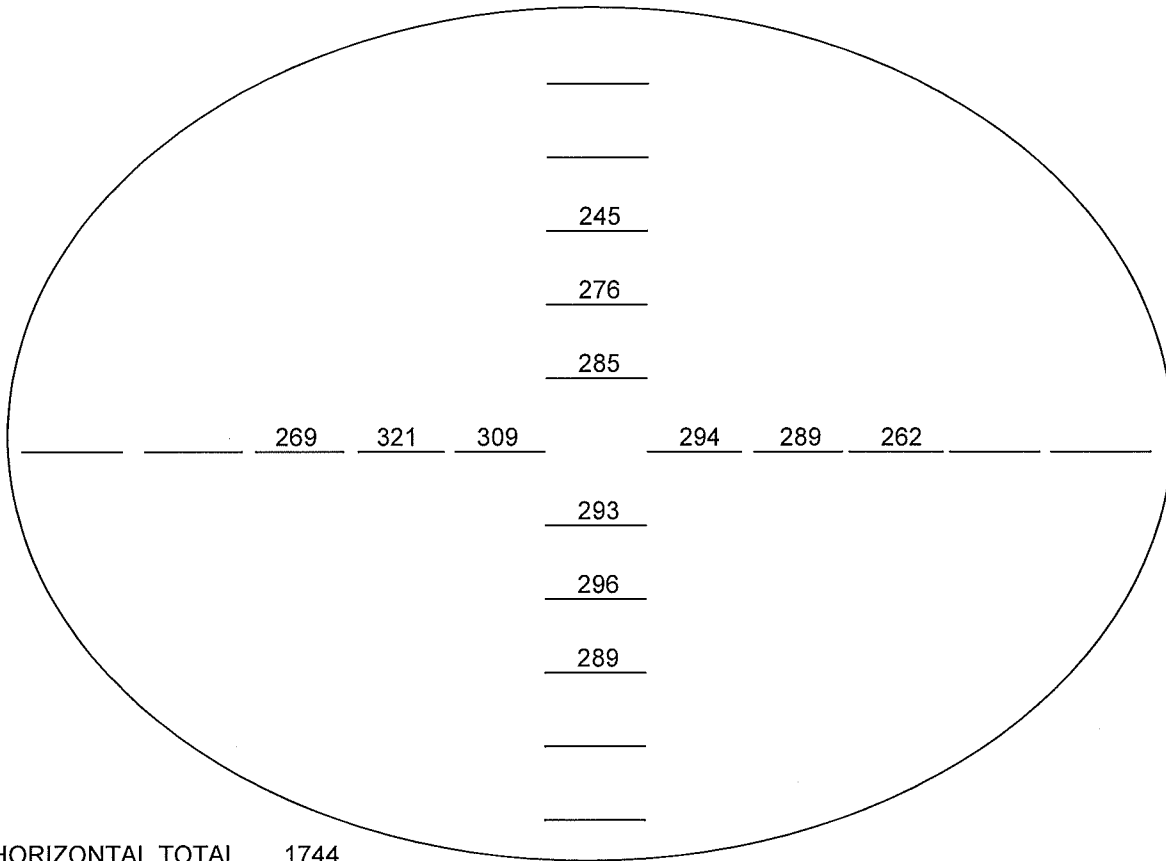
TEST DATE: 6/23/20
 READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-06
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	341	CFM	67	FPM	286	CFM	56
		S.P.	-0.05								



HORIZONTAL TOTAL 1744

VERTICAL TOTAL 1684

TOTAL FPM 3428

NO. READINGS 12 AVG. FPM 286 X SQ. FT. 0.196 = CFM 56

REMARKS: (1) READINGS INDICATE OUTSIDE AIR IS LEAVING UNIT INSTEAD OF ENTERING UNIT.

TEST DATE: 6/23/20
 READINGS BY: VR / DA

FACE VELOCITY REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: STRAY CAT HOLDING 128
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-11
 AIRSTREAM: RETURN AIR

FACE OPENING				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	1.00	FPM	277	CFM	277	FPM	278	CFM	278
HEIGHT	12										

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	276	272										
2	292	270										
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
	568	542										

TOTAL FPM	/ NO. READINGS = AVG. FPM		x SQ FT.	= CFM
1110	4	278	1.00	278

REMARKS:

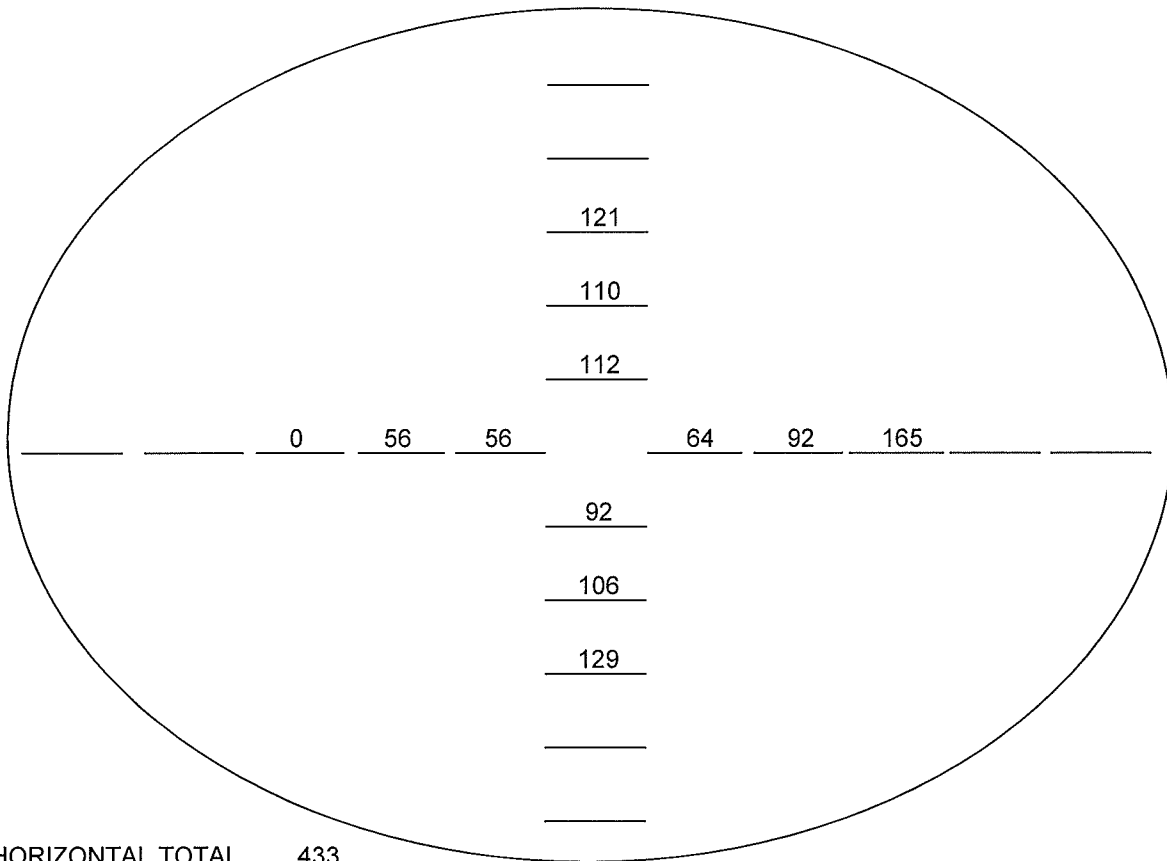
TEST DATE: 6/23/20
 READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-11
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	153	CFM	30	FPM	92	CFM	18
		S.P.	-0.01								



HORIZONTAL TOTAL 433

VERTICAL TOTAL 670

TOTAL FPM 1103

NO. READINGS 12 AVG. FPM 92 X SQ. FT. 0.196 = CFM 18

REMARKS:

TEST DATE: 6/23/20
 READINGS BY: VR / DA

FACE VELOCITY REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: TRAINING 114
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-12
 AIRSTREAM: RETURN AIR

FACE OPENING				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	1.00	FPM	240	CFM	240	FPM	396	CFM	396
HEIGHT	12										

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	398	393										
2	404	389										
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
	802	782										

TOTAL FPM	/ NO. READINGS = AVG. FPM		x SQ FT.	= CFM
1584	4	396	1.00	396

REMARKS:

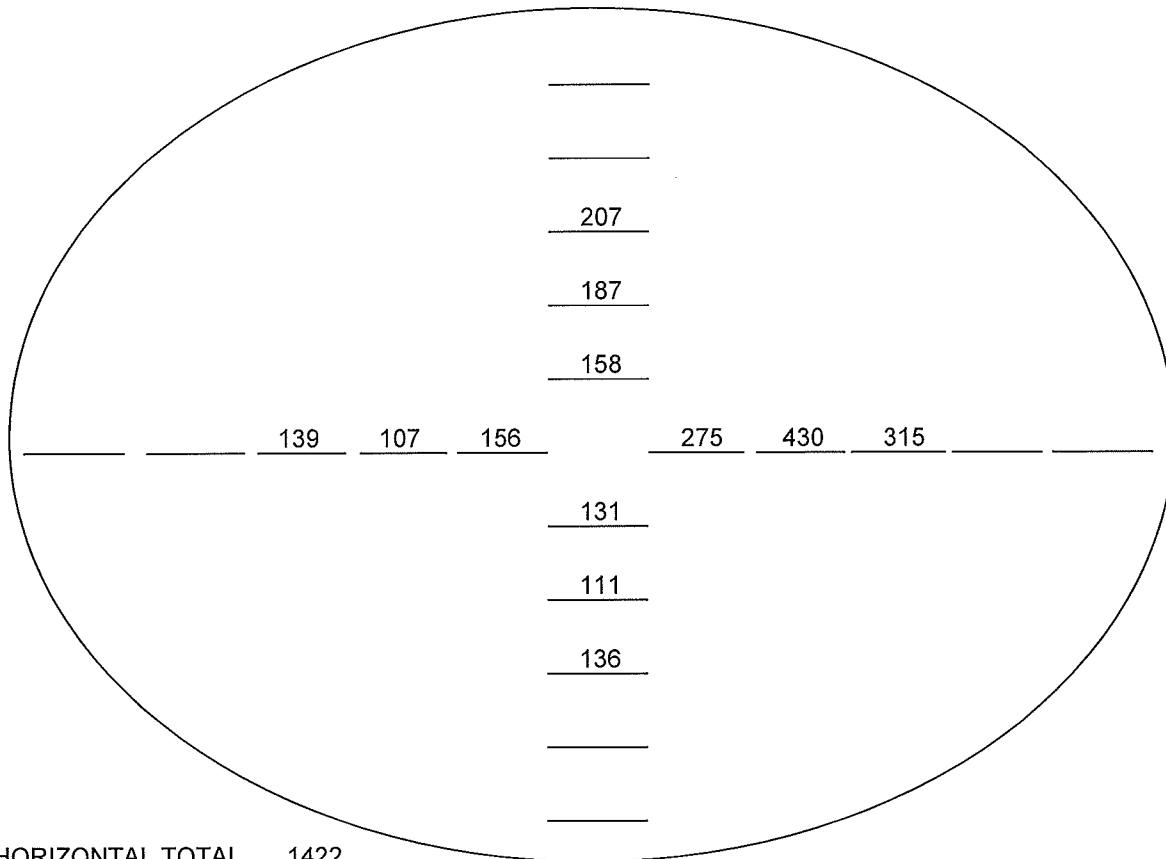
TEST DATE: 6/23/20
 READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-12
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	127	CFM	25	FPM	196	CFM	38
		S.P.	0.01								



HORIZONTAL TOTAL 1422

VERTICAL TOTAL 930

TOTAL FPM 2352

NO. READINGS 12 AVG. FPM 196 X SQ. FT. 0.196 = CFM 38

REMARKS: (1) READINGS INDICATE OUTSIDE AIR IS LEAVING UNIT INSTEAD OF ENTERING UNIT.

TEST DATE: 6/23/20
 READINGS BY: VR / DA

FACE VELOCITY REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: BREAK RM. 118
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-13
 AIRSTREAM: RETURN AIR

FACE OPENING				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	1.00	FPM	356	CFM	356	FPM	514	CFM	514
HEIGHT	12										

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	512	519										
2	514	511										
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1026	1030										

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM	
2056	4	514	1.00	514

REMARKS:

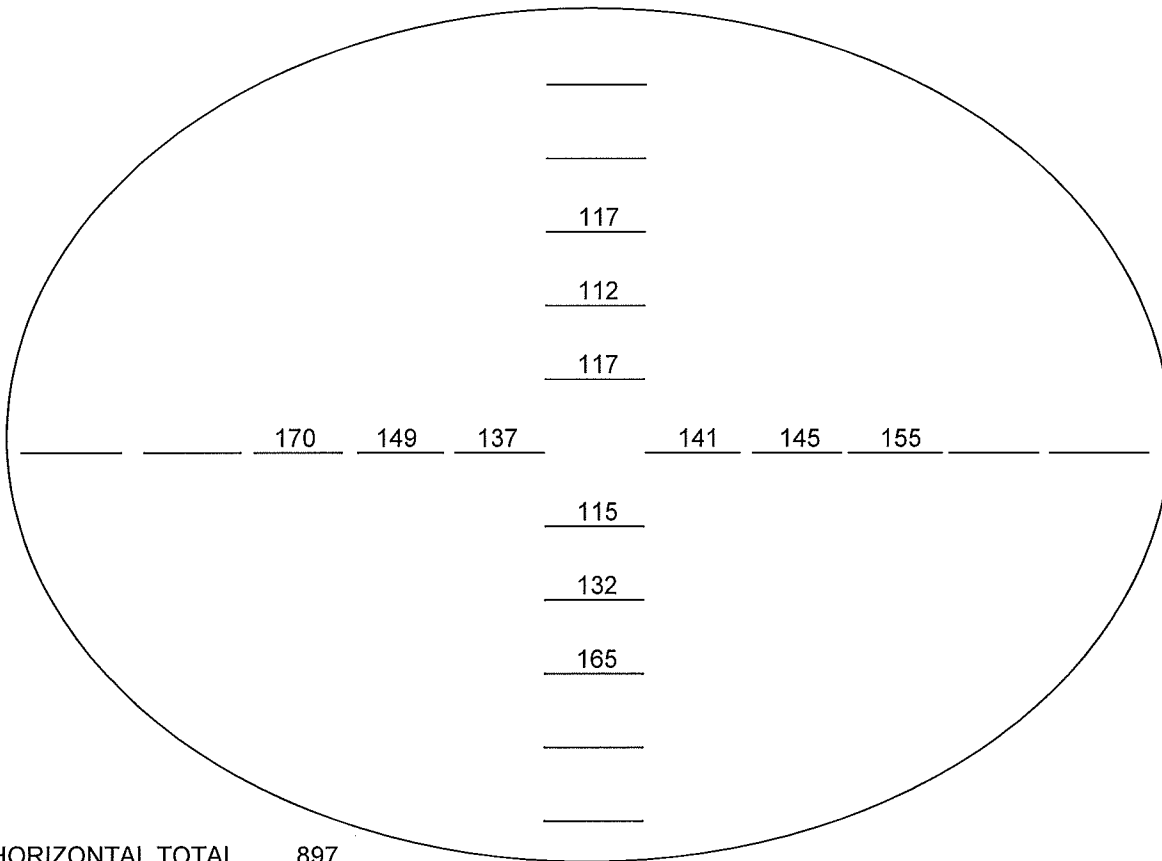
TEST DATE: 6/23/20
 READINGS BY: VR / DA

ROUND DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
 LOCATION/ZONE: MEZZANINE
 INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: DS-13
 AIRSTREAM: O/A

DUCT				REQUIRED				ACTUAL			
SIZE	6 "(DIA)	SQ FT	0.196	FPM	204	CFM	40	FPM	138	CFM	27
		S.P.	0.15								



HORIZONTAL TOTAL 897

VERTICAL TOTAL 758

TOTAL FPM 1655

NO. READINGS 12 AVG. FPM 138 X SQ. FT. 0.196 = CFM 27

REMARKS: (1) READINGS INDICATE OUTSIDE AIR IS LEAVING UNIT INSTEAD OF ENTERING UNIT.

TEST DATE: 6/23/20
 READINGS BY: VR / DA

FAN TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

FAN DATA	FAN NO.	EF-1	FAN NO.	EF-2	FAN NO.	EF-3
Location	ROOF		ROOF		ROOF	
Service	VARIOUS AREAS		VARIOUS AREAS		VARIOUS AREAS	
Manufacturer/Type	(1)		(1)		(1)	
Model Number	(1)		(1)		(1)	
Serial Number	(1)		(1)		(1)	
Motor Make/Frame	(1)		(1)		(1)	
Motor H.P./RPM	(1)		(1)		(1)	
Volts/Phase/Hertz	(1)		(1)		(1)	
F.L. Amps/S.F.	(1)		(1)		(1)	
Motor Sheave Make	(1)		(1)		(1)	
Motor Sheave Diam./Bore	(1)		(1)		(1)	
Fan Sheave Make	(1)		(1)		(1)	
Fan Sheave Diam./Bore	(1)		(1)		(1)	
No. Belts/Make/Size	(1)		(1)		(1)	
Sheave Center Distance	(1)		(1)		(1)	
Sheave Operating P.D.	(1)		(1)		(1)	
Fan Speed / HZ	(1)		(1)		(1)	
TEST DATA	DESIGN	ACTUAL	DESIGN	ACTUAL	DESIGN	ACTUAL
CFM Total	525	414	490	300	945	483
CFM Inlet / Outlet	705	393	385	254	740	434
Fan RPM	(1)	(1)	(1)	(1)	(1)	(1)
S.P. In	NOT GIVEN	(1)	NOT GIVEN	(1)	NOT GIVEN	(1)
S.P. Out	NOT GIVEN	(1)	NOT GIVEN	(1)	NOT GIVEN	(1)
Total S.P.	0.5	(1)	0.5	(1)	0.5	(1)
Voltage	(1)	(1)	(1)	(1)	(1)	(1)
Amperage	(1)	(1)	(1)	(1)	(1)	(1)

REMARKS: (1) DATA AND READINGS NOT OBTAINED.

TEST DATE: 6/23/20
 READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: ABOVE CEILING DOG QUARANTINE 127
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: EF-1
AIRSTREAM: TOTAL EXHAUST

DUCT				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	1.17	FPM	604	CFM	705	FPM	355	CFM	414
HEIGHT	14	S.P.	-0.07								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	426	410	379	408								
2	407	389	380	334								
3	218	343	330	297								
4	343	325	362	326								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1394	1467	1451	1365								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM	
5677	16	355	1.17	414

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: EF-1

[illegible]

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: ABOVE CEILING DOG QUARANTINE 127
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: EF-1
AIRSTREAM: INLET E1

DUCT				REQUIRED				ACTUAL			
WIDTH	8	SQ FT	0.44	FPM	563	CFM	250	FPM	236	CFM	105
HEIGHT	8	S.P.	0.06								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	184	188	140	184								
2	232	163	176	220								
3	258	282	259	269								
4	311	308	317	291								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	985	941	892	964								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
3782	16	236	105

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: ABOVE CEILING CORRIDOR 116
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: EF-2
AIRSTREAM: TOTAL EXHAUST

DUCT				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	1.00	FPM	385	CFM	385	FPM	300	CFM	300
HEIGHT	12	S.P.	-0.08								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	246	258	346	390								
2	254	221	264	418								
3	287	226	181	411								
4	337	248	315	400								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	1124	953	1106	1619								

TOTAL FPM	/ NO. READINGS = AVG. FPM	x SQ FT.	= CFM
4802	16	300	1.00
			300

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

SYSTEM: EF-2

63

RECTANGULAR DUCT TRAVERSE REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER
LOCATION/ZONE: ABOVE CEILING VESTIBULE 111
INSTRUMENT: SHORTRIDGE AIR DATA METER

SYSTEM/UNIT: EF-3
AIRSTREAM: TOTAL EXHAUST

DUCT				REQUIRED				ACTUAL			
WIDTH	12	SQ FT	1.00	FPM	740	CFM	740	FPM	483	CFM	483
HEIGHT	12	S.P.	-0.11								

POSITION	1	2	3	4	5	6	7	8	9	10	11	12
1	498	604	574	481								
2	548	623	532	474								
3	608	559	453	394								
4	457	330	250	344								
5												
6												
7												
8												
9												
10												
11												
12												
13												
	2111	2116	1809	1693								

TOTAL FPM	/ NO. READINGS = AVG. FPM		x SQ FT.	= CFM
7729	16	483	1.00	483

REMARKS:

TEST DATE: 6/23/20
READINGS BY: VR / DA

AIR OUTLET TEST REPORT

PROJECT: SCHERTZ ANIMAL ADOPTION CENTER

SYSTEM: EF-3

[illegible]

REMARKS: (1) INLET LOCATION IS OUTSIDE OF ROOM.

TEST DATE: 6/23/20
READINGS BY: VR / DA

Appendix D

Cx ASSIST/ISSUES LOG

23		Open Items	CITY OF SCHERTZ - ANIMAL ADOPTION CENTER - RETRO-Cx ASSIST LOG									
0		Pending										
0		Closed Items										
23		Total Items										
TGCE PROJECT #: 1393.00												
Item	Status	Type	Subtype	Room / Location	Equip./ System Ident.	Description	Date Open	Opened By	Date Closed	Closed By	Notes*	
1	Open	Mech-Ctrls	Observation	N/A	All	IDU addresses on Laptop Service Tool are not mapped to equivalent equipment numbers (e.g., IDU-2 = DS-01). The LG software is unable to rename IDU addresses as it auto-assigns during system start-up. TGCE and TAS had to investigate via thermostat mapping in order to identify all systems.	6/23/20	TG				
2	Open	Mech-Ctrls	Observation	N/A	DSCU-A	The AC Smart outside air sensor is located within the condensing unit cabinet which is picking up system heat rejection and therefore, is not an accurate representation of true ambient conditions. Additionally, the sensor only reads temperature.	6/23/20	TG				
3	Open	Mech-Equip.	Observation	127	DS-01	Observed excessive fan noise. Texas Air Systems believes the noise is caused by failing fan motors.	6/23/20	TG				
4	Open	Mech-Equip.	Observation	Various	Cassettes	Upon traverse of O/A, reverse airflow was observed and therefore, design outside airflow is not being obtained. This condition was typical for all cassette style units. The LG Engineering Manual states that inline fans are required to push outdoor air to the indoor cassette unit to overcome the static pressure. This building is not equipped with inline fans on the outside air ductwork.	6/23/20	TG				
5	Open	Mech-Equip.	Observation	Various	Cassettes	Supply airflow cannot be accurately measured on cassette style units.	6/23/20	TG				
6	Open	Mech-Equip.	Observation	Various	Cassettes	Mixed air conditions could not be measured on cassette style units.	6/23/20	TG				
7	Open	Mech-Equip.	Observation	Platform	DS-02	Design supply airflow of 454 CFM is not being obtained.	6/23/20	TG				
8	Open	Mech-Equip.	Observation	Platform	DS-02	Design outside airflow of 195 CFM is not being obtained.	6/23/20	TG				
9	Open	Mech-Equip.	Observation	Platform	DS-03	Design supply airflow of 425 CFM is not being obtained.	6/23/20	TG				
10	Open	Mech-Equip.	Observation	Platform	DS-03	Design outside airflow of 150 CFM is not being obtained.	6/23/20	TG				
11	Open	Mech-Equip.	Observation	Platform	DS-04	Design supply airflow of 425 CFM is not being obtained.	6/23/20	TG				
12	Open	Mech-Equip.	Observation	Platform	DS-04	Design outside airflow of 150 CFM is not being obtained.	6/23/20	TG				
13	Open	Mech-Equip.	Observation	Platform	DS-05	Design supply airflow of 245 CFM is exceeded.	6/23/20	TG				
14	Open	Mech-Equip.	Observation	Platform	DS-05	Design outside airflow of 90 CFM is exceeded.	6/23/20	TG				
15	Open	Mech-Equip.	Observation	Platform	DS-07	Design supply airflow of 425 CFM is exceeded.	6/23/20	TG				
16	Open	Mech-Equip.	Observation	Platform	DS-07	Design outside airflow of 150 CFM is not being obtained.	6/23/20	TG				
17	Open	Mech-Equip.	Observation	Platform	DS-08	Design supply airflow of 1335 CFM is not being obtained.	6/23/20	TG				
18	Open	Mech-Equip.	Observation	Platform	DS-08	Design outside airflow of 485 CFM is not being obtained.	6/23/20	TG				
19	Open	Mech-Equip.	Observation	Platform	DS-09	Design supply airflow of 1635 CFM is not being obtained.	6/23/20	TG				
20	Open	Mech-Equip.	Observation	Platform	DS-09	Design outside airflow of 500 CFM is not being obtained.	6/23/20	TG				
21	Open	Mech-Equip.	Observation	Platform	DS-10	Design supply airflow of 425 CFM is not being obtained.	6/23/20	TG				
22	Open	Mech-Equip.	Observation	Platform	DS-10	Design outside airflow of 150 CFM is not being obtained.	6/23/20	TG				
23	Open	Mech-Equip.	Observation	128	DS-11	EEV (electronic expansion valve) was found failed – Unit is currently not cooling and could not be commissioned.	6/23/20	TG				

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Public Works
Subject: Resolution No. 21-R-40 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz Texas, amending the Schertz/Seguin Local Government Corporation (SSLGC) Fiscal Year 2021 Annual Budget (C. Kelm/S. Williams/A. Beard)

BACKGROUND

The Schertz/Seguin Local Government Corporation (SSLGC) has a Retained Earnings Policy. This policy set a threshold for the minimum retained earnings to be held in the operating fund. This minimum policy was set at three months operating expenditures. Based on this policy and the results of the audit, there is over \$2,000,000 above this threshold available for use.

This budget amendment transfers \$501,685 from Retained Earnings to Electric to cover the cost increase in services from GVEC as a result of the February winter storm. This budget amendment also transfers \$1,000,000 to from Retained Earnings to the Repair and Replacement fund. The SSLGC Board of Directors unanimously approved this action on April 15, 2021 (Resolution #SSLGC R21-13).

GOAL

To approve the amended SSLGC budget amendment for FY 2021.

COMMUNITY BENEFIT

To enable SSLGC to continue to provide water to their customers through payment of the February 2021 GVEC electric bill and transfer of funds to Repair and Replacement for the continued maintenance of SSLGC's water infrastructure.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of the Resolution amending SSLGC FY 2021 to reappropriate funds to pay for an increase in GVEC costs as a result from the ice storm and

FISCAL IMPACT

Costs associated with this Resolution will be paid for out of appropriate funds of the SSLGC budget.

RECOMMENDATION

Approval of Resolution No. 21-R-40.

Attachments

Res. 21-R-40

SSLGC Resolution R21-13

RESOLUTION NO. 21-R-40

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS APPROVING A BUDGET AMENDMENT TO THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION FISCAL YEAR 2021 ANNUAL BUDGET, AND OTHER MATTERS IN CONNECTION THEREWITH. (SSLGC RESOLUTION #SSLGC R21-23)

WHEREAS, the Schertz Seguin Local Government Corporation (SSLGC) is a corporation for the provision of and transportation of water wholly owned by both the City of Schertz and the City of Seguin; and

WHEREAS, SSLGC By-Laws require that the corporation establish an annual budget and said annual budget must be approved by the SSLGC Board of Directors and both the City of Schertz and the City of Seguin; and

WHEREAS, the SSLGC's FY2021 Annual Budget was approved by City Council on June 25, 2019; and

WHEREAS the proposed budget amendment for FY 2021, provided herein as Attachment A, has been approved by the SSLGC Board of Directors at their regularly scheduled February Board Meeting; and

WHEREAS, the City staff of the City of Schertz (the "City") recommends that the City approve the Schertz/Seguin Local Government Corporation Fiscal Year 2021 Amended Annual Budget; and

WHEREAS, the City Council has determined that it is in the best interest of the City to approve the budget to ensure that the citizens and businesses of Schertz continue to receive excellent and vital water service.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the approval of the Schertz/Seguin Local Government Corporation Fiscal Year 2021 Amended Annual Budget.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of

such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of May 2021.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

A RESOLUTION AMENDING THE FISCAL YEAR 2021 SCHERTZ SEGUIN LOCAL GOVERNMENT CORPORATION BUDGET.

NOW, THEREFORE, BE IT RESOLVED THAT THE FISCAL YEAR 2021 SCHERTZ SEGUIN LOCAL GOVERNMENT CORPORATION BUDGET IS AMENDED AS FOLLOWS:

Schertz-Seguin Local Government Corporation Operating Fund

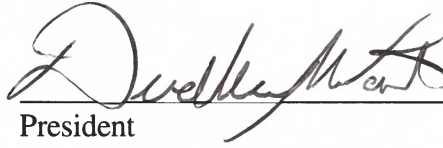
Amount	Increase:	Increase:
\$ 501,685	SSLGC-Operating Utilities Electric 058-9000-411000	SSLGC-Operating Non-Departmental Use of Retained Earnings 058-9800-960000
Reason requested:	To increase electric due to the increased bill from GVEC for the services during the February winter storm.	

Amount	Increase:	Increase:
\$1,000,000	SSLGC-Operating Intragovernmental Transfers Transfers to Repair & Replacement Fund 058-9000-826100	SSLGC-Operating Non-Departmental Use of Retained Earnings 058-9800-960000
Reason requested:	The Corporation has a Retained Earnings policy. This policy set a threshold for the minimum retained earnings to be held in the operating fund. This minimum policy was set at three months operating expenditures. Based upon this policy and the results of the audit, there is over \$2 million above this threshold available for use.	

Repair and Replacement Fund

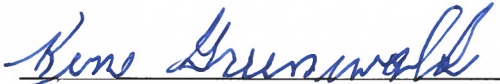
Amount	Increase:	Increase:
\$1,000,000	Repair and Replacement Fund Intragovernmental Transfers Transfers from Operating Fund 061-391058	Repair and Replacement Fund Retained Earnings 061-297020
Reason requested:	The Corporation has a Retained Earnings policy. This policy set a threshold for the minimum retained earnings to be held in the operating fund. This minimum policy was set at three months operating expenditures. Based upon this policy and the results of the audit, there is over \$2 million above this threshold available for use.	

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE SCHERTZ-SEGUIN LOCAL GOVERNMENT CORPORATION, on this the 15th day of April, 2021.



President
Schertz-Seguin Local Government Corporation

ATTEST:



Secretary

Or

Assistant Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Fire Department
Subject: Resolution No. 21-R-41 – Consideration and/or action approving a Resolution by the City Council of the City of Schertz Texas, authorizing the submission of a grant application in an amount up to \$36,950.06 to the Office of the Governor, Homeland Security Division, for the 2021 State Homeland Security Grant Urban Area Security Initiative (UASI) Program; and authorizing the acceptance of the funds, upon award. (C. Kelm/K. Long/S. Hall)

BACKGROUND

The Fire Department seeks Council approval to accept the 2021 State Homeland Security Program (UASI) Grant funds, if awarded, to purchase Hazmat Equipment and public education and outreach materials.

Schertz Fire Department is a founding member of the FEMA Type III, GuadaComa Emergency Response Group that includes New Braunfels, Seguin, Cibolo, Live Oak, Universal, City Selma and the Guadalupe, Comal and Bexar county area. The team currently covers 395 square miles of 3 counties (Bexar, Comal and Guadalupe Counties). The estimated population in this area is approximately 235,000. This group's sole purpose is to work jointly to mitigate hazardous material incidents to limit the public and commercial impact of these situations.

In addition, Schertz Fire Department participates in numerous mutual aid agreements including regional and statewide responses.

Schertz Fire Department is attempting to secure grant funds to purchase multi-use equipment that will increase the capacity of the GuadaComa Emergency Response Group and can be used daily on calls for service within the Schertz city limits.

In hazardous material situations it is imperative to be able to properly identify the hazardous product that is being dealt with in a rapid manner. Technology now allows a device to be carried to a scene that will identify thousands of different chemicals and compounds.

GOAL

Approval of Resolution 21-R-41

COMMUNITY BENEFIT

Enhancement of the Guadacoma Hazardous Materials Response Team and public engagement and education.

SUMMARY OF RECOMMENDED ACTION

Recommend approval of Resolution 21-R-41

FISCAL IMPACT

None. Equipment is expected to cost \$36,950.06, of which all \$36,950.06 will be state funds and no matching City funds are required.

RECOMMENDATION

Recommend approval of Resolution 21-R-41

Attachments

Resolution 21-R-41

Exhibit A

UASI

RESOLUTION NO. 21-R-41

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION IN AN AMOUNT UP TO \$36,950.06 TO THE OFFICE OF THE GOVERNOR, HOMELAND SECURITY DIVISION, FOR THE 2021 STATE HOMELAND SECURITY GRANT URBAN AREA SECURITY INITIATIVE (UASI) PROGRAM; AND AUTHORIZING THE ACCEPTANCE OF THE FUNDS, UPON AWARD.

WHEREAS, the Office of the Governor, Homeland Security Division (HSD) is a program that is designed to enhance the State's ability to prevent, respond to; and recover from acts of terrorism; and

WHEREAS, the City Staff of the City of Schertz (the "City") has recommended that the City Council authorize the filing of a grant application with Homeland Security Grant Program relating to Hazmat Equipment for Schertz Fire Rescue and public education and outreach materials; and

WHEREAS, all applicable matching funds will be funded; and

WHEREAS, no matching contribution is required for this grant; and

WHEREAS, The City of Schertz agrees that in the event of loss or misuse of the Office of the Governor funds, The City of Schertz assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, the City Council has determined that it is in the best interest of the City to apply for a grant from the Office of the Governor, Homeland Security Division (HSD).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Manager and his designee are hereby authorized to submit a grant application in an amount not to exceed \$36,950.06 to the Office of the Governor, Homeland Security Division to fund the following State Homeland Security Grant (UASI) Projects:

Grant # 4127802 - Fire Services Regional Response Capabilities

Section 2. The City Council hereby authorizes the City Manager and/or the Fire Chief as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

Section 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 4. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 5. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 6. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 7. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 8. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of May, 2021.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

EXHIBIT A

DESCRIPTION	UNIT	COST	TOTAL
RAE Systems TOXIRAE PRO-CHLORINE (CL2), DATA LOGGING, CHLORINE DETECTOR	2	664.68	1329.36
Thermo Fisher RadEye PRD-ER4, Pocket-Sized Personal Radiation Detector	4	1680.00	6720.00
RadEye B20-ER – Radiation Detector with Extended Measuring Range up to 500 cps	1	1747.20	1747.20
KAPPLER Lantex 100 NFPS 1999 Certified Emergency Medical Garment; bio/particle single-use suit. Case Qty. 6 (S/M)	2	736.95	1473.90
KAPPLER Lantex 100 NFPS 1999 Certified Emergency Medical Garment; bio/particle single-use suit. Case Qty. 6 (L/XL)	4	736.95	2947.80
KAPPLER Lantex 100 NFPS 1999 Certified Emergency Medical Garment; bio/particle single-use suit. Case Qty. 6 (2X/3X)	4	810.95	3,243.80
Public Education and Outreach Materials	1	\$19,488.00	\$19,488.00
TOTAL			\$36,950.06

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Fire Department
Subject: Resolution No. 21-R-43 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into an Interlocal Agreement for Fire Protection Services with Bexar County, and other matters in connection therewith. (C. Kelm/K. Long)

BACKGROUND

The Schertz Fire Department is charged with the responsibility of regional fire suppression, protection and prevention. The Fire Department responds to fire and emergency calls in portions of unincorporated Bexar County. This area is generally within our ETJ east of 1518 to the county line, and north of Interstate 10 to F.M. 78. This is an annual agreement between Bexar County and the City of Schertz and has no significant changes from previous years.

GOAL

Staff recommends Council approval of Resolution 21-R-43 to authorize the City Manager to sign the Interlocal Agreement for Fire Protection Services with Bexar County.

COMMUNITY BENEFIT

Providing Fire Protection Services to these areas outside the City typically does not adversely impact our responses within the City. We would respond in that area for all types of fires with or without the agreement due to our area-wide mutual aid agreement and the areas proximity to our city limits. By maintaining this agreement with Bexar County, we are able to receive a small subsidy for providing services in an area that would otherwise be without fire service.

SUMMARY OF RECOMMENDED ACTION

Staff recommends Council approval of Resolution 21-R-43 to authorize the City Manager to sign the Interlocal Agreement for Fire Protection Services with Bexar County.

FISCAL IMPACT

The City receives revenue from Bexar County in the amount of \$1,756.48 per month (\$21,077.76 annually) per this agreement.

RECOMMENDATION

Staff recommends Council approval of Resolution 21-R-43 to authorize the City Manager to sign the Interlocal Agreement for Fire Protection Services with Bexar County.

Attachments

21-R-43

Exhibit A

Bexar County ILA

RESOLUTION NO. 21-R-43

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT FOR FIRE PROTECTION SERVICES WITH BEXAR COUNTY, AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Schertz Fire Rescue Department provides fire service to the citizens of Schertz and is a participant in multiple mutual aid agreements among other jurisdictions to provide and receive fire service; and

WHEREAS, the County of Bexar has need of fire services in unincorporated Bexar County and historically contracts with the nearest fire departments to provide that service; and

WHEREAS, it is of benefit to both parties and to the residents in those areas, to enter into this Agreement to efficiently provide that service to the area designated in Exhibit A; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to enter into the Interlocal Agreement to provide fire protection service to areas within Bexar County as set forth in Exhibit A.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of May, 2021.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

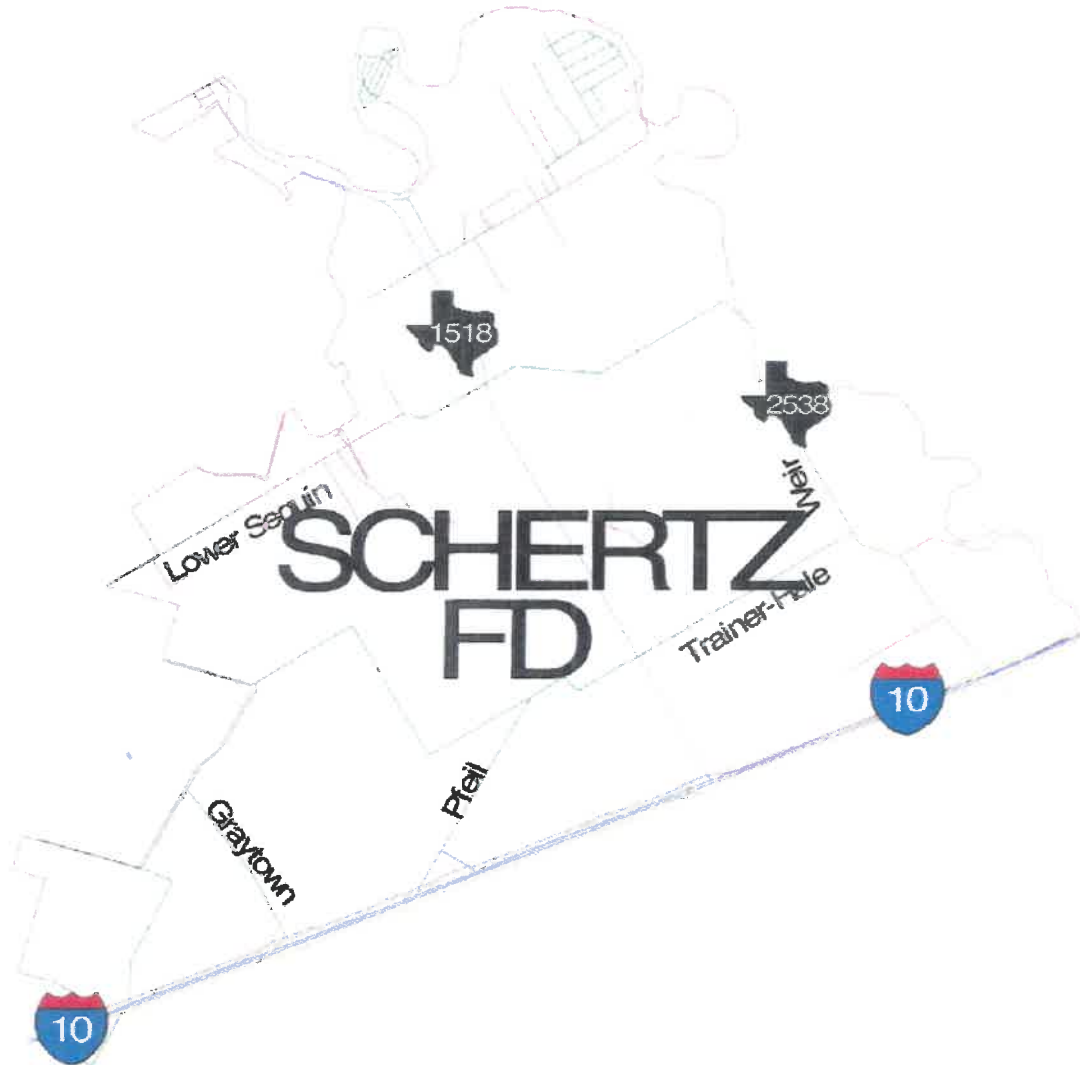
ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

EXHIBIT A

Designated Service Area





STATE OF TEXAS	§	INTERLOCAL AGREEMENT FOR
	§	
COUNTY OF BEXAR	§	FIRE PROTECTION SERVICES

This Agreement ("Agreement") is made and entered into by and between the COUNTY OF BEXAR, a political subdivision of the State of Texas ("COUNTY"), and the CITY OF SCHERTZ, a municipal corporation situated in Bexar County, Texas ("CITY"). Authority for this Agreement is granted pursuant to the Interlocal Cooperation Act, Texas Government Code Section 791.001 *et seq.* and the Texas Local Government Code Section 352.001 *et seq.*

WITNESSETH

WHEREAS, the Commissioners Court of COUNTY is authorized to provide fire protection and firefighting services to citizens of COUNTY residing outside the city limits of any incorporated city within COUNTY;

WHEREAS, the Commissioners Court desires to continue to provide such fire protection and firefighting services to citizens of COUNTY residing outside the city limits of CITY, in an area more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes (the "designated area");

WHEREAS, all payments for expenses incurred as a result of the performance of this Agreement must be made only from current revenues legally available to the respective Parties; and

WHEREAS, CITY represents that it can adequately provide fire protection and firefighting services on behalf of COUNTY, utilizing CITY's fire department ("CITY"), according to the terms and conditions hereinafter stated.

NOW, THEREFORE, in consideration of the mutual covenants and agreements stated herein, the parties agree as follows:

ARTICLE I
PURPOSE

1.01 The purpose of this Agreement is to secure the services of CITY to provide fire protection and emergency services to the designated area.

ARTICLE II

DEFINITIONS

2.01 For purposes of this Agreement, the following terms will have the meanings set forth below:

- (a) FIRE DEPARTMENT - a firefighting unit consisting of not less than six active firefighters with a minimum of two training sessions each month, each a minimum of two hours long and with a majority of all active firefighters participating at each meeting.
- (b) FIREFIGHTING EQUIPMENT - vehicles and protective clothing for use in fire suppression. This includes fire suppression vehicles and all related materials normally carried on these vehicles such as hoses, wrenches, generators, exhaust fans, nozzles, ladders, rescue saws, pneumatic and hydraulic tools, and self-contained breathing apparatus. Protective clothing includes boots, helmets, gloves, turn-outs (jacket and pants), hazardous materials suits and similar gear.
- (c) TRAINING PROGRAM - a program consisting of a minimum of four hours each month, utilizing criteria set forth by in the State Firemen's and Fire Marshal's Association for volunteer firefighters or the Texas Commission on Fire Protection Standards and Education for paid firefighters. Documentation of this training is to be retained by CITY subject to inspection by COUNTY, through its Fire Marshal at any time during normal business hours.
- (d) ACTIVE FIREFIGHTER - a firefighter who attends a minimum of two training sessions each month, each a minimum of two hours long.
- (e) PAID FIREFIGHTER - a person, at least eighteen years of age, who meets the criteria set forth by the Texas Commission on Fire Protection Standards and Education.
- (f) VOLUNTEER FIREFIGHTER - a person, at least eighteen years of age, who meets the equivalency of Basic Certification

as a Volunteer Firefighter within three years after joining DEPARTMENT.

- (g) FIRE ALARM - the fire dispatch service utilized by COUNTY.
- (h) INCIDENT COMMANDER (IC) - The individual responsible for all major event activities, including the development of strategies and tactics and the ordering and the release of resources. The IC has overall authority and responsibility for conducting major event operations and is responsible for the management of all operations at the event site.
- (i) MAJOR EVENT- An occurrence or incident, natural or human-caused, which might impact a significant area or population, which requires an emergency response to protect life or property. Major events can, for example, include disasters, emergencies, terrorist attacks, terrorist threats, wildland and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, war-related disasters, public health, use of chemical weapons or other weapons of mass destruction, and medical emergencies, and other occurrences requiring an emergency response.

ARTICLE III **TERM**

3.01 The term of this Agreement is for one year beginning January 1, 2021, and ending December 31, 2021. This Agreement will automatically renew for two additional one-year terms unless either party provides a sixty day written notice of cancellation.

3.02 This Agreement may be terminated by either party with or without cause, upon sixty days written notice delivered by certified mail, return receipt requested or in person, with a written receipt acknowledging delivery, to the other party. COUNTY has the right to terminate this Agreement immediately in the event COUNTY's funds for this Agreement become unavailable due to non-appropriation.

ARTICLE IV **OBLIGATIONS OF CITY**

4.01 CITY agrees to perform the following services in accordance with specifications and standards established by the State Board of Insurance and the office of the State Fire Marshal of Texas, for the benefit of those persons residing in the designated area:

- (a) Assist the Bexar County Fire Marshal in fire prevention programs;
- (b) Establish a continuing training program for CITY personnel;
- (c) Monitor the Fire Alarm or alert system and radio system on a 24-hour basis;
- (d) Respond to emergencies and fight fires within the designated area or in support of mutual aid agreements made in accordance with this Agreement;
- (e) Purchase and install one mobile radio on COUNTY Fire Alarm frequency (154.250) in each firefighting vehicle and provide other receiving equipment as CITY deems necessary;
- (f) Follow all current radio procedures specified by COUNTY; and
- (g) Notify Fire Alarm via radio when responding to calls in the designated area even if not dispatched by COUNTY.

4.02 It is expressly agreed between the parties that, in the event of conflicting fire alarms arising within the corporate limits of CITY and the unincorporated designated area, the alarm within the corporate limits will have priority. Nevertheless, CITY will use its best efforts to respond or to request assistance in responding to the alarm in the designated area.

4.03 CITY will maintain, during the term of this Agreement, at least one-half of its active firefighters at a level of competency that meets the equivalency of the certification requirements of a basic firefighter as set forth by the State Firemen's and Fire Marshal's Association. All firefighters will meet the equivalency of the certification requirements herein stated within three years of joining CITY as a firefighter. Failure to meet these standards is a material breach of this Agreement and will entitle COUNTY to terminate this Agreement immediately upon written notice to CITY.

4.04 CITY will complete criminal background checks of all current firefighters or EMS personnel with the assistance and cooperation of the Bexar County Fire Marshal's Office and

establish procedures for excluding current or potential firefighters with unacceptable criminal convictions. The COUNTY requires that CITY not allow any personnel with a conviction for a felony or a misdemeanor involving moral turpitude on its department unless that person is otherwise certified by either the Texas Commission on Fire Protection or the Texas Department of State Health Services.

4.05 CITY will create an inventory listing all of CITY's assets used in the provision of emergency services to include, at a minimum, the designation, quantity, model or serial number, condition and location of such assets within sixty (60) days from the date of this Agreement is executed and provide a copy to COUNTY.

4.06 CITY will provide monthly status reports in addition to any other monthly reports required by this Agreement, to the Bexar County Fire Marshal to include any personnel incidents, staff certification progress, and the scope and purpose of any training conducted.

4.07 CITY will establish training programs for all firefighters, probationary firefighters, reserve firefighters and fire officers pursuant to the curricula established by the State Firemen's and Fire Marshals' Association.

4.08 CITY is responsible for maintaining all required National Incident Management System (NIMS) training which utilizes standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualifications standards, uniform standards of planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters.

ARTICLE V

OBLIGATIONS OF COUNTY

5.01 COUNTY agrees to pay the sum of **One Thousand Seven Hundred Fifty-Six and 48/100 Dollars (\$1,756.48)** per month to CITY to be used solely for the following purposes:

- (a) Purchase or leasing of firefighting equipment;
- (b) Maintenance and operation of firefighting equipment; and
- (c) Rental, construction, or purchase of firefighting facilities or buildings.

5.02 COUNTY agrees to provide CITY with dispatch services for the designated area, at no cost to CITY, for the duration of this Agreement. It is understood that the termination of this Agreement terminates the fire dispatch service provided by COUNTY unless CITY enters into a dispatch service agreement with COUNTY.

5.03 The payment of money by COUNTY under any provision hereof is contingent upon the availability of funds appropriated by the Commissioners Court of COUNTY to cover the provisions hereof. Neither COUNTY nor its elected officials, officers, employees, agents, attorneys, or other individuals acting on behalf of COUNTY, make any representations or warranty as to whether any appropriation will, from time to time during the term of this Agreement, be made by COUNTY. In the event COUNTY's funds for this Agreement become unavailable due to non-appropriation, COUNTY will have the right to terminate this Agreement without penalty.

ARTICLE VI

BEXAR COUNTY FIRE MARSHAL SERVICES

6.01 COUNTY, through its Fire Marshal, further agrees to furnish, during the term of this Agreement, the following services upon request:

- (a) Assist CITY in determining the cause of any structural or suspicious fires; and
- (b) Assist in resolving questions of territorial jurisdiction between fire departments. In such cases, the decision of the Bexar County Fire Marshal will be final.

6.02 The County Fire Marshal, or the County Fire Marshal's designee, will perform as the incident commander in a major event in the unincorporated areas.

ARTICLE VII

EQUIPMENT

7.01 CITY will provide all necessary equipment and transportation in providing services specified in this Agreement.

7.02 CITY agrees to remain responsible for registration, licensing, inspection, repairs, and maintenance of all equipment, and for any and all damages resulting from the use of any of its equipment, including motor vehicles.

7.03 COUNTY will not accrue any equity or ownership interest in any equipment provided by CITY.

ARTICLE VIII

LIABILITY OF THE PARTIES

8.01 It is agreed that COUNTY will not be liable or responsible to CITY in damages or any money demands for any loss or failure of the central dispatch communications equipment or because of neglect or failure on the part of the central dispatch service provider.

8.02 Pursuant to Texas Local Government Code 352.004, CITY is not liable for the act of its employee in fighting fires outside the City of Schertz under this Agreement.

ARTICLE IX

INSURANCE AND INDEMNITY

9.01 Both COUNTY and CITY are subject to and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death. Both parties maintain adequate insurance to respond to any claims by third-parties or by their respective employees for personal injuries or property damage. Both parties hereby waive pursuant to this agreement any subrogation rights it may have or acquire as against each other arising in the course of or during the term of this agreement.

9.02 COUNTY and CITY acknowledge they are subject to and comply with the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, *et. seq.*, and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death. Neither party assumes any indemnification obligation under this agreement.

ARTICLE X

FORCE MAJEURE

10.01 Neither COUNTY nor CITY will be required to perform a term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which will mean acts of God, strikes, lockout, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of COUNTY or CITY and which by the exercise of due diligence CITY or COUNTY is unable, wholly or in part, to prevent or overcome.

ARTICLE XI
REPORTS

11.01 CITY will maintain accurate run reports of each incident to which it responds. Reports will be retained by CITY subject to inspection by COUNTY, through its Fire Marshal, at any time during normal business hours.

ARTICLE XII
INSPECTION OF BOOKS/FINANCIAL RECORDS

12.01 CITY agrees that the Bexar County Auditor will have access for inspections and reviews any financial records, reports, or data related to the funds provided herein and the County Auditor may conduct such inspections and reviews at any reasonable time.

ARTICLE XIII
EQUAL EMPLOYMENT OPPORTUNITY AND CIVIL RIGHTS

13.01 No person will illegally be excluded from participation in, or be denied the benefits of, the program which is the subject of this Agreement on the basis of race, creed, color, sex, age, disability or national origin.

ARTICLE XIV
AMENDMENT

14.01 No amendment, modification, or alteration to this Agreement will be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

ARTICLE XV
NOTICES

15.01 All notices by the parties will be deemed given when either delivered in person or deposited in the U.S. Mail, postage prepaid, certified mail, return receipt requested, addressed to the appropriate party at the following address:

If to COUNTY:	County Judge Paul Elizondo Tower 101 W. Nueva, Suite 1000 San Antonio, Texas 78205
With a copy to:	County Fire Marshal

9810 Southton Rd.
San Antonio, Texas 78223-4829

And: County Auditor
Paul Elizondo Tower
101 W. Nueva, #800
San Antonio, Texas 78205

If to CITY: City of Schertz
1400 Schertz Parkway
Schertz, Texas 78154-1634

ARTICLE XVI
MUTUAL AID

16.01 CITY agrees to use its best efforts to enter into a mutual aid agreement with other fire departments that have contracted with Bexar County to provide fire protection services.

ARTICLE XVII
COMPLIANCE WITH LAWS AND REGULATIONS

17.01 In providing all services pursuant to this Agreement, CITY will abide by all statutes, ordinances, rules and regulations pertaining to, or regulating the provision of, such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules or regulations will constitute a material breach of this Agreement, and will entitle COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to CITY.

ARTICLE XVIII
PARTIES BOUND

18.01 This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns where permitted by this Agreement.

ARTICLE XIX
TEXAS LAW TO APPLY

19.01 This Agreement will be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable solely in Bexar County, Texas.

ARTICLE XX
LEGAL CONSTRUCTION

20.01 In case any one or more of the provisions contained in this Agreement will for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE XXI
PRIOR AGREEMENTS SUPERSEDED

21.01 This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

IN WITNESS WHEREOF, this Agreement is executed in duplicate originals this ____ day of _____, 2021.

COUNTY OF BEXAR

BY: _____
NELSON W. WOLFF
County Judge

CITY OF SCHERTZ

BY: _____
RALPH GUTIERREZ
Mayor

Date: _____

APPROVED AS TO LEGAL FORM:

ATTEST:

BY: _____
SUE JANA
Assistant Criminal District Attorney
Civil Division

BY: _____
BRENDA DENNIS
City Secretary

APPROVED AS TO FINANCIAL
CONTENT:

APPROVED:

BY: _____
LEO S. CALDERA, CIA, CGAP
County Auditor

BY: _____
KADE LONG
Fire Chief

BY: _____
DAVID SMITH
County Manager

DEPARTMENTAL APPROVAL:


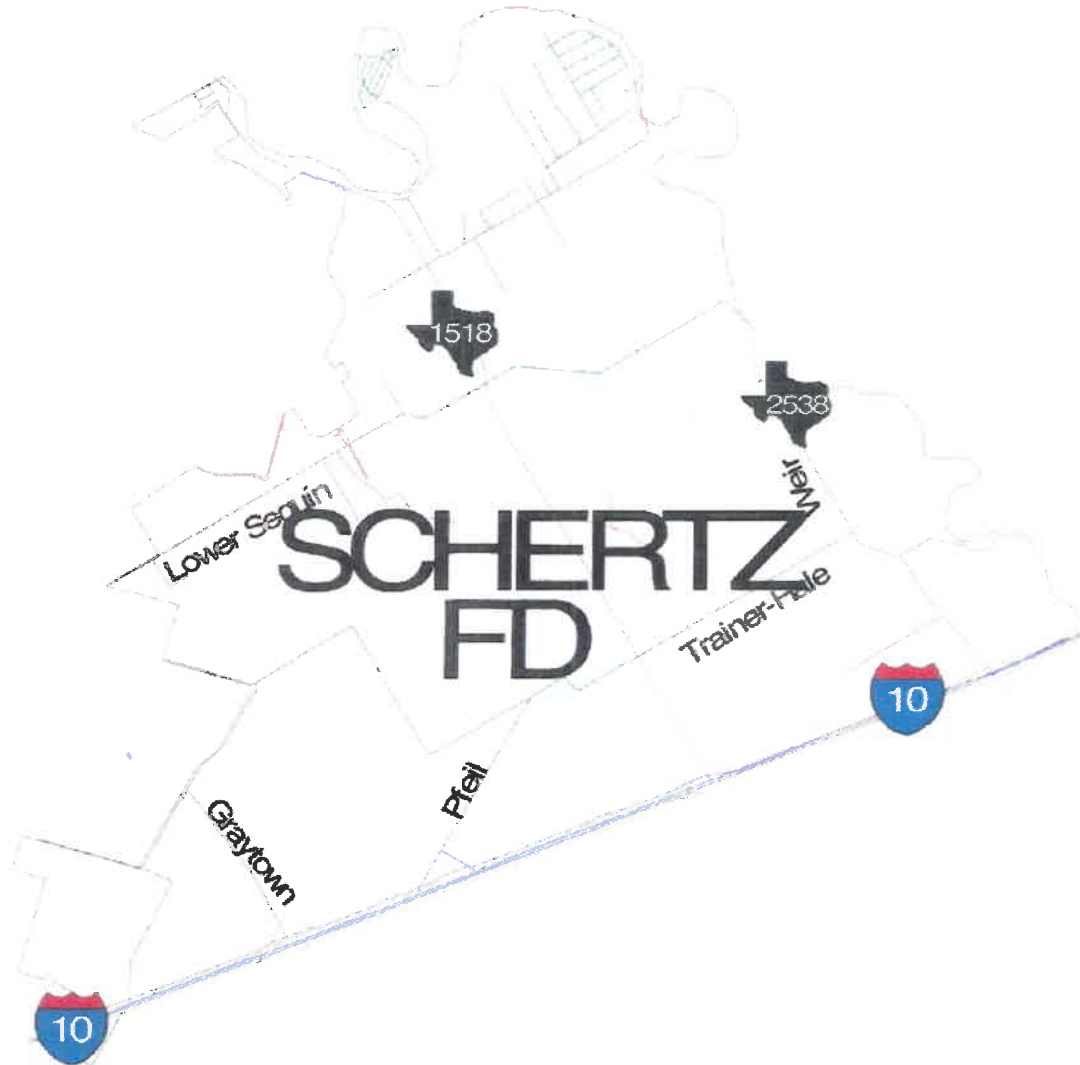
BY:  _____
CHRIS LOPEZ
Fire Marshal

EXHIBIT A

Designated Service Area



CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021

Department: Engineering

Subject: Ordinance No. 21-T-19 – Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021 Budget to provide funding for professional services related to the Corbett Ground Storage Tank, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. *First Reading* (B. James/K. Woodlee/J. Shortess)

BACKGROUND

The Corbett Elevated Storage Tank serves approximately 2,300 water connections (a population of approximately 5,800). The addition of the proposed 3.0 million gallon Corbett Ground Storage Tank will provide critical storage and redundancy at the Corbett Tank Site in order to provide water to customers on a daily basis and to a larger portion of the City in an emergency situation.

The Corbett Tank Site is one of two SSLGC connection points which provide continual water flow to the southern water zone. In addition to the design of a new ground storage tank, a pump station will be designed to feed the southern water zone through the existing elevated tank on site and to pump water to the Live Oak Tank Site. Generator design is proposed to run all of the pumps during an electrical outage as experienced during the severe Winter Storm in Texas during February 12-19, 2021. A Professional Engineering firm will provide services related to the design and construction phases of the Corbett Ground Storage Tank. City staff has worked with Ford Engineering, Inc. to develop a scope for these services and a budget adjustment is needed to fund this portion of the project. Proposed Ordinance 21-T-19 allocates \$512,000 for the professional services needed to assist the City with the design of the Corbett Ground Storage Tank. That amount includes the consultant's fee and a contingency amount of approximately ten percent.

Construction of the Corbett Ground Storage Tank, pump station, and generator will be funded separately after final design is complete. The estimated construction cost of this project is \$4.5 million.

GOAL

The goal of this ordinance is to amend the fiscal year 2020-2021 budget to provide funding for the design of the Corbett Ground Storage Tank.

COMMUNITY BENEFIT

The proposed 3.0 million gallon Corbett Ground Storage Tank will provide critical storage and redundancy at the Corbett Tank Site in order to provide water to customers on a daily basis and to a larger portion of the City in an emergency situation.

SUMMARY OF RECOMMENDED ACTION

Approval of Ordinance 21-T-19 authorizing the budget adjustment.

FISCAL IMPACT

This ordinance will allocate \$512,000.00 from the Water Capital Recovery Fees to engineering and professional services related to the Corbett Ground Storage Tank project. As of March 31, 2021, the Water Capital Recovery Fund had \$8.4 million available for this project.

RECOMMENDATION

Staff recommends approval of Ordinance 21-T-19 on first reading.

Attachments

Ordinance 21-T-19

ORDINANCE NO. 21-T-19

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021 BUDGET TO PROVIDE FUNDING FOR PROFESSIONAL SERVICES RELATED TO THE CORBETT GROUND STORAGE TANK, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, pursuant to Ordinance 20-T-31, the City of Schertz (the “City”) adopted the budget for the City for the fiscal year 2020-2021 (the “Budget”), which provides funding for the City’s operations throughout the 2020-2021 fiscal year; and

WHEREAS, the City needs to authorize a budget amount of \$512,000 for the purpose of contracting professional services and other associated expenses related to the Corbett Ground Storage Tank from the Water Capital Recovery Fund; and

WHEREAS, City staff recommends that the City Council of the City adjust the Budget and approve the ordinance; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City to adjust the Budget and approve the budget transfer for the Corbett Ground Storage Tank, as more fully set forth in this Ordinance.

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

Section 1. The City shall set a budget of \$512,000 from the Water Capital Recovery Fund for the contracting of professional services and other associated expenses related to the Corbett Ground Storage Tank.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of

such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST READING, the 11TH day of May, 2021.

PASSED ON FINAL READING, the 25th day of May, 2021.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Planning & Community Development
Subject: Ordinance 21-A-13 - Consider and/or take action on a request for voluntary annexation of approximately 35.5 acres of land generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, Bexar County, Texas. *Final Reading* (B. James, L. Wood, E. Delgado)

BACKGROUND

Annexation of land into the City's corporate limits may be voluntary or involuntary. Each type has Texas Local Government Code (LGC) requirements that identify the necessary process based on the annexation type. The City's Unified Development Code (UDC) Section 21.4.8 includes provisions that apply to requests for voluntary annexation meeting certain criteria. This section of the City's UDC includes provisions for processing of voluntary annexation requests.

On behalf of the property owners, Moy Tarin Ramirez Engineers, LLC submitted a petition for voluntary annexation to the City of Schertz for approximately 35.5 acres of land generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031.

On April 6, 2021, City Council approved Resolution 21-R-22, accepting a petition for voluntary annexation, therefore allowing this annexation ordinance to be heard by the City Council. The property owners are also requesting to zone the subject property to Planned Development District (PDD) immediately following action on Ordinance 21-A-13.

A public hearing notice was published in the San Antonio Express News for the public hearing associated with the annexation ordinance on April 14, 2021. City Staff also sent written notice of the proposed annexation to the Board of Trustees for Schertz-Cibolo-Universal City ISD and all property owners within 200 feet on April 20, 2021. Additionally, a public hearing notice has been published on the City of Schertz website since April 21, 2021. At the time of this report, Staff have not received any responses to the annexation public hearing notice.

GOAL

The property owners are requesting voluntary annexation into the City of Schertz, because they want the subject property to be located within the Schertz City limits in order to develop the land as a residential subdivision under the Planned Development Zoning District (PDD).

COMMUNITY BENEFIT

Promote the safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of Ordinance 21-A-13 and the annexation of approximately 35.5 acres.

FISCAL IMPACT

In accordance with Texas Local Government Code (LGC) Chapter 43, the City must provide services to the land on the effective date of the annexation. While some services are provided to the subject property through an interlocal agreement, the City of Schertz must provide police protection, fire protection, emergency medical services, operation and maintenance of streets, solid waste collection, sewer service, and water service. However, The fiscal impact of this annexation was already accounted for given that the subject properties are under delayed annexation development agreements, which expire in August 2021. Per the original agreement, the subject properties were already planned to be annexed, and thus the aforementioned services were already planned to be provided, in August 2021. The annexation service plan attached to this CCM will be signed by the authorized agent of the property owner prior to the final reading of Ordinance 21-A-13 at the May 11, 2021 City Council meeting.

RECOMMENDATION

Staff recommends approval of Ordinance 21-A-13.

Attachments

Ordinance 21-A-13

Ordinance 21-A-13 Exhibit A

Ordinance 21-A-13 Exhibit B

Annexation Exhibit

Aerial Map

Public Hearing Notice Map

ORDINANCE NO. 21-A-13

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, PROVIDING FOR THE EXTENSION OF THE BOUNDARY LINES OF THE CITY OF SCHERTZ, TEXAS BY THE ANNEXATION OF APPROXIMATELY 35.5 ACRES OF LAND LOCATED IN BEXAR COUNTY, GENERALLY LOCATED APPROXIMATELY 4,000 FEET SOUTHEAST OF THE INTERSECTION BETWEEN FM 1518 AND LOWER SEGUIN ROAD, ALSO KNOWN AS BEXAR COUNTY PROPERTY IDENTIFICATION NUMBERS 310024 AND 310031.

WHEREAS, the City Council of the City of Schertz (the “City”) has determined that it should annex the territory described on Exhibit A attached hereto and made a part hereof (the “Annexed Land”); and

WHEREAS, the Annexed Land is located entirely within the extraterritorial jurisdiction of the City, is contiguous to the corporate boundaries of the City (or is deemed to be contiguous, pursuant to Section 43.035(c) of the Texas Local Government Code, as amended), and may be annexed pursuant to Chapter 43 of the Texas Local Government Code, as amended; and

WHEREAS, Texas Local Government Code Section 43.028 authorizes the City of Schertz to extend its City limit boundaries through the voluntary annexation of area adjacent to those boundaries upon petition of a landowner; and

WHEREAS, a public hearing notice was published in the San Antonio Express News on March 17, 2021 for the hearing held on April 6, 2021, and notice was published in the San Antonio Express News on April 14, 2021 for the hearing on May 4, 2021; and

WHEREAS, on April 6, 2021 the City Council conducted a public hearing and after considering the request for voluntary annexation, adopted Resolution 21-R-22 accepting a petition for voluntary annexation; and

WHEREAS; the City Council finds that the Annexed Land is suitable, and it is in the best interest of the City and the citizens and inhabitants thereof that the Annexed Land be annexed to and made a part of the City.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:
THAT:**

Section 1. The City hereby annexes the Land described in Exhibit A.

Section 2. The Annexed Land shall be included within the City’s corporate limits effective on the effective date of this Ordinance, and all taxable property in the Annexed Land shall hereafter bear its pro rata part of the taxes levied by the City, subject to allowable exemptions.

Section 3. The land and territory more particularly described as that portion of the tract of land described in Exhibit A, attached hereto and incorporated herein by reference shall be part of the City of Schertz, Texas and inhabitants thereof shall be entitled to all of the rights and privileges as citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the City of Schertz, Texas.

Section 4. A service plan outlining the provisions of necessary municipal service to the property described in Exhibit A is hereby approved and the implementation of said plan is hereby authorized. Such plan is attached hereto and incorporated herein as Exhibit B.

Section 5. The City manager is hereby authorized and directed to take appropriate action to have the official map of the City revised to reflect the additions to the City's Corporate Limits and the City Secretary is hereby authorized and directed to provide appropriate notice to the State of Texas and the County of Guadalupe of this annexation.

Section 6. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 7. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 8. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 9. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 10. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 11. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 12. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Approved on first reading the 4th day of May, 2021.

PASSED, APPROVED AND ADOPTED on final reading the 11th day of May, 2021.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary
(SEAL OF THE CITY)

Field Notes for a tract of land
Containing 35.405 acres (1,542,228.37 square feet) tract of land

A 35.405 acre (1,542,228.37 square feet) tract of land situated in the Julian Diaz Survey No. 66, Abstract No. 187, Bexar County Block 5059, Bexar County, Texas, being a portion of a 20.003 acre tract as conveyed to Alfred L. Fluitt by General Warranty Deed with Vendor's Lien, as recorded in Volume 18218, Page 2089, and a portion of a 21.58 acre tract as conveyed to Sue Nell Fluitt by General Warranty Deed with Vendor's Lien, as recorded in Volume 8472, Page 1941, both of the Official Public Records of Bexar County, Texas, said 35.405 acre (1,542,228.37 square feet) tract of land being more particularly described as follows:

Commencing at a found 1/2" iron rod on the southeast right of way line of Lower Seguin Road, (Public Right of Way), being the northwest corner of a 2.005 acre tract as conveyed to Carlos Garza, Jr. and wife Margret L. Carty by General Warranty Deed with Vendor's Lien, as recorded in Volume 6541, Page 807, of the Official Public Records of Bexar County, Texas,

Thence, with the southwest boundary of said 2.005 acre tract and the northeast boundary of said 20.003 acre tract, South 30 degrees 31 minutes 38 seconds East, a distance of 209.20 feet, to the **Point of Beginning**, being on a northwesterly boundary line of the Schertz City Limits Line, and being the north corner of the herein described tract;

Thence, continuing with the southwest boundary of said 2.005 acre tract and the northeast boundary of said 20.003 acre tract, South 30 degrees 31 minutes 38 seconds East, passing the south corner of said 2.005 acre tract being the northwest corner of a 2.003 acre tract as conveyed to James B. Carty by General Warranty Deed with Vendor's Lien, as recorded in Volume 6541, Page 812, of the Official Public Records of Bexar County, Texas, and continuing said course for a total distance of 1,053.09 feet, to a found 1/2" iron rod, being on the northwest boundary of a 194.101 acre tract as conveyed to Seanna Fraser Holtz by General Warranty Deed with Vendor's Lien as recorded in Document Number 20110157688, of the Official Public Records of Bexar County, Texas, being the south corner of said 2.003 acre tract and the southeast corner of the herein described tract;

Thence, with the southeast boundary of said 20.003 acre tract and the northwest boundary of said 194.101 acre tract, South 59 degrees 33 minutes 45 seconds West, a distance of 693.68 feet, to a found 1/2" iron rod, being on the northwest boundary of said 194.101 acre tract, and being the east corner of said 21.58 acre tract, being the south corner of said 20.003 acre tract and being an angle point in the herein described tract;

Thence, with the southeast boundary of said 21.58 acre tract and the northwest boundary of said 194.101 acre tract, South 59 degrees 39 minutes 33 seconds West, a distance of 1,098.31 feet, to a found 1/2" iron rod (bent), being on a northeast boundary of a 34.335 acre tract as conveyed to Penny Lu Fairley by Revocable Transfer on Death Deed as recorded in Document Number 20180127574, of the Official Public Records of Bexar County, Texas, and being the west corner of said 194.101 acre tract and the southwest corner of the herein described tract;

Thence, with the southwest boundary of said 21.58 acre tract and a northeast boundary of said 34.335 acre tract, North 30 degrees 18 minutes 41 seconds West, a distance of 655.26 feet, to a set 1/2" iron rod with an orange plastic cap stamped "MTR ENG", being the south corner of a 15.00 acre tract as conveyed to Michael Asher and Linda S. Harman by General Warranty Deed Reserving a Life Estate as recorded in Document Number 20140093450, of the Official Public Records of Bexar County, Texas, being the west corner of said 21.58 acre tract and the west corner of the herein described tract;


Thence, with a northerly boundary of said 21.58 acre tract and the southeast boundary of said 15.00 acre tract, North 59 degrees 32 minutes 37 seconds East, passing the east corner of said 15.00 acre tract, being the south corner of a 2.00 acre tract as conveyed to Salvador P. Alvarez by General Warranty Deed with Vendor's Lien as recorded in Document Number 20060070306, of the Official Public Records of Bexar County, Texas, and continuing said course for a total distance of 840.23 feet to a found 1/2" iron rod with yellow plastic cap stamped "REG NO. 5464", being the southeast corner of said 2.00 acre tract and an interior angle point in the herein described tract;

Thence, with the easterly boundary of said 2.00 acre tract, being a westerly boundary of said 21.58 acre tract, North 24 degrees 00 minutes 42 seconds West, a distance of 396.98 feet, to a point on a northwesterly boundary of said Schertz City Limits Line, being the northwest corner of the herein described tract;

Thence, with a northwesterly boundary of said Schertz City Limits Line, North 59 degrees 29 minutes 09 seconds East, a distance of 904.23 feet to the **Point of Beginning**, containing 35.405 acres (1,542,228.37 square feet) of land.

Note: Basis of bearings was established from the State Plane Coordinate System, North American Datum of 1983, Texas South Central Zone Surface Units.




Stephanie L. James, R.P.L.S.
Registered Professional Land Surveyor
No. 5950
Date: 2021-02-03 Job No. 20151
VB

CITY OF SCHERTZ, TEXAS

ANNEXATION SERVICE PLAN

AREA ANNEXED

A 35.405 acre (1,542,228.37 square feet) tract of land situated in the Julian Diaz Survey No. 66, Abstract No. 187, County Block No. 5059, Bexar County, Texas, being a portion of a 20.003 acre tract as conveyed to Alfred L. Fluitt by General Warranty Deed with Vendor's Lien, as recorded in Volume 18218, Page 2089, and a portion of a 21.58 acre tract as conveyed to Sue Nell Fluitt by General Warranty Deed with Vendor's Lien, as recorded in Volume 8472, Page 1941, both of the Official Public Records of Bexar County, Texas.

See Exhibit A, "*Metes and Bounds Description*", attached hereto for a complete description of the property.

INTRODUCTION

This service plan has been prepared in accordance with Local Government Code Section 43.056. Municipal facilities and services to the annexed area described above will be provided or made available on behalf of the city at the following levels and in accordance with the following schedule:

POLICE PROTECTION

Patrolling, responses to calls, and other police services will be provided on the effective date of the annexation at the same level as provided throughout the city.

FIRE PROTECTION AND FIRE PREVENTION

Fire protection and fire prevention services will be provided on the effective date of the annexation at the same level as provided throughout the city.

EMERGENCY MEDICAL SERVICES

Emergency medical services will be provided on the effective date of the annexation on the same basis and at the same level as provided throughout the city.

SOLID WASTE COLLECTION AND DISPOSAL

Solid waste collection and disposal services will be provided on the effective date of the annexation on the same basis and at the same level as provided throughout the city. However, no obligation exists for the city to provide solid waste collection services to a person who continues to use the services of a privately owned solid waste management service provider.

OPERATION AND MAINTENANCE OF WATER AND WASTEWATER FACILITIES THAT ARE NOT WITHIN THE SERVICE AREA OF ANOTHER WATER OR WASTEWATER UTILITY

Operation and maintenance of water and wastewater facilities that are not within the service area of another water or wastewater utility will be provided on the effective date of the annexation on the same basis and at the same level as provided throughout the city.

OPERATION AND MAINTENANCE OF ROADS AND STREETS

Operation and maintenance of roads and streets will be provided on the effective date of the annexation on the same basis and at the same level as provided throughout the city.

STREET LIGHTING

Street lighting will be made available on the effective date of the annexation on the same basis and at the same level in comparable areas as provided throughout the city.

OPERATION AND MAINTENANCE OF PUBLIC PARKS AND OTHER PUBLICLY OWNED FACILITIES

If any public park, playground, swimming pool, or any other publicly owned facility, building or service is located within the annexed area, it will be maintained on the effective date of the annexation on the same basis and at the same level as similar facilities are maintained throughout the city.

OTHER SERVICES

Other services that may be provided by the city such as planning, code enforcement, animal control, library, park and recreation, court, and general administration will be made available on the effective date of the annexation on the same basis and at the same level as provided throughout the city.

CAPITAL IMPROVEMENTS

The city will make available to the annexed area any necessary water, sewer, street, and drainage facilities within two and one-half (2-1/2) years of the effective date of the annexation unless the construction of the necessary facilities is interrupted by circumstances beyond the control of the city, or unless this period is extended by an arbitration decision. No impact fees will be charged to any developer or landowner within the annexed area except in conformity with Local Government Code Ch. 395. Construction of other capital improvements shall be considered by the city in the future as the needs dictate on the same basis as such capital improvements are considered throughout the city.

UNIFORM LEVEL OF SERVICES MAY NOT BE REQUIRED

Nothing in this plan shall require the city to provide a uniform level of full municipal services to each area of the city, including the annexed area, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service.

TERM

This service plan shall be valid for a term of ten (10) years.

AMENDMENTS

The plan shall not be amended unless public hearings are held in accordance with Local Government Code Section 43.0561.

OWNER(S):

Signature: _____

Print Name: _____

THE STATE OF TEXAS

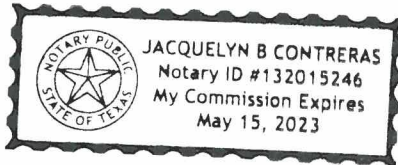
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§

COUNTY OF

BEXAR

This instrument was acknowledged before me on the 4 day of May, 2021 by Raymond Tarin Jr., Principal of Moy Tarin Ramirez Engineers, LLC, a Texas limited liability company, the Authorized Agent for the owners of the real property.

(SEAL)



Jacquelyn B. Contreras
Notary Public in and for
The State of Texas

My Commission Expires: May 15, 2023

ATTEST:

City Secretary

SIGNED:

City Manager

Exhibit A

Metes and Bounds Description

35.405 ACRES

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Thence, with the southwest boundary of said 2.005 acre tract and the northeast boundary of said 20.003 acre tract, South 30 degrees 31 minutes 38 seconds East, a distance of 209.20 feet, to the **Point of Beginning**, being on a northwesterly boundary line of the Schertz City Limits Line, and being the north corner of the herein described tract;

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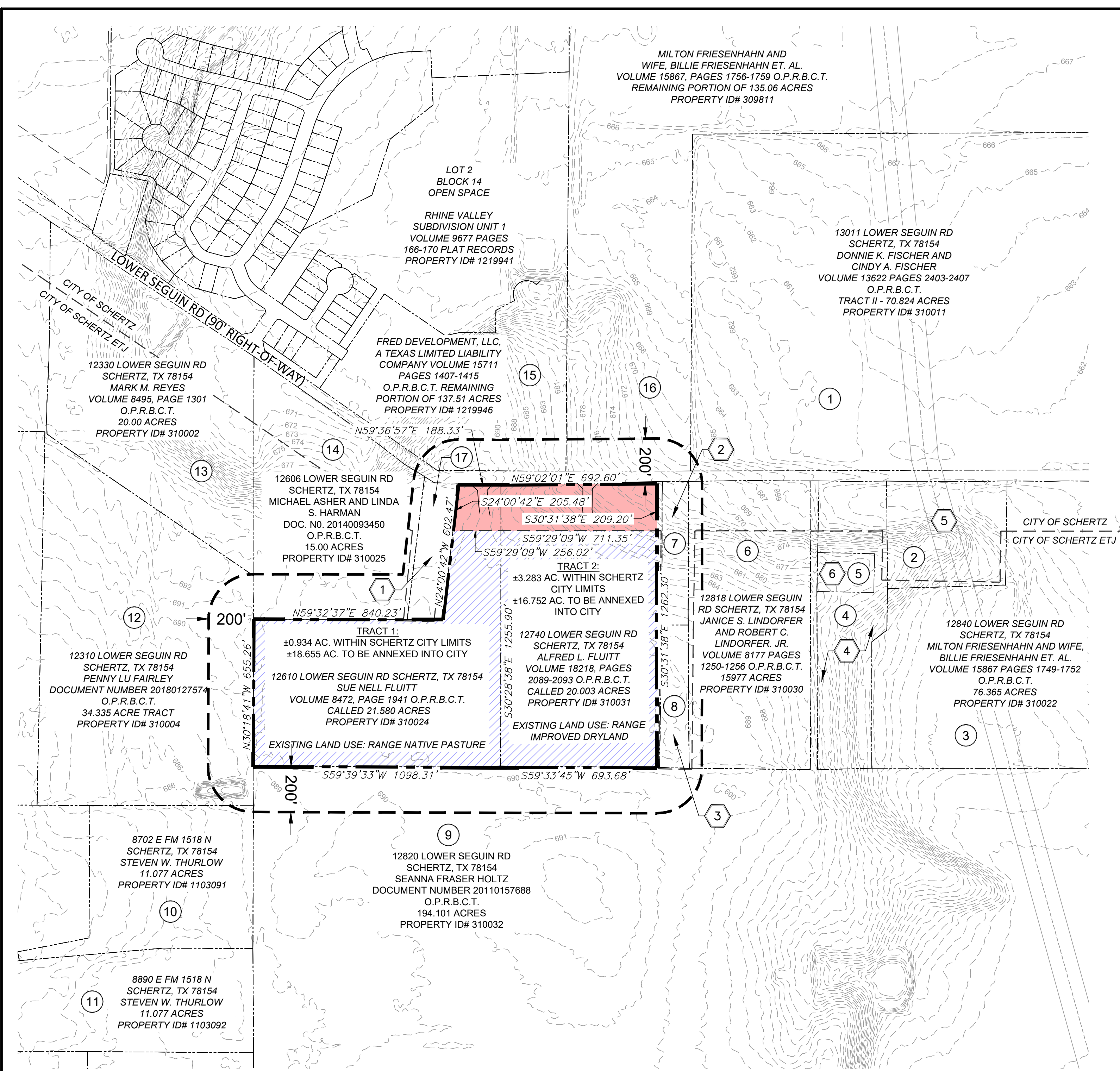
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Thence, with a northwesterly boundary of said Schertz City Limits Line, North 59 degrees 29 minutes 09 seconds East, a distance of 904.23 feet to the **Point of Beginning**, containing 35.405 acres (1,542,228.37 square feet) of land.

Note: Basis of bearings was established from the State Plane Coordinate System, North American Datum of 1983, Texas South Central Zone Surface Units.



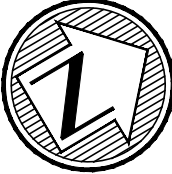

Stephanie L. James, R.P.L.S.
Registered Professional Land Surveyor
No. 5950
Date: 2021-02-03 Job No. 20151
VB



PROPERTY INFORMATION

- 1 12610 LOWER SEGUIN RD SCHERTZ, TX 78154
SALVADOR P. ALVAREZ
DOC. NUMBER 20080070306, O.P.R.B.C.T.
2.00 ACRES
PROPERTY ID# 1091215
- 2 12746 LOWER SEGUIN RD SCHERTZ, TX 78154
CARLOS GARZA, JR. AND WIFE,
MARGRET L. CARTY
VOLUME 6541, PAGES 807-811 O.P.R.B.C.T.
2.005 ACRES
PROPERTY ID# 310027
- 3 12746 LOWER SEGUIN RD SCHERTZ, TX 78154
JAMES B. CARTY
VOLUME 6541, PAGE 812, O.P.R.B.C.T.
2.003 ACRES
PROPERTY ID# 310030
- 4 12840 LOWER SEGUIN RD SCHERTZ, TX 78154
KAREN MARK FISCHER
VOLUME 18819 PAGES 1418-1423
O.P.R.B.C.T.
8.132 ACRES
PROPERTY ID# 310019
- 5 12870 LOWER SEGUIN RD SCHERTZ, TX 78154
GUILLERMO J. & MARTHA C. GUJARDO
VOLUME 18819 PAGES 406-405
O.P.R.B.C.T.
5.500 ACRES
PROPERTY ID# 310021
- 6 LOWER SEGUIN RD SCHERTZ, TX 78154
FISCHER KAREN MARK
VOLUME 18819 PAGES 1418
O.P.R.B.C.T.
1.00 ACRES
PROPERTY ID# 1139530

LOCATION MAP
NOT TO SCALE



SCALE: 1" = 300'
300 150 0 300

LEGEND

- SUBJECT PROPERTY BOUNDARY
- 200' NOTIFICATION BOUNDARY
- PROPERTY BOUNDARY
- EXISTING CONTOUR
- SCHERTZ CITY LIMITS
- O.P.R.B.C.T.
- AREA TO BE ANNEXED INTO THE CITY OF SCHERTZ
- AREA WITHIN THE SCHERTZ CITY LIMITS

LAND USE TABLE

OBJECT ID	LAND USE DESCRIPTION
1	Single-Family Residential
2	Range Improved Dryland
3	Tillable Dry (Farm)
4	Range Improved Dryland
5	Base Rate Lot
6	Tillable Dry (Farm)
7	Base Rate Lot
8	Base Rate Lot
9	Range Improved Dryland
10	Tillable Dry (Farm)
11	Range Improved Dryland
12	Family Homesite Single/Range Improved Dryland
13	Family Homesite Single
14	Family Homesite Single
15	Single-Family Residential
16	Single-Family Residential
17	Base Rate Lot

NOTE:

- NO PORTION OF THIS PROPERTY IS LOCATED WITHIN THE 100-YEAR (1% CHANCE) FLOODPLAIN AS ACCORDING TO FEMA FIRM PANEL #48187C0240F
- THE THOROUGHFARE ALIGNMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DO NOT SET THE ALIGNMENT. ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAT.

OWNERS INFORMATION	APPLICANT	SURVEYOR
ALFRED L. FLUITT 528 APPALOOSA RUN ROUND MTN, TX 78663 PH: (817) 565-8482	PAUL LANDA, JR., PE, CFM MOY TARIN RAMIREZ ENGINEERS, LLC 12770 CIMARRON PATH, SUITE 100 SAN ANTONIO, TEXAS 78249 PH: (210) 698-5051	STEPHANIE L. JAMES, RPLS MOY TARIN RAMIREZ ENGINEERS, LLC 12770 CIMARRON PATH, SUITE 100 SAN ANTONIO, TEXAS 78249 PH: (210) 698-5051

MTR
Moy Tarin Ramirez Engineers, LLC
FIRM: TPELS:ENGINEERING F-5297 / SURVEYING F-10131500
12770 CIMARRON PATH, SUITE 100
SAN ANTONIO, TEXAS 78249
TEL: (210) 698-5051
FAX: (210) 698-5085

• Engineers
• Surveyors
• Planners

DRAWING NAME: ANNEXATION EXHIBIT		
PROJECT NAME: FLUITT TRACT - CARMEL RANCH SUBDIVISION ±35.407 AC. TO BE ANNEXED INTO THE CITY OF SCHERTZ		
PROJECT No.: 20210	DATE: MARCH 24, 2021	SCALE: 1"=300'

A 39.624 ACRE (1,726,013.68 SQUARE FEET) TRACT OF LAND SITUATED IN THE JULIAN DIAZ SURVEY NO. 66, ABSTRACT NO. 187, BEAR COUNTY BLOCK 5059, BEAR COUNTY, TEXAS, OUT OF A 20.003 ACRE TRACT AS CONVEYED TO ALFRED L. FLUITT BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN, AS RECORDED IN VOLUME 18218, PAGE 2089, AND A 21.58 ACRE TRACT AS CONVEYED TO SUE NELL FLUITT BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN, AS RECORDED IN VOLUME 8472, PAGE 1941, BOTH OF THE OFFICIAL PUBLIC RECORDS OF BEAR COUNTY, TEXAS.

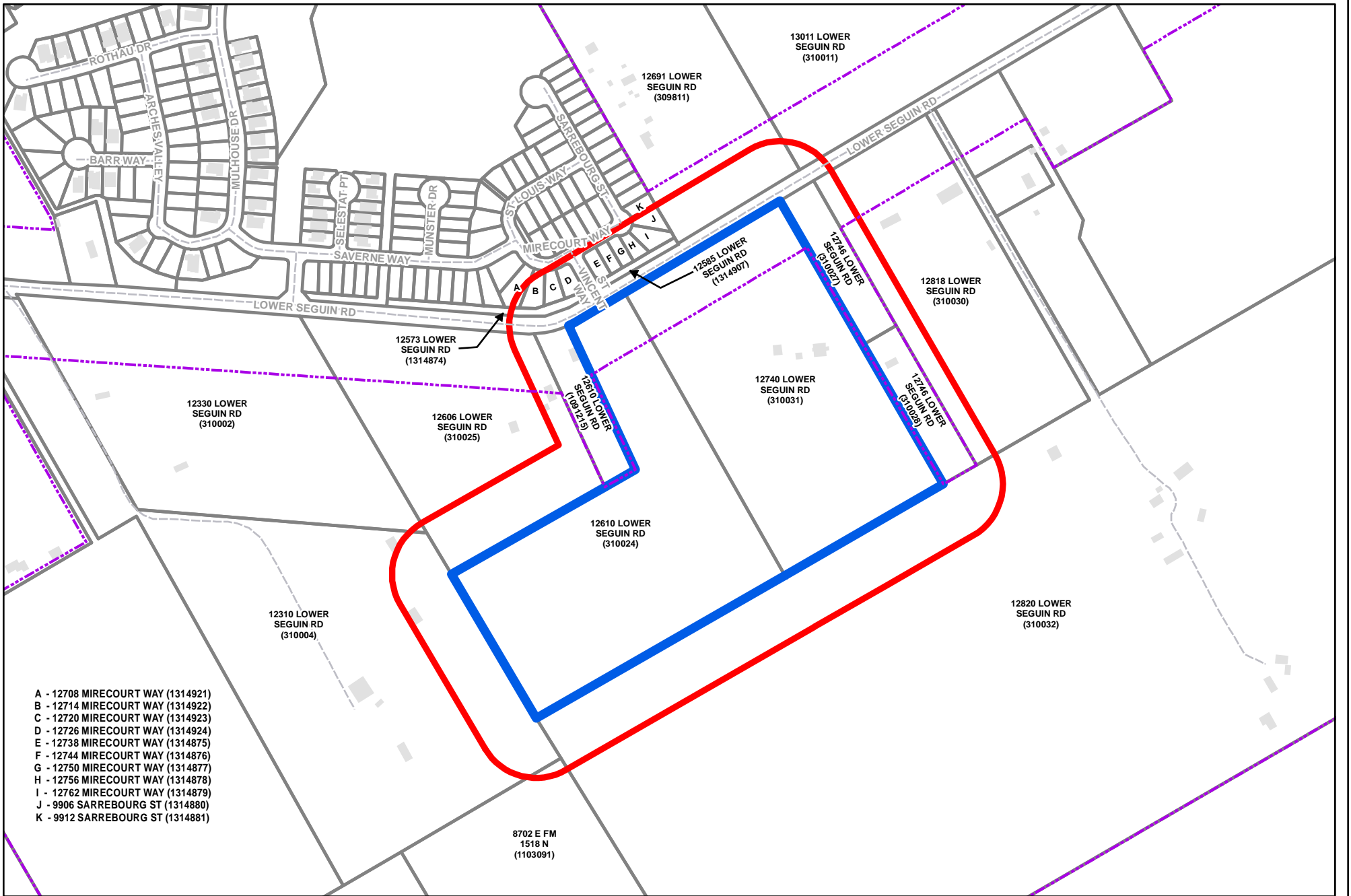


FLUITT TRACTS

<all other values>	60' Expansion	86' Extension	120' Proposed	1", 1 1/2"	8"	20"	Unknown	Schertz Gravity	Hydrant	200' Buffer
Highways	60' Proposed	86' Proposed	Abandoned	2", 2 1/2"	10"	24"	Neighboring Main	Schertz Pressure	Manholes	Schertz Municipal Boundary
Major Roads	60' Extension	120' Expansion	Future TxDOT	3"	12"	30"	Private Main	Neighboring Gravity	County Boundaries	
Minor Roads	86' Expansion	120' Extension	Highway	4"	16"	36"	Private Pressure	Private Pressure		
Other Cities				6"	18"					

0 150 300 600 900 1,200 Feet

1 Inch = 300 Feet



SCHERTZ
COMMUNITY • SERVICE • OPPORTUNITY

City of Schertz

FLUIT TRACTS



Schertz Municipal Boundary



200' Notification Buffer

Parcel Boundaries



Last Update: September 22, 2020

City of Schertz, GIS Specialist: Bill Gardner, gis@schertz.com (210) 619-1185

"The City of Schertz provides this Geographic Information System product "as is" without any express or implied warranty of any kind including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. In no event shall The City of Schertz be liable for any special, indirect or consequential damages or any damages whatsoever arising out of or in connection with the use of or performance of these materials. Information published in this product could include technical inaccuracies or typographical errors. Periodical changes may be made and information may be added to the information herein. The City of Schertz may make improvements and/or changes in the product(s) described herein at any time."

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Planning & Community Development
Subject: Ordinance 21-S-14 Consider and/or take action on a request to rezone approximately 39.5 acres of land to Planned Development District (PDD), generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, Bexar County, Texas. *Final Reading* (B. James, L. Wood, E. Delgado)

BACKGROUND

Public Notice

Fourteen (14) public hearing notices were mailed to surrounding property owners on April 2, 2021, prior to the Planning and Zoning Commission public hearing, and a public hearing notice was published in the "San Antonio Express" on April 14, 2021, prior to the City Council public hearing. At the time of this report Staff have received 9 responses in favor of the proposed zone change that represent 6 properties inside the 200' notification buffer, and 1 response opposed to the proposed zone change from properties inside the 200' notification buffer. The owner of approximately 14.25 per of the property within the 200' notice area has protested in writing.

If a proposed zoning change is protested in writing and signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths (¾) of all members of the City Council according to LGC, Local Government Code § 211.006(d).

Proposed Zoning

The applicant is proposing to rezone 39.624 acres of land to Planned Development District (PDD). Currently, 4.217 acres of the subject property along Lower Seguin Road are located within the City limits and zoned Single-Family Residential Agricultural District (R-A), and the remaining 35.407 acres are outside the City limits and under a delayed annexation development agreement. The approximately 35.5 acres of land outside the City limits will also go through voluntary annexation proceedings along with this zone change application. The applicant is requesting to rezone all 39.624 acres of land to Planned Development District (PDD), which will consist of single-family residential uses and private parkland.

According to the Carmel Ranch PDD Development Standards, the subdivision will contain three different lot codes: 'SF55', 'SF60', and 'SF70'. All three of the proposed lot codes will have a base zoning district of Single-Family Residential (R-1). Please see "Table Two - Dimensional Requirements" within the Carmel Ranch PDD Development Standards for full details on lot sizes and building setback requirements. The Carmel Ranch PDD will contain a maximum of 131 single-family residential lots, which roughly equates to 3.3 dwelling units per acre. The proposed mix of detached single-family residential lots would result in a median lot size of 60'x118', and an average lot size of 7,283 square feet. The PDD also outlines other modifications for residential lots, including a single-story height restriction for 75% of lots abutting arterial roadways; modified width requirements for lots on cul-de-sacs, knuckles, or curves (39' at lot frontage line and 50' at the building setback line); and driveway location restrictions that prevent side orientation and access of lots on street corners. In addition to the 131

single-family residences shown on the conceptual land use plan, the developer is also proposing to construct 0.708 acres of private parkland that will include active and passive improvements, as well as a trail system that will connect the surrounding neighborhood through the drainage corridors. A 10' shared-use pathway will also be constructed along Lower Seguin Road, which will meander throughout the landscaping within the 50' roadway landscape buffer.

The Conceptual Land Plan is being revised by the Project Engineer following the Planning and Zoning Commission in order to more accurately depict the planned Residential Collector roadway that runs through the middle of the subject property. The Schertz Master Thoroughfare Plan (MTP) identifies a Residential Collector roadway with a 70' ROW section to extend from Lower Seguin Road to Interstate Highway 10, which was not clearly shown on the original Conceptual Land Plan presented to the Planning and Zoning Commission. The revised conceptual land plan will show the full 70' section intersecting with Lower Seguin Road across from St. Vincent Way in Rhine Valley Subdivision Unit 2, and then traveling southbound and stubbing for future development at the southern property boundary. The original Conceptual Land Plan that was presented to the Planning and Zoning Commission is the exhibit attached to this staff report; City Staff will work to publish an updated CCM for Ordinance 21-S-14 to include the new Conceptual Land Plan if the Project Engineer is able to provide the exhibit prior to the City Council Meeting next week.

The Carmel Ranch PDD Development Standards proposes to modify the regulations for Subdivision Entry Signs and Development Signs. Please see the below tables for the proposed changes to UDC Sec. 21.11.15 and Sec. 21.11.18 and a comparison to the current sign regulations. Please note that the Development Sign regulations in UDC Sec. 21.11.18 have been split into two different categories: wayfinding signs and model ID signs. Wayfinding signs will give directional cues to drivers to locate the Parks, trail heads and builder model homes. The Model ID Signs may be monument signs and are made of wood, masonry, or metal built signs that are located at a builder's Model Home, identifying the builder name and to clearly designate that the home is a Model Home.

Proposed Sign Regulations: UDC Sec. 21.11.15 Subdivision Entry Signs

UDC Section	Current Regulation	Proposed Regulation
UDC Sec. 21.11.15.C Maximum Area	32 square feet per sign face	187 square feet per sign face
UDC Sec. 21.11.15.D Maximum Number of Signs	1 sign at primary entrance; 1 sign per secondary entrance w/ 75% max area	2 signs (1 on both sides of the entrance) for the primary entrance on Lower Seguin Road; 1 sign per secondary entrance w/ 75% max area

Proposed Sign Regulations: UDC Sec. 21.11.18 Development Signs

UDC Section	Current Regulation	Proposed Regulation
UDC Sec. 21.11.15.A Maximum Area	32 square feet	32 square feet per sign face
UDC Sec. 21.11.15.B Maximum Height	6 feet	Wayfinding Signs: 8 feet Model ID Signs: 6 feet
UDC Sec. 21.11.15.C Number of Signs	1 sign per residential entry, not to exceed 2 total signs	Wayfinding Signs: 1 sign per number of recorded units Model ID Signs: 1 sign per Model home

UDC Sec. 21.11.15.D Duration	Installed after final plat approval and removed after 3 years or 75% build-out (whichever is soonest) for residential	Wayfinding Signs: Installed following recordation of final plat for each unit Model ID Signs: Installed following recordation of final plat and removed when model home is sold and closed
------------------------------------	---	---

Comprehensive Plan Conformance

A Comprehensive Land Use Plan Amendment was approved by the Schertz City Council on December 1, 2020, which changed the future land use designations of the 39.5 acre subject area from the Estate Neighborhood and Agricultural Conservation land use designations to the Single-Family Residential land use designation. Areas classified under the Single-Family Residential land use designation are intended to utilize a traditional neighborhood design that includes a mix of residential uses, as well as limited commercial development to support the daily activities of the development. The proposed zone change meets the goals and objectives of the Single-Family Residential future land use designation, and is therefore in conformance with the Comprehensive Land Use Plan.

Impact to Public Facilities/Services

In order to service the subject property the developer will be obligated to design water and sanitary sewer services throughout the subdivision during the Master Development Process in order to connect to public utility systems. The developer is also proposing to construct a lift station in association with the Saddlebrook Ranch Subdivision, and there is planned capacity for the Carmel Ranch Subdivision to connect to the public sanitary sewer system. A 15' ROW section will be required to be dedicated along Lower Seguin Road, which is identified as a Secondary Arterial Roadway (90' planned ROW section). If necessary, any further improvements to existing and planned public roadways will be identified through the Traffic Impact Analysis Study during the Master Development Plan process. In accordance with Texas Local Government Code (LGC) Chapter 43, the City must provide public services to the land on the effective date of the annexation, which is scheduled to occur simultaneously with the zone change application.

Compatibility with Existing and Potential Adjacent Land Uses

The subject property is currently surrounded by land that is undeveloped or used for agricultural purposes, as well as land utilized for single-family residential. The proposed zone change to PDD, given the single-family residential base zoning throughout the entirety of the subdivision, is compatible with the existing and potential adjacent land uses.

GOAL

The project goal is to rezone 39.624 acres of land to Planned Development District (PDD). Currently, 4.217 acres of the subject property along Lower Seguin Road are located within the City limits and zoned Single-Family Residential Agricultural District (R-A), and the remaining 35.407 acres are outside the City limits and under a delayed annexation development agreement. The approximately 35.5 acres of land outside the City limits will also go through voluntary annexation proceedings along with this zone change application.

COMMUNITY BENEFIT

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

Planning and Zoning Commission Recommendation

The Schertz Planning and Zoning Commission met on April 14, 2021 and voted to recommend that City Council approve Ordinance 21-S-14 (ZC2021-002) by unanimous vote (7-0).

Staff Recommendation

The proposed zone change to PDD, which proposes a mix of detached single-family residential housing and an interconnected system of private trails and parkland, would allow the property to develop in accordance with the recently-approved Single-Family Residential future land use designation.

Therefore, the proposed zone change meets the goals and objectives of the Comprehensive Land Use Plan. During the public hearings for the owner-requested comprehensive plan amendment for this subject property, City Council spoke extensively regarding their vision for new residential development; City Council indicated their preference for Staff to allow a greater range of lot sizes and housing types in order to potentially allow for more affordable housing options, as well as pull back on neighborhood design element oversight to show more deference to the evolving market. Staff believes the proposed Carmel Ranch Planned Development District is compatible with City Council's direction. Therefore, Staff recommends approval of the proposed zone change to Planned Development District as submitted.

FISCAL IMPACT

None

RECOMMENDATION

Staff recommends approval of Ordinance 21-S-14.

Attachments

Ordinance 21-S-14

Ord. 21-S-14 Exhibit A

Ord. 21-S-14 Exhibit B

Ord. 21-S-14 Exhibit C

Conceptual Land Plan Exhibit

Aerial Map

Public Hearing Notice Map

Public Hearing Notice Responses

ORDINANCE NO. 21-S-14

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE OFFICIAL ZONING MAP BY REZONING APPROXIMATELY 39.5 ACRES OF LAND TO PLANNED DEVELOPMENT DISTRICT (PDD), GENERALLY LOCATED APPROXIMATELY 4,000 FEET SOUTHEAST OF THE INTERSECTION BETWEEN FM 1518 AND LOWER SEGUIN ROAD, ALSO KNOWN AS BEXAR COUNTY PROPERTY IDENTIFICATION NUMBERS 310024 AND 310031, BEXAR COUNTY, TEXAS.

WHEREAS, an application to rezone approximately 39.5 acres of land located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, and more specifically described in the Exhibit A and Exhibit B attached herein (herein, the “Property”) has been filed with the City; and

WHEREAS, the City’s Unified Development Code Section 21.5.4.D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on a requested zone change (the “Criteria”); and

WHEREAS, on April 14, 2021, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to approve the requested rezoning according to the development standards set forth in Exhibit C attached herein (the “Development Standards”); and

WHEREAS, on May 4, 2021, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested zoning be approved as provided for herein.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:
THAT:**

Section 1. The Property as shown and more particularly described in the attached Exhibit A and Exhibit B, is hereby zoned Planned Development District (PDD)

Section 2. The Official Zoning Map of the City of Schertz, described and referred to in Article 2 of the Unified Development Code, shall be revised to reflect the above amendment.

Section 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 4. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 6. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 9. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Approved on first reading the 4th day of May, 2021.

PASSED, APPROVED AND ADOPTED on final reading the 11th day of May, 2021.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary
(SEAL OF THE CITY)

Field Notes for a tract of land
Containing 39.624 acres (1,726,013.68 square feet) tract of land

A 39.624 acre (1,726,013.68 square feet) tract of land situated in the Julian Diaz Survey No. 66, Abstract No. 187, Bexar County Block 5059, Bexar County, Texas, out of a 20.003 acre tract as conveyed to Alfred L. Fluitt by General Warranty Deed with Vendor's Lien, as recorded in Volume 18218, Page 2089, and a 21.58 acre tract as conveyed to Sue Nell Fluitt by General Warranty Deed with Vendor's Lien, as recorded in Volume 8472, Page 1941, both of the Official Public Records of Bexar County, Texas, said 39.624 acre (1,726,013.68 square feet) tract of land being more particularly described as follows:

Beginning at a found 1/2" iron rod on the southeast right of way line of Lower Seguin Road, (Public Right of Way), being the northwest corner of a 2.005 acre tract as conveyed to Carlos Garza, Jr. and wife Margret L. Carty by General Warranty Deed with Vendor's Lien, as recorded in Volume 6541, Page 807, of the Official Public Records of Bexar County, Texas, being the north corner of the herein described tract;

Thence, with the southwest boundary of said 2.005 acre tract and the northeast boundary of said 20.003 acre tract, South 30 degrees 31 minutes 38 seconds East, passing the south corner of said 2.005 acre tract being the northwest corner of a 2.003 acre tract as conveyed to James B. Carty by General Warranty Deed with Vendor's Lien, as recorded in Volume 6541, Page 812, of the Official Public Records of Bexar County, Texas, and continuing said course for a total distance of 1,262.30 feet, to a found 1/2" iron rod, being on the northwest boundary of a 194.101 acre tract as conveyed to Seanna Fraser Holtz by General Warranty Deed with Vendor's Lien as recorded in Document Number 20110157688, of the Official Public Records of Bexar County, Texas, being the south corner of said 2.003 acre tract and the southeast corner of the herein described tract;

Thence, with the southeast boundary of said 20.003 acre tract and the northwest boundary of said 194.101 acre tract, South 59 degrees 33 minutes 45 seconds West, a distance of 693.68 feet, to a found 1/2" iron rod, being on the northwest boundary of said 194.101 acre tract, and being the east corner of said 21.58 acre tract, being the south corner of said 20.003 acre tract and being an angle point in the herein described tract;

Thence, with the southeast boundary of said 21.58 acre tract and the northwest boundary of said 194.101 acre tract, South 59 degrees 39 minutes 33 seconds West, a distance of 1,098.31 feet, to a found 1/2" iron rod (bent), being on a northeast boundary of a 34.335 acre tract as conveyed to Penny Lu Fairley by Revocable Transfer on Death Deed as recorded in Document Number 20180127574, of the Official Public Records of Bexar County, Texas, and being the west corner of said 194.101 acre tract and the southwest corner of the herein described tract;

Thence, with the southwest boundary of said 21.58 acre tract and a northeast boundary of said 34.335 acre tract, North 30 degrees 18 minutes 41 seconds West, a distance of 655.26 feet, to a set 1/2" iron rod with an orange plastic cap stamped "MTR ENG", being the south corner of a 15.00 acre tract as conveyed to Michael Asher and Linda S. Harman by General Warranty Deed Reserving a Life Estate as recorded in Document Number 20140093450, of the Official Public Records of Bexar County, Texas, being the west corner of said 21.58 acre tract and the west corner of the herein described tract;

Thence, with a northerly boundary of said 21.58 acre tract and the southeast boundary of said 15.00 acre tract, North 59 degrees 32 minutes 37 seconds East, passing the east corner of said 15.00 acre tract, being the south corner of a 2.00 acre tract as conveyed to Salvador P. Alvarez by General Warranty Deed with Vendor's Lien as recorded in Document Number 20060070306, of the Official Public Records of Bexar County, Texas, and continuing said course for a total distance of 840.23 feet to a found 1/2" iron rod with yellow plastic cap stamped "REG NO. 5464", being the southeast corner of said 2.00 acre tract and an interior angle point in the herein described tract;

Thence, with the easterly boundary of said 2.00 acre tract, North 24 degrees 00 minutes 42 seconds West, a distance of 602.47 feet, to a found 1/2" iron rod with yellow plastic cap on the southeast right of way line of said Lower Seguin Road being the most northerly northwest corner of said 21.58 acre tract, being the north corner of said 2.00 acre tract, and being the northwest corner of the herein described tract;

Thence, with the southeast right of way line of said Lower Seguin Road and the most northerly northwesterly boundary of said 21.58 acre tract, North 59 degrees 36 minutes 57 seconds East, to a found 1/2" iron rod with red plastic cap stamped "SEGULL RPLS 1776", being the north corner of said 21.58 acre tract and the west corner of said 20.003 acre tract, and being an angle point in the herein described tract;

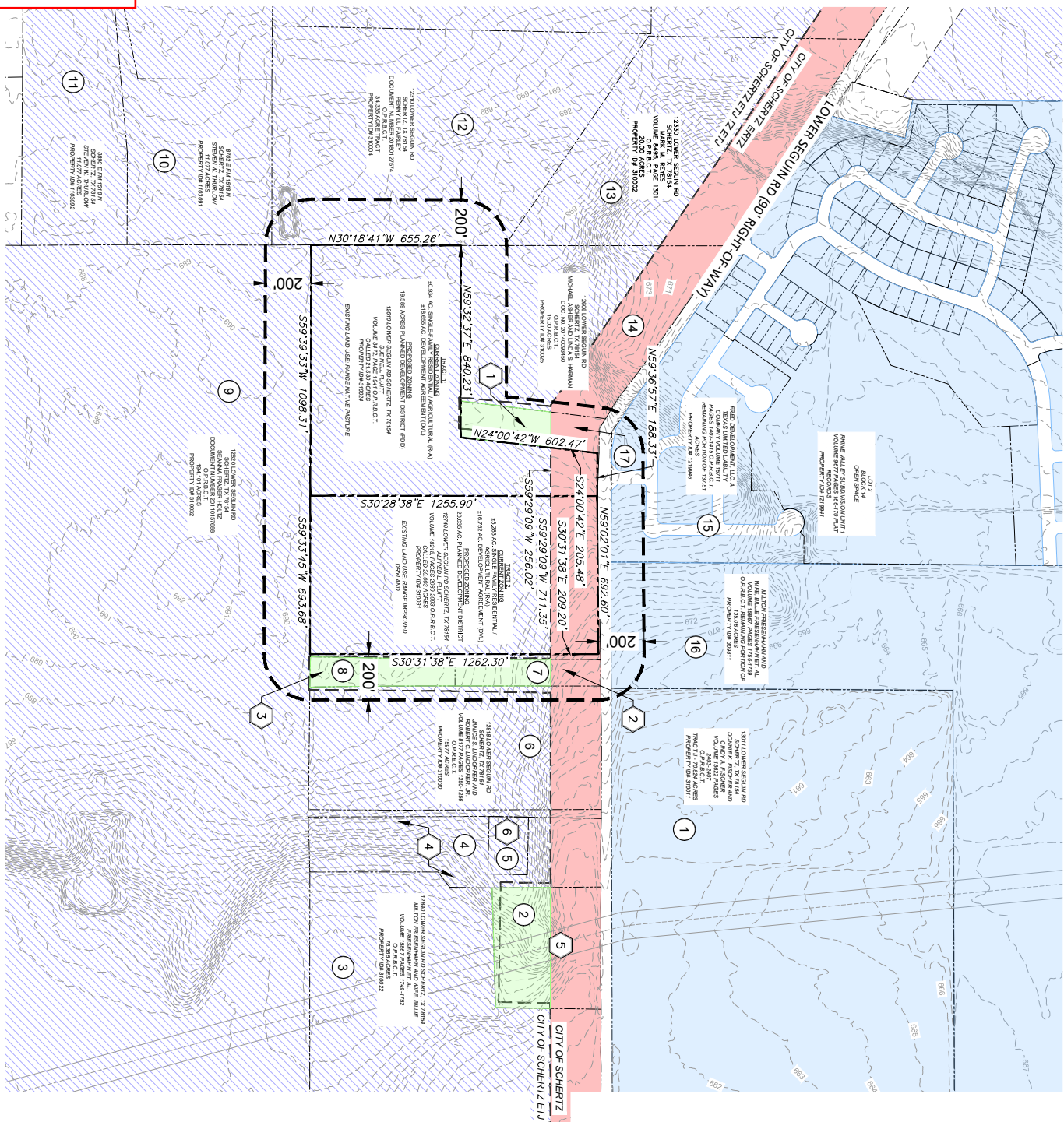
Thence, continuing with the southeast right of way line of said Lower Seguin Road and the northwest boundary of said 20.003 acre tract, North 59 degrees 02 minutes 01 seconds East, a distance of 692.60 feet to the **Point of Beginning**, containing 39.624 acres (1,726,013.68 square feet) of land.

Note: Basis of bearings and coordinates cited were established from the State Plane Coordinate System, North American Datum of 1983, Texas South Central Zone Surface Units. A Survey of even date was prepared for this description.













Stephanie L. James, R.P.L.S.
Registered Professional Land Surveyor
No. 5950
Date: 2020-11-10 Job No. 20151
VB



PROPERTY INFORMATION

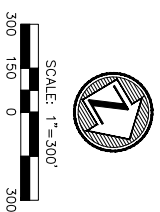
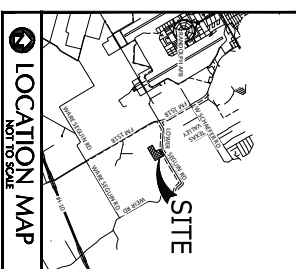
- | | |
|---|--|
| 1 | 1241 LOWES SEQUOIA NO SCIENTIST, TV 7H
DOO: NUMBER 0000000000 OF N.R.C.T.
PROCESSED 06/21/15
1272 LOWES SEQUOIA NO SCIENTIST, TV 7H
DOO: NUMBER 0000000000 OF N.R.C.T.
PROCESSED 06/21/15 |
| 2 | 1271 LOWES SEQUOIA NO SCIENTIST, TV 7H
DOO: NUMBER 0000000000 OF N.R.C.T.
PROCESSED 06/21/15 |
| 3 | 1270 LOWES SEQUOIA NO SCIENTIST, TV 7H
DOO: NUMBER 0000000000 OF N.R.C.T.
PROCESSED 06/21/15 |
| 4 | 1269 LOWES SEQUOIA NO SCIENTIST, TV 7H
DOO: NUMBER 0000000000 OF N.R.C.T.
PROCESSED 06/21/15 |
| 5 | 1268 LOWES SEQUOIA NO SCIENTIST, TV 7H
DOO: NUMBER 0000000000 OF N.R.C.T.
PROCESSED 06/21/15 |
| 6 | 1267 LOWES SEQUOIA NO SCIENTIST, TV 7H
DOO: NUMBER 0000000000 OF N.R.C.T.
PROCESSED 06/21/15 |

LEGEND

-  SUBJECT PROPERTY BOUNDARY
 200' NOTIFICATION BOUNDARY
 PROPERTY BOUNDARY
 EXISTING CONTOUR
 SCHERTZ CITY LIMITS
 OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS
 AREA TO BE ANNEXED INTO THE CITY OF SCHERTZ
 AREA WITHIN THE SCHERTZ CITY LIMITS

LAND USE TABLE

OBJECT ID	LAND USE DESCRIPTION
1	Single-Family Residential
2	Range-Improved Dryland
3	Tillable Dry (Farm)
4	Range-Improved Dryland
5	Base Rate lot
6	Tillable Dry (Farm)
7	Base Rate lot
8	Base Rate lot
9	Range-Improved Dryland
10	Tillable Dry (Farm)
11	Range-Improved Dryland
12	Family Homes is Single-Range-Improved Dryland
13	Family Homes is Single
14	Family Homes is Single
15	Single-Family Residential
16	Single-Family Residential
17	Base Rate lot



OWNER INFORMATION		APPLICANT		SERVICE	
ALBERT E. BLATT	554 PLYMOUTH AVE	PAUL J. KNOX, JR., PE, CEM	STEPHEN L. JAMES, PE, S.E.	MOY RAIN, BARBER ENGINEERS, LLC	17200 ALVARADO, SUITE 100
ROCKWELL, TX 76080	Ph: (817) 356-0600	17200 ALVARADO, SUITE 100	SAO ANTONIO, TEXAS 78248	SAO ANTONIO, TEXAS 78248	Ph: (210) 666-0585

NOTE:

1. NO PORTION OF THIS PROPERTY IS LOCATED WITHIN THE 100-YEAR (1% CHANCE) FLOODPLAIN AS ACCORDING TO FEMA FIRM PANEL #48187C0240F.
2. THE THOROUGHFARE ALIGNMENT SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DO NOT SET THE ALIGNMENT. ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAN.

SADDLEBROOK RANCH ZONING TABLE		
CONDITION	ZONING	AREA (A.C.)
EXISTING	"R-A"	4.217
	"IDVL"	35.407
PROPOSED	"PDD"	39.624

[illegible]

CARMEL RANCH

A Planned Development District
Schertz, Texas

January 2021

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CARMEL RANCH

A Planned Development District Schertz, Texas

I. General

A. Introduction

Understanding that there would be circumstances in which a development might not be able to adhere to the strict regulations and design standards set forth in the Schertz Unified Development Code (UDC), the UDC established Article 5, Section 21.5.10, a Planned Development District (**PDD**), as an alternative approach to conventional land development.

The City of Schertz Unified Development Code as amended will govern development of the property, except for the following statements.

Development within the subject property is subject to general development plan review and approval by the City Council. Such general development plan review is to ensure conformance with the guidelines required herein and the goals and objectives of the City of Schertz Comprehensive Plan.

B. Purpose and Intent

The purpose of PDD regulations is to encourage and promote more creative, innovative, and imaginative land development than would not be possible under the regulations found in a typical zoning district. The intent is to allow substantial flexibility in planning, design and development standards in exchange for greater land values and amenities, such as enhanced parkland and open space, preservation of natural resources, pedestrian friendly environment, and deviation from the typical traffic patterns. It is this intrinsic flexibility, in the form of relief from the normal zoning ordinances, design standards, land use densities, and subdivision regulations, that allows for the definition of uses, densities and standards that will permit the alternative planning associated with a PDD and this development known as Fluitt Tract ("**Carmel Ranch**").

C. The Property

The attached metes and bounds (Exhibit "C") place the property within the corporate limits of the City of Schertz upon annexation and Bexar County, Texas. The property is bounded on the north by Lower Seguin Road. The property contains 39.59 acres of land.

Analysis of the property does not reveal any physical constraints or potential health or safety hazards. Further evaluation of the tract reveals that utilities are available and that the property's demands can be served.

The Overall Recreation and Open Space Master Plan (exhibit "A") are proposed. Such amenities will include both passive and active areas, as well as pathways. Walkways will provide links between park areas, open spaces, neighborhood units, and such amenities as playscapes. All of which to promote a safe and pedestrian friendly environment and overall livable community.

Table One – Units and Land Use	
Unit	Land Use
1	SF – 55' Lots & Drainage - Open Space
1	SF – 60' Lots & Drainage - Open Space
1	SF – 70' Lots & Drainage - Open Space
1	SF – 60' Lots
1	SF - 70' Lots
1	SF - 55' Lots
1	Park Area – Open Space

Affected UDC Articles

II. Zoning Districts (Article 5)

There are circumstances, due to property constraints or external factors, which do not always support the notion that one size fits all especially in applying zoning subdivision codes as such relates to property development.

As a planned development, the attached PDD Master Plan (Exhibit “B”) as well as this document defines the types of uses for this proposed PDD. The plan delineates land uses that are residential in character as well as shows parks, and open space. This document requests that those Articles and Sections affected by the zoning change be amended or modified and granted by ordinance. The following districts would be defined or modified as:

A. Single-Family Residential District per the PDD

Each area, as shown and identified on the PDD Master Plan, is comprised of a single-family residential dwelling on three (3) minimum size lots of 6,875 sf for 55-foot wide lots, 7,200 sf for 60-foot wide lots, 8,400 sf for 70-foot wide lots. The SF 55, SF 60, & SF 70 residential district areas will be subject to the same zoning regulations as the Single Family Residential District (R-1) in the Schertz UDC, unless otherwise stated in the following development standards.

B. Dimensional and Developmental Standards (Section 21.5.7)

The applicable dimensional and development standards for the land use districts are shown in Table Two and reflect those changes proposed by this PDD development.

1. Additional Standards

The maximum number of single-family residential lots allowed within the Carmel Ranch PDD shall not exceed 131.

Lots developed under this PDD for residential purposes will comply with the minimum requirements established in Table Two. Such lots designated as residential will have at least the minimum area and width and depth indicated in Table Two of this proposal.

No portion of the main or primary structure on a residential lot may be located any closer to any lot line or to the street right-of-way line than is authorized in Table Two. The front yard setback shall be measured from the property line to the front face of the main or primary building. Eaves and roof line of the main structure may project into any setback line by no more than two (2) feet.

Table Two – Dimensional Requirements											
		Min Lot Size			Min. Yard Setback			Min. Off-Street Parking Spaces	Misc. Requirements		
Code	Classification	Area sf	Width ft	Depth ft	Front ft	Side ft	Rear ft	Parking	Max. Ht.	Max. Cover	Keys
SF 55	Single Family	6,875	55	125	30(c)	10	15	2	35	65%(f) 50%(g)	a, c, f, g
SF 60	Single Family	7,200	60	120	25(d)	10	15	2	35	65%(f) 50%(g)	a, d, f, g
SF 70	Single Family	8,400	70	120	25(d)	10	15	2	35	65%(f) 50%(g)	a, d, f, g
<p>Key:</p> <p>a. Corner lots against a street, not an alley, shall have a minimum fifteen (15) foot side yard building setback adjacent to the streetside.</p> <p>b. See Article 10 in the Schertz UDC for parking requirements.</p> <p>c. Houses on irregular lots, including cul-de-sacs and knuckle sacs, shall have a minimum front yard setback of 25 feet.</p> <p>d. Houses on irregular lots, including cul-de-sacs and knuckle sacs, shall have a minimum front yard setback of 20 feet.</p> <p>e. One-story homes to have a maximum impervious coverage at 65%.</p> <p>f. Two-story homes to have a maximum impervious coverage at 50%.</p>											

2. Height Restriction for Lots abutting Lower Seguin Road.

Only 25% of the Lots that abut Lower Seguin Road may be two-story homes.

III. Special Uses (Article 8)

A. Home Owners Association - Section 21.8.1(C)

Even though Carmel Ranch is not proposed as a gated community, a Homeowners Association (**HOA**) will be established to provide upkeep within the development including the maintenance of common areas, landscape buffers, and maintaining fences, and/or walls, except for fences and/or walls located on individual or private lots, as well as hiking trails and multi-use paths within the development's common areas.

B. Architectural Review Committee

The Developer will establish an Architectural Review Committee (**ARC**) which will be responsible for reviewing and approving construction plans for all residential construction within the Carmel Ranch PDD. The ARC will consist of members appointed by the Developer until all of the property within the Carmel Ranch PDD has been transferred to an independent third party purchaser or to the HOA.

Construction of residential and community amenities within the Carmel Ranch PDD shall first be submitted to the ARC for approval and to verify compliance with the terms, conditions and obligations of the PDD and deed restrictions. The ARC shall review such contemplated construction and shall, if approved, provide verification in a form acceptable to the City by which the ARC verifies that the plan for the contemplated construction complies with the PDD and associated guidelines.

IV. Site Design Standards (Article 9)

This proposed development conforms to the Comprehensive Land Plan for orderly and unified development of streets, utilities, neighborhood design, and public land and facilities.

A. Lots (Section 21.9.3)

Lot sizes and dimensions will conform to the minimum requirements recognized in Table Two of this PDD. In addition, the following requirements will apply to this PDD:

- On a residential corner lot, orientation of the dwelling will be forward facing and in similar physical orientation with the other houses next-door and on the same street. Side orientation will not be permitted;
- No driveway cuts or garage access will be permitted from a side orientation of a corner lot;
- The width of a residential lot located on a cul-de-sac, knuckle or curve will be no less than thirty-nine (39) feet wide at the property line, and at least fifty (50) feet wide at the building line.

V. Signs (Article 11)

A. Subdivision Entry Signs (Section 21.11.15)

The provisions of this section shall only apply to entry signs that identify the residential or commercial development associated with this PDD and include the Subdivision Entry Signs, Wayfinding Signs, and Park ID Signs.

1. Subdivision Entry Signs:

Subdivision Entry Signs are two types, being Primary Subdivision Entry Signs and Secondary Entry Signs. Primary Subdivision Entry Signs may be located at both sides of the primary entrance into the subdivision located on Lower Seguin Rd. Secondary entrances may have one (1) subdivision entry sign per entrance which shall be a maximum of seventy-five percent (75%) of the size of the primary entrance sign.

2. Maximum Area

i. Project Entry Signs:

Primary Subdivision Entry Signs will allow for a maximum area not to exceed one-hundred and eighty-seven (187) square feet per sign face and may consist of a surface with lettering and logo or a combination of both.

3. Subdivision Entry Feature

An entry feature which is appropriate in scale to the size of the development and incorporating masonry walls, berms and/or decorative fencing, in combination with the Primary Subdivision Entry Signs, may be constructed at the primary subdivision entrance on Lower Seguin Rd and the Secondary Entry locations provided the maximum area per entry sign(s) shall not exceed the square footage noted above.

B. Development Signs (Section 21.11.18)

Development Signs are typically wood, durable plastic, or metal and advertise the community, builders, land uses within the community, and communities within the development. The signs may also be used for providing traffic direction to specific internal destinations. Development signs may be categorized into two types, being Wayfinding Signs and Model ID Signs.

Wayfinding signs will give directional cues to drivers to locate the Parks, trailheads, the next-door school and builder model homes. The Model ID Signs may be monument signs and are made of wood, masonry, or metal-built signs that are located at a builder's Model Home, identifying the builder name and to clearly designate that the home is a Model Home.

1. Maximum Area

Wayfinding Signs: Wayfinding Signs are internal to the community, and shall not exceed thirty-two (32) square feet per sign face. These signs will be double-faced and placed perpendicular to the street

2. Maximum Height

Wayfinding Signs: Wayfinding Signs shall not exceed eight (8) feet in height.

Model ID Signs: The Model ID Signs, will allow for a maximum face height of six (6) feet.

3. Number of Signs

Wayfinding Signs: One Wayfinding Signs is allowed per the number of recorded Units.

Model ID Signs: One Model ID Sign may be installed at each Model Home.

4. Duration

Wayfinding Signs: Wayfinding Signs per Unit may be installed at any time after approval and recordation of the Final Plat for each Unit identified on the Master Development Plan (Exhibit "B").

Model ID Signs: The Model ID Signs may be installed at any time after the approval and recordation of the Final Plat of the Unit in which the Model Home resides. The Model ID Signs must be removed when a model home is sold and closes.

VI. Transportation (Article 14)

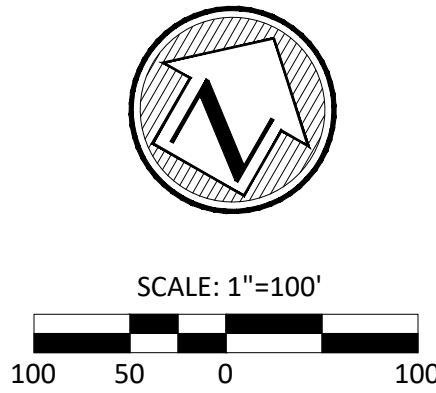
Note: Only 25% of the Lots that abut Lower Sequin Road may be two-story homes.

A. Sidewalks Trails (Section 21.14.6)

A meandering variable width shared-use pathway, minimum ten (10) feet wide, will be located within the 50-foot landscape buffer along the south side of Lower Sequin Road. Trails shall have a minimum width of five (5) feet and shall gently meander when possible.

VII. Amendments to the Planned Development District (PDD)

Any significant future changes from the established Dimensional Requirements for the approved PDD, which alter the concept of the PDD or increase the density, will cause the plan to be re-submitted for approval by the Planning & Zoning Commission and the City Council, including a new public hearing with applicable fees. Minor changes which do not change the concept or intent of the development shall be approved or denied administratively.



PROPOSED 55'x125' LOT
PROPOSED 60'x120' LOT
PROPOSED 70'x120' LOT
15' STREET DEDICATION
LANDSCAPE BUFFER/TRAIL TRACT
DRAINAGE, DETENTION AND RETENTION AREA
LOCAL A STREET
COLLECTOR STREET
PROPOSED TRAIL
PROPOSED CURB "LOCAL A"
PROPOSED CURB "COLLECTOR"
PROPOSED STREET CENTERLINE

[illegible]

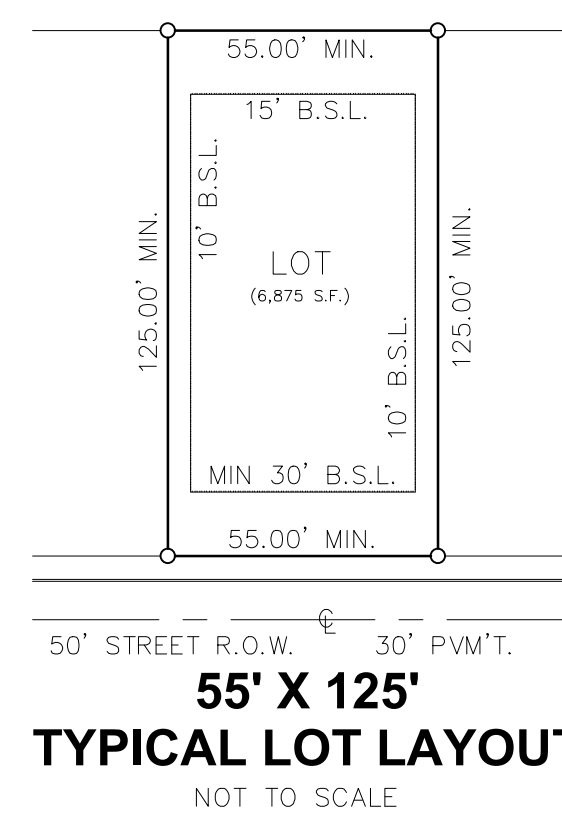
MTR

- Engineers
- Surveyors
- Planners

Moy Tarin Ramirez Engineers, LLC
FIRM TBPELS ENG F-5297 SVY F-10131500
127770 CRAWFORD PATH, SUITE 100
SAN ANTONIO, TEXAS 78249
TEL: (210) 698-5051
FAX: (210) 698-5050

OPTION 1

EX1



LOT SIZE	QUANTITY
70'x120'	16
60'x120'	49
55'x125'	63
TOTAL	128

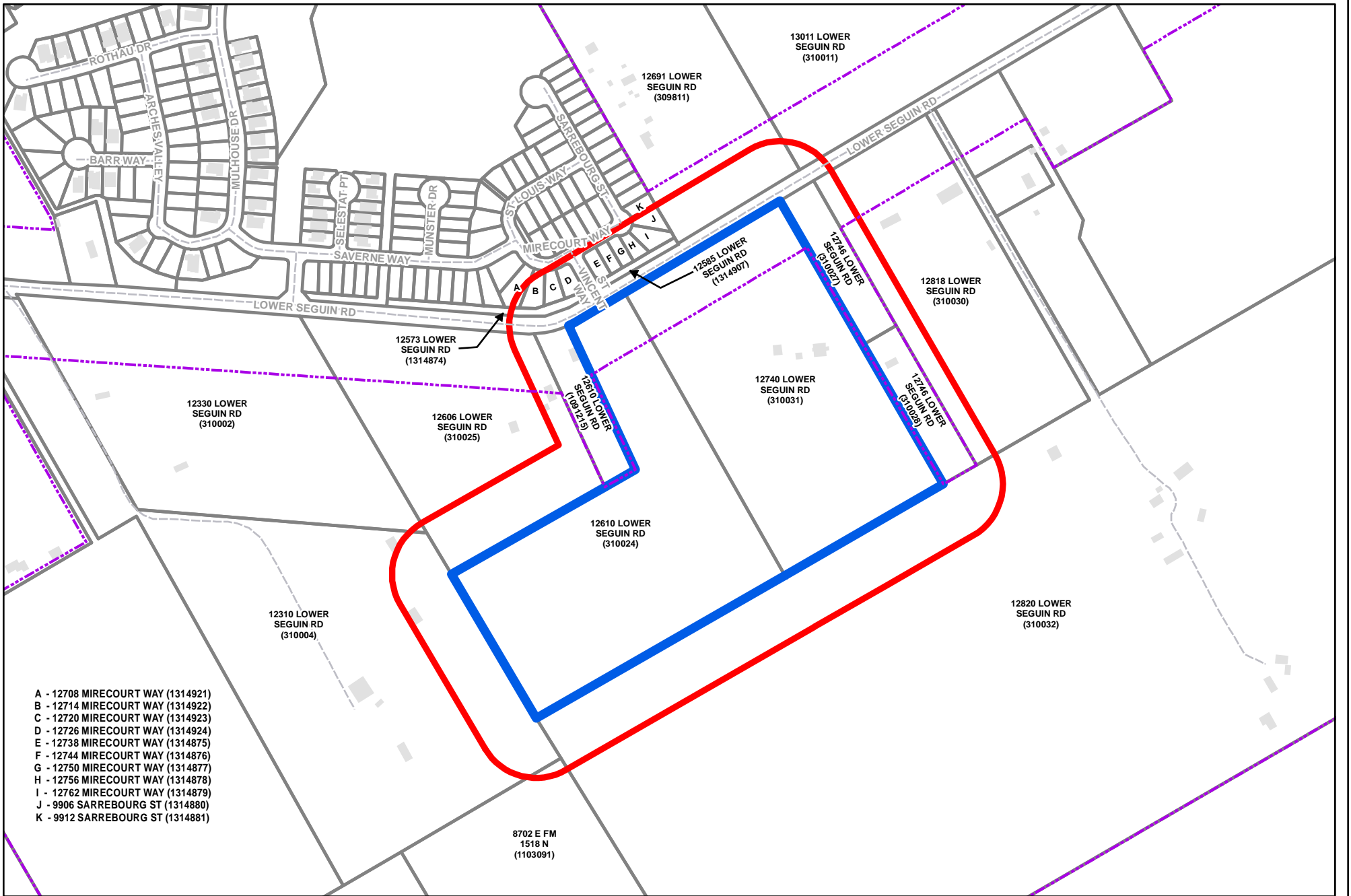
AVERAGE LOT AREA 7,190 S.F.



FLUITT TRACTS

<all other values>	60' Expansion	86' Extension	120' Proposed	1", 1 1/2"	8"	20"	Unknown	Schertz Gravity	Hydrant	200' Buffer
Highways	60' Proposed	86' Proposed	Abandoned	2", 2 1/2"	10"	24"	Neighboring Main	Schertz Pressure	Manholes	Schertz Municipal Boundary
Major Roads	60' Extension	120' Expansion	Future TxDOT	3"	12"	30"	Private Main	Neighboring Gravity	County Boundaries	County Boundaries
Minor Roads	86' Expansion	120' Extension	Highway	4"	16"	36"	Private Pressure	Private Pressure	0	150
Other Cities				6"	18"				300	600

1 Inch = 300 Feet



SCHERTZ
COMMUNITY • SERVICE • OPPORTUNITY

City of Schertz

FLUIT TRACTS

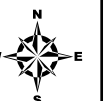


Schertz Municipal Boundary



200' Notification Buffer

Parcel Boundaries



Last Update: September 22, 2020

City of Schertz, GIS Specialist: Bill Gardner, gis@schertz.com (210) 619-1185

"The City of Schertz provides this Geographic Information System product "as is" without any express or implied warranty of any kind including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. In no event shall The City of Schertz be liable for any special, indirect or consequential damages or any damages whatsoever arising out of or in connection with the use of or performance of these materials. Information published in this product could include technical inaccuracies or typographical errors. Periodical changes may be made and information may be added to the information herein. The City of Schertz may make improvements and/or changes in the product(s) described herein at any time."

Reply Form

I am: in favor of ☒

opposed to ☐

neutral to ☐

the request for ZC2021-002

COMMENTS: _____

NAME: Alfred Leon Fluit SIGNATURE Alfred L. Fluit
(PLEASE PRINT)

STREET ADDRESS: 528 Appaloosa Run, Round Mt., Tx 78663

DATE: 4-6-21

1400 Schertz Parkway



Schertz, Texas 78154



210.619.1000



schertz.com

Megan Harrison

From: Norma Frasier
Sent: Monday, April 12, 2021 5:36 PM
To: planning@schertz.com
Subject: April 14, 2021 Public Hearing

Nick Kopyay, I am very much in favor of the request to rezone the 39.5 acre to planned Development District PPD located on Lower Seguin Road.

I cannot be there in person because of health reasons Sincerely Alfred Fluitt. My email is drhappydvm@gmail.com

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on **Wednesday, April 14, 2021 at 6:00 p.m.** located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

ZC2021-002 – A request to rezone approximately 39.5 acres of land to Planned Development District (PDD), generally located approximately 4,000 feet southeast of the intersection between FM 1518 and Lower Seguin Road, also known as Bexar County Property Identification Numbers 310024 and 310031, Bexar County, Texas.

The Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. *This form is used to calculate the percentage of landowners that support and oppose the request.* You may return the reply form below prior to the first public hearing date by mail or personal delivery to Nick Kopyay, Planner, 1400 Schertz Parkway, Schertz, Texas 78154, by fax (210) 619-1789, or by e-mail planning@schertz.com. If you have any questions please feel free to call Nick Kopyay, Senior Planner at (210) 619-1780.

Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for ZC2021-002

COMMENTS: _____

NAME: JEANNE ZWICKE SIGNATURE Jeanne Zwicke
(PLEASE PRINT)

STREET ADDRESS: 1545 GIN RD SEGUIN TX 78155

DATE: 4-13-21

(12691 LOWER SEGUIN RD
SCHERTZ)

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for ZC2021-002

COMMENTS: _____

NAME: Elizabeth Basha SIGNATURE Elizabeth Basha
(PLEASE PRINT)

STREET ADDRESS: 1637 Santa Clara Loop Marion 78124

DATE: 4-11-21

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for ZC2021-002

COMMENTS:

NAME: Billie Friesenhahn SIGNATURE Billie Friesenhahn
(PLEASE PRINT)

STREET ADDRESS: 12691 Lower Seguin Rd Schertz 78154

DATE: 4-11-21

NOTICE OF PUBLIC HEARING

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for ZC2021-002

COMMENTS: _____

NAME: Milton Fresenhahn SIGNATURE Milton Fresenhahn
(PLEASE PRINT)

STREET ADDRESS: 12691 Lower Seguin Rd Schertz 78154

DATE: 4-11-21

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for **ZC2021-002**

COMMENTS: _____

NAME: Cindy Fischer SIGNATURE Cindy Fischer
(PLEASE PRINT)

STREET ADDRESS: 13011 Lower Seguin Road

DATE: 4-5-2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for **ZC2021-002**

COMMENTS: _____

NAME: Donnie Fischer SIGNATURE Donnie Fischer
(PLEASE PRINT)STREET ADDRESS: 13011 Lower Seguin RdDATE: 4-5-2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for **ZC2021-002**

COMMENTS: _____

NAME Steven William Thibodeaux SIGNATURE 
(PLEASE PRINT)

STREET ADDRESS: 8702 E. FM 1518 N. Schertz TX 78154

DATE: _____

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **ZC2021-002**COMMENTS: see ATTACHED sheetNAME: GARY FAIRLEY
(PLEASE PRINT)SIGNATURE Mary FairleySTREET ADDRESS: 12310 Lower Seguin Rd.DATE: 4-14-2021

RE: request ZC2021-002

There are several reasons I am opposed to the zoning request for those parcels of land, first of all 90% or better of the land that lies from Lower Seguin Rd. to trainer hale rd. or better is either zoned ag or wildlife at the present time which makes the request not compatible with present land use.

Second: lots of wildlife frequent the area and to put that type of zoning will block off their movements and feeding.

Third it is of my opinion that the process of just changing the zoning on a parcel of land to planned development district with out some preliminary studies being done is like getting the horse before the cart.

Questions that need to be answered first:

Traffic, how many cars now use lower seguin rd either to go their home, take their kids to school or use it to go into Guadalupe county? The road is narrow, hilly and with several curves. Another subdivision started before the 1518 widening projects is only going to further the congestion during that time.

What about sewer, there are some subdivisions that are running on temporary sewer systems now and the elevation of the land in question would require a lift station if it is tied into the proposed sanitation plant.

What about water and drainage there is only a 6 inch main running down lower seguin rd. More than likely that would not be large enough to furnish enough water for that size of development. Drainage and safety is the other part that needs to be considered. In 2002 the rains flooded the lower area of lower seguin rd. in front of Mike Ashers farm. People then where not able to reach their homes in vehicles due to the water over the road for several days. Just because there is open fields next to the parcels being rezoned does not address the issue as there is a federal law that prohibits some one from putting more water on another persons property than what the normal flow would have been. Considering factors like roads, sidewalks and structures (at least 5 to the acre) run off will be a major concern.

As a land owner and farmer I enjoy the peaceful setting of the farm, visited every day and night by a host of animals, watching the deer graze on one of my hay fields bring great pleasure to my wife and i.

But at the same time I do not wish my farm to become a sanctuary for animals being displaced by development.

On a personal note I ask the planning and zoning why is it when I go down my drive that I have a junkyard on one side and carport city on the other? Storm water run off from neighboring tracks of land is creating erosion issues; i.e. loss of production. We have as of yet receive a request for a variance.

If you have any questions or concerns please to contact me.

Gary & Penny Fairley

12310 Lower Seguin Rd.

210-240-9993

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021

Department: Planning & Community Development

Subject: Ordinance 21-S-15 Consideration and/or take action on a request to rezone approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD), generally located southwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas. *Final Reading (B. James, L. Wood, E. Delgado)*

BACKGROUND

May 4, 2021 City Council Meeting Update

At the May 4, 2021 City Council meeting staff indicated along with the developer that several changes were proposed from the originally provided PDD Design Standards in order to try and alleviate some concerns discussed at the Planning and Zoning Commission. Those modifications were presented at the City Council meeting, and are identified below. At the City Council meeting, there was a lengthy discussion in relation to Wiederstein Road and the concerns with the driveways proposed to take access. The developer has included an additional proposed change to the PDD Design Standards in order to allow additional flexibility and a potential alternative to the driveways directly onto Wiederstein, identified below at Section 21.14.4.H / Page 11. This proposed alternative would be reviewed and evaluated during the Master Development Plan process for viability.

PDD Section / Page Number within the PDD Document	Language within PDD Document within May 4, 2021 packet	Language within PDD Document within May 11, 2021 Packet (proposed changed language identified by bold text)
Table 3 / Page 6	*Rectangular shaped lots shall have minimum 7.5-foot side yard setbacks	*Rectangular shaped lots shall have minimum 6-foot side yard setbacks
Table 3 / Page 6	<i>This is an addition for clarity on lot measurements that was not originally within the May 4th presented PDD.</i>	**Minimum depth shall be taken at the midplane of the lot
Section 21.9.3.H / Page 8	Residential lots may front Wiederstein Road, a residential collector. Driveways for all residential lots fronting Wiederstein Road will have a "T" turnaround eliminating the need for vehicles to back onto the road. Dimensional requirements for proposed "T" turnarounds are provided with Exhibit "3".	Residential lots may front Wiederstein Road, a residential collector. Driveways for all residential lots fronting Wiederstein Road, without alley access , will have a "T" turnaround eliminating the need for vehicles to back onto the road. Dimensional requirements for proposed "T" turnarounds are provided with Exhibit "3".
Section 21.9.10 Park and Open Space Dedication Requirements / Page 9	A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek as shown on Exhibit "4" (Wiederstein and West Dietz Creek Trail Plan).	A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek as shown on Exhibit "4" (Wiederstein and West Dietz Creek Trail Plan), or as approved by the Parks Department.

Section 21.14.1.E Dead End Streets / Page 10	Cul-de-sac streets shall not exceed 500 feet in length and shall have a turnaround of not less than 100 feet in diameter of ROW in single-family residential areas. This provision may be modified upon approval of the Fire Chief and City Engineer. The length of the cul-de-sac south of Wiederstein Road in excess of 2,225 feet shall be allowed and is attributed to physical barriers, property ownership and adjacent existing subdivisions. A variable width emergency access drive is being provided back to Wiederstein Road given the length of the cul-de-sac.	Cul-de-sac streets shall not exceed 500 feet in length and shall have a turnaround of not less than 120 feet in diameter of ROW in single-family residential areas. This provision may be modified upon approval of the Fire Chief and City Engineer. The length of the cul-de-sac south of Wiederstein Road in excess of 2,225 feet shall be allowed and is attributed to physical barriers, property ownership and adjacent existing subdivisions. A variable width emergency access drive is being provided back to Wiederstein Road given the length of the cul-de-sac.
Section 21.14.1.P / Page 11	The 40' street section from face of curb to face of curb will consist of (2) 12' travel lanes, (1) 12' parking and bike lane, and (1) 4' bike lane.	The 40' street section from face of curb to face of curb will consist of (2) 12' travel lanes, (1) 12' parking and bike lane, and (1) 4' bike lane, or as approved by the Parks Department, Engineering Department, and Planning Division.
Section 21.14.4.H / Page 11	Alleys will be provide rear ingress/egress on the south side of Wiederstein Road for certain lots within Block 3 & 4 as seen in Exhibit "2" (Conceptual Coving Plan). The alleys will consist of a twenty (20') asphalt paved section with header curbs bordering both sides.	Alleys will be provide rear ingress/egress on the south side of Wiederstein Road for certain lots within Blocks 3 & 4 as seen in Exhibit "2" (Conceptual Coving Plan). Alleys shall be allowed on the north side of Wiederstein, if approved by the Engineering and Planning Departments, as part of the master development plan process. The alleys will consist of a twenty foot (20') asphalt paved section with header curbs bordering both sides.
Section 21.14.6 Sidewalks and Hike and Bike Trails / Page 12	A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek, and continue along West Dietz Creek as shown in Exhibit "4" (Wiederstein and West Dietz Creek Trail Plan). The hike and bike trail shall be constructed by the Heritage Oaks Neighborhood developer and dedicated to the City of Schertz for public use. The trail shall be 10 foot (10') in width and paved with concrete.	A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek, and continue along West Dietz Creek as shown in Exhibit "4" (Wiederstein and West Dietz Creek Trail Plan), or as approved by the Parks Department. The hike and bike trail shall be constructed by the Heritage Oaks Neighborhood developer and dedicated to the City of Schertz for public use. The trail shall be 10 foot (10') in width and paved with concrete, or alternative material as approved by the Parks Department.

First Reading Results:

At the May 4, 2021 City Council meeting, City Council took action and voted to approve Ordinance 21-S-15 on the first reading with a 5-2 vote.

Public Notice

Sixty (60) public hearing notices were mailed to surrounding property owners on April 2, 2021, prior to the Planning and Zoning Commission public hearing, and a public hearing notice was published in the "San Antonio Express" on April 14, 2021, prior to the City Council public hearing. At the time of this report Staff has received 2 responses in favor of the proposed zone change that represent 198 properties inside the 200' notification buffer, and 40 responses opposed to the proposed zone change that represent 34 different properties inside the 200' notification buffer. The 34 properties opposed to the proposed zone change represent approximately 19.05% (8.966 acres) of the total area within 200 feet of the boundary of the proposed zone change (47.060 acres). Staff also received 13 responses opposed to the proposed zone change, representing 8 properties, from property owners outside the 200' notification buffer. Please note that the number of responses received is greater than the number of identified properties due to some property owners providing multiple responses.

If a proposed zoning change is protested in writing and signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed zoning change or zoning map amendment and extending 200 feet from that area, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths (¾) of all members of the City Council according to LGC, Local Government Code § 211.006(d).

Proposed Zoning

The applicant is proposing to rezone approximately 66 acres of land from Single-Family Residential

District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD), generally located southwest of the intersection between Schertz Parkway and Wiederstein Road. The Heritage Oaks Planned Development District will consist of single-family residential houses and public trails. Subsequent to the Planning and Zoning Commission, the ownership of one of the lots of Live Oaks Hills came into question. The applicant has removed that lot from the rezoning request. This removal will require some slight modifications to the layout in one area as a result.

Coving Plan

This application is proposing to zone change approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD) in order to develop a detached, single-family residential neighborhood. As shown on the Conceptual Land Plan (Exhibit 2 within the attached PDD document), The Heritage Oaks Subdivision is designed through a coving plan. Contrary to traditional urban grid patterns, the coving plan is characterized by winding roads and meandering setbacks that result in less impervious coverage, as well as increased open space and potential tree preservation.

Revised Lot Standards

According to the proposed Heritage Oaks PDD Development Standards, the base zoning for the subject property will be Single-Family Residential District (R-1); the development of any residential lots will follow the R-1 zoning district unless otherwise stated in the PDD. The Heritage Oaks PDD proposes revised dimensional requirements, which outline a minimum lot size of 6,000 square feet, with a minimum width of 50 feet and a minimum depth of 120 feet. While the minimum rear yard setback will remain the same as the R-1 base zoning district, the minimum front yard setback will be reduced from 25 feet to 20 feet and the minimum side yard setback will be reduced from 10 feet to 5 feet. The minimum side yard setback for rectangular shaped lots within the PDD will be set at 7.5 feet instead of 5 feet. Please see Table 3 on page 6 of the attached PDD document for full details on the proposed lot dimension standards. While these are the absolute minimum lot dimensions for the buildable, single-family residential lots in the Heritage Oaks PDD, they were put into place for a few lots within the Heritage Oaks Subdivision according the Coving Plan the mean lot size for the development is 9,020 square feet and the median lot size for the development is 8,432 square feet.

The dimensional requirements were modified following the Planning and Zoning Commission meeting in order to provide a little flexibility for the full civil engineering design work that will be done with the future Master Development Plan. The applicant has also added a requirement within the PDD lot standards, which states, "no permanent structures or heating, ventilation, and air conditioning equipment will be allowed in side yards less than 10 feet." This additional requirement, as well as the newly increased side yard setbacks from 5 feet to 7.5 feet for rectangular shaped lots, was established in response to the Planning and Zoning Commission's concerns regarding the potential impact of the side yard setbacks on our emergency services. The Conceptual Coving Plan will be revised in between City Council's first and second reading of Ordinance 21-S-15 in order to more accurately reflect the new dimensional changes.

The maximum number of lots allowed within the subdivision is 215, resulting in a maximum density of 3.25 dwelling units per acre. In addition to the dimensional and density requirements the Heritage Oaks PDD outlines other regulations for the single-family residential lot, including reduced lot width for lots located on a cul-de-sac, knuckle-sac, or curve (30 feet instead of 55 feet), and a mandatory "T" turnaround driveway for all lots that front Wiederstein Road. The mandatory pavement section for the "T" turnaround driveways can be seen within Exhibit 3 of the PDD document.

The maximum number of lots allowed within the subdivision was modified from 208 lots to 215 lots following the Planning and Zoning Commission meeting in order to provide a little flexibility for the full civil engineering design work that will be done with the future Master Development Plan.

Revised Street Standards

Given Wiederstein Road's status as a Residential Collector on our Master Thoroughfare Plan (MTP), individual residential lots would typically not be allowed to access the roadway and would instead have frontage on a local street. However, in this case, lots being allowed to front on Wiederstein Road is an integral part of the coving plan design of the neighborhood. The developer has planned alleys along the southern side of Wiederstein Road (eastbound traffic) in an effort to reduce the total amount of driveways accessing the roadway and to mitigate potential traffic concerns. The required "T" turnaround driveways along the lots that front Wiederstein Road also aim to ease the transition of automobiles from private driveways to the Residential Collector by allowing residents to avoid reversing into the road. While the overall width of the roadway is planned to remain as the MTP Residential Collector standard of a 70' ROW section with 38' of pavement, the cross-section for Wiederstein Road will be slightly modified to widen the bike lane on one side of the road. The intended effect of this modification is to create a 12' bike lane/parallel parking section that will provide parking options on Wiederstein Road for lots that take their access from the alleys. The trade-off of this regulation is that without widening the overall roadway section, the bike lane on the other side of the roadway will be reduced to 4'. Please see the proposed roadway section for Wiederstein Road within Figure 5 of the attached PDD document (page 11).

The developer is also proposing to revise the alignment of Wiederstein Road; instead of equally bisecting the Live Oak Hills subdivision as the road does in Selma, Wiederstein Road will swing to the south and curve back up to realign with the existing road as it crosses West Dietz Creek. While the local streets within the Heritage Oaks Subdivision will adhere to the minimum curvature allowed by the city, the Residential Collector will provide a minimum radius of 300'. The street section will utilize reverse curves instead of the required tangent length of 150' for this roadway classification. The City of Schertz Engineering Department does have concerns about the roadway not having a tangent section between the curves, because this generally requires drivers to work harder to be more attentive and monitor speeds more closely. It would be more beneficial to have larger radii on the roadway curvatures; however, Staff understands the specific Wiederstein Road ROW section is necessary for the implementation of the overall coving plan.

Under the revised street requirements highlighted on Page 10 of the PDD document, all cul-de-sacs will have a maximum length of 500 feet and shall have a minimum turnaround radius of 100 feet in diameter, as opposed to the currently required minimum cul-de-sac radius of 150 feet in diameter. The cul-de-sac extending to the south of Wiederstein Road that wraps around the GVEC electric substation towards the remainder of the subject property will be allowed to extend 2,225 feet given the physical barrier of the surrounding properties. A variable width emergency access driveway extending from Wiederstein Road right next to Dietz Creek will provide the second point of access to this part of the subdivision, as shown on the Conceptual Land Plan (Exhibit 2 within the attached PDD document).

The PDD also proposed a revised maximum block length of 1,733', as opposed to the currently required maximum block length of 1,400' for minor and secondary streets. This regulation specifically pertains to the local roadway proposed to the north of Wiederstein Road, as shown within Figure 3 of the attached PDD document (page 17). Typically, according to UDC Sec. 21.9.2, a waiver to the required block length may be allowed in cases where physical barriers, property ownership, or adjacent existing subdivisions create conditions where it is appropriate; in this case, the developer is requesting to write in an extended maximum block regulation into the PDD document rather than request a waiver.

Even though the Planning and Zoning Commission cited the reduced alley sections as a reason for recommending denial of the proposed zoning application, the alley sections proposed in the Heritage Oaks PDD are not actually substandard in comparison to the current UDC standards. The alleys proposed in the coving plan are 24' of ROW with 20' of pavement, and the minimum paved alley

section required in UDC Sec. 21.14.1.P.1 is 20' of ROW with 20' of pavement. Also, the alleys proposed in the Heritage Oaks PDD only have single-family residential homes fronting one side of the alley instead of both sides. All of this should mitigate the Commissioners' concerns on alley width.

Revised Parkland and Trail Requirements

Under the proposed Heritage Oaks PDD Development Standards, the park and open space dedication requirements will not apply to development within the subdivision. The intent of UDC Sec. 21.9.10 is to only apply parkland dedication/fee-in-lieu requirements towards the creation of any new dwelling units, and this has influenced past cases in which a plat was filed to further subdivide residential land where we have only applied parkland dedication/fee-in-lieu requirements to any additional lots. Given that approximately 45 acres out of the 66-acre subject property was already platted as part of the Live Oak Hills Subdivision, the developer could potentially construct homes on the 180 platted lots without dedicating any parkland or paying fees-in-lieu of dedicating land. The parkland dedication/fee-in-lieu requirements for Heritage Oaks would only apply to any dwelling units constructed in excess of 180. Since there is a maximum density requirement of 215 lots throughout the entire subdivision, the parkland dedication/fee-in-lieu requirements would only apply to a maximum of 35 lots within the Heritage Oaks Subdivision; however, the developer is proposing to remove the requirements for the neighborhood through the PDD.

The developer will be constructing 10' concrete trails generally in accordance with the Trails Master Plan within the Schertz MTP: one will be located along the drainage/open space corridor along Wiederstein Road, stretching from Schertz Parkway to West Dietz Creek, and the other will be located along West Dietz Creek, stretching from Wiederstein Road to the southern edge of the subject property. In order to Dietz Creek, stretching from Wiederstein Road to the southern edge of the subject property. In order to help continue the trail that extends under the high-line electric easement to the northeast, the developer will be required to dedicate 30' for a trail where the high-line easement overlaps with his property. For reference, please see the Wiederstein and West Dietz Creek Trail Plan, included as Exhibit 4 in the PDD document.

Revised Landscaping and Tree Preservation/Mitigation Requirements

The developer is revising the landscaping requirements for detached single-family residential lots; according to UDC Sec. 21.9.7.E.3.a, the current requirement for each single-family residential lot is to provide a minimum of three (3) shade trees which shall include a minimum of one (1) tree in the front yard and one (1) tree in the rear yard. The Heritage Oaks PDD will keep this requirement, but will also add the requirement that each single-family lot shall have a minimum of 15 caliper inches. Our current minimum planting size is 2.5 caliper inches, so the 3 tree current minimum equates to 7.5 caliper inches per lot. This new requirement would double the required inches on a single-family residential lot. The additional requirement is written in terms of increased inches instead of increased trees in order to promote the preservation of existing Protected and Heritage Class trees.

The Heritage Oaks PDD also revises the tree preservation and mitigation requirements outlined in UDC Sec. 21.9.9. Under the current protection standards, 25% of all Protected Class (8-24 caliper inches) and Heritage Class (24+ caliper inches) trees must be preserved. Under the current mitigation standards, the tree mitigation fee is set at \$100/inch. Any removed Protected Class trees shall be mitigated at a 1:1 caliper inch ratio, and any removed Heritage Class trees shall be mitigated at a 3:1 caliper inch ratio. In practice, this equates to \$100/inch for Protected Class trees and \$300/inch for Heritage Class trees. There are specific tree species that are exempt from preservation/mitigation requirements, as well as trees located within ROW shown on the Master Thoroughfare Plan, trees located within utility easements, and trees that are damaged or dying. The Heritage Oaks PDD proposes the preservation of at least 50% of all Heritage trees, with all trees located within proposed ROW, utility easements, and drainage easements being exempt from this requirement. The Heritage Oaks PDD also proposes no tree preservation or mitigation requirements for Protected Class trees, and proposed no tree mitigation

requirements for Heritage Class trees. Please see the below table detailing the differences between the current and proposed landscaping and tree preservation/mitigation regulations.

Current vs. Proposed Landscaping and Tree Preservation/Mitigation Regulations

UDC Section	Current UDC Regulations	Proposed Regulation
UDC Sec. 21.9.7.E.3.a	3 trees minimum per lot, with at least 1 tree in the front yard and 1 tree in the backyard (effectively 7.5" minimum per lot)	3 trees minimum per lot, with at least 1 tree in the front yard and 1 tree in the backyard; 15" total minimum per lot
UDC Sec. 21.9.9.C	25% of all Protected and Heritage trees preserved (with species exemptions, MTP roadway exemption, utility easement exemption, and damaged/dying tree exemption)	No Protected tree preservation requirements and 50% Heritage trees preserved (with species exemptions, all ROW exemption, utility easement exemption, drainage easement exemption, and damaged/dying tree exemption)
UDC Sec. 21.9.9.D	\$100/inch Protected tree mitigation fees; \$300/inch Heritage tree mitigation fees	No tree mitigation fees

A preliminary tree preservation study was performed only for the Heritage Class trees on the subject property with the following results: 127 total Heritage Class trees totaling 3,778 caliper inches. Staff believes it is important to put the above requirements into context given the heavily-wooded nature of the subject property; without taking into consideration the proposed exemptions for Heritage Class tree preservation in the Heritage Oaks PDD, the preservation of 50% of the Heritage Class trees instead of the currently required 25% would result in an approximate 945 extra caliper inches, or roughly 32 extra trees sized at 30 caliper inches. In the same vein, under the current mitigation requirements the fees for 50% of the Heritage Class trees would total approximately \$566,700. The proposed tree preservation and mitigation regulations for the Heritage Oaks PDD would offer both a significant upgrade in Heritage Class tree preservation, but also a significant reduction in Heritage Class tree mitigation, Protected Class tree preservation, and Protected Class tree mitigation.

Comprehensive Plan Conformance

The Comprehensive Plan identifies the subject properties under the Single-Family Residential land use designation. Areas classified under the Single-Family Residential land use designation are intended to utilize a traditional neighborhood design that includes a mix of residential uses, as well as limited commercial development to support the daily activities of the development. The proposed zone change meets the goals and objectives of the Single-Family Residential future land use designation, and is therefore in conformance with the Comprehensive Land Use Plan.

Impact to Public Facilities/Services

In order to service the subject property the developer will be obligated to design water and sanitary services throughout the subdivision during the Master Development Process in order to connect to public utility systems. The proposed zone change should have a negligible effect on the existing planned public water and wastewater system since the base zoning district of the proposed PDD is Single-Family Residential (R-1). The developer will be responsible for improving Wiederstein Road to its ultimate section, per the proposed cross-section illustrated in the attached PDD document. The proposed rezoning request should also have a minimal impact on public services, such as schools, fire, police, parks and sanitation services

Compatibility with Existing and Potential Adjacent Land Uses

The subject property is currently surrounded by land utilized as single-family residential, with a small amount of commercially zoned property to the north. The proposed zone change to PDD with R-1 as the base zoning district is compatible with the existing and potential adjacent land uses.

GOAL

The project goal is to rezone approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD), generally located southwest of the intersection between Schertz Parkway and Wiederstein Road. The Heritage Oaks Planned Development District will consist of single-family residential houses and public trails.

COMMUNITY BENEFIT

It is the City's desire to promote safe, orderly, efficient development and ensure compliance with the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

Planning and Zoning Commission Recommendation

The Schertz Planning and Zoning Commission met on April 14, 2021 and voted to recommend that City Council deny ZC2020-005 (Ordinance 21-S-15) by a 6-1 vote.

Commission Chair Outlaw provided thorough feedback on a number of the concerns raised by surrounding property owners. A number of the residents were concerned that the "greenbelt" behind a section of lots within Carolina Crossing is being taken away from the neighborhood; however, Commission Chair Outlaw correctly explained that the "greenbelt" is actually private property already zoned for single-family residential land uses. He continued by explaining that the Planning and Zoning Commission frequently has little to no control over development that meets the zoning requirements, and for unique cases, such as this zoning application, the Commission's goal is to find the best possible way to develop the property given the existing conditions. Commission Chair Outlaw also addressed resident concerns over water capacity, during which he clarified that the City works with Schertz-Seguin Local Government Corporation to offer consistent water service that is sourced from the Carrizo Aquifer in Gonzalez County, Texas. He emphasized that the City of Schertz does not currently have a water supply problem. Another common resident concern was the impact of the development on the traffic system. Commission Chair Outlaw explained that traffic is a byproduct of growth, but our Master Thoroughfare Plan was put into place in order to mitigate traffic concerns that arise from development and make our City more accessible.

The Planning and Zoning Commission and Commission Chair Outlaw appreciated the effort that went into the design of the Heritage Oaks subdivision, and maintained that this is the kind of unique development that the Planned Development District zoning classification is intended for. They found the proposed PDD to be aesthetically pleasing, and stated that the concept is a marked improvement on the existing lotting pattern established in the Live Oak Hills Subdivision. However, the following Commissioners ultimately recommended denial for the undermentioned reasons:

- Commission Chair Outlaw, Commissioner Rae, & Commissioner Greenwald
 - The reduced side yard setbacks from 10' to 5' for all the buildable, single-family residential lots
 - The reduced minimum cul-de-sac diameter from 150' to 100'
 - The 20' paved alley section being too small
- Commissioner Evans
 - In addition to the above reasons, the removal of the tree mitigation fees and the reduction in Protected Class tree preservation standards
- Commissioner Goldick
 - The removal of the natural environment and potential impacts to the wildlife
- Commissioner Haynes
 - The potential noise concerns from the nearby GVEC substation

Staff Recommendation

Staff is recommending approval of the Heritage Oaks PDD for the following reasons:

- Improved neighborhood design through the coving plan
- Decreased overall density compared to existing Live Oak Hills Subdivision plat
- Increased open space and potential Heritage Class tree preservation with two major trail extensions
- PDD revisions to potentially assuage the Planning and Zoning Commission's concerns regarding the side yard setbacks

For background, the existing Live Oak Hills Subdivision was platted and individual lots were sold in 1963 without the necessary infrastructure improvements, such as water lines, sewer lines, and roads, which left hundreds of lots to remain undeveloped. These undevelopable lots in Live Oak Hills collectively formed what is commonly referred to as a 'paper subdivision', or a subdivision that is recognizable on paper, but not in the real world. This situation poses numerous development challenges; from various land ownership parties to cost-prohibitive infrastructure requirements for individual lot development, 'paper subdivisions' can often remain vacant for decades, as is the situation with most of the Live Oak Hills Subdivision. The proposed Heritage Oaks development along Wiederstein Road, stretching between Schertz Parkway and the city limit boundary between Schertz and Selma, aims to redevelop 45 acres of the existing Live Oak Hills subdivision plat along with an additional 21 acre tract into a 66 acre single-family residential subdivision.

The Heritage Oaks PDD is designed through a coving plan, which encourages smart growth by implementing winding roads and meandering setbacks that result in reduced impervious coverage, limited infrastructure costs, and increased open space preservation when compared to the original Live Oak Hills Subdivision. The coving plan is a marked improvement on the conventional urban grid with dead-end streets that is laid out in the existing plat. The Heritage Oaks PDD is proposing reduced lot sizes, reduced front yard setbacks, and reduced side yard setbacks; however, a maximum of 215 lots will be permitted across the entire 66 acre development, leaving a maximum density of 3.25 lots per acre. When comparing these numbers to the existing Live Oak Hills plat, which would allow 180 lots across 45 acres for a density measurement of 4.00 lots per acre, we can see that the proposed Heritage Oaks PDD is less dense than what is allowed through the current plat. The reductions in lot size and building setback requirements are primarily put in place to accommodate the design criteria of the coving plan, and the extra space created is then allocated for open space preservation and potential tree preservation. The meandering building setbacks, coupled with the realignment of Wiederstein Road will also create a ROW corridor that is more aesthetically pleasing than conventional roadways lined with perimeter fencing.

Although there is a stark difference between UDC Sec. 21.9.9 and the proposed tree preservation and mitigation requirements within the Heritage Oaks PDD, Staff feels that the increased Heritage Class tree preservation requirements are a fair trade off for the removal of any Protected Class tree preservation requirements and all tree mitigation requirements. The reality of the situation is that any development on the subject properties will require the developer to remove a number of trees, including the already existing plat for 45 of the 66 total acres. Under the current regulations, the developer could pay to remove up to 75% of all the Protected Class and Heritage Class trees on site and develop in accordance with the Live Oak Hills Subdivision plat; however, this would be extremely cost prohibitive and would affect the potential quality of the rest of the development. The proposed tree preservation and mitigation requirements mandate the preservation of nearly 1,000 extra inches of Heritage Class trees, and the proposed landscaping requirements incentivize the utilization of existing Protected and Heritage Class trees. Staff thinks tree preservation, instead of tree mitigation, should be a priority for this development. Instead of aggrandizing our tree maintenance fund, we would rather focus on preserving the existing trees in order to collaborate with the property owner and produce a quality neighborhood filled with towering trees that have been growing on-site for decades. The Heritage Oaks neighborhood

will also contribute two major additions to the Trails Master Plan, with 10' concrete, shared-use paths extending along West Dietz Creek and in the open space corridor adjacent to Wiederstein Road.

The applicant has also taken feedback from the Planning and Zoning Commission into consideration and made changes in an effort to mitigate some of their concerns; the proposed PDD development standards increase the side yard setbacks from 5 feet to 7.5 feet for rectangular shaped lots, and will no longer allow equipment in any side yards less than 10 feet. This should allow more space for the City's emergency services to maneuver in between the houses.

Staff believes the proposed Heritage Oaks PDD resembles a marked in improvement in neighborhood design quality over the existing Live Oak Hills Subdivision plat, while simultaneously reducing the overall density proposed on the subject properties. Given the less than desirable current lotting pattern, staff is willing in this case to support a creative development proposal. This project will serve as a good limited test case of some unique concepts that would normally not be allowed in a more traditional development. Therefore, Staff recommends approval of the proposed zone change to Planned Development District (PDD) as submitted to City Council.

FISCAL IMPACT

None

RECOMMENDATION

Staff recommends approval of Ordinance 21-S-15.

Attachments

Ordinance 21-S-15

Ordinance 21-S-15 Exhibit A

Ordinance 21-S-15 Exhibit B

Ordinance 21-S-15 Exhibit C

Aerial Map

Public Hearing Notice Map

Public Hearing Notice Responses

ORDINANCE NO. 21-S-15

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE OFFICIAL ZONING MAP BY REZONING APPROXIMATELY 66 ACRES OF LAND TO PLANNED DEVELOPMENT DISTRICT (PDD), GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION BETWEEN SCHERTZ PARKWAY AND WIEDERSTEIN ROAD, CITY OF SCHERTZ, GUADALUPE COUNTY, TEXAS.

WHEREAS, an application to rezone approximately 66 acres of land generally located southwest of the intersection between Schertz Parkway and Wiederstein road, and more specifically described in the Exhibit A and Exhibit B attached herein (herein, the “Property”) has been filed with the City; and

WHEREAS, the City’s Unified Development Code Section 21.5.4.D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on a requested zone change (the “Criteria”); and

WHEREAS, on April 14, 2021, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to disapprove the requested rezoning according to the development standards set forth in Exhibit C attached herein (the “Development Standards”); and

WHEREAS, on May 4, 2021, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested zoning be approved as provided for herein.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:
THAT:**

Section 1. The Property as shown and more particularly described in the attached Exhibit A and Exhibit B, is hereby zoned Planned Development District (PDD)

Section 2. The Official Zoning Map of the City of Schertz, described and referred to in Article 2 of the Unified Development Code, shall be revised to reflect the above amendment.

Section 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 4. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 6. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 9. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Approved on first reading the 4th day of May, 2021.

PASSED, APPROVED AND ADOPTED on final reading the 11th day of May, 2021.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary
(SEAL OF THE CITY)

Westwood

County of Guadalupe
State of Texas

66.162 acres

Heritage Oaks
May 8, 2020

METES AND BOUNDS DESCRIPTION of a 66.162 acre tract of land situated in the Toribio Herrera Survey No. 68, Abstract No. 153, City of Schertz, Guadalupe County, Texas and being all of the following lands:

45.952 acres being Lots 10-18, Block 31, Lots 9-16, Block 32, Lots 1-17, Block 34, all of Blocks 35-38, Lots 1-17, Block 39, all of Block 40, Lots 2-8, and the remaining portions of 9-12 and 14-16, Block 41, and Lots 2-9, and the remaining portions of 10-16, Block 42 and the proposed vacated right-of-ways platted as King Lane, Lyric Lane, Mora Lane, Nile Lane, Odell Lane and that 1,607 foot section of Live Oak Blvd contained herein and as shown by plat of Live Oak Hills Subdivision recorded in Volume 2, Pages 146-147, Guadalupe County Plat Records,

AND, 20.210 acres out of the remaining portion of a 23.811 acre tract described by warranty deed recorded in Volume 2142, Page 582, Guadalupe County Official Public Records;

In all, said 66.162 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod found on the southwest line of Schertz Parkway (a 86' width right of way) recorded in Volume 5, Page 73B, Guadalupe County Plat Records at the common southeast corner of Lot 4, Block 2, as shown by plat of Legacy at Forest Ridge Subdivision recorded in Volume 8, Pages 428, said Plat Records and the north corner of the remaining portion of said Lot 9, Block 41 and the north corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, 297.30 feet to a ½" iron rod set (WESTWOOD),

THENCE, departing the southwest line of Schertz Pkwy and circumnavigating Lot 13, Block 41 of said Live Oak Hills, the following courses:

South 60° 21' 20" West, 105.00 feet to a ½" iron rod set (WESTWOOD),
South 29° 53' 42" East, 75.00 feet a ½" iron rod set (WESTWOOD), and
North 60° 21' 20" East, 105.00 feet a ½" iron rod set (WESTWOOD) returning to the southwest line of said Schertz Pkwy;

THENCE, South 29° 53' 42" West, at 223.81 feet pass the north corner of the vacating portion of said Live Oak Blvd., at 283.81 feet pass the east corner of the same, in all, a total of 773.77 feet to a ½" iron rod set (WESTWOOD) at the north corner of the remaining portion of Lot 17, Block 42 of said Live Oak Hills, for the southeast corner of the herein and described tract of land;

THENCE, departing southwest line of Schertz Pkwy and across said Live Oak Hills and along the north and west lines of said Lot 17, South 60° 32' 29" West, 107.04 feet to a ½" iron rod set

(WESTWOOD), South 29° 48' 49" West, 70.00 feet to a ½" iron rod found (CEC) at the north corner of Lot 1, Block 42;

THENCE, continuing across said Live Oak Hills, South 60° 08' 07" West, at 120.02 feet passing a ½" iron rod (CEC), at 180.02 feet pass a ½" iron rod found (CEC), in all, a total distance of 300.27 feet to a ½" iron rod set (WESTWOOD) at the west corner of Lot 18, Block 39 of said Live Oak Hills and South 29° 48' 49" East, 69.67 feet to a ½" iron rod set (WESTWOOD) on the common northwest line of Carolina Crossing Subdivision Unit 8 recorded in Volume 6, Page 219, said Plat Records and the south line of said Live Oak Hills for a corner of the herein described tract of land;

THENCE, South 60° 04' 52" West, 120.05 feet passing a ½" iron rod, in all, a total distance of 179.91 feet to a ½" iron rod found and South 60° 00' 52" West, 5.16 feet to a ½" iron rod set (WESTWOOD) at the common northwest corner of said Carolina Crossing Unit 8, the north corner of said 23.811 acre tract and a reentrant corner of the herein described tract of land;

THENCE, along the southwest line of said Unit 8, the northeast line of said 23.811 acre tract, South 30° 01' 02" East, 1172.99 feet to a ½" iron rod found (CEC) on the northwest line of Carolina Crossing Subdivision Unit 7 recorded in Volume 6, Page 219, said Plat Records at the common south corner of said Carolina Crossing Unit 8 and the southeast corner of said 23.811 acre tract and the herein described tract of land;

THENCE, along the common northwest line of said Carolina Crossing Unit 7, the southeast line of said 23.811 acre tract, the following courses:

South 60° 01' 14" West, 232.61 feet to a ½" iron rod set (WESTWOOD),
South 59° 56' 11" West, 464.59 feet to ½" iron rod set (WESTWOOD), and
South 58° 45' 36" West, 53.53 feet to ½" iron rod found (CEC) for the common west corner of said Carolina Crossing Unit 7 and the northeast corner of Unit 1 P.U.D., Kensington Ranch Estates Subdivision recorded in Volume 8, Page 2 Guadalupe County Official Public Records, for a southeast corner of the herein described tract,

THENCE, continuing with the southeast line of said 23.811 acre tract and along the common northwest line said Kensington Ranch Estates, South 59° 50' 40" West, 175.30 feet to ½" iron rod set (WESTWOOD) at the east corner of 1.192 acre tract conveyed unto the City of Schertz by warranty deed recorded in Volume 2742, Page 269, said Official Public Records, for the south corner of the herein described tract of land;

THENCE, along the northeast line said 1.192 acre tract, and across the 23.811 acre tract, North 73° 37' 50" West, 207.43 feet to a ½" iron rod found at the beginning of a non-tangent curve to the right;

THENCE, along the arc of said curve with an arc length of 159.85 feet, a radius 275.52 feet, a delta of 33° 14' 33", and a chord bearing and distance of South 57° 00' 34" East, 157.62 feet to a ½" iron rod set at common north corner of said 1.192 acre tract and an east corner of those City of Schertz tracts recorded in Volume 2708, Page 726, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, North 22° 29' 23" West, 385.88 feet to ½" iron rod set (WESTWOOD) at the south corner of a 9.167 acre tract conveyed unto Guadalupe Valley Electric Cooperative recorded in

Volume 1145, Page 543, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, along the common lines of said 9.167 acre tract and said 23.811 acre tract, North 59° 51' 25" East, 795.12 feet to a ½" iron rod set (WESTWOOD), and North 30° 04' 31" West, 500.00 feet to a ½" iron rod found on the southeast line of said Live Oak Hills coincident with the common northeast corner of said 9.167 acre tract for a reentrant corner of the herein described tract of land;

THENCE, along the northwest line of said 9.167 acre tract, South 60° 00' 52" West, 299.69 feet to a ½" iron rod found (CEC), at the east corner of Lot 18, Block 34 of said Live Oak Hills;

THENCE, circumnavigating said Lot 18, of same Block, the following courses:

North 29° 49' 32" West, 71.80 feet to a ½" iron rod set (WESTWOOD),
South 59° 57' 05" West, 120.00 feet to a ½" iron rod set (WESTWOOD), and
South 30° 14' 08" East, 72.11 feet to a ½" iron rod set (WESTWOOD) returning to the northwest line of said 9.167 acre tract for a corner of the herein described tract of land;

THENCE, South 59° 45' 52" West, 300.51 feet to a ½" iron rod set (WESTWOOD) on the east line of said City of Schertz tract for a west corner of the herein described tract of land;

THENCE, across said Block 31, North 29° 50' 00" West, 633.07 feet passing a ½" iron rod found, in all, for a total distance of 1284.52 feet to a ½" iron rod set (WESTWOOD) on the southeast line of Lot 1, Block 1, Chelsea Mixed-Use Subdivision recorded in Volume 7, Pages 530-531, said Plat Records for the west corner of the herein described tract of land;

THENCE, North 59° 58' 25" East, at 961.45 feet pass a ½" iron rod at the southwest corner of Lot 6, Block 2, Legacy at Forest Ridge recorded in Volume 8, Page 428, said Plat Records, in all, a total of 1,606.37 feet to the **POINT OF BEGINNING**.

Containing in all, 2,882,049 square feet, or 66.162 acres of land, more or less.

The above description and area specifically excludes Lot 1, Block 41, said Live Oak Hills Subdivision, said Lot 1 being more particularly described as follows:

COMMENCING at a ½" iron rod found on the southwest line of said Schertz Parkway at the common southeast corner of said Lot 4, Block 2, Legacy at Forest Ridge Subdivision, and the north corner of said remaining portion of said Lot 9, Block 41;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, at 297.30 feet passing the north corner of said Lot 13, Block 41, at 372.30 feet the east corner of the same, and continuing in all a total distance of 596.11 feet to the intersection of the southwest line of Schertz Pkwy and the northwest line of said Live Oak Blvd.;

THENCE, along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 105.00 feet to the east corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, continuing along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 120.00 feet to the intersection of the northwest line of said Live Oak Blvd. and the northeast

line of Odell Lane, a 60-foot right-of-way, proposed to be vacated, as shown by plat of said Live Oak Hills Subdivision;

THENCE, along the northeast line of said Odell Lane, North 29° 53' 42" West, 75.00 feet to the west corner of the herein described tract of land;

THENCE, departing the right-of-way of said Odell Lane, North 60° 08' 45" East, 120.00 feet to the north corner of the herein described tract of land;

THENCE, South 29° 53' 42" East, 75.00 feet to the **POINT OF BEGINNING**.

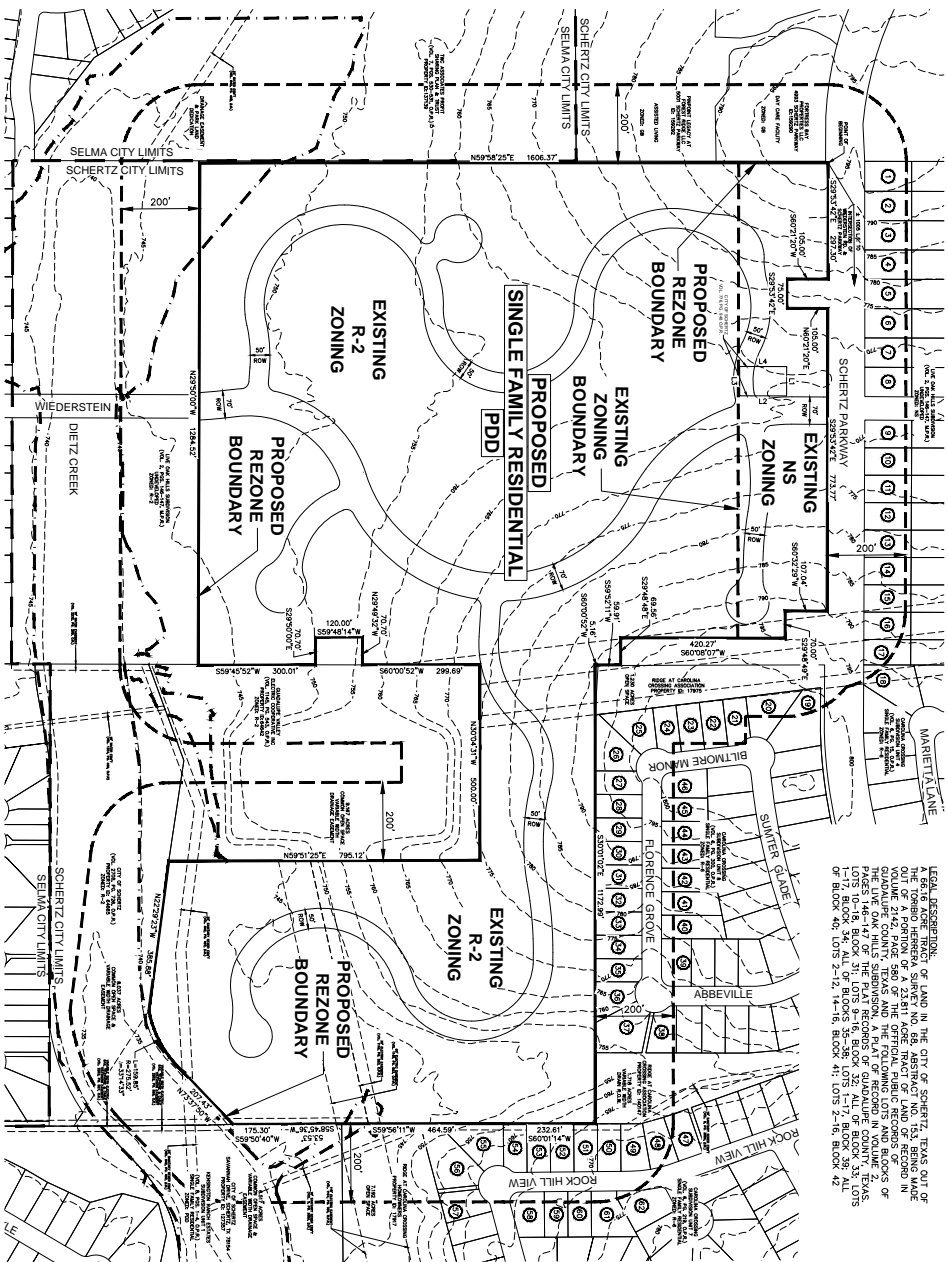
Containing in all, 9,005 square feet, or 0.207 acres of land, more or less.

Bearings are based on Texas State Plane coordinates for the South Central Zone, 4204 (NAD83, 2011 adjustment).

This metes and bounds description of a 66.162 acre tract is for zoning and planning purposes only. This document of project number, 24313.00 and date, May 8, 2020, was prepared by Westwood Professional Services and shall not be used for conveyance nor construction purposes.



A handwritten signature in blue ink, appearing to read "Jason R. Gabriel", written over a light blue horizontal line.

[illegible]

CONDITION	ZONING	AREA (AC.)
EXISTING	NS	5.81
EXISTING	R-2	60.35
PROPOSED	PDD	66.16

66.16 ACRES ~ TOTAL TRACT AREA

- HERITAGE OAKS NEIGHBORHOOD
PLANNED DEVELOPMENT DISTRICT
ZONING EXHIBIT
SCHERTZ, TEXAS

Westwood

Phone (210) 265-8300 1718 Dry Creek Way, Suite 110
Toll Free (888) 937-5150 San Antonio, TX 78259
westwoodps.com

Westwood Professional Services, Inc.
TBPLS FIRM NO. 10194064 - TBPE FIRM NO. F-11756



PLANNED DEVELOPMENT DISTRICT

HERITAGE OAKS NEIGHBORHOOD
SCHERTZ, TEXAS

MAY 5, 2021

PREPARED BY:

Westwood

Westwood

PLANNED DEVELOPMENT DISTRICT

HERITAGE OAKS NEIGHBORHOOD

Prepared For:

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Project Number: R0024313.00

Date: May 5, 2021

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FIGURES

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FIGURE 2.0: COVING PROPOSED W/ HERITAGE OAKS NEIGHBORHOOD

FIGURE 3.0: HERITAGE OAKS NEIGHBORHOOD BLOCK LENGTHS

FIGURE 4.0: HERITAGE OAKS NEIGHBORHOOD CUL-DE-SAC LENGTHS

FIGURE 5.0: PROPOSED WILDENSTEIN ROAD, A RESIDENTIAL COLLECTOR

EXHIBITS

EXHIBIT 1: METES AND BOUNDS

EXHIBIT 2: CONCEPTUAL COVING PLAN

EXHIBIT 3: DRIVEWAY DETAIL

EXHIBIT 4: WIEDERSTEIN AND WEST DIETZ CREEK TRAIL PLAN

EXHIBIT 5: ZONING EXHIBIT

HERITAGE OAKS NEIGHBORHOOD

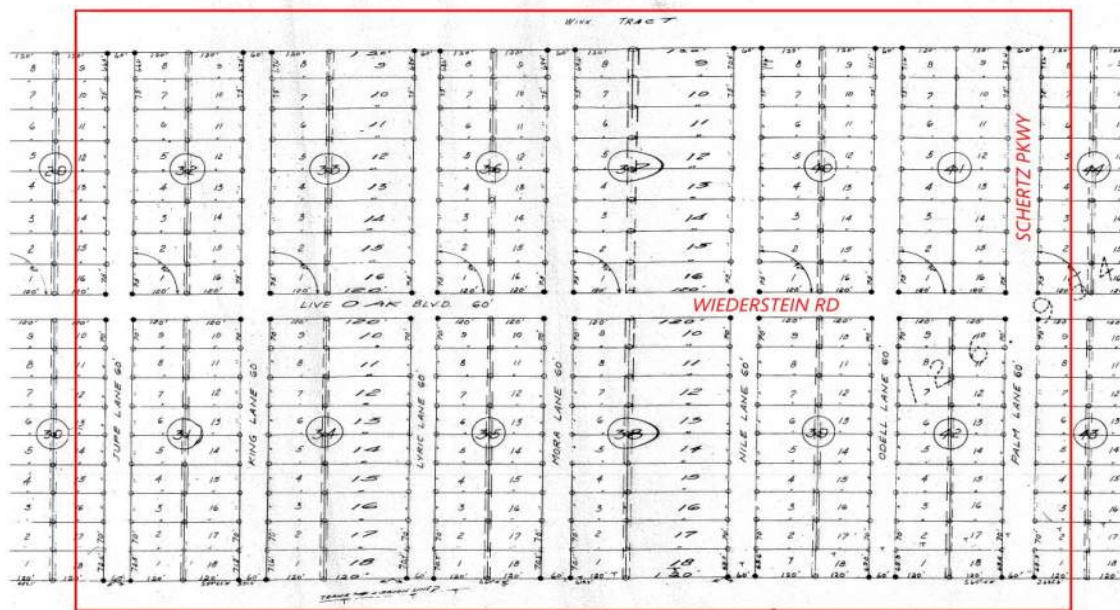
A PLANNED DEVELOPMENT DISTRICT

SCHERTZ, TEXAS

I. PROPERTY

The proposed 65.97 acre Heritage Oaks Neighborhood (the “Heritage Oaks Neighborhood”) is located 0.5 mile to the southeast of IH 35 off Schertz Parkway within the corporate limits of the City of Schertz. Approximately 45.76 acres lies within the Live Oak Hills Subdivision, a Plat of Record in Volume 2, Pages 146-147 of the Map and Plat Records of Guadalupe County, Texas recorded on May 31, 1963. Refer to Exhibit “1” for the Metes & Bounds of the proposed tract.

Figure 1: Excerpt from Live Oak Hills Subdivision Plat



Source: Live Oak Hills Subdivision; Vol. 2, Pg. 146-147, M.P.R.

Wiederstein Road, which traverses Heritage Oaks Neighborhood east to west from Schertz Parkway, is a Residential Collector per the City of Schertz Master Thoroughfare Plan Update (2017). The posted speed limit is 20 mph and the pavement is presently in poor condition, 20-21 feet in width.

An approximate 5.5 acres adjacent to Schertz Parkway is zoned Neighborhood Services (NS) with the remainder of the tract being zoned Single-Family Residential District-2 (R-2). To the north lies an undeveloped tract within the corporate limits of the City of Selma and Legacy at Forest Ridge which is zoned General Business (GB). Dietz Creek runs along the western property line. And open space within the Kensington Ranch Estates, a PDD, lies at the southern corner of the

tract with Carolina Crossing, zoned Single-Family Residential District-6 (R-6), on the south/southeast property line.

An approximate 200 acres upstream of Schertz Parkway discharges onto the tract directly north of the Schertz Parkway/Wiederstein Road intersection. No defined channel exists with runoff sheet flowing across the property to Dietz Creek. Existing contours indicate an approximate 60 foot change in elevation from the most northern corner of the tract to the most southern corner of the tract with grades of 5-6% adjacent to Schertz Parkway and the Carolina Crossing Subdivision to the east and grades of approximately 1% adjacent to Dietz Creek to the west. Per the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), No. 48187Co210F, Effective Date November 2, 2007, Dietz Creek is located within Zone "AE" (Shaded) which is identified by FEMA as a special flood hazard area subject to inundation by the 1% annual chance flood (100-year flood) with Base Flood Elevations (BFEs) determined.

II. COVING PLAN

In lieu of the conventional urban grid, coving is proposed with Heritage Oaks Neighborhood. A method of urban planning, coving was pioneered by Minneapolis-based urban designer Rick Harrison. Characterized by winding roads and meandering setbacks, coving results in less impervious area, more open space, tree preservation and a reduction in costs attributed to the non-uniform lots, placement of homes and reduction in pavement.

Figure 2: Coving Proposed w/ Heritage Oaks Neighborhood



Source: Rick Harrison Design Studio & Neighborhood Innovations, LLC

Rather than clearing the site and proceeding with 70'x120' lot minimums required by the Single-Family Residential District-2 (R-2) zoning, the intention with Heritage Oaks Neighborhood is to maximize the density while preserving trees. To this end, both realignment of and fronting lots off Wiederstein Road is proposed. The realignment and curvature of Wiederstein Road will serve to reduce speeds, and coupled with the meandering building setbacks, will create a corridor more pleasing than the typical straightaway with parallel fencing at the right-of-way limits. With regards to safety, "T" turnarounds for the driveways off of Wiederstein Road are proposed with the realignment. Rather than reversing onto the road, the turn arounds will allow cars to enter Wiederstein Road in drive. Refer to **Exhibit "2"** for the proposed Heritage Oaks Neighborhood Conceptual Coving Plan.

III. AFFECTED UDC ARTICLES/SECTIONS

A Planned Development District (PDD) allows for flexibility in planning, design and development standards while complying with the intent of the Unified Development Code (UDC). The article and section amendments proposed with the PDD for Heritage Oaks Neighborhood are as follows:

A. ARTICLE 5. – ZONING DISTRICTS

Sec. 21.5.7. – Dimensional and Development Standards

The tract is presently zoned Single-Family Residential District-2 (R-2) except for an approximate 5.5 acres adjacent to Schertz Parkway that is zoned Neighborhood Services (NS). Proposed with the PDD for Heritage Oaks Neighborhood is a base zoning Single-Family Residential District-1 (R-1). Lots are to be an absolute minimum of 6,000 square feet, variable width, 120 foot minimum depth (at the midplane of the lot) with minimum front and side yard setbacks of 20 foot and 5 foot, respectively. No permanent structures or heating, ventilation, and air conditioning equipment will be allowed in side yards less than 10 feet. Side yard fencing between homes shall be limited to no more than 20 feet from the rear corner of the home. The average lot size in the Heritage Oaks Neighborhood shall be an absolute minimum of 8,400 square feet. With the current layout, the average lot size for the tract is 9,020 square feet, while the median lot size is 8,432 square feet. The maximum impervious cover is to be 50 percent. Dimensional requirements for the existing zoning districts (residential/non-residential) are provided with **Tables 1 & 2**, respectively.

Table 1 – Existing Dimensional Requirements, Residential Zoning Districts

	Minimum Lot Size/Dimensions			Minimum Yard Setback				Misc	
Zoning District	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Side Ft	Rear Ft	Minimum Off-Street Parking Spaces	Max Height Ft	Max Imperv Cover
Single-Family Residential District-2 (R-2)	8,400	70	120	25	10	20	2	35	50%

Table 2 – Existing Dimensional Requirements, Non-Residential Zoning Districts

	Minimum Lot Size/Dimensions			Minimum Yard Setback (Ft)					Misc	
Zoning District	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Rear Adj. Non-Res Zone	Rear Adj. Res Zone	Side Adj. Non-Res Zone	Side Adj. Res Zone	Max Height Ft	Max Imperv Cover
Neighborhood Services (NS)	10,000	100	100	25	0	25	0	25	35	80%

Minimum lot size and dimensions, maximum density, as well as maximum impervious cover proposed with the Heritage Oaks Neighborhood, a Planned Development District (PDD) with a base zoning Single-Family Residential District-1 (R-1) are provided with **Table 3**.

Table 3 – Heritage Oaks Neighborhood, a Planned Development District (PDD)

	Minimum Lot Size/Dimensions			Minimum Yard Setback				Maximum Density		Misc	
Zoning District	Area Sq Ft	Width Ft	Depth Ft	Front Ft	Side Ft	Rear Ft	Minimum Off-Street Parking Spaces	Lots	Lots Per Acre	Max Height Ft	Max Imperv Cover
Planned Development District (PDD)	6,000	50	120**	20	5*	20	2	215	3.25	35	50%

*Rectangular shaped lots shall have minimum 6-foot side yard setback.

* Corner lot shall have minimum 10-foot side yard setback from street right-of-way.

**Minimum depth shall be taken at the midplane of the lot

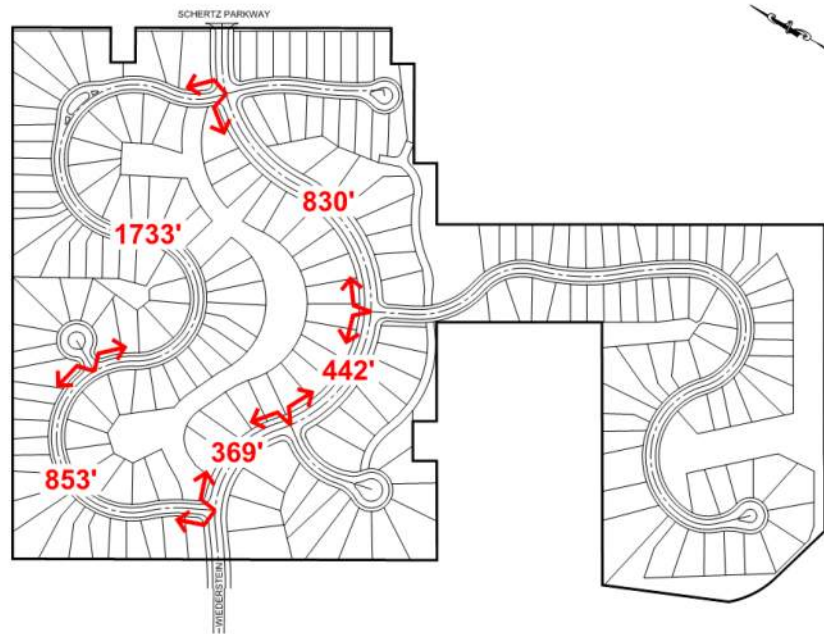
B. ARTICLE 9 – SITE DESIGN STANDARDS

Sec. 21.9.2 – Blocks

Coving allows for the preservation of trees through the reduction in pavement, larger lots and more green space. The length, width and shape of the blocks are dictated by the winding streets, non-uniform lots and variable setbacks.

- D. A maximum block length of one thousand seven hundred and thirty-three feet (1,733') is proposed with the Heritage Oaks Neighborhood.

Figure 3: Heritage Oaks Neighborhood Block Lengths



Sec. 21.9.3. – Lots

Large non-uniform lots with variable frontage and setbacks are proposed with Heritage Oaks Neighborhood. Lot sizes and dimensions, as well as setbacks, shall be shown on all plats and shall conform to the minimum requirements recognized in the Dimension and Development Standards of this PDD. In addition, the following modified requirements to UDC Sec. 21.9.3 will apply:

H. Residential lots may front Wiederstein Road, a residential collector. Driveways for all residential lots fronting Wiederstein Road, without alley access, will have a “T” turnaround eliminating the need for vehicles to back onto the road. Dimensional requirements for proposed “T” turnarounds are provided with **Exhibit “3”**.

I. Lot lines are not required to be perpendicular to the local streets within the Heritage Oaks Neighborhood. The larger non-uniform lots, characteristic of a coving subdivision, provide more open space and tree preservation.

Sec. 21.9.7. – Landscaping

E.3.a Every single family dwelling shall have a minimum of three shade trees with at least one in the front yard and one in the back yard. Each single family dwelling shall have a minimum of fifteen inches (15”) DBH of shade trees on the entire lot, including existing trees.

Sec. 21.9.9. – Tree Preservation and Mitigation

Trees with a 24" DBH (diameter at breast height-4 ½ feet above existing ground level) are designated "**Heritage Trees**".

Trees with an 8" DBH (diameter at breast height-4 ½ feet above existing ground level) are designated "**Protected Trees**".

C. Tree Preservation**1. Single Family Residential Development:**

- a. Heritage Trees. A minimum of fifty percent (50%) of the total Heritage Trees in the Heritage Oaks Neighborhood must be preserved.
 - i. Exemptions. Heritage Trees located within proposed right-of-way, utility easements, and drainage right-of-way/easements shall be exempt from the 50% tree save requirement.
- b. Protected Trees. No Protected Trees in the Heritage Oaks Neighborhood must be preserved, however any preserved shall be credited toward the minimum builder requirement of 15" DBH.

D. Tree Mitigation. There are no tree mitigation requirements for Protected and Heritage Class Trees in the Heritage Oaks Neighborhood.

Sec. 21.9.10. – Park and Open Space Dedication Requirements

Park and Open Space Dedications requirements and fees will not apply to the Heritage Oaks Neighborhood. Open space within the Heritage Oaks Neighborhood is to be owned and maintained by the Homeowners Association (HOA). A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek as shown on **Exhibit "4"** (Wiederstein and West Dietz Creek Trail Plan), or as approved by the Parks Department. The trail shall be construction by the Heritage Oaks Neighborhood developer and dedicated to the City of Schertz for public use. Additionally, the developer shall transplant trees from the Neighborhood to the West Dietz Creek linear park and trail area.

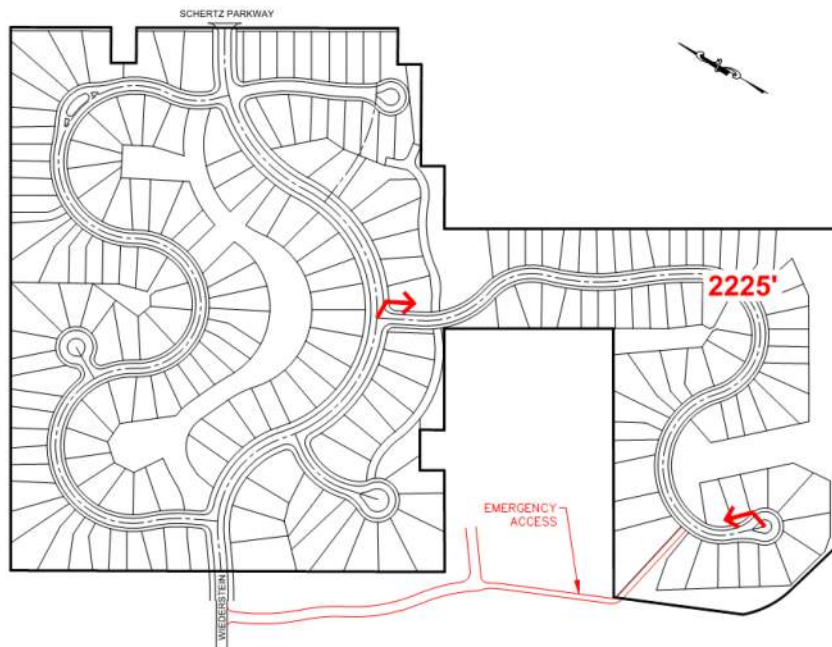
C. ARTICLE 14 – TRANSPORTATION

Sec. 21.14.1. – Streets

E. Dead-End Streets and Cul-De-Sacs

2. Cul-de-sac streets shall not exceed 500 feet in length and shall have a turnaround of not less than 120 feet in diameter of ROW in single-family residential areas. This provision may be modified upon approval of the Fire Chief and City Engineer. The length of the cul-de-sac south of Wiederstein Road in excess of 2,225 feet shall be allowed and is attributed to physical barriers, property ownership and adjacent existing subdivisions. A variable width emergency access drive is being provided back to Wiederstein Road given the length of the cul-de-sac.

Figure 4: Heritage Oaks Neighborhood Cul-De-Sac Lengths



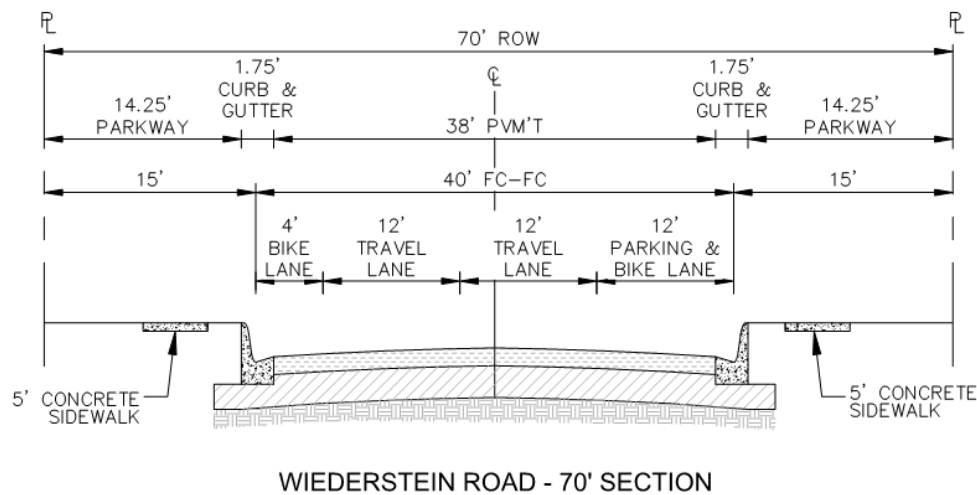
F. Alignment

Local streets within the Heritage Oaks Neighborhood will adhere to the minimum curvature allowed by the city, however the collector street running through the tract will provide a minimum radius of 300'. Each street section will utilize reverse curves rather than the required tangent length of 150'.

P. Street Improvements

1. The Wiederstein Road street section running through the Heritage Oaks Neighborhood has been designated as a 70' ROW by the City of Schertz Master Thoroughfare Plan. This collector street section will consist of a 38' pavement section, curb and gutter, with 5' sidewalks on each side of the street. The 40' street section from face of curb to face of curb will consist of (2) 12' travel lanes, (1) 12' parking and bike lane, and (1) 4' bike lane, or as approved by the Parks, Department, Engineering Department, and Planning Division.

Figure 5: Proposed Wiederstein Road, a Residential Collector



Sec. 21.14.4 - Alleys

D. Dead End Alleys.

Although alleys are not designed for emergency access, on rare occasions they may be used. Alleys with only one access point will be designed to provide a “60-foot Y” turnaround at the dead end as defined by the International Fire Code, or other alternative accepted by the City of Schertz Fire Department.

H. PDD Zoning Districts.

Alleys will be provide rear ingress/egress on the south side of Wiederstein Road for certain lots within Blocks 3 & 4 as seen in **Exhibit “2”** (Conceptual Coving Plan). Alleys shall be allowed on the north side of Wiederstein, if approved by the Engineering and Planning Departments, as part of the master development plan process. The alleys will consist of a twenty foot (20') asphalt paved section with header curbs bordering both sides.

Sec. 21.14.5 - Driveways**D. “T-Turnaround” Driveways**

Lots that front Wiederstein Road, and are not accessed by alleys, are required to have T-Turnaround Driveways, as shown on Figure 5. The turnarounds will allow cars to enter Wiederstein Road in drive rather than reversing onto the road. Dimensional requirements for proposed “T” turnarounds are provided with **Exhibit “3”**.

Sec. 21.14.6 – Sidewalks and Hike and Bike Trails**H. Hike and Bike Trails.**

A trail will be provided along the drainage way from Schertz Parkway to West Dietz Creek, and continue along West Dietz Creek as shown in **Exhibit “4”** (Wiederstein and West Dietz Creek Trail Plan), or as approved by the Parks Department. The hike and bike trail shall be constructed by the Heritage Oaks Neighborhood developer and dedicated to the City of Schertz for public use. The trail shall be 10 foot (10’) in width and paved with concrete, or alternative material as approved by the Parks Department.

IV. PLANNED DEVELOPMENT DISTRICT (PDD) AMENDMENTS

Any significant future changes from the established Dimensional Requirements for the approved PDD, which alter the concept of the PDD or increase the density, will cause the plan to be resubmitted for approval by the Planning & Zoning Commission and the City Council, including a new public hearing with applicable fees. Minor changes which do not change the concept or intent of the development shall be approved or denied administratively.

EXHIBITS

EXHIBIT 1
METES AND BOUNDS

METES AND BOUNDS DESCRIPTION of a 65.9707 acre tract of land situated in the Toribio Herrera Survey No. 68, Abstract No. 153, City of Schertz, Guadalupe County, Texas and being all of the following lands:

45.7603 acres being Lots 10-18, Block 31, Lots 9-16, Block 32, Lots 1-17, Block 34, all of Blocks 35-38, Lots 2-17, Block 39, all of Block 40, Lots 2-8, and the remaining portions of 9-12 and 14-16, Block 41, and Lots 2-9, and the remaining portions of 10-16, Block 42 and the proposed vacated right-of-ways platted as King Lane, Lyric Lane, Mora Lane, Nile Lane, Odell Lane and that 1,607 foot section of Live Oak Blvd contained herein and as shown by plat of Live Oak Hills Subdivision recorded in Volume 2, Pages 146-147, Guadalupe County Plat Records,

AND, 20.210 acres out of the remaining portion of a 23.811 acre tract described by warranty deed recorded in Volume 2142, Page 582, Guadalupe County Official Public Records;

In all, said 65.9707 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod found on the southwest line of Schertz Parkway (a 86' width right of way) recorded in Volume 5, Page 73B, Guadalupe County Plat Records at the common southeast corner of Lot 4, Block 2, as shown by plat of Legacy at Forest Ridge Subdivision recorded in Volume 8, Pages 428, said Plat Records and the north corner of the remaining portion of said Lot 9, Block 41 and the north corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, 297.30 feet to a ½" iron rod set (WESTWOOD),

THENCE, departing the southwest line of Schertz Pkwy and circumnavigating Lot 13, Block 41 of said Live Oak Hills, the following courses:

South 60° 21' 20" West, 105.00 feet to a ½" iron rod set (WESTWOOD),
South 29° 53' 42" East, 75.00 feet a ½" iron rod set (WESTWOOD), and
North 60° 21' 20" East, 105.00 feet a ½" iron rod set (WESTWOOD) returning to the southwest line of said Schertz Pkwy;

THENCE, South 29° 53' 42" West, at 223.81 feet pass the north corner of the vacating portion of said Live Oak Blvd., at 283.81 feet pass the east corner of the same, in all, a total of 773.77 feet to a ½" iron rod set (WESTWOOD) at the north corner of the remaining portion of Lot 17, Block 42 of said Live Oak Hills, for the southeast corner of the herein and described tract of land;

THENCE, departing southwest line of Schertz Pkwy and across said Live Oak Hills and along the north and west lines of said Lot 17, South 60° 32' 29" West, 107.04 feet to a ½" iron rod set

(WESTWOOD), South 29° 48' 49" West, 70.00 feet to a ½" iron rod found (CEC) at the north corner of Lot 1, Block 42;

THENCE, continuing across said Live Oak Hills, South 60° 08' 07" West, at 120.02 feet passing a ½" iron rod (CEC), at 180.02 feet pass a ½" iron rod found (CEC), in all, a total distance of 420.27 feet to a ½" iron rod set (WESTWOOD) at the west corner of Lot 1, Block 39 of said Live Oak Hills and South 29° 48' 49" East, 69.78 feet to a ½" iron rod found (DAM) on the common northwest line of Carolina Crossing Subdivision Unit 8 recorded in Volume 6, Page 219, said Plat Records and the south line of said Live Oak Hills for a corner of the herein described tract of land;

THENCE, South 60° 04' 52" West, 59.91 feet to a ½" iron rod found and South 60° 00' 52" West, 5.16 feet to a ½" iron rod set (WESTWOOD) at the common northwest corner of said Carolina Crossing Unit 8, the north corner of said 23.811 acre tract and a reentrant corner of the herein described tract of land;

THENCE, along the southwest line of said Unit 8, the northeast line of said 23.811 acre tract, South 30° 01' 02" East, 1,172.99 feet to a ½" iron rod found (CEC) on the northwest line of Carolina Crossing Subdivision Unit 7 recorded in Volume 6, Page 219, said Plat Records at the common south corner of said Carolina Crossing Unit 8 and the southeast corner of said 23.811 acre tract and the herein described tract of land;

THENCE, along the common northwest line of said Carolina Crossing Unit 7, the southeast line of said 23.811 acre tract, the following courses:

South 60° 01' 14" West, 232.61 feet to a ½" iron rod set (WESTWOOD),
South 59° 56' 11" West, 464.59 feet to ½" iron rod set (WESTWOOD), and
South 58° 45' 36" West, 53.53 feet to ½" iron rod found (CEC) for the common west corner of said Carolina Crossing Unit 7 and the northeast corner of Unit 1 P.U.D., Kensington Ranch Estates Subdivision recorded in Volume 8, Page 2 Guadalupe County Official Public Records, for a southeast corner of the herein described tract,

THENCE, continuing with the southeast line of said 23.811 acre tract and along the common northwest line said Kensington Ranch Estates, South 59° 50' 40" West, 175.30 feet to ½" iron rod set (WESTWOOD) at the east corner of 1.192 acre tract conveyed unto the City of Schertz by warranty deed recorded in Volume 2742, Page 269, said Official Public Records, for the south corner of the herein described tract of land;

THENCE, along the northeast line said 1.192 acre tract, and across the 23.811 acre tract, North 73° 37' 50" West, 207.43 feet to a ½" iron rod found at the beginning of a non-tangent curve to the right;

THENCE, along the arc of said curve with an arc length of 159.85 feet, a radius 275.52 feet, a delta of 33° 14' 33", and a chord bearing and distance of South 57° 00' 34" East, 157.62 feet to a ½" iron rod set at common north corner of said 1.192 acre tract and an east corner of those City of Schertz tracts recorded in Volume 2708, Page 726, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, North 22° 29' 23" West, 385.88 feet to ½" iron rod set (WESTWOOD) at the south corner of a 9.167 acre tract conveyed unto Guadalupe Valley Electric Cooperative recorded in

Volume 1145, Page 543, said Official Public Records, for a west corner of the herein described tract of land;

THENCE, along the common lines of said 9.167 acre tract and said 23.811 acre tract, North 59° 51' 25" East, 795.12 feet to a ½" iron rod set (WESTWOOD), and North 30° 04' 31" West, 500.00 feet to a ½" iron rod found on the southeast line of said Live Oak Hills coincident with the common northeast corner of said 9.167 acre tract for a reentrant corner of the herein described tract of land;

THENCE, along the northwest line of said 9.167 acre tract, South 60° 00' 52" West, 299.69 feet to a ½" iron rod found (CEC), at the east corner of Lot 18, Block 34 of said Live Oak Hills;

THENCE, circumnavigating said Lot 18, of same Block, the following courses:

North 29° 49' 32" West, 71.80 feet to a ½" iron rod set (WESTWOOD),
South 59° 57' 05" West, 120.00 feet to a ½" iron rod set (WESTWOOD), and
South 30° 14' 08" East, 72.11 feet to a ½" iron rod set (WESTWOOD) returning to the northwest line of said 9.167 acre tract for a corner of the herein described tract of land;

THENCE, South 59° 45' 52" West, 300.51 feet to a ½" iron rod set (WESTWOOD) on the east line of said City of Schertz tract for a west corner of the herein described tract of land;

THENCE, across said Block 31, North 29° 50' 00" West, 633.07 feet passing a ½" iron rod found, in all, for a total distance of 1284.52 feet to a ½" iron rod set (WESTWOOD) on the southeast line of Lot 1, Block 1, Chelsea Mixed-Use Subdivision recorded in Volume 7, Pages 530-531, said Plat Records for the west corner of the herein described tract of land;

THENCE, North 59° 58' 25" East, at 961.45 feet pass a ½" iron rod at the southwest corner of Lot 6, Block 2, Legacy at Forest Ridge recorded in Volume 8, Page 428, said Plat Records, in all, a total of 1,606.37 feet to the **POINT OF BEGINNING**.

Containing in all, 2,873,682 square feet, or 65.9707 acres of land, more or less.

The above description and area specifically excludes Lot 1, Block 41, said Live Oak Hills Subdivision, said Lot 1 being more particularly described as follows:

COMMENCING at a ½" iron rod found on the southwest line of said Schertz Parkway at the common southeast corner of said Lot 4, Block 2, Legacy at Forest Ridge Subdivision, and the north corner of said remaining portion of said Lot 9, Block 41;

THENCE, along the southwest line of said Schertz Pkwy, South 29° 53' 42" East, at 297.30 feet passing the north corner of said Lot 13, Block 41, at 372.30 feet the east corner of the same, and continuing in all a total distance of 596.11 feet to the intersection of the southwest line of Schertz Pkwy and the northwest line of said Live Oak Blvd.;

THENCE, along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 105.00 feet to the east corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, continuing along the northwest line of said Live Oak Blvd., South 60° 08' 45" West, 120.00 feet to the intersection of the northwest line of said Live Oak Blvd. and the northeast

line of Odell Lane, a 60-foot right-of-way, proposed to be vacated, as shown by plat of said Live Oak Hills Subdivision;

THENCE, along the northeast line of said Odell Lane, North 29° 53' 42" West, 75.00 feet to the west corner of the herein described tract of land;

THENCE, departing the right-of-way of said Odell Lane, North 60° 08' 45" East, 120.00 feet to the north corner of the herein described tract of land;

THENCE, South 29° 53' 42" East, 75.00 feet to the **POINT OF BEGINNING**.

Containing in all, 9,005 square feet, or 0.2067 acres of land, more or less.

Bearings are based on Texas State Plane coordinates for the South Central Zone, 4204 (NAD83, 2011 adjustment).

This metes and bounds description of a 65.9707 acre tract is for zoning and planning purposes only. This document of project number, 24313.00 and date, May 8, 2020, was prepared by Westwood Professional Services and shall not be used for conveyance nor construction purposes. – REVISED APRIL 29, 2021 due to updated title information excluding Lot 1, Block 39 from Subject Parcel.



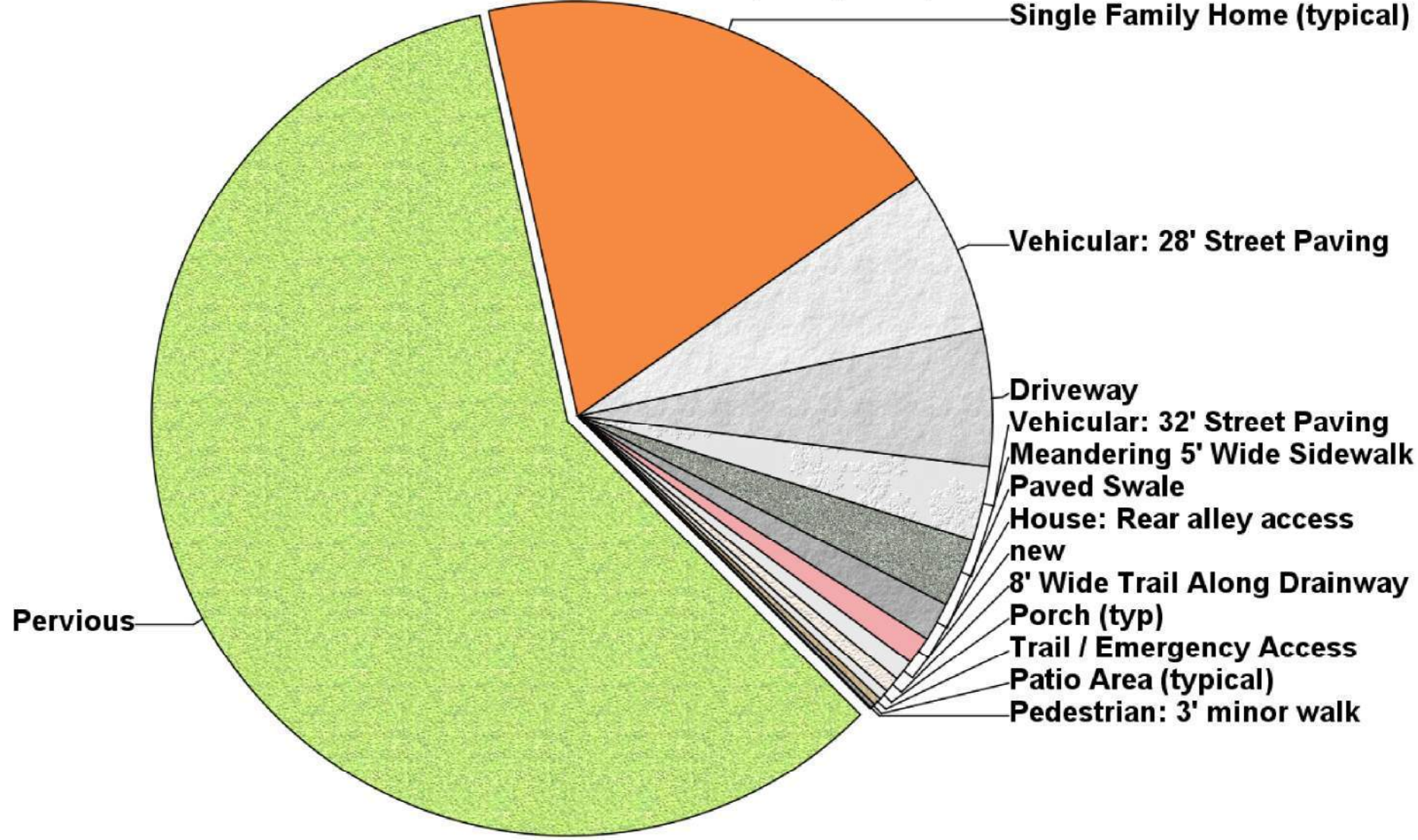
A handwritten signature in blue ink, appearing to read "Jason R. Gabriel", written over a light blue horizontal line.

EXHIBIT 2
CONCEPTUAL COVING PLAN

1" = 80 feet



Environmental Density - Man-made Impacts (40.9%)



Heritage Oaks Neighborhood Of Schertz, Texas

By: AWE Development Co., LLC.
14502 Brook Hollow Boulevard
San Antonio, Texas 78232

Westwood

Multi-Disciplined
Surveying & Engineering



Information:

Total Site Area:	66.162 Acres
Total Number of Lots:	207
Lots 60' Wide @ front Setback (10,866.6 sq.ft. average lot size)	50
Lots 50' Wide @ front Setback (8,432.2 sq.ft. average lot size)	157
Linear feet of Street	7,735.9'
Linear feet of Alley	1,163.3'
Total Area Meandering Front Yard (Front Setback to Curb)	13.7008 Acres
Park/Commons	12.163 Acres

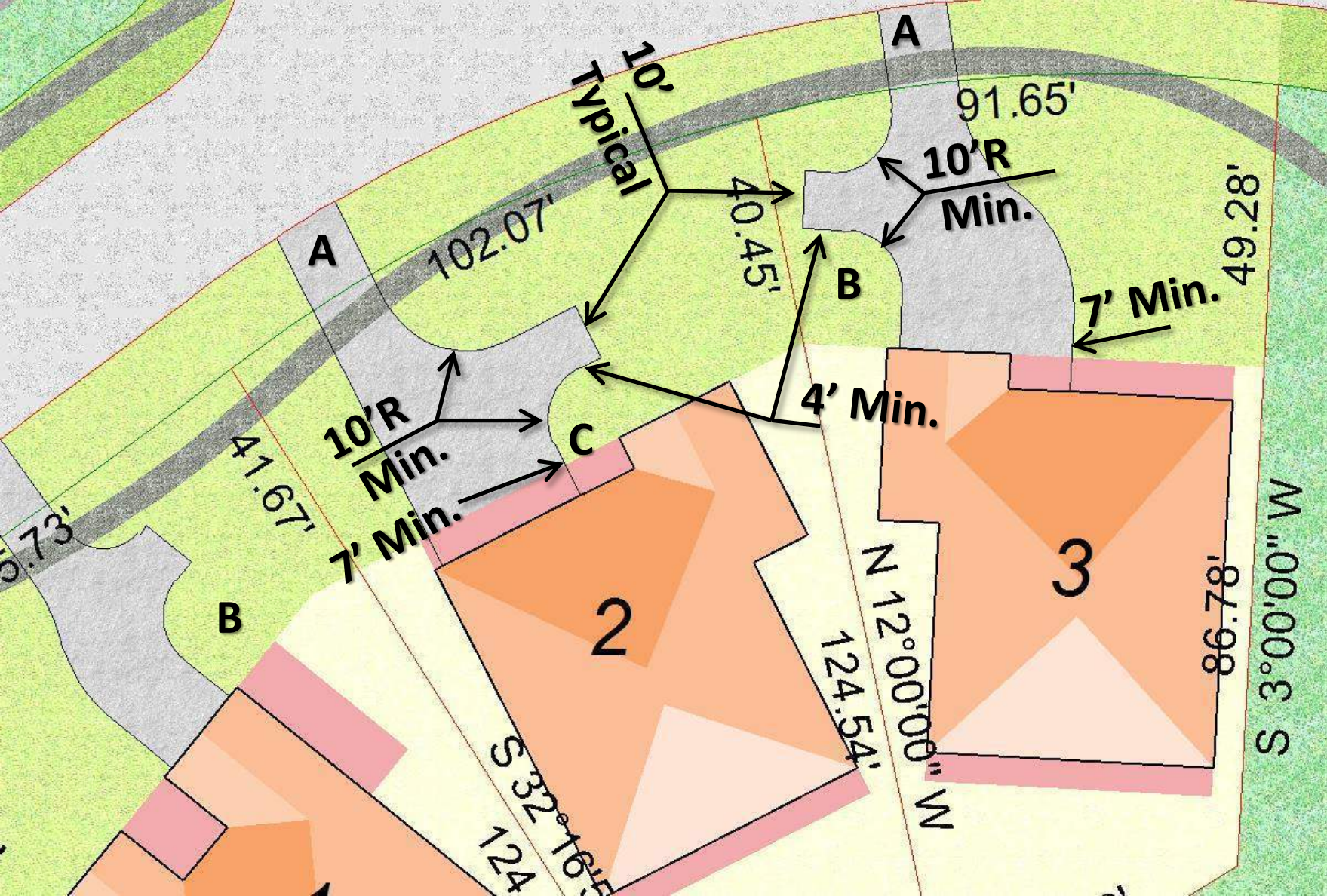
Notes:

The homes shown are for graphical purposes only. They show the opportunities for builders to take advantage of wider pads where they allow expansion in front or rear of the lots and allow homeowners to provide for future expansion.

For more complete information in video format see www.rhsdplanning.com/uploads/Sherztz.mp4

Total Site: 2,882,048 ft² (66.1627 acres)			
■ Pedestrian: 3' minor walk....	0.0%	1,300 ft²	(0.0296 acres)
■ Trail / Emergency Access....	0.3%	7,651 ft²	(0.1756 acres)
■ 8' Wide Trail Along Drainway	0.6%	16,988 ft²	(0.3900 acres)
■ House: Rear alley access....	1.1%	31,582 ft²	(0.7250 acres)
■ Meandering 5' Wide Sidewalk.	2.7%	77,887 ft²	(1.7880 acres)
■ Driveway.....	5.3%	153,918 ft²	(3.5335 acres)
■ Single Family Home (typical)	18.7%	539,035 ft²	(12.3745 acres)
■ Vehicular: 28' Street Paving	0.2%	5,856 ft²	(0.1344 acres)
■ Porch (typ).....	0.4%	12,552 ft²	(0.2882 acres)
■ new.....	0.8%	22,974 ft²	(0.5274 acres)
■ Paved Swale.....	1.5%	44,124 ft²	(1.0129 acres)
■ Vehicular: 32' Street Paving	2.9%	82,513 ft²	(1.8942 acres)
■ Vehicular: 28' Street Paving	6.3%	182,292 ft²	(4.1848 acres)
■ Pervious.....	59.1%	1,703,376 ft²	(39.1041 acres)

EXHIBIT 3
DRIVEWAY DETAIL



Notes:

A:

Driveway width at the street should be a minimum 10' wide to a maximum of 16' wide.

B:

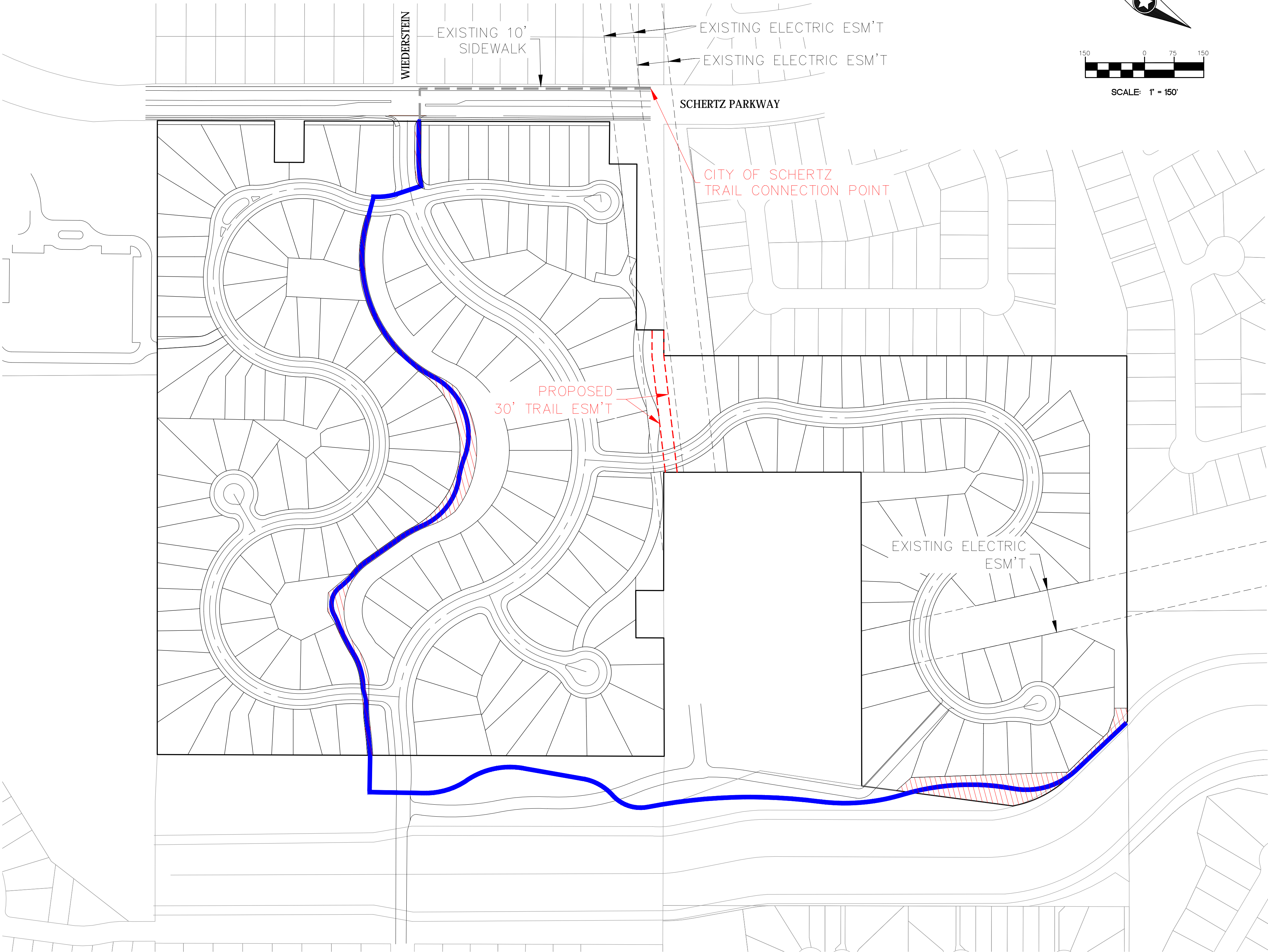
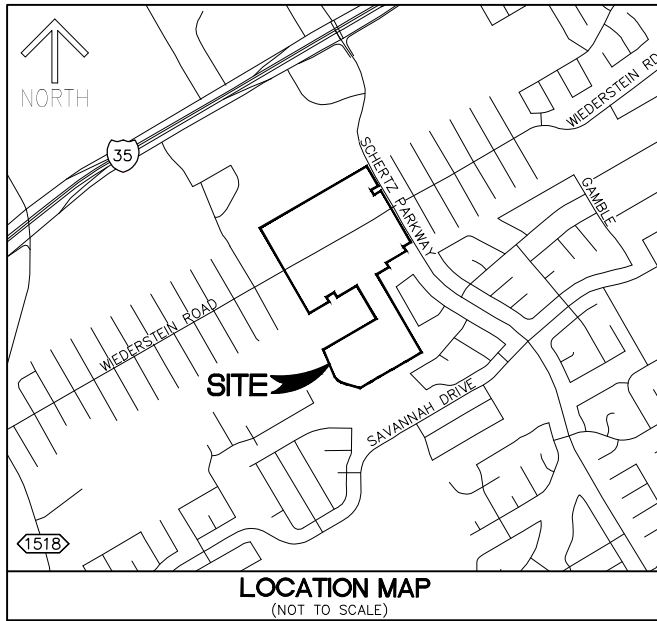
If the offset and angle of the garage to the side lot line allows the 'T' to be located towards the side yard instead of the front of the home, the 'T' should be located in the side instead of the front.

C:

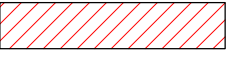
On lots with extra deep setback, the 7' minimum can be increased.


Driveway Detail

EXHIBIT 4
WIEDERSTEIN AND WEST DIETZ CREEK
TRAIL PLAN



LEGEND

 PARK AREA DEDICATED TO CITY OF SCHERTZ

 TRAIL CONSTRUCTED BY DEVELOPER

HERITAGE OAKS NEIGHBORHOOD
65.97 ACRES ~ TOTAL TRACT AREA

ENGINEER / APPLICANT:
WESTWOOD PROFESSIONAL SERVICES
1718 DRY CREEK WAY, SUITE 110
SAN ANTONIO, TEXAS 78259
TEL: (210) 265-8300

SURVEYOR
WESTWOOD PROFESSIONAL SERVICES
1718 DRY CREEK WAY, SUITE 110
SAN ANTONIO, TEXAS 78259
TEL: (210) 265-8300

OWNER / DEVELOPER
PRESIDIO GROUP, LLC
18618 TUSCANY STONE, SUITE 200
SAN ANTONIO, TEXAS 78258
TEL: (210) 826-9000

HERITAGE OAKS NEIGHBORHOOD
WIEDERSTEIN AND WEST DIETZ CREEK
TRAIL PLAN

JOB NO.:	24313.00
DATE:	DECEMBER 2020
DESIGN:	
DRAWN:	DAD
CHECKED:	

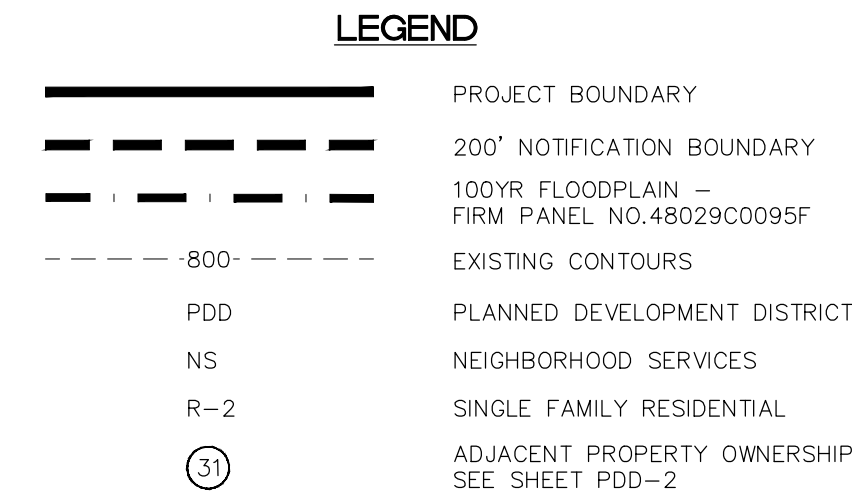
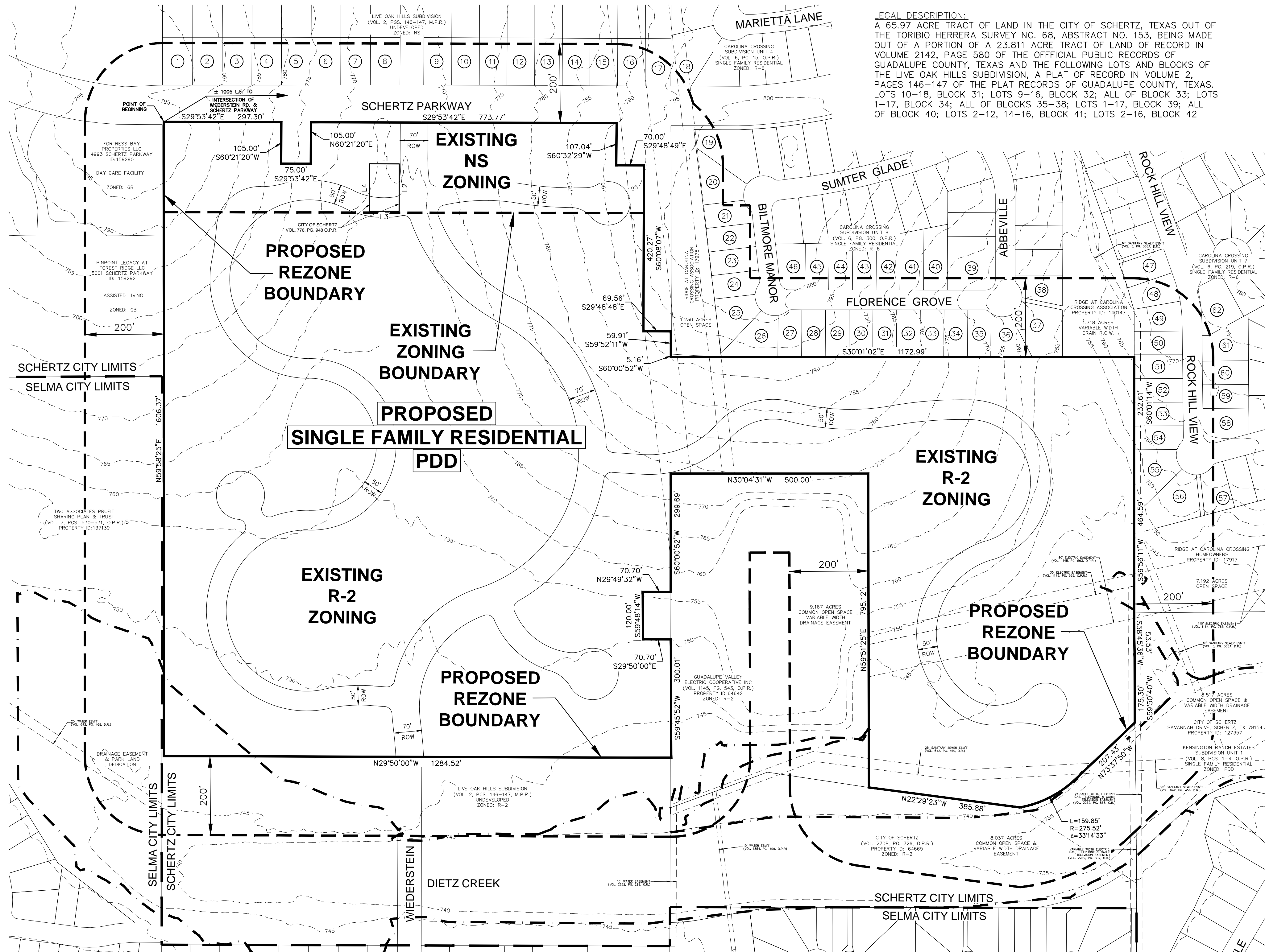
SHEET
EXHIBIT

NO.	DATE	REVISIONS	BY

Westwood

Phone (210) 265-8300 1718 Dry Creek Way, Suite 110
Toll Free (888) 937-5150 San Antonio, TX 78259
westwoodps.com
Westwood Professional Services, Inc.
TBPLS FIRM NO. 10194064 - TBPE FIRM NO. F-11756

EXHIBIT 5
ZONING EXHIBIT



1. THE THOROUGHFARE ALIGNMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DO NOT SET THE ALIGNMENT. ALIGNMENT IS DETERMINED AT TIME OF FINAL PLATTING.
2. ALL OPEN SPACE, COMMON AREAS, GREENBELTS, LANDSCAPE, DRAINAGE EASEMENT OR OTHER AREAS IDENTIFIED AS PRIVATE SHALL BE THE RESPONSIBILITY OF THE OWNER OR OWNER'S SUCCESSORS AND/OR ASSIGNS.
3. ACCORDING TO FLOOD INSURANCE RATE MAP, PANEL 48187C0210F DATED NOV. 2, 2007, SITE IS WITHIN THE 100-YEAR FLOODPLAIN.
4. CONTOURS ARE FROM SAN ANTONIO RIVER AUTHORITY LIDAR.
5. AN ELEVATION CERTIFICATE WILL BE REQUIRED FOR ALL LOTS WITHIN 100' OF THE 100 YEAR FLOOD.
6. UTILITY SERVICE PROVIDED BY THE FOLLOWING ENTITIES:

WATER SERVICE	-	CITY OF SCHERTZ
SEWER SERVICE	-	CITY OF SCHERTZ
TELEPHONE SERVICE	-	AT&T
CABLE TELEVISION	-	SPECTRUM
GAS & ELECTRIC	-	GVEC

HERITAGE OAKS ZONING TABLE		
CONDITION	ZONING	AREA (AC.)
EXISTING	NS	5.81
EXISTING	R-2	60.16
PROPOSED	PDD	65.97

LINE TABLE		
LINE	LENGTH	BEARING
L1	75.00'	S29° 53' 42"E
L2	120.00'	S60° 06' 18"W
L3	75.09'	N29° 53' 42"W
L4	120.00'	N60° 08' 45"E

HERITAGE OAKS NEIGHBORHOOD

65.97 ACRES ~ TOTAL TRACT AREA

OWNER / DEVELOPER
PRESIDIO GROUP, LLC
18618 TUSCANY STONE, SUITE 200
SAN ANTONIO, TEXAS 78258
TEL: (210) 826-9000

HERITAGE OAKS NEIGHBORHOOD
PLANNED DEVELOPMENT DISTRICT
ZONING EXHIBIT
SCHERTZ, TEXAS

Westwood

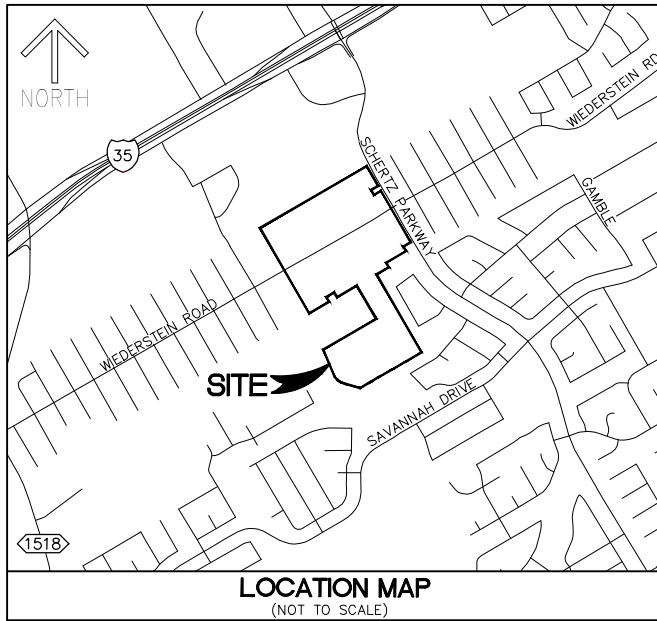
Phone (210) 265-8300
Toll Free (888) 937-5150

1718 Dry Creek Way, Suite 110
San Antonio, TX 78259
westwoodops.com

Westwood Professional Services, Inc.
 TBPLS FIRM NO. 10194064 - TBPE FIRM NO. E-11756

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SHEET
PDD-1



HERITAGE OAKS NEIGHBORHOOD

66.16 ACRES ~ TOTAL TRACT AREA

ADJACENT PROPERTY OWNERSHIP

LIVE OAKS HILLS SUBDIVISION

- SCHERTZ-CIBOLO-UNIVERSAL CITY ISD
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32028
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32027
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32026
- SCHERTZ-CIBOLO-UNIVERSAL CITY ISD
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32025
- SCHERTZ-CIBOLO-UNIVERSAL CITY ISD
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32024
- JESUS LOPEZ & DORIS REBECCA HERNANDEZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32023
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32022
- CITY OF SCHERTZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32021
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32011
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32010
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32009
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32008
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32007
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32006
- NANCY SCHAEFER NON GST EXEMPT TRUST FBO JANE SCHAEFER
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32005
- CITY OF SCHERTZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32004
- CITY OF SCHERTZ
SCHERTZ PARKWAY, SCHERTZ, TX 78154
PROPERTY ID: 32003

CAROLINA CROSSING SUBDIVISION UNIT 4

- GLENN R & SANDRA K BRETZKE
3740 MARIETTA LANE, SCHERTZ, TX 78154
PROPERTY ID: 17678

CAROLINA CROSSING SUBDIVISION UNIT 8

- OSCAR & KIMBERLY RAMIREZ
3500 SUMTER GLADE, SCHERTZ, TX 78154
PROPERTY ID: 17949
- MARK D & SANDRA MASON
3400 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17950
- TRAVIS C & DAWN DUPLANTIER ROBINETTE
3404 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17951
- KAREN SHELTON BRITSCH
3408 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17952
- EDWARD M JR & DESSA A ANDERSON
3412 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17953
- JEFF R & MARILYN P INGRAM
3416 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17954
- NORMA & MARK HIDALGO
3420 BILTMORE MANOR, SCHERTZ, TX 78154
PROPERTY ID: 17955
- MARKE & PAULA J SAINT HILL
3740 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17956
- STEVE A & CATIA CHANDLER
3736 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17957
- DONALD J & KERRY BROWN
3732 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17958
- JAVIER PALACIOS & DIANA ANDREA
3728 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17959
- TIMOTHY K & KIMBERLY A CARROLL
3724 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17960
- CINDY L FOLLETTE
3720 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17961

- MICHELLE L & ERWIN R IVERY
3716 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17962
- YADIRA VANESSA & RAUL PRADO TIRADO
3712 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17963
- GEORGE SHILOBOOD
3708 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17964
- JOHN E & JESSICA LEESANG
3704 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17965
- ADRIAN CORNEJO
3700 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17966
- JUSTIN L & AMANDA E WILLMANN
3429 ABBEVILLE DRIVE, SCHERTZ, TX 78154
PROPERTY ID: 17967
- DOUGLAS A & KRISTIN K PACK
3425 ABBEVILLE DRIVE, SCHERTZ, TX 78154
PROPERTY ID: 17968
- STEVE B & HOLLY A NAGY
3416 ABBEVILLE DRIVE, SCHERTZ, TX 78154
PROPERTY ID: 17923
- MICHAEL CRISTOPHER MULLEN
3711 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17924
- TIMOTHY B & EMILY M PAULSEN
3715 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17925
- FRANK & DIANE E ADAMS
3719 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17926
- JASON M & COURTNEY L WILLIAMS
3723 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17927
- JOHN D JR & YOVANNY C HULSEY
3727 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17928
- ROBERT & SHARON ST CLAIR
3731 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17929
- MICHELLE & DONNIE L ST JOHN
3735 FLORENCE GROVE, SCHERTZ, TX 78154
PROPERTY ID: 17930

CAROLINA CROSSING SUBDIVISION UNIT 7

- DOROTHY L HYATT & TROY H POCHER
3493 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17915
- SALLY L & JOHN D RIOJAS
3489 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17914
- JAMES P MURRAY JR
3485 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17913
- GERDA A PETERSON
3481 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17912
- ROBERT J & MALLORY A DUNCAN
3477 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17911
- BENJAMIN JOSEPH & ELIZABETH MASSIE PYRC
3473 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17910
- MATTHEW P MANGINI
3469 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17909
- UNKNOWN
3465 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17908
- RACHEL LEIGH JACKSON
3461 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17907
- KENNETH R & NORMA Y MIESS
3457 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17906
- RALPH E & GREER E HORRELL
3420 DARTMOUTH COVE, SCHERTZ, TX 78154
PROPERTY ID: 17905
- ROBERT J & NANCY S SCHRADER
3464 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17875
- UNKNOWN
3468 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17876
- HEATHER SHERMAN & VICTOR ISRAEL LEAL
3472 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17877
- ROBERT J WILLIS JR
3476 ROCK HILL VIEW, SCHERTZ, TX 78154
PROPERTY ID: 17878

ENGINEER / APPLICANT:

WESTWOOD PROFESSIONAL SERVICES
1718 DRY CREEK WAY, SUITE 110
SAN ANTONIO, TEXAS 78259
TEL: (210) 265-8300

SURVEYOR

WESTWOOD PROFESSIONAL SERVICES
1718 DRY CREEK WAY, SUITE 110
SAN ANTONIO, TEXAS 78259
TEL: (210) 265-8300

OWNER / DEVELOPER

PRESIDIO GROUP, LLC
18618 TUSCANY STONE, SUITE 200
SAN ANTONIO, TEXAS 78258
TEL: (210) 826-9000

NO.	DATE	REVISIONS	BY

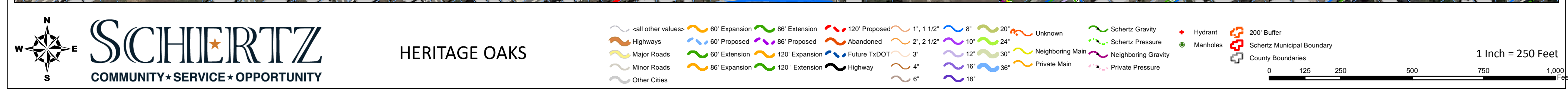
Westwood

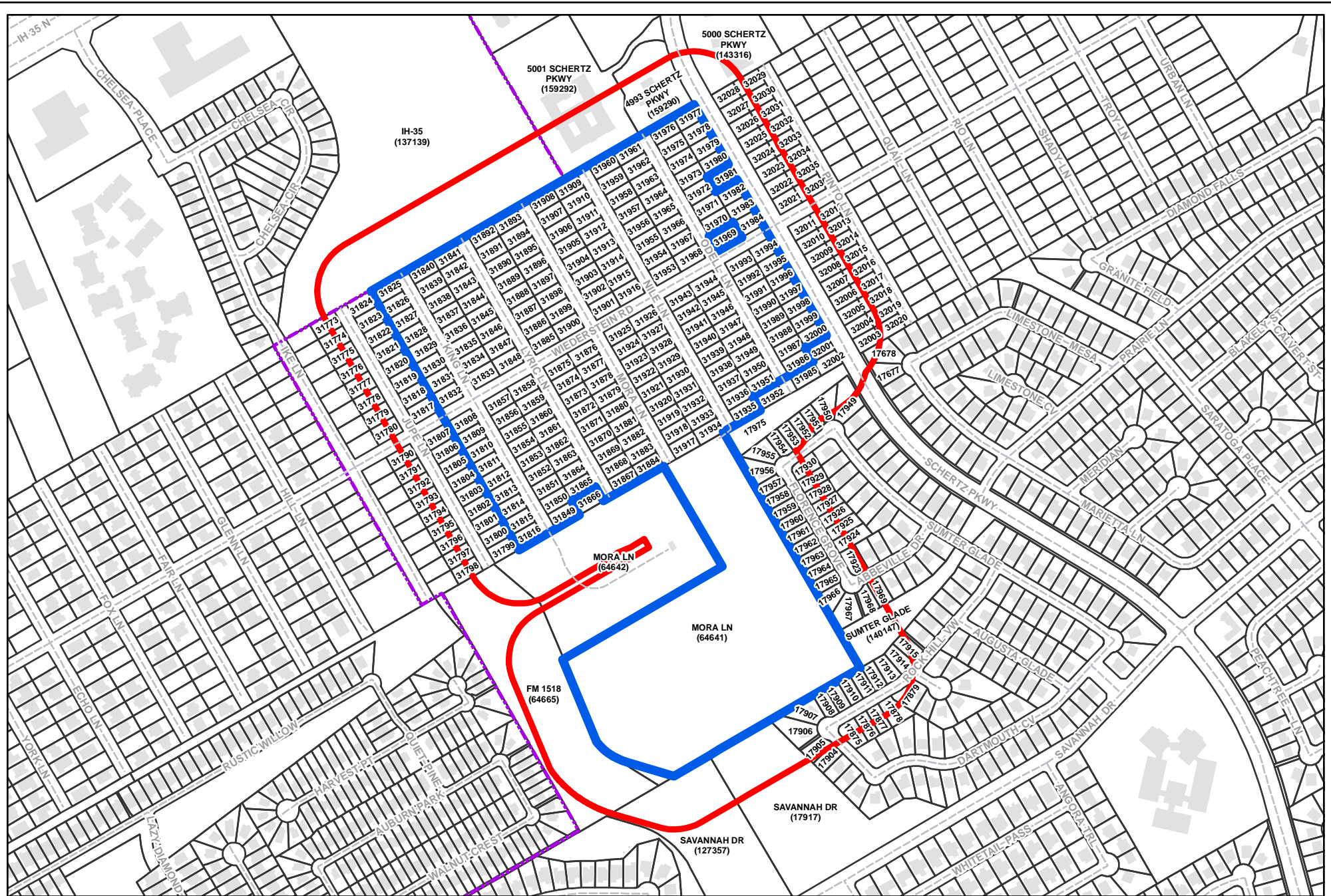
Phone (210) 265-8300 1718 Dry Creek Way, Suite 110
TollFree (888) 937-5750 San Antonio, TX 78259
westwoodps.com
Westwood Professional Services, Inc.
TBP,LS FIRM NO. 10184044 - TBP FIRM NO. F-11756

HERITAGE OAKS NEIGHBORHOOD
PLANNED DEVELOPMENT DISTRICT
ZONING EXHIBIT
SCHERTZ, TEXAS

JOB NO.:	24313.00
DATE:	JANUARY 2020
DESIGN:	
DRAWN:	DAD
CHECKED:	

SHEET
PDD-2





SCHERTZ
COMMUNITY • SERVICE • OPPORTUNITY

Last Update: May 22, 2020

City of Schertz, GIS Specialist: Bill Gardner, gis@schertz.com (210) 619-1185

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City of Schertz

HERITAGE OAKS SUBDIVISION

Master Development Plan



Parcel Boundaries

Schertz City Boundary



200' Notification Buffer



Reply Form

I am: in favor of ☐

opposed to ☒

neutral to ☐

the request for ZC2020-005

COMMENTS:

NAME:

KAREN BRITCH
(PLEASE PRINT)

SIGNATURE

[Signature]

STREET ADDRESS:

3408 Biltmore Manor Schertz Tx 78154

DATE:

4-03-2021

1400 Schertz Parkway

Schertz, Texas 78154

210.619.1000

schertz.com

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: It would be a shame to lose all of the wild life.

NAME: Robert Duncan SIGNATURE [Signature]
(PLEASE PRINT)

STREET ADDRESS: 3477 Rock Hill View

DATE: 4/14/2021

1400 Schertz Parkway



Schertz, Texas 78154



210.619.1000



schertz.com

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: the area should remain residential

NAME: Travis Robinette SIGNATURE [Signature]
(PLEASE PRINT)

STREET ADDRESS: 3404 Biltmore Manor Schertz

DATE: 4/5/2021

1400 Schertz Parkway



Schertz, Texas 78154



210.619.1000



schertz.com

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: THE BEST OF SAVANNAH IS RESIDENTIAL - DON'T NEED ANY COMMERCIAL BUILDING NEXT TO MY NEIGHBORHOOD.

NAME: JASON WILLIAMS
(PLEASE PRINT)

SIGNATURE

Jason Williams

STREET ADDRESS: 3723 FLORENCE GRV

DATE: 5 Apr 2021

PLEASE PROVIDE A BUSINESS PLAN & INTENDED USE OF THIS LAND
PRIOR TO REQUESTING A REZONING OF THAT PROPERTY.

1400 Schertz Parkway



Schertz, Texas 78154



210.619.1000



schertz.com

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: too many people in an area, esp. with drought occurring, will lead to water rationing or no water

NAME: Ed and Dessa Anderson (PLEASE PRINT) SIGNATURE Ed Anderson

STREET ADDRESS: 3412 Biltmore Manor for existing families!

DATE: April 14th, 2021.

Trees add natural beauty to Schertz!
Will create more traffic problems in the area.

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: Worried about strain on water + electric systems

NAME: Sharon StClair SIGNATURE Sharon StClair
(PLEASE PRINT)

STREET ADDRESS: 3731 Florence Grove, Schertz, TX

DATE: 4-14-21

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Koplyay

Nick Koplyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: Building in flood zone. Don't get rid of green belt

NAME: Ivan and Christy Arana SIGNATURE [Signature]
(PLEASE PRINT)

STREET ADDRESS: 3700 Florence Grv, Schertz

DATE: 04/12/2021

property ID: 17966

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: ☒ in favor of ☐ opposed to ☐ neutral to ☐ the request for ZC2020-005

COMMENTS: Problem With Develop Issues

NAME: Hector Morenc SIGNATURE [Signature]
(PLEASE PRINT)

STREET ADDRESS: 3416 Abbeville Dr. Schertz TX

DATE: 4/13/2021

property ID: 17923

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS:

strongly opposed

NAME:

Lori Kolodnievski

SIGNATURE

[Signature]

(PLEASE PRINT)

STREET ADDRESS:

3468 Rock Hill View

17876

DATE:

4-12-21

Megan Harrison

From: Rachel Dias <rachelleigh21@yahoo.com>
Sent: Tuesday, April 13, 2021 4:41 PM
To: planning@schertz.com
Subject: statement for P&Z meeting for 4/13/2021

Good Evening,

Please accept these remarks in my absence from tonight's meeting as I am the only parent at home with three children. As a ten year resident of Schertz, in the community of The Ridge of Carolina Crossing, I wish to express my strong opposition to the city's request to rezone the land along Weiderstein to PPD. Based on my review of the plan for development being proposed, I do not believe this to be in the best interest of the current or future residents of Schertz, who deserve and expect quality neighborhoods that put the safety of families and children first. Additionally, I am concerned with the destruction of a great percentage of the green space behind my home, which would have numerous negative impacts on my family, the families of many others, and the current value of our homes. I am a proud citizen of Schertz, but I am disappointed that the city would even consider a rezone of the land in question. In speaking with numerous residents in my neighborhood, many who are the landowners whom the proposed change would directly impact, I did not find one who supported this proposal. I urge the city to listen to the voices of its residents and oppose the rezone and uphold the standards of development that our city has long held. Thank you,
Rachel Rosas

3461 Rock Hill View
Schertz, Tx
210-748-2510

Sent from [Mail](#) for Windows 10

Megan Harrison

From: Rachel Jackson <rachelnruben@icloud.com>
Sent: Tuesday, April 13, 2021 8:01 AM
To: planning@schertz.com
Subject: Opposition notices for PDD proposal

Nick

Please find attached notices of opposition to proposed PDD from numerous residents of Ridge at Carolina Crossing.

Thank you

Rachel Rosas

3461 Rock Hill View

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: ☒ in favor of ☒ **strongly opposed** ☐ opposed to ☐ neutral to ☐ the request for ZC2020-005

COMMENTS:

NAME:

(PLEASE PRINT)

SIGNATURE

STREET ADDRESS:

DATE:

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **ZC2020-005**

COMMENTS: _____

NAME: Jimmy Wiley SIGNATURE Jimmy Wiley
(PLEASE PRINT)

STREET ADDRESS: 3475 Scarlet Rose

DATE: 4/13/2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: I am strongly opposed.

NAME: Dawn Murray SIGNATURE Dawn Murray
(PLEASE PRINT)

STREET ADDRESS: 3485 Rock Hill View, Schertz

DATE: 04/12/2021 TX 78154

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS:

NAME: TRAY H. POCHER SIGNATURE 
(PLEASE PRINT)

STREET ADDRESS: 3493 Rock Hall ViewDATE: 4.12.2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: ☒ in favor of ☒ opposed to ☐ neutral to ☐ the request for ZC2020-005

COMMENTS:

NAME:

(PLEASE PRINT)

SIGNATURE

STREET ADDRESS:

DATE:

NOTICE OF PUBLIC HEARING

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: _____

NAME: _____

Gilda Peterson
(PLEASE PRINT)

SIGNATURE _____

Gilda Peterson

STREET ADDRESS: _____

3481 Rock Hill View Schertz TX 78154

DATE: _____

April 11 2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005COMMENTS: negative impact of water pressure + drainage @ environmentNAME: Timothy Carroll

(PLEASE PRINT)

SIGNATURE: STREET ADDRESS: 3724 Florence GroveDATE: 13 April 2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



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Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: environmental impact (negative)

NAME: Cindy Follette
(PLEASE PRINT)

SIGNATURE Cindy Follette

STREET ADDRESS: 3720 Florence Grv.

DATE: 4/14/2021

Megan Harrison

From: Doug Pack <dougpack@icloud.com>
Sent: Tuesday, April 13, 2021 3:10 PM
To: planning@schertz.com
Subject: Public Hearing
Attachments: Notice of Public Hearing.pdf

Reply form is attached.

This is a bad idea. The Paschal Elementary is already over crowded. The roads are too busy. Police rarely patrol Schertz Parkway or Savannah. How could this improve the lives of Schertz residents? Just leave the land as is. We need more green space. Most residents moved to Schertz to get away from the crowded city.

Regards,

Doug Pack
210-268-6980

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: In favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: How will this improve the lives of Schertz residents

NAME: Douglas A. Pack Jr. SIGNATURE [Signature]
(PLEASE PRINT)

STREET ADDRESS: 3425 Abbeville Dr.

DATE: 4/13/2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: In addition to traffic concerns for both Savannah Dr. and Wiederstein,

NAME: Elizabeth Pyre
(PLEASE PRINT)

SIGNATURE

Elizabeth Pyre

STREET ADDRESS: 3473 Rock Hill View Schertz, TX 78154

DATE: 04/12/2021

*I am concerned with
flooding issues since there is so much
drainage in the land involved with this
proposed rezone. I bought my home b/c of lack
of development behind me, and I feel
the city would de-value my property w/ this re-zone.*

Megan Harrison

From: Elizabeth Pyrc <elizabeth.pyrc@yahoo.com>
Sent: Tuesday, April 13, 2021 1:39 PM
To: planning@schertz.com
Subject: Response for Proposed Zone Change for 4/14/2021 Planning and Zoning Meeting
Attachments: SCHERTZ.pdf

To whom it may concern;

Along with the attached reply form, I am submitting the below statement to be read and become part of public record for the Hearing of Residents for the Planning and Zoning Meeting scheduled for April 14, 2021.

I am a relatively new resident of Schertz. A city I have come to love and appreciate in the nearly two years I have been able to call this my hometown. Learning of the proposed Heritage Oaks Plan is concerning to me as this is property located directly behind my home. After careful consideration I have come to the realization that changing the zoning of this area for this purpose, is not in keeping with current city guidance.

From our own city's Unified Development Code, in section 21.5.1, it tells us the purpose and applicability of zoning districts is: "They have been designed to lessen the congestion in the streets, to secure safety from fire, panic and other dangers, to ensure adequate light and air, to prevent the overcrowding of land and thus avoid undue concentration of population, and to facilitate the adequate provision of transportation, water supply, wastewater treatment, schools, parks and other public requirements. They are established with reasonable consideration for, among other things, the character of each zoning district and its peculiar suitability for the particular uses specified, conserving the value of buildings and environmentally sensitive features, and encouraging the most appropriate use of land throughout the City."

The area in question is currently zoned for residential, R2, in section 21.5.5.B is defined as in this code as being "Comprised of single-family detached residential dwellings with a minimum lot size of 8,400 square feet, together with the schools, churches, and parks necessary to create basic neighborhood units."

In contrasts, per section 21.5.10.A, "The purpose of the Planned Development District is to promote and encourage innovative development that is sensitive to surrounding land uses and to the natural environment. If this necessitates varying from available zoning districts, the proposed development should demonstrate community benefits. A PDD should not be used to deviate from the provisions of this UDC (Unified Development Code) in a way that contradicts its intent."

This proposal for a zoning change from R2 to PDD, in this instance for the proposed Heritage Oaks development, clearly contradicts the cited purpose and applicability of zoning under the the Unified Development Code.

Changing the square footage of the lot size down to 5400 square feet doesn't avoid undue concentration, it encourages it. Having personal driveways facing the main thoroughfare (Weiderstein) in this proposed neighborhood greatly compromises safety of both potential residents and anyone who travels on this road. Such an increase in the amount of houses and subsequently residents calls into question the ability to ensure proper access to transportation, schools, parks and other public requirements for the 200+ homes that are planned to occupy this space.

The proposed neighborhood development of Heritage Oaks would not conserve the value of the environmentally sensitive features of this land. Current specs indicate that there is no requirement to retain any trees in this area if they are less than 24 inches in diameter (100 year trees) or if the tree is in the way of any planned right of way, street or other infrastructure. This would decimate all wildlife that currently live on this property and does not conserve the value of the environmentally sensitive features of this area.

This should lead any informed resident to question, is changing the current zone from R-2 to PDD for the purpose of the Heritage Oaks development plan truly the best and most appropriate use of this land? Surely not. City planners have long intended this land to be used for houses set on properly sized plots of land so that current resources and infrastructure are not overly taxed. The changing of R2, a clearly defined zone, to PDD, a zone that is not clearly defined, in this instance seems to be solely a decision motivated by money. By proposing to build and sell over 200 houses in a space that was never intended to be used for this purpose, our city planners and council are effectively stating that money generated by this subdivision is more important than maintaining the integrity of the long standing and long accepted Unified Development Code.

I formally oppose the proposed zoning change as I feel many informed residents would as well.

I thank you for your time and consideration in hearing my opinion.

Respectfully,

Elizabeth Pyrc
Resident of the Ridge at Carolina Crossing

7:53

notice.pdf

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NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on Wednesday, April 14, 2021 at 6:00 a.m., located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building 84, Schertz, Texas to consider and make recommendation on the following item:

ZC2020-005 - A request to rezone approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PUD), generally located southwest of the intersection between Schertz Parkway and Whidestain Road, City of Schertz, Guadalupe County, Texas.

The Planning and Zoning Commission would like to hear how you feel about this request and invite you to attend the public hearing. This form is used to calculate the percentage of landowners that support and oppose the request. You may return the reply form below prior to the first public hearing date by mail or personal delivery to Nick Koplyay, Planner, 1400 Schertz Parkway, Schertz, Texas 78154, by fax (210) 618-1789, or by e-mail nkoplyay@schertztx.gov. If you have any questions please feel free to call Nick Koplyay, Senior Planner at (210) 618-1789.

Sincerely,

Nick Koplyay

Nick Koplyay
Senior Planner

Reply Form

I am: ☐ in favor of ☒ opposed to ☐ undecided to ☐ the request for ZC2020-005

COMMENTS:

NAME: Susie Sheffield SIGNATURE: Susie Sheffield
(PLEASE PRINT)

STREET ADDRESS: 3413 Ardmore Dr., Schertz 78154

DATE: 4/12/2021

1400 Schertz Parkway

Schertz, TX 78154

210-618-1789

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on **Wednesday, April 14, 2021 at 6:00 p.m.** located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: Don't do it!

NAME: Heather Beckmann SIGNATURE Heather Beckmann
(PLEASE PRINT)

STREET ADDRESS: 3508 Sumter Glade Schertz Tx 78154

DATE: 4/12/21

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005COMMENTS: Infrastructure for our area doesn't supportNAME: C + B Bonston SIGNATURE: [Signature] Current Population
(PLEASE PRINT)STREET ADDRESS: 3440 Dartmouth Cove, Schertz, TX 78154DATE: 4/12/2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: We are concerned about the resultant population

NAME: Mary Sparks SIGNATURE: M. Sparks
(PLEASE PRINT)

STREET ADDRESS: # 3491 Scarlet Rose Schertz Tx 78154

DATE: 4/14/21

→ density change to that area given that the change from R-2/NS to PDD will result in smaller lot sizing and therefore more houses in that area.

We feel that this may negatively affect traffic and schools for the area, as well as potentially decrease property values of existing neighborhoods. Also concerned about how this may affect security of gated community located adjacent to the area.

Megan Harrison

From: Ken Miess <miessk@yahoo.com>
Sent: Wednesday, April 14, 2021 7:39 AM
To: planning@schertz.com
Subject: ZC2020-005
Attachments: Planning and Zone Public Hearing Form Miess.pdf

I am opposed to the proposed development. This is sub par by any standard. Please have Presidio propose a new development that meets Schertz' standards!

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: In favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: Dangerous, sub par neighborhood. City staff, planning and council should be ashamed!

NAME: Kenneth Miess SIGNATURE _____
(PLEASE PRINT)

STREET ADDRESS: 3457 Rock Hill View, Schertz TX 78154

DATE: April 13, 2021

No one should allow the developer, no matter how big and powerful, to even propose houses on a feeder road. Lots are ridiculously small, houses 10' apart (what happened to fire safety and the shed policy?!), parking on a feeder road, driveways on a feeder road and no public gathering places. Kids will be forced to play in yards, driveways and primary streets, running out from between parked cars, with limited sight distance on a twisting road. This has not been allowed on Savannah or on Wiederstein prior to now. Obligate the developer to build a safe, proper Schertz quality neighborhood. Zoning is like building codes for neighborhoods. They exist for a reason. You don't bend on the codes, why would you walk away from good zoning? Our residents deserve 8400 sq foot minimum lots, no houses on Wiederstein itself, and public gathering places must be provided. Anything less is shameful and the result of a lazy city staff, lazy city planning, and an absentee city council. To tell a developer, "hey, propose it and we'll see if the residents let you get away with it" is not what you are paid to do. Your job is to look out for us, and throw this back saying "this is not up to Schertz standards and you know it!"

Megan Harrison

From: Ivan Arano <brujo2204@gmail.com>
Sent: Tuesday, April 13, 2021 8:01 PM
To: planning@schertz.com
Subject: ZC2020-05 response from Carolina Crossing
Attachments: 3426 Abbevie Dr.pdf; Carolina Crossing sub unit 8.pdf

Hello Planning and Zoning commission,

Please find the attached documents that include 8 responses from myself and other neighbors in both Florence Grv and Abbeville streets of the Carolina Crossing subdivision unit 8. I will be sending some more later today or tomorrow two hours before the meeting.

Please respond to this email with a confirmation that you received these documents.

Thank you,

Ivan Arano



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NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: _____

NAME: WILLIAM UHLHORN SIGNATURE W. Uhlhorn
(PLEASE PRINT)

STREET ADDRESS: 3421 ABBEYVILLE DR.

DATE: 4-13-21

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on Wednesday, April 14, 2021 at 8:00 p.m. located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

ZC2020-005 – A request to rezone approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD), generally located southwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas.

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: I.F. an easement is not in place.

NAME: John Lee Sang SIGNATURE: [Signature]
(PLEASE PRINT)

STREET ADDRESS: 3704 Florence Grove, Schertz Tx 78054

DATE: 4/12/21

property ID: 17965

Emily Delgado

From: Amanda Willmann <akwillmann@hotmail.com>
Sent: Wednesday, April 14, 2021 1:01 PM
To: planning@schertz.com
Subject: Response to be read at Planning and Zoning Committee meeting tonight.
Attachments: Email to Planning Committee re Heritage Oaks.docx

Parcel: 17967

Good afternoon,

I am uncertain if I will be able to attend tonight's meeting but have prepared a list of concerns that I would like the committee and the assembled residents to take into consideration.

Thank you,

Amanda Willmann, Ph.D.

NOTE - This message contains an attachment that might contain a malicious payload. Schertz makes every effort to block transmission of dangerous attachments, but you as the recipient should always be cautious of receiving messages with attachments that you don't recognize or request from the sender.

Dear members of the Zoning and Planning Committee:

I write to you today DEEPLY concerned about the Heritage Oaks Planned Development District – 66 acres of land, generally located southwest of the intersection between Schertz Parkway and Wiederstein road.

Schertz is a PREMIER Texas community, nationally recognized for its family atmosphere, whose Core Values include statements such as “Do the right thing” and “Do the best you can” while our Policy Values list “Safe Community”, “High Quality of Life”, and “Attractive Community.” I respectfully request that you oppose this proposition to keep our community safe, to maintain our high standards, and to preserve some of the last beautifully wooded areas in the city.

Safety concerns:

- **Curving of the proposed Wiederstein road.** As stated in the Heritage Oaks PDD documents, the curving radius of the proposed changes to Wiederstein road DO NOT meet the City of Schertz Engineering Department Standards AND “requires drivers to work harder to be more attentive and monitor speeds more closely.” You do NOT want to create a road where drivers need to work harder to drive safely through a neighborhood full of children, residents, pedestrians, animals, and bikers especially because Wiederstein road is becoming a more heavily traveled thoroughfare as it connects 1518 to Schertz Parkway.
- **Alleys/Roadside Parking:** The Proposal includes alleys for homes that face Wiederstein road. Research by architect Oscar Newman, commissioned by the Department of Urban Planning and Development show that alleys INCREASE crime rates as they allow more entry points to a home with less visibility. In addition, a literature review commissioned by the Justice Department found studies showing that closing alleys reduced crime in Charlotte, Hartford, Los Angeles and St. Louis as well as several location in England. (<https://ti.org/antiplanner/?p=192>). Furthermore, the presence of these alleys decreases the amount of green space by adding an additional road.

- **Parking/Fake Bike Lane** – Parallel parking in front of homes that face Wiederstein road is inevitable. Even with an alley, most people prefer to park in the front of their home and if there is more than 1 driver in the home, they will need the extra parking space. This presents safety concerns for traffic along Wiederstein Road as these parked cars will push bikers and pedestrians into the road. The Heritage Oaks PDD highlights a bike lane, which is a complete joke, as it will simply be taken up by cars parked along the roadway, as stated in their plan. This is yet another huge safety concern for traffic, residents, and bikers.
- **Reduced Turn Around Radius of Cud-de-sacs:** The Heritage Oaks PDD states that it will have a reduced turn around radius for Cul-de-sacs of 100 feet as opposed to the currently required minimum of 150 feet. Again – huge safety concern. Cars will park along the curb, further reducing a vehicle's safe turnaround radius and this is a danger for traffic flow and residents as children often play in cul-de-sacs.

A Premier Texas Family Community

- **Lot Sizes and Setbacks:** The Heritage Oaks PDD plans to reduce the minimum lot size to 5400 sq ft. from the current required minimum of 8400 sq ft. allowing them to squeeze in as many homes as possible. They are also requesting the front setback to be reduced from 25 ft to 20 ft and the side setback to be reduced from 10 ft. to 5 ft., putting homes closer to the street as well as their neighbors. Packing homes in like sardines is not how one creates a Premier Texas Community, and this plan works in direct opposition to the pleasant, spacious, upscale community that Schertz is renowned for. Furthermore, if coving creates more green space and larger lots as repeatedly mentioned in the plan, why is the Heritage Oaks PDD requesting significantly smaller lot sizes?
- **"T" turnaround driveways:** The Heritage Oaks PDD continually speaks to reducing impervious coverage. "T" turnaround driveways, in addition to being unsightly and reducing a home's front yard size and appeal, will actually increase the impervious coverage as they are larger than a traditional driveway. Furthermore, the T section of the driveway will be used as additional parking instead of a turnaround area as

intended, resulting in vehicles backing into traffic on Wiederstein road, which is obviously dangerous and unsafe.

- **Wooded Areas:** The land in question is one of the last beautifully wooded spots in Schertz. Why would we eliminate the park and open spaces requirement, as requested by the Heritage Oaks PDD, on such a prize piece of land? One filled with trees, vegetation, and wildlife of all kinds. My family and I have personally seen deer, fox, coyotes, racoons, opossums, owls, and birds of all kinds in those woods. The currently planned "park" areas are nothing more than a strip of grass beside a trail. We should not lower our standards for this. In fact, Ashley Park is the closest park to the proposed Heritage Oaks PDD, so why not require them to build a nice city park connected to the proposed trails instead of cramming as many homes in as possible?

In closing I would like to say that I am baffled as to why the City of Schertz would agree to all these allowances when they are clearly not in the best interest of our community. Cramming homes in tight spaces, allowing alleys and "t" turnaround driveways not only increase the crime risk, but demean our community's reputation and property values. Furthermore, The Heritage Oaks PDD raises severe safety concern for residents, pedestrians, children and bikers in regard to traffic, crime, driver safety and resident safety. Do not make exceptions to our standards that decrease the quality of life in Schertz and instead strive to uphold our high standards of being a premier Texas community, nationally recognized for our family atmosphere.

Sincerely,

Amanda Willmann, PhD

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: _____

NAME: Justin Willmann SIGNATURE: *Justin Willmann*
(PLEASE PRINT)

STREET ADDRESS: 3429 Abberville Dr, Schertz TX 78154

DATE: April 13 2021

property ID 17967



COMMUNITY
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NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Koplyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: Not in favor of this

NAME: Zach Jarret SIGNATURE
(PLEASE PRINT)

STREET ADDRESS: 3727 Florence Grove Schertz 78154

DATE: 04/12/2021

property ID 17928

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: DON'T DO IT!!

NAME: Michael Mullen SIGNATURE: Michael Mullen
(PLEASE PRINT)

STREET ADDRESS: 3711 Florence Grove

DATE: 13 APR 2021

property ID: 17924

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005COMMENTS: Don't destroy the GreenbeltNAME: Javier Palacios SIGNATURE [Handwritten Signature]
(PLEASE PRINT)STREET ADDRESS: 3728 Florence Grade, SchertzDATE: 13 APR 2021

property ID: 17959

Megan Harrison

From: d brown <djbrown523@yahoo.com>
Sent: Tuesday, April 13, 2021 11:55 AM
To: planning@schertz.com
Subject: Opposed to Heritage Oaks Subdivision ZC2020-005

Attn: Nick Kopyay

13 April 2021

I'm writing to express our objections to building a subdivision behind the Ridge at Carolina Crossing.

When we moved to Schertz in 2009, it had a small city feel and a nice place to raise a family. Over the years, we've seen the addition of several large subdivisions throughout Schertz. The small city feel is quickly fading and our city is becoming nothing but a housing metropolis. We are rapidly losing what drew many of us here to call Schertz home many years ago.

We oppose this subdivision for several reasons:

1. This will remove a large portion of our greenspace. This area provides a home to various wildlife. It also provides a needed aesthetic separating us from living in a sea of wall to wall homes.
2. The trees provide a much needed buffer for traffic noise from FM 1518 and I35.
3. The traffic volume will increase exponentially on Schertz Parkway and FM 1518. The only changes to the roadways we've seen when a new subdivision is built are more traffic lights. The roads have not been widened nor altered to accommodate the increased volume. FM 1518 at I35 is a parking lot at 4:30PM. Schertz Parkway is also backing up at I35 and at Schertz Pkwy. Adding additional volume will only compound the problem.
4. We continue to build housing in an area that has severe drought problems. Adding more households on a strained water system does not seem prudent especially as temperatures continue to increase each year.

We appreciate your time and consideration on this matter.

Donald and Kerry Brown
3732 Florence Grove
Schertz, TX 78154

Megan Harrison

From: George Shilobod <georgeshilobod@gmail.com>
Sent: Tuesday, April 13, 2021 11:54 AM
To: planning@schertz.com
Subject: Proposed Zoning Development behind Ridge @ Carolina Crossing

My property is directly affected by this zoning change proposal. I'm opposed to it as I believe it will adversely affect my property value. I'm the original owner of this property and in 2001 when we had the house built we were told they would never build behind our house. I would like to keep it that way. Almost every day before dusk a herd of deer travel past our backyard. We enjoy watching them over our fence. The green belt was a big selling point for choosing this lot location. In addition, the Schertz parkway area is becoming too crowded. We do not need another 207 homes (207 families) along Schertz Parkway. It will take longer to get to IH 35 in the mornings. Schertz Parkway to 35 and 1518 to 35 in the morning will become parking lots during the morning commute. The extra traffic will add possibly another 20 minutes, maybe more, to the commute. The local schools will become overcrowded. As it is now I have to wait in a line that stretches half the length of Savannah drive to pick my child up from Paschal Elementary.

I vehemently oppose this zoning change.

George Shilobod
3708 Florence Grove, Schertz, TX 78154

210-663-7336

Megan Harrison

From: Kylyn Stark <kylynstark@gmail.com>
Sent: Monday, April 12, 2021 8:24 PM
To: planning@schertz.com
Subject: Schertz Rezoning Plan

Kylyn and Dustin Stark

3740 Florence Grv. Schertz, TX 78154

(210)978-4110

Planning and zoning of Heritage Oaks Subdivision

We are opposed to the building of the new subdivision.

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: In favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: STEPHEN J. CICHERSKI President, Board of Directors

NAME: Ridge at Carolina Crossing Association

(PLEASE PRINT)

SIGNATURE

Stephen J. Cicherski
Ridge at Carolina Crossing
P.O. Box 700428

STREET ADDRESS: PROP ID 17975 Mailing:

Dallas TX 75370

DATE: 8 APRIL 2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: STEPHEN J. LICHERSKI, President Board of Directors

NAME: Ridge at CAROLINA CROSSING SIGNATURE *Stephen Licheriski*
(PLEASE PRINT)

STREET ADDRESS: PROP 10 17418 Mail: Ridge at CAROLINA CROSSING
P.O. Box 700428

DATE: 8 April 2021 Dallas TX 75370

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,




Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: STEPHEN S. LICHERSKI, President Board of Directors

NAME: Ridge at CAROLINA CROSSING SIGNATURE: 
(PLEASE PRINT) 17863

STREET ADDRESS: PROP ID 17863 Mailing: Ridge at CAROLINA CROSSING
PO Box 700428

DATE: 8 APRIL 2021

Dallas TX 75370



COMMUNITY
SERVICE
OPPORTUNITY

PLANNING & COMMUNITY
DEVELOPMENT

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: STEPHEN J. CICHERSKI, President Board of Directors

NAME: Ridge at CAROLINA CROSSING SIGNATURE Stephen Cicherski
(PLEASE PRINT)

STREET ADDRESS: PO BOX 700428

DATE: 8 APRIL 2021

mailing: Ridge at CAROLINA CROSSING
P.O. BOX 700428
DALLAS TX 75370



COMMUNITY
SERVICE
OPPORTUNITY

PLANNING & COMMUNITY
DEVELOPMENT

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: STEPHEN J. CICHERSKI, President Board of Directors

NAME: Ridge at CAROLINA CROSSING ASSOCIATION SIGNATURE: *[Signature]*
(PLEASE PRINT) mailing to:

STREET ADDRESS: Prop ID 140147 Ridge at CAROLINA CROSSING
P.O. BOX 700428

DATE: 8 APRIL 2021 Dallas TX 75370

Megan Harrison

From: Karen Bellin <karen.bellin@hotmail.com>
Sent: Tuesday, April 13, 2021 12:14 PM
To: planning@schertz.com
Cc: Ridge at Carolina Crossing
Subject: Rejection of Planning Board's Proposed Rezoning

Dear Planning Board:

We, Karen Bellin and Robert W. Bellin, Jr., reside at 3600 Augusta Glade, Schertz, TX 78154, Ridge at Carolina Crossing. We strongly oppose the rezoning and development off Schertz Parkway behind our community for the following reasons:

1. Compromising the present flood control plan for the area. Removing the present natural ground covering will reduce the absorption of rain and increase the possibility of flooding downhill to our complex. Houston is an example of how removing too much of the natural grasslands increased the intensity and area of floodwaters.
2. The proposed development will reduce the habitat of birds, deer, wild life and trees, that made the area attractive in the first place. Homes were purchased with this natural environment guaranteed by zoning.
3. Traffic pressures on Schertz Parkway will increase, creating more of a big city than smaller town environment. This was also guaranteed by zoning.
4. Noise will increase in our quiet, somewhat remote neighborhood we purchased because Schertz had zoning in place to maintain the pristine and tranquil environment.

We plan to Zoom into the meeting , and would like our opinion to be taken into consideration as if we were there in person.

Sincerely

Robert W. Bellin, Jr., M.Div., Th.M.,
Chaplain, U.S. Government, Retired
Princeton Theological Seminary
Oral Roberts University

Karen L. Bellin, M.Div., Th.M.
Chaplain (Captain), U.S. Army, Retired
Princeton Theological Seminary
Loyola University in Maryland
(210) 659-7843 (Home)
(210) 540-6969 (Cell)
karenbellinbooks.com

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005COMMENTS: Too small back yard when compared to ours (setback too close)NAME: DUSTIN STARK
(PLEASE PRINT)SIGNATURE Dustin StarkSTREET ADDRESS: 3740 FLORENCE GROVE, SCHERTZ TX 78154DATE: 14 APR 2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005COMMENTS: I Am opposed to the current plan presented atNAME: Susie Sheffield (PLEASE PRINT) SIGNATURE: Susie Sheffield Zoning MeetingSTREET ADDRESS: 3413 Abbeville Dr. Schertz, Tx 78154DATE: 5/4/21

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner-----
Reply FormI am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: _____

NAME: _____

(PLEASE PRINT)

SIGNATURE _____

STREET ADDRESS: 3413 Abberville Dr Schertz, TX 78154DATE: 3 May 2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **ZC2020-005**

COMMENTS: 1) Compromising present flood control plan. Removing the present natural ground covering
will reduce the absorption of rain and increase the possibility of flooding downhill to our comple

NAME: Robert W. Bellin, Jr.SIGNATURE 

(PLEASE PRINT)

STREET ADDRESS: 3600 Augusta Glade Schertz, Texas 78154

DATE: 5/3/2021 Houston is an example of increased increased intensity and area of floodwaters from removing too much of the grasslands; 2) Depreciation in property values is inevitable, one home will be rendered useless, as the access to his own property is cut off; 2) Safety and traffic pressures will increase on Schertz Parkway, creating more of a big city than smaller town environment, which was guaranteed by zoning. The proposed changes to Weiderstein Road don't meet Schertz safety standards, making it more heavily travelled. Also houses facing Weiderstein Road, will inevitably lead to safety issues, including parking parallel in a "bike lane" 3) The proposed development will reduce the habitat of birds, deer, wild life and trees, that made the area attractive in the first place. Homes were purchased with this natural environment guaranteed by zoning; 4) There will be increased noise in our quiet, somewhat remote neighborhood, purchased because Schertz had zoning in place to maintain the pristine and tranquil environment; and 5) packing homes in too closely is a safety issue, especially for fires.

1400 Schertz Parkway

Schertz, Texas 78154

210 619-1000

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

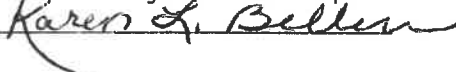
I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **ZC2020-005**

COMMENTS: 1) Compromising present flood control plan. Removing the present natural ground covering

will reduce the absorption of rain and increase the possibility of flooding downhill to our complex.

NAME: Karen L. Bellin

SIGNATURE



(PLEASE PRINT)

STREET ADDRESS: 3600 Augusta Glade Schertz, Texas 78154

DATE: 5/3/2021

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1400 Schertz Parkway

Schertz Texas 78154

210.619.1000

NOTICE OF PUBLIC HEARING

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: Direct violation of City codes

NAME: Stephen J. Cichenski SIGNATURE 
(PLEASE PRINT)

STREET ADDRESS: 3509 Sumter Glade Schertz, TX

DATE: 4/13/2021

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,



Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for ZC2020-005

COMMENTS: TO MANY UNANSWERED QUESTIONS AT THE MEETING

NAME: WILLIAM UHLHORN SIGNATURE W. Uhlhorn
(PLEASE PRINT)

STREET ADDRESS: 3421 ABBEVILLE DR.

DATE: 4-14-21



COMMUNITY
SERVICE
OPPORTUNITY

PLANNING & COMMUNITY
DEVELOPMENT

NOTICE OF PUBLIC HEARING

April 2, 2021

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Sincerely,

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☐ opposed to ☒ neutral to ☐ the request for **ZC2020-005**

COMMENTS: Currently I own my home at 3465 Rock Hill Vw, Schertz TX 78154. I purchased my home as an active duty member of the USAF. The main reason I purchased my home was that it was backed by trees and I was overly thrilled with the wildlife that my children and I would see daily. I can always sit on my back porch and see multiple families of Deer, owls, eagles and many other wildlife. The destruction of this natural habitat would take away the homes of these animals. It would also disrupt the land which use to be a flood zone and has not flooded in years. Currently the residents do not excessively worry about our property flooding, however disrupting the natural flow of the land could potentially disrupt this flood zone.

NAME: DanielleA.Hamilton _____ SIGNATURE Danielle Hamilton
(PLEASE PRINT)

STREET ADDRESS: 3465 Rock Hill Vw, Schertz TX 78154 DATE: 6May2021

Emily Delgado

From: Karen Bellin
Sent: Thursday, May 6, 2021 10:30 AM
To: Emily Delgado; Ridge at Carolina Crossing
Subject: Re: Comments for City Council Meeting Tomorrow

Importance: High

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear Senior Planner, Emily Delgado:

Thank you for the information. I appreciate it. Yes, I thought that the HOA's information to send it to Mr. Koplay over-rode that other information, since they, specifically stated in their email right before the City Council meeting to send it to Mr. Koplay. You stated you had access to his email; however, you did not respond that you received my comments until I mentioned it, stating you received it just "now."

I am asking the HOA through this email to send out another email, designating you as the point of contact. Perhaps those who were out of town or otherwise receiving the information only two days before the meeting will have another chance to speak.

Please read the following comments at your meeting, Senior Planner, Emily Delgado:

I just wanted everyone to know that the dangers of Weiderstein Road have not been addressed. One Council member who voted for the rezoning expressed his understanding that facing homes toward a winding Weiderstein Road is too dangerous. Yet, he made his decision based on his "feeling" and hope that it would all work out. I saw the Council member who moved to table it put his head in his hands while he was speaking. I am with you! HOPE IS NOT A PLAN! The Council member who spoke from experience on safety committee, who voted against the current plan due to the dangers of Weiderstein Road, is very wise in my opinion. Others who voted for it said that the developer has been waiting for 20 years. That's not a reason to move forward with a dangerous plan. And, they talked about a trail for bikes and walkers. Will there be a park? The vote was 3 to 4 not to table the motion. What's the rush? If it were a good plan, 96% of the community would not have spoken against it. And, is it wise to move forward with such a slim margin of approval from City Council when 96% of our community spoke against it? I know we don't all count because our yards are not directly affected. But, who made that rule? We are all affected. Still, rules can be broken if they are not good rules, as the Council, by a slim margin, wants to break zoning rules by approving re-zoning because they think the current zoning is not a good rule. Really, what's not good is to vote for a dangerous plan. What's the rush? Why not work out all the kinks, especially the Weiderstein Road problem. As the member who made the motion was not even sure it could be solved. The Mayor, who spoke at length for approval at various times, was too quick to expound upon the positive parts of the plan, ignoring its dangers and not giving a more even and wise evaluation. He has influence, and his influence, I feel was too specifically based on his own opinion. Why not try first to get a better plan if you are going to vote for it against our community?

Respectfully,

**Rev. Karen L. Bellin, M.Div., Th.M.
Chaplain (Captain), U.S. Army, Retired
Princeton Theological Seminary
Loyola University in Maryland**

Hispanic Ministry in a Medical Setting

This guide provides a basic introduction to Hispanic spirituality, focusing on aspects important in hospital settings. It also advises hospital chaplains on how to meet the spiritual needs of Hispanic patients and their families with cultural sensitivity.

www.karenbellinbooks.com

NOTICE OF PUBLIC HEARING

April 2, 2021

Dear Property Owner,

The Schertz Planning and Zoning Commission will conduct a public hearing on Wednesday, April 14, 2021 at 6:00 p.m. located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

ZC2020-005 – A request to rezone approximately 66 acres of land from Single-Family Residential District (R-2) and Neighborhood Services District (NS) to Planned Development District (PDD), generally located southwest of the intersection between Schertz Parkway and Wiederstein Road, City of Schertz, Guadalupe County, Texas.

The Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. *This form is used to calculate the percentage of landowners that support and oppose the request.* You may return the reply form below prior to the first public hearing date by mail or personal delivery to Nick Kopyay, Planner, 1400 Schertz Parkway, Schertz, Texas 78154, by fax (210) 619-1789, or by e-mail planning@schertz.com. If you have any questions please feel free to call Nick Kopyay, Senior Planner at (210) 619-1780.

Sincerely,

Nick Kopyay

Nick Kopyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for ZC2020-005

COMMENTS: _____

NAME: Antonio E. Vazquez
(PLEASE PRINT)

SIGNATURE

Antonio E. Vazquez

STREET ADDRESS: 18618 TUSCANY STREET, #202 SAN ANTONIO TX 78258

DATE: 4/11/21

NOTICE OF PUBLIC HEARING

Apr 18 owned by

De: Schaefer

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Sincerely,

Nick Koplyay

Nick Koplyay
Senior Planner

Reply Form

I am: in favor of ☒ opposed to ☐ neutral to ☐ the request for ZC2020-005

COMMENTS: *This area is an entry to Schertz and it is a dumping ground. This change in zoning will greatly improve the area. It is one of the prettiest areas in the city of Schertz.*

NAME: *Jane Schaefer*
(PLEASE PRINT)

SIGNATURE *Jane Schaefer*

STREET ADDRESS: *505 Cantano Ave. San Antonio, TX 78209*

DATE: *4/12/21*

I am in full support!

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: City Secretary
Subject: Workshop Discussion and Update (Ordinance 20-H-18) - Discussion and update regarding the COVID-19 virus and our current Ordinance No. 20-H-18 Declaration of Local Disaster. (M. Browne/K. Long/S. Hall)

BACKGROUND

Staff will provide Council with an update regarding the COVID-19 Virus. Discussion will include the recent Executive Order 29 relating to the use of face coverings.

Attachments

Revised 20-H-18

Ordinance No. 20-H-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCHERTZ TO SUPERSEDE ORDINANCE 20-H-15; EXTENDING A DECLARATION OF LOCAL DISASTER; RESTRICTING CERTAIN ACTIVITIES; ESTABLISHING PENALTIES FOR VIOLATIONS. PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY; FIRST AND FINAL READING

WHEREAS, in December 2019 a novel coronavirus, now designated COVID-19, was detected in Wuhan City, Hubei Province, China. Symptoms of COVID-19 include fever, cough, and shortness of breath. Outcomes have ranged from mild to severe illness, and in some cases death; and

WHEREAS, on January 20, 2020, the World Health Organization (WHO) Director General declared the outbreak of COVID-19 as a Public Health Emergency of International Concern (PHEIC), advising countries to prepare for the containment, detection, isolation and case management, contact tracing and prevention of onward spread of the disease; and

WHEREAS, on March 13, 2020, President Trump declared a state of emergency due to COVID- 19; and

WHEREAS, President Trump has invoked the Stafford Act, which will allow state and local governments to access federal disaster relief funds; and

WHEREAS, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying that COVID-19 poses an imminent threat of disaster for counties in the state of Texas; and

WHEREAS, the Texas Department of State Health Services has now determined that, as of March 19, 2020, COVID- 19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, to date, there have been 48,693 confirmed positive cases in Texas; and

WHEREAS, the crisis that is now a pandemic has infected 4,805,430 people around the world resulting in 318,554 deaths, with 1,537,830 cases confirmed in the United States; and

WHEREAS, on March 31, 2020 Governor Abbott issued GA-14 superseding local authority invoked under Chapter 418 of the Government Code, and Chapter 81 and 122 of the Health and Safety Code where local order conflict with GA-14 or any previous order of the Governor related to the pandemic;

WHEREAS, also on April 17, 2020, Governor Abbott issued Executive Order GA-16 to replace Executive Order GA- 14, and while Executive Order GA- 16 generally continued through April 30, 2020, the same social-distancing restrictions and other obligations for Texans according to federal guidelines, it offered a safe, strategic first step to Open Texas, including permitting retail pick-up and delivery services; and

WHEREAS, Texas must continue to protect lives while restoring livelihoods, both of which can be achieved with the expert advice of medical professionals and business leaders and the continued gradual reopening of Texas pursuant to GA-18- GA-23 and subsequent orders of the Governor; and

WHEREAS, pursuant to the Texas Disaster Act of 1975, the Mayor is designated as the Emergency Management Director of the City of Schertz, and may exercise the powers granted by the governor on an appropriate local scale; and

WHEREAS, Ralph Gutierrez, the Mayor of the City of Schertz previously determined and declared that extraordinary and immediate measures must be taken to respond quickly, prevent and alleviate the suffering of people exposed to and those infected with the virus, as well as those that could potentially be impacted by COVID-19;

WHEREAS, a declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation, including the provision of temporary housing or emergency shelters for persons misplaced or evacuated and request assistance from the governor of state resources.

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

- Section 1. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.
- Section 2. That the local state of disaster and public health emergency originally declared by Mayor Ralph Gutierrez for the City of Schertz, Texas, pursuant to §418.108(a) of the Texas Government Code and renewed and extended to May 26, 2020 at 11:59 p.m. by City Council Ordinance 20-H-15 pursuant to §418.108(b) of the Government Code, including all rules and regulations, is hereby further amended and extended until the Disaster Declaration put in place by Governor Abbott for the State of Texas expires.
- Section 3. Pursuant to §418.108(c) of the Government Code, this declaration of a local state of disaster and public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- Section 4. Pursuant to §418.108(d) of the Government Code, this declaration of a local state of disaster and public health emergency activates the City of Schertz, Texas, emergency management plan.
- Section 5. All ordinances or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters herein except those portions deemed to conflict with any emergency orders of Governor Abbott.

- Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 7. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.
- Section 8. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.
- Section 9. Should Governor Abbott lift the statewide disaster declaration and orders now in place prior to the date of expiration stated herein, this ordinance shall no longer be subject to enforcement by the City and shall be repealed by the City Council at the first legally posted meeting thereafter.
- Section 10. Any peace officer or other person with lawful authority is further authorized to enforce the provisions of this Ordinance or the orders of the Governor in accordance with the authority granted under the Texas Disaster Act of 1975, as applicable, which allows a fine not to exceed \$1000.00 and confinement not to exceed 180 days pursuant to Government Code 418.173.
- Section 11. This Ordinance shall be in force and effect from its first and final passage, and any publication required by law.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ TEXAS
THIS ORDINANCE WAS PASSED, ON FIRST AND FINAL READING, THE 23rd DAY
OF JUNE 2020.**

CITY OF SCHERTZ, TEXAS

By: _____

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021

Department: City Secretary

Subject: Monthly update - on major projects in progress/CIP. (B. James/K. Woodlee)

Attachments

May 2021 Major Project Update

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021

Department: City Manager

Subject: Update on Major Projects in Progress

Background

This is the monthly update on large capital projects that are in progress or in the planning process. This update is being provided so Council will be up to date on the progress of these large projects. If Council desires more information on any project or on projects not on this list, please reach out to staff and that information will be provided.

Facilities Projects:

1. 27 Commercial Place Renovation

- Project Status: Pre-Construction Phase
- Estimated Construction Start: Summer 2021
- Cost of Construction: \$1,372,794
- Project Update: GMP contract was finalized in April and routed for final signatures in early May. A preconstruction meeting is expected to take place in mid-May. Construction is expected to begin in early summer. Weekly project meetings continue with City Staff and the contractor.

2. Civic Center Kitchen Remodel

- Project Status: Complete
- Construction Start: October 2020
- Estimated Completion: March 2021
- Estimated Project Cost: \$168,000
- Project Update: Both the Grand Ballroom and Blue Bonnet Kitchen renovations have been complete. Staff is continuing to work with the contractor to resolve some punchlist/warranty work.

3. Emergency Services Restroom Remodel Project

- Project Status: Phase 1 and 2 are complete, Phase 3 is under construction
- Construction Start: August 2020
- Estimated Completion: May 2021
- Cost of Construction (All Phases): \$224,075
- Project Update: Fire Station 1, Phase 1, and Police Station, Phase 2, are complete. EMS Station 1 is Phase 3 of the project and is currently under construction. Phase 3 is scheduled to be completed in early May.

4. Animal Adoption Center HVAC Replacement Project

- Project Status: Pre-Construction Phase
- Estimated Construction Start: Summer 2021
- Estimated Cost of Construction: \$700,000
- Project Update: This project is to complete a full HVAC system replacement in the Animal Adoption Center to resolve the long standing issues with the original HVAC installed at the facility. Through an RFQ process, Team Mechanical was selected as the most qualified design-build firm to complete the project. Staff has been working with Team Mechanical to finalize the scope and fee for the project. The contract award is expected to be taken to Council at the May 11th Council meeting.

5. Fire Station #1 HVAC Replacement Project

- Project Status: Pre-Construction Phase
- Estimated Construction Start: May 2021
- Cost of Construction: \$38,214.00
- Project Update: This project is to complete a direct replacement of the existing HVAC equipment at Fire Station #1. The project will also add a new mini-split system to address long standing comfort issues in the Battalion Chief quarters. Beyer Mechanical was awarded the project in late April and Staff is working to finalize the contract for the project. It is expected that the project will begin in May and take approximately one month to complete.

6. City Hall Lighting Retrofit Project

- Project Status: Pre-Construction Phase
- Project start: May 2021
- Estimated Completion: July 2021
- Estimated Project Cost: \$9,100
- Project Update: This project is to replace all of the florescent light fixtures in Building 1 with new flat panel LED fixtures. The project is being completed by the City's Electrician and other internal Facilities Staff. Materials have been ordered and are expected to arrive in early May and the project will begin once materials arrive. This project is expected to take 2 months to complete.

Drainage Projects:

1. Castle Hills Channel, Colony Drive Channel, Osage Avenue Channel

- Project Status: Under Construction
- Start: November 2020
- Estimated Completion: May 2021
- Cost of Construction: \$378,425.15 (NTE \$416,267.68)
- Project Update: C-3 Environmental has completed the Colony Drive Channel and the Castle Hills Channel. C-3 has installed all of the hydroturf on the Osage Avenue Channel and only a small amount of concrete rip rap remains to be placed. The project will then be hydromulched in order to re-establish vegetation.

2. Doerr Lane Channel

- Project Status: Construction
- Start: April 2021
- Estimated Completion: June 2021
- Cost of Construction: \$36,000.00
- Project Update: C-3 Environmental began the project in late April by removing the existing vegetation and reshaping the channel. After the channel has been shaped, the hydroturf will be installed.

3. Savannah Pond, Westchester Channel, Arroyo Verde (2020 Silt Removal Projects)

- Project Status: Contract Phase (Pending)
- Consultant: Ford Engineering
- Estimated Construction Start: Summer 2021
- Cost of Construction: \$291,627.47 (NTE \$320,000)
- Project Update: Bids were received on Tuesday, April 20. The bids received were higher than the construction estimate. The anticipated award date has been postponed one week to ensure full construction funding.

4. Fire Station #2 Channel Improvements

- Project Status: Construction Awarded
- Consultant: Ford Engineering
- Estimated Construction Start: May 2021
- Project Update: A preconstruction meeting with C3 Environmental Specialties will be held on May 11th with a Notice to Proceed anticipated on that date. Coordination with the fire station is ongoing.

Water Projects:

1. FM 1103 Utility Relocation Project Phase I

- Project Status: Closeout Phase
- Construction Start: August 2019
- Construction Completion: Fall 2020
- Cost of Construction: \$964,424.12
- Project Update: Project is complete.

2. FM 1103 Sewer Extension Project

- Project Status: Construction Phase
- Construction Start: May 2021
- Construction Completion: Summer 2021
- Cost of Construction: \$74,235.00 (NTE: \$81,659.00)
- Project Update: City Council awarded the construction contract to M&C Fonseca Construction on April 6th. A pre-construction meeting was held on April 30th. Submittals are expected to begin being submitted in early May with construction beginning in mid-May.

3. E. Live Oak Pump Additions Project

- Project Status: Closeout Phase
- Construction Start: April 2020
- Construction Completion: Winter 2021
- Cost of Construction: \$1,560,000
- Project Update: No change from last update. All of the project startup is complete. The contractor continues to work on providing closeout items and addressing the punchlist items.

Engineering Projects:

1. 2018 Street Preservation and Maintenance Reconstruction Project

- Project Status: Substantially Complete
- Construction Start: January 2020
- Construction Completion: Summer 2020
- Cost of Construction: \$1,501,199
- Project Update: No real change from last report. The Schertz Parkway Concrete Pavement Repair project has been awarded to San Antonio Constructors (SAC). The pre-construction meeting is scheduled and SAC has preliminarily indicated they will get started towards the end of this month. Once the panels have been repaired, the pavement grinding will be scheduled as soon as possible.



2. 2018 Street Preservation and Maintenance Rehabilitation Project

- Project Status: Fully Complete
- Construction Start: April 2020
- Construction Completion: Summer 2020
- Cost of Construction: \$2,611,348
- Project Update: No change from the last update. The project is fully complete.

3. 2018 Street Preservation and Maintenance Resurfacing Project

- Project Status: Under Construction
- Construction Start: March 2020
- Construction Completion: Summer 2020
- Cost of Construction: \$791,174.34
- Project Update: No change from last report. The first round of “enhanced sweeping” for the chip sealed areas has been completed. The sweeping did uncover some additional areas in some other cul-de-sacs where the chip seal has not adhered properly. The contractor will be required to repair these areas also before the rest of the remediation work is done. The second round of enhanced sweeping will be done in the near future.

4. Cibolo Valley Drive Expansion Project

- Project Status: Under Construction
- Construction Start: May 2020
- Construction Completion: Summer 2021
- Cost of Construction: \$4,806,762 total (\$1,300,000 City of Schertz Contribution)
- Project Update: The curb and gutter and base layer has been completed on the east side of the street. Traffic signal poles have been installed and the electrical services for the traffic signals are almost complete. Most of the traffic signal wiring has also been installed. The contractor is fine-tuning the base to get ready for paving the east side of the street. With the recent rainy weather, the contractor is struggling to get the paving scheduled. The project is expected to be complete by the end of this month.

5. Cherry Tree Rehabilitation Project

- Project Status: Bidding complete
- Consultant: Ford Engineering
- Project Start Date: November 2020
- Project Completion Date: December 2020
- Total Project Cost: \$273,193.80 (NTE amount \$300,600)
- Project Update: The project is fully complete.

6. Elbel Road Storm Drain and Paving

- Project Status: Design
- Consultant: Ford Engineering
- Project Start Date: August 2020
- Project Completion Date: Summer 2021
- Total Project Cost: \$1,560,000
- Project Update: The construction plans, including the traffic signal at Westchester and Elbel are going through the final QA/QC process. The project is almost “shovel ready.”

7. 2020 Street Preservation and Maintenance (Resurfacing) Project

- Project Status: Design
- Consultant: Kimley-Horn & Associates
- Project Update: Kimley-Horn is working on finishing up the “slurry seal” plans/bid package portion of the project. This is their first priority to get complete. The package includes the slurry seal for the Estates at Wilson’s Preserve. We anticipate this portion going out to bid at the end of this month. The rehabilitation and fog seal plans will be finished next. The fog seal plans will address the other chip sealed areas done last year. The Lindbergh Reconstruction Project design will be the last item completed in Kimley-Horn’s scope of work. A detailed schedule has not been developed for the Lindbergh portion yet because the focus is on getting the other elements finished first.

8. Tri-County Parkway Reconstruction Project

- Project Status: Design
- Consultant: Halff Associates
- Project Update: The initial public outreach video/virtual meeting presentation has been published. EDC is hosting the webpage containing the information and a sign up form. We have a link to this page on the City’s website. EDC is also doing a mailing and door to door contact effort to inform the businesses about the project and to direct them to the EDC page. Halff Associates are incorporating our plan comments into the 90% plans. As the design has progressed, we have identified several utility conflicts. Meeting have been held with the affected utility companies and project information has been provided. The utility companies are going through their internal design processes to develop plans to relocate their facilities out of the way of the project and create work schedules. As this information is provided to us, we will adjust the anticipated construction schedule for the project accordingly. The goal is to have the utilities relocated before construction begins on the project. Project construction will need to be delayed in order to allow this to happen. We just don’t know by how much it will be delayed yet. We still anticipate construction starting this summer.

9. Corbett Elevated Water Storage Tank

- Project Status: Closeout Phase
- Construction Start: March 2019
- Construction Completion: Fall 2020
- Cost of Construction: \$4,682,000.00
- Project Update: No change from last update. The tank continues to operate on the system as designed. The contractor has completed the punch list items. Project closeout is ongoing.

10. Woman Hollering Creek Wastewater Interceptor Main and Lift Station

- Project Status: Design - Bid Preparation
- Consultant: Cobb, Fendley & Associates, Inc.
- Estimated Construction Start: Early Summer 2021
- Estimated Cost of Construction: \$12 million
- Project Update: City Staff is working with consultant (CobbFendley) to finalize bid documents. The project is expected to be advertised for bid within the month.

11. Pedestrian Routes and Bike Lanes Project

- Project Status: Under Construction
- Construction Start: Spring 2021
- Construction Management: AG|CM
- Estimated Cost of Construction: \$1.3 million
- Project Update: The recent rains have caused some construction delays in the project. The contractor has completed about 60% of the crushed granite placement for the new pathway. Excavation for the new curb and gutter and sidewalk on the south side of Live Oak has been completed to the apartments near FM 3009. Some of the new asphalt base for the curb and gutter has also been placed. With the weather cooperating, the contractor can finish the asphalt base placement and start pouring the curb and gutter and sidewalk. The concrete pours are expected to take four days to fully complete. During the pours, we will have to reduce traffic to one lane (westbound only) between 9:00 am to 5:00 pm. We will be doing advance notification for this traffic control set up before it happens. We will use changeable message boards and social media to help get the word out before traffic is restricted on Live Oak for the concrete pours.

12. Water and Wastewater Master Plan Update and Impact Fee Study

- Project Status: Study
- Consultant: Lockwood, Andrews, and Newnam, Inc.
- Project Start Date: December 2019
- Project Completion Date: TBD 2021
- Total Project Cost: \$467,280 (NTE \$500,000)
- Project Update: No change from April update. Consultant is finalizing the existing system evaluation technical memorandums. Staff met with LAN in early March to review drafts of the reports. Consultant is making identified corrections. Completion of the future conditions evaluation is underway and the Master Plan report is expected to be submitted in April or May. The Impact Fee update of this project will follow that and the schedule will be set by how well the statutorily required meetings with various groups can be coordinated with Board, Committee, and Council meeting.

13. 16" Dedicated Transmission Main Phase II

Overall project intent is the construction of a 16" dedicated water transmission main to connect the Live Oak water storage facility to the IH 35 storage tank. Phase I (route study, land acquisition coordination) was completed in March 2021.

- Project Status: Preliminary Design
- Consultant: Kimley-Horn & Associates
- Project Start Date: Spring 2021
- Project Completion Date: Winter 2022
- Project Cost (Phase 2 Design): Proposal being completed for review
- Project Update: No change from last council update. A proposal is being completed which includes: Phase 1 Environmental Site Assessments, Land Acquisition Coordination, Permitting, Geotechnical Investigation, Subsurface utility Engineering, Survey, and Design.

14. Stormwater Control Inventory and City Operations Assessment

The work of this project is an action included in the City's Stormwater Management Plan (Plan). The Plan is the blueprint of activities needed to comply with the City's Texas Commission on Environmental Quality (TCEQ) Texas Pollutant Discharge Elimination System (TPDES) General Permit required by virtue of the City's classification as Municipal Separate Storm Sewer System (MS4).

This project specifically consists of development of an inventory of City facility stormwater controls and an assessment of city operations as related to stormwater control and quality.

- Project Status: Study
- Consultant: Utility Engineering Group, PLLC
- Project Start Date: July 2020
- Project Completion Date: Spring 2021
- Total Project Cost: \$35,000
- Project Update: No change from last update. Consultant and City staff have visited most of the City sites proposed for visits. Consultant is working on compiling information and will be scheduling visits to facilities with the appropriate staff for the higher priority facilities to discuss operations.

15. Riata Lift Station Relocation (Design Phase)

Overall project intent is to relocate the Riata Lift Station ahead of TxDOT's IH-35 NEX Project to remove it from conflict with the proposed improvements. The design phase will identify a new site for the lift station, design the new lift station, and design the abandonment of the existing lift station.

- Project Status: Design Phase
- Consultant: Utility Engineering Group, PLLC (UEG)
- Project Start Date: August 2020
- Expected Project Completion Date: Spring 2021
- Total Project Cost: \$129,795 (NTE \$143,000)
- Project Update: City staff is completing review of the 90% design submitted by UEG.

16. Aviation Heights Water Main Construction – Phases 5, 6, and 7 (Bid Phase)

Overall project intent is the construction of an 8" water main within the Aviation Heights area along Aero Avenue, Brooks Avenue, Winburn Avenue, Mitchell Avenue, and Aviation Avenue.

- Project Status: Bid Phase
- Consultant: Ford Engineering
- Project Start Date: Summer 2021
- Expected Project Completion Date: Fall 2022
- Total Project Cost: \$1,814,105.20 (NTE \$2,000,000)
- Project Update: No change from last council update. Bidding schedule is pending.

17. Crest Oak Wastewater Upsize

Overall project intent is to upsize the existing 10" sewer main which extends approximately 2,600 linear feet north of Crest Oak.

- Project Status: Scoping phase

- Consultant: Kimley-Horn & Associates
- Project Start Date: Summer 2021
- Expected Project Completion Date: Fall 2021
- Total Project Cost: Proposal being completed for review
- Project Update: Consultant and City staff have performed a site visit of the existing sewer to be upsized. Consultant is working on preparing a proposal for engineering and design. The City is evaluating a segment of sewer main between Circle Oak and Crest Oak to be CCMA responsibility for upgrades and a meeting with CCMA is scheduled for May 5th.

18. Corbett Ground Storage Tank

Overall project intent is the construction of a 3.0 Million Gallon ground storage tank for filling the Corbett Elevated Storage Tank, the East Live Oak Elevated Storage Tank, plus additional storage.

- Project Status: Scoping phase
- Consultant: Ford Engineering
- Project Start Date: Summer 2021
- Expected Project Completion Date: Summer 2022
- Total Project Cost: Proposal being completed for review
- Project Update: No change from last council update. City staff and the Consultant met to discuss project specifics including pump station requirements, generator preferences, interconnection commitments, and the permitting process.

TxDOT Roadway Projects:

- 1. FM 1103 Improvement Project:** No change from April update. Utility relocations are wrapping up. The current let date for a construction contract is July 2021.
- 2. FM 1518 Improvement Project:** TxDOT is in the Plans, Specs, and Estimates (PS&E) stage of the project. At this time, a consultant for TxDOT has prepared 60% construction plans. TxDOT continues acquiring property needed as right of way for the expansion project. As parcels are acquired, TxDOT contractors are physically clearing the right of way in preparation for final surveying and design.

TxDOT has not yet acquired parcels needed from JB SA-Randolph. That process is proceeding, however slowly. Because of delays with that acquisition and increased costs, the project may be split into segments. Staff has been meeting with TxDOT regarding plans to address the budget shortfall. With Bexar County's support (including funding and identification as a number one priority project) TxDOT will be submit the remaining funding need to AAMPO during this season's call for projects. It is not currently anticipated that the City of Schertz will be requested to contribute additional funding however, if that becomes a need, staff will bring a proposal to Council for consideration at a future meeting.

At least a portion of the project is still currently scheduled for letting in September 2022; construction may begin as early as January 2023. A design contract has been awarded to Halff Associates for the relocation of water and sewer lines along the newly acquired ROW. That will be updated as a separate project on subsequent memos.

3. **I-35 Operational Improvements Project (FM 2252 to Schwab Road):** No change from April update. Contractor continues work on retaining walls, grading of ditches and swales, placing electrical components, repair of frontage road failures, and placement of new curb, sidewalk, and riprap. Estimated final cost of the project is \$25.5 million. The current schedule includes an expectation of substantial completion in Summer 2021.
4. **I-35 NEX (I-410 South to FM 1103):** A full description of the project to expand I-35 from I 410 South to FM 1103 can be found by searching keywords "I-35 from I-410" at TxDOT.gov. Schematic exhibits of the proposed improvements are available on that website. Public Works and Engineering staff are participating in utility coordination meetings with TxDOT and its contractors regarding relocations that may need to take place in advance of or in conjunction with the roadway construction. Construction is expected to begin in spring 2021 and take 4 to 5 years to complete. The portion of the I-35 NEX project from the Cibolo Creek to its termination at FM 1103 has a cost of \$621 million.

TxDOT is acquiring needed right of way and carrying out demolition activities as property is acquired. One parcel of right of way being acquired impacts the detention pond that was constructed with development of the Riata Subdivision. The physical pond will need to be modified to remove its encroachment into the proposed right of way. Because this is a drainage facility within a City easement, the City is responsible for the modification however, TxDOT will provide funding for that work via reimbursement.

5. **IH-10 Graytown Road to Guadalupe County Line:** No change from April update. Construction of this \$157 million project to expand IH 10 underway. Traffic controls have been placed and work has begun on the transition of the access roads from two-way to one-way. Grading for the widening of the main lanes has also begun. The construction timeline for the project is 53 months.

Planning and Community Development Projects:

1. **CityView Permitting and Development Software**

City Staff has continued to meet with CityView since the last update to discuss the final project scope document and items associated with the configuration. The data collections for all City View Modules is complete and has been submitted to CityView for configuration. The Code Enforcement Module has been configured and City Staff has been validating (verify configuration) of the module. **CityView and City Staff will be met on Thursday, April 29, 2021 to discuss changes to the final scope document. Once the scope document has been approved by all parties and executed CityView will start the configuration of all the software components.** When the configuration is complete by CityView and the software is validated (tested) by City Staff, we move to end user staff training and then go live. A proposed timeline to go-live with the software will be determined once configuration and validation of modules have been completed.

- Total Project Cost: \$523,766.00
- Project Start Date: June 2018
- Project Completion Date: TBD - 2021

CITY COUNCIL MEMORANDUM

City Council Meeting: May 11, 2021
Department: Finance
Subject: Quarterly Financial Reports.

BACKGROUND

Quarterly, Staff will submit to council unaudited financial reports as an update on the City's fiscal and budget performance. Some payments that must be recorded in this quarter can occur months after the close of the period. In those cases, staff attempts to estimate the value based on prior year's fiscal performance and current year trends. The Comprehensive Annual Financial Report to be published after the fiscal year end will include actual revenue and expenses for the accounts estimated in the quarterly financial reports.

Attachments

2nd Qtr Financial Reports

Quarterly Statement Schertz, Texas	CITY OF SCHERTZ REVENUE AND EXPENSE REPORT (UNAUDITED) AS OF :MARCH 31, 2021 ***** 2020 - 2021 *****				
	CURRENT BUDGET	CURRENT Y-T-D ACTUAL	Y-T-D ENCUMBR	BUDGET BALANCE	50% OF BUDGET
General Fund, 101					
Total Revenues	37,474,811.00	24,316,876.95	0.00	13,157,934.05	64.89%
Total General Government	7,037,119.00	3,305,413.60	539,767.96	3,191,937.44	54.64%
Total Public Safety	17,430,954.37	8,821,494.47	323,512.51	8,285,947.39	52.46%
Total Public Environment	1,649,740.00	666,114.24	56,135.37	927,490.39	43.78%
Total Parks & Recreation	2,682,141.00	990,747.19	166,711.46	1,524,682.35	43.15%
Total Cultural	1,064,255.00	531,070.35	7,183.47	526,001.18	50.58%
Total Internal Services	7,228,255.61	3,076,225.91	610,916.89	3,541,112.81	51.01%
Total Misc & Projects	934,292.00	702,698.42	84,669.50	146,924.08	84.27%
Total Expenditures	38,026,756.98	18,093,604.18	1,788,897.16	18,144,255.64	52.29%
Revenue Over(Under) Expenditures	(551,945.98)	6,223,272.77	(1,788,897.16)	(4,986,321.59)	
General Fund, 101 Total Cash in Bank & Investments		21,438,832.91			
Special Events Fund, 106					
Total Revenues	32,100.00	34,684.19	0.00	(2,584.19)	108.05%
Total Expenditures	32,100.00	12,152.60	0.00	19,947.40	37.86%
Revenue Over(Under) Expenditures	0.00	22,531.59	0.00	(22,531.59)	
Special Events Fund, 106 Total Cash in Bank & Investments		133,972.55			
Peg Fund, 110					
Total Revenues	185,500.00	43,256.76	0.00	142,243.24	23.32%
Total Expenditures	185,500.00	0.00	0.00	185,500.00	0.00%
Revenue Over(Under) Expenditures	0.00	43,256.76	0.00	(43,256.76)	
Peg Fund, 110 Total Cash in Bank & Investments		910,964.79			
Water & Sewer, 202					
Total Revenues	25,504,368.00	12,509,678.46	0.00	12,994,689.54	49.05%
Total Expenditures	24,826,603.00	13,948,965.35	302,517.64	10,575,120.01	57.40%
Revenue Over(Under) Expenditures	677,765.00	(1,439,286.89)	(302,517.64)	2,419,569.53	
Water & Sewer, 202 Total Cash in Bank & Investments		6,474,928.58			

**Quarterly Statement
Schertz, Texas**

**CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF :MARCH 31, 2021**

***** 2020 - 2021 *****

	CURRENT BUDGET	CURRENT Y-T-D ACTUAL	Y-T-D ENCUMBR	BUDGET BALANCE	50% OF BUDGET
EMS, 203					
Total Revenues	9,785,424.51	5,008,282.59	0.00	4,777,141.92	51.18%
Total Expenditures	10,001,991.01	4,935,455.75	476,583.47	4,589,951.79	54.11%
Revenue Over(Under) Expenditures	(216,566.50)	72,826.84	(476,583.47)	187,190.13	
EMS, 203 Total Cash in Bank & Investments		1,184,983.70			
Drainage, 204					
Total Revenues	1,462,793.00	580,219.47	0.00	882,573.53	39.67%
Total Expenditures	1,497,913.00	908,028.52	135,753.78	454,130.70	69.68%
Revenue Over(Under) Expenditures	(35,120.00)	(327,809.05)	(135,753.78)	428,442.83	
Drainage, 204 Total Cash in Bank & Investments		500,526.49			
Hotel Tax, 314					
Total Revenues	540,750.00	137,587.58	0.00	403,162.42	25.44%
Total Expenditures	253,930.00	197,041.76	30,396.85	26,491.39	89.57%
Revenue Over(Under) Expenditures	286,820.00	(59,454.18)	(30,396.85)	376,671.03	
Hotel Tax, 314 Total Cash in Bank & Investments		2,025,484.31			
Park, 317					
Total Revenues	125,000.00	198.91	0.00	124,801.09	0.16%
Total Expenditures	125,000.00	0.00	810.70	124,189.30	0.65%
Revenue Over(Under) Expenditures	0.00	198.91	(810.70)	611.79	
Park, 317 Total Cash in Bank & Investments		292,434.36			
Tree Mitigation, 319					
Total Revenues	74,500.00	219,393.02	0.00	(144,893.02)	294.49%
Total Expenditures	70,000.00	5,625.00	0.00	64,375.00	8.04%
Revenue Over(Under) Expenditures	4,500.00	213,768.02	0.00	(209,268.02)	
Tree Mitigation, 319 Total Cash in Bank & Investments		676,995.64			
Capital Recovery Water, 411					
Total Revenues	1,172,000.00	744,118.17	0.00	427,881.83	63.49%
Total Expenditures	206,000.00	35,414.11	92,802.17	77,783.72	62.24%
Revenue Over(Under) Expenditures	966,000.00	708,704.06	(92,802.17)	350,098.11	
Capital Recovery Water, 411 Total Cash in Bank & Investments		8,434,468.92			

**Quarterly Statement
Schertz, Texas**

**CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF :MARCH 31, 2021**

***** 2020 - 2021 *****

	CURRENT BUDGET	CURRENT Y-T-D ACTUAL	Y-T-D ENCUMBR	BUDGET BALANCE	50% OF BUDGET
Capital Recovery Sewer, 421					
Total Revenues	672,000.00	389,625.91	0.00	282,374.09	57.98%
Total Expenditures	208,000.00	41,632.14	118,123.02	48,244.84	76.81%
Revenue Over(Under) Expenditures	464,000.00	347,993.77	(118,123.02)	234,129.25	
Capital Recovery Sewer, 421 Total Cash in Bank & Investments		7,693,827.83			
I&S, 505					
Total Revenues	7,095,821.00	6,866,724.90	0.00	229,096.10	96.77%
Total Expenditures	7,094,861.00	5,824,662.41	0.00	1,270,198.59	82.10%
Revenue Over(Under) Expenditures	960.00	1,042,062.49	0.00	(1,041,102.49)	
I&S, 505 Total Cash in Bank & Investments		1,827,980.88			
SED Corporation, 620					
Total Revenues	8,144,799.00	2,498,960.70	0.00	5,645,838.30	30.68%
Total Expenditures	8,144,799.00	461,917.81	207.12	7,682,674.07	5.67%
Revenue Over(Under) Expenditures	0.00	2,037,042.89	(207.12)	(2,036,835.77)	
SED Corporation, 620 Total Cash in Bank & Investments		22,282,779.20			
Total Cash in Bank & Investments		73,878,180.16			

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND							
REVENUES							
<u>REVENUE SUMMARY</u>							
Taxes	25,198,550.00	8,707,351.92	18,579,689.68	19,270,634.45	-	5,927,915.55	76.48
Franchises	2,334,000.00	512,129.97	1,047,795.85	1,060,358.57	-	1,273,641.43	45.43
Permits	1,767,250.00	543,680.17	861,551.27	953,680.59	-	813,569.41	53.96
Licenses	56,860.00	14,105.00	28,787.00	25,375.00	-	31,485.00	44.63
Fees	2,338,234.00	486,264.56	1,147,337.79	938,109.90	-	1,400,124.10	40.12
Fines	11,000.00	1,756.52	5,652.27	2,965.50	-	8,034.50	26.96
Inter-Jurisdictional	1,066,925.00	160,891.15	445,486.89	284,646.63	-	782,278.37	26.68
Fund Transfers	4,069,892.00	633,995.34	1,351,970.52	1,425,390.62	-	2,644,501.38	35.02
Miscellaneous	632,100.00	250,454.91	510,823.62	355,715.69	-	276,384.31	56.28
TOTAL REVENUES	37,474,811.00	11,310,629.54	23,979,094.89	24,316,876.95	-	13,157,934.05	64.89%
<u>EXPENDITURE SUMMARY</u>							
<u>GENERAL GOVERNMENT</u>							
CITY COUNCIL							
Personnel Services	37,633.00	8,598.12	20,082.23	18,795.19	14.40	18,823.41	49.98
Supplies	750.00	-	312.30	139.40	-	610.60	18.59
City Support Services	59,705.00	957.32	36,642.90	37,956.17	313.90	21,434.93	64.10
Operations Support	300.00	62.00	174.12	85.50	-	214.50	28.50
Staff Support	28,600.00	4,120.38	23,709.52	13,383.93	745.00	14,471.07	49.40
Professional Services	6,000.00	-	-	-	-	6,000.00	0.00
Operating Equipment	2,000.00	-	-	-	-	2,000.00	0.00
TOTAL CITY COUNCIL	134,988.00	13,737.82	80,921.07	70,360.19	1,073.30	63,554.51	52.92%
CITY MANAGER							
Personnel Services	1,246,309.00	269,905.19	543,321.56	584,049.78	-	662,259.22	46.86
Supplies	2,000.00	436.01	611.08	551.82	31.00	1,417.18	29.14
City Support Services	4,800.00	-	3,767.25	-	-	4,800.00	-
Operations Support	50.00	-	-	-	-	50.00	-
Staff Support	24,775.00	818.89	7,947.91	2,963.89	354.75	21,456.36	13.40
Operating Equipment	1,200.00	-	-	1,200.00	-	-	100.00
TOTAL CITY MANAGER	1,279,134.00	271,160.09	555,647.80	588,765.49	385.75	689,982.76	46.06%
MUNICIPAL COURT							
Personnel Services	283,625.00	65,693.01	133,792.24	146,693.15	-	136,931.85	51.72
Supplies	1,500.00	60.00	699.93	484.89	-	1,015.11	32.33
City Support Services	500.00	-	180.40	123.86	-	376.14	24.77
Operations Support	2,000.00	246.00	-	246.00	31.00	1,723.00	13.85
Staff Support	6,910.00	563.44	1,352.51	638.33	300.00	5,971.67	13.58
Court Support	1,080.00	-	186.00	-	-	1,080.00	0.00

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND							
Professional Services	69,850.00	8,605.00	27,075.00	17,737.50	34,462.50	17,650.00	74.73
Maintenance Services	3,000.00	300.00	900.00	850.00	1,400.00	750.00	75.00
TOTAL MUNICIPAL COURT	368,465.00	75,467.45	164,186.08	166,773.73	36,193.50	165,497.77	55.08%
CUSTOMER RELATIONS-311							
Personnel Services	113,239.00	26,107.92	53,163.36	56,997.88	-	56,241.12	50.33
Supplies	100.00	20.86	74.72	33.33	-	66.67	33.33
Staff Support	530.00	96.90	717.43	163.84	-	366.16	30.91
TOTAL CUSTOMER RELATIONS-311	113,869.00	26,225.68	53,955.51	57,195.05	-	56,673.95	50.23%
PLANNING & ZONING							
Personnel Services	264,117.00	53,051.67	79,081.49	107,617.50	-	156,499.50	40.75
Supplies	1,873.00	158.46	158.54	296.75	8.00	1,568.25	16.27
Operations Support	186.00	43.00	50.00	50.60	52.00	83.40	55.16
Staff Support	29,548.00	405.00	7,722.70	1,037.00	-	28,511.00	3.51
Professional Services	400,100.00	-	21.00	5.00	-	400,095.00	-
Operating Equipment	6,401.00	-	317.95	6,075.83	-	325.17	94.92
TOTAL PLANNING & ZONING	702,225.00	53,658.13	87,351.68	115,082.68	60.00	587,082.32	16.40%
LEGAL SERVICES							
Operations Support	10,000.00	550.75	777.30	2,807.66	379.50	6,812.84	31.87
Professional Services	140,000.00	23,494.26	36,582.41	40,475.31	-	99,524.69	28.91
TOTAL LEGAL SERVICES	150,000.00	24,045.01	37,359.71	43,282.97	379.50	106,337.53	29.11%
CITY SECRETARY							
Personnel Services	192,155.00	39,999.98	93,961.22	92,546.93	-	99,608.07	48.16
Supplies	1,150.00	256.33	468.80	665.98	35.60	448.42	61.01
City Support Services	10,000.00	2,816.06	3,283.95	2,816.06	-	7,183.94	28.16
Operations Support	150.00	43.00	-	43.00	-	107.00	28.67
Staff Support	4,350.00	367.43	3,036.47	1,349.83	448.00	2,552.17	41.33
Operating Equipment	1,035.00	-	-	-	-	1,035.00	-
TOTAL CITY SECRETARY	208,840.00	43,482.80	100,750.44	97,421.80	483.60	110,934.60	46.88%
NON-DEPARTMENTAL							
City Support Services	755,684.00	71,119.52	371,067.98	393,735.94	111,509.90	250,438.16	66.86
Operations Support	143,000.00	28,742.80	69,682.89	67,087.42	105.75	75,806.83	46.99
Staff Support	200.00	-	-	-	-	200.00	-
City Assistance	1,557,048.00	721,924.33	653,442.40	908,686.50	342,524.34	305,837.16	80.36
Professional Services	53,535.00	28,998.47	27,539.98	54,029.00	-	(494.00)	100.92
Fund Chrgs/Transfrs-Spec Events Fnd	27,979.00	(1,516.65)	-	(1,516.65)	-	29,495.65	5.42
Capital Outlay	0.00	7,450.00	-	7,450.00	-	(7,450.00)	-
TOTAL NON-DEPARTMENTAL	2,537,446.00	856,718.47	1,121,733.25	1,429,472.21	454,139.99	653,833.80	74.23%
PUBLIC AFFAIRS							

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND							
Personnel Services	302,583.00	70,590.07	145,250.82	153,773.67	-	148,809.33	50.82
Supplies	1,700.00	95.00	383.98	515.61	437.63	746.76	56.07
Operations Support	46,603.00	3,514.72	9,069.03	4,263.85	8,019.05	34,320.10	26.36
Staff Support	11,140.00	238.93	2,782.33	274.57	448.49	10,416.94	6.49
Professional Services	267,000.00	98,695.74	122,026.01	143,391.50	916.00	122,692.50	54.05
TOTAL PUBLIC AFFAIRS	629,026.00	173,134.46	280,502.66	302,219.20	9,821.17	316,985.63	49.61%
ENGINEERING							
Personnel Services	808,237.00	198,184.40	300,769.01	404,261.47	-	403,975.53	50.02
Supplies	2,350.00	19.65	515.50	119.95	4.15	2,225.90	5.28
City Support Services	500.00	-	-	-	-	500.00	-
Utility Services	4,350.00	1,190.34	2,600.48	2,225.74	-	2,124.26	51.17
Operations Support	100.00	93.00	-	93.00	-	7.00	93.00
Staff Support	18,704.00	1,342.51	1,953.62	1,900.33	-	16,803.67	10.16
Professional Services	75,000.00	-	12,280.00	-	37,227.00	37,773.00	49.64
Operating Equipment	3,885.00	456.18	54.98	26,239.79	-	(22,354.79)	675.41
TOTAL ENGINEERING	913,126.00	201,286.08	318,173.59	434,840.28	37,231.15	441,054.57	51.70%
TOTAL GENERAL GOVERNMENT	7,037,119.00	1,738,915.99	2,893,890.01	3,305,413.60	539,767.96	3,191,937.44	54.64%
PUBLIC SAFETY							
POLICE							
Personnel Services	8,612,069.00	2,103,305.17	3,723,682.75	4,503,157.40	-	4,108,911.60	52.29
Supplies	110,876.44	25,436.45	31,483.70	31,147.14	3,428.80	76,300.50	31.18
City Support Services	26,000.00	401.55	25,400.62	32,421.79	-	(6,421.79)	124.70
Utility Services	201,800.00	32,820.64	39,660.76	58,871.06	-	142,928.94	29.17
Operations Support	18,685.00	1,571.00	3,493.00	2,309.00	230.00	16,146.00	13.59
Staff Support	202,597.83	35,486.59	51,563.01	57,255.00	11,526.25	133,816.58	33.95
City Assistance	81,100.00	8,828.78	4,043.81	9,507.33	1,474.83	70,117.84	13.54
Professional Services	84,583.00	7,933.97	18,624.06	29,251.27	-	55,331.73	34.58
Maintenance Services	90,705.00	14,573.00	17,350.73	21,161.99	-	69,543.01	23.33
Operating Equipment	224,219.60	32,744.90	154,018.12	84,874.28	59,979.82	79,365.50	64.60
Capital Outlay	546,319.50	263,196.66	221,828.83	295,016.63	5,410.00	245,892.87	54.99
TOTAL POLICE	10,198,955.37	2,526,298.71	4,335,693.39	5,124,972.89	82,049.70	4,991,932.78	51.05%
FIRE RESCUE							
Personnel Services	5,261,519.00	1,299,779.46	2,378,155.32	2,867,625.58	-	2,393,893.42	54.50
Supplies	23,965.00	2,879.88	5,622.79	3,396.07	377.45	20,191.48	15.75
Utility Services	76,600.00	18,911.44	37,724.21	33,017.96	-	43,582.04	43.10
Operations Support	2,150.00	-	334.93	157.73	-	1,992.27	7.34
Staff Support	197,100.00	5,957.67	110,673.87	15,846.09	89,039.96	92,213.95	53.21

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND							
City Assistance	23,000.00	3,725.66	7,926.01	4,603.75	-	18,396.25	20.02
Professional Services	85,502.00	7,251.00	29,511.00	21,353.43	42,743.38	21,405.19	74.97
Maintenance Services	90,562.00	15,976.38	10,194.35	33,283.02	1,704.00	55,574.98	38.63
Rental/Leasing	13,500.00	-	6,742.44	-	-	13,500.00	-
Operating Equipment	148,955.00	21,519.68	52,373.25	41,686.19	14,582.81	92,686.00	37.78
Capital Outlay	291,000.00	158,691.82	101,548.43	186,265.13	50,073.33	54,661.54	81.22
TOTAL FIRE RESCUE	6,213,853.00	1,534,692.99	2,740,806.60	3,212,313.36	199,531.33	2,802,008.31	54.91%
INSPECTIONS							
Personnel Services	891,759.00	198,049.20	413,567.87	433,880.62	-	457,878.38	48.65
Supplies	5,076.00	444.83	635.03	645.93	-	4,430.07	12.73
Utility Services	8,400.00	1,087.73	2,037.23	2,125.44	-	6,274.56	25.30
Operations Support	1,000.00	62.00	-	62.00	52.00	886.00	11.40
Staff Support	41,261.00	1,600.21	10,153.29	2,075.73	916.98	38,268.29	7.25
Professional Services	70,000.00	2,637.50	7,575.00	18,037.50	40,962.50	11,000.00	84.29
Operating Equipment	650.00	-	-	-	-	650.00	-
TOTAL INSPECTIONS	1,018,146.00	203,881.47	433,968.42	484,208.22	41,931.48	492,006.30	51.68%
TOTAL PUBLIC SAFETY	17,430,954.37	4,264,873.17	7,510,468.41	8,821,494.47	323,512.51	8,285,947.39	52.46%
PUBLIC ENVIRONMENT							
STREETS							
Personnel Services	933,855.00	173,773.62	376,901.43	394,817.81	-	539,037.19	42.28
Supplies	117,950.00	19,172.22	63,913.54	47,437.41	22,952.12	47,560.47	59.68
Utility Services	176,000.00	43,953.32	73,093.68	75,673.69	1,351.83	98,974.48	43.76
Staff Support	21,120.00	6,128.15	10,585.02	8,287.34	216.42	12,616.24	40.26
Professional Services	18,000.00	11,540.00	-	12,070.00	-	5,930.00	67.06
Maintenance Services	334,992.00	12,887.50	68,790.50	69,668.00	22,940.00	242,384.00	27.64
Rental/Lease	6,000.00	1,366.79	1,900.00	1,366.79	1,275.00	3,358.21	44.03
Operating Equipment	9,800.00	24,110.56	-	25,170.20	7,400.00	(22,770.20)	332.35
Capital Outlay	32,023.00	31,623.00	-	31,623.00	-	400.00	98.75
TOTAL STREETS	1,649,740.00	324,555.16	596,332.63	666,114.24	56,135.37	927,490.39	43.78%
TOTAL PUBLIC ENVIRONMENT	1,649,740.00	324,555.16	596,332.63	666,114.24	56,135.37	927,490.39	43.78%
PARKS & RECREATION							
PARKS DEPARTMENT							
Personnel Services	714,711.00	147,170.65	283,746.53	301,977.05	-	412,733.95	42.25
Supplies	99,350.00	33,613.65	25,207.11	59,417.99	21,102.98	18,829.03	81.05
City Support Services	111,316.00	22,135.19	38,329.54	72,670.18	10,530.27	28,115.55	74.74
Utility Services	246,000.00	64,646.23	97,239.74	99,972.10	-	146,027.90	40.64
Operations Support	2,000.00	-	-	122.92	-	1,877.08	6.15
Staff Support	19,670.00	2,804.99	9,644.09	5,195.34	1,165.02	13,309.64	32.34

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND							
Professional Services	120,271.00	3,060.00	32,461.92	30,274.30	16,832.00	73,164.70	39.17
Maintenance Services	84,000.00	909.19	12,079.97	54,501.80	13,412.09	16,086.11	80.85
Rental/Leasing	10,000.00	830.27	7,202.86	2,879.19	830.00	6,290.81	37.09
Operating Equipment	65,000.00	1,858.74	29,083.50	4,445.00	8,750.00	51,805.00	20.30
Capital Outlay	246,898.00	33,826.00	19,624.13	39,189.82	90,168.13	117,540.05	52.39
TOTAL PARKS DEPARTMENT	1,719,216.00	310,854.91	554,619.39	670,645.69	162,790.49	885,779.82	48.48%
SWIM POOL							
Supplies	25,500.00	5,536.26	4,045.00	5,558.62	-	19,941.38	21.80
Utility Services	16,500.00	5,019.26	7,189.62	7,407.28	-	9,092.72	44.89
Maintenance Services	527,878.00	102,542.32	137,564.54	184,132.30	1,973.08	341,772.62	35.26
TOTAL SWIM POOL	569,878.00	113,097.84	148,799.16	197,098.20	1,973.08	370,806.72	34.93%
EVENT FACILITIES							
Personnel Services	277,964.00	45,162.23	134,590.91	96,311.03	75.20	181,577.77	34.68
Supplies	5,400.00	338.67	2,518.18	1,418.60	383.71	3,597.69	33.38
Utility Services	48,400.00	9,283.97	14,361.12	13,800.83	-	34,599.17	28.51
Operations Support	20,343.00	7,074.66	1,332.36	8,883.30	-	11,459.70	43.67
Staff Support	4,925.00	303.99	2,373.20	495.55	51.98	4,377.47	11.12
Maintenance Services	13,000.00	1,080.00	5,225.00	1,080.00	-	11,920.00	8.31
Operating Equipment	23,015.00	287.99	(4,355.31)	1,013.99	1,437.00	20,564.01	10.65
TOTAL EVENT FACILITIES	393,047.00	63,531.51	156,045.46	123,003.30	1,947.89	268,095.81	31.79%
TOTAL PARKS & RECREATION	2,682,141.00	487,484.26	859,464.01	990,747.19	166,711.46	1,524,682.35	43.15%
CULTURAL							
LIBRARY							
Personnel Services	834,575.00	192,996.92	400,554.21	422,192.83	-	412,382.17	50.59
Supplies	13,855.00	1,085.72	4,812.69	5,912.77	945.26	6,996.97	49.50
Utility Services	65,500.00	10,645.82	26,772.26	15,972.51	-	49,527.49	24.39
Operations Support	3,600.00	371.96	3,342.38	959.94	-	2,640.06	26.67
Staff Support	8,280.00	1,340.30	7,097.80	1,669.48	1,275.00	5,335.52	35.56
Professional Services	2,300.00	-	1,984.10	1,655.96	-	644.04	72.00
Operating Equipment	136,145.00	45,306.03	76,143.03	82,706.86	4,963.21	48,474.93	64.39
TOTAL LIBRARY	1,064,255.00	251,746.75	520,706.47	531,070.35	7,183.47	526,001.18	50.58%
TOTAL CULTURAL	1,064,255.00	251,746.75	520,706.47	531,070.35	7,183.47	526,001.18	50.58%
INTERNAL SERVICE							
INFORMATION TECHNOLOGY							
Personnel Services	856,808.00	183,127.24	325,003.42	399,396.12	-	457,411.88	46.61
Supplies	6,800.00	599.97	1,980.73	1,762.83	773.23	4,263.94	37.30
City Support Services	974,666.00	164,883.29	187,551.63	326,740.12	124,621.96	523,303.92	46.31
Utility Services	285,125.00	81,795.30	84,116.79	134,154.92	4,067.07	146,903.01	48.48

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND							
Staff Support	43,628.00	1,498.68	21,760.14	1,615.69	424.00	41,588.31	4.68
Professional Services	102,599.00	43,879.63	62.50	43,879.63	3,875.50	54,843.87	46.55
Maintenance Services	10,000.00	2,185.35	1,388.77	9,367.96	-	632.04	93.68
Rental/Leasing	3,651.00	608.36	-	1,520.90	304.18	1,825.92	49.99
Operating Equipment	320,369.00	130,552.58	79,061.42	176,983.27	48,952.33	94,433.40	70.52
Capital Outlay	35,000.00	26,889.00	-	26,889.00	-	8,111.00	76.83
TOTAL INFORMATION TECHNOLOGY	2,638,646.00	636,019.40	700,925.40	1,122,310.44	183,018.27	1,333,317.29	49.47%
HUMAN RESOURCES							
Personnel Services	456,957.00	102,638.02	203,641.73	217,666.98	-	239,290.02	47.63
Supplies	2,700.00	63.86	1,039.76	245.96	126.25	2,327.79	13.79
Human Services	234,562.00	30,258.33	64,129.30	82,885.76	38,088.15	113,588.09	51.57
Operations Support	5,836.00	-	1,604.84	2,433.84	225.00	3,177.16	45.56
Staff Support	36,150.00	8,784.58	10,866.74	22,087.88	880.28	13,181.84	63.54
City Assistance	10,000.00	3,028.00	4,726.00	5,013.00	-	4,987.00	50.13
Professional Services	15,000.00	-	57,513.50	-	6,980.00	8,020.00	46.53
Operating Equipment	514.00	-	249.99	513.31	-	0.69	99.87
TOTAL HUMAN RESOURCES	761,719.00	144,772.79	343,771.86	330,846.73	46,299.68	384,572.59	49.51%
FINANCE							
Personnel Services	605,758.00	143,347.53	285,957.56	313,818.15	-	291,939.85	51.81
Supplies	3,700.00	917.79	1,587.17	1,718.88	-	1,981.12	46.46
Staff Support	9,422.00	755.00	4,365.58	1,619.00	530.00	7,273.00	22.81
Professional Services	34,500.00	13,832.30	22,341.07	14,742.12	610.00	19,147.88	44.50
Operating Equipment	586.61	-	1,610.96	336.08	-	250.53	57.29
TOTAL FINANCE	653,966.61	158,852.62	315,862.34	332,234.23	1,140.00	320,592.38	50.98%
PURCHASING & ASSET MGT							
Personnel Services	225,784.00	53,013.54	109,420.22	116,374.95	-	109,409.05	51.54
Supplies	700.00	65.10	73.50	99.68	-	600.32	14.24
Operations Support	7,650.00	1,825.00	3,190.96	3,124.00	488.75	4,037.25	47.23
Staff Support	6,785.00	775.00	1,322.82	1,150.38	861.49	4,773.13	29.65
City Assistance	2,000.00	244.00	470.00	406.00	190.00	1,404.00	29.80
Operating Equipment	1,600.00	-	-	-	277.97	1,322.03	17.37
TOTAL PURCHASING & ASSET MGT	244,519.00	55,922.64	114,477.50	121,155.01	1,818.21	121,545.78	50.29%
FLEET SERVICE							
Personnel Services	514,842.00	124,578.34	165,490.77	261,799.90	-	253,042.10	50.85
Supplies	213,766.00	54,641.95	80,800.83	92,479.06	12,189.12	109,097.82	48.96
City Support Services	15,000.00	15.00	2,297.20	2,372.20	124.50	12,503.30	16.64
Utility Services	11,385.00	3,291.65	3,333.50	4,926.49	-	6,458.51	43.27
Staff Support	29,700.00	5,592.87	7,085.40	9,910.83	1,507.60	18,281.57	38.45

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND							
Maintenance Services	218,002.00	48,624.22	83,925.11	111,154.99	24,860.72	81,986.29	62.39
Operating Equipment	13,853.00	3,717.32	2,558.72	8,455.26	-	5,397.74	61.04
Capital Outlay	57,049.00	6,349.99	-	6,349.99	21,303.00	29,396.01	48.47
TOTAL FLEET SERVICE	1,073,597.00	246,811.34	345,491.53	497,448.72	59,984.94	516,163.34	51.92%
FACILITY SERVICES							
Personnel Services	735,826.00	202,111.29	352,889.35	415,586.93	-	320,239.07	56.48
Supplies	145,900.00	9,344.82	28,783.16	19,573.26	5,446.74	120,880.00	17.15
City Support Services	5,000.00	-	-	-	-	5,000.00	-
Utility Services	171,000.00	45,489.12	80,316.53	71,893.44	-	99,106.56	42.04
Staff Support	12,800.00	1,459.53	3,091.99	2,165.53	303.78	10,330.69	19.29
Professional Services	85,746.00	27,814.70	38,942.55	43,031.32	48,242.86	(5,528.18)	106.45
Maintenance Services	652,536.00	41,473.14	160,822.32	92,714.30	264,662.41	295,159.29	54.77
Rental/Leasing	500.00	-	80.38	-	-	500.00	-
Operating Equipment	16,500.00	-	5,907.75	-	-	16,500.00	-
Capital Outlay	30,000.00	27,266.00	-	27,266.00	-	2,734.00	90.89
TOTAL BUILDING MAINTENANCE	1,855,808.00	354,958.60	670,834.03	672,230.78	318,655.79	864,921.43	53.39%
TOTAL INTERNAL SERVICE	7,228,255.61	1,597,337.39	2,491,362.66	3,076,225.91	610,916.89	3,541,112.81	51.01%
MISC & PROJECTS							
Project							
Fund Charges/Transfers	581,300.00	581,300.00	-	581,300.00	-	-	100.00
TOTAL PROJECTS	581,300.00	581,300.00	-	581,300.00	-	-	100.00%
CITY ASSISTANCE							
City's Assistance to Agencies	320,000.00	63,277.50	149,199.38	115,698.42	82,169.50	122,132.08	61.83
Operating Equipment	10,000.00	-	4,321.57	-	-	10,000.00	-
TOTAL CITY ASSISTANCE	330,000.00	63,277.50	153,520.95	115,698.42	82,169.50	132,132.08	59.96%
COURT - RESTRICTED FUNDS							
Operating Equipment	22,992.00	5,700.00	-	5,700.00	2,500.00	14,792.00	35.66
TOTAL COURT-RESTRICTED FUNDS	22,992.00	5,700.00	-	5,700.00	2,500.00	14,792.00	35.66%
TOTAL MISC & PROJECTS	934,292.00	650,277.50	153,520.95	702,698.42	84,669.50	146,924.08	84.27%
TOTAL EXPENDITURES	38,026,756.98	9,315,190.22	15,089,802.10	18,093,604.18	1,788,897.16	18,144,255.64	52.29%
REVENUE OVER(UNDER) EXPEND.	(551,945.98)	1,995,439.32	8,889,292.79	6,223,272.77	(1,788,897.16)	(4,986,321.59)	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND								
REVENUES								
<u>Taxes</u>								
000-411100	Advalorem Tax-Current	14,554,500.00	6,326,294.34	13,740,301.99	14,232,880.01	-	321,619.99	97.79
000-411110	Disable Veterans Assist Pymnt	500,000.00	-	-	-	-	500,000.00	-
000-411200	Advalorem Tax-Delinquent	50,000.00	12,341.09	14,682.60	45,282.24	-	4,717.76	90.56
000-411300	Advalorem Tax-P&I	50,000.00	28,416.76	21,909.44	43,430.83	-	6,569.17	86.86
000-411500	Sales Tax Revenue-Gen Fund	9,964,000.00	2,317,109.69	4,760,518.81	4,916,282.98	-	5,047,717.02	49.34
000-411600	Bingo Tax	50.00	-	28.16	-	-	50.00	-
000-411700	Mixed Beverage Tax	80,000.00	23,190.04	42,248.68	32,758.39	-	47,241.61	40.95
TOTAL Taxes		25,198,550.00	8,707,351.92	18,579,689.68	19,270,634.45	-	5,927,915.55	76.48%
<u>Franchises</u>								
000-421200	Center Point/Entex Energy	95,000.00	35,191.06	59,696.98	57,736.14	-	37,263.86	60.77
000-421220	City Public Service	1,020,000.00	231,253.90	420,449.42	464,605.10	-	555,394.90	45.55
000-421240	Guadalupe Valley Elec Co-op	455,000.00	97,638.66	198,556.70	194,390.23	-	260,609.77	42.72
000-421250	New Braunfels Utilities	78,000.00	16,100.61	27,876.95	32,049.50	-	45,950.50	41.09
000-421300	Time Warner-State Franchise	250,000.00	45,682.02	116,128.28	129,381.80	-	120,618.20	51.75
000-421460	AT&T Franchise Fee	150,000.00	40,483.68	80,948.66	52,181.99	-	97,818.01	34.79
000-421480	Other Telecom Franchise - ROW	130,000.00	8,317.48	63,698.57	46,832.79	-	83,167.21	36.03
000-421500	Solid Waste Franchise Fee	156,000.00	37,462.56	80,440.29	83,181.02	-	72,818.98	53.32
TOTAL Franchises		2,334,000.00	512,129.97	1,047,795.85	1,060,358.57	-	1,273,641.43	45.43%
<u>Permits</u>								
000-431100	Home Occupation Permit	500.00	105.00	385.00	525.00	-	(25.00)	105.00
000-431205	Bldg Permit-Residential	550,000.00	175,629.50	270,585.50	305,528.00	-	244,472.00	55.55
000-431210	Bldg Permit-Commercial	350,000.00	75,189.00	143,777.00	125,645.00	-	224,355.00	35.90
000-431215	Bldg Permit-General	350,000.00	148,641.50	178,369.00	227,825.50	-	122,174.50	65.09
000-431300	Mobile Home Permit	400.00	-	275.00	300.00	-	100.00	75.00
000-431400	Signs Permit	5,600.00	823.00	2,755.00	2,309.00	-	3,291.00	41.23
000-431500	Food Establishmnt Permit	63,000.00	3,370.00	62,520.00	59,620.00	-	3,380.00	94.63
000-431700	Plumbing Permit	138,950.00	36,279.50	60,387.00	69,851.50	-	69,098.50	50.27
000-431750	Electrical Permit	70,900.00	21,160.00	28,660.00	42,600.00	-	28,300.00	60.08
000-431800	Mechanical Permit	68,300.00	16,560.00	29,960.00	31,340.00	-	36,960.00	45.89
000-431900	Solicitor/Peddler Permit	2,300.00	490.00	866.00	610.00	-	1,690.00	26.52
000-431950	Animal/Pet Permit	500.00	-	15.00	-	-	500.00	0.00
000-432000	Cert of Occupancy Prmt	6,300.00	2,400.00	4,900.00	3,450.00	-	2,850.00	54.76
000-432100	Security Alarm Permit	43,000.00	7,295.00	18,961.00	14,270.00	-	28,730.00	33.19
000-432300	Grading/Clearing Permit	12,500.00	2,450.00	5,464.18	4,900.00	-	7,600.00	39.20
000-432400	Development Permit	75,000.00	46,383.67	31,359.09	53,778.09	-	21,221.91	71.70

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND								
REVENUES								
000-435000	Fire Permit	30,000.00	6,904.00	22,312.50	11,128.50	-	18,871.50	37.10
TOTAL Permits		1,767,250.00	543,680.17	861,551.27	953,680.59	-	813,569.41	53.96%
Licenses								
000-441000	Alcohol Beverage License	8,100.00	555.00	3,510.00	3,095.00	-	5,005.00	38.21
000-441300	Mobile Home License	160.00	-	120.00	80.00	-	80.00	50.00
000-442000	Contractors License	45,600.00	13,550.00	24,200.00	22,200.00	-	23,400.00	48.68
000-444000	Pet License	3,000.00	-	957.00	-	-	3,000.00	0.00
TOTAL Licenses		56,860.00	14,105.00	28,787.00	25,375.00	-	31,485.00	44.63%
Fees								
000-451000	Municipal Court Fines	664,160.00	113,784.33	332,171.64	213,208.90	-	450,951.10	32.10
000-451100	Arrest Fee	25,680.00	3,463.37	11,757.92	7,545.45	-	18,134.55	29.38
000-451110	Expunction Fee	160.00	-	100.00	-	-	160.00	0.00
000-451200	Warrant Fees	73,560.00	11,300.02	36,683.45	19,314.29	-	54,245.71	26.26
000-451220	Officer Jury Fee	400.00	-	91.20	-	-	400.00	0.00
000-451310	Restitution Fee-Local	0.00	102.60	126.00	102.60	-	(102.60)	0.00
000-451320	Civil Justice Fee-Court	500.00	-	-	-	-	500.00	0.00
000-451340	Judicial Fee-City	3,432.00	128.16	1,201.30	211.27	-	3,220.73	6.16
000-451400	Traffic Fine Costs TTL	12,168.00	1,468.05	5,338.46	3,432.50	-	8,735.50	28.21
000-451510	Juvenile Case Mgmt Fee	28,668.00	1,067.92	10,005.94	1,765.48	-	26,902.52	6.16
000-451520	Truancy Fees	5,352.00	3,005.58	5,137.73	6,766.83	-	(1,414.83)	126.44
000-451530	Local Municipal Jury Fund	400.00	57.71	65.95	130.86	-	269.14	32.72
000-451600	Technology Fund Fee	22,992.00	3,172.45	10,728.99	6,692.45	-	16,299.55	29.11
000-451700	Security Fee	17,244.00	3,475.89	9,301.09	7,506.42	-	9,737.58	43.53
000-451800	Time Payment Fee-City	4,968.00	475.84	2,394.07	836.62	-	4,131.38	16.84
000-451850	State Fines 10% Service Fee	38,752.00	6,553.28	16,581.32	15,637.72	-	23,114.28	40.35
000-451900	DPS Payment-Local	5,592.00	936.00	2,721.71	1,540.00	-	4,052.00	27.54
000-452000	Child Safety Fee	10,356.00	1,072.63	4,826.32	2,984.11	-	7,371.89	28.82
000-452100	Platting Fees	59,000.00	11,500.00	6,750.00	17,500.00	-	41,500.00	29.66
000-452200	Site Plan Fee	36,000.00	2,000.00	3,000.00	6,500.00	-	29,500.00	18.06
000-452300	Plan Check Fee	625,000.00	182,521.25	280,480.00	295,634.50	-	329,365.50	47.30
000-452320	Tree Mitigation Admin Fee	15,000.00	-	10,707.30	38,640.00	-	(23,640.00)	257.60
000-452400	BOA/Variance Fees	5,000.00	1,000.00	-	1,000.00	-	4,000.00	20.00
000-452600	Specific Use/Zone Chng Fee	18,000.00	15,300.00	14,999.80	21,300.00	-	(3,300.00)	118.33
000-452710	Zoning Ltr & Dev Rights	1,950.00	1,050.00	2,250.00	1,650.00	-	300.00	84.62
000-453100	Reinspection Fees	190,000.00	33,425.00	98,875.00	85,300.00	-	104,700.00	44.89

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

101 GENERAL FUND		CURRENT	CURRENT	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D	BUDGET	% OF
REVENUES		BUDGET	QUARTER			ENCUMBRANCE	BALANCE	BUDGET
000-453110	Swim Pool Inspection Fee	2,500.00	-	660.00	-	-	2,500.00	0.00
000-453200	Lot Abatement	5,000.00	425.00	6,028.54	1,825.00	-	3,175.00	36.50
000-453211	Admin Fee-Inspections	18,600.00	400.00	6,000.00	1,000.00	-	17,600.00	5.38
000-453710	Foster Care	500.00	200.00	200.00	200.00	-	300.00	40.00
000-454200	Pool Gate Admission Fee	24,000.00	-	30.00	-	-	24,000.00	0.00
000-454300	Seasonal Pool Pass Fee	5,000.00	-	-	-	-	5,000.00	0.00
000-456120	Senior Center Meal Fee	20,000.00	9,205.86	6,504.98	16,860.15	-	3,139.85	84.30
000-456500	HAZ MAT Fees	5,000.00	-	-	-	-	5,000.00	0.00
000-456600	Fire Re-inspection Fee	1,000.00	200.00	250.00	200.00	-	800.00	20.00
000-458000	Sale of General Fixed Assets	20,000.00	-	-	-	-	20,000.00	0.00
000-458100	Sale of Merchandise	0.00	60.00	360.00	90.00	-	(90.00)	0.00
000-458110	Sale of Mdse - GovDeals	80,000.00	31,672.84	25,232.64	55,957.84	-	24,042.16	69.95
000-458350	Gain on Sale of Fixed Assets	0.00	-	-	3,800.00	-	(3,800.00)	0.00
000-458400	Civic Center Rental Fees	130,900.00	575.00	5,850.00	2,300.00	-	128,600.00	1.76
000-458401	Capital Recovery Fee-Civic C	0.00	(50.00)	11,400.00	500.00	-	(500.00)	0.00
000-458450	North Center Rental Fees	14,000.00	6,037.50	15,725.00	8,537.50	-	5,462.50	60.98
000-458460	Senior Center Rental	7,000.00	-	3,500.00	-	-	7,000.00	0.00
000-458500	Community Center Rental Fees	23,800.00	7,687.00	13,269.50	11,322.00	-	12,478.00	47.57
000-458501	Community Center Service Fees	0.00	150.00	350.00	250.00	-	(250.00)	0.00
000-458510	Grand Ballroom Rental Fees	0.00	(643.75)	79,223.75	6,968.75	-	(6,968.75)	0.00
000-458520	Cut-Off Hall Rental Fees	0.00	(4,327.50)	10,936.25	(1,496.25)	-	1,496.25	0.00
000-458530	Conference Hall Rental Fees	0.00	-	1,787.50	506.25	-	(506.25)	0.00
000-458540	Bluebonnet Hall Rental Fees	0.00	(1,745.00)	26,776.25	1,948.75	-	(1,948.75)	0.00
000-458550	Pavilion Rental Fees	20,000.00	3,807.50	5,605.00	5,732.50	-	14,267.50	28.66
000-458560	Chamber of Comm Rent	7,500.00	1,950.00	3,900.00	3,900.00	-	3,600.00	52.00
000-458570	Non-Resident SYSA League	10,000.00	5,990.00	8,590.00	5,990.00	-	4,010.00	59.90
000-458580	HOA Meeting Rental Fees	0.00	375.00	900.00	600.00	-	(600.00)	0.00
000-458581	Funeral Reception Rental Fees	0.00	150.00	450.00	375.00	-	(375.00)	0.00
000-458582	Quality of Life Rental Fees	0.00	1,935.00	4,245.00	3,435.00	-	(3,435.00)	0.00
000-458590	Cancellation Fees-Event Rental	0.00	300.00	5,095.00	850.00	-	(850.00)	0.00
000-458650	NonResident User Fee-BVYA	10,000.00	-	-	7,080.00	-	2,920.00	70.80
000-458660	BVYA Utility Reimbursement	15,000.00	3,000.00	-	10,838.38	-	4,161.62	72.26
000-458670	SYSA Utility Reimbursement	7,500.00	-	4,493.68	-	-	7,500.00	0.00
000-458675	Lions Futbol Utility Reimbrsmnt	10,000.00	12,032.00	12,582.00	15,548.00	-	(5,548.00)	155.48
000-458685	Recreation Programs	1,000.00	-	-	-	-	1,000.00	0.00
000-458685.00	Rec Prgm-Kickball Leagues	2,600.00	-	-	-	-	2,600.00	0.00

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND								
REVENUES								
000-458700	Vehicle Impoundment	10,000.00	2,780.00	5,750.00	5,420.00	-	4,580.00	54.20
000-459200	NSF Check Fee	100.00	-	125.00	-	-	100.00	0.00
000-459300	Notary Fee	100.00	6.00	24.00	42.00	-	58.00	42.00
000-459400	Maps,Copies,UDC & Misc Fees	0.00	-	5.00	-	-	-	0.00
000-459600	Animal Adoption Fee	12,000.00	2,195.00	7,690.00	4,135.00	-	7,865.00	34.46
000-459700	Pet Impoundment Fee	5,000.00	2,097.00	4,330.21	4,216.00	-	784.00	84.32
000-459800	Police Reports Fee	5,800.00	2,940.03	2,608.30	3,978.03	-	1,821.97	68.59
TOTAL Fees		2,338,234.00	486,264.56	1,147,337.79	938,109.90	-	1,400,124.10	40.12%
Fines								
000-463000	Library Fines	11,000.00	1,756.52	5,652.27	2,965.50	-	8,034.50	26.96
TOTAL Fines		11,000.00	1,756.52	5,652.27	2,965.50	-	8,034.50	26.96%
Inter-Jurisdictional								
000-473100	Bexar Co - Fire	21,077.00	5,269.44	-	21,077.76	-	(0.76)	100.00
000-473200	City of Seguin-Fire Contract	30,107.00	8,363.28	12,544.90	16,726.56	-	13,380.44	55.56
000-473300	Guadalupe Co-Library	203,191.00	50,797.74	108,576.00	118,528.06	-	84,662.94	58.33
000-473400	Randolph AFB-Animal Control	500.00	-	-	-	-	500.00	0.00
000-474200	Library Services-Cibolo	40,000.00	40,000.00	40,030.00	40,000.00	-	-	100.00
000-474210	Library Services-Selma	26,000.00	25,020.00	26,505.00	25,020.00	-	980.00	96.23
000-474400	Dispatch Service-Cibolo	166,000.00	-	80,000.00	-	-	166,000.00	0.00
000-474600	School Crossing Guard-Bexar Co	36,000.00	8,667.87	18,902.26	17,666.35	-	18,333.65	49.07
000-474610	School Cross Guard-Guadalupe C	41,000.00	10,272.82	20,528.73	20,627.90	-	20,372.10	50.31
000-474700	School Officer Funding	453,050.00	-	88,400.00	-	-	453,050.00	0.00
000-474750	Crime Victim Liaison Agreement	50,000.00	12,500.00	50,000.00	25,000.00	-	25,000.00	50.00
TOTAL Inter-Jurisdictional		1,066,925.00	160,891.15	445,486.89	284,646.63	-	782,278.37	26.68%
Fund Transfers								
000-480000	Indirect Costs-EMS	182,600.00	46,566.00	89,550.00	91,341.00	-	91,259.00	50.02
000-480100	Indirect Costs-Hotel/Motel	72,464.00	17,625.03	37,214.02	36,232.06	-	36,231.94	50.00
000-481000	Transfer In - Reserves	1,081,160.00	-	-	-	-	1,081,160.00	0.00
000-485000	Interfund Charges-Drainage-5%	285,506.00	81,974.52	121,555.00	142,753.02	-	142,752.98	50.00
000-486000	Interfund Chrges-Admin W&S	1,450,827.00	379,163.49	692,499.98	725,413.46	-	725,413.54	50.00
000-486202	Transfer In-Water&Sewer Fund	4,000.00	-	-	-	-	4,000.00	0.00
000-486203	Transfer In-EMS	4,000.00	-	-	-	-	4,000.00	0.00
000-486204	Transfer In-Drainage	1,000.00	-	-	-	-	1,000.00	0.00
000-487000	Interfund Charges-Fleet	398,618.00	108,666.30	180,333.52	198,833.08	-	199,784.92	49.88
000-488000	Interfund Charges-4B	503,717.00	-	230,818.00	230,818.00	-	272,899.00	45.82
000-489000	Transfer In	86,000.00	-	-	-	-	86,000.00	0.00

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101 GENERAL FUND								
REVENUES								
TOTAL Fund Transfers		4,069,892.00	633,995.34	1,351,970.52	1,425,390.62	-	2,644,501.38	35.02%
Miscellaneous								
000-491000	Interest Earned	15,000.00	1,966.19	23,437.65	3,656.35	-	11,343.65	24.38
000-491200	Investment Income	120,000.00	12,484.63	177,653.65	32,567.97	-	87,432.03	27.14
000-491900	Unrealized Gain/Loss-CapOne	0.00	(8,742.65)	33,581.07	(16,855.56)	-	16,855.56	0.00
000-493000	Donations-Others	0.00	500.00	-	500.00	-	(500.00)	0.00
000-493120	Donations-Public Library	10,000.00	1,578.10	1,062.75	1,679.75	-	8,320.25	16.80
000-493400	Donations-Animal Control	5,000.00	305.00	2,878.00	2,040.00	-	2,960.00	40.80
000-493401	Donations-A/C Microchip	0.00	300.00	690.00	615.00	-	(615.00)	0.00
000-493460	Donations- Parks	10,000.00	-	-	-	-	10,000.00	0.00
000-493465	Donations-Senior Center	10,000.00	265.00	5,376.37	265.00	-	9,735.00	2.65
000-493502	Donations-PD	0.00	50.00	100.00	450.00	-	(450.00)	0.00
000-493503	Donation-Fire Rescue	0.00	400.00	2,150.00	800.00	-	(800.00)	0.00
000-493618	Donation - Veteran's Memorial	0.00	150.00	150.00	1,050.00	-	(1,050.00)	0.00
000-493700	July 4th Activities	26,000.00	-	-	-	-	26,000.00	0.00
000-493701	Proceeds-Holidazzle	12,500.00	-	-	3,290.00	-	9,210.00	26.32
000-493704	Moving on Main	4,000.00	9,450.00	100.00	9,450.00	-	(5,450.00)	236.25
000-494481	LawEnforcemtOfficersStnd&	5,000.00	4,489.49	5,081.86	4,489.49	-	510.51	89.79
000-494482	Grants-Police, Fire, Gen Fund	2,500.00	-	-	541.11	-	1,958.89	21.64
000-495100	Mobile Stage Rental Fees	2,100.00	550.00	1,550.00	550.00	-	1,550.00	26.19
000-497000	Misc Income-Gen Fund	40,000.00	113,442.66	34,964.11	126,801.30	-	(86,801.30)	317.00
000-497005	Schertz Magazine Advertising	120,000.00	37,050.00	66,550.00	73,511.62	-	46,488.38	61.26
000-497100	Misc Income-Police	9,000.00	2,925.34	6,400.36	6,849.26	-	2,150.74	76.10
000-497200	Misc Income-Library	4,500.00	500.75	2,227.20	970.00	-	3,530.00	21.56
000-497210	Misc Income-Library Copier	18,000.00	1,695.55	9,427.25	2,823.05	-	15,176.95	15.68
000-497300	Misc Income-Animal Control	0.00	250.00	-	400.00	-	(400.00)	0.00
000-497400	Misc Income-Streets Dept	30,000.00	3,285.76	7,033.29	6,261.76	-	23,738.24	20.87
000-497460	Misc Income-Parks	0.00	360.00	-	360.00	-	(360.00)	0.00
000-497500	Misc Income-TML Ins. Claims	25,000.00	817.22	14,115.81	2,261.67	-	22,738.33	9.05
000-497550	Misc Income-TML WC Reimbursmnt	10,000.00	13,420.41	4,886.86	16,969.89	-	(6,969.89)	169.70
000-497600	Misc Income-Vending Mach	2,500.00	100.99	859.38	192.37	-	2,307.63	7.69
000-498000	Reimbursmnt-Gen Fund	20,000.00	-	15,443.00	-	-	20,000.00	0.00
000-498105	Reimbursmt Police OT-DEA	18,000.00	12,548.02	9,062.60	24,314.55	-	(6,314.55)	135.08
000-498110	Reimbursmnt Fire-Emg Acti-OT	100,000.00	40,312.45	72,533.39	40,312.45	-	59,687.55	40.31
000-498150	Reimbursement - Library	13,000.00	-	13,509.00	8,598.66	-	4,401.34	66.14
TOTAL Miscellaneous		632,100.00	250,454.91	510,823.62	355,715.69	-	276,384.31	56.28%

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

101 GENERAL FUND REVENUES	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
TOTAL REVENUES	37,474,811.00	11,310,629.54	23,979,094.89	24,316,876.95	-	13,157,934.05	64.89%

GENERAL FUND
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$ 1,566,851.71
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Cash in Investments

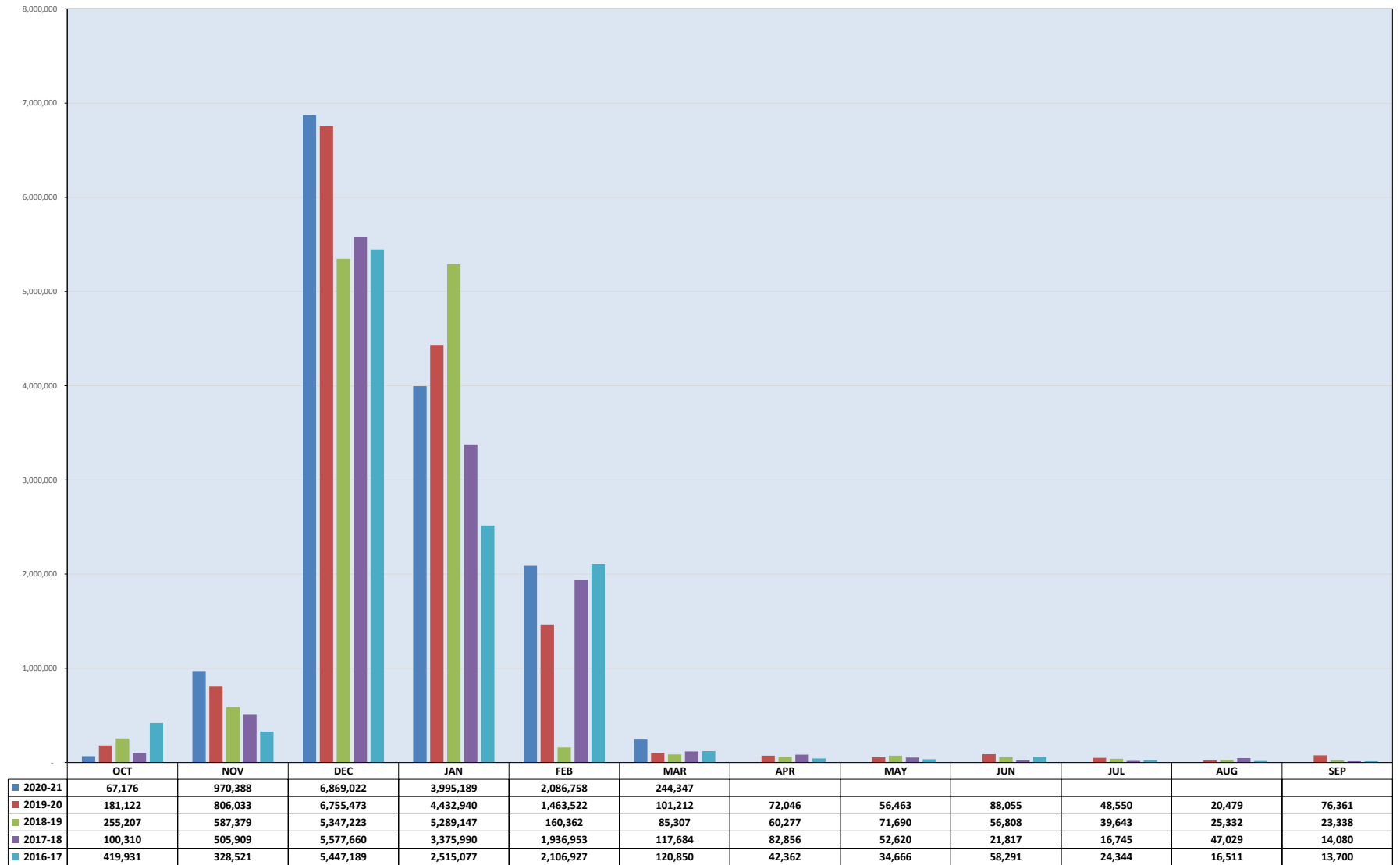
LOGIC Investment-General Fund	16,455,549.02
LOGIC Investment-Equip Replacement	79,084.19
LOGIC Investment-Veh Replacement	533,247.01
LOGIC Investment-Air Condi Replacment	290,197.16
BBVA CD Investment	1,049,696.40
CAPITAL ONE Investment-General Fund	<u>1,464,207.42</u>

Total Cash in Bank & Investments	<u>\$ 21,438,832.91</u>
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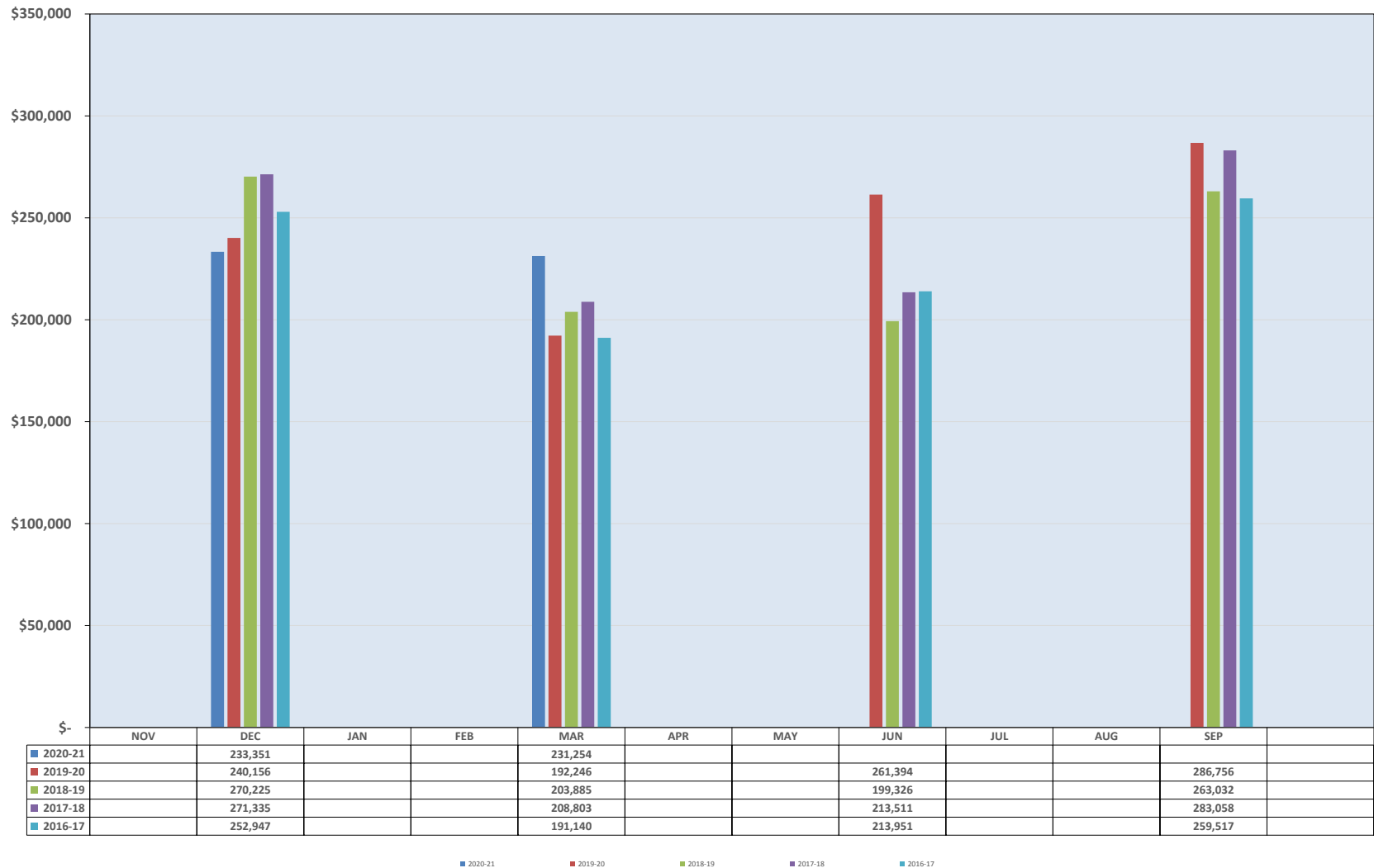
Sales Tax-General Fund



ADVALOREM TAX



CITY PUBLIC SERVICE



CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

106-SPECIAL EVENTS FUND	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>FINANCIAL SUMMARY</u>							
<u>REVENUE SUMMARY</u>							
Miscellaneous	32,100.00	6,152.10	51,444.77	34,684.19	-	(2,584.19)	108.05
TOTAL REVENUES	32,100.00	6,152.10	51,444.77	34,684.19	-	(2,584.19)	108.05%
<u>EXPENDITURE SUMMARY</u>							
<u>GENERAL GOVERNMENT</u>							
<u>CULTURAL</u>							
KICK CANCER	10,000.00	534.25	4,380.81	534.25	-	9,465.75	5.34
HAL BALDWIN SCHOLARSHIP	22,100.00	(1,250.00)	11,845.30	11,618.35	-	10,481.65	52.57
TOTAL CULTURAL	32,100.00	(715.75)	16,236.91	12,152.60	-	19,947.40	37.86%
TOTAL EXPENDITURES	32,100.00	(715.75)	16,236.91	12,152.60	-	19,947.40	37.86%
REVENUE OVER(UNDER) EXPEND	0.00	6,867.85	35,207.86	22,531.59	-	(22,531.59)	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
106-SPECIAL EVENTS FUND								
REVENUES								
<u>Fund Transfers</u>								
<u>Miscellaneous</u>								
000-491200	Investment Income	0.00	5.10	164.25	12.19	-	(12.19)	0.00
000-492200	Kick Cancer	10,000.00	2,795.00	5,582.52	2,795.00	-	7,205.00	27.95
000-493621	Hal Baldwin Scholarship	22,100.00	455.00	24,350.00	28,980.00	-	(6,880.00)	131.13
000-497000	Misc Income - Special Events	0.00	2,897.00	9,028.00	2,897.00	-	(2,897.00)	0.00
TOTAL Miscellaneous		32,100.00	6,152.10	51,444.77	34,684.19	-	(2,584.19)	108.05%
TOTAL REVENUES		32,100.00	6,152.10	51,444.77	34,684.19	-	(2,584.19)	108.05%

SPECIAL EVENTS FUND
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank	Current
Claim on Operating Cash Pool-Checking	\$ 115,929.91
Cash in Investments	
Texas Class- Special Events	<u>18,042.64</u>
Total Cash in Bank & Investments	<u>\$ 133,972.55</u>

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
110-PEG FUND							
FINANCIAL SUMMARY							
<u>REVENUE SUMMARY</u>							
Franchises	90,000.00	22,279.14	44,494.60	43,256.76	-	46,743.24	48.06
Fund Transfers	95,500.00	-	-	-	-	95,500.00	-
TOTAL REVENUES	185,500.00	22,279.14	44,494.60	43,256.76	-	142,243.24	23.32%
<u>EXPENDITURE SUMMARY</u>							
<u>GENERAL GOVERNMENT</u>							
<u>Non Departmental</u>							
<u>MISC & PROJECTS</u>							
<u>Projects</u>							
Capital Outlay	185,500.00	-	-	-	-	185,500.00	-
TOTAL MISC & PROJECTS	185,500.00	-	-	-	-	185,500.00	0.00%
TOTAL EXPENDITURES	185,500.00	-	-	-	-	185,500.00	0.00%
REVENUE OVER(UNDER) EXPEND	0.00	22,279.14	44,494.60	43,256.76	-	(43,256.76)	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

110-PEG FUND		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
REVENUES								
<u>Franchises</u>								
000-421350	Time Warner - PEG Fee	60,000.00	-	31,566.84	15,560.70	-	44,439.30	25.93
000-421465	AT&T PEG Fee	30,000.00	22,279.14	12,927.76	27,696.06	-	2,303.94	92.32
TOTAL Franchises		90,000.00	22,279.14	44,494.60	43,256.76	-	46,743.24	48.06%
<u>Fund Transfers</u>								
000-481000	Transfer In - Reserves	95,500.00	-	-	-	-	95,500.00	0.00
TOTAL Fund Transfers		95,500.00	-	-	-	-	95,500.00	0.00%
<u>Miscellaneous</u>								
TOTAL REVENUES		185,500.00	22,279.14	44,494.60	43,256.76	-	142,243.24	23.32%

PEG FUND
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Cash Balance	\$ 910,964.79
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Total Cash in Bank & Investments	\$ 910,964.79
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CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
202-WATER & SEWER							
FINANCIAL SUMMARY							
REVENUE SUMMARY							
Franchises	238,750.00	200,071.10	174,542.71	215,849.19	-	22,900.81	90.41
Fees	24,803,500.00	6,010,251.80	12,196,687.81	12,005,158.01	-	12,798,341.99	48.40
Fund Transfers	146,400.00	61,603.98	73,200.00	98,203.98	-	48,196.02	67.08
Miscellaneous	315,718.00	140,161.33	223,787.82	190,467.28	-	125,250.72	60.33
TOTAL REVENUES	25,504,368.00	6,412,088.21	12,671,218.34	12,509,678.46	-	12,994,689.54	49.05%
EXPENDITURE SUMMARY							
NON DEPARTMENTAL							
Fund Charges/Transfers	0.00	-	-	19,745.69	-	(19,745.69)	-
TOTAL NON DEPARTMENTAL	0.00	-	-	19,745.69	-	(19,745.69)	0.00%
BUSINESS OFFICE							
Personnel Services	500,021.00	111,569.10	236,041.15	245,710.85	-	254,310.15	49.14
Supplies	5,100.00	119,289.57	1,344.98	119,721.22	5,191.84	(119,813.06)	2,449.28
City Support Services	5,000.00	33,151.19	28,640.26	33,151.19	-	(28,151.19)	663.02
Utility Services	9,200.00	1,957.51	4,267.46	4,212.80	-	4,987.20	45.79
Operations Support	120,500.00	23,447.74	43,332.40	45,193.98	6,957.78	68,348.24	43.28
Staff Support	6,400.00	1,277.33	2,518.31	1,615.28	120.56	4,664.16	27.12
Professional Services	253,000.00	65,021.02	101,655.85	113,034.58	-	139,965.42	44.68
Maintenance Services	5,040.00	840.00	2,520.00	2,520.00	3,360.00	(840.00)	116.67
Operating Equipment	600.00	-	430.40	-	-	600.00	-
TOTAL BUSINESS OFFICE	904,861.00	356,553.46	440,555.31	565,159.90	15,630.18	324,070.92	64.19%
W & S ADMINISTRATION							
Personnel Services	1,553,559.00	478,833.88	811,361.32	976,372.35	-	577,186.65	62.85
Supplies	187,500.00	35,032.32	152,483.10	36,707.43	6,457.33	144,335.24	23.02
City Support Services	166,535.00	24.07	62,118.14	66,077.53	-	100,457.47	39.68
Utility Services	3,575,800.00	851,777.87	1,659,677.23	1,700,774.83	1,351.85	1,873,673.32	47.60
Operations Support	11,300.00	2,581.58	7,214.21	3,978.98	-	7,321.02	35.21
Staff Support	39,500.00	9,245.39	27,493.39	16,401.40	30.00	23,068.60	41.60
City Assistance	500.00	-	76.00	-	40.00	460.00	8.00
Professional Services	444,015.00	209,548.37	228,208.31	229,817.16	38,904.99	175,292.85	60.52
Fund Charges/Transfers	6,470,624.00	1,741,867.82	3,609,873.69	3,695,403.01	-	2,775,220.99	57.11
Maintenance Services	9,166,090.00	2,782,029.75	3,612,418.52	4,213,531.56	162,105.74	4,790,452.70	47.74
Other Costs	40,000.00	38,435.72	36,605.45	38,435.72	-	1,564.28	96.09
Debt Service	2,106,932.00	1,575,649.23	1,551,501.10	1,575,649.23	-	531,282.77	74.78
Rental/Leasing	4,500.00	17,027.00	54,952.44	43,087.14	-	(38,587.14)	957.49
Operating Equipment	8,000.00	1,174.06	2,511.01	1,174.06	249.55	6,576.39	17.80
Capital Outlay	146,887.00	-	34,513.60	-	48,887.00	98,000.00	33.28

CITY OF SCHERTZ

REVENUE AND EXPENSE REPORT (UNAUDITED)

AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
202-WATER & SEWER							
FINANCIAL SUMMARY							
TOTAL PUBLIC WORKS	23,921,742.00	7,743,227.06	11,851,007.51	12,597,410.40	258,026.46	11,066,305.14	53.74%
MISC & PROJECTS							
PROJECTS							
Professional Services	0.00	1,815.00	15,680.00	3,932.50	8,724.00	(12,656.50)	-
Maintenance Services	0.00	536,692.00	-	762,716.86	20,137.00	(782,853.86)	-
SEWER PROJECT							
TOTAL EXPENDITURES	24,826,603.00	8,638,287.52	12,307,242.82	13,948,965.35	302,517.64	10,575,120.01	57.40%
** REVENUE OVER(UNDER)EXPENSES **	677,765.00	(2,226,199.31)	363,975.52	(1,439,286.89)	(302,517.64)	2,419,569.53	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
202-WATER & SEWER REVENUES								
<u>Franchises</u>								
000-421490	Cell Tower Leasing	238,750.00	200,071.10	174,542.71	215,849.19	-	22,900.81	90.41
TOTAL Franchises		238,750.00	200,071.10	174,542.71	215,849.19	-	22,900.81	90.41%
<u>Permits</u>								
TOTAL Permits		0.00	-	3,000.00	-	-	-	0.00%
<u>Fees</u>								
000-455200	Garbage Collection Fee	5,280,000.00	1,207,938.58	2,587,218.82	2,407,151.37	-	2,872,848.63	45.59
000-455600	Fire Line Fees	33,000.00	-	-	-	-	33,000.00	-
000-455700	Recycle Fee Revenue	336,000.00	84,900.65	164,353.44	157,023.87	-	178,976.13	46.73
000-455800	W&S Line Constructn Reimbur	20,000.00	10,549.52	12,969.02	17,207.52	-	2,792.48	86.04
000-457100	Sale of Water	11,100,000.00	2,513,921.85	5,318,626.30	5,291,081.43	-	5,808,918.57	47.67
000-457110	Edwards Water Lease	40,000.00	-	48,196.28	-	-	40,000.00	-
000-457120	Water Transfer Charge-Selma	30,000.00	-	17,169.24	13,881.72	-	16,118.28	46.27
000-457200	Sale of Meters	120,000.00	33,872.12	51,796.18	63,200.18	-	56,799.82	52.67
000-457400	Sewer Charges	7,592,000.00	2,158,094.08	3,862,085.37	4,054,211.92	-	3,537,788.08	53.40
000-457500	Water Penalties	250,000.00	150.00	132,323.16	250.00	-	249,750.00	0.10
000-459200	NSF Check Fee-Water&Sewer	2,500.00	825.00	1,950.00	1,150.00	-	1,350.00	46.00
TOTAL Fees		24,803,500.00	6,010,251.80	12,196,687.81	12,005,158.01	-	12,798,341.99	48.40%
<u>Fund Transfers</u>								
000-486204	Interfnd Chrg-Drainage Billing	146,400.00	36,600.00	73,200.00	73,200.00	-	73,200.00	50.00
000-486406	Transfer In - Pblic Imprvmnt	0.00	25,003.98	-	25,003.98	-	(25,003.98)	-
TOTAL Fund Transfers		146,400.00	61,603.98	73,200.00	98,203.98	-	48,196.02	67.08%
<u>Miscellaneous</u>								
000-490000	Misc Charges	10,500.00	1,644.00	5,787.00	1,694.00	-	8,806.00	16.13
000-491000	Interest Earned	40,000.00	2,169.45	21,198.21	4,346.45	-	35,653.55	10.87
000-491200	Investment Income	120,000.00	25,308.49	113,985.13	28,452.12	-	91,547.88	23.71
000-496000	Water Construction Reserve Acc	0.00	-	1.00	-	-	-	-
000-497000	Misc Income-W&S	20,000.00	51,108.65	12,096.79	61,429.44	-	(41,429.44)	307.15
000-498110	Salary Reimb-SSLCG	125,218.00	59,930.74	70,719.69	94,545.27	-	30,672.73	75.50
TOTAL Miscellaneous		315,718.00	140,161.33	223,787.82	190,467.28	-	125,250.72	60.33%
TOTAL REVENUES		25,504,368.00	6,412,088.21	12,671,218.34	12,509,678.46	-	12,994,689.54	49.05%

WATER & SEWER
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$ 195,929.70
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Cash in Investments

Lone Star Investment-Water&Sewer	4,331,798.18
Lone Star Investment-W&S Customer Deposits	317,373.34
Lone Star Investment-W&S Equip Replacement	190,819.79
Lone Star Investment-W&S Veh Replacement	275,656.50
Schertz Bank & Trust-Certificate of Deposit	<u>1,163,351.07</u>
	\$ 6,278,998.88

Total Cash in Bank & Investments	<u><u>\$ 6,474,928.58</u></u>
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CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
203-EMS							
FINANCIAL SUMMARY							
REVENUE SUMMARY							
Fees	6,621,567.20	1,641,030.83	2,993,220.77	3,227,717.50	-	3,393,849.70	48.75
Inter-Jurisdictional	3,028,357.31	190,608.12	1,541,258.91	1,636,279.66	-	1,392,077.65	54.03
Miscellaneous	135,500.00	117,009.13	81,344.79	144,285.43	-	(8,785.43)	106.48
TOTAL REVENUES	9,785,424.51	1,948,648.08	4,615,824.47	5,008,282.59	-	4,777,141.92	51.18%
EXPENDITURE SUMMARY							
PUBLIC SAFETY							
SCHERTZ EMS							
Personnel Services	4,628,222.00	1,126,324.57	2,269,175.04	2,440,423.27	-	2,187,798.73	52.73
Supplies	359,500.00	111,695.45	181,675.75	167,537.44	32,341.98	159,620.58	55.60
City Support Services	136,000.00	79.00	40,932.45	35,075.05	712.00	100,212.95	26.31
Utility Services	137,000.00	28,787.10	52,377.02	49,768.07	-	87,231.93	36.33
Operations Support	49,500.00	8,044.00	27,512.01	17,957.75	552.00	30,990.25	37.39
Staff Support	69,500.00	6,330.71	36,145.13	12,250.77	12,767.26	44,481.97	36.00
City Assistance	562,366.81	195,637.64	278,179.37	350,863.89	3,863.46	207,639.46	63.08
Professional Services	118,500.00	22,936.89	64,491.62	63,242.43	26,000.02	29,257.55	75.31
Fund Charges/Transfers	2,993,790.20	742,002.27	1,392,003.26	1,364,174.64	-	1,629,615.56	45.57
Maintenance Services	30,000.00	2,880.00	19,080.00	3,840.00	-	26,160.00	12.80
Debt Service	0.00	113,375.00	116,458.55	113,375.00	-	(113,375.00)	-
Rental/Leasing	67,000.00	-	65,118.05	-	-	67,000.00	-
Operating Equipment	72,000.00	10,610.59	14,056.50	12,834.46	998.75	58,166.79	19.21
Capital Outlay	778,612.00	42,500.98	41,936.16	304,112.98	399,348.00	75,151.02	90.35
TOTAL PUBLIC SAFETY	10,001,991.01	2,411,204.20	4,599,140.91	4,935,455.75	476,583.47	4,589,951.79	54.11%
TOTAL EXPENDITURES	10,001,991.01	2,411,204.20	4,599,140.91	4,935,455.75	476,583.47	4,589,951.79	54.11%
** REVENUE OVER(UNDER) EXPENSES **	(216,566.50)	(462,556.12)	16,683.56	72,826.84	(476,583.47)	187,190.13	

CITY OF SCHERTZ
REVENUE REPORT (UNAUDITED)
AS OF: March 31, 2021

203-EMS REVENUES		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>Fees</u>								
000-456100	Ambulance/Mileage Transprt Fee	6,340,467.20	1,572,274.16	2,853,933.60	3,050,860.14	-	3,289,607.06	48.12
000-456110	Passport Membership Fees	28,000.00	5,330.00	23,825.00	24,970.00	-	3,030.00	89.18
000-456120	EMT Class - Fees	99,000.00	42,150.00	51,675.00	72,400.00	-	26,600.00	73.13
000-456122	CE Class - Fees	15,000.00	-	-	2,318.77	-	12,681.23	15.46
000-456130	Immunization Fees	3,000.00	-	3,153.92	1,336.40	-	1,663.60	44.55
000-456140	Billing Fees-External	26,000.00	4,012.31	11,910.53	9,563.53	-	16,436.47	36.78
000-456150	Standby Fees	25,000.00	-	14,870.00	29,320.20	-	(4,320.20)	117.28
000-456155	Community Services Support	50,000.00	6,905.36	15,961.82	17,249.46	-	32,750.54	34.50
000-456160	MIH Services	35,000.00	10,359.00	17,815.90	19,674.00	-	15,326.00	56.21
000-459200	NSF Check Fee	100.00	-	75.00	25.00	-	75.00	25.00
TOTAL Fees		6,621,567.20	1,641,030.83	2,993,220.77	3,227,717.50	-	3,393,849.70	48.75%
<u>Inter-Jurisdictional</u>								
000-473500	Seguin/Guadalupe Co Support	843,577.17	154,655.82	492,087.15	463,967.46	-	379,609.71	55.00
000-474300	Cibolo Support	473,115.24	-	219,806.24	236,557.62	-	236,557.62	50.00
000-475100	Comal Co ESD #6	141,411.38	35,952.30	65,330.24	69,506.78	-	71,904.60	49.15
000-475200	Live Oak Support	246,255.84	-	118,887.30	123,127.92	-	123,127.92	50.00
000-475300	Universal City Support	321,566.04	-	152,997.88	160,783.02	-	160,783.02	50.00
000-475400	Selma Support	171,441.00	-	80,500.68	85,720.50	-	85,720.50	50.00
000-475500	Schertz Support	667,048.68	-	301,291.38	333,524.34	-	333,524.34	50.00
000-475600	Santa Clara Support	11,455.20	-	5,568.62	5,727.60	-	5,727.60	50.00
000-475800	Marion Support	18,374.76	-	8,424.32	9,187.38	-	9,187.38	50.00
000-475910	TASPP Program	134,112.00	-	96,365.10	148,177.04	-	(14,065.04)	110.49
TOTAL Inter-Jurisdictional		3,028,357.31	190,608.12	1,541,258.91	1,636,279.66	-	1,392,077.65	54.03%
<u>Fund Transfers</u>								
<u>Miscellaneous</u>								
000-491000	Interest Earned	2,500.00	105.36	939.69	262.36	-	2,237.64	10.49
000-491200	Investment Income	5,000.00	327.25	6,854.50	716.45	-	4,283.55	14.33
000-493203	Donations-EMS	2,000.00	-	5,695.53	865.00	-	1,135.00	43.25
000-497000	Misc Income	60,000.00	97,106.41	33,159.18	99,354.41	-	(39,354.41)	165.59
000-497100	Recovery of Bad Debt	6,000.00	2,164.82	3,204.14	8,374.99	-	(2,374.99)	139.58
000-497110	Collection Agency-Bad Debt	60,000.00	17,305.29	31,491.75	34,712.22	-	25,287.78	57.85
TOTAL Miscellaneous		135,500.00	117,009.13	81,344.79	144,285.43	-	(8,785.43)	106.48%
TOTAL REVENUES		9,785,424.51	1,948,648.08	4,615,824.47	5,008,282.59	-	4,777,141.92	51.18%

CITY OF SCHERTZ
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$	287,786.26
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Cash in Investments

EMS-Logic		897,185.33
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SR 2017 Ambulance-Logic		<u>12.11</u>
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Total Cash in Bank & Investments	\$	<u>1,184,983.70</u>
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CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
204-DRAINAGE							
FINANCIAL SUMMARY							
<u>REVENUE SUMMARY</u>							
Permits	4,000.00	1,570.00	1,780.00	2,370.00	-	1,630.00	59.25
Fees	1,230,000.00	307,375.09	606,226.15	577,263.19	-	652,736.81	46.93
Fund Transfers	195,793.00	-	-	-	-	195,793.00	-
Miscellaneous	33,000.00	225.17	10,643.12	586.28	-	32,413.72	1.78
TOTAL REVENUES	1,462,793.00	309,170.26	618,649.27	580,219.47	-	882,573.53	39.67%
<u>EXPENDITURE SUMMARY</u>							
<u>PUBLIC WORKS</u>							
<u>DRAINAGE</u>							
Personnel Services	403,147.00	84,825.99	154,392.87	201,016.35	-	202,130.65	49.86
Supplies	6,000.00	1,534.53	3,557.39	2,634.14	-	3,365.86	43.90
City Support Services	35,500.00	905.94	3,803.87	4,023.21	-	31,476.79	11.33
Utility Services	14,700.00	4,411.36	5,045.89	8,489.78	751.83	5,458.39	62.87
Operations Support	1,050.00	-	-	-	-	1,050.00	-
Staff Support	13,700.00	2,564.48	3,544.56	3,486.96	140.00	10,073.04	26.47
City Assistance	500.00	40.00	80.00	40.00	50.00	410.00	18.00
Professional Services	58,729.00	2,700.00	1,500.00	2,758.50	600.00	55,370.50	5.72
Fund Charges/Transfers	532,167.00	145,918.77	240,848.58	285,938.53	-	246,228.47	53.73
Maintenance Services	83,000.00	6,225.00	22,180.00	8,061.51	2,105.00	72,833.49	12.25
Other Costs	200.00	-	100.00	-	-	200.00	-
Debt Service	122,100.00	1,050.00	2,085.17	1,050.00	-	121,050.00	0.86
Rental/Leasing	500.00	-	-	-	-	500.00	-
Operating Equipment	2,500.00	-	863.97	-	-	2,500.00	-
Capital Outlay	224,120.00	213,572.58	-	213,572.58	-	10,547.42	95.29
TOTAL DRAINAGE	1,497,913.00	463,748.65	438,002.30	731,071.56	3,646.83	763,194.61	49.05%

CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

204-DRAINAGE	CURRENT	CURRENT			Y-T-D	BUDGET	% OF
FINANCIAL SUMMARY	BUDGET	QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	ENCUMBRANCE	BALANCE	BUDGET
PROJECTS							
Maintenance Services	0.00	188,725.21	1,384.10	176,956.96	122,709.65	(299,666.61)	-
TOTAL PROJECTS	0.00	188,725.21	1,384.10	176,956.96	132,106.95	(309,063.91)	0.00%
TOTAL EXPENDITURES	1,497,913.00	652,473.86	439,386.40	908,028.52	135,753.78	454,130.70	69.68%
** REVENUE OVER(UNDER) EXPEND	(35,120.00)	(343,303.60)	179,262.87	(327,809.05)	(135,753.78)	428,442.83	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
204-DRAINAGE								
<u>REVENUES</u>								
<u>Permits</u>								
000-432400	Floodplain Permit	4,000.00	1,570.00	1,780.00	2,370.00	-	1,630.00	59.25
TOTAL Permits		4,000.00	1,570.00	1,780.00	2,370.00	-	1,630.00	59.25%
<u>Fees</u>								
000-457500	Drainage Penalties	10,000.00	-	4,250.09	-	-	10,000.00	0.00
000-457600	Drainage Fee	1,220,000.00	307,375.09	601,976.06	577,263.19	-	642,736.81	47.32
TOTAL Fees		1,230,000.00	307,375.09	606,226.15	577,263.19	-	652,736.81	46.93%
<u>Fund Transfers</u>								
000-481000	Transfer In - Reserves	178,564.00	-	-	-	-	178,564.00	0.00
000-486100	Transfer In	17,229.00	-	-	-	-	17,229.00	0.00
TOTAL Funds Transfers		195,793.00	-	-	-	-	195,793.00	0.00%
<u>Miscellaneous</u>								
000-491000	Interest Earned	3,000.00	10.96	336.01	30.73	-	2,969.27	1.02
000-491200	Investment Income	30,000.00	214.21	6,805.69	555.55	-	29,444.45	1.85
TOTAL Miscellaneous		33,000.00	225.17	10,643.12	586.28	-	32,413.72	1.78%
TOTAL REVENUES		1,462,793.00	309,170.26	618,649.27	580,219.47	-	882,573.53	39.67%

DRAINAGE
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$ 114,486.48
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Cash in Investments

Lone Star Investment-Drainage Maint Fund	<u>386,040.01</u>
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Total Cash in Bank & Investments	<u>\$ 500,526.49</u>
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CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

314-HOTEL TAX	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
FINANCIAL SUMMARY							
REVENUE SUMMARY							
Taxes	520,000.00	70,938.96	208,761.91	136,183.00	-	383,817.00	26.19
Miscellaneous	20,750.00	584.21	20,265.17	1,404.58	-	19,345.42	6.77
TOTAL REVENUES	540,750.00	71,523.17	229,027.08	137,587.58	-	403,162.42	25.44%
EXPENDITURE SUMMARY							
NONDEPARTMENTAL							
City Support Services	112,466.00	12,094.75	57,300.09	36,677.77	-	75,788.23	32.61
Operations Support	46,000.00	5,038.28	8,553.00	9,224.28	-	36,775.72	20.05
Professional Services	3,000.00	3,000.00	3,499.50	3,000.00	-	-	100.00
Fund Charges/Transfers	72,464.00	17,625.03	37,214.02	36,232.06	-	36,231.94	50.00
Maintenance Services	20,000.00	56,284.05	-	111,907.65	30,396.85	(122,304.50)	711.52
TOTAL NONDEPARTMENTAL	253,930.00	94,042.11	106,566.61	197,041.76	30,396.85	26,491.39	89.57%
TOTAL EXPENDITURES	253,930.00	94,042.11	106,566.61	197,041.76	30,396.85	26,491.39	89.57%
REVENUE OVER(UNDER) EXPENDITURE	286,820.00	(22,518.94)	122,460.47	(59,454.18)	(30,396.85)	376,671.03	

HOTEL OCCUPANCY TAX FUND
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

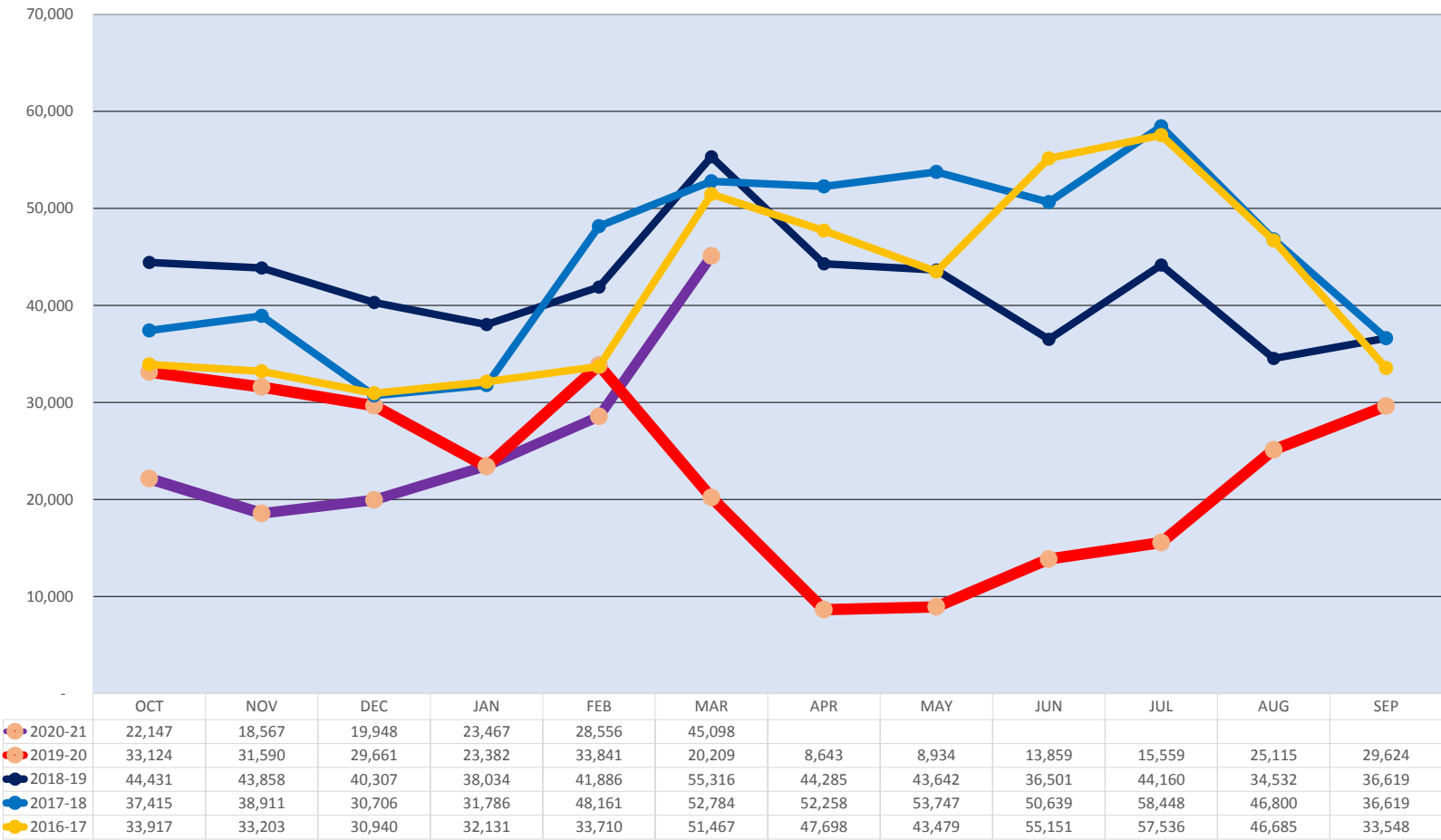
Claim on Operating Cash Pool-Checking	\$ 41,155.39
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Cash in Investments

Texas Class - Hotel Tax	<u>1,984,328.92</u>
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Total Cash in Bank & Investments	<u>\$ 2,025,484.31</u>
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HOTEL OCCUPANCY TAX



CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

317-PARK	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR	Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
FINANCIAL SUMMARY								
REVENUE SUMMARY								
Fees	70,000.00	-	-	-	-	-	70,000.00	-
Fund Transfers	51,500.00	-	-	-	-	-	51,500.00	-
Miscellaneous	3,500.00	84.24	2,581.24	198.91	-	-	3,301.09	5.68
TOTAL REVENUES	125,000.00	84.24	2,581.24	198.91	-	-	124,801.09	0.16%
EXPENDITURE SUMMARY								
NON DEPARTMENTAL								
PARKLAND DEDICATION								
Professional Services	25,000.00	-	-	-	810.70	24,189.30	3.24	
Capital Outlay	100,000.00	-	-	-	-	100,000.00	-	
TOTAL PARKLAND DEDICATION	125,000.00	-	-	-	810.70	124,189.30	0.65%	
TOTAL EXPENDITURES	125,000.00	-	-	-	810.70	124,189.30	0.65%	
REVENUE OVER(UNDER) EXPEND	0.00	84.24	2,581.24	198.91	(810.70)	611.79		

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

317-PARK REVENUES		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>Fees</u>								
000-458800	Parkland Dedication	70,000.00	-	-	-	-	70,000.00	-
TOTAL Fees		70,000.00	-	-	-	-	70,000.00	0.00%
<u>Fund Transfers</u>								
000-48100	Transfer In- Reserves	51,500.00	-	-	-	-	51,500.00	0.00
TOTAL Fund Transfers		51,500.00	-	-	-	-	51,500.00	0.00%
<u>Miscellaneous</u>								
000-491000	Interest Earned	500.00	2.92	339.30	6.08	-	493.92	1.22
000-491200	Investment Income	3,000.00	81.32	2,240.94	192.83	-	2,807.17	6.43
000-493700	Donations	0.00	-	1.00	-	-	-	0
TOTAL Miscellaneous		3,500.00	84.24	2,581.24	198.91	-	3,301.09	5.68%
TOTAL REVENUES		125,000.00	84.24	2,581.24	198.91	-	124,801.09	0.16%

PARK FUND
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank	Current
Claim on Operating Cash Pool-Checking	6,366.72
Cash in Investments	
Texas Class- Park Fund	286,067.64
Total in Investment Pool	<u>286,067.64</u>
Total Cash in Bank & Investments	<u>292,434.36</u>

CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

319-TREE MITIGATION	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
<u>FINANCIAL SUMMARY</u>							
<u>REVENUE SUMMARY</u>							
Fees	70,000.00	-	56,264.70	218,960.00	-	(148,960.00)	312.80
Miscellaneous	4,500.00	195.48	4,785.33	433.02	-	4,066.98	9.62
TOTAL REVENUES	74,500.00	195.48	61,050.03	219,393.02	-	(144,893.02)	294.49%
<u>EXPENDITURE SUMMARY</u>							
<u>TREE MITIGATION</u>							
Maintenance Services	70,000.00	2,700.00	7,900.00	5,625.00	-	64,375.00	8.04
TOTAL TREE MITIGATION	70,000.00	2,700.00	7,900.00	5,625.00	-	64,375.00	8.04%
TOTAL EXPENDITURES	70,000.00	2,700.00	7,900.00	5,625.00	-	64,375.00	8.04%
REVENUE OVER(UNDER) EXPEND	4,500.00	(2,504.52)	53,150.03	213,768.02	-	(209,268.02)	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

319-TREE MITIGATION		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
REVENUES								
<u>Fees</u>								
000-458900	Tree Mitigation	70,000.00	-	56,264.70	218,960.00	-	(148,960.00)	312.80
TOTAL Fees		70,000.00	-	56,264.70	218,960.00	-	(148,960.00)	312.80%
<u>Fund Transfers</u>								
<u>Miscellaneous</u>								
000-491000	Interest Earned	500.00	6.73	410.11	13.92	-	486.08	2.78
000-491200	Investment Income	4,000.00	188.75	3,875.22	419.10	-	3,580.90	10.48
TOTAL Miscellaneous		4,500.00	195.48	4,785.33	433.02	-	4,066.98	9.62%
TOTAL REVENUES		74,500.00	195.48	61,050.03	219,393.02	-	(144,893.02)	294.49%

TREE MITIGATION FUND
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$13,853.49
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Cash in Investments

MBIA Investment-Tree Mitigation	<u>663,142.15</u>
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Total Cash in Bank & Investments	<u>\$676,995.64</u>
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CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

411-CAPITAL RECOVERY WATER	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
FINANCIAL SUMMARY							
REVENUE SUMMARY							
Fees	1,100,000.00	413,694.00	564,707.29	737,901.00	-	362,099.00	67.08
Miscellaneous	72,000.00	2,712.27	60,718.90	6,217.17	-	65,782.83	8.63
TOTAL REVENUES	1,172,000.00	416,406.27	625,426.19	744,118.17	-	427,881.83	63.49%
EXPENDITURE SUMMARY							
GENERAL GOVERNMENT							
NONDEPARTMENTAL							
Professional Services	206,000.00	35,414.11	1,000.00	35,414.11	92,802.17	77,783.72	62.24
TOTAL NON DEPARTMENTAL	206,000.00	35,414.11	1,000.00	35,414.11	92,802.17	77,783.72	62.24%
MISC & PROJECTS							
PROJECTS							
TOTAL EXPENDITURES	206,000.00	35,414.11	1,000.00	35,414.11	92,802.17	77,783.72	62.24%
REVENUE OVER(UNDER) EXPENDITURES	966,000.00	380,992.16	624,426.19	708,704.06	(92,802.17)	350,098.11	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

411-CAPITAL RECOVERY WATER		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
REVENUES								
<u>Fees</u>								
000-455900	Cap Rcvry-Water	1,100,000.00	413,694.00	564,707.29	737,901.00	-	362,099.00	67.08
TOTAL Fees		1,100,000.00	413,694.00	564,707.29	737,901.00	-	362,099.00	67.08%
<u>Fund Transfers</u>								
<u>Miscellaneous</u>			-					
000-491000	Interest Earned	2,000.00	76.30	2,610.33	140.80	-	1,859.20	7.04
000-491200	Investment Income	70,000.00	2,635.97	58,108.57	6,076.37	-	63,923.63	8.68
TOTAL Miscellaneous		72,000.00	2,712.27	60,718.90	6,217.17	-	65,782.83	8.63%
TOTAL REVENUES		1,172,000.00	416,406.27	625,426.19	744,118.17	-	427,881.83	63.49%

**CAPITAL RECOVERY WATER
CASH IN BANK AND INVESTMENTS**

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$	244,335.81
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Cash in Investments

Lone Star Investment-Capital Recovery Water		<u>8,190,133.11</u>
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Total Cash in Bank & Investments	\$	<u>8,434,468.92</u>
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CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

421-CAPITAL RECOVERY SEWER	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
FINANCIAL SUMMARY							
REVENUE SUMMARY							
Fees	600,000.00	209,787.28	279,760.20	384,009.88	-	215,990.12	64.00
Miscellaneous	72,000.00	2,505.25	72,371.81	5,616.03	-	66,383.97	7.80
TOTAL REVENUES	672,000.00	212,292.53	352,132.01	389,625.91	-	282,374.09	57.98%
EXPENDITURE SUMMARY							
GENERAL GOVERNMENT							
NONDEPARTMENTAL							
Professional Services	208,000.00	40,493.76	3,257.72	41,632.14	118,123.02	48,244.84	76.81
TOTAL NON DEPARTMENTAL	208,000.00	40,493.76	3,257.72	41,632.14	118,123.02	48,244.84	76.81%
MISC & PROJECTS							
TOTAL EXPENDITURES	208,000.00	40,493.76	3,257.72	41,632.14	118,123.02	48,244.84	76.81%
REVENUE OVER(UNDER) EXPENDITURES	464,000.00	171,798.77	348,874.29	347,993.77	(118,123.02)	234,129.25	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

421-CAPITAL RECOVERY SEWER		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
REVENUES								
<u>Fees</u>								
000-455910	Cap Rcvry-Waste Water	600,000	209,787.28	279,760.20	384,009.88	-	215,990.12	64.00
TOTAL Fees		600,000.00	209,787.28	279,760.20	384,009.88	-	215,990.12	64.00%
<u>Fund Transfers</u>								
<u>Miscellaneous</u>								
000-491000	Interest Earned	2,000.00	53.95	1,536.40	104.03	-	1,895.97	5.20
000-491200	Investment Income	70,000.00	8,842.71	62,526.15	18,272.62	-	51,727.38	26.10
000-491900	Unrealize Gain/Loss-Caplt One	0.00	(6,391.41)	8,309.26	(12,760.62)	-	12,760.62	-
TOTAL Miscellaneous		72,000.00	2,505.25	72,371.81	5,616.03	-	66,383.97	7.80%
TOTAL REVENUES		672,000.00	212,292.53	352,132.01	389,625.91	-	282,374.09	57.98%

**CAPITAL RECOVERY SEWER
CASH IN BANK AND INVESTMENTS**

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$ 99,190.57
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Cash in Investments

Lone Star Investment-Capital Recovery Sewer	5,764,119.97
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Capital One-Investment	<u>1,830,517.29</u>
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Total Cash in Bank & Investments	<u>\$ 7,693,827.83</u>
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CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
505-TAX I&S							
FINANCIAL SUMMARY							
REVENUE SUMMARY							
Taxes	6,980,821.00	3,024,374.77	6,501,078.86	6,807,797.49	-	173,023.51	97.52
Fund Transfers	0.00	7,914.84	-	7,914.84	-	(7,914.84)	-
Miscellaneous	115,000.00	25,618.89	40,567.39	51,012.57	-	63,987.43	44.36
TOTAL REVENUES	7,095,821.00	3,057,908.50	6,541,646.25	6,866,724.90	-	229,096.10	96.77%
EXPENDITURE SUMMARY							
GENERAL GOVERNMENT							
NONDEPARTMENTAL							
Professional Services	50,000.00	1,600.00	2,000.00	176,599.52	-	(126,599.52)	353.20
Debt Service	7,044,861.00	5,648,062.89	5,807,380.75	5,648,062.89	-	1,396,798.11	80.17
TOTAL GENERAL GOVERNMENT	7,094,861.00	5,649,662.89	5,809,380.75	5,824,662.41	-	1,270,198.59	82.10%
TOTAL EXPENDITURES	7,094,861.00	5,649,662.89	5,809,380.75	5,824,662.41	-	1,270,198.59	82.10%
** REVENUE OVER(UNDER) EXPEND	960.00	(2,591,754.39)	732,265.50	1,042,062.49	-	(1,041,102.49)	

CITY OF SCHERTZ

REVENUE REPORT (UNAUDITED)

AS OF: March 31, 2021

505-TAX I & S		CURRENT	CURRENT	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D	BUDGET	% OF BUDGET
REVENUES		BUDGET	QUARTER			ENCUMBRANCE	BALANCE	
<u>Taxes</u>								
000-411900	Property Tax Revenue	6,980,821.00	3,024,374.77	6,501,078.86	6,807,797.49	-	173,023.51	97.52
TOTAL Taxes		6,980,821.00	3,024,374.77	6,501,078.86	6,807,797.49	-	173,023.51	97.52%
<u>Fund Transfers</u>								
<u>Miscellaneous</u>								
000-491200	Investment Income	15,000.00	458.89	13,933.31	801.60	-	14,198.40	5.34
000-495020	Contribution From YMCA	100,000.00	25,000.00	25,000.00	50,000.00	-	50,000.00	50.00
TOTAL Miscellaneous		115,000.00	25,458.89	38,933.31	50,801.60	-	64,198.40	44.18%
TOTAL REVENUES		7,095,821.00	3,049,833.66	6,540,012.17	6,858,599.09	-	237,221.91	96.66%

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

505-TAX I & S

		CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
GENERAL GOVERNMENT								
NON DEPARTMENTAL								
<u>Professional Services</u>								
101-541500	Paying Agent	5,000.00	1,600.00	2,000.00	1,800.00	-	3,200.00	36.00
101-541502	Cost of Bond Issuance	45,000.00	-	-	174,799.52	-	(129,799.52)	388.44
TOTAL Professional Services		50,000.00	1,600.00	2,000.00	176,599.52	-	(126,599.52)	353.20%
<u>Debt Service</u>								
101-555628	Bond-CO 2007-Principal	325,000.00	-	-	-	-	325,000.00	-
101-555628.1	Bond-CO 2007-Interest	98,800.00	-	-	-	-	98,800.00	-
101-555629	Bond-GO 2007 Principal	0.00	325,000.00	315,000.00	325,000.00	-	(325,000.00)	-
101-555629.1	Bond-GO 2007 Interest	0.00	52,706.50	59,116.75	52,706.50	-	(52,706.50)	-
101-555633	Bond-GO SR2011 Principal	270,000.00	270,000.00	260,000.00	270,000.00	-	-	100
101-555633.1	Bond-GO SR2011 Interest	296,938.00	6,750.00	157,043.75	6,750.00	-	290,188.00	2.27
101-555634	Bond-GO 2011A Refund-Principal	485,000.00	485,000.00	475,000.00	485,000.00	-	-	100
101-555634.1	Bond-GO 2011A Refund-Interest	52,367.00	29,008.50	34,542.25	29,008.50	-	23,358.50	55.39
101-555635	Bond-GO 2012 - Principal	365,000.00	365,000.00	355,000.00	365,000.00	-	-	100
101-555635.1	Bond-GO 2012 - Interest	138,370.00	71,922.50	77,247.50	71,922.50	-	66,447.50	51.98
101-555638	Bond-GO 2014 Refund-Principal	100,000.00	100,000.00	100,000.00	100,000.00	-	-	100
101-555638.1	Bond-GO 2014 Refund-Interest	280,775.00	141,137.50	142,637.50	141,137.50	-	139,637.50	50.27
101-555639	Tax Note - SR2015 - Principal	40,000.00	-	-	-	-	40,000.00	-
101-555639.1	Tax Note - SR2015 - Interest	700.00	350.00	651.62	350.00	-	350.00	50
101-555640	Bond-Ref 2015 Bond-Principal	690,000.00	690,000.00	675,000.00	690,000.00	-	-	100
101-555640.1	Bond-GO Ref 2015-Interest	47,400.00	28,875.00	37,312.50	28,875.00	-	18,525.00	60.92
101-555641	Tax Note - SR2015A-Principal	150,000.00	-	-	-	-	150,000.00	0
101-555641.1	Tax Note - SR2015A - Interest	4,697.00	2,348.50	3,503.50	2,348.50	-	2,348.50	50
101-555642	Bond-GO SR2016-Principal	235,000.00	235,000.00	225,000.00	235,000.00	-	-	100
101-555642.1	Bond-GO SR2016-Interest	141,207.00	72,953.13	77,453.13	72,953.13	-	68,253.87	51.66
101-555643	Bond-TaxableB CO SR2016-Princi	60,000.00	60,000.00	60,000.00	60,000.00	-	-	100
101-555643.1	Bond-Taxable CO SR2016-Interes	42,063.00	21,481.25	22,381.25	21,481.25	-	20,581.75	51.07
101-555644	Bond-NonTaxA CO SR2016-Princip	190,000.00	190,000.00	180,000.00	190,000.00	-	-	100
101-555644.1	Bond-NonTax CO SR2016-Interest	48,169.00	25,984.38	29,584.38	25,984.38	-	22,184.62	53.94
101-555645	Bond-CO SR2017-Principal	405,000.00	295,000.00	290,000.00	295,000.00	-	110,000.00	72.84
101-555645.1	Bond-CO SR2017 - Interest	126,800.00	63,062.50	67,412.50	63,062.50	-	63,737.50	49.73
101-555646	Bond-GO SR2017 - Principal	160,000.00	160,000.00	155,000.00	160,000.00	-	-	100
101-555646.1	Bond-GO SR2017 - Interest	104,925.00	53,662.50	55,987.50	53,662.50	-	51,262.50	51.14
101-555647	Bond-GO 2018 Refund- Principal	570,000.00	570,000.00	560,000.00	570,000.00	-	-	100
101-555647.1	Bond-GO 2018 Refund - Interest	98,368.00	52,205.00	58,141.00	52,205.00	-	46,163.00	53.07
101-555648	Bond-CO SR2018 - Principal	235,000.00	235,000.00	220,000.00	235,000.00	-	-	100
101-555648.1	Bond-CO 2018 - Interest	175,888.00	90,881.25	96,381.25	90,881.25	-	85,006.75	51.67
101-555649	Bond-GO 2018 Ref - Principal	530,000.00	530,000.00	580,000.00	530,000.00	-	-	100
101-555649.1	Bond-GO 2018 Ref - Interest	199,694.00	106,471.88	120,971.87	106,471.88	-	93,222.12	53.32
101-555650	Bond-CO 2019-Principal	255,000.00	255,000.00	250,000.00	255,000.00	-	-	100

CITY OF SCHERTZ
REVENUE AND EXPENSE REPORT (UNAUDITED)
AS OF: March 31, 2021

505-TAX I & S

GENERAL GOVERNMENT NON DEPARTMENTAL	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
101-555650.1 Bond-CO 2019-Interest	122,700.00	63,262.50	67,012.50	63,262.50	-	59,437.50	51.56
TOTAL Debt Service	7,044,861.00	5,648,062.89	5,807,380.75	5,648,062.89	-	1,396,798.11	80.17%
<u>Other Financing Sources</u>							
TOTAL EXPENDITURES	7,094,861.00	5,649,662.89	5,809,380.75	5,824,662.41	-	1,270,198.59	82.10%

TAX I&S
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$	59,759.72
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MBIA Investment- Tax I&S		<u>1,768,221.16</u>
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Total Cash in Bank & Investments	\$	<u>1,827,980.88</u>
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CITY OF SCHERTZ
 REVENUE AND EXPENSE REPORT (UNAUDITED)
 AS OF: March 31, 2021

	CURRENT BUDGET	CURRENT QUARTER	PRIOR YEAR Y-T-D	Y-T-D ACTUAL	Y-T-D ENCUMBRANCE	BUDGET BALANCE	% OF BUDGET
620-SED CORPORATION							
<u>FINANCIAL SUMMARY</u>							
<u>REVENUE SUMMARY</u>							
Taxes	4,507,371.00	1,158,553.94	2,387,218.57	2,458,140.71	-	2,049,230.29	54.54
Fund Transfers	3,496,428.00	-	-	-	-	3,496,428.00	-
Miscellaneous	141,000.00	27,232.39	216,564.24	40,819.99	-	100,180.01	28.95
TOTAL REVENUES	8,144,799.00	1,185,786.33	2,603,782.81	2,498,960.70	-	5,645,838.30	30.68%
<u>EXPENDITURE SUMMARY</u>							
<u>NONDEPARTMENTAL</u>							
City Assistance	3,119,275.00	-	746,991.90	200,000.00	-	2,919,275.00	6.41
Fund Charges/Transfers	4,050,000.00	-	-	-	-	4,050,000.00	-
TOTAL NONDEPARTMENTAL	7,169,275.00	-	746,991.90	200,000.00	-	6,969,275.00	2.79%
<u>MISC & PROJECTS</u>							
<u>PROJECTS</u>							
<u>ECONOMIC DEVELOPMENT</u>							
Supplies	500.00	86.25	281.57	183.16	42.23	274.61	45.08
City Support Services	21,150.00	-	4,537.56	1,810.07	-	19,339.93	8.56
Utility Services	3,695.00	346.49	764.49	506.07	-	3,188.93	13.70
Operations Support	148,610.00	10,183.39	18,367.31	17,463.82	40.00	131,106.18	11.78
Staff Support	28,100.00	697.49	2,691.18	1,592.69	124.89	26,382.42	6.11
City Assistance	202,500.00	-	264.33	-	-	202,500.00	-
Professional Services	61,300.00	1,920.50	6,386.46	7,544.00	-	53,756.00	12.31
Fund Charges/Transfers	504,669.00	-	230,818.00	230,818.00	-	273,851.00	45.74
Operating Equipment	5,000.00	2,000.00	651.90	2,000.00	-	3,000.00	40.00
TOTAL ECONO DEVELOPMENT	975,524.00	15,234.12	264,762.80	261,917.81	207.12	713,399.07	26.87%
<u>FM3009 ROAD&BRIDGE EXPANSION</u>							
TOTAL EXPENDITURES	8,144,799.00	15,234.12	1,011,754.70	461,917.81	207.12	7,682,674.07	5.67%
** REVENUE OVER(UNDER) EXPEND	0.00	1,170,552.21	1,592,028.11	2,037,042.89	(207.12)	(2,036,835.77)	

SED CORPORATION
CASH IN BANK AND INVESTMENTS

AS OF: March 31, 2021

Cash in Bank

Claim on Operating Cash Pool-Checking	\$ 330,875.22
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Cash in Investments

Texas Class Investment-Economic Development Corp	19,754,411.91
Schertz Bank & Trust-Certificate of Deposit	1,080,548.16
Schertz Bank & Trust-Certificate of Deposit	<u>1,116,943.91</u>

Total Cash in Bank & Investments	<u>\$ 22,282,779.20</u>
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