



MEETING AGENDA
City Council
REGULAR SESSION CITY COUNCIL
March 8, 2022

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, MARCH 8, 2022 at 6:00 p.m.

City Council will hold its regularly scheduled meeting at 6:00 p.m., Tuesday, March 8, 2022, 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 Whittaker)

Presentations

- Proclamation recognizing Schertz Knights of Columbus Day.

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

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 meeting of regular meeting of March 1, 2022. (B. Dennis)
2. **Resolution No. 22-R-28** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into a job order contract with Sullivan Contracting Services to complete the Civic Center HVAC Replacement Project. (C. Kelm/S. Williams/S. McClelland)
3. **Ordinance No. 22-T-09** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to provide funding for the Civic Center HVAC Replacement Project, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. **(Final Reading)** (C. Kelm/S. Williams/S. McClelland)
4. **Ordinance No. 22-T-10** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget, of \$570,000, to provide funding for the purchase of property currently owned by Guadalupe Basin River Authority (GBRA), repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. **(Final Reading)** (C. Kelm/S. Williams)
5. **Resolution No. 22-R-33** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into a contract to purchase 3.4096 acres of property currently owned by Guadalupe Blanco River Authority (GBRA) at 22330 IH-35 North, Schertz, Texas. (C. Kelm/S. Williams)
6. **Resolution No. 22-R-32** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the extension of the Independent Audit Services Contract for two years with Patillo, Browne, and Hill. (M. Browne/J. Walters/B. Martin)
7. **Resignations to Boards/Commissions/Committees** - Consideration and/or action regarding resignations to various Boards/Commissions/Committees. (Council/B. Dennis)
 - Resignation of Mr. Mateo Garcia - Transportation Safety Advisory Commission

8. **Resolution No. 22-R-26** – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing a contract with Fuquay, Inc. relating to the Crest Oak Wastewater Upsize and authorizing the budget expenditures for the project. (B. James/K. Woodlee/J. Shortess)

Discussion and Action Items

9. **Resolution No. 22-R-31** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas accepting the Comprehensive Annual Financial Report - CAFR Fiscal Year 2020-21. (M. Browne/J. Walters)
10. **Ordinance No. 22-G-14** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas amending Chapter 66, Police - Articles I and II of the Code of Ordinances of the City of Schertz, Texas to provide for the establishment of the City of Schertz Police Department; establishing the position of Chief of Police and providing for the employment of Police Officers; prescribing the qualifications, duties and responsibilities of the Chief of Police and Police Officers establishing the jurisdictional boundaries of the department; providing a savings clause, and providing an effective date. ***First Reading*** (C. Kelm/M. Bane)

Roll Call Vote Confirmation

Information available in City Council Packets - NO DISCUSSION TO OCCUR

11. **Monthly Update** - on Major Projects in progress/CIP. (B. James/K. Woodlee)

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, SHEILA EDMONDSON, DEPUTY 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 4TH DAY OF MARCH 2022 AT 3:15P.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.

SHEILA EDMONDSON

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 _____, 2022. 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 Animal Advisory Commission - Alternate 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 – Place 2 (VACANT)
Councilmember Whittaker – Place 3 Audit Committee Interview Committee for Boards and Commissions 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 Animal Advisory Commission 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: March 8, 2022
Department: City Secretary
Subject: Minutes – Consideration and/or action regarding the approval of the minutes of the meeting of regular meeting of March 1, 2022. (B. Dennis)

BACKGROUND

The City Council held a Regular City Council meeting on March 1, 2022.

RECOMMENDATION

Recommend Approval.

Attachments

03-01-2022 Minutes

MINUTES
REGULAR MEETING
March 1, 2022

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on March 1, 2022, 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 David Scagliola; Councilmember Mark Davis; City Council Place 2 - Vacant; Councilmember Jill Whittaker; Councilmember Michael Dahle; Councilmember Allison Heyward

Absent: Councilmember Tim Brown

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

Call to Order

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

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

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

Presentations

- Proclamation recognizing National Procurement Month (Mayor/J. Golke)

Mayor Gutierrez recognized Purchasing & Asset Manager Julie Golke and presented a proclamation recognizing the month of March 2022 as National Procurement Month in the City of Schertz.

- Proclamation recognizing National Employee Appreciation Day (Mayor/All Employees)

Mayor Gutierrez recognized City Manager Dr. Mark Browne and presented a proclamation recognizing March 4th, 2022 as National Employee Appreciation Day in the City of Schertz.

- Presentation-Guadalupe Regional Medical Center - Prescription Assistance Report.
(Mayor/Council/Isaac Ishak)

Mayor Gutierrez recognized Dr. Issac Ishak with Guadalupe Regional Medical Center who presented the Prescription Assistance Report.

Employee Recognition

Various Department Heads introduced the following new employees from their departments.

- Facilities: Jeremiah Yandell - Plumber
- Parks: Ian King - Parks Maintenance Technician
- Police Department: Beatrice Montoya - Police Communication Officers

- Utility Billing: Caitlyn Calhoun, Nicole Gray, Lynda Young - Utility Billing Clerks

City Events and Announcements

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

Mayor Gutierrez recognized Assistant City Manager Brian James who provided the following information.

Saturday, March 5th

Kick Cancer Pep Rally & 5K Run

Check-in at 8:00 AM

Start at 9:00 AM -12:00 PM

Pickrell Park

200 Aero Avenue

Register on CivicRec or in person at the Parks & Recreation Office

BVYA Parade/Opening Ceremonies

Parade begins at 9:00 AM

Opening Ceremonies at 10:00 AM

Johnie McDow Sports Complex

Community Circle Drive

Tuesday, March 8th

Next regular scheduled Council meeting, 6:00 PM, Council Chambers

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

Mayor Gutierrez recognized City Manager Dr. Mark Browne who wanted to congratulate the January/February Employee Promotions: Jeremy Ryel from Serviceman II to Water/Wastewater Supervisor; Tyler Warneke from Drainage Worker II to EMT; and Korrin Bond from Utility Billing Clerk I to Administrative Assistant to the I.T. Department. Dr. Browne stated that on March 3rd-4th, 2022 will be a two-day Staff Retreat that includes Department Heads and the City Manager's office.

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

Mayor Gutierrez stated the City of Schertz was a sponsor in the Operation Comfort 5k Run and was presented with a thank-you statue. Mayor Gutierrez also mentioned that were several staff that participated in this event. Mayor Gutierrez also wanted to thank Ms. Diane Cisneros, Director of Operation Comfort and appreciates her efforts in making this event happen.

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.

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.

Mayor Pro-Tem recognized the following residents:

- Richard Dziewit-2550 Chasefield Drive: Mr. Dziewit thanked City Council, City Secretary Brenda Dennis and Deputy City Secretary Sheila Edmondson for the great Boards, Commissions and Committees Thank-you Banquet. Mr. Dziewit also wanted to thank all the employees who create and make everything the way it should be in the city. He stated that because of the great City Council and

City Employees, this is the best city in Texas.

- Mayor Pro-Tem David Scagliola mentioned that the Chamber President Maggie Titterington was not here tonight because she is at "The Taste" kick-off.

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.

Mayor Gutierrez read Consent Agenda Items 1-5 into record.

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the Special Council meeting of February 15, 2022, and the minutes of the Regular Council meeting of February 22, 2022. (B. Dennis)
2. **Ordinance No. 22-T-05** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas authorizing an adjustment to the Fiscal Year 2021-2022 Budget to construct a splashpad at Wendy Swan Memorial Park, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. **Final Reading** (B. James/L. Shrum)
3. **Resolution No. 22-R-01** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the permanent closure of Wendy Swan Memorial Park Pool, and its conversion to a splashpad feature, and awarding the contract for construction to T.F. Harper & Associates, L.P. in an amount not to exceed \$297,350.09. (B. James/L. Shrum)
4. **Resolution 22-R-25**- Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing an Inter-Local Governmental Agreement between the County Of Guadalupe, Texas and City of Schertz, Texas for the reconstruction of Eckhardt Road/Green Valley Road, and other matters in connection herewith. (C. Kelm/S. Williams/D. Letbetter)
5. **Resignations and Appointments to Boards/Commissions/Committees** - Consideration and/or action regarding resignations and appointments to various Boards/Commissions/Committees. (Council/B. Dennis)
 - Resignation of Mr. Jesse Gonzales - Planning & Zoning Commission
 - Appointment of Mr. Roderick Hector to the Regular Position on Planning & Zoning Commission, previously held by Commissioner Earl Platt

Mayor Gutierrez asked Council if there were any items the wished removed for separate action. Councilmember Mark Davis stated he did not wish to pull anything off, but had a question on Item 3. He asked the Mayor to repeat the "not to exceed" amount because it appears to be different from what is listed on the agenda. Mayor Gutierrez re-read Item 3 with the correct amount of \$297,350.09.

Mayor Gutierrez asked for a motion to approve Consent Agenda Items 1-5.

Moved by Mayor Pro-Tem David Scagliola, seconded by Councilmember Allison Heyward

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

Passed

Discussion and Action Items

6. **Resolution No. 22-R-27** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the allocation of the American Rescue Plan Act of 2021 (ARPA) funds for the Schertz Small Business Grant Program. (M. Browne)

Mayor Gutierrez read the following into record:

RESOLUTION NO. 22-R-27

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS
AUTHORIZING THE ALLOCATION OF THE AMERICAN RESCUE PLAN ACT OF 2021
(ARPA) FUNDS FOR THE SCHERTZ SMALL BUSINESS GRANT PROGRAM.

Mayor Gutierrez recognized City Manager Dr. Mark Browne who updated City Council on the ARPA Funds for the Schertz Small Business Grant Program. When considering the allocation of ARPA funds, the City of Schertz approved up to \$1M in grants to Schertz businesses as part of its total allocation. The City also formed a 5-person committee consisting of two Council Members, the Mayor, The Chamber President, and the Economic Development Director. The committee was tasked with reviewing applications and to determine the grant amounts awarded based on submitted documentation. A total of 56 applications were received and considered by the committee. The committee is asking City Council to finalize the rest of the list and consider the 15 applications for approval and award of \$129,000.

Mayor Gutierrez asked for a motion to approve Resolution No. 22-R-27

Moved by Councilmember Mark Davis, seconded by Councilmember Allison Heyward

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

Passed

7. **Ordinance No. 22-T-09** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to provide funding for the Civic Center HVAC Replacement Project, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. *(First Reading)* (C. Kelm/S. Williams/S. McClelland)

Mayor Gutierrez read the following into record:

ORDINANCE NO. 22-T-09

A ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS
AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021-2022 BUDGET TO PROVIDE
FUNDING FOR THE CIVIC CENTER HVAC REPLACEMENT PROJECT, REPEALING ALL
ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS
ORDINANCE; AND PROVIDING AN EFFECTIVE DATE. *(FIRST READING)*

Mayor Gutierrez recognized Public Works Asst. Director Scott McClelland who provided an update on the Civic Center HVAC Replacement Project. The City Council needs to authorize a budget amount of \$900,000 for the purpose of construction and installation relating to the Civic Center HVAC Replacement Project. City Staff recommends that the City Council approve Ordinance No. 22-T-09 to fund the completion of the Civic Center HVAC Replacement Project.

Mayor Gutierrez asked for a motion to approve Ordinance No. 22-T-09 on the first reading.

Moved by Councilmember Mark Davis, seconded by Councilmember Jill Whittaker

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

Passed

8. **Ordinance No. 22-T-10** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget, of \$570,000, to provide funding for the purchase of property currently owned by Guadalupe Basin River Authority (GBRA), repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. *(First Reading)* (C. Kelm/S. Williams)

Mayor Gutierrez read the following into record:

ORDINANCE NO. 22-T-10

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS
AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021-2022 BUDGET TO
PURCHASE PROPERTY FROM THE GUADALUPE-BLANCO RIVER
AUTHORITY, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN
CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE *(FIRST
READING)*

Mayor Gutierrez recognized Public Works Director Suzanne Williams who provided a brief presentation. GBRA currently owns 3.4096 acres located at 22330 IH-35 North that was formerly used by GBRA to own and operate a wastewater treatment plant. The property is in a prime location on I-35 and the City has an existing lift station at the back of the property. It is apparent this lift station will need to be expanded to accommodate growth and serve undeveloped land in Northern Schertz. The City of Schertz will make an offer of \$570,000, and the cost it will be divided evenly between the Water/Sewer Fund and General Fund.

Councilmember Allison Heyward asked that the address be included in the final draft of the ordinance document. Mayor Pro-Tem David Scagliola wanted to thank GBRA for providing us the first opportunity to purchase this property. Mayor Gutierrez also wanted to thank GBRA for working with the city on this purchase.

Mayor Gutierrez asked for a motion to approve Ordinance No. 22-T-10 on the first reading.

Moved by Mayor Pro-Tem David Scagliola, seconded by Councilmember Allison Heyward

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

Passed

Workshop

9. City Council Liaison Appointments - Discussion and possible action regarding various City Council Liaison Appointments. (Mayor/Council/B. Dennis)

Mayor Gutierrez stated that with the recent resignation of Councilmember Rosemary Scott, there were 2 vacancies on the City Council Liaison Appointments.

Animal Services Advisory Committee Board:

Councilmember Allison Heyward stated that she and Ms. Scott had traded places on the Animal Services Advisory Committee and Councilmember Heyward was the Regular Member and Ms. Scott was the Alternate. Councilmember Heyward agreed to stay on the committee full time. Mayor Pro-Tem David Scagliola offered to be the Alternate on the Animal Services Advisory Committee.

Interview Committee for Boards and Commissions:

Mayor Pro-Tem David Scagliola offered to stay as the Alternate and allow Councilmember Jill Whittaker to join the Interview Committee as Regular Member.

Roll Call Vote Confirmation

Mayor Gutierrez recognized Deputy City Secretary Sheila Edmondson who provided the roll call confirmation for Consent Agenda Items 1-5 and Items 6-9.

Requests and Announcements

- Announcements by the City Manager.

City Manager Dr. Mark Browne stated that the HVAC Replacement Project at the Animal Control Center is completed, staff is moving back into the building and there will be a ceremony in the near future.

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

None at this time.

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

None at this time.

- Announcements by Mayor and Councilmembers.

Mayor Pro-Tem David Scagliola thanked City Secretary Brenda Dennis for putting together the Volunteer Banquet.

Councilmember Jill Whittaker: attended the Volunteer Banquet and a ribbon cutting ceremony for JB Goodwin Realtors

Councilmember Michael Dahle: attended the Volunteer Banquet and thanked City Secretary Brenda Dennis and Deputy City Secretary Sheila Edmondson for putting together the Volunteer Banquet and thanked all the volunteers to serve on our Boards, Commissions and Committees

Councilmember Allison Heyward: Stated she did not attend the Volunteer Banquet but wanted to thank all the volunteers who serve on all the Boards, Commissions and Committees, and thanked City Secretary Brenda Dennis and Deputy City Secretary Sheila Edmondson for hosting the event; attended the TML Board of Directors Meeting in Georgetown, TX.; attended the JB Goodwin Realtors ribbon

cutting ceremony, attended the Main Street Meeting

Mayor Gutierrez thanked all the volunteers who serve on the Boards, Commissions and Committees and thanked City Secretary Brenda Dennis and Deputy Sheila Edmondson for hosting the event.

Adjournment

Mayor Gutierrez adjourned the meeting at 6:51 p.m.

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, Deputy City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: Public Works
Subject: Resolution No. 22-R-28 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into a job order contract with Sullivan Contracting Services to complete the Civic Center HVAC Replacement Project. (C. Kelm/S. Williams/S. McClelland)

BACKGROUND

The Schertz Civic Center has been providing rental space for the community since 2006. Recently, the HVAC system in the facility is experiencing outages and performance and reliability issues. In addition to having the City's on-staff HVAC Technician diagnose the ongoing issues, the City also entered into a task order with M&S Engineering (one of the City's on-call engineering firms) to do a full redesign of the facility's HVAC system.

The new system being proposed for the Civic Center is a system that is more conventional for a facility of this size. New package units will be installed on-grade on the exterior of the building. The variable air volume (VAV) units will be distributed to each zone within the facility by VAV terminal units. A large portion of the existing duct work will be able to remain in place allowing for less disruption within the facility during construction. The new system has been fully designed and is currently in the permit review process.

To help address the impacts of long lead times, City Council approved a Resolution in January awarding the HVAC equipment procurement to Sullivan Contracting Services prior to the final design being completed. Now that the final design has been completed, City Staff is recommending City Council award the remaining construction contract to Sullivan Contracting Services to complete the construction and installation associated with the HVAC replacement project. As done with the equipment procurement, City Staff is recommending awarding the construction contract to Sullivan Contracting through a job order contract. Sullivan has a Job Order Contract agreement with the Choice Partners Group Purchasing Cooperative ("CP"). CP completed a Request for Proposals for Job Order Contracts in February 2018. A total of 571 vendors were invited to participate in the procurement process. Twenty-five responses were received and evaluated by a three member evaluation team. Evaluations were done on the basis of Price, Vendor's experience and reputation, Quality of products/services, Compliance with local, state, and federal law, safety record, financial capability, marking plan, and value add products/services. The program intended to award to all vendors scoring an overall score of 70 or better to allow for a variety of specialties including roofing, fencing, interior/exterior construction, and HVAC. A total of 15 vendors were awarded under this procurement. Although Sullivan was not the highest ranked vendor in the procurement it is due to the limited scope of services they proposed. This procurement was for a wide range of services from building construction, renovation, plumbing and HVAC. Vendors who could provide services across all categories were scored higher. Sullivan proposed services specifically related to HVAC which led to a lower overall score. In addition, Sullivan comes highly recommended by M&S Engineering, the Design Engineer for this project, based on Sullivan's work for Comal County, the City of New Braunfels, and the City of Seguin.

By contracting with Sullivan via the Choice Partners Group Purchasing Cooperative, the City will save

significant time and resources on this project. City Staff is recommending awarding the construction phase of the contract as part of the two phase approach laid out by staff in January. By awarding the project in two phases, City Staff anticipates being able to cut the construction schedule by 6 weeks due to current equipment lead times.

With approval from City Council, City Staff and City Management will finalize negotiations on the contract award with Sullivan Contracting Services in an amount not to exceed \$964,000.

GOAL

The goal of this resolution is to award a job order contract to Sullivan Contracting for the construction portion of the Civic Center HVAC Replacement Project with a negotiated not to exceed amount of \$964,000.

COMMUNITY BENEFIT

Replacing the existing HVAC system will allow the Civic Center to continue to provide high-end event rental space to the community. By contracting with Sullivan Contracting Services via the Choice Partners Group Purchasing Cooperative, the City will save significant time and resources on this project.

SUMMARY OF RECOMMENDED ACTION

Staff recommends that the City Council approve Resolution 22-R-28 to allow the City Manager to enter into a job order contract with Sullivan Contracting Services for the construction of the Civic Center HVAC Replacement Project.

FISCAL IMPACT

Funding for the equipment procurement and construction of the project will be paid for using existing Hotel Occupancy Tax Funds which are permitted to be used on Capital Improvements at the Civic Center.

The funding has been approved in two phases:

- 22-T-03: \$250,000
- 22-T-09: \$900,000
- Total Project Funding: \$1,150,000

RECOMMENDATION

Staff recommends that the City Council approve Resolution 22-R-28 to allow the City Manager to enter into a job order contract with Sullivan Contracting Services for the construction of the Civic Center HVAC Replacement Project.

Attachments

22-R-28

Schertz Civic Center HVAC Replacement - Final Design Estimate

Sullivan JOC - Choice Partners Contract

05_18-029JN JOC IDIQ_Eval Summary

06_18-029JN JOC IDIQ_Bid Tabulation

RESOLUTION NO. 22-R-28

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOB ORDER CONTRACT WITH SULLIVAN CONTRACTING SERVICES TO COMPLETE THE CIVIC CENTER HVAC REPLACEMENT PROJECT

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

WHEREAS, Sullivan Contracting Services has a Job Order Contract agreement with the Choice Partners Group Purchasing Cooperative; and

WHEREAS, the City is a member of Choice Partners and has confirmed that their procurement methods align with the City’s requirements; and

WHEREAS, the City has dedicated Hotel Occupancy Tax 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 negotiate, execute, and deliver an agreement in substantially the same form as the attached contract and in compliance with Choice Partners standards with Sullivan Contracting Services for the Civic Center HVAC Replacement Project for an amount not to exceed \$964,000.00.

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 8th day of March, 2022

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)



BUDGET PROPOSAL

The Pounds Group LLC dba Sullivan Contracting Services

Choice Partners Contract #: 21/039MR-14

Send to: City of Schertz
10 Commercial Place, Bldg. 2
Schertz, TX 78154

Phone: 210.619.1809
Job # : 621229
Email: smcclelland@schertz.com

2/15/2022

Attn: Scott McClelland

Job Name: Schertz Civic Center HVAC Replacement - CP

BUDEGT PROPOSAL

• HVAC Equipment (from Original Contract)	\$185,600
• Ductwork and additional HVAC Costs	\$552,403
• Electrical	\$174,465
• Suspended Ceiling work	\$13,865
• Paint/Drywall Touch-Ups	\$13,865
• Fire Sprinkler - minor adjustments	\$4,517
• Fire Proofing	\$6,453
• Landscaping Repairs	\$3,872
• Concrete - Equip Pads (3ea)	\$19,360
• Fencing	\$7,744
• Dumpsters (10ea)	\$11,063
• Flooring Protection	\$6,195

HVAC - Trane - Estimated ship dates:

- 1st week of May for the RTUs
- 2nd-3rd week of April for the VAV boxes

Electrical - Estimated ship dates:

- still determining and gathering info

Exclude: After Hours, Structural Design/Fees, Plumbing, Permitting, Testing, any items not listed above.

Price excludes any owner mandated COVID-19 Testing, Procedures, and/or changes to normal work practices not covered above.

Due to current volatility in the market, proposal has potential to only be guaranteed for 15 days

BUDGET TOTAL

\$999,403.94 *Plus applicable sales tax*

Respectfully submitted,


Kyle Baker

All material is guaranteed to be as specified and the above work to be performed in accordance with the drawings and/or specifications submitted in a substantial workmanlike manner. Any alteration or deviation from above specifications involving extra costs will be executed only upon WRITTEN orders and will become an extra charge

EXECUTION OF OFFER

The undersigned Proposer has carefully examined all instructions, requirements, specifications, terms and conditions of this RFP and the Agreement and certifies:

1. It is a reputable company regularly engaged in providing goods and/or services necessary to meet the requirements, specifications, terms and conditions of the RFP and the Agreement.
2. It has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the requirements, specifications, terms and conditions of the RFP and the Agreement. Further, if awarded, the Proposer agrees to perform the requirements, specifications, terms and conditions of the RFP and the Agreement.
3. All statements, information, and representations prepared and submitted in response to this RFP are current, complete, true, and accurate. Proposer acknowledges that HCDE will rely on such statements, information, and representations in selecting the successful Proposer(s).
4. It is not currently barred or suspended from doing business with the Federal government, any of the members represented, or any of their respective agencies.
5. It shall be bound by all statements, representations, warranties, and guarantees made in its proposal.
6. Submission of a proposal indicates the Proposer's acceptance of the evaluation technique and the Proposer's recognition that some subjective judgments may be made by HCDE and its membership as part of the evaluation.
7. That all of the requirements of this RFP and the Agreement have been read and understood. In addition, compliance with all requirements, terms and conditions will be assumed by HCDE if not otherwise noted in the proposal.
8. The individual signing below has authority to enter into this on behalf of Proposer.
9. Proposer acknowledges that the Agreement may be canceled if any conflict of interest or appearance of a conflict of interest is discovered by HCDE.
10. This Agreement is subject to purchase orders duly authorized and executed by HCDE.

CORPORATE NAME:	The Pounds Group LLC dba Sullivan Contracting Services		
AUTHORIZED SIGNATURE:			
PRINT NAME:	Cody Hallmark		
TITLE:	Operations Manager		
DATE:	1/10/2018		
ADDRESS:	2299 Rudeloff Rd E		
CITY, STATE, ZIP CODE:	Seguin, TX 78155		
PHONE:	(830)372-3812	FAX:	(830)401-5888
EMAIL ADDRESS:	cody@scs-tx.com		
WEBSITE URL	www.scs-tx.com		

This Section to be Completed by HCDE

Contract Number: 18/029JN-13 Term of contract: 02/28/2018 to 02/27/2020

Vendor shall honor all CPC Administrative Fees for any sales resulting from this Contract whether Vendor is awarded a renewal or not.

Approved by Harris County Department of Education:


Jesus J. Amezcua, PhD, CPA, RSTBA
Assistant Superintendent for Business Services

2/28/18
Board Approval Date

5.0 CONTRACT TERMS AND CONDITIONS

These Contract Terms and Conditions are part of the final contract in each product and/or service contract awarded as a result of this CSP and are part of the terms and conditions of each Purchase Order, Job Order, or proposal forms issued in connection with this CSP. Vendors are responsible for identifying any exceptions to these terms and conditions. **ANY EXCEPTIONS MUST BE NOTED DIRECTLY BELOW EACH OF THE RESPECTIVE TERMS AND CONDITIONS.** Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by HCDE/CP and eliminated from further consideration.

CONTRACT BETWEEN HARRIS COUNTY DEPARTMENT OF EDUCATION AND Pounds Group, LLC dba Sullivan Contracting Services FOR JOB ORDER CONTRACTING, IDIQ PUBLIC WORK, MINOR CONSTRUCTION, MAINTENANCE, AND RENOVATION WORK

This Contract is entered into between HCDE/CP and Vendor, having submitted a proposal in response to this CSP issued by HCDE/CP and whose proposal has been accepted and awarded by HCDE. In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, HCDE/CP and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Contract, agree as follows:

5.1. Definitions

The terms used in this Contract shall have the meanings assigned to them in **Section 1.0 Notice of Intent** of the CSP.

5.2. Use of Contract by CP members

Vendor agrees and understands that this CSP and Contract may be used to accomplish work for HCDE/CP, a local governmental entity. Vendor further agrees and understands that this CSP and Contract may also be utilized by CP members pursuant to the piggyback method, as contemplated in the U.S. Department of Agriculture Memorandum SP 35-2012, *Procuring Services of Purchasing Cooperatives, Group Purchasing Organizations, Group Buying Organizations, etc.* ("SP 35-2012). Vendor agrees and understands that CP members include "school food authorities," as that term is used in SP 35-2012.

5.3. Contract Terms; Amendment

The terms and conditions of this Contract shall govern all procurements conducted hereunder. No pre-published terms on Vendor's Purchase Order, acknowledgments, invoices, or other forms shall have any force or effect unless expressly agreed to by the CP member and Vendor. No amendment of this Contract shall be permitted unless and until first approved in writing by HCDE/CP and, if necessary, the CP member(s), and no such amendment shall have any effect unless and until a written amendment to this Contract is executed by the HCDE Superintendent or his designee after any necessary approvals have been obtained from the HCDE Board of Trustees. In the event that a Vendor has an existing HCDE/CP contract in the same contract title, upon award, the new contract will immediately supersede the older contract, if applicable.

5.4. Term of Contract; Renewal of Contract

The initial term of this Contract is for a period of two (2) years, with HCDE/CP having the option to renew the Contract for three (3) additional one-year terms, at HCDE's sole discretion, unless otherwise specified in **Section 6.0 Scope of Proposal**. Consequently, the total term of the Contract may be for a period of **five (5) years**. The phrase "Term" in this Contract shall mean the then-current Term of the Contract, whether an initial term or a renewal term.

5.5. Termination of Contract; Survival

This Contract shall remain in effect until (1) the Contract expires by its terms or (2) the Contract is terminated by mutual consent of HCDE/CP and Vendor. All Supplemental Contracts, purchase orders, and/or orders for goods or services issued by HCDE and/or CP members and accepted by Vendor shall survive the expiration or

termination of this Contract. During the term of any Supplemental Contract entered into between Vendor and a CP member, all terms of this Contract shall continue to apply to the Supplemental Contract.

In the event of a breach or default of the Contract and/or the CSP by Vendor, HCDE/CP reserves the right to enforce the performance of the Contract in any manner prescribed by law or deemed to be in the best interest of HCDE/CP and/or CP members. HCDE/CP further reserves the right to terminate the Contract immediately in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the CSP, this Contract, and/or a Purchase Order; (2) make any payments owed; or (3) otherwise perform in accordance with this Contract and/or the CSP. HCDE/CP also reserves the right to terminate the Contract immediately, with written notice to Vendor, if HCDE/CP believes, in its sole discretion that it is in the best interest of HCDE/CP and/or CP members to do so.

In the event that a material change to the terms of the Contract occurs, then the Contract shall be allowed to expire and shall not be renewed upon the conclusion of the Contract's term. The phrase "material change" in this paragraph shall mean a modification that substantially exceeds the terms of the original contract between HCDE/CP and Vendor. Upon the expiration of the Contract's term, HCDE/CP may issue a new CSP for the goods or services procured under the previous contract.

Vendor agrees that HCDE/CP shall not be liable for damages in the event that HCDE/CP declares Vendor to be in default or breach of this Contract and/or the CSP. Vendor further agrees that upon termination of the Contract for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or Vendor.

5.6. **Buy America Act; Prevailing Wage Rates**

Buy American Act

The Buy American Act, set forth in 7 C.F.R. Part 210.21(d), requires that participants in the National School Lunch Program and School Breakfast Program use the federal nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products. 7 CFR Part 210.21(d) defines a "domestic commodity or product" as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. "Substantially" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Because many HCDE/CP members participate in the National School Lunch Program and School Breakfast Program, HCDE/CP requires Vendor to certify whether its products are "domestic commodities or products", as defined by 7 C.F.R. Part 210.21(d). Accordingly, Vendor agrees to provide certification of the domestic content in the parts, components, and other elements contained in the product, including specific information about the percentage of U.S. content from the supplier (i.e., manufacturer or distributor).

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved by the CP member, upon request. To be considered for an exception to the Buy American provision, Vendor may submit a good faith request for an exception, certifying that Vendor reasonably believes that:

- (a) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and/or
- (b) the costs of a U.S. product are significantly higher than the non-domestic product.

In the event Vendor or Vendor's supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, HCDE/CP members may decide not to purchase from Vendor.

Additionally, HCDE/CP members may require country of origin on all products and invoices submitted for payment by Vendor, and Vendor agrees to comply with any such requirement.

Prevailing Wage Rates

Vendor and all subcontractors of Vendor shall comply with all laws regarding prevailing wage rates, including, but not limited to, TEX. GOV'T. CODE Chapter 2258, applicable to the construction of a public work, and any

related federal requirements, including the DAVIS-BACON ACT. In the event TEX. GOV'T. CODE Chapter 2258 applies to a product or service provided by Vendor to HCDE/CP or a CP member, Vendor and any subcontractor(s) shall comply with the prevailing wage rates set by HCDE/CP or the CP member.

5.7. **Change Orders**

Pursuant to TEX. EDUC. CODE § 44.0411(a), for HCDE/CP and CP members that are Texas school districts, if a change in plans or specifications is necessary after the performance of a Purchase Order or Job Order has begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the CP member may approve change orders making the changes. The total Purchase Order or Job Order price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants. The CP member may grant general authority to an administrative official to approve the change orders. A Purchase Order or Job Order with an original contract price of \$1 million or more may not be increased under TEX. EDUC. CODE § 44.0411(a) by more than 25 percent. If a change order for a Purchase Order or Job Order with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

5.8. **Compliance with Laws**

Vendor shall comply with all applicable federal, state, and local laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws; minimum and maximum salary and wage statutes and regulations; prompt payment and licensing laws and regulations; anti-discrimination statutes and regulations (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 C.F.R. Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement—Nutrition Programs and Activities); the Davis-Bacon Act (40 U.S.C. § 276a / 29 CFR Part 5); the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 / 29 CFR Part 5); the Equal Opportunity Employment requirements (Executive Orders 11246 and 11375 / 41 CFR Chapter 60); the McNamara-O'Hara Service Contract Act (41 U.S.C. 351); Section 306 of the Clean Air Act (42 U.S.C. § 1857h); Section 508 of the Clean Water Act (33 U.S.C. § 1368); Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15); the Contract Work Hours and Safety Act (40 U.S.C. § 3701-3708; 29 C.F.R. Part 5; the Solid Waste Disposal Act (Section 6002 as amended by the Resource Conservation and Recovery Act for procuring solid waste management services in a manner that maximizes energy and resource recovery when contract amount is in excess of \$10,000); the Education Department General Administrative Regulations ("EDGAR") (2 C.F.R. Part 200); mandatory standards and policies contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871); and all applicable requirements and regulations, including those related to reporting, patent rights, copyrights, data rights, and those mandated by federal agencies making awards of federal funds to HCDE/CP and/or CP members. Vendor understands that Vendor is ineligible to receive a contract award with HCDE/CP if Vendor or its principal(s) is listed on the government wide exclusions in the System for Award Management (Debarment and Suspension Orders Executive Orders 12549 and 12689) or is 30 days or more delinquent in paying child support (Tex. Fam. Code § 231.006). For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. All permits will be acquired by Vendor and invoiced to the CP member at cost as part of the Purchase Order, unless the permits are provided by the CP member. For the entire duration of this Contract, Vendor and all subcontractors shall also comply with all requirements pertaining to local, state, or federal health and safety certifications, licensing, or regulations. Vendor must comply with all state and local building code requirements unless otherwise specifically provided in the CP member's Purchase Order, and Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site. The states of individual CP members may have regulations and laws that govern payment retention and progress payments for public projects. Vendor is responsible for being acquainted with and complying with each state's requirements. When required or requested by HCDE/CP or a CP member, Vendor shall furnish HCDE/CP and/or the CP member with satisfactory proof of Vendor's compliance with this provision.

5.9. **Confidentiality**

Vendor and HCDE/CP agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations. Vendor and HCDE/CP understand that the Family

Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information and agree to abide by FERPA rules and regulations, as applicable. Vendor also acknowledges that HCDE/CP and numerous CP members are subject to the Texas Public Information Act, and Vendor waives any claim against and releases from liability HCDE/CP and CP members, their respective officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Vendor, HCDE, or a CP member and determined by HCDE/CP or the CP member, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

5.10. Performance and Payment Bonds

Vendor agrees to provide performance bonds and/or payment bonds as required by law, based on the amount or estimated amount of any Purchase Order or Job Order for a public work contract, which is defined as a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. TEX. GOV'T. CODE §§ 2253.001(4); 22269.411. Pursuant to TEX. GOV'T. CODE § 2253.021, a performance bond is required if a Purchase Order is in excess of \$100,000 for CP members that are governmental entities subject to Chapter 2253; a payment bond is required if a Purchase Order or Job Order is in excess of \$25,000 for CP members that are governmental entities subject to Chapter 2253 and are not municipalities or a joint board created under Subchapter D, Chapter 22 of the Tex. Transp. Code, and a payment bond is required if a Purchase Order or Job Order is in excess of \$50,000 for CP members that are governmental entities subject to Chapter 2253 and are municipalities or a joint board created under Subchapter D, Chapter 22 of the TEX. TRANSP. CODE. Additionally, Vendor shall provide all bonds, including bid guarantee, performance bond, and payment bond, as applicable under U.S. Department of Agriculture and/or Texas Department of Agriculture rules.

5.11. Title and Risk of Loss

Whenever HCDE/CP or a CP member is purchasing (and not leasing) a product under this Contract, title and risk of loss shall pass upon the later of HCDE/CP or the CP member's acceptance of the product or payment of the applicable invoice.

5.12. Warranty Conditions

All product(s) and/or service(s) provided by the Vendor under this Contract must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of HCDE's or the CP member's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all products and/or services furnished under this Contract shall conform in all respects to the terms of this Contract, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the CSP and Purchase Order. In addition, Vendor warrants that products and/or services are suitable for and will perform in accordance with the purposes for which they are intended. Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the Vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Contract, the CSP, or Purchase Order.

5.13. Criminal History Review

Section 10.0 Attachment–SB 9 Contractor Certification: Contractor Employees (Required) and Attachment–SB 9 Contractor Certification: Subcontractor Form (If Applicable) must be submitted with packet, if applicable.

Prior to commencing any work under the Contract, if Vendor contracts with HCDE/CP to provide services, Vendor must certify, on the form provided herein, that for each covered employee of Vendor who will have direct contact with students, Vendor has obtained, as required by TEX. EDUC. CODE Section 22.0834: (a) state criminal history record information from a law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for each covered employee of Vendor employed before January 1, 2008; and (b) national criminal history record information for each employee of Vendor employed on or after January 1, 2008. Vendor must also obtain similar certifications of compliance with TEX. EDUC. CODE, Chapter 22 requirements from any subcontractors on the form provided herein. Covered employees with disqualifying criminal history are prohibited from serving at HCDE/CP or at CP school district members' locations; Vendor and any subcontracting entity may not permit a covered employee to provide services at a school if the employee has been convicted of a felony or misdemeanor

offense that would prevent a person from being employed under TEX. EDUC. CODE § 22.085(a) (i.e., Title 5 felony or an offense requiring registration as a sex offender and victim was under 18 years of age or was enrolled in a public school at the time the offense occurred). Covered employees do not include employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work if: (1) the public work does not involve the construction, alteration, or repair of an instructional facility as defined by Texas Education Code Section 46.001; (2) the employee's duties will be completed more than seven (7) days before a new instructional facility will be used for instruction; or (3) for an existing instructional facility, the work area contains sanitary facilities separated from all areas used by students by a fence at least six (6) feet high, and the Contractor adopts, informs employees of, and enforces a policy prohibiting employees and any subcontractor's employees from interacting with students or entering areas used by students. Tex. Educ. Code §§ 22.0834(a-1), .08341. The criminal history record information review obligation applies only if Vendor contracts with HCDE/CP to provide services; it does not apply to a contract for the purchase of goods, products or real estate.

5.14. Customer Support

Vendor shall provide timely and accurate technical advice and sales support to HCDE/CP staff, and CP members. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request. Vendor shall provide training to HCDE/CP staff and/or CP members regarding products and/or services supplied by Vendor, at no additional charge, if requested by HCDE/CP or a CP member.

5.15. HCDE/CP and/or CP members' Property

In the event of loss, damage, or destruction of any property owned by or loaned by HCDE/CP or a CP member that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify HCDE/CP or the CP member and pay to HCDE/CP or the CP member the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of Vendor's receipt of written notice of HCDE's or the CP member's determination of the amount due. If Vendor fails to make timely payment, HCDE/CP or the CP member may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by HCDE/CP or the CP member.

5.16. Tax Exempt Status

HCDE/CP and all CP members that are Texas governmental entities or agencies are exempt from payment of Texas State Sales Taxes under TEXAS TAX CODE§ 151.310 for the purchase of tangible personal property. Laws of other states govern the tax status of CP members in states other than Texas. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. HCDE/CP and CP members shall not be liable for any taxes resulting from this Contract, except where otherwise required by law.

5.17. Other State Tax Requirements

5.17.1. Payment of Taxes by CP members Outside of Texas – CP members outside of Texas will pay only the rate and/or amount of taxes identified in Vendor's proposal submitted in response to the CSP as appropriate to the specific CP member.

5.17.2. State and Local Transaction Privilege Taxes – The CP member is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sales of products and are the sole responsibility of Vendor, as the seller, to remit. Failure to remit taxes from HCDE/CP and/or the CP member, as the buyer, does not relieve Vendor, as the seller, from its obligation to remit taxes.

5.18. State of Texas Franchise Tax

By submitting a proposal in response to the CSP, Vendor certifies that Vendor is not currently delinquent in Vendor's payment of any franchise taxes or other taxes owed to the State of Texas.

5.19. Tax Responsibilities of Vendor and Indemnification for Taxes

Vendor is responsible for complying with the tax laws of states and the federal government. Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to Vendor's operation, any

persons employed by Vendor, and all subcontractors of Vendor. Vendor shall require all subcontractors to hold HCDE/CP and the CP member harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs, including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.

5.20. **IRS W-9**

To receive payment under this Contract, Vendor shall have a current I.R.S. W-9 Form on file with the CP member.

5.21. **Assignment of Contract**

Vendor may not assign this Contract or any of its rights, duties or obligations hereunder without the prior written approval of HCDE. Any attempted assignment of this Contract by Vendor shall be null and void. Any Purchase Order or Job Order made as a result of this Contract may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of HCDE/CP and, if applicable, the CP member.

5.22. **Notification of Material Change**

Vendor is required to notify HCDE/CP when any material change in operations occurs, including changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

5.23. **Performance**

Vendor agrees to use commercially reasonable best efforts to provide the product(s) and/or service(s) subject to this Contract. Vendor shall furnish all supervision, labor, tools, equipment, permits, licenses, transportation, insurance, material, and supplies necessary to complete any scope of work, Purchase Order, or Job Order under this Contract. Vendor shall use skilled, trained personnel, who shall be supervised by Vendor.

5.24. **Subcontractors**

If Vendor uses subcontractors in the performance of any part of this Contract, Vendor shall be fully responsible to HCDE/CP and CP members for all acts and omissions of the subcontractors. Nothing in this Contract shall create for the benefit of any such subcontractor any contractual relationship between HCDE/CP and any such subcontractor, nor shall it create any obligation on the part of HCDE/CP or CP members to pay or to see to the payment of any monies due any such subcontractor except as may otherwise be required by law. Vendor represents and warrants that it is willing, able, and capable of obtaining, supervising, and being responsible for any subcontractors who perform and/or provide products and services related to this Contract.

If Vendor uses subcontractors in the performance of any Purchase Order or Job Order issued as a result of a Job Order Contract awarded via this procurement solicitation, subcontractors must issue their Job Order Quotes using the same pricing method(s) outlined in the procurement solicitation and according to Texas Government Code Chapter 22269, Subchapter I, Job Order Contracts Method.

5.25. **Non-Appropriation**

Renewal of this Contract, if any, will be in accordance with TEX. LOCAL GOV'T. CODE § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Contract or obligation imposed on HCDE/CP or any CP member by this Contract, HCDE/CP and CP members shall have the right to terminate this Contract, any Supplemental Contract, Purchase Order, and/or Job Order without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of HCDE/CP or any CP member if it is determined by HCDE/CP or any CP member, at their sole discretion, that there are insufficient funds to extend this Contract, any Supplemental Contract, any Purchase Order. The parties agree that this Contract, any Supplemental Contract, any Purchase Order, and/or any Job Order are commitments of the current revenue of HCDE/CP and CP members only.

5.26. **Ordering Procedures**

Purchase Orders/Job Orders are issued by HCDE/CP and/or CP members to the Vendor according to this Contract and any Supplemental Contract between HCDE/CP and the CP member. CP members must send Purchase

Orders/Job orders to HCDE/CP, unless otherwise stipulated by HCDE/CP. HCDE/CP may request confirmation of receipt of the Purchase Order/Job Order from Vendor.

HCDE/CP also may elect to require e-commerce functionality, in which Purchase Orders/Job Orders are sent directly to Vendor and reported by the CP member to HCDE/CP on a specified basis. The e-commerce approach must be approved by HCDE/CP prior to the start date of any Term of the Contract.

5.27. Invoices; Payments

5.27.1. Vendor shall submit invoices, in duplicate, directly to HCDE/CP or the CP member at the appropriate location(s) specified by HCDE/CP or the CP member. Each invoice shall include HCDE's or the CP member's Purchase Order/Job Order number and HCDE/CP Contract Number. All invoices shall be itemized to include the type of product(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during HCDE's or the CP member's fiscal year in which the product(s) and/or service(s) are purchased. The shipment tracking number or pertinent information for verification of HCDE's or the CP member's receipt shall be made available upon request by HCDE/CP or the CP member.

5.27.2. HCDE/CP or the CP member will make payments directly to Vendor. HCDE/CP or the CP member placing the Purchase Order/Job Order with Vendor shall alone be liable and/or responsible for payment for product(s) and/or service(s) ordered and must be invoiced directly by Vendor. Neither HCDE/CP nor any CP member shall be liable for the indebtedness of any one CP member.

5.27.3. TEX. GOV'T. CODE § 2251.021 shall govern when payments are due to the Vendor. Payments are due to Vendor by HCDE/CP and any CP member whose governing body meets only once a month or less frequently, **within forty-five (45) days** after the later of the following: (1) the date HCDE/CP or the CP member receives the products and services under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date HCDE/CP or the CP member receives an invoice for the products or service. For CP members whose governing bodies meet more than once a month or more often, payments are due by those CP members **within thirty (30) days** after the later of the following: (1) the date the CP member receives product(s) under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date the CP member receives an invoice for product(s) or service(s). Vendor agrees to pay any subcontractors the appropriate share of the payment received from HCDE/CP or the CP member not later than the **tenth (10th) day** after the date the Vendor receives the payment from HCDE/CP or the CP member.

The exceptions to payments made by HCDE, a CP member, and/or Vendor listed in TEX. GOV'T. CODE § 2251.002 shall apply to this Contract.

5.28. Reporting

The Vendor shall provide HCDE/CP with a detailed monthly report showing the total dollar volume of all sales under this Contract for the previous month in Microsoft Excel format, in the format and with the information specified by HCDE/CP. Reports are due on the **fifteenth (15) day of the month**, after the close of the previous month and shall provide information regarding Purchase Orders/Job Orders during the previous month. Vendor is responsible for collecting and compiling all sales under this Contract from all CP members and submitting **one (1)** consolidated monthly report. The monthly report shall include, at a minimum, the date of each Purchase Order/Job Order, Purchase Order/Job Order number, CP member name, city/town, and Purchase Order total dollar amount. Reports shall be submitted in an electronic format to HCDE/CP at 6005 Westview, Houston, Texas 77055, or electronically mailed to facilityreporting@choicepartners.org. **Reports are required even if there is no activity to report.**

5.29. Pricing Changes

All prices and discount percentages in Vendor's proposal shall be firm for the Term of this Contract. Pricing may be negotiated during the Contract renewal period. Vendor agrees to promptly lower the proportionate price of any product purchased through this Contract following a reduction in the price the Vendor is paying suppliers. All pricing submitted to HCDE/CP in Vendor's proposal shall include the administrative fee to be remitted to

HCDE/CP by Vendor. It is Vendor's responsibility to keep all pricing up-to-date and on file with HCDE/CP. All price changes shall be presented to HCDE/CP for acceptance or rejection by HCDE/CP, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for products and/or services provided under this Contract must be approved, in writing, by HCDE/CP prior to taking effect.

The following documentation shall be provided to support a request for a price change:

- justification for change/increase
- terms and conditions
- market conditions
- manufacturers'/distributors' impact, if any

All price decreases shall be allowed for all products and/or services.

5.30. **HCDE/CP Administrative Fee**

HCDE/CP will invoice Vendor for the HCDE/CP Administrative Fee of **4%**, subject to the Administrative Incentive Clause, below. HCDE/CP reserve the right to modify the Administrative Fee at any time, upon notice to Vendor. The invoice for the Administrative Fee will be based on total sales made through this Contract. Vendor shall remit payment of the HCDE/CP Fee to HCDE/CP no later than **thirty (30)** days following the end of the month. Failure to pay the HCDE/CP Administrative Fee in a timely manner may result in Vendor breaching this Contract and may result in HCDE/CP suspending or terminating this Contract. Vendor shall honor and pay HCDE/CP the HCDE/CP Administrative Fee for any sales resulting from this Contract that occurred within **thirty (30) days** of the expiration or termination of this Contract. All rebates, discounts, and other applicable credits granted by Vendor as a result of any Supplemental Contracts entered into between Vendor and CP members shall accrue exclusively to CP member(s).

Administrative Fee Incentive Clause. The following incentives will be determined in the sole discretion of HCDE/CP and will be based on amounts actually billed by Vendor. Vendor's failure to abide by the Contract's terms and conditions, including, without limitation, Vendor's requirement to report sales to HCDE/CP, may result in HCDE/CP voiding the Administrative Fee Incentive, in HCDE/CP's sole discretion.

One-Year Term(s)

- **Gross sales above \$5M invoiced by Choice Partners = 3% for remainder of the then-current Contract Term**
- **Subsequent renewal 1-year Term = 3.75% and Vendor must maintain production of \$5M to keep 3.75% fee for the next subsequent renewal 1-year Term**

Individual Job Orders

- **\$2M or above = 3.5% only in the Contract Term in which they are invoiced**
- **\$1M or above = 3.75% only in the Contract Term in which they are invoiced**

5.31. **Records Retention**

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all product(s) and/or service(s) provided by the Vendor to HCDE/CP and/or CP members under this Contract. These records and accounts shall be retained by Vendor and made available for review and copying by HCDE/CP and CP members for a period of **not less than three (3) years** from the date of completion of the service(s), receipt of product(s), the date of the receipt by HCDE/CP or the CP member of Vendor's final invoice or claim for payment in connection with this Contract, or the date HCDE/CP or the CP member makes final payments and closes pending matters in connection with a federal grant, whichever is later. If an audit or a compliance review has been announced, the Vendor shall retain its records and accounts until such audit or compliance review has been completed.

When federal funds are expended by HCDE or any CP member pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or

subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

5.32. Right to Review, Audit and Inspect

HCDE/CP, CP members, any federal agency that has awarded federal funds/grant(s) to HCDE/CP or a CP member, and the Comptroller General of the United States, and/or any of their authorized representatives, shall, upon written notice, have the right to audit and examine all of Vendor's records and accounts relating to this Contract and inspect any project performed by the Vendor relating to this Contract. Records subject to audit/review shall include, but are not limited to, all Purchase Orders and/or Job Orders resulting from this Contract and records which may have a bearing on matters in connection with the Vendor's work for HCDE/CP and/or CP members, and shall be open to inspection and subject to audit/review and/or reproduction by HCDE/CP, CP member, and/or their authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

5.32.1. Vendor's compliance with this Contract and the requirements of the CSP.

5.32.2. Compliance with procurement laws, policies, and procedures, including, without limitation, reviewing/comparing pricing on invoices and the appropriate Unit Price Book for JOC work performed for HCDE/CP and/or CP members.

5.32.3. Compliance with provisions for computing billings to HCDE/CP and/or to CP members.

5.32.4. Any other matter related to this Contract.

5.33. Indemnification

VENDOR SHALL INDEMNIFY AND HOLD HARMLESS HCDE/CP AND EACH CP MEMBER, INCLUDING HCDE'S AND CP MEMBERS' TRUSTEES, OFFICERS, ADMINISTRATORS, EMPLOYEES, AND AGENTS, FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS CONTRACT, INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S) WHICH IS RELATED TO ANY ITEM VENDOR IS REQUIRED TO DELIVER. VENDOR'S OBLIGATIONS UNDER THIS CLAUSE SHALL SURVIVE ACCEPTANCE AND PAYMENT BY HCDE/CP OR THE CP MEMBER.

5.34. Governing Law and Exclusive Venue

The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Contract. Any dispute under this Contract involving HCDE/CP must be brought exclusively in the state and federal courts located in Houston, Harris County, Texas. Any dispute not involving HCDE/CP but involving a CP member and Vendor shall be governed by the laws of the state of the CP member, without regard to its provisions on conflicts of laws, and exclusive jurisdiction and venue shall lie in the city, county, and state of the CP member.

5.35. Multiple Contract Awards; Non-Exclusivity

HCDE/CP reserves the right to award multiple contracts under the CSP, including multiple contracts for each product/service category. Product/Service categories are established at the sole discretion of HCDE/CP. Nothing in this Contract may be construed to imply that Vendor has the exclusive right to provide products and/or services to HCDE/CP and/or CP members. During the Term of this Contract, HCDE/CP and CP members reserve the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor. In the event that a Vendor has an existing HCDE/CP contract in the same contract title, upon award the new contract will immediately supersede the older contract.

5.36. New Products

New products that meet the specifications detailed in the CSP may be added to this Contract, with prior written approval from HCDE/CP. Pricing of any new products shall be equivalent to the percentage discount or proposed prices for other similar products. Vendor may replace or add products to the contract if: the replacing products

are equal to or superior to the original products offered or discounted in a similar degree or to a greater degree and the products meet the requirements of the CSP. No products may be added to avoid competitive procurement procedures. HCDE/CP may reject any proposed additions, without cause, in its sole discretion.

5.37. No Substitution

Any Purchase Order issued pursuant to this Contract shall conform to the specifications and descriptions identified in this Contract and the CSP. Vendor shall not deliver substitutes without prior written authorization from HCDE/CP or the CP member.

5.38 Penalties

If the Vendor is unable to provide the product(s) or services at the prices quoted in Vendor's proposal or if Vendor fails to fulfill or abide by the terms and conditions of the Contract, the CSP, or a Supplemental Contract, HCDE/CP or the CP member may take the following action(s), in the sole discretion of HCDE/CP or the CP member, and Vendor agrees to comply with the chosen action(s):

- 5.38.1 Insist that the Vendor honor the quoted price(s) specified in Vendor's proposal or the Supplemental Contract, as applicable;
- 5.38.2 Have the Vendor pay the difference between the Vendor's price and the price of the next acceptable proposal, as determined by HCDE/CP or the CP member;
- 5.38.3 Have the Vendor pay the difference between Vendor's price and the actual purchase price of the product or service on the open market; and/or
- 5.38.4 Recommend to HCDE Board of Trustees that the Vendor no longer be given the opportunity to submit a proposal to HCDE/CP and/or that this Contract be terminated.

5.39. Promotion of Contract Marketing Plan

The marketing of Vendor's company, product, and/or services shall be the sole responsibility of Vendor. HCDE/CP may only supply Vendor with CP members' contact lists that contain name, address, phone numbers, and/or email addresses. Other items geared toward the joint-marketing of HCDE/CP and Vendor's company, product, and/or services shall be at HCDE/CP's sole discretion. Encouraging CP members to circumvent this Contract by purchasing directly from Vendor may result in suspension or termination of this Contract. For so long as this Contract is valid and enforceable between the parties, Vendor agrees to display the CP seal in its marketing collateral materials, such as Vendor's website and related marketing materials. Vendor shall submit all promotional materials to HCDE/CP and obtain written approval before Vendor finalizes or publishes promotional material bearing the HCDE/CP or HCDE/CP name or seal. Vendor may not release any press release or other publication regarding this Contract or HCDE/CP unless and until HCDE/CP first approves the press release or publication in writing.

5.40. Website Support

Vendor agrees to cooperate with HCDE/CP in publicizing contract particulars on the CP website. Vendor also agrees to work with HCDE/CP in updating and maintaining current information on Vendor activities related to the Contract on the CP website. Vendor agrees to provide an electronic version of its logo for use on the CP website upon Contract award and provide other information as reasonably requested by HCDE/CP to help ensure that the CP website is current and consistently updated.

5.41. Safety

Vendor, its subcontractor(s), and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Contract, including, without limitation, those promulgated by HCDE/CP, CP members, and by the Occupational Safety and Health Administration ("OSHA"). In case of conflict, the most stringent safety requirements shall govern. Vendor shall comply with all other safety guidelines and standards as required by HCDE/CP or CP members. Vendor shall indemnify and hold HCDE/CP and/or the CP member harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

5.42. **Workforce**

Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which shall be performed under this Contract. Vendor, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on HCDE/CP and CP members' property, nor may such workers be intoxicated or under the influence of alcohol or drugs on HCDE/CP and CP members' property.

5.43. **Supplemental Contracts**

A CP member and Vendor may enter into a separate, Supplemental Contract. Any Supplemental Contract developed as a result of this Contract and/or the CSP is exclusively between the CP member and Vendor and shall have no effect or impact on HCDE, any other CP member, or this Contract. Any Supplemental Contract between Vendor and a CP member is exclusively between that specific CP member and Vendor and will be subject to immediate cancellation by the CP member (without penalty to the CP member) if, in the opinion of the CP member, the quality, service, and specification requirements, and/or the terms and conditions are not maintained as stated in the Supplemental Contract. Vendor shall promptly notify HCDE/CP of any Supplemental Contract executed between Vendor and a CP member. Supplemental Contracts are entered into pursuant to the piggyback method delineated in the U.S. Department of Agriculture directive SP 35-2012.

5.44. **Insurance**

Vendor is required to provide HCDE/CP and/or the CP member with copies of certificates of insurance, naming HCDE/CP and/or the CP member as additional insured's for Texas Workers Compensation and General Liability Insurance, **within 14 business days of contract award and prior to the commencement of any work under this Contract.** Certificates of Insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to HCDE/CP and/or the CP member prior to commencement of any work under this Contract. The insurance company insuring Vendor shall be licensed in the State of Texas or the state in which the CP member is located, and shall be acceptable to HCDE/CP and/or the CP member. Vendor shall give HCDE/CP or the CP member a **minimum of ten (10) days'** notice prior to any modifications or cancellation of said policies of insurance. Vendor shall require all subcontractors performing any work under or relating to this Contract to maintain coverage as specified below. Vendor shall, at all times during the Term of this Contract, maintain insurance coverage with not less than the type and requirements shown below. If the CP member has higher insurance requirements than those listed below, such may be added to the Purchase Order. Such insurance is to be provided at the sole cost of the Vendor. These requirements do not establish limits of Vendor's liability.

All policies of insurance shall waive all rights of subrogation against HCDE, CP members, and HCDE/CP and CP members' officers, employees and agents.

Upon request, certified copies of original insurance policies shall be furnished to HCDE/CP and/or to CP members.

HCDE/CP and the CP member, as requested, shall be named as an "additional insured" on insurance policies.

HCDE/CP and the CP member reserve the right to require additional insurance should HCDE/CP or the CP member deem additional insurance necessary, in their sole discretion.

- Workers Compensation (with waiver of subrogation to HCDE/CP and the CP member) Employer's Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements.
- Statutory, and Bodily Injury by Accident: \$100,000 each employee. Bodily Injury by Disease: \$500,000, policy limit \$100,000 each employee.
- Commercial General Liability Occurrence Form including, but not limited to, Premises and Operations, Products Liability Broad Form Property Damage, Contractual Liability, Personal and Advertising Injury Liability and where the exposure exists, coverage for watercraft, blasting collapse, and explosions, blowout, cratering and underground damage. \$300,000 each occurrence Limit Bodily Injury and Property Damage combined. \$300,000 Products-Completed Operations Aggregate Limit \$500,000 per Job Aggregate. \$300,000 Personal and Advertising Injury Limit.

- Automobile Liability Coverage: \$300,000 Combined Liability Limits Bodily Injury and Property Damage Combined.

5.45. **Participation in HCDE/CP**

Vendor acknowledges and agrees that continued participation in the HCDE/CP cooperative purchasing program is subject to HCDE/CP's sole discretion and that Vendor may be removed from the HCDE/CP program at any time, with or without cause, in HCDE/CP's sole discretion. All work resulting from this Contract must cease immediately after completion of the final accepted Purchase Order/Job Order. Nothing in this Contract or in any other communication between HCDE/CP and Vendor may be construed as a guarantee that HCDE/CP or CP members will submit any Purchase Order/Job Order to Vendor at any time.

At a minimum, to continue participation in the HCDE/CP cooperative purchasing program, Vendor must:

- **Submit detailed monthly reports of all sales activity (such report is required even if there is no sales activity for a given month);**
- **Timely remit Administrative Fee(s) to HCDE/CP;**
- **Market Choice Partners, including inclusion of CP seal on Vendor's website, development and execution of marketing plan, and participation in at least 5 of marketing events (such as trade shows and conferences) annually;**
- **Maintain a minimum annual sales activity of \$15,000;**
- **Completion of all required forms (such as Form 1295, EDGAR Certifications, etc.); and**
- **Maintain required insurance and submit updated certificate(s) to CP annually**

5.46. **No Agency or Endorsements**

It is the intention of the parties to this Contract that Vendor is independent of HCDE/CP and CP members, is an independent contractor, and is not an employee, agent, joint venturer, or partner of HCDE/CP or any CP member. Nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between HCDE/CP and Vendor, any CP member and Vendor, HCDE/CP and any of Vendor's agents, or any CP member and any of Vendor's agents. Vendor has no power or authority to assume or create any obligation or responsibility on behalf of HCDE/CP or any CP member, and HCDE/CP and HCE members have no power or authority to assume or create any obligation or responsibility on behalf of Vendor. This Contract shall not be construed to create or imply any partnership, agency, or joint venture, nor shall it be construed or deemed an endorsement of a specific company or product. Vendor agrees that HCDE/CP and CP members have no responsibility for any conduct of any of Vendor's employees, agents, representatives, contractors, or subcontractors.

5.47. **Equal Opportunity**

It is the policy of HCDE/CP not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

5.48. **Force Majeure**

Neither HCDE, any CP member, or Vendor shall be deemed to have breached any provision of this Contract as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond HCDE, any CP member, or Vendor's control.

HCDE, CP members, and Vendor are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other parties in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Contract has not been terminated. Delay or failure of performance, by either party to this Contract, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. HCDE, CP members, and Vendor shall not have any claim for damages against any other party resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Contract, in the event the Vendor's performance of its obligations under this Contract is delayed or stopped by a force majeure event, HCDE/CP shall have the option to terminate this Contract. This section shall not be interpreted as to limit or otherwise modify any of HCDE's or CP members' contractual, legal, or equitable rights.

5.49. **Severability**

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

5.50. **Waiver**

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

5.51. **Entire Agreement**

The Contract, the CSP, Vendor's proposal submitted in response to the CSP, the attached and incorporated attachments, addendum, and/or exhibits, if any, and the Supplemental Contract, if any, contain the entire agreement of the parties relative to the purpose(s) of the Contract and supersede any other representations, agreements, arrangements, negotiations, or understandings, oral or written, between the parties to this Contract. In the event of a conflict between this Contract and the CSP or Vendor's proposal submitted in response to the CSP, this Contract shall control. In the event of a conflict between the CSP and Vendor's proposal submitted in response to the CSP, the CSP shall control. This Contract supersedes any conflicting terms and conditions on any Purchase Order/Job Order, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Vendor after the Effective Date of this Contract.

In addition to this Contract, a Supplemental Contract between Vendor and the CP member may be established to further detail the terms and conditions of the CP member's specific project. In the event of a conflict between this Contract and the Supplemental Contract, as to HCDE, this Contract shall prevail. In the event of a conflict between this Contract and the Supplemental Contract, as to the CP member, the Supplemental Contract shall prevail unless the Supplemental Contract states otherwise.

5.52. **Interpretation**

Vendor agrees that the normal rules of construction that requires that any ambiguities in this Contract are to be construed against the drafter shall not be employed in the interpretation of this Contract.

5.53. **Notice**

Any notice provided under the terms of this Contract by the parties to any other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be sufficient if made or addressed to the party at the address listed in the signature line of this Contract. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified mail, return receipt requested.

5.54. **Captions**

The captions herein are for convenience and identification purposes only, are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.

5.55 **Certifications**

Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory.

Vendor certifies and agrees that it shall not assist an employee, contractor, or agent of HCDE or of any other school district in obtaining a new job if the Vendor knows, or has probable cause to believe, that the individual engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition. *See* HCDE Policy CJ (Legal) and (Local).

Evaluation Criteria	Total Weighted Value		AAA Time Saver Services	American Technologies, Inc	Bass Construction Co., Inc.	Blackmon Mooring
Averages						
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	30		17.33	#DIV/0!	15.67	19.00
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	20		14.67	#DIV/0!	15.67	15.67
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	20		14.00	#DIV/0!	14.33	14.33
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0		0.00	#DIV/0!	0.00	0.00
(5) Vendor's safety record, including current OSHA safety report	5		3.67	#DIV/0!	4.33	3.00
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	10		4.33	#DIV/0!	9.67	8.00
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	7		4.00	#DIV/0!	3.67	5.00
(8) Marketing Plan	5		3.33	#DIV/0!	4.00	4.33
(9) Value Add Products/Services	3		0.67	#DIV/0!	1.67	1.33
Total	100		62.00	0.00	69.00	70.67
Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles	Invitations sent to 581 Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts: <u>Contract</u> <u>Vendor</u> 18/029JN -01 Blackmon Mooring 18/029JN -02 Centennial Moisture Control, Inc. 18/029JN -03 Falkenberg Construction Company, Inc.					
Yellow - non-responsive or did not make 70.						

	Near Future LLC	Radius Design Works, LLC	Reliable Commercial Roofing Services, Inc.	SDB Contracting Services (SDB, Inc)	Sterling Structures, Inc.
Evaluation Criteria					
Averages					
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	21.67	17.33	23.00	24.33	28.33
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	14.33	17.00	16.00	17.67	18.67
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	14.33	15.67	12.67	17.67	19.33
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0.00	0.00	0.00	0.00	0.00
(5) Vendor's safety record, including current OSHA safety report	2.67	3.33	3.00	4.67	4.67
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	7.67	6.67	8.00	9.67	9.67
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	5.00	6.67	5.33	5.00	6.33
(8) Marketing Plan	4.00	3.67	3.33	4.33	4.00
(9) Value Add Products/Services	2.00	2.00	2.33	0.67	2.00
Total	71.67	72.33	73.67	84.00	93.00
Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles	Invitations sent to 676 prospective bidders Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts: <u>Contract</u> <u>Vendor</u> 18/029JN -13 Sullivan Contracting Services (Pounds 18/029JN -14 The Fence Lady Inc. 18/029JN -15 The Thomas Group, Inc.				
Yellow - non-responsive or did not make 70.					

	Sullivan Contracting Services (Pounds Group.	THE FENCE LADY INC.	The Thomas Group, Inc.	The Trevino Group, Inc.	0
Evaluation Criteria					
Averages					
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	25.67	17.33	25.67	11.67	#DIV/0!
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	13.33	16.33	17.00	17.33	#DIV/0!
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	14.67	17.00	15.00	14.67	#DIV/0!
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0.00	0.00	0.00	0.00	#DIV/0!
(5) Vendor's safety record, including current OSHA safety report	3.33	4.00	4.33	4.00	#DIV/0!
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	8.33	8.00	6.33	9.67	#DIV/0!
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	2.67	6.33	5.00	3.00	#DIV/0!
(8) Marketing Plan	3.33	4.33	4.00	3.33	#DIV/0!
(9) Value Add Products/Services	1.00	2.67	0.67	0.67	#DIV/0!
Total	72.33	76.00	78.00	64.33	0.00
Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles					
Invitations sent to 676 prospective bidders Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts:					
Group)					
Yellow - non-responsive or did not make 70.					

1	Coefficient for unit price book - RSMeans online						
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Jamail & Smith Construction, LP	1	EA	\$0.73	\$0.73			
Sterling Structures, Inc.	1	EA	\$0.80	\$0.80			
FRAGMA Construction Services,	1	EA	\$0.83	\$0.83	Coefficient for unit price book - RSMeans o		
The Thomas Group, Inc.	1	EA	\$0.84	\$0.84			
Sullivan Contracting Services (Pc	1	EA	\$0.85	\$0.85			
Near Future LLC	1	EA	\$0.85	\$0.85			
floors 2 adore	1	EA	\$0.86	\$0.86			
SDB Contracting Services (SDB, I	1	EA	\$0.87	\$0.87			
Mooring Recovery Services	1	EA	\$0.88	\$0.88			
Reliable Commercial Roofing Se	1	EA	\$0.89	\$0.89			
Blackmon Mooring	1	EA	\$0.90	\$0.90			
LMC Corp (Lee Construction and	1	EA	\$0.90	\$0.90	Regions: 2-Corpus Christi, 3-Victoria, 4-Hou		
AAA Time Saver Services	1	EA	\$0.91	\$0.91			
Radius Design Works, LLC	1	EA	\$0.93	\$0.93			
Hallmark Mitigation & Construc	1	EA	\$0.94	\$0.94	94%		
Bass Constuction Co., Inc.	1	EA	\$0.95	\$0.95			
Mid-Continental Restoration Co	1	EA	\$0.95	\$0.95			
THE FENCE LADY INC.	1	EA	\$0.96	\$0.96			
Centennial Moisture Control, In	1	EA	\$0.98	\$0.98			
Falkenberg Construction Compa	1	EA	\$0.99	\$0.99			
L-Sync, LLC	1	EA	\$0.99	\$0.99			
The Trevino Group, Inc.	1	EA	\$1.20	\$1.20			
J Reynolds & Co., Inc.	1	EA	No Bid				

2	Coefficient for RSMeans online - after hours and overtime hours						
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Jamail & Smith Construction, LP	1	EA	\$0.75	\$0.75			
The Thomas Group, Inc.	1	EA	\$0.87	\$0.87			
Sullivan Contracting Services (Pc	1	EA	\$0.89	\$0.89			
floors 2 adore	1	EA	\$0.89	\$0.89			
Sterling Structures, Inc.	1	EA	\$0.90	\$0.90			
FRAGMA Construction Services,	1	EA	\$0.91	\$0.91	Coefficient for RSMeans online - after hour		
Mooring Recovery Services	1	EA	\$0.92	\$0.92			
AAA Time Saver Services	1	EA	\$0.93	\$0.93			
Blackmon Mooring	1	EA	\$0.93	\$0.93			
Near Future LLC	1	EA	\$0.95	\$0.95			

Radius Design Works, LLC	1	EA	\$0.95	\$0.95
LMC Corp (Lee Construction and	1	EA	\$0.95	\$0.95
SDB Contracting Services (SDB, I	1	EA	\$0.95	\$0.95
THE FENCE LADY INC.	1	EA	\$0.96	\$0.96 There will be no extra charge for afterhours
Hallmark Mitigation & Construc	1	EA	\$0.99	\$0.99 99%
Reliable Commercial Roofing Se	1	EA	\$1.10	\$1.10
Bass Constuction Co., Inc.	1	EA	\$1.10	\$1.10
Mid-Continental Restoration Co	1	EA	\$1.10	\$1.10
L-Sync, LLC	1	EA	\$1.13	\$1.13
Falkenberg Construction Comp	1	EA	\$1.15	\$1.15
The Trevino Group, Inc.	1	EA	\$1.33	\$1.33
Centennial Moisture Control, In	1	EA	\$1.35	\$1.35
J Reynolds & Co., Inc.	1	EA	No Bid	

3 Coefficient for National Construction Estimator book by Craftsman

Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Mooring Recovery Services	1	EA	\$1.13	\$1.13			
The Thomas Group, Inc.	1	EA	\$1.15	\$1.15			
THE FENCE LADY INC.	1	EA	\$1.15	\$1.15			
Blackmon Mooring	1	EA	\$1.17	\$1.17			
Jamail & Smith Construction, LP	1	EA	\$1.17	\$1.17			
L-Sync, LLC	1	EA	\$1.20	\$1.20			
Near Future LLC	1	EA	\$1.20	\$1.20			
Hallmark Mitigation & Construc	1	EA	\$1.20	\$1.20	115%		
Sullivan Contracting Services (P	1	EA	\$1.20	\$1.20			
Radius Design Works, LLC	1	EA	\$1.20	\$1.20			
Mid-Continental Restoration Co	1	EA	\$1.20	\$1.20			
floors 2 adore	1	EA	\$1.20	\$1.20			
LMC Corp (Lee Construction and	1	EA	\$1.20	\$1.20			
AAA Time Saver Services	1	EA	\$1.20	\$1.20			
Falkenberg Construction Comp	1	EA	\$1.22	\$1.22			
The Trevino Group, Inc.	1	EA	\$1.24	\$1.24			
SDB Contracting Services (SDB, I	1	EA	\$1.24	\$1.24			
FRAGMA Construction Services, I	1	EA	\$1.25	\$1.25			
Centennial Moisture Control, In	1	EA	\$1.25	\$1.25			
Sterling Structures, Inc.	1	EA	No Bid				
Bass Constuction Co., Inc.	1	EA	No Bid				
Reliable Commercial Roofing Se	1	EA	No Bid				
J Reynolds & Co., Inc.	1	EA	No Bid				

4	Coefficient for overtime hours for the National Construction Estimator book by Craftsman						
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Mooring Recovery Services	1	EA	\$1.22	\$1.22			
THE FENCE LADY INC.	1	EA	\$1.25	\$1.25	Due to the Pricing schedules in Craftsman v		
The Thomas Group, Inc.	1	EA	\$1.25	\$1.25			
Jamail & Smith Construction, LP	1	EA	\$1.27	\$1.27			
Mid-Continental Restoration Co	1	EA	\$1.27	\$1.27			
AAA Time Saver Services	1	EA	\$1.27	\$1.27			
Blackmon Mooring	1	EA	\$1.29	\$1.29			
Near Future LLC	1	EA	\$1.30	\$1.30			
Hallmark Mitigation & Construc	1	EA	\$1.30	\$1.30			
Radius Design Works, LLC	1	EA	\$1.30	\$1.30			
floors 2 adore	1	EA	\$1.30	\$1.30			
L-Sync, LLC	1	EA	\$1.30	\$1.30			
Sullivan Contracting Services (Pc	1	EA	\$1.30	\$1.30			
FRAGMA Construction Services, 1	EA	\$1.32	\$1.32				
SDB Contracting Services (SDB, I	1	EA	\$1.32	\$1.32			
Falkenberg Construction Compa	1	EA	\$1.32	\$1.32			
The Trevino Group, Inc.	1	EA	\$1.34	\$1.34			
Centennial Moisture Control, In	1	EA	\$1.35	\$1.35			
LMC Corp (Lee Construction and	1	EA	\$1.35	\$1.35			
Reliable Commercial Roofing Se	1	EA	No Bid				
J Reynolds & Co., Inc.	1	EA	No Bid				
Sterling Structures, Inc.	1	EA	No Bid				
Bass Constuction Co., Inc.	1	EA	No Bid				

5	Usual and customary mark up for any non-pre-priced items that may come up. This is not a coefficient. It is a percent mark up of actual cost.						
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Sterling Structures, Inc.	1	EA	\$10.00	\$10.00	10%		
AAA Time Saver Services	1	EA	\$10.00	\$10.00	10%		
THE FENCE LADY INC.	1	EA	\$10.00	\$10.00	10%		
Falkenberg Construction Compa	1	EA	\$12.00	\$12.00	12%		
The Thomas Group, Inc.	1	EA	\$12.00	\$12.00	12%		
FRAGMA Construction Services, 1	EA	\$1.15	\$1.15	15%			
floors 2 adore	1	EA	\$15.00	\$15.00	15%		
Reliable Commercial Roofing Se	1	EA	\$15.00	\$15.00	15%		
The Trevino Group, Inc.	1	EA	\$15.00	\$15.00	15%		
Sullivan Contracting Services (Pc	1	EA	\$15.00	\$15.00	15%		

SDB Contracting Services (SDB, I	1	EA	\$15.00	\$15.00 15%
Bass Constuction Co., Inc.	1	EA	\$15.00	\$15.00 15%
Near Future LLC	1	EA	\$15.00	\$15.00 15%
L-Sync, LLC	1	EA	\$17.00	\$17.00 17%
Jamail & Smith Construction, LP	1	EA	\$1.18	\$1.18 18%
Hallmark Mitigation & Construc	1	EA	\$19.00	\$19.00 19%
Centennial Moisture Control, In	1	EA	\$0.20	\$0.20 20%
Radius Design Works, LLC	1	EA	\$0.20	\$0.20 20%
LMC Corp (Lee Construction and	1	EA	\$1.20	\$1.20 20%
Blackmon Mooring	1	EA	\$20.00	\$20.00 20%
Mooring Recovery Services	1	EA	\$20.00	\$20.00 20%
Mid-Continental Restoration Co	1	EA	\$20.00	\$20.00 20%
J Reynolds & Co., Inc.	1	EA	No Bid	

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: City Secretary
Subject: Ordinance No. 22-T-09 - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to provide funding for the Civic Center HVAC Replacement Project, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. (*Final Reading*) (C. Kelm/S. Williams/S. McClelland)

BACKGROUND

The Schertz Civic Center has been providing rental space for the community since 2006. Recently, the HVAC system in the facility began experiencing outages and performance and reliability issues. In addition to having the City's on-staff HVAC Technician diagnose the ongoing issues, the City also entered into a task order with M&S Engineering (one of the City's on-call engineering firms) to do a full redesign of the facility's HVAC system.

The new system being proposed for the Civic Center is a system that is more conventional for a facility of this size. New package units will be installed on-grade on the exterior of the building. The variable air volume (VAV) units will be distributed to each zone within the facility by VAV terminal units. A large portion of the existing duct work will be able to remain in place allowing for less disruption within the facility during construction.

Due to long lead times, City Council approved an Ordinance and Resolution in January to fund and authorize the purchase of the HVAC equipment prior to the final design being completed. Now that the final design has been completed, this ordinance allocates funds from the Hotel Occupancy Tax reserves in order to fund the construction and installation associated with the Civic Center HVAC Replacement Project.

A separate resolution will be brought to City Council authorizing the agreement for the construction and installation necessary to complete the Civic Center HVAC Replacement Project.

City Council approved this on first reading at their meeting of March 1, 2022.

GOAL

The goal of this ordinance is to amend the fiscal year 2021-2022 budget to provide funding for the Civic Center HVAC Replacement Project.

COMMUNITY BENEFIT

Replacing the existing HVAC system will allow the Civic Center to continue to provide high-end event rental space to the community.

SUMMARY OF RECOMMENDED ACTION

Staff recommends that the City Council approve Ordinance 22-T-09 on final reading authorizing the budget adjustment to allow for the completion of the Civic Center HVAC Replacement Project.

FISCAL IMPACT

Funding (\$900,000) for the construction of the project will be paid for using existing Hotel Occupancy Tax Funds which are permitted to be used on Capital Improvements at the Civic Center.

RECOMMENDATION

Staff recommends that the City Council approve Ordinance 22-T-09 on final reading authorizing the budget adjustment to allow for the completion of the Civic Center HVAC Replacement Project.

Attachments

Ord 22-T-09

ORDINANCE NO. 22-T-09

A ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021-2022 BUDGET TO PROVIDE FUNDING FOR THE CIVIC CENTER HVAC REPLACEMENT PROJECT, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance 21-T-38, the City Council of Schertz, Texas, (the “City”) adopted the budget for the City for the fiscal year 2021-2022 (the “Budget”), which provides funding for the City’s operations throughout the 2021-2022 fiscal year; and

WHEREAS, the City needs to authorize a budget amount of \$900,000 for the purpose of construction and installation relating to the Civic Center HVAC Replacement Project; 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 Civic Center HVAC Replacement Project, as more fully set forth in this Ordinance; and

WHEREAS, the City has identified a need to replace the existing HVAC system at the Civic Center; and

WHEREAS, the City has Hotel Occupancy Tax Funds available to be used on Capital Projects at the Civic Center; and

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

Section 1. The City shall transfer a budget of \$900,000 from the Hotel Occupancy Tax Fund to the Civic Center HVAC Replacement Project.

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 City Council.

Section 3. 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 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 Council 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, Texas Government Code, as amended.

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

PASSED AND APPROVED on first reading, this 1st day of March, 2022.

PASSED AND ADOPTED on final reading, this 8th day of March, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022

Department: City Secretary

Subject: **Ordinance No. 22-T-10** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget, of \$570,000, to provide funding for the purchase of property currently owned by Guadalupe Basin River Authority (GBRA), repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. *(Final Reading)* (C. Kelm/S. Williams)

BACKGROUND

GBRA currently owns 3.4096 acres located at 22330 IH-35 North that was formerly used by GBRA to own and operate a wastewater treatment plant. The plant was decommissioned in 2021 and GBRA is currently selling the property and the City has an appraised value for \$698,000.

The property is in a prime location on I-35 and the City has an existing lift station at the back of the property. It is apparent this lift station will need to be expanded to accommodate growth and serve undeveloped land in Northern Schertz. The property would be advantageous for staff to use as a storage area to increase efficiencies through the reduction of windshield time, as well as reduce fuel and maintenance costs for equipment. In addition, this location could be used for additional City Facilities.

City Council approved this on first reading at their meeting of March 1, 2022.

GOAL

The goal is for the City to provide residents with appropriate levels of service while being forward-thinking and stewards of the budget by purchasing this property at a lower cost than the appraised value.

COMMUNITY BENEFIT

Through the purchase of this property, the City will continue to provide high levels of service while being fiscally responsible and accommodating anticipated growth.

SUMMARY OF RECOMMENDED ACTION

Staff recommends City Council approve of Ordinance 22-T-10 on final reading to adjust the budget for the purpose of purchasing the property located at 22330 IH-35 North to allow the City to accommodate anticipated growth and continue providing high levels of service while being fiscally responsible.

FISCAL IMPACT

The fiscal impact is \$570,000 will be divided evenly between the Water/Sewer Fund and General Fund.

RECOMMENDATION

Staff recommends City Council approve of Ordinance 22-T-10 on final reading to adjust the budget for the purpose of purchasing the property located at 22330 IH-35 North.

Attachments

Ordinance 22-T-10

ORDINANCE NO. 22-T-10

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021-2022 BUDGET TO PURCHASE PROPERTY FROM THE GUADALUPE-BLANCO RIVER AUTHORITY, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, pursuant to Ordinance 21-T-38, the City of Schertz (the “City”) adopted the budget for the City for the fiscal year 2021-2022 (the “Budget”), which provides funding for the City’s operations throughout the 2021-2022 fiscal year; and

WHEREAS, the City needs to authorized budget amounts of \$570,000.00 for the purchase of property owned by the Guadalupe-Blanco River Authority (GBRA) funded from General Fund Sales taxes and the current year anticipated Water & Sewer fees; 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 purchase of property from GBRA 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 \$570,000.00 in the Water & Sewer Fund for the purchase of property. The General Fund will recognize an additional \$285,000.00 in anticipated sales tax collections to be transferred to the Water & Sewer Fund for the purchase.

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 1st day of March, 2022.

PASSED, APPROVED and ADOPTED ON SECOND READING, the 8th day of March, 2022.

CITY OF SCHERTZ, TEXAS

Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: Public Works
Subject: Resolution No. 22-R-33 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into a contract to purchase 3.4096 acres of property currently owned by Guadalupe Blanco River Authority (GBRA) at 22330 IH-35 North, Schertz, Texas. (C. Kelm/S. Williams)

BACKGROUND

GBRA owns 3.4096 acres located at 22330 IH 35 North, Schertz, Texas and used that property to own and operate a wastewater treatment plant that was decommissioned in 2021. The City owns and operates a lift station located along the back of the property that serves Northern Schertz and receives flow from Cypress Point, Friesenhahn, Covers Cove, Parklands, and Homestead. The property GBRA is selling is in a prime location with IH-35 frontage and staff would like to purchase the property to accommodate growth in Northern Schertz, including currently undeveloped residential and commercial parcels. In addition, the property also provides opportunities to increase efficiencies by becoming a storage area and decreasing windshield time. Also, the property could be used for additional City facilities, such as satellite offices.

The City is prepared to purchase the property from GBRA for \$570,000.

GOAL

Schertz has a continuous goal of resolving growth related challenges while being fiscally responsible and stewards of the budget. The purchase of this prime real estate provides opportunities for Schertz to address growth while managing costs.

COMMUNITY BENEFIT

The purchase of this property will allow Schertz to continue to provide water and wastewater services, through expansion, to residents and businesses in Northern Schertz, as well as address growth and development. In addition, as Northern Schertz demands more locally located services/resources, purchasing this property allows Schertz to provide appropriate and expected levels of service in this area.

SUMMARY OF RECOMMENDED ACTION

Staff recommends City Council approve Resolution 22-R-33 to approve an offer of \$570,000 to purchase the GBRA property located at 22330 IH35 North, Schertz, Texas so the City can provide services and address growth in Northern Schertz at an affordable cost.

FISCAL IMPACT

The purchase offer for the property is \$570,000 and is in the FY 21-22 General fund and the and FY 21-22 Water reserves. The \$570,000 will be divided evenly at \$285,000 from each fund as the property benefits the Water/Wastewater division and the City as a whole.

RECOMMENDATION

Staff recommends City Council approve Resolution 22-R-33 to approve an offer of \$570,000 to purchase the GBRA property located at 22330 IH35 North, Schertz, Texas.

Attachments

Brokerage Services

Condition Statement

Condition Statement dwg

Resolution 22-R-33

Commercial Contract-Exhibit A



11-2-2015

Information About Brokerage Services

Texas law requires all real estate license holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

TYPES OF REAL ESTATE LICENSE HOLDERS:

- A **BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- A **SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:

AS AGENT FOR OWNER (SELLER/LANDLORD): The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

AS AGENT FOR BUYER/TENANT: The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

AS AGENT FOR BOTH - INTERMEDIARY: To act as an intermediary between the parties the broker must first obtain the written agreement of *each party* to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
 - that the owner will accept a price less than the written asking price;
 - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
 - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

AS SUBAGENT: A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

LICENSE HOLDER CONTACT INFORMATION: This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

Keller Williams Realty - Heritage Licensed Broker /Broker Firm Name or Primary Assumed Business Name	434367 License No.	Heritage@mykwsa.com Email	210-493-3030 Phone
Lisa Munoz Designated Broker of Firm	488746 License No.	lmunoz@mykwsa.com Email	210-493-3030 Phone
Stephanie Williams Licensed Supervisor of Sales Agent/ Associate	601297 License No.	swilliams@mykwsa.com Email	210-323-3322 Phone
Mark Hampton Sales Agent/Associate's Name	464012 License No.	Mark@MarkHamptonHomes.com Email	210-823-8611 Phone
<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>		<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>	
Buyer/Tenant/Seller/Landlord Initials		Date	

Regulated by the Texas Real Estate Commission

Information available at www.trec.texas.gov



COMMERCIAL PROPERTY CONDITION STATEMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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CONCERNING THE PROPERTY AT: 22330 IH 35 N, New Braunfels, TX 78132-5819

THIS IS A DISCLOSURE OF THE SELLER'S OR LANDLORD'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED. IT IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES A BUYER OR TENANT MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER, SELLER'S AGENTS, LANDLORD, LANDLORD'S AGENTS OR ANY OTHER AGENT.

PART 1 – Complete if Property is Improved or Unimproved

Are you (Seller or Landlord) aware of:	<u>Aware</u>	<u>Not Aware</u>
(1) any of the following environmental conditions on or affecting the Property:		
(a) radon gas?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) asbestos components:		
(i) friable components?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(ii) non-friable components?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) urea-formaldehyde insulation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) endangered species or their habitat?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) wetlands?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) underground storage tanks?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) leaks in any storage tanks (underground or above-ground)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) lead-based paint?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) hazardous materials or toxic waste?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(j) open or closed landfills on or under the surface of the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(k) external conditions materially and adversely affecting the Property such as nearby landfills, smelting plants, burners, storage facilities of toxic or hazardous materials, refiners, utility transmission lines, mills, feed lots, and the like?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(l) any activity relating to drilling or excavation sites for oil, gas, or other minerals?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) previous environmental contamination that was on or that materially and adversely affected the Property, including but not limited to previous environmental conditions listed in Paragraph 1(a)-(l)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) any part of the Property lying in a special flood hazard area (A or V Zone)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) any improper drainage onto or away from the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) any fault line at or near the Property that materially and adversely affects the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) air space restrictions or easements on or affecting the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7) unrecorded or unplatted agreements for easements, utilities, or access on or to the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

(TXR-1408) 4-1-18 Initialed by Seller or Landlord:

07/16/21
10:44 AM CDT
dotloop verified

and Buyer or Tenant:

Page 1 of 4

Aware **Not
Aware**

- (8) special districts in which the Property lies (for example, historical districts, development districts, extraterritorial jurisdictions, or others)? ☐ ☒
- (9) pending changes in zoning, restrictions, or in physical use of the Property? ☐ ☒
The current zoning of the Property is: General Business
- (10) your receipt of any notice concerning any likely condemnation, planned streets, highways, railroads, or developments that would materially and adversely affect the Property (including access or visibility)? ☐ ☒
- (11) lawsuits affecting title to or use or enjoyment of the Property? ☐ ☒
- (12) your receipt of any written notices of violations of zoning, deed restrictions, or government regulations from EPA, OSHA, TCEQ, or other government agencies? ☐ ☒
- (13) common areas or facilities affiliated with the Property co-owned with others? ☐ ☒
- (14) an owners' or tenants' association or maintenance fee or assessment affecting the Property? ☐ ☒
If aware, name of association: _____
Name of manager: _____
Amount of fee or assessment: \$ _____ per _____
Are fees current through the date of this notice? ☐ yes ☐ no ☐ unknown
- (15) subsurface structures, hydraulic lifts, or pits on the Property? ☒ ☐
- (16) intermittent or weather springs that affect the Property? ☐ ☒
- (17) any material defect in any irrigation system, fences, or signs on the Property? ☐ ☒
- (18) conditions on or affecting the Property that materially affect the health or safety of an ordinary individual? ☐ ☐
- (19) any of the following rights vested in others:
- (a) outstanding mineral rights? ☐ ☒
- (b) timber rights? ☐ ☒
- (c) water rights? ☐ ☒
- (d) other rights? ☐ ☒
- (20) any personal property or equipment or similar items subject to financing, liens, or lease(s)? ☐ ☒
If aware, list items: _____

If you are aware of any of the conditions listed above, explain. *(Attach additional information if needed.)*

(15) see attached pages of existing subsurface structures

PART 2 – Complete only if Property is Improved

A. Are you (Seller or Landlord) aware of any material defects in any of following on the Property?

	<u>Aware</u>	<u>Not Aware</u>	<u>Not Appl.</u>
(1) <u>Structural Items:</u>			
(a) foundation systems (slabs, columns, trusses, bracing, crawl spaces, piers, beams, footings, retaining walls, basement, grading)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) exterior walls?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) fireplaces and chimneys?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) roof, roof structure, or attic (covering, flashing, skylights, insulation, roof penetrations, ventilation, gutters and downspouts, decking)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) windows, doors, plate glass, or canopies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>Plumbing Systems:</u>			
(a) water heaters or water softeners?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) supply or drain lines?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) faucets, fixtures, or commodes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) private sewage systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) pools or spas and equipments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) sprinkler systems (fire, landscape)?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) water coolers?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(h) private water wells?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(i) pumps or sump pumps?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) <u>HVAC Systems:</u> any cooling, heating, or ventilation systems?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) <u>Electrical Systems:</u> service drops, wiring, connections, conductors, plugs, grounds, power, polarity, switches, light fixtures, or junction boxes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) <u>Other Systems or Items:</u>			
(a) security or fire detection systems?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) porches or decks?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) gas lines?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) garage doors and door operators?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) loading doors or docks?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) rails or overhead cranes?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) elevators or escalators?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(h) parking areas, drives, steps, walkways?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(i) appliances or built-in kitchen equipment?.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are aware of material defects in any of the items listed under Paragraph A, explain. (*Attach additional information if needed.*) _____

**Not
Aware Aware**

- | | | |
|--|--------------------------|--------------------------|
| (1) any of the following water or drainage conditions materially and adversely affecting the Property: | | |
| (a) ground water?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) water penetration? | <input type="checkbox"/> | <input type="checkbox"/> |
| (c) previous flooding or water drainage?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (d) soil erosion or water ponding?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) previous structural repair to the foundation systems on the Property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (3) settling or soil movement materially and adversely affecting the Property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (4) pest infestation from rodents, insects, or other organisms on the Property? | <input type="checkbox"/> | <input type="checkbox"/> |
| (5) termite or wood rot damage on the Property needing repair? | <input type="checkbox"/> | <input type="checkbox"/> |
| (6) mold to the extent that it materially and adversely affects the Property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (7) mold remediation certificate issued for the Property in the previous 5 years?.....
<i>if yes, attach a copy of the mold remediation certificate.</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (8) previous termite treatment on the Property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (9) previous fires that materially affected the Property?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (10) modifications made to the Property without necessary permits or not in compliance with building codes in effect at the time?..... | <input type="checkbox"/> | <input type="checkbox"/> |
| (11) any part, system, or component in or on the Property not in compliance with the the Americans with Disabilities Act or the Texas Architectural Barrier Statute? | <input type="checkbox"/> | <input type="checkbox"/> |

If you are aware of any of conditions described under Paragraph B, explain. *(Attach additional information, if needed.)*

The undersigned acknowledges receipt of the foregoing statement.

Seller or Landlord: Guadalupe Blanco River Authority

Buyer or Tenant:

By: Darrell Nichols

By (signature): Guadalupe Blanco River Authority
 Printed Name: Darrell Nichols
 Title: Senior Deputy General Manager

By: _____

By (signature): _____
 Printed Name: _____
 Title: _____

By: _____

By (signature): _____
 Printed Name: _____
 Title: _____

By: _____

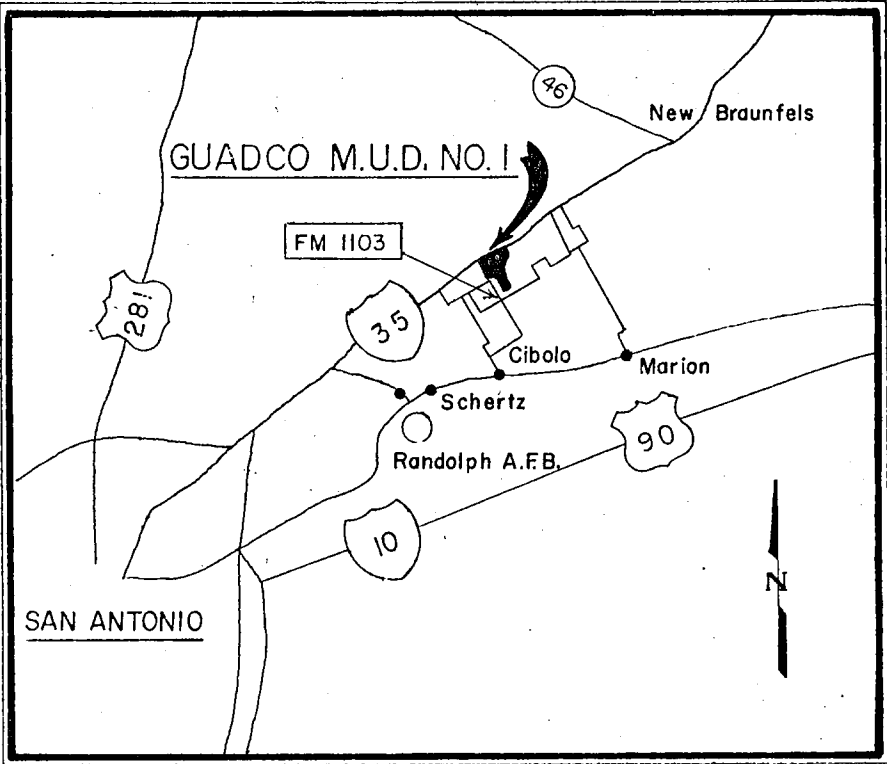
By (signature): _____
Printed Name: _____
Title: _____

NOTICE TO BUYER OR TENANT: The broker representing Seller or Landlord, and the broker representing you advise you that this statement was completed by Seller or Landlord, as of the date signed. The brokers have relied on this statement as true and correct and have no reason to believe it to be false or inaccurate. **YOU ARE ENCOURAGED TO HAVE AN INSPECTOR OF YOUR CHOICE INSPECT THE PROPERTY.**

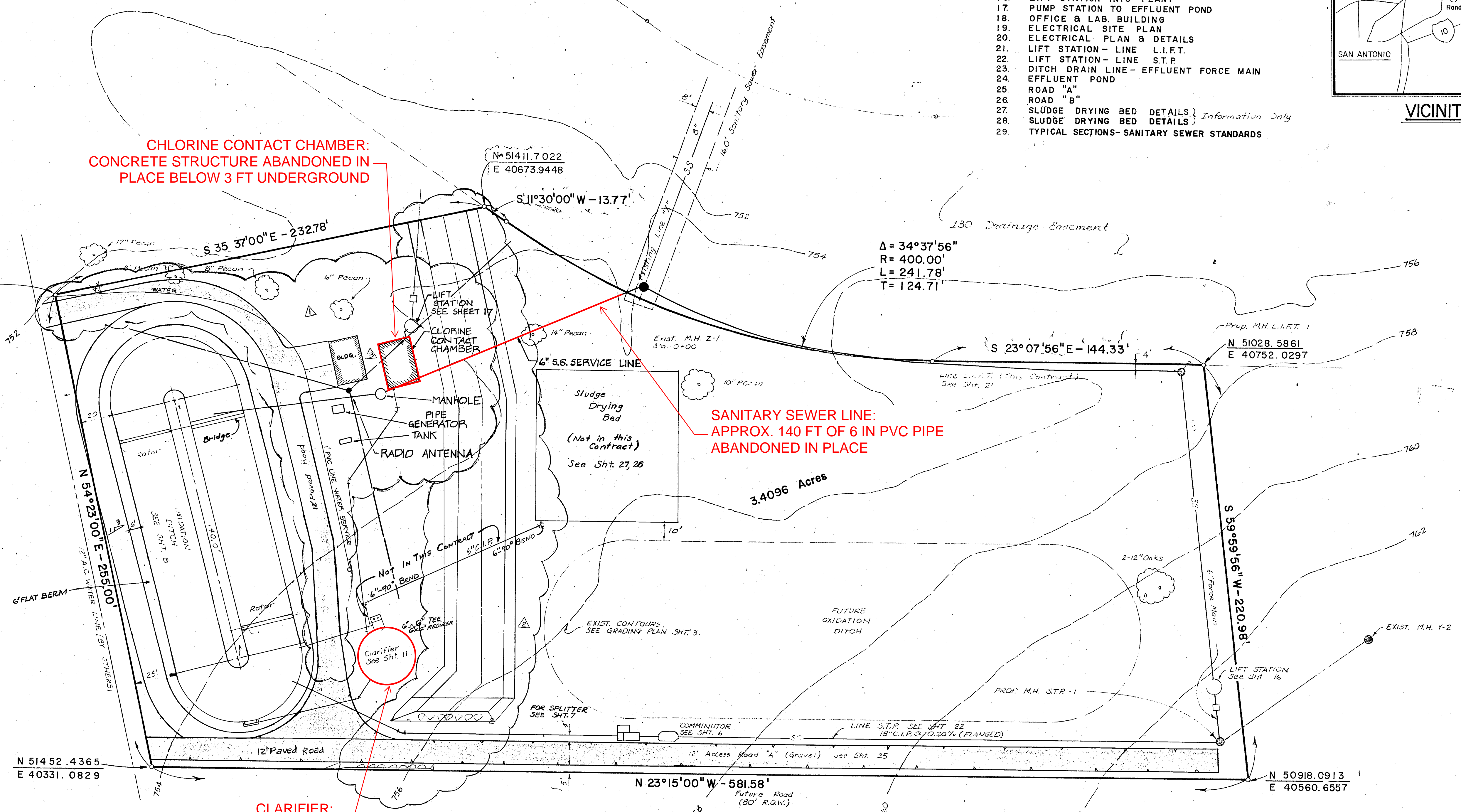
NORTHCLIFFE WWTP DEMOLITION
ABANDONED STRUCTURES LOCATION MAP
AND ATTACHED DETAILS WITH STRUCTURE DEPTHS
GBRA APRIL 2021

TABLE OF CONTENTS-

SHEET	TITLE
1.	SITE PLAN
2.	PIPING PLAN
3.	GRADING PLAN
4.	SCHEMATIC FLOW DIAGRAM
5.	HYDRAULIC PROFILE
6.	COMMINUTOR
7.	FLOW SPLITTER
8.	OXIDATION DITCH
9.	ROTOR ASSEMBLY SUPPORT
10.	WEIR GATE DETAILS
11.	CLARIFIER
12.	CLARIFIER STRUCTURAL DRAWINGS
13.	CLARIFIER SLUDGE TANK & RECYCLE PUMP DETAILS
14.	CHLORINE CONTACT CHAMBER
15.	CHLORINATION SYSTEM
16.	LIFT STATION INTO PLANT
17.	PUMP STATION TO EFFLUENT POND
18.	OFFICE & LAB. BUILDING
19.	ELECTRICAL SITE PLAN
20.	ELECTRICAL PLAN & DETAILS
21.	LIFT STATION - LINE L.I.F.T.
22.	LIFT STATION - LINE S.T.P.
23.	DITCH DRAIN LINE- EFFLUENT FORCE MAIN
24.	EFFLUENT POND
25.	ROAD "A"
26.	ROAD "B"
27.	SLUDGE DRYING BED DETAILS
28.	SLUDGE DRYING BED DETAILS
29.	TYPICAL SECTIONS- SANITARY SEWER STANDARDS



VICINITY MAP



SCALE: 1"= 30'-0"

11-78	As BUILT-RELOCATE EQ.	AG	AC
4-87	ADD DRAIN	F.U.C.	H.L.M.
11-16-76	REV. RD. "B" & BLDGS	F.U.C.	H.L.M.
REV.	DATE	DESCRIPTION	CHKD. BY

JOHNSON
ENGINEERS
ARCHITECTS
PLANNERS

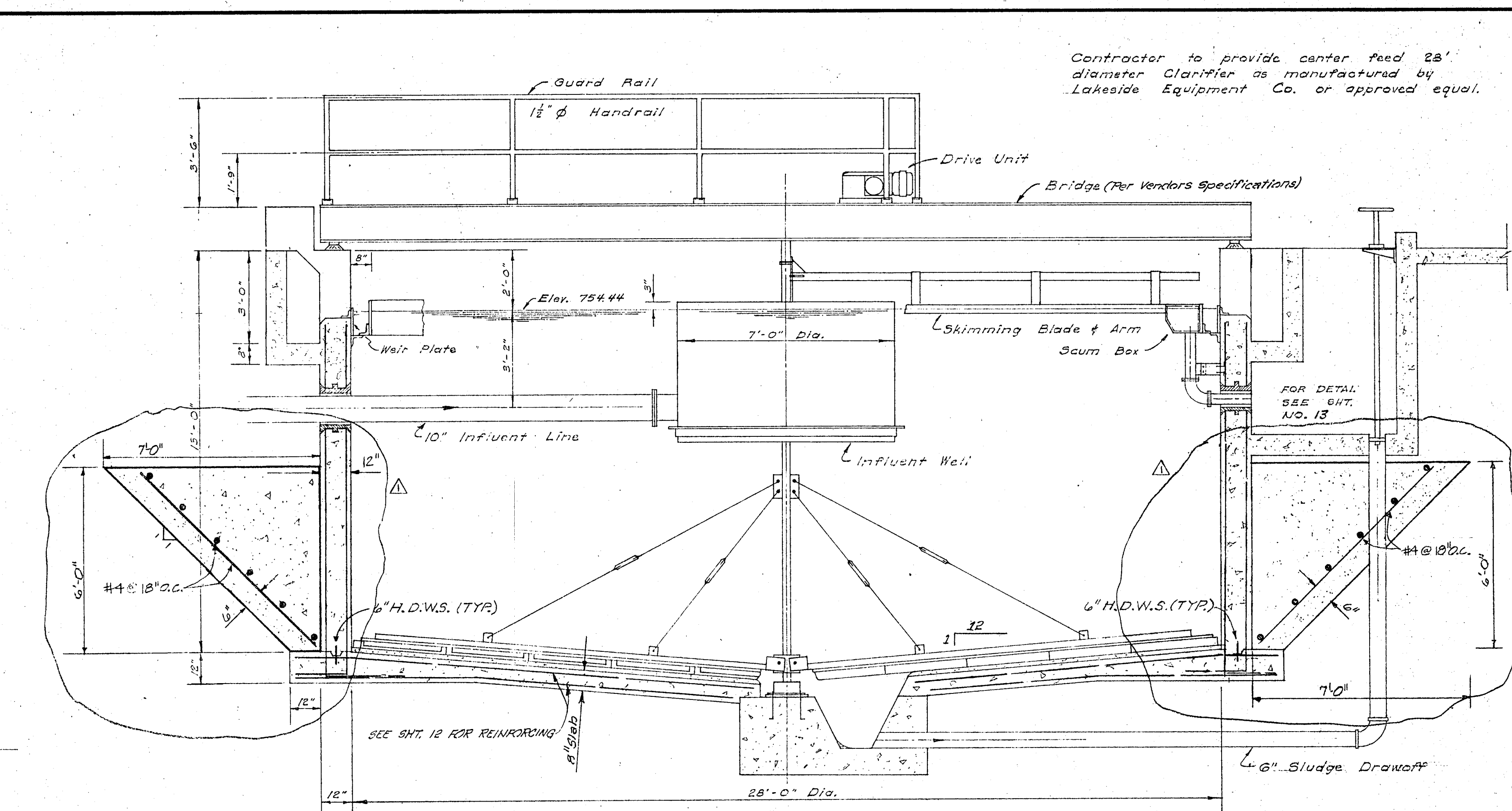
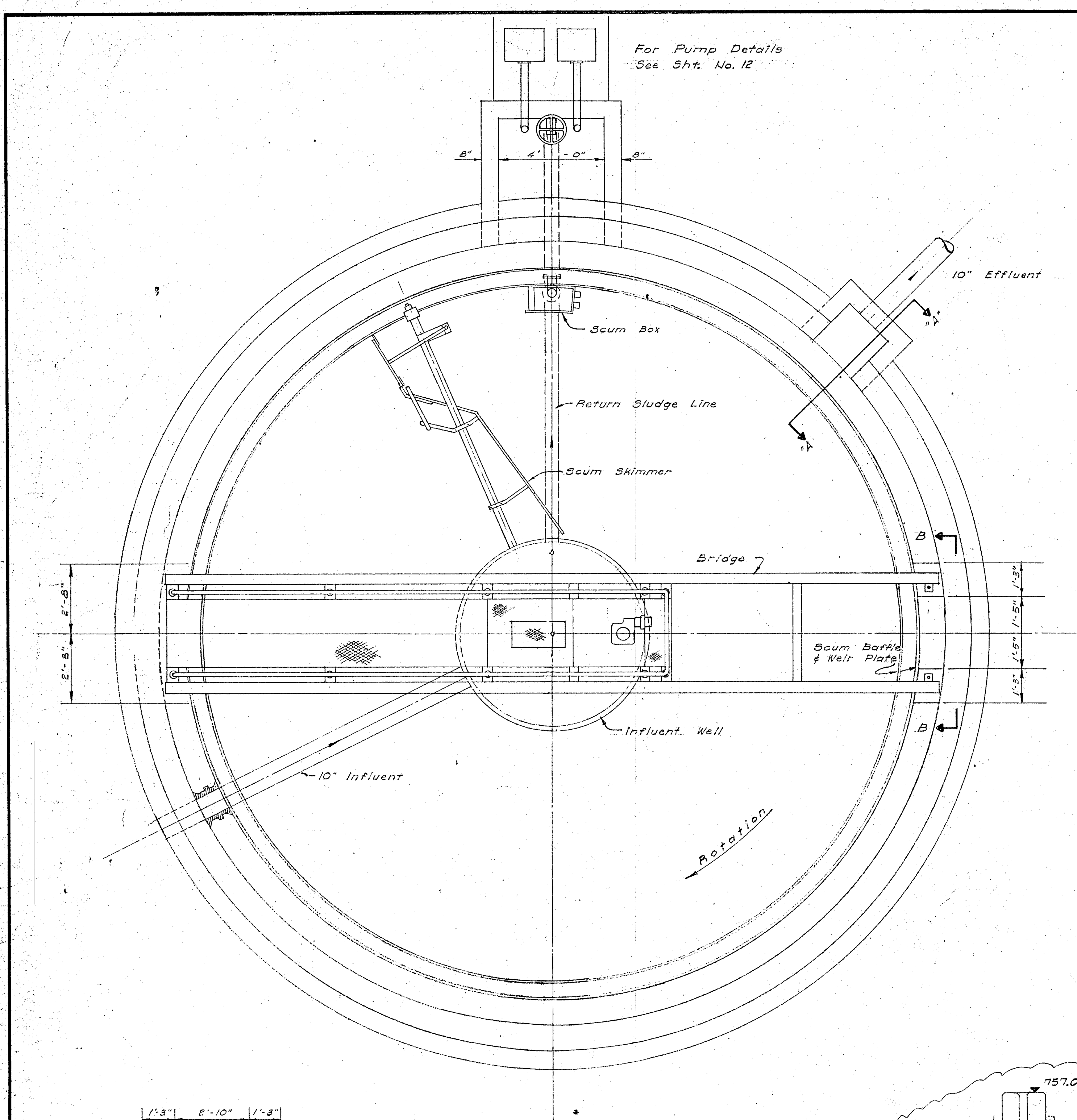
BERNARD JOHNSON INCORPORATED
ENGINEERS - ARCHITECTS - PLANNERS
5050 WESTMEIER
HOUSTON TEXAS 77027

GUADCO MUNICIPAL DISTRICT NO. 1

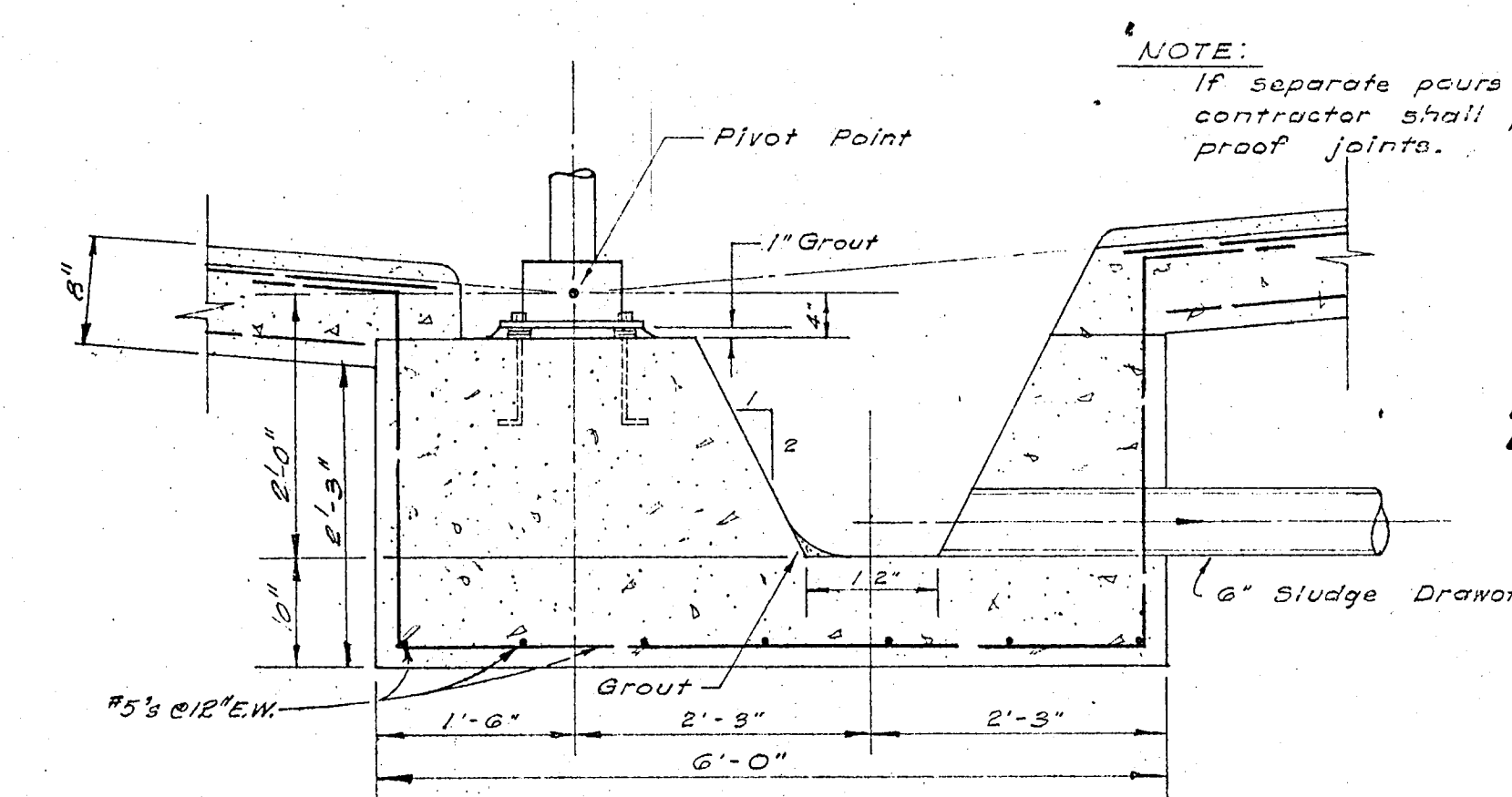
NORTHCLIFFE SECTION 1&2 AND
NORTHCLIFFE EAST SECTION 1
SEWAGE TREATMENT PLANT
SITE PLAN

Job No. 74010
Date: April, 1976
Dwn. By: F.E.J.
Chkd. By: S.P.G.

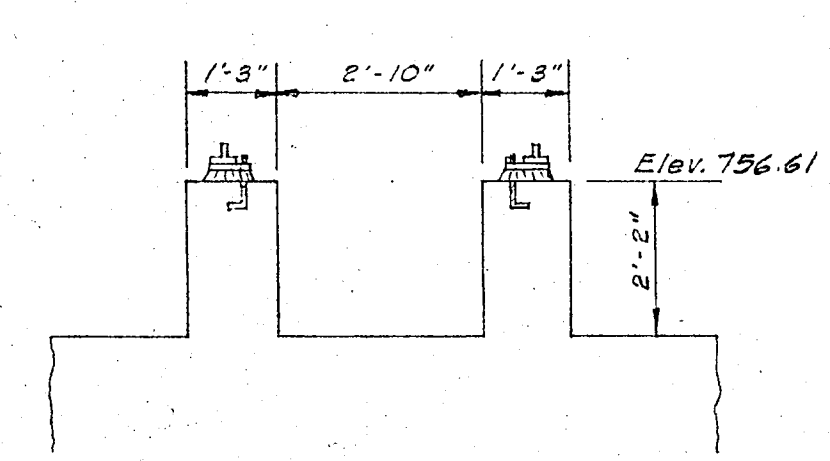
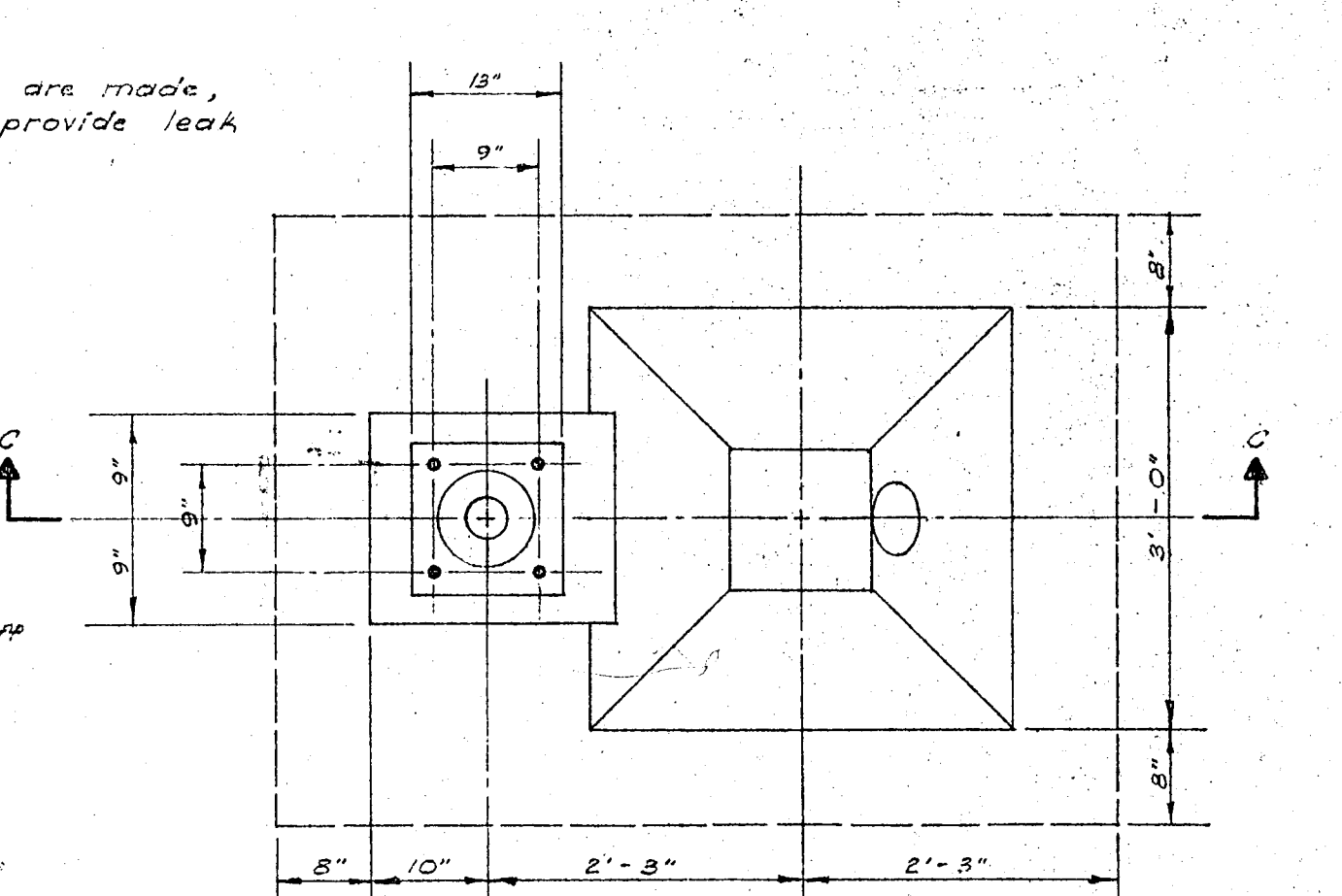
Sheet
1
of 29



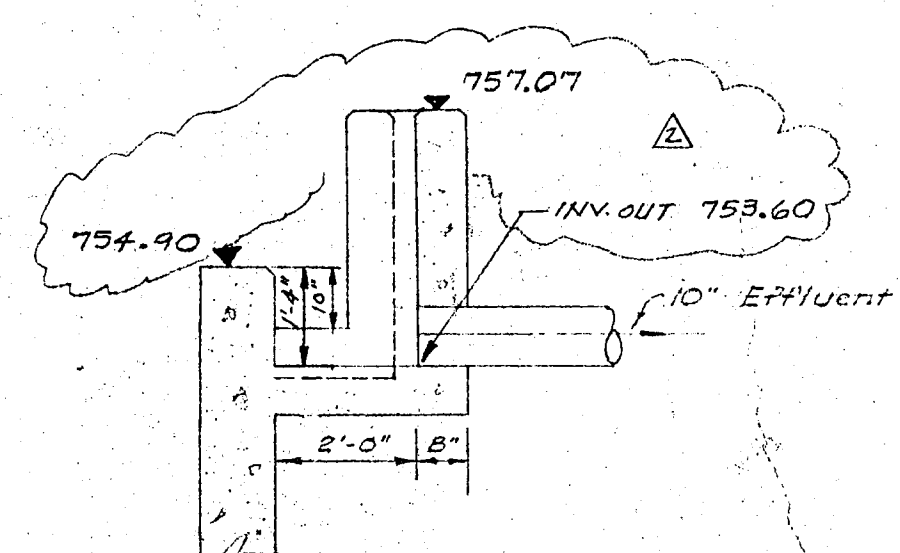
SECTIONAL ELEVATION
Scale: 3/8" = 1'-0"



NOTE:
If separate pours are made,
contractor shall provide leak
proof joints.



PLAN
Scale: 3/8" = 1'-0"



REV.	DATE	DESCRIPTION	DWG	CHK.	BY
1	1-11-78	AS BUILT - CHANGE ELEV.	R.G.	AC.	
2	1-14-77	ADD CONC. BALLAST	R.G.	H.L.M.	

JOHNSON
ENGINEERS
ARCHITECTS
PLANNERS

GUADCO MUNICIPAL DISTRICT NO. 1

NORTHCLIFFE SECTION 1&2 AND NORTHCLIFFE EAST SECTION .1

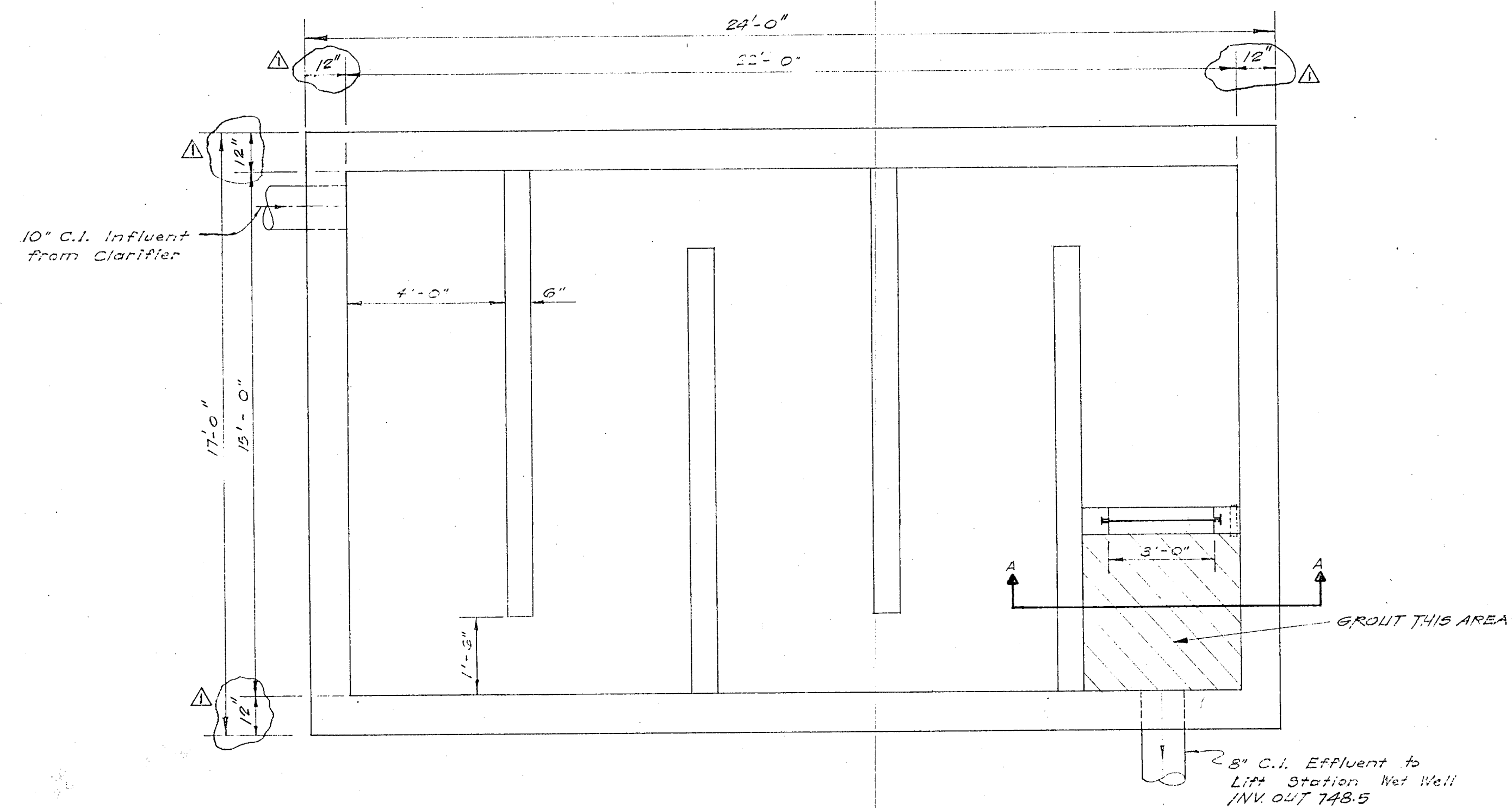
SEWAGE TREATMENT PLANT

CLARIFIER

BERNARD JOHNSON INCORPORATED
ENGINEERS - ARCHITECTS - PLANNERS
5050 WESTHEIMER
HOUSTON TEXAS 77027

Job No. 74010
Date: March, 1976
Dwn. By: N. F. C.
Chkd. By: J. Z.

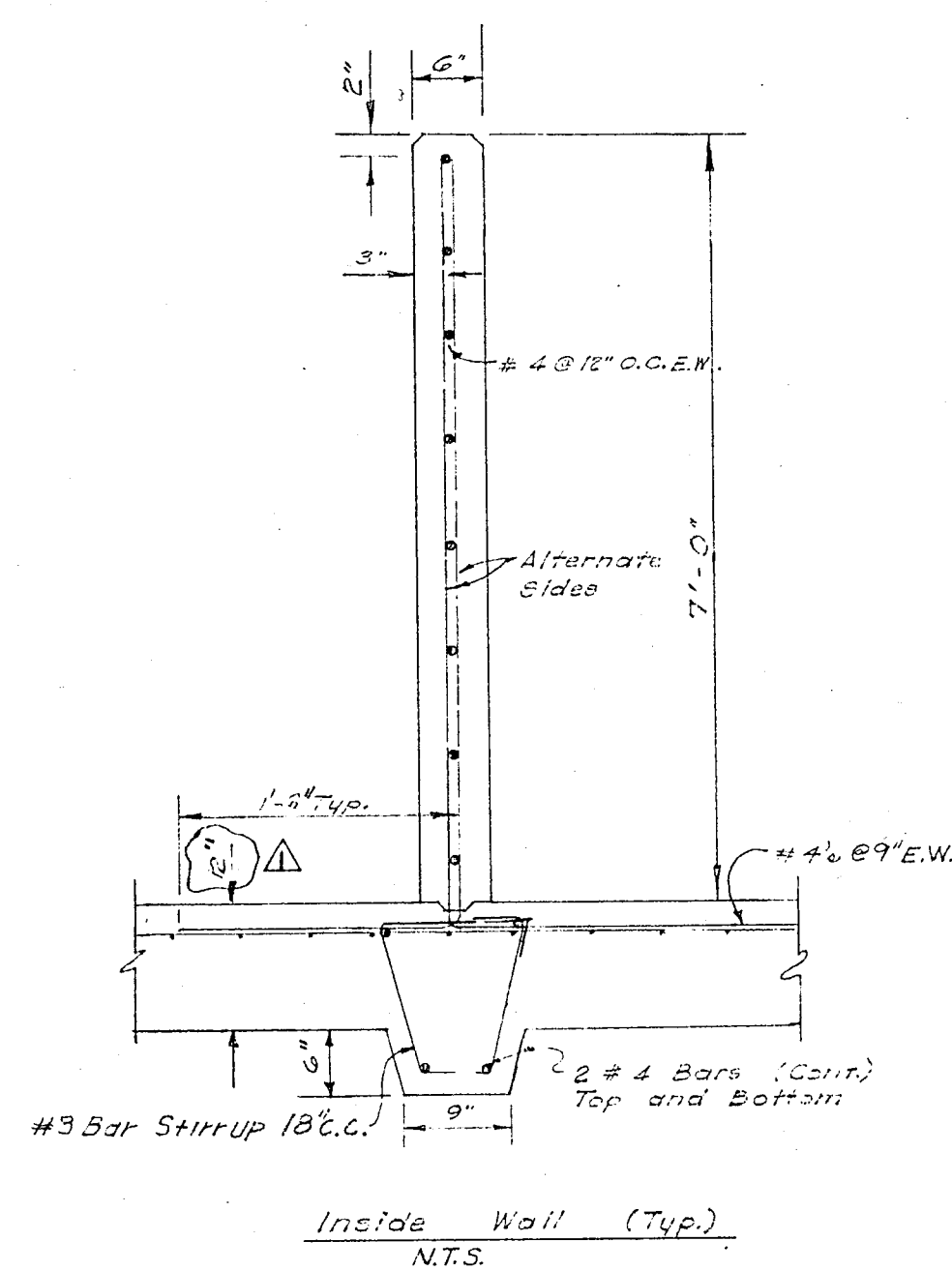
Sheet
11
Of 29



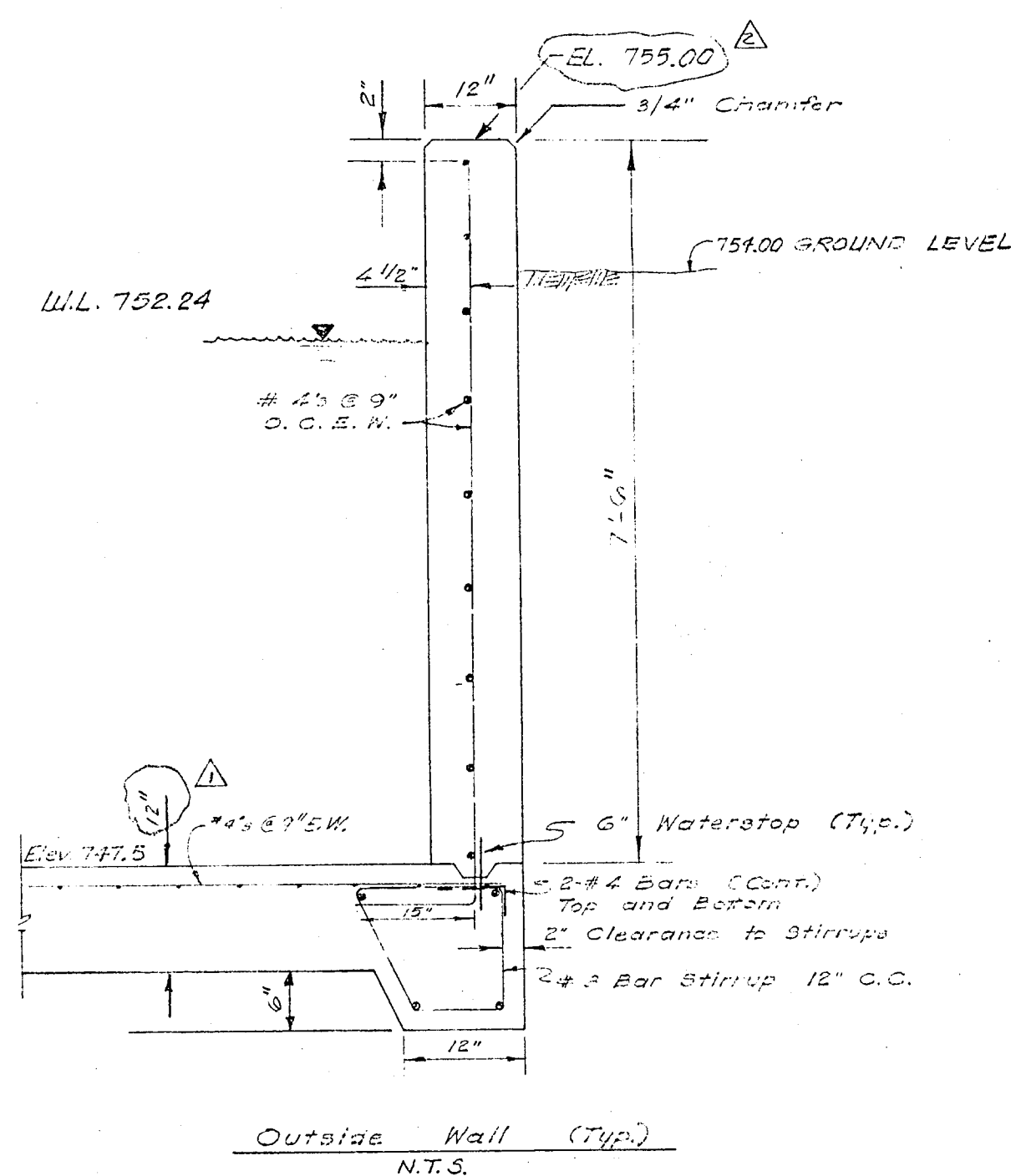
PLAN
Chlorine Contact Chamber
N.T.S.

Peak Flow = 750,000 g.p.d.
Volume Required:
$$\frac{750,000 \text{ gpd}}{7.48 \text{ g/ft}^3} \times \frac{1 \text{ day}}{24 \text{ hrs}} \times \frac{1 \text{ hr}}{3(20 \text{ min. period})} = 1,393 \text{ ft}^3$$

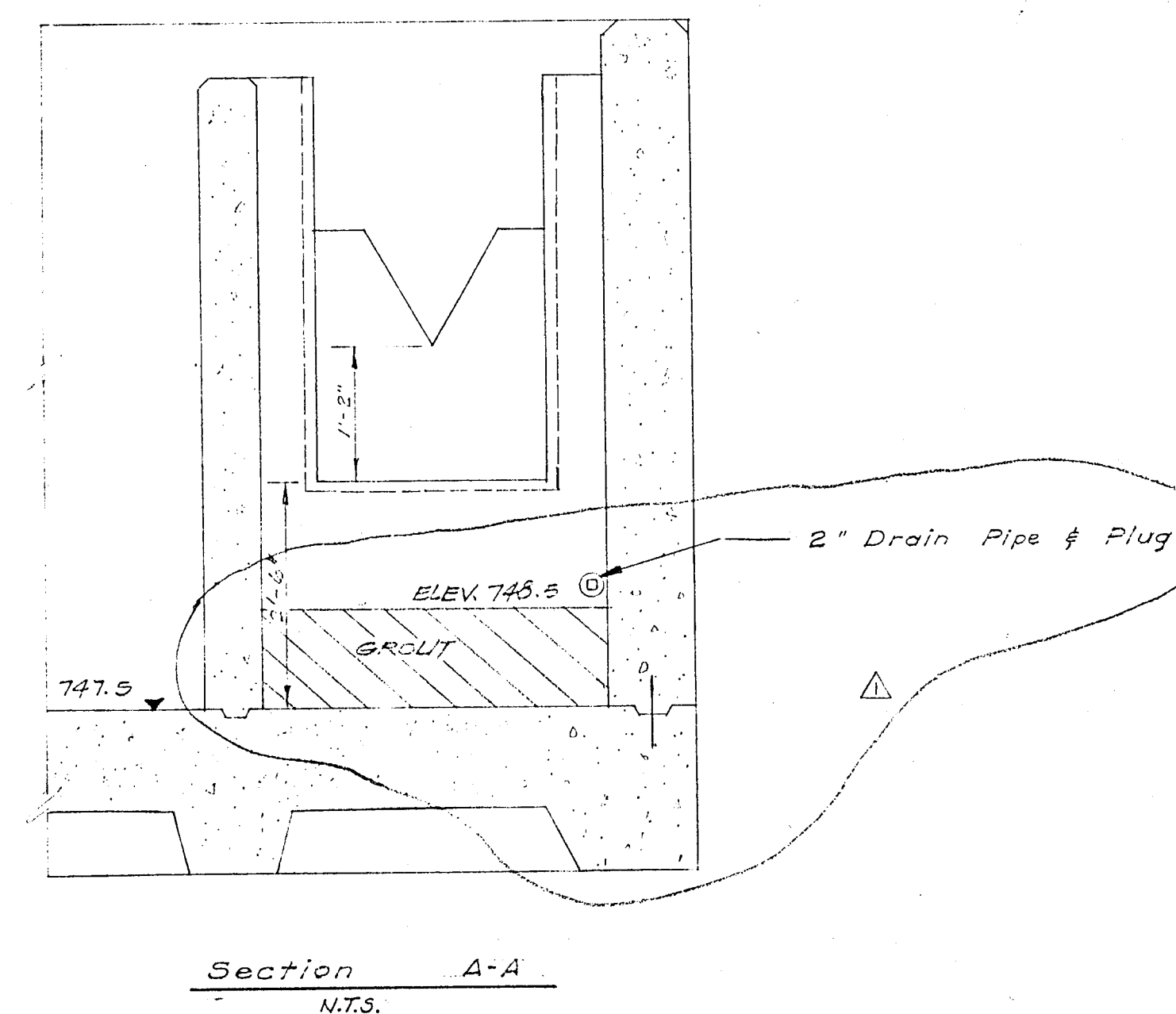
W.S. in Contact Chamber @ Peak Flow = 752.24
Floor Slab = 747.5
Area of Chamber = 306 sq. ft.
Volume = (752.24 - 747.5)(306) = 1450 ft³
Detention Time
$$\frac{1450 \text{ ft}^3}{1393} \times 20 = 20.8 \text{ min.}$$



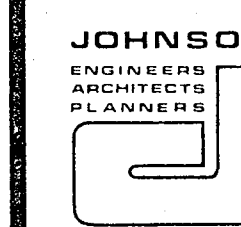
Inside Wall (Typ.)
N.T.S.



Outside Wall (Typ.)
N.T.S.



REV.	DATE	DESCRIPTION	DWG.	CHK.	BY
1	1-14-77	RAISED WALLS	R.G.	H.L.M.	
2	2-29-76	REV. WALLS & SLAB THICK.	R.G.	H.L.M.	



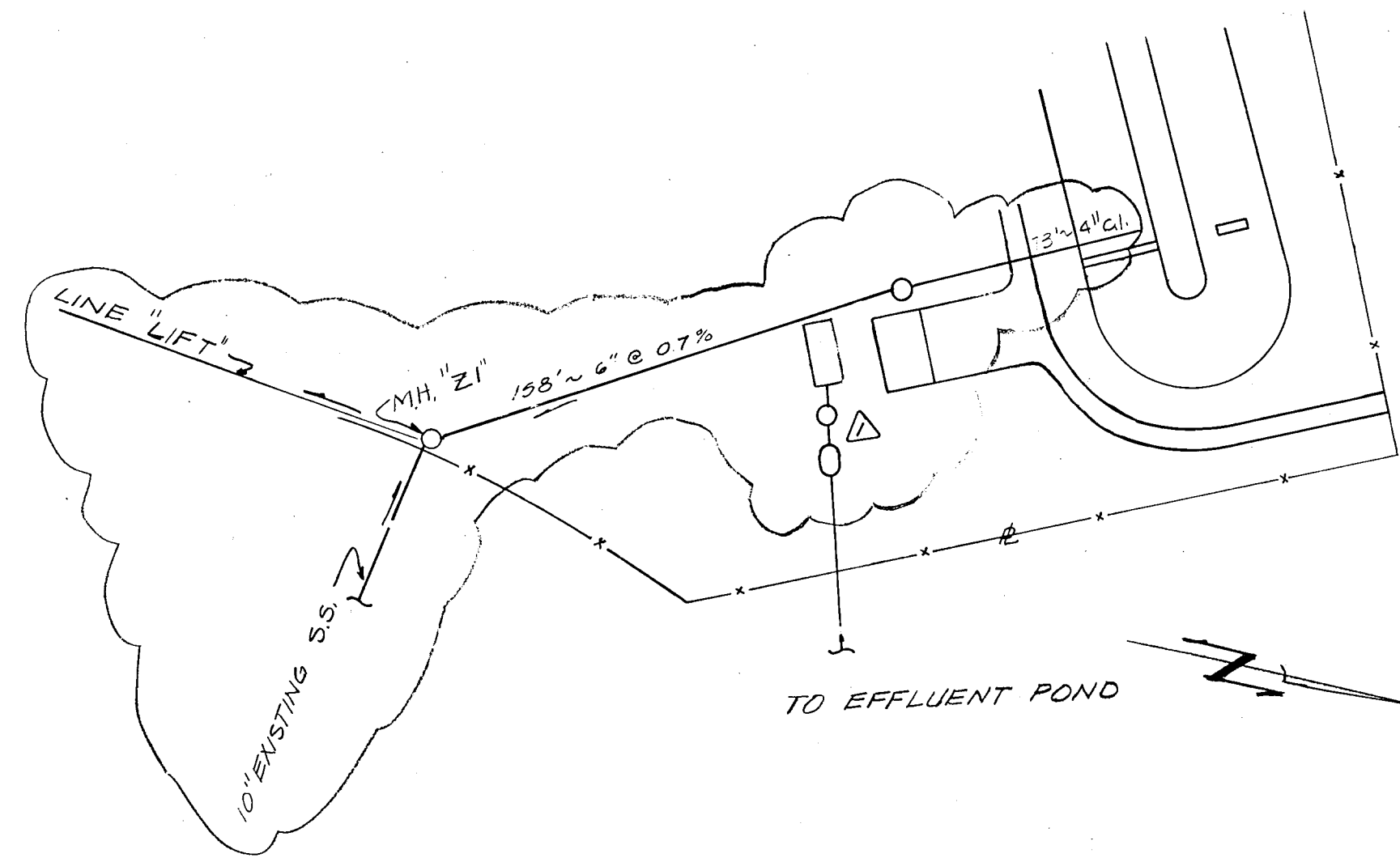
GUADCO MUNICIPAL DISTRICT NO. 1

NORTHCLIFFE SECTION 1&2 AND
NORTHCLIFFE EAST SECTION 1
SEWAGE TREATMENT PLANT
CHLORINE CONTACT CHAMBER

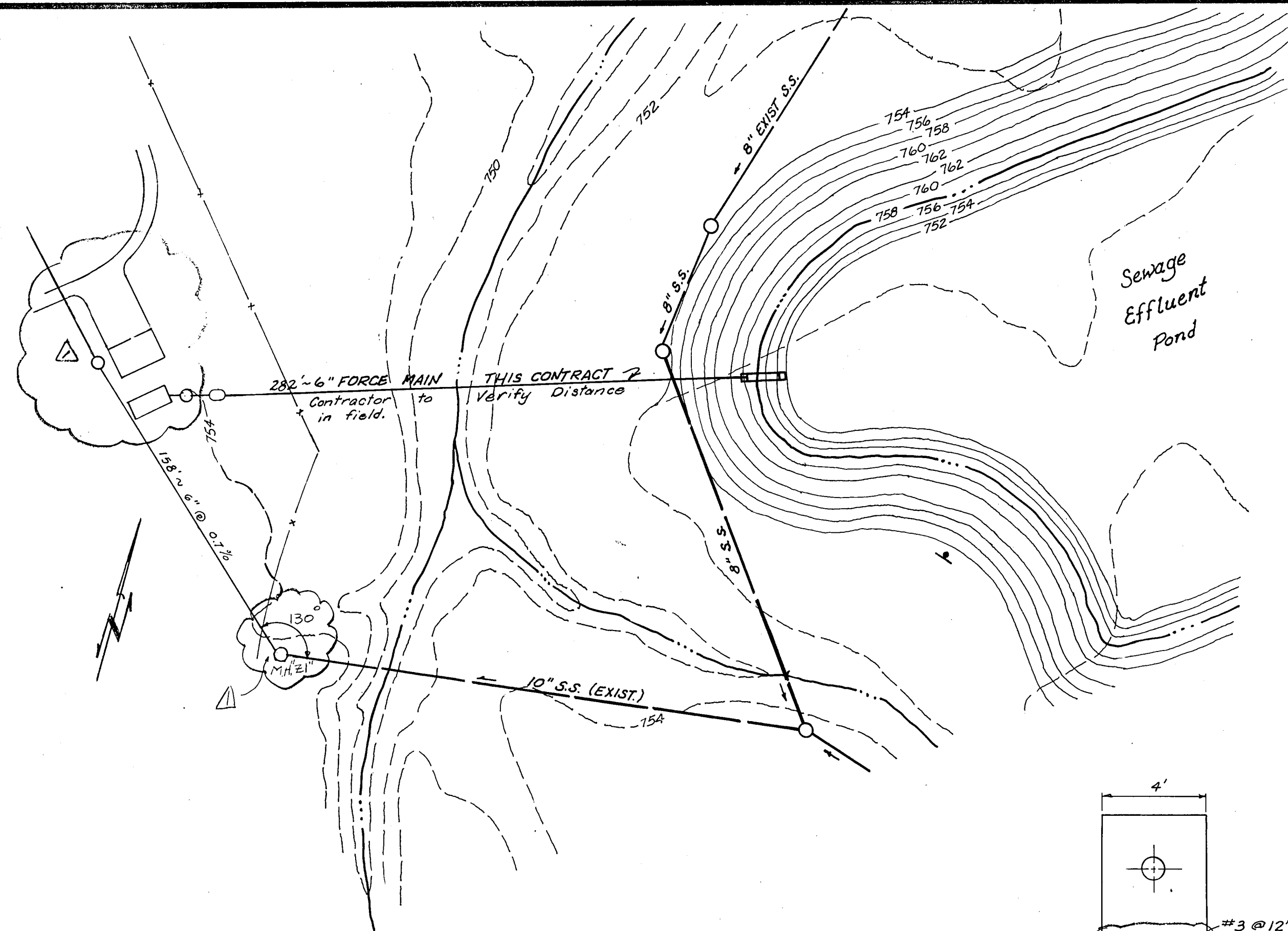
BERNARD JOHNSON INCORPORATED
ENGINEERS - ARCHITECTS - PLANNERS
5050 WESTHEIMER
HOUSTON TEXAS 77027

Job No. 74010
Date: March, 1976
Dwn. By: N.F.C.
Chkd. By: J.Z.

Sheet
14
of 29

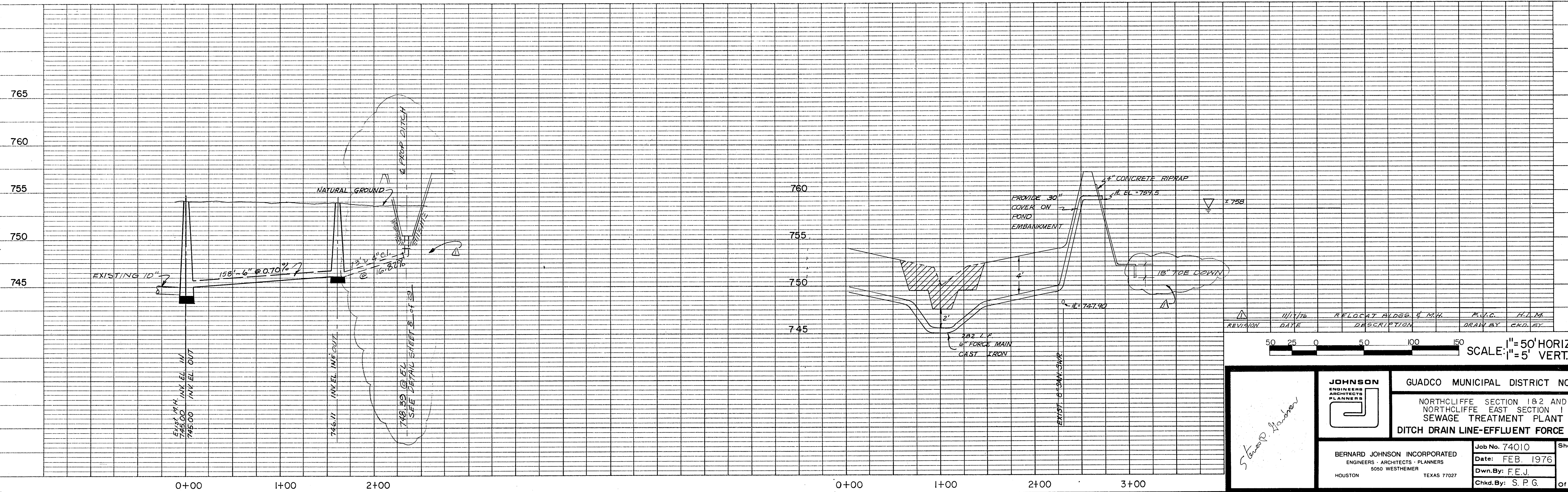
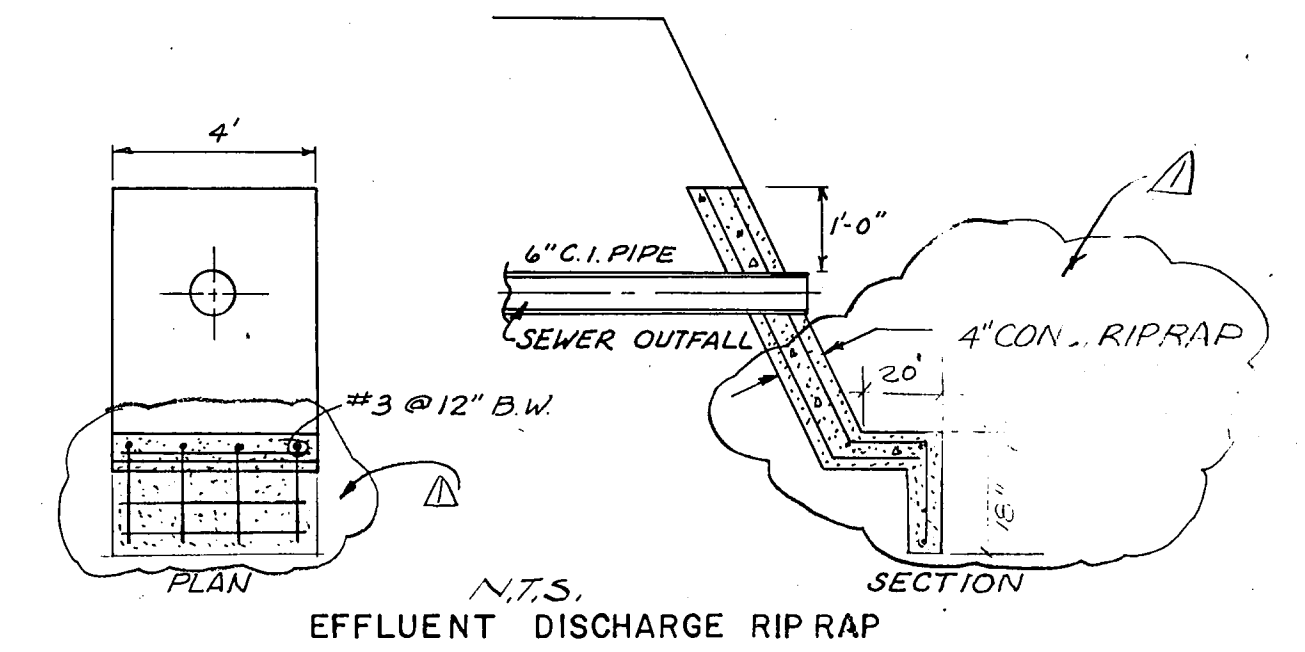


DITCH DRAIN LINE



EFFLUENT DISCHARGE FORCE MAIN

1" = 50'-0"



RESOLUTION NO. 22-R-33

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE PURCHASE OF 3.4096 ACRES OF PROPERTY, MORE OR LESS, LOCATED AT 22330 IH35 NORTH, SCHERTZ, TEXAS, FROM THE GUADALUPE-BLANCO RIVER AUTHORITY (GBRA); AUTHORIZING THE EXECUTION OF ALL NECESSARY DOCUMENTS TO COMPLETE THE PURCHASE AND TRANSFER OF SAID PROPERTY; AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City has identified a need for a strategic location within the northeast quadrant of the city for locating portions of certain city resources for departments such as public works, parks and recreation, and the police department; and,

WHEREAS, the City identified a parcel owned by Guadalupe-Blanco River Authority (GBRA) as a possible site for possible future strategic expansion of said city resources within the identified area; and,

WHEREAS, the City desires to purchase, and GBRA has agreed to sell said property, for \$570,000.00 funded with \$285,000 from the General Fund Sales taxes and \$285,000 from the current year anticipated Water & Sewer fees; and

WHEREAS, the City staff of the City of Schertz (the "City") recommends that the Mayor and Council authorize the purchase and execution of the Commercial Purchasing Contract (Exhibit A) between the City of Schertz and GBRA for said property; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City to approve the purchase of property from GBRA; and

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

Section 1. The City Council hereby authorizes the purchase of 3.4096 acres of property, more or less, located at 22330 IH35 North, Schertz, Texas, from GBRA for an amount not to exceed \$570,000, and authorizes the City Manager or designee to execute a Commercial Purchasing Contract in substantially the same form as attached as Exhibit A, and all other documents necessary to complete the purchase and transfer of said property.

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 8th day of March, 2022.

CITY OF SCHERTZ, TEXAS

Mayor

ATTEST:

City Secretary

(CITY SEAL)

50558021.1

- 2 -



COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Guadalupe Blanco River Authority

Address: 933 E. Court Street, Seguin, TX 78155-5819

Phone: 512-917-6065 / 830-379-5822 Ext 310

E-mail: DNichols@GBRA.org / CKerr-Moore@gbra.org

Fax: Attn: Darrell Nichols / Courtney Kerr-Moore

Other: _____

Buyer: City of Schertz

Address: 10 Commercial Place, Building 2, Schertz 78154 & 1400 Schertz Parkway, Schertz, TX 78154

Phone: 210-619-1800 / 210-619-1018

E-mail: SWilliams@Schertz.com / CKelm@Schertz.com

Fax: Attn: Suzanne Williams / Charles Kelm

Other: Ralph Gutierrez, Mayor 210-619-1040

2. PROPERTY:

- A. "Property" means that real property situated in Comal County, Texas
at 22330 IH 35 North, Schertz, TX 78154 (address)
and that is legally described on the attached Exhibit _____ or as follows:
A-175 SUR-98 R Garza, Acres 3.409

- B. Seller will sell and convey the Property together with:

- (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
- (3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)

(If mineral rights are to be reserved an appropriate addendum should be attached.)

3. SALES PRICE:

- A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing. \$ 570,000.00

(2) Sum of all financing described in Paragraph 4 \$ _____

(3) Sales price (sum of 3A(1) and 3A(2)) \$ 570,000.00

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B. Adjustment to Sales Price: (Check (1) or (2) only.)

- ☒ (1) The sales price will not be adjusted based on a survey.
☐ (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$_____ per:

- ☐ (i) square foot of ☐ total area ☐ net area.
☐ (ii) acre of ☐ total area ☐ net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

- ☐ (i) public roadways;
☐ (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and

☐ (iii) _____

(c) If the sales price is adjusted by more than _____% of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

- ☐ A. **Third Party Financing:** One or more third party loans in the total amount of \$_____. This contract:
☐ (1) is not contingent upon Buyer obtaining third party financing.
☐ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TXR-1931).
- ☐ B. **Assumption:** In accordance with the attached Commercial Contract Financing Addendum (TXR-1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$_____.
- ☐ C. **Seller Financing:** The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TXR-1931) in the amount of \$_____.

5. EARNEST MONEY:

A. Not later than 3 days after the effective date, Buyer must deposit \$5,700.00 _____ as earnest money with Stewart Title Company _____ (title company) at 111 W San Antonio Street, Suite 110, New Braunfels, TX 78130 _____ (address) Brenda Arrazate _____ (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of \$_____ with the title company to be made part of the earnest money on or before:

- ☐ (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
☐ (ii) _____.

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

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- C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
- (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
- ☐ (a) will not be amended or deleted from the title policy.
 - ☒ (b) will be amended to read "shortages in areas" at the expense of ☒ Buyer ☐ Seller.
- (3) Within 21 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 30 days after the effective date:

- ☐ (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer _____ (insert amount) of the cost of the survey at closing, if closing occurs.
- ☐ (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- ☒ (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, ☐ Seller ☒ Buyer (updating party), will, at the updating party's expense, obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to the other party and the title company within 20 days after the title company notifies the parties that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for the updating party to deliver an acceptable survey within the time required. The other party will reimburse the updating party 50% (insert amount or percentage) of the cost of the new or updated survey at closing, if closing occurs.

C. Buyer's Objections to the Commitment and Survey:

- (1) Within 14 days after Buyer receives the last of the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If the commitment or survey is

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revised or any new document evidencing a title exception is delivered, Buyer may object to any new matter revealed in such revision or new document. Buyer's objection must be made within the same number of days stated in this paragraph, beginning when the revision or new document is delivered to Buyer. If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

- A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____
- _____
- _____
- _____

- B. Feasibility Period: Buyer may terminate this contract for any reason within 30 days after the effective date (feasibility period) by providing Seller written notice of termination.

- (1) Independent Consideration. (Check only one box and insert amounts.)

- ☒ (a) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 0 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

- ☐ (b) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

- (2) Feasibility Period Extension: Prior to the expiration of the initial feasibility period, Buyer may extend the feasibility period for a single period of an additional _____ days by depositing additional earnest money in the amount of \$ _____ with the title company. If no dollar amount is stated in this Paragraph or if Buyer fails to timely deposit the additional earnest money, the extension of the feasibility period will not be effective.

- C. Inspections, Studies, or Assessments:

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- (1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.
- (2) Buyer must:
 - (a) employ only trained and qualified inspectors and assessors;
 - (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
 - (c) abide by any reasonable entry rules or requirements of Seller;
 - (d) not interfere with existing operations or occupants of the Property; and
 - (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.
- (3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 14 days after the effective date, Seller will deliver to Buyer: *(Check all that apply.)*
 - ☐ (a) copies of all current leases, including any mineral leases, pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - ☐ (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - ☒ (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - ☐ (d) copies property tax statements for the Property for the previous 2 calendar years;
 - ☒ (e) plats of the Property;
 - ☐ (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - ☐ (g) _____

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: *(Check all that apply.)*
 - ☒ (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
 - ☒ (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied in any format; and
 - ☒ (c) deliver to Seller copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.

This Paragraph 7D(2) survives termination of this contract.

- E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES:

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- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
- (1) any failure by Seller to comply with Seller's obligations under the leases;
 - (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
 - (3) any advance sums paid by a tenant under any lease;
 - (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
 - (5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.
- B. **Estoppel Certificates:** Within N/A days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than N/A by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TXR Form 1938 – Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

- A. The brokers to this sale are:

Principal Broker: Keller Williams Heritage

Cooperating Broker: _____

Agent: Mark Hampton

Agent: _____

Address: 888 Landa Street
New Braunfels, TX 78130

Address: _____

Phone & Fax: 210-823-8611

Phone & Fax: _____

E-mail: Mark@MarkHamptonHomes.com

E-mail: _____

License No.: 464012

License No.: _____

Principal Broker: (Check only one box)

Cooperating Broker represents Buyer.

☒ represents Seller only.

☐ represents Buyer only.

☐ is an intermediary between Seller and Buyer.

- B. **Fees:** (Check only (1) or (2) below.)
(Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

- ☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

- ☒ (2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:

☒ 3 % of the sales price.

Cooperating Broker a total cash fee of:

☐ _____ % of the sales price.

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☐ _____ ☐ _____

The cash fees will be paid in _____ Comal _____ County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

- C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

- A. The date of the closing of the sale (closing date) will be on or before the later of:

(1) ☒ 45 days after the expiration of the feasibility period.

☐ _____ (specific date).

☐ _____

(2) 7 days after objections made under Paragraph 6C have been cured or waived.

- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

- C. At closing, Seller will execute and deliver, at Seller's expense, a ☐ general ☒ special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:

- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
- (2) without any assumed loans in default; and
- (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:

- (1) tax statements showing no delinquent taxes on the Property;
- (2) an assignment of all leases to or on the Property;
- (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
- (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
- (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
- (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.

- E. At closing, Buyer will:

- (1) pay the sales price in good funds acceptable to the title company;
- (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
- (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
- (4) sign an assumption of all leases then in effect; and
- (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

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F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. *(If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)*

13. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
- (1) all loan expenses and fees;
 - (2) preparation of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

- A. Prorations:
- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
 - (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
 - (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

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- B. **Rollback Taxes:** If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. **Rent and Security Deposits:** At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue, or
(Check if applicable)
☐ enforce specific performance, or seek such other relief as may be provided by law.
- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
(1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
(2) enforce specific performance, or seek such other relief as may be provided by law, or both.

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
(1) Seller and the sales price will be reduced by the same amount; or
(2) Buyer and the sales price will not be reduced.

~~**17. ATTORNEY'S FEES:** If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.~~

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.

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- B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may pay the same to the creditors.
- C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursement of the earnest money.
- E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.
- F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.
- G. ☐ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

- ☒ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TXR-1408).
- ☐ B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface: structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- ☒ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.

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☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to ~~arbitration~~ or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.

B. This contract contains the entire agreement of the parties and may not be changed except in writing.

C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

D. Addenda which are part of this contract are: *(Check all that apply.)*

- ☐ (1) Property Description Exhibit identified in Paragraph 2;
☐ (2) Commercial Contract Financing Addendum (TXR-1931);
☒ (3) Commercial Property Condition Statement (TXR-1408);
☐ (4) Commercial Contract Addendum for Special Provisions (TXR-1940);
☐ (5) Notice to Purchaser of Real Property in a Water District (MUD);
☐ (6) Addendum for Coastal Area Property (TXR-1915);
☐ (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916);
☒ (8) Information About Brokerage Services (TXR-2501);
☐ (9) Information About Mineral Clauses in Contract Forms (TXR-2509);
☐ (10) Notice of Obligation to Pay Improvement District Assessment (TXR-1955, PID); and
☐ (11)

(Note: Counsel for Texas REALTORS® has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by Texas REALTORS® are appropriate for use with this form.)

E. Buyer ☒ may ☐ may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

(TXR-1802) 09-01-21 Initialed for Identification by Seller and Buyer Page 11 of 14

- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract (*the Addendum for Coastal Area Property (TXR-1915) may be used*).
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract (*the Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TXR-1916) may be used*).
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.
- H. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

AGREEMENT BETWEEN BROKERS

(use only if Paragraph 9B(1) is effective)

Principal Broker agrees to pay _____
(Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to
Cooperating Broker will be:

- ☐ \$ _____, or
☐ _____% of the sales price, or
☐ _____% of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's
fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for
compensation between brokers.

Principal Broker: _____

Cooperating Broker: _____

By: _____

By: _____

ATTORNEYS

Seller's attorney: Courtney Kerr-Moore
Joe Cole

Buyer's attorney: Dan Santee

Address: 933 E. Court Street, Seguin, TX 78155

Address: 2517 N. Main Avenue
San Antonio, TX 78212

Phone & Fax: 830-379-5822 Ext 310

Phone & Fax: 210-227-3243 210-225-4481

E-mail: CKerr-Moore@gbra.org / JCole@gbra.org

E-mail: TDSantee@RampageLaw.com

Seller's attorney requests copies of
documents, notices, and other information:

- ☒ the title company sends to Seller.
☒ Buyer sends to Seller.

Buyer's attorney requests copies of
documents, notices, and other information:

- ☒ the title company sends to Buyer.
☒ Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:

- ☐ A. the contract on this day _____ (effective date);
☒ B. earnest money in the amount of \$5,700.00 in the form of _____ on _____.

Title company: Stewart Title Company

Address: 111 W San Antonio Street, Suite 110,
New Braunfels, TX 78130

By: _____

Phone & Fax: 830-609-6029

Assigned file number (GF#): _____

E-mail: Brenda.Arrazate@stewart.com

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: Finance
Subject: Resolution No. 22-R-32 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the extension of the Independent Audit Services Contract for two years with Patillo, Browne, and Hill. (M. Browne/J. Walters/B. Martin)

BACKGROUND

This contract is for a two year extension with Patillo, Brown, and Hill for Independent Auditing Services. The City entered into a 3 year agreement term with an option to renew for an additional term of two years. The original agreement was the result of a formal procurement, evaluation, and award to the highest ranked vendor. Council approved Resolution 19-R-86 on July 23, 2019.

There will be no cost increase associated with the renewal. Year four of the agreement will run \$56,000 for COS and \$6,000 for EDC. Year five of the agreement will run \$56,500 for COS and \$6,000 for EDC.

GOAL

To authorize a two year extension for Independent auditing services agreement as per resolution 22-R-31.

COMMUNITY BENEFIT

An independent review by a third party auditing firm will help ensure proper financial processes are in place to reduce the risk of fraud and accurately portray the City's financial condition to all stakeholders and citizens.

SUMMARY OF RECOMMENDED ACTION

Staff recommends we extend the Independent Audit Services Contract with Patillo, Brown, and Hill.

FISCAL IMPACT

The current budget includes the cost of the audit services.

RECOMMENDATION

Approval of Resolution 22-R-32.

Attachments

22-R-32
Audit Services Contract

RESOLUTION NO. 22-R-32

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE EXTENSION OF THE INDEPENDENT AUDIT SERVICES CONTRACT FOR TWO YEARS WITH PATILLO, BROWN, AND HILL

WHEREAS in June 2019, the City of Schertz (the “City”) solicited proposals for Independent Audit Services and after reviewing all proposals authorized the City Manager to enter into a contract with Patillo, Brown, and Hill and

WHEREAS the contract is for three years, with a two year extensions, at the City’s option, and the contract is currently in its third year and

WHEREAS the Audit Committee of the City of Schertz (the “City”) met on February 22, 2022 and recommended that the City extend the Independent Audit Services Contract with Patillo, Brown, and Hill for two-years and

WHEREAS, the City Council has determined that it is in the best interest of the City to extend the contract.

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 extend the contract with Patillo, Brown, and Hill for independent audit services for two years.

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 8th day of March, 2022.

CITY OF SCHERTZ, TEXAS

Rafael Gutierrez Mayor




ATTEST:

City Secretary, Brenda Dennis

(CITY SEAL)

CITY MANAGEMENT

Coordination Sheet

<u>FROM:</u>	Purchasing			
<u>DATE:</u> Aug 12, 2019		NAME	INITIALS	DATE
	X	Mr. Brian James Assistant City Manager		8-13-19
		Mr. Charles Kelm Assistant City Manager		
	X	Ms. Sarah Gonzalez Assistant to the City Manager		8/19/19
	X	Mr. Mark Browne City Manager		8/15/19
<u>COMMENTS:</u>	<p>Letter of Engagement for Pattillo, Brown & Hill for Financial Auditing Services as approved by Council on 19-R-86 on 7/23/19</p>			
<u>RETURN TO:</u>	<p>Julie Gohlke</p>			

CITY OF SCHERTZ
CONTRACT APPROVAL FORM

A. To be completed by Department

1. Contract with: Pattillo, Brown & Hill LLP Contract amount: \$ 55,000
2. Contract for: Auditing Services
3. Fund/Account to be charged: 101-868-541400, 202-575-541400, 203-280-541400, 204-579-541400 Dept. Finance
4. Contract category and amount in the budget: ☒ yes ☐ no – budget adjustment required
Budget Amendment Ord/Res Number: _____ Date: _____
5. Contract required to be bid: ☒ yes ☐ no (If unsure, contact Purchasing.)
Bidding completed: ☒ yes ☐ NA (bidding not required)
Bidding exemption: (if bidding is not required state reason): _____
6. Contract termination date: 03/30/2020 ☐ NA
7. Terms of contract reviewed and approved by Department Head: ☒ yes
8. Is Asst. City Manager aware of contract? ☒ yes
9. If going to Council, is City Manager aware of contract? ☒ yes ☐ NA
10. Department Head's signature: _____ Date: 8-12-2019

B. To be completed by Purchasing and Asset Management

1. FINANCE
 - a. Contract amount in the budget: ☒ yes ☐ no – budget adjustment required
 - b. Fund/Account to be charged: 101-868-541400, 202-575-541400, 203-280-541400, 204-579-541400
 - c. Finance Director's signature: _____ Date: 8-12-2019
2. LEGAL
 - a. Contract reviewed and approved by City Attorney ☒ not requested ☐ yes (attach email approval)
 - b. Date Reviewed and Approved by City Attorney _____
3. PURCHASING
 - a. Vendor aggregate POs <\$50K for budget period ☒ yes ☐ no
 - b. Contract reviewed for insurance, warranty, term, severability and indemnity requirements: ☒ yes
 - c. Contract properly bid in accordance with City Purchasing Policy ☒ yes ☐ NA
 - d. Vendor signature obtained ☒ yes ☐ no (other party requires signature by City first)
 - e. Purchasing and Asset Management Signature: Jane Opelke Date: 8/12/19
4. COUNCIL APPROVAL REQUIRED? ☒ yes ☐ no ☐ NA (Required over \$50,000)
 - a. Date of City Council approval: 7/23/19 Res/Ord #: 19-R-86 ☐ Attached
 - b. If not approved by City Council, state reason: _____

C. To be completed by Asst City Manager:

1. Final contract reviewed and recommend City Manager signature: ☒ yes ☐ no
2. Asst. City Manager's Signature: _____ Date: 8/13/19

D. To be completed by Assistant to the City Manager

1. Assistant reviews and obtains CM signature Assistant Signature: Sarah Gonzalez
2. Signed contract is given to Purchasing & Asset Management. 8/19/19

E. To be completed by Purchasing and Asset Management

1. Date fully-executed contract received by Purchasing: _____
2. Date filed to Laserfiche: _____ Filed as: _____

INSTRUCTIONS FOR COMPLETING CONTRACT APPROVAL FORM (CAF)

A. Department Responsibility:

- STAFF: Complete sections A1-A6.
- DEPT HEAD: Complete sections A7-A9 and sign section A10.
- Route to Purchasing
 - Procurement Contracts: route CAF, along with contract scope of work and any/all bids obtained. Purchasing will draft contract document and route accordingly. Electronic submission (email) of CAF and supporting contract documents is acceptable. Originals not required.
 - Non-procurement Contracts: route CAF, along with all contract documents and other supporting documentation.

B. Purchasing & Asset Management Responsibility:

- Route to Finance for review. Finance will:
 - ✓ Verify the contract purpose and cost is in the budget.
 - ✓ Indicate the need for a budget adjustment.
 - ✓ Enter the Fund and Account that will be charged for this contract.
 - ✓ Finance Director signs/dates the form and returns to Purchasing.
- Route to Legal for review. Legal will:
 - ✓ If necessary, coordinate changes with Purchasing (and department, where appropriate).
 - ✓ Send email approval to Purchasing.
 - ✓ Upon approval by City Attorney, Purchasing will append legal approval to contract documents.
- Purchasing will:
 - ✓ Confirm that the aggregate amount spent with the vendor for the fiscal year does not exceed \$50K.
 - ✓ Review the contract for insurance provision, warranty, term of contract, severability clause, and indemnity requirements.
 - ✓ Ensure the contract was properly bid in accordance with local and state statutes.
 - ✓ Obtain vendor signature.
 - ✓ Sign/date the form.
 - ✓ Address Council requirements and append approved ordinance/resolution (when applicable).
 - ✓ Route for Management signatures.

C. Assistant City Manager Responsibility:

- Review the contract including Exhibits or Attachments.
- Requests additional information or recommends City Manager Signature.
- Executive signs/dates the form and routes it to the Assistant to the City Manager.

D. Assistant to the City Manager Responsibility:

- Provides final review and signs form.
- Obtains CM signature and returns signed original to Purchasing.

E. Purchasing & Asset Management Responsibility:

- Scan and save in Laserfiche.
- Email scanned copy of fully-executed contract to originating department and vendor (when applicable).



August 6, 2019

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

The following represents our understanding of the services we will provide City of Schertz, Texas.

You have requested that we audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of City of Schertz, Texas, as of September 30, 2019, and for the year then ended and the related notes to the financial statements, which collectively comprise City of Schertz, Texas' basic financial statements as listed in the table of contents. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audit will be conducted with the objective of our expressing an opinion on each opinion unit applicable to those basic financial statements.

Accounting principles generally accepted in the United States of America, (U.S. GAAP), as promulgated by the Governmental Accounting Standards Board (GASB) require that the management's discussion and analysis, budgetary comparison information, and pension and other postemployment benefit related information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS). These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by U.S. GAAP. This RSI will be subjected to certain limited procedures but will not be audited:

- Management's Discussion and Analysis.
- Budgetary Comparison Information.
- Schedule of Changes in Net Pension Liability, Net Other Postemployment Benefit (OPEB) Liability and Related Ratios.
- Schedule of Pension Contributions.

OFFICE LOCATIONS

TEXAS | Waco | Temple | Hillsboro | Houston
NEW MEXICO | Albuquerque



Supplementary information other than RSI will accompany City of Schertz, Texas' basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and perform certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with U.S. GAAS. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

- Combining Statements and Schedules.

Also, the document we submit to you will include the following other additional information that will not be subjected to the auditing procedures applied in our audit of the basic financial statements:

- Introductory Section.
- Statistical Section.

Auditor Responsibilities

We will conduct our audit in accordance with U.S. GAAS and, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the basic financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the basic financial statements, whether due to fraud or error, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements.

An audit also includes evaluating the appropriateness of accounting policies used, and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the basic financial statements. If appropriate, our procedures will therefore include tests of documentary evidence that support the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of cash, investments, and certain other assets and liabilities by correspondence with creditors and financial institutions. As part of our audit process, we will request written representations from your attorneys, and they may bill you for responding. At the conclusion of our audit, we will also request certain written representations from you about the basic financial statements and related matters.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements (whether caused by errors, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations) may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS and *Government Auditing Standards*.

In making our risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the basic financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the basic financial statements that we have identified during the audit. Our responsibility as auditors is, of course, limited to the period covered by our audit and does not extend to any other periods.

We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs or withdraw from the engagement. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Government Auditing Standards require that we document an assessment of the skills, knowledge, and experience of management, should we participate in any form of preparation of the basic financial statements and related schedules or disclosures as these actions are deemed a non-audit service.

Other Services

We will also assist in preparing the financial statements and related notes of City of Schertz, Texas in conformity with U.S. GAAP. These non-audit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. These services are limited to assisting in the preparation of the financial statements and related notes of City of Schertz, Texas. Our firm, in its sole professional judgement, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account coding and approving journal entries. Our firm will advise the City with regard to financial preparation, but the City must make all decisions with regard to those matters.

Compliance with Laws and Regulations

As previously discussed, as part of obtaining reasonable assurance about whether the basic financial statements are free of material misstatement, we will perform tests of City of Schertz, Texas' compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion.

Management Responsibilities

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
2. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements; and
3. To provide us with:
 - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation, and other matters;
 - ii. Additional information that we may request from management for the purpose of the audit; and

- iii. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
- 4. For including the auditor's report in any document containing financial statements that indicates that such financial statements have been audited by the entity's auditor;
- 5. For identifying and ensuring that the entity complies with the laws and regulations applicable to its activities;
- 6. For adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the financial statements as a whole; and
- 7. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility: (a) for the preparation of the supplementary information in accordance with the applicable criteria; (b) to provide us with the appropriate written representations regarding supplementary information; (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information; and (d) to present the supplementary information with the audited financial statements, or if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

With respect to any non-attest services, we will not assume management responsibilities on behalf of the City of Schertz, Texas. However, we will provide advice and recommendations to assist management of the City in performing its responsibilities. Management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Reporting

We will issue a written report upon completion of our audit of City of Schertz, Texas' basic financial statements. Our report will be addressed to the governing body of City of Schertz, Texas. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

In accordance with the requirements of *Government Auditing Standards*, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance will not be an objective of the audit and, therefore, no such opinion will be expressed.

Other

We understand that your employees will prepare all confirmations we request and will locate any documents or support for any other transactions we select for testing.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

Our firm may transmit confidential information that you provided us to third parties in order to facilitate delivering our services to you. For example, such transmissions might include, but not be limited to investment information for fair value testing. We have obtained confidentiality agreements with all our service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have the appropriate procedures in place to prevent the unauthorized release of confidential information to others. We will remain responsible for the work provided by any third-party service providers used under this agreement. By your signature below, you consent to having confidential information transmitted to entities outside the firm. Please feel free to inquire if you would like additional information regarding the transmission of confidential information to entities outside the firm.

Timing and Fees

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

The timing of our audit will be scheduled as follows:

Document internal control and preliminary tests	August 2019
Mail confirmations	October 2019
Perform year-end audit procedures	December 2019
Issue audit reports	February 2020

Paula Lowe is the engagement partner for the audit services specified in this letter. Her responsibilities include supervising Pattillo, Brown & Hill, L.L.P.'s services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

Our fees for these services will be at our standard hourly rates plus out-of-pocket cost (such as reports reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$55,000 for the City and \$6,000 for SEDC. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will

not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional cost.

During the course of the audit we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

You agree to inform us of facts that may affect the basic financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

At the conclusion of our audit engagement, we will communicate to those charged with governance the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

The audit documentation for this engagement is the property of Pattillo, Brown & Hill, L.L.P. and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulatory agencies pursuant to authority given to them by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of Pattillo, Brown & Hill, L.L.P.'s personnel. Furthermore, upon request, we may provide copies of selected audit documentation. The regulatory agency may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

In accordance with the requirements of *Government Auditing Standards*, we have attached a copy of our latest external peer review report of our firm for your consideration and files

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,
Pattillo, Brown & Hill, L.L.P.

Paula Lowe

Paula Lowe, CPA
Waco, Texas

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of City of Schertz, Texas by:

Name: *J. M. Baine*
Title: *City Manager*
Date: *15 AUG 2019*



CPAs & Advisors

SYSTEM REVIEW REPORT

October 21, 2016

To the Partners of
Pattillo, Brown & Hill, LLP
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Pattillo, Brown & Hill, LLP (the firm) in effect for the year ended May 31, 2016. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As a part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards*, audits of employee benefit plans, and audits performed under FDICIA.

In our opinion, the system of quality control for the accounting and auditing practice of Pattillo, Brown & Hill, LLP in effect for the year ended May 31, 2016, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Pattillo, Brown & Hill, LLP has received a peer review rating of *pass*.

Haddox Reid Eubank Betts PLLC

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

1 of 1

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

**OFFICE USE ONLY
CERTIFICATION OF FILING****1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Pattillo, Brown & Hill, L.L.P.
Waco, TX United States

Certificate Number:
2019-525018

Date Filed:
08/05/2019

Date Acknowledged:

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

City of Schertz, Texas

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

RFP No. 2019-018
Financial Audit Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Pruitt, Todd	Waco, TX United States	X	
	Lucas, Mike	Waco, TX United States	X	
	Manning, Jennifer	Waco, TX United States	X	

5 Check only if there is NO Interested Party. ☐

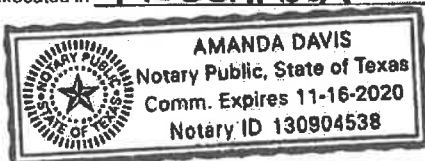
6 UNSWORN DECLARATION

My name is Paula Lowe, and my date of birth is 01/02/1974

My address is 401 West Highway 6, Waco, TX, 76710, USA.
(street) (city) (state) (zip code) (country)

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

Executed in McLennan County, State of Texas, on the 5 day of August, 2019.
(month) (year)



Paula Lowe

Signature of authorized agent of contracting business entity
(Declarant)

RESOLUTION NO. 19-R-86

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE SELECTION OF PATTILLO, BROWN & HILL FOR FINANCIAL AUDIT SERVICES

WHEREAS on June 13, 2019, the City of Schertz (the "City") solicited proposals for Financial Audit Services; and

WHEREAS the Audit Committee of the City of Schertz (the "City") reviewed the scores on July 8, 2019 and recommended the City accept the proposal from Pattillo, Brown & Hill; and

WHEREAS, the City Council has determined that it is in the best interest of the City to enter into an agreement with Pattillo, Brown, & Hill.

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 an agreement with Pattillo, Brown & Hill for financial audit services for a three-year term with an option to renew for a two-year term.

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 23rd day of July, 2019.

CITY OF SCHERTZ, TEXAS

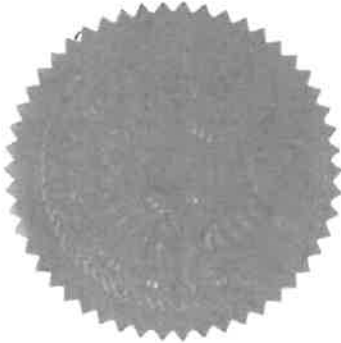


Michael R. Carpenter, Mayor

ATTEST:



Brenda Dennis, City Secretary



CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: City Secretary
Subject: Resignations to Boards/Commissions/Committees - Consideration and/or action regarding resignations to various Boards/Commissions/Committees. (Council/B. Dennis)

- **Resignation of Mr. Mateo Garcia - Transportation Safety Advisory Commission**

BACKGROUND

City Secretary's office has received notice of the resignation of Mr. Mateo Garcia of the Transportation Safety Advisory Commission.

Staff recommends accepting the resignation of Mr. Mateo Garcia.

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: Engineering
Subject: Resolution No. 22-R-26 – Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas, authorizing a contract with Fuquay, Inc. relating to the Crest Oak Wastewater Upsize and authorizing the budget expenditures for the project. (B. James/K. Woodlee/J. Shortess)

BACKGROUND

The Crest Oak Sewer Line currently serves single family, multi-family residential and commercial properties within the City of Schertz and the City of Cibolo along the I-35 corridor. The existing 10-inch wastewater segment included in this project was constructed in the 1960s and is starting to exhibit signs of deterioration, of which Public Works has investigated by closed-circuit television (CCTV) equipment. In addition, available capacity is expected to be exceeded with planned and future development within this sewer shed (an area of approximately 720 acres).

The Crest Oak sewer main flows south to a Cibolo Creek Municipal Authority (CCMA) owned and operated sewer main. The Crest Oak Wastewater Upsize Technical Memorandum conducted by Kimley Horn and Associates indicates that the existing 10” sewer main requires upsize to a 16” sewer main.

The length of the main to be upgraded is approximately 2,600 linear feet. Pipe bursting was chosen as the preferred construction method to reduce costs for the overall project. The construction budget for pipe bursting is \$1.2 million. Additional permanent or temporary easements are not required due to the confined process of pipe bursting and rehabilitation of existing manholes. Conventional construction methods were anticipated to be \$2.5 million due to increases in land acquisition and engineering fees. Further, contract duration is shortened with pipe bursting methods (approximately 1 month) as compared to a 3 month construction duration using conventional construction methods.

A proposal was provided by Fuquay, Inc. based on the scope of work and a site visit completed with City Staff. Staff has determined that the bid from Fuquay, Inc. is acceptable. The proposal provided by Fuquay is a Group Purchasing Cooperative Contract and Buyboard has confirmed that the proposal adheres to the rules, terms, and pricing structure of the Buyboard contract.

GOAL

To obtain authorization from Council to execute a contract with Fuquay, Inc. for \$1,153,745.25 plus \$115,374.53 (10% contingency) for a not to exceed amount of \$1,269,119.78, for the Crest Oak Wastewater Upsize Project.

COMMUNITY BENEFIT

The increase in capacity of the Crest Oak Wastewater Main will serve single family residential, multi-family residential, and commercial properties within the City of Schertz and the City of Cibolo along the I-35 corridor.

SUMMARY OF RECOMMENDED ACTION

Authorize execution of the construction contract for the Crest Oak Wastewater Upsize Project with Fuquay, Inc. for \$1,153,745.25 and a not to exceed amount of \$1,269,119.78.

FISCAL IMPACT

The cost of the project shall not exceed \$1,269,119.78 and funding is available from the ARP Tranche 1 Category 5 funds. The ARPA funds allocated a total of \$2.48 million to Category 5 Water, Wastewater, and Broadband Infrastructure Projects. Staff proposes \$1,269,119.78 for the Crest Oak Wastewater Upsize Project out of these funds.

RECOMMENDATION

Staff recommends Council approve Resolution 22-R-26 and authorize award of the bid for the Crest Oak Wastewater Upsize Project to Fuquay, Inc. for \$1,153,745.25 and a not to exceed amount of \$1,269,119.78

Attachments

Construction Contract
Crest Oak Exhibit
22-R-26
Fuquay Proposal

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

THIS AGREEMENT is by and between City of Schertz ("Owner") and
Fuquay, Inc. ("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: *CREST OAK WASTEWATER UPSIZE*

ARTICLE 3 – ENGINEER

- 3.01 The part of the Project that pertains to the Work has been designed by the City of Schertz.
- 3.02 The Owner has retained the City of Schertz ("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 90 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 – Base Bid					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
21106	Burst existing 12" to 15" or 16" IPS SDR 19 (0-8' deep)	LF	1300	\$87.25	\$113,425.00
21107	Burst existing 12" to 15" or 16" IPS SDR 19 (8'-12' deep)	LF	1300	\$97.50	\$126,750.00
21113	15"-18" Pipeburst Set-Up Charge Per Install Length	LF	2600	\$29.50	\$76,700.00
20143	6" to 12" Backyard Easement Additional Setup Per Install Length	LF	2600	\$14.50	\$37,700.00
21118	Pipeburst Rehabilitation Crew Cost	DAY	37	\$14,000.00	\$518,000.00
22103	Condition Standards and Repair Methods – Condition 3	SQFT	340	\$41.00	\$13,940.00
22104	Inflow & Infiltration Repair – Injection of Chemical Grout Material	GAL	5	\$245.00	\$1,225.00
22105	Inflow & Infiltration Repair – Injection of Chemical Grout Material-Labor & Equipment	HR	5	\$175.00	\$875.00
22106	Manhole Bench and Invert Repair 4' Diameter Base	EA	3	\$600	\$1,800.00
22114	Premium Manhole frame and cover	EA	1	\$2000.00	\$2,000.00
22119	Manhole Rehabilitation – PCM Additional 1 mil thickness (340 SF *100 mils)	SQFT	34,000	\$0.20	\$6,800.00
23100	Set Up 4" Pump (Per Pump)	EA	2	\$500.00	\$1,000.00
23106	Set Up 4" Piping/Hose	LF	2600	\$6.00	\$15,600.00
23112	Operate 4" Pumping System	DAY	60	\$800.00	\$48,000.00
24102	10" Clean and TV Sanitary Sewer	LF	2660	\$6.00	\$15,960.00
24130	6"-18" Post TV Inspection After Rehabilitation	LF	2600	\$6.00	\$15,600.00
24136	Other Remote Obstruction Removal (max. 10 LF)	EA	16	\$2,400.00	\$15,600.00
24137	Above Ground Physical Inspection	LF	2600	\$9.00	\$23,400.00
25112	Access Pit (0-8' deep)	EA	2	\$3,400.00	\$6,800.00
25114	Potholing for Nearby Utility Location (0-8' deep)	EA	4	\$1,190.00	\$4,760.00
38122	Sanitary Sewer Manhole, 60" Diameter (0-6')	EA	1	\$10,000.00	\$10,000.00
38124	Extra Depth Manhole 48" Diameter (greater than 6')	VF	2	\$400.00	\$800.00
38326	Excavator or Backhoe Crew	DAY	1	\$8,000.00	\$8,000.00
38267	Granular Backfill	TON	7	\$40.00	\$280.00
38289	Rock Hauling	TON	7	\$40.00	\$280.00
38268	Flowable Fill	CY	9	\$190.00	\$1,710.00
38290	Miscellaneous Concrete Installation	CY	9	\$1,000.00	\$9,000.00
99999	Performance and Payment Bond	LS	1	\$54,940.25	\$54,940.25
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$1,153,745.25

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-8, 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 Supplementary Conditions.

7. Drawings (not attached but incorporated by reference) consisting of 1 sheet with each sheet bearing the following general title:
 - a. Crest Oak Wastewater Upsize Exhibit 1 sheet
 8. Addenda (numbers 0 to 0, inclusive).
 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's 2020 Buyboard Bid Proposal (pages 1 to 2, 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.)

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence,

to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims

for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(seal)

Contractor's Name and Corporate Seal

By: _____

Signature

Print Name

Title

Attest: _____

Signature

Title

(seal)

Surety's Name and Corporate Seal

By: _____

Signature *(attach power of attorney)*

Print Name

Title

Attest: _____

Signature

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. **Definitions**
- 16.1 **Claim:** A written statement by the Claimant including at a minimum:
1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

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.

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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 ~~individual or entity named as such in the Agreement~~[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.
- I.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.
- J.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 consider 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.

18.09 *Prevailing Wages*

- A. In accordance with Texas Government Code Chapter 2258, all transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141 - 3144, and 3146 – 3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3144 – 3144, and 3146 – 3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
 - 1. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
 - 2. Contractors are required to pay wages not less than once a week.
 - 1-3. Contractors shall provide documentation confirming compliance upon request by the City of Schertz.

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
01555	Traffic Control Regulation
01520	Temporary Field Office
01540	Diversion Pumping
01562	Tree and Plant Protection
01570	Storm Water Pollution Control
01576	Waste Material Disposal
01578	Control of Ground and Surface Water
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)

02086	Adjusting Manholes, Inlets, and Valve Boxes to Grade
02221	Removing Existing Pavements and Structures
02260	Trench Safety System
02317	Excavation and Backfill for Utilities

02320	Utility Backfill Materials
02321	Cement Stabilized Sand
02447	Auguring Pipe and Conduit
02448	Pipe and Casing Auguring for Sewers
02501	Ductile Iron Pipe and Fittings
02502	Steel Pipe and Fittings
02505	High Density Polyethylene (HDPE) Solid and Profile Wall Pipe
02506	Polyvinyl Chloride Pipe
02511	Water Lines
02516	Cut Plug and Abandonment of Mains
02527	Polyurethane Coatings on Steel or Ductile Iron Pipe
02528	Polyethylene Wrap
02533	Acceptance Testing for Sanitary Sewers
02571	Pipe Bursting
02751	Concrete Paving
02752	Concrete Pavement Joints
02753	Concrete Pavement Curing
02911	Topsoil
02922	Sodding
03315	Concrete for Utility Construction
04061	Mortar

**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. The upsizing of about 2,500 linear feet of sewer main by pipe bursting. The existing sewer main is 10" in diameter. The upsize of the sewer main shall be to 16" O.D. HDPE pipe diameter.
 2. The rehabilitation of three manholes.
 3. Providing one new manhole adjacent to the existing LCRA easement.
 4. Excavation at two pits within the existing 16' sanitary easement.
 5. Utilizing one access point along FM 3009.
 6. Excavation of the existing 16" water main and providing clearances as required by TCEQ and the City of Schertz.
- 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 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 **90** 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. GVEC
 3. AT&T Telephone
 4. CenterPoint Energy
 5. Spectrum Cable

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.

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. The City of Schertz to obtain and pay for the use of additional storage or work areas needed for operations.

END OF SECTION

PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

Texas Government Code Chapter 2270 applies to the award of government contract to companies that boycott Israel. Section 2270.02 provides that:

“A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

(1) does not boycott Israel; and

(2) will not boycott Israel during the term of the contract.”

Offeror certifies that it does not boycott Israel and will not boycott Israel during the term of the Contract should it be awarded to the Offeror.

Contractor Name: _____
(typed or printed)

By: _____
(signature -- attach evidence of authority to sign)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Business address: _____

Phone: _____ Email: _____

END OF SECTION

CERTIFICATE OF INTERESTED PARTIES**FORM 1295****OFFICE USE ONLY**

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

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

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

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

Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is **NO** Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

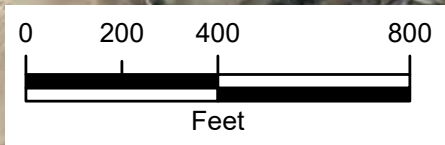
I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

Crest Oak Wastewater Upsize Exhibit



SHEET 1 OF 1 SHEETS	DATE: 5/12/2021	Crest Oak Branch Sanitary Sewer Upgrades Exhibit A	 COMMUNITY • SERVICE • OPPORTUNITY	 1 inch = 400 feet	Kimley»Horn			
	DESIGN: XXX				No.	Revision	By	Date
	DRAWN: XXX							
	CHECKED: XXX							
	KHA NO.: XXXXXXXXX							

RESOLUTION NO. 22-R-26

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING A CONTRACT WITH FUQUAY, INC. RELATING TO THE CREST OAK WASTEWATER UPSIZE PROJECT 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 Fuquay, Inc. relating to the Crest Oak Wastewater Upsize Project and approve the project expenditures; and

WHEREAS, City staff has received qualifications indicating that Fuquay, Inc. is qualified to provide such services for the City; and

WHEREAS, the project will be funded from ARPA Tranche 1 Category 5 Water, Wastewater, and Broadband Infrastructure funds.

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 Fuquay., Inc. for an amount of \$1,153,745.25, with an amount not to exceed \$1,269,119.78.

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 8th day of March, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)



FUQUAY, INC.

For reference only.



4861 Old Hwy 81, New Braunfels, TX 78132

Phone (830) 606-1882 Fax (830) 606-1885

PROPOSAL

DATE: January 26, 2022
PROJECT: Schertz Pipe Burst Lazy Oak to Ripps-Kreusler - 10-inch to 16-inch OD HDPE, Includes 3 Rehabilitated Manholes and 1 New Manhole

Cured In Place Pipe CIPP for Pipeline Rehabilitation #635-21

SECTION II: UV CURED PRODUCT					LIST PRICING		MEMBER PRICING			PROJECT SPECIFIC DISCOUNTED PRICING	
ITEM 21 Pipebursting Rehabilitation and Related Items											
Section II Item 21	21106	Burst existing 12" or 15" to 16" IPS SDR 19 (0'- 8' deep) (10" TO 16" OD BURST)	LF	1300	\$94.00	\$122,200.00	-\$6.58	\$87.42	\$113,646.00	\$87.25	\$113,425.00
Section II Item 21	21107	Burst existing 12" or 15" to 16" IPS SDR 19 (8'- 12' deep) (10" TO 16" BURST)	LF	1300	\$105.00	\$136,500.00	-\$7.35	\$97.65	\$126,945.00	\$97.50	\$126,750.00
Section II Item 21	21113	15"-18" Pipeburst Set-up Charge Per Install Length	LF	2600	\$32.00	\$83,200.00	-\$2.24	\$29.76	\$77,376.00	\$29.50	\$76,700.00
Section II Item 20	20143	6" to 12" Backyard Easement Additional Setup Per Install Length	LF	2600	\$16.00	\$41,600.00	-\$1.12	\$14.88	\$38,688.00	\$14.50	\$37,700.00
Section II Item 21	21118	Pipeburst Rehabilitation Crew Cost	DAY	37	\$16,050.00	\$593,850.00	-\$1,123.50	\$14,926.50	\$552,280.50	\$14,000.00	\$518,000.00
ITEM 22 Structure (Manhole) Rehabilitation and Corrosion Protection and Related Items											
Section II Item 22	22103	Condition Standards and Repair Methods -- Condition 3	SQFT	340	\$45.00	\$15,300.00	-\$3.15	\$41.85	\$14,229.00	\$41.00	\$13,940.00
Section II Item 22	22104	Inflow & Infiltration Repair -- Injection of Chemical Grout Material	GAL	5	\$267.50	\$1,337.50	-\$18.73	\$248.78	\$1,243.88	\$245.00	\$1,225.00
Section II Item 22	22105	Inflow & Infiltration Repair -- Injection of Chemical Grout Material-Labor & Equipment	HR	5	\$203.50	\$1,017.50	-\$14.25	\$189.26	\$946.28	\$175.00	\$875.00
Section II Item 22	22106	Manhole Bench and Invert Repair 4' Diameter Base	EA	3	\$669.00	\$2,007.00	-\$46.83	\$622.17	\$1,866.51	\$600.00	\$1,800.00
Section II Item 22	22114	Premium Manhole frame and cover	EA	1	\$2,675.00	\$2,675.00	-\$187.25	\$2,487.75	\$2,487.75	\$2,000.00	\$2,000.00
Section II Item 22	22119	Manhole Rehabilitation - Polyurethane (PCM) - Additional 1 mil thickness (340 sf *100 mils)	SQFT	34000	\$0.25	\$8,500.00	-\$0.02	\$0.23	\$7,905.00	\$0.20	\$6,800.00
ITEM 23 Bypass for Gravity Pipelines and Related Items											
Section II Item 23	23101	Set Up 4" Pump (Per Pump)	EA	2	\$642.00	\$1,284.00	-\$44.94	\$597.06	\$1,194.12	\$500.00	\$1,000.00
Section II Item 23	23107	Set Up 4" Piping/Hose	LF	2600	\$6.50	\$16,900.00	-\$0.46	\$6.05	\$15,717.00	\$6.00	\$15,600.00
Section II Item 23	23113	Operate 4" pumping System	DAY	60	\$1,337.50	\$80,250.00	-\$93.63	\$1,243.88	\$74,632.50	\$800.00	\$48,000.00
ITEM 24 Clean/TV and Evaluation for Gravity Pipelines and Additional Associated Items											
Section II Item 24	24102	10" Clean and TV sanitary sewer	LF	2660	\$7.50	\$19,950.00	-\$0.53	\$6.98	\$18,553.50	\$6.00	\$15,960.00

Section II Item 24	24130	6" - 18" Post TV Inspection After Rehabilitation	LF	2600
Section II Item 24	24136	Other Remote Obstruction removal (max. 10 lf)	EA	16
Section II Item 24	24137	Above Ground Physical Inspection	LF	2600
ITEM 25				
Excavation and Additional Associated Items				
Section II Item 25	25112	Access Pit (0'-8' deep)	EA	2
Section II Item 25	25114	Potholing for Nearby Utility Location (0'-8' deep)	EA	4
ITEM 38				
All Other Underground Construction and Supplemental Items and Related Items				
<u>Wastewater</u>				
Section II Item 38	38125	Sanitary Sewer Manhole, 60" Diameter (0'-6')	EA	1
Section II Item 38	38127	Extra Depth Manholes, 60" Diameter (greater than 6')	VF	2
Section II Item 38	38326	Excavator or Backhoe Crew	DAY	1
<u>Concrete/Road Work</u>				
Section II Item 38	38267	Granular backfill	TON	7
Section II Item 38	38289	Rock Hauling	TON	7
Section II Item 38	38268	Flowable Fill	CY	9
Section II Item 38	38290	Miscellaneous Concrete Installation	CY	9

\$7.50	\$19,500.00
\$2,675.00	\$42,800.00
\$10.50	\$27,300.00
\$3,745.00	\$7,490.00
\$1,284.00	\$5,136.00
\$11,235.00	\$11,235.00
\$508.50	\$1,017.00
\$13,375.00	\$13,375.00
\$48.00	\$336.00
\$267.50	\$1,872.50
\$214.00	\$1,926.00
\$1,177.00	\$10,593.00

\$1,269,151.50

-\$0.53	\$6.98	\$18,135.00
-\$187.25	\$2,487.75	\$39,804.00
-\$0.74	\$9.77	\$25,389.00
-\$262.15	\$3,482.85	\$6,965.70
-\$89.88	\$1,194.12	\$4,776.48
-\$786.45	\$10,448.55	\$10,448.55
-\$35.60	\$472.91	\$945.81
-\$936.25	\$12,438.75	\$12,438.75
-\$3.36	\$44.64	\$312.48
-\$18.73	\$248.78	\$1,741.43
-\$14.98	\$199.02	\$1,791.18
-\$82.39	\$1,094.61	\$9,851.49

\$1,180,310.90

\$6.00	\$15,600.00
\$2,400.00	\$38,400.00
\$9.00	\$23,400.00
\$3,400.00	\$6,800.00
\$1,190.00	\$4,760.00
\$10,000.00	\$10,000.00
\$400.00	\$800.00
\$8,000.00	\$8,000.00
\$40.00	\$280.00
\$40.00	\$280.00
\$190.00	\$1,710.00
\$1,000.00	\$9,000.00

\$1,098,805.00

Performance & Payment Bond (IF REQUIRED): \$54,940.25

TOTAL: \$1,153,745.25

SPECIAL PROJECT NOTES

- 1) CITY OF SHERTZ TO PROVIDE INGRESS/EGRESS TO EACH MANHOLE ON PROJECT SITE AND SECURE ANY TEMPORARY WORKING EASEMENTS AND RIGHT OF ENTRY AGREEMENTS FROM PROPERTY OWNER.
- 2) CITY OF SCHERTZ TO SURVEY AND STAKE OUT WORKING EASEMENT LIMITS.
- 3) STEEL PLATES INCLUDED AT PITS FOR OVERNIGHT PROTECTION.
- 4) SEE ADDITIONAL EXCLUSIONS BELOW.

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED, AND THE WORK TO BE PERFORMED IN ACCORDANCE WITH THE DRAWING AND SPECIFICATIONS SUBMITTED FOR THE ABOVE WORK AND COMPLETED IN A SUBSTANTIAL WORKMANLIKE MANNER. ANY ALTERATION OR DEVIATION FROM SPECIFICATIONS AND DRAWINGS INVOLVING EXTRA COSTS WILL BE EXECUTED ONLY UPON WRITTEN ORDERS AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE QUOTATION. WORKER'S COMPENSATION AND PUBLIC LIABILITY INSURANCE ON ABOVE WORK TO BE FURNISHED BY FUQUAY, INC. THERE MAY BE AN ADDITIONAL CHARGE FOR PROVIDING A WAIVER OF SUBROGATION AND/OR BEING LISTED AS AN ADDITIONAL INSURED ON FUQUAY'S INSURANCE. THE CHARGE SHALL BE EQUAL TO THE AMOUNT CHARGED TO FUQUAY FOR SAID SERVICE.

EXCLUSIONS:

BOND, SALES TAX, AND OCP
PERMITS, BURDENS, FEES
WASTE HAUL-OFF
SURVEYING
SITE CLEARING

BARRICADES, SIGNS, TRAFFIC HANDLING
INFILTRATION REPAIR
DEWATERING
ALL BYPASS PUMPING AND PIPE PLUGGING
PROVIDING AND/OR PERFORMING ANY TESTING

See construction contract for terms and conditions.

TERMS:

PAYMENT FOR SERVICES SHALL BE DUE AND PAYABLE WITHIN THIRTY DAYS OF THE DATE/MONTH THE WORK IS PERFORMED. THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN THIRTY DAYS.

ACCEPTED BY:

COMPANY:

NAME:

RESPECTFULLY SUBMITTED,

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: Finance
Subject: Resolution No. 22-R-31 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas accepting the Comprehensive Annual Financial Report - CAFR Fiscal Year 2020-21. (M. Browne/J. Walters)

BACKGROUND

State law requires that local governments complete an annual audit by an independent licensed public accounting firm. This is the official Financial Statement - Fiscal Year 2020-21 Comprehensive Annual Financial Report (CAFR) for the City of Schertz as of September 30, 2021. These statements show the financial performance and financial health of the City for the previous fiscal year. The presentation will be made by Paula Lowe, CPA, Audit Partner, of Patillo, Brown, and Hill, LLP. The Audit Committee consisting of Mayor Gutierrez, Councilmember Whittaker, Councilmember Heyward, City Manager Mark Browne, Assistant City Manager Brian James, Assistant City Manager Charles Kelm, Finance Director James Walters, and Assistant Finance Director Babett Martin met on February 22, 2022 to review the audit findings and financial statements as presented by the auditor, Paula Lowe, Audit Partner, of Patillo, Brown, and Hill, LLP.

GOAL

Inform City Council about the financial performance and health of the City.

COMMUNITY BENEFIT

The annual audit provides the community assurance this city is in good financial standing and operating in compliance with generally accepted accounting principles and governmental accounting standards.

SUMMARY OF RECOMMENDED ACTION

Approval of Resolution No. 22-R-31 accepting the FY 2020-21 CAFR.

FISCAL IMPACT

None

RECOMMENDATION

Staff recommends approval of Resolution No. 22-R-31 regarding the Fiscal Year 2020-21 Comprehensive Annual Financial Report.

Attachments

22-R-31
2020-21 CAFR Report
2020-21 Single Audit

RESOLUTION NO. 22-R-31

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE APPROVAL OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR 2020-21, AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City staff of the City of Schertz (the “City”) has recommended that the City Council approve the Comprehensive Annual Financial Report for Fiscal Year 2020-21 ; and

WHEREAS, the Audit Committee has recommended that it is in the best interest of the City to approve the Comprehensive Annual Financial Report for Fiscal Year 2020-21; and

WHEREAS, the City Council has determined that it is in the best interest of the City to approve the Comprehensive Annual Financial Report for Fiscal Year 2020-21.

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 Comprehensive Annual Financial Report for Fiscal Year 2020-21.

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 8th day of March 2022.

CITY OF SCHERTZ, TEXAS

Rafael Gutierrez, Mayor

ATTEST:

City Secretary, Brenda Dennis

(CITY SEAL)

CITY OF SCHERTZ, TEXAS
ANNUAL COMPREHENSIVE FINANCIAL REPORT
FOR THE FISCAL YEAR ENDED
SEPTEMBER 30, 2021



OFFICIALS ISSUING REPORT

James M. Browne
City Manager

James Walters
Director of Finance

CITY OF SCHERTZ, TEXAS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

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INTRODUCTORY SECTION

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March 08, 2022

To the Honorable Mayor, City Council, and the Citizens of Schertz:

State law requires that local governments publish a complete set of financial statements presented in conformity with generally accepted accounting principles in the United States of America (U.S. GAAP) and audited in accordance with generally accepted auditing standards in the United States of America by a firm of licensed certified public accountants. Pursuant to that requirement, we hereby issue the annual comprehensive financial report of the City of Schertz for the fiscal year ended September 30, 2021.

This report consists of management's representations concerning the finances of the City of Schertz. Consequently, management assumes full responsibility for the completeness and reliability of all the information presented in this report. To provide a reasonable basis for making these representations, management of the City of Schertz has established a comprehensive internal control framework that is designed both to protect the government's assets from loss, theft, or misuse and to compile sufficient reliable information for the preparation of the City of Schertz's financial statements in conformity with U.S. GAAP. Because the cost of internal controls should not outweigh their benefits, the City of Schertz comprehensive framework of internal controls has been designed to provide reasonable rather than absolute assurance that the financial statements will be free from material misstatement. As management, we assert that, to the best of our knowledge and belief, this financial report is complete and reliable in all material respects.

The City of Schertz's financial statements have been audited by Pattillo, Brown & Hill, LLP a firm of licensed certified public accountants. The goal of the independent audit was to provide reasonable assurance that the financial statements of the City of Schertz for the fiscal year ended September 30, 2021, are free of material misstatement. The independent audit involved examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; assessing the accounting principles used and significant estimates made by management; and evaluating the overall financial statement presentation. The independent auditor concluded, based upon the audit, that there was a reasonable basis for rendering an unmodified opinion that the City of Schertz's financial statements for the fiscal year ended September 30, 2021, are fairly presented in conformity with U.S. GAAP. The independent auditor's report is presented as the first component of the financial section of this report.

GAAP requires that management provide a narrative introduction, overview, and analysis to accompany the basic financial statements in the form of Management's Discussion and Analysis (MD&A). This letter of transmittal is designed to complement MD&A and should be read in conjunction with it. The City of Schertz's MD&A can be found immediately following the report of the independent auditors.

Profile of the Government

The City of Schertz, incorporated in 1958, is located in the central part of Texas, which is considered to be a top growth area in the state, and one of the top growth areas in the country. The City of Schertz currently occupies a land area of 32.21 square miles with a population of 42,002 in 2020 according to the US Census Bureau. The City of Schertz is empowered to levy a property tax on both real and personal properties located within its boundaries. It also is empowered by state statute to extend its corporate limits by annexation, which occurs periodically when deemed appropriate by the governing body.

The City of Schertz has operated under the council-manager form of government since November 30, 1972. Policymaking and legislative authority are vested in a City Council consisting of the Mayor and seven at-large councilmembers. The City Council is responsible for establishing public policy on City matters by the passage of appropriate ordinances and resolutions. The City Manager is responsible for overseeing the day-to-day operations of the government, implementing policy established by City Council, and for appointing the heads of the various departments. The council is elected on a non-partisan basis. Council members serve three-year staggered terms, with two council members elected every three years and then three council members elected the final three years in the cycle. The mayor is elected to serve a three-year term.

The City of Schertz provides a full range of services, including police and fire protection, EMS services, library services, the construction and maintenance of streets, recreational facilities, cultural events, and water and sewer services.

The annual budget and five-year forecast serve as the foundation for the City of Schertz's financial planning and control. All city departments are required to submit requests for appropriation to the City Manager by June of each year. The City Manager uses these requests as the starting point for developing a proposed budget. The City Manager then presents the proposed budget to the council for review in early August. The council then holds public hearings and community meetings on the proposed budget and to adopt a final budget by September 30th. The fiscal year for Schertz is from October 1 through September 30. The appropriated budget is prepared by each department (e.g. police). The City Manager may make transfers of appropriations within a department. The City Manager may make transfers between departments and funds with City Council approval. Budget to actual comparisons are provided in this report for each individual governmental fund for which an appropriated annual budget has been adopted. For the general fund, this comparison is presented on pages 55-56 as part of the required supplementary information.

Factors Affecting Financial Condition

The information presented in the financial statements is perhaps best understood when it is considered from the broader perspective of the specific environment within which the City of Schertz operates.

Local economy.

Economic growth in Schertz remained strong in 2021. The surrounding metro area saw growth evidenced by the Federal Reserve Bank of Dallas reporting the San Antonio Business-Cycle Index increase 6.1% year over year for September 2021. This Index potentially indicates a new period of economic growth around the state. As of September 2021, the unemployment rate for Texas was 4.9% and several metro areas including Austin, Dallas-Fort Worth, and San Antonio, are below the state average. Schertz in particular had an **unemployment rate of 3.8% during this time.**

As another indicated of economic growth, the City of Schertz realized a **16.7% increase year-over-year** in sales tax collections during the fiscal year. While Schertz continued to see growth during the pandemic, as other economies start to recover Schertz continues strong.

Further showcasing Schertz' economic fortitude, it also saw a diverse range of new products developed its real estate and land markets with approximately 2,373,899 square feet of new commercial and industrial space that will become available. CORES is working with the City to provide 1.7 million sq ft of speculative industrial space in the southern area of Schertz. In the North, Titan Development, EastGroup, and Phelan-Bennet are adding 573,899 sq ft of industrial warehouse space that is currently under development.

Long-term financial planning. The community approved bond propositions in November 2010 for quality of life projects which included an aquatics facility, improvements to the baseball fields and soccer fields, building a new animal adoption facility, and improvements to Main Street. The only remaining project are the Main Street improvements.

In November 2015, the City placed 2 bond propositions before the voters totaling \$15 million. \$7 million was for FM roadways which the City will partner with the Texas Department of Transportation, who will provide matching funds, and \$8 million for a new Fire Station located in the southern portion of Schertz. \$2 million for the FM roadways have been issued and sent to the Texas Department of Transportation for improvements on FM 1103 as of July 2018. In June 2018, the second \$4 million was issued for the Fire Station to begin construction. The fire station was completed in November 2020.

Current Year Budget Initiatives. For FY 2021-22, the City is using the momentum from the previous year and is putting an additional \$500,000 into replacing the City's financial software and funding an estimated \$350,000 to fix the HVAC system in the Animal Adoption Facility. Due to growing needs the City will also hire a Police Officer, an Evidence Technician and a Plumber as well as expand the existing facilities cleaning contract to include public safety buildings and parks restrooms. The EMS Fund will hire an additional 2 Paramedics and the Water & Sewer Fund will hire a SCADA Technician.

Financial Information:

Internal Control. Management is responsible for establishing and maintaining internal controls designed to ensure that assets of the City are protected from loss, theft or misuse and to provide adequate accounting information compiled to allow for the preparation of financial statements in conformity with generally accepted accounting principles for local governments as prescribed by the Governmental Accounting Standards Board (GASB), the Financial Accounting Standards Board (FASB) and the American Institute of Certified Public Accountants (AICPA). The internal control system is designed to provide reasonable, but not absolute assurance that these objectives are met. The concept of reasonable assurance recognizes that the cost of an internal control should not exceed the benefits derived from the internal control. The City utilizes financial accounting software which is designed with a system of internal controls. These controls are continually being reevaluated to provide reasonable, but not absolute, assurances.

Budget Controls. The City also utilizes budgetary controls. Legally expenditures cannot exceed the appropriated amount. The objective of these budgetary controls is to ensure compliance with the adopted budget approved by the City Council as mandated by the city charter and state law. The levels of budgetary control are established at the line-item basis and at the fund level. Staff believes these controls help monitor and direct approved expenditures to a level within the budget parameters which directly results in a strong financial performance.

Financial Results. Assets and fund balances continue to grow as the City grows and financial results remain strong. While additional debt was issued during the year, Staff closely monitors and plans the amount of issuance to keep steady debt ratios per capita, per revenue, and per operations tax rate to the debt tax rate. Examples of these ratios can be found in the Statistical Section on pages 105-110. A more detailed summary of the City's Financial Performance is available in the Management Discussion and Analysis section on page 4.

Independent Audit. Every year an independent audit is performed of the general ledger, accounts, financial records, and transactions of all city departments. The audit is completed by an independent certified public accounting firm selected by the City Council. The City is in compliance with this requirement and the independent auditor's report by Pattillo, Brown & Hill, LLP. Certified Public Accountants, has been included in this report.

Awards and Acknowledgements

The Government Finance Officers Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the City of Schertz for its annual comprehensive financial report for the fiscal year ended September 30, 2020. This was the 36th consecutive year that the City has received this prestigious award. In order to be awarded a Certificate of Achievement, the City must publish an easily readable and efficiently organized annual comprehensive financial report. This report must satisfy both generally accepted accounting principles and applicable legal requirements.

A Certificate of Achievement is valid for a period of one year only. We believe our current annual comprehensive financial report continues to meet the Certificate of Achievement Program's requirements and we will be submitting it to the GFOA to determine its eligibility for another certificate.

The preparation of this report would not have been possible without the efficient and dedicated services of the entire staff of the finance department. We would like to express our appreciation to all members of the department who assisted and contributed to the preparation of this report.

In conclusion, we would have none of the success we have enjoyed without the assistance of each and every staff member, as well as the support and strategic direction from the Mayor and the City Council during the strategic planning, pre-budget, and budget approval process.

Respectfully submitted,



James M. Browne
City Manager



James P. Walters
Finance Director

CITY OF SCHERTZ, TEXAS

CITY OFFICIALS

MAYOR

RALPH GUTIERREZ

MAYOR PRO-TEM

ROSEMARY SCOTT

CITY COUNCIL

MARK E. DAVIS

JILL WHITTAKER

MICHAEL DAHLE

DAVID SCAGLIOLA

ALLISON HEYWARD

TIM BROWN

CITY MANAGER

JAMES M. BROWNE

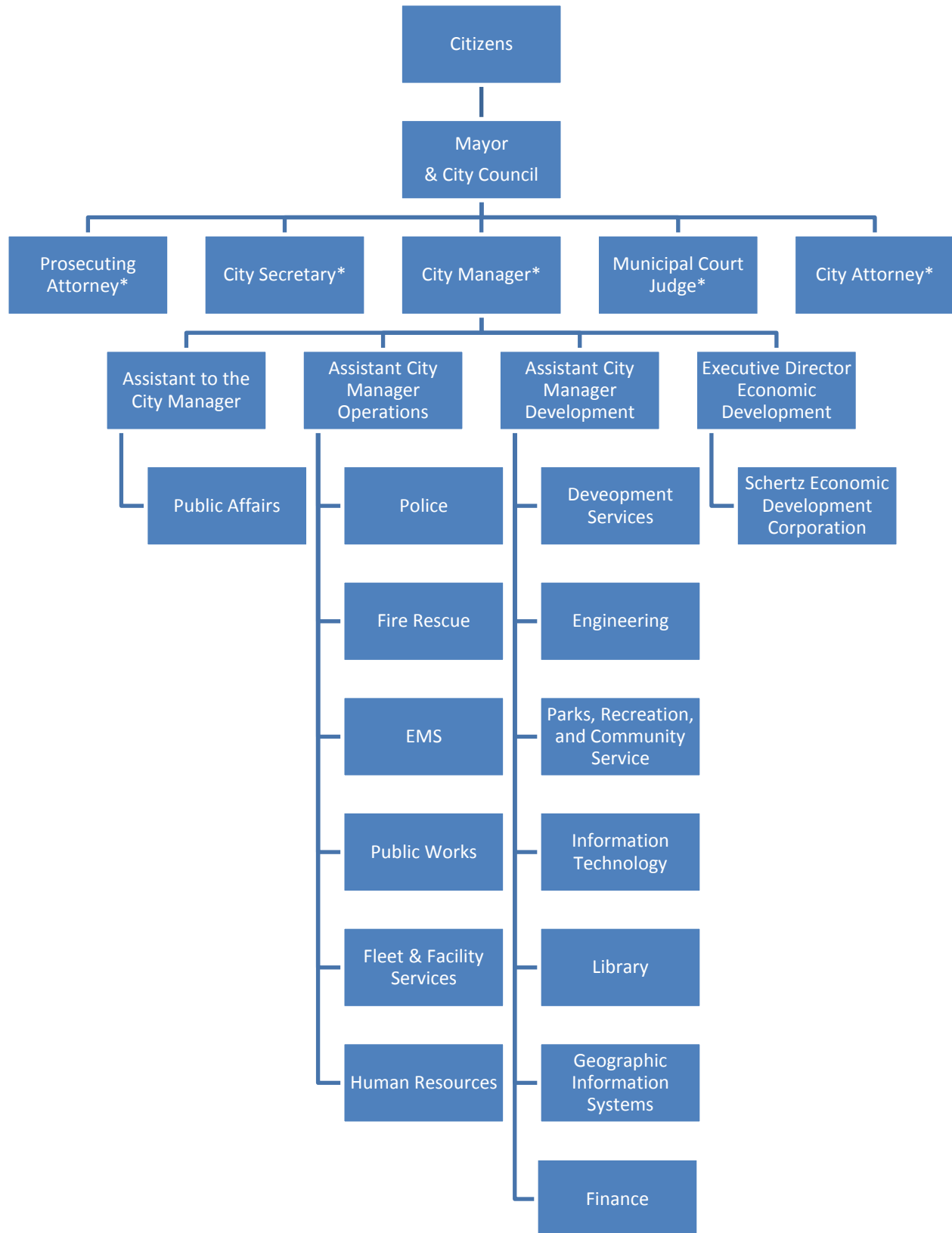
DIRECTOR OF FINANCE

JAMES WALTERS

CITY ATTORNEY

CHARLES ZECH, DENTON, NAVARRO, ROCHA, BERNAL & ZECH, P.C.

CITY OF SCHERTZ ORGANIZATIONAL CHART FY 2020-21



*Appointed by City Council



Government Finance Officers Association

Certificate of
Achievement
for Excellence
in Financial
Reporting

Presented to

**City of Schertz
Texas**

For its Annual Comprehensive
Financial Report
For the Fiscal Year Ended

September 30, 2020

Christopher P. Morill

Executive Director/CEO

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FINANCIAL SECTION

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INDEPENDENT AUDITOR'S REPORT

Honorable Mayor and
Members of the City Council
City of Schertz, Texas

Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of City of Schertz, Texas, as of and for the year ended September 30, 2021, and the related notes to the financial statements, which collectively comprise the City of Schertz, Texas' basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

The City of Schertz's management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We did not audit the financial statements of the Schertz-Seguin Local Government Corporation or the Cibolo Valley Local Government Corporation, which collectively represent 11.2 percent and 12.9 percent, respectively, of the assets and net position of the Water and Sewer Fund, and 10.8 percent and 12.7 percent, respectively, of the assets and net position of the business-type activities. Those statements were audited by other auditors whose report has been furnished to us, and our opinion, insofar as it relates to the amounts included for Schertz-Seguin Local Government Corporation and Cibolo Valley Local Government Corporation, is based solely on the report of the other auditors. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

OFFICE LOCATIONS

TEXAS | Waco | Temple | Hillsboro | Houston
NEW MEXICO | Albuquerque



Opinions

In our opinion, based on our audit and the reports of other auditors, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Schertz, Texas, as of September 30, 2021, and the respective changes in financial position, and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Report on Summarized Comparative Information

We have previously audited the City of Schertz, Texas' fiscal year 2020 financial statements, and we expressed an unmodified audit opinion on those audited financial statements in our report dated March 19, 2021. In our opinion, the summarized comparative information presented herein as of and for the year ended September 30, 2020 is consistent, in all material respects, with the audited financial statements from which it has been derived.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and required supplementary information, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City of Schertz, Texas' basic financial statements. The introductory section, combining and individual nonmajor fund financial statements and schedules, and statistical section, are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The combining and individual nonmajor fund financial statements and schedules are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the combining and individual nonmajor fund financial statements and schedules are fairly stated, in all material respects, in relation to the basic financial statements as a whole.

The introductory and statistical sections have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on them.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated March 4, 2022, on our consideration of the City of Schertz, Texas' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City of Schertz, Texas' internal control over financial reporting and compliance.

Pattillo, Brown & Hill, L.L.P.

Waco, Texas
March 4, 2022

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MANAGEMENT'S DISCUSSION AND ANALYSIS

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MANAGEMENT'S DISCUSSION AND ANALYSIS

As management of the City of Schertz, we offer readers of the City's financial statements this narrative overview and analysis of the financial activities of the City of Schertz for the fiscal year ended September 30, 2020. We encourage readers to consider the information presented here in conjunction with additional information that we have furnished in our letter of transmittal, which can be found in the introductory section of this report.

Financial Highlights

The assets and deferred outflows of the City of Schertz exceeded its liabilities and deferred inflows at the close of the most recent fiscal year by \$269,248,695 (net position). Of this amount, \$50,150,925 (unrestricted net position) may be used to meet the City's ongoing obligations to citizens and creditors.

The City's total net position increased by \$25,855,719. The primary reason for this increase was an increase in capital contributions of approximately \$12 million from the prior year.

As of the close of the current fiscal year, the City's governmental funds reported combined ending fund balances of \$57,119,032, an increase of \$6,125,378 in comparison with the prior year. The primary cause of this increase was a increases in property and sales tax revenues that exceeded expenditure growth.

At the end of the fiscal year, the combined total of the General Fund assigned and unassigned fund balances was \$13,257,017 which is 36.79% of the general fund expenditures not including capital outlay. The fund balance policy is to reserve at least a 26% balance.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the City's basic financial statements. The City's basic financial statements comprise three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

Government-wide financial statements. The government-wide financial statements are designed to provide readers with a broad overview of the City's finances, in a manner similar to a private-sector business.

The statement of net position presents information on all of the City's assets, deferred outflows, liabilities, and deferred inflows, with the difference between the former two and latter two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the City of Schertz is improving or deteriorating.

The statement of activities presents information showing how the City's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g. uncollected taxes and earned but unused vacation leave).

Both of the government-wide financial statements distinguish functions of the City of Schertz that are principally supported by taxes and intergovernmental revenues (governmental activities) from other functions that are intended to recover all or a significant portion of their costs through user fees and charges (business-type activities). The governmental activities of the City of Schertz include general government, public safety, streets and parks, health, and culture and recreation. The business-type activities of the City of Schertz include a water and sewer department and an emergency medical services department.

Fund financial statements. A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The City of Schertz, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The funds of the City of Schertz can be divided into two categories: governmental and proprietary.

Governmental funds. Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information is useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The City of Schertz maintains fifteen individual governmental funds. Information is presented separately in the governmental fund balance sheet and in the governmental fund statement of revenues, expenditures, and changes in fund balances for the general fund, the debt service fund, the economic development corporation, the capital projects fund, and the American Recovery Plan Act fund, all of which are considered to be major funds. Data from the other ten governmental funds are combined into a single, aggregated presentation. Individual fund data for each of these non-major governmental funds is provided in the form of combining statements elsewhere in this report.

Proprietary funds. The City of Schertz maintains two types of proprietary funds. Enterprise funds are used to report the same functions presented as business-type activities in the government-wide financial statements. The City of Schertz uses enterprise funds to account for its water and sewer department and for its emergency medical services department. The City also maintains an internal service fund to account for internal charges for medical premiums.

Proprietary funds provide the same type of information as the government-wide financial statements, only in more detail. The proprietary fund financial statements provide separate information for the water and sewer department and for the emergency medical services department, both of which are considered to be major funds of the City of Schertz, as well as the internal service fund.

Notes to the financial statements. The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

Other information. In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information concerning the City's general fund budgetary schedule. The City of Schertz adopts an annual appropriated budget for its general fund. A budgetary comparison schedule has been provided for the general fund to demonstrate compliance with this budget. The economic development corporation also adopts an annual budget, and a comparison schedule for it also is provided in the required supplementary information.

The combining statements referred to earlier in connection with non-major governmental funds are presented immediately following the required supplementary information.

Government-wide Financial Analysis

As noted earlier, net position may serve over time as a useful indicator of a government's financial position. In the case of the City of Schertz, assets and deferred outflows exceeded liabilities and deferred inflows by \$269,248,695 at the close of the most recent fiscal year. The largest portion of the City's total net position (68%) reflects its net investment in capital assets (e.g., land, buildings, machinery, and equipment) less any related debt used to acquire those assets that is still outstanding, plus bond proceeds that have not yet been spent. The City of Schertz uses these capital assets to provide services to citizens; consequently, these assets are not available for operational type of future spending. Although the City's investment in its capital assets is reported net of related debt, it should be noted that the resources needed to repay this debt must be provided from other sources, since the capital assets themselves cannot be used to liquidate these liabilities.

An additional portion of the City's total net position (14%) represents resources that are subject to external restrictions on how they may be used. The remaining balance of unrestricted net position, \$50,150,925, may be used to meet the government's ongoing obligations to citizens and creditors.

At the end of the current fiscal year, the City of Schertz is able to report positive balances in all three categories of net position, both for the government as a whole, as well as for its separate governmental and business-type activities. The same situation held true for the prior fiscal year.

City of Schertz's Net Position Government-Wide						
	Governmental Activities		Business-Type Activities		Total	
	2021	2020	2021	2020	2021	2020
Current and other assets	\$ 67,416,673	\$ 62,199,597	\$ 56,132,860	\$ 54,664,167	\$ 123,549,533	\$ 116,863,764
Capital assets	<u>149,570,599</u>	<u>144,079,930</u>	<u>98,743,525</u>	<u>92,643,825</u>	<u>248,314,124</u>	<u>236,723,755</u>
Total assets	<u>216,987,272</u>	<u>206,279,527</u>	<u>154,876,385</u>	<u>147,307,992</u>	<u>371,863,657</u>	<u>353,587,519</u>
Deferred outflows of resources	<u>3,488,506</u>	<u>3,267,540</u>	<u>954,384</u>	<u>806,262</u>	<u>4,442,890</u>	<u>4,073,802</u>
Current liabilities	12,946,000	12,527,345	5,316,572	5,245,378	18,262,572	17,772,723
Long-term liabilities	<u>67,867,628</u>	<u>73,002,458</u>	<u>18,214,795</u>	<u>20,706,167</u>	<u>86,082,423</u>	<u>93,708,625</u>
Total liabilities	<u>80,813,628</u>	<u>85,529,803</u>	<u>23,531,367</u>	<u>25,951,545</u>	<u>104,344,995</u>	<u>111,481,348</u>
Deferred inflows of resources	<u>2,130,871</u>	<u>2,235,923</u>	<u>581,986</u>	<u>551,074</u>	<u>2,712,857</u>	<u>2,786,997</u>
Net position:						
Net investment in capital assets	98,444,714	88,959,102	83,941,882	75,969,319	182,386,596	164,928,421
Restricted	28,342,438	28,664,438	8,368,736	15,071,599	36,711,174	43,736,037
Unrestricted	<u>10,744,127</u>	<u>4,157,801</u>	<u>39,406,798</u>	<u>30,570,717</u>	<u>50,150,925</u>	<u>34,728,518</u>
Total net position	<u>\$ 137,531,279</u>	<u>\$ 121,781,341</u>	<u>\$ 131,717,416</u>	<u>\$ 121,611,635</u>	<u>\$ 269,248,695</u>	<u>\$ 243,392,976</u>

The government's net position increased by \$25,855,719 during the current fiscal year. The primary cause for the increase was increased revenues; the City recognized approximately \$12 million of capital contribution revenue related to dedicated infrastructure assets and also experienced sharp increases in property and sales taxes. These increases stem from the City's continued rapid population growth; continued new housing and business developments resulted in increased assessed value for property taxes and resulted in the creation of infrastructure that was dedicated to the City. The related population increases resulted in increased economic activity that increased sales tax revenues.

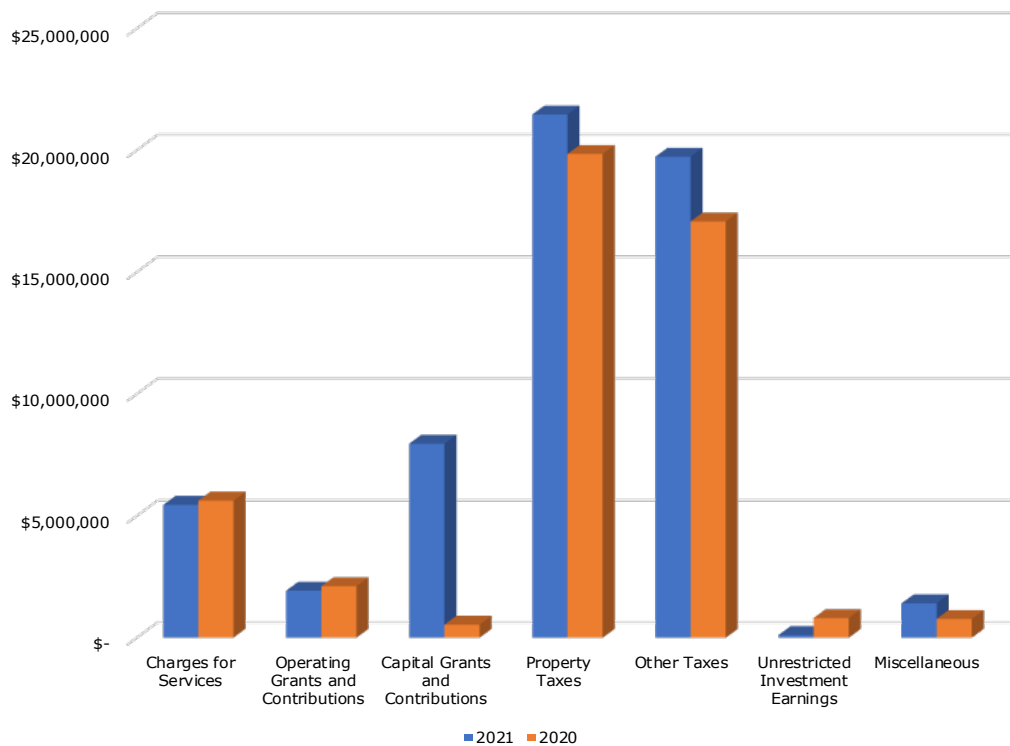
Additionally, expenses influenced the change in net position from the following notable factors:

- General government expenses decreased compared to the prior year; in fiscal year 2020, Schertz EDC made a planned \$3.7 million incentive payment for developers meeting performance obligations.
- Public Safety expenses increased over \$2 million due to increases to police and fire salaries. In 2020, the City completed a comprehensive compensation study that resulted in significant pay raises to maintain competitive against market wages.
- Public works expenses decreased over \$3.5 million, primarily due to one-time project expenditures in the prior year that did not qualify as capital construction.

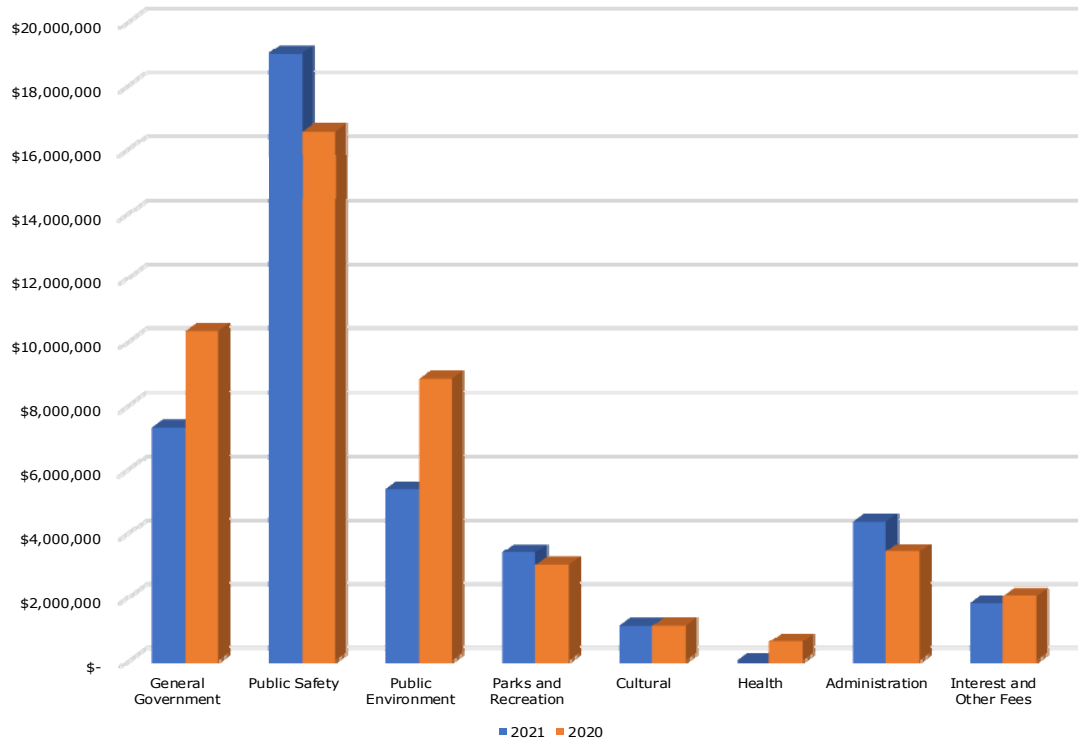
The following table indicates changes in net position for governmental and business-type activities followed by graphs displaying total revenues and expenses by type:

City of Schertz's Changes in Net Position Government-Wide						
	Governmental Activities		Business-Type Activities		Total	
	2021	2020	2021	2020	2021	2020
Revenues:						
Program revenues:						
Charges for services	\$ 5,448,546	\$ 5,619,998	\$ 35,433,956	\$ 35,824,170	\$ 40,882,502	\$ 41,444,168
Operating grants & contributions	1,925,939	2,113,673	-	-	1,925,939	2,113,673
Capital contributions	7,959,576	531,096	6,935,191	292,408	14,894,767	823,504
General revenues:						
Property taxes	21,463,804	19,844,912	-	-	21,463,804	19,844,912
Other taxes	19,731,490	17,076,462	-	-	19,731,490	17,076,462
Investment earnings	104,613	804,674	68,354	431,555	172,967	1,236,229
Miscellaneous	1,408,270	767,799	754,268	706,296	2,162,538	1,474,095
Total revenues	<u>58,042,238</u>	<u>46,758,614</u>	<u>43,191,769</u>	<u>37,254,429</u>	<u>101,234,007</u>	<u>84,013,043</u>
Expenses:						
General government	7,298,193	10,310,363	-	-	7,298,193	10,310,363
Public safety	19,008,871	16,575,191	-	-	19,008,871	16,575,191
Public environment	5,364,408	8,825,099	-	-	5,364,408	8,825,099
Parks and recreation	3,395,458	3,012,134	-	-	3,395,458	3,012,134
Cultural	1,087,975	1,089,564	-	-	1,087,975	1,089,564
Health	-	596,288	-	-	-	596,288
Administration	4,360,229	3,419,407	-	-	4,360,229	3,419,407
Interest and other fees	1,797,520	2,028,065	-	-	1,797,520	2,028,065
Water and sewer	-	-	25,280,964	24,349,219	25,280,964	24,349,219
EMS	-	-	7,784,670	6,051,296	7,784,670	6,051,296
Total expenses	<u>42,312,654</u>	<u>45,856,111</u>	<u>33,065,634</u>	<u>30,400,515</u>	<u>75,378,288</u>	<u>76,256,626</u>
Increase in net position before transfers	<u>15,729,584</u>	<u>902,503</u>	<u>10,126,135</u>	<u>6,853,914</u>	<u>25,855,719</u>	<u>7,756,417</u>
Transfers	<u>20,354</u>	<u>-</u>	<u>(20,354)</u>	<u>-</u>	<u>-</u>	<u>-</u>
Change in net position	<u>15,749,938</u>	<u>902,503</u>	<u>10,105,781</u>	<u>6,853,914</u>	<u>25,855,719</u>	<u>7,756,417</u>
Net position - beginning of year	<u>121,781,341</u>	<u>120,878,838</u>	<u>121,611,635</u>	<u>114,757,721</u>	<u>243,392,976</u>	<u>235,636,559</u>
Net position - end of year	<u>\$ 137,531,279</u>	<u>\$ 121,781,341</u>	<u>\$ 131,717,416</u>	<u>\$ 121,611,635</u>	<u>\$ 269,248,695</u>	<u>\$ 243,392,976</u>

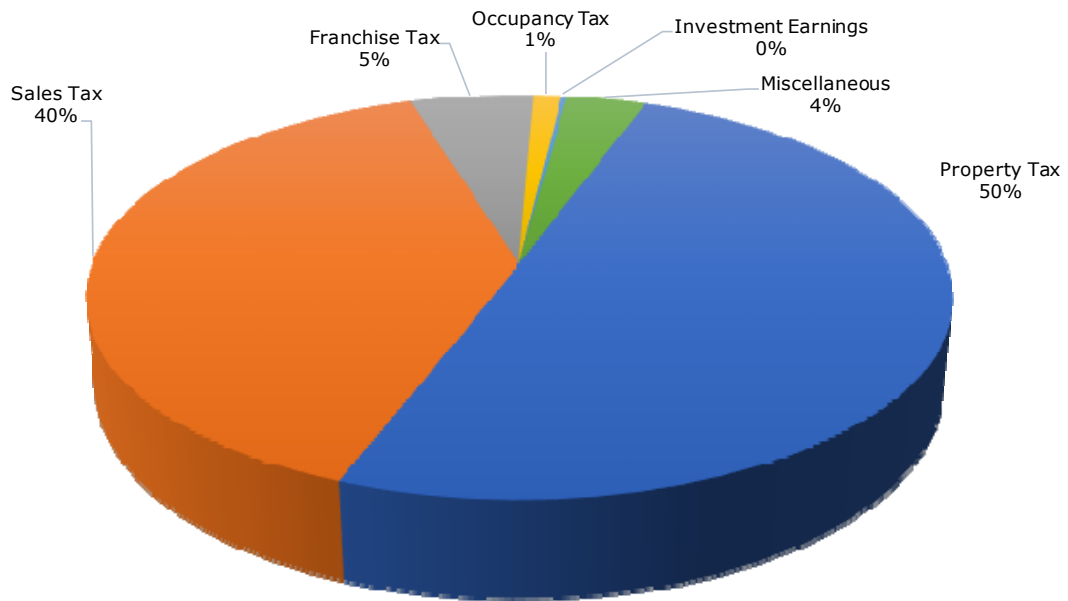
TOTAL REVENUES – GOVERNMENT-WIDE



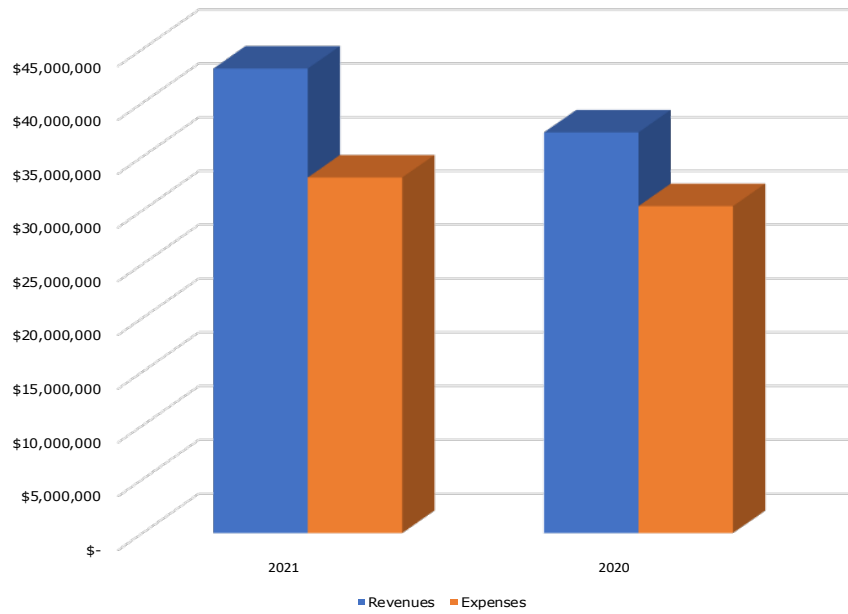
TOTAL EXPENSES – GOVERNMENT-WIDE



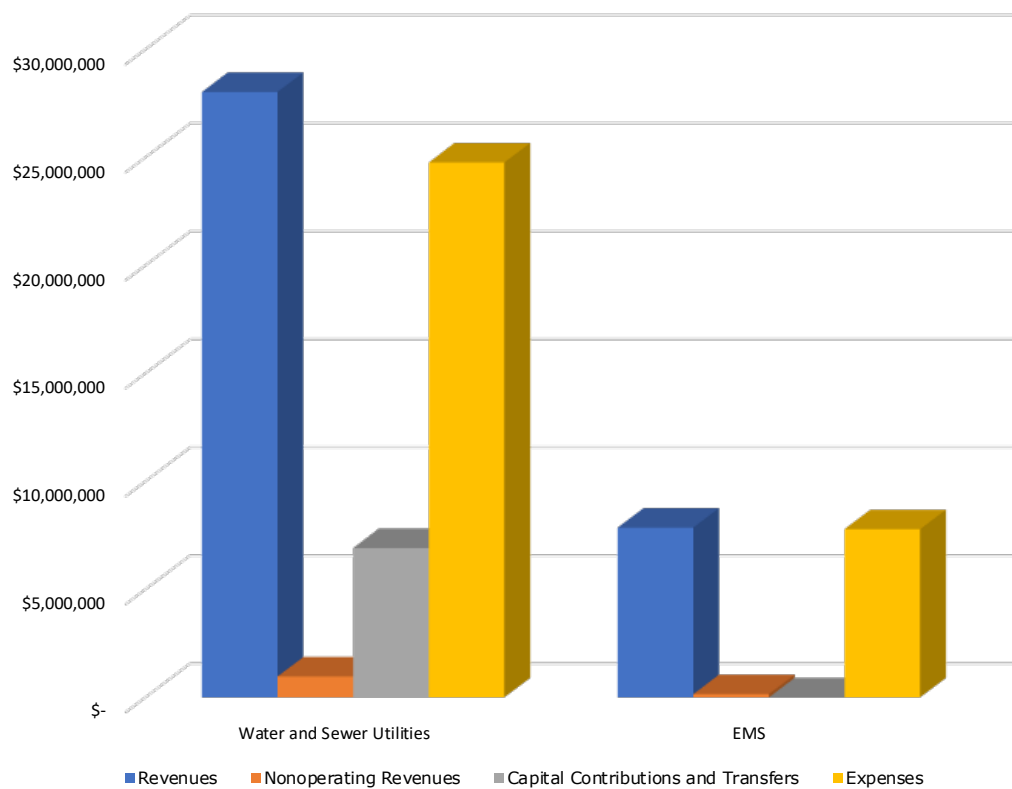
GENERAL REVENUE BY SOURCE – GOVERNMENTAL ACTIVITIES



TOTAL REVENUES AND EXPENSES – BUSINESS-TYPE ACTIVITIES



BUSINESS-TYPE REVENUES AND EXPENSES



Financial Analysis of the Government's Funds

As noted earlier, the City of Schertz uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental funds. The focus of the City's governmental funds is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the City's financing requirements. In particular, unassigned fund balance may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

As of the end of the current fiscal year, the City's governmental funds reported combined ending fund balances of \$57,119,032. Of this total amount, \$11,080,576 constitutes unassigned fund balance, which is available for spending at the government's discretion. The remainder of fund balance is non-spendable, restricted, committed, or assigned to indicate that it is not available for new spending because it has already been committed to pay debt service, for capital improvement projects, and other assigned purposes.

The general fund is the chief operating fund of the City of Schertz. At the end of the current fiscal year, unassigned fund balance of the general fund was \$11,755,619, while total fund balance was \$16,478,567, a decrease of \$490,411 from the prior year. Overall, the decrease was caused by a large budgeted transfer out for capital projects, but the fund also experienced increases in property and sales tax revenues in spite of the COVID-19 pandemic. As a measure of the general fund's liquidity, it may be useful to compare both unassigned fund balance and total fund balance to total fund expenditures. Unassigned fund balance represents 36.79% of total general fund expenditures, not including capital outlay.

The debt service fund has a total fund balance of \$1,087,376, all of which is restricted for the payment of debt service. The net increase in fund balance during the current year in the debt service fund was \$301,457. This increase was due to regular principal and interest payments on long-term debt being exceeded by interest and sinking property tax revenue during the year. Over time, however, the debt service fund has sufficient cash and equivalents on hand to remain liquid if tax revenues decrease.

The capital projects fund has a total fund balance of \$13,170,964, an increase of \$3,033,406. This was caused by the supplementation of revenue by amounts transferred from the general and Economic Development Corporation funds.

The Economic Development Fund presents the activities of the Schertz Economic Development Corporation (the "EDC"), which promotes economic development activities using a portion of the City's sales tax revenue. At year end, the EDC fund reported an ending fund balance of \$21,806,231, which is an increase of \$787,605 compared to the prior year. The primary cause of this change was sales tax revenue growing faster than expenditures.

The American Rescue Plan Act Fund has a total fund balance of \$243, which consists of interest earned on the \$5,208,951 received from the first tranche of the Coronavirus Local Fiscal Recovery Fund grant program. The City had spent \$303,000 of this amount as of yearend, and the remaining \$4,905,708 is presented as unearned revenue until it is spent in accordance with the terms of the grant agreement in future years.

Proprietary funds. The City's proprietary funds provide the same type of information found in the government-wide financial statements, but in more detail. Unrestricted net position of the water and sewer fund at the end of the year amounted to \$38,332,979 and those for the Schertz EMS fund amounted to \$1,073,819, which are 155% and 14% of fund operating costs, respectively.

The water and sewer fund reported an increase in net position of \$10 million. Approximately half of this increase related to revenue recognized for contributed infrastructure assets; the remaining portion of the increase was from operating income, which was consistent with the prior year. Management's intent is to accumulate operating surplus to fund construction of new water and sewer infrastructure in future years with less reliance on bonded debt.

The Schertz EMS fund increased net position by \$77,921. Revenues and expenses both increased by approximately \$1.6 million compared to the prior year. Revenues increased due to increased number of ambulance runs caused by the growth in the population of the EMS service area. Expenses increased primarily from increased salaries that resulted from the compensation study discussed previously.

General Fund Budgetary Highlights

The general fund expenditures were \$1,738,423 less than the \$34,254,845 budget. This was the result of cost savings across most of the General Fund due to decreased demand for services. Generally, activities citywide decreased because of the COVID-19 pandemic beginning in March 2020. Revenues were \$1,519,574 less than budgeted, primarily due to increased property and sales tax revenues that fell short of the budgeted amount. Overall, ending fund balance in the general fund was \$3,241,694 higher than budgeted.

CAPITAL ASSET AND DEBT ADMINISTRATION

Capital assets. The City's investment in capital assets for its governmental and business-type activities as of September 30, 2021, amounts to \$248,314,124 (net of accumulated depreciation), including several projects in progress from voter approved bonds.

	Governmental Activities		Business-Type Activities		Total	
	2021	2020	2021	2020	2021	2020
Land	\$ 8,310,986	\$ 8,074,199	\$ 1,844,488	\$ 1,844,488	\$ 10,155,474	\$ 9,918,687
Water rights	-	-	70,245	70,245	70,245	70,245
Buildings and improvements	44,588,777	44,447,749	3,609,126	3,635,532	48,197,903	48,083,281
Machinery, equipment, and vehicles	14,833,547	14,552,416	6,214,967	5,976,040	21,048,514	20,528,456
Infrastructure	129,206,285	119,945,442	105,832,113	100,588,293	235,038,398	220,533,735
Construction in progress	26,695,151	24,826,910	19,942,794	17,266,273	46,637,945	42,093,183
Accumulated depreciation	(74,064,147)	(67,766,786)	(38,770,208)	(36,737,046)	(112,834,355)	(104,503,832)
TOTALS	\$ 149,570,599	\$ 144,079,930	\$ 98,743,525	\$ 92,643,825	\$ 248,314,124	\$ 236,723,755

Significant capital asset activity for the year included improvements to streets and infrastructure of \$9.2 million and various equipment and technology purchases of \$726,000, including \$344,000 of vehicles.

Additional information on the City's capital assets can be found in note II.F. to the basic financial statements.

LONG TERM DEBT

At the end of the current fiscal year, the City of Schertz had total long-term debt outstanding of \$73,724,518. The related principal and interest payment for the bonds are backed by an annual ad valorem tax levied against all taxable property within the City. The City of Schertz maintains a "AA+" rating from Standard and Poors.

	Governmental Activities		Business-Type Activities		Total	
	2021	2020	2021	2020	2021	2020
General obligation bonds	\$ 40,390,000	\$ 44,620,000	\$ 2,895,000	\$ 3,685,000	\$ 43,285,000	\$ 48,305,000
Certificates of obligation	14,200,000	15,235,000	10,655,000	11,505,000	24,855,000	26,740,000
Tax notes and leases	291,535	362,134	475,121	282,468	766,656	644,602
Premium on bonds	2,502,146	2,170,381	772,802	828,781	3,274,948	2,999,162
Compensated absences	1,178,062	967,540	364,852	249,269	1,542,914	1,216,809
TOTALS	\$ 58,561,743	\$ 63,355,055	\$ 15,162,775	\$ 16,550,518	\$ 73,724,518	\$ 79,905,573

Total debt decreased compared to the prior year due to continued payment on existing debt without any additional new issuances. However, the City did issue refunding debt of \$7,555,000 in the current year to pay off existing bonds and reduce future debt service.

Additional information on the City's long-term debt can be found in note II.H. to the basic financial statements.

Economic Factors and Next Year's Budgets and Rates

At the end of the last fiscal year, the assigned and unassigned fund balance in the general fund decreased to \$13.2 million in a planned decrease of fund balance. The decrease was \$490,411 but was budgeted to be \$1 million in the original adopted budget. The City of Schertz has appropriated \$598,549 of this amount for spending in the 2022 fiscal year budget in accordance to the City's fund balance policy. The approved tax rate remained the same at \$0.5121 per \$100 of valuation.

The City has not seen lasting effects of the ongoing COVID-19 pandemic. The City's property tax revenues were not negatively affected, with rising property values and continued construction of new homes and business showing growth in the tax base instead. Each year the City updates its five-year budgeting forecast and has implemented a long-term debt model to assist management in making informed financial decisions that will impact the community now and in the future.

Requests for Information

This financial report is designed to provide a general overview of the City's finances for all those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Office of the Finance Director, City of Schertz, 1400 Schertz Parkway, Schertz, Texas 78154.

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**BASIC
FINANCIAL STATEMENTS**

CITY OF SCHERTZ, TEXAS
STATEMENT OF NET POSITION
SEPTEMBER 30, 2021

	Primary Government		
	Governmental Activities	Business-Type Activities	Total
ASSETS			
Cash and cash equivalents	\$ 54,740,108	\$ 9,456,846	\$ 64,196,954
Investments	4,720,194	1,163,351	5,883,545
Receivables, net of allowances:			
Taxes	4,112,464	-	4,112,464
Accounts and other	1,967,768	6,459,527	8,427,295
Accrued interest	-	6,324	6,324
Inventories	134,373	184,455	318,828
Prepays	29,080	2,311	31,391
Internal balances	(16,139)	16,139	-
Restricted assets:			
Cash and cash equivalents	946,454	20,271,954	21,218,408
Investments	-	1,830,287	1,830,287
Service concession arrangement receivable:			
Due within one year	90,909	-	90,909
Due in more than one year	691,462	-	691,462
Investment in joint venture	-	16,741,666	16,741,666
Capital assets:			
Land	8,310,986	1,844,488	10,155,474
Water rights	-	70,245	70,245
Buildings and improvements	44,588,777	3,609,126	48,197,903
Equipment and vehicles	14,833,547	6,214,967	21,048,514
Infrastructure	129,206,285	105,832,113	235,038,398
Construction in progress	26,695,151	19,942,794	46,637,945
Accumulated depreciation	(74,064,147)	(38,770,208)	(112,834,355)
Total Assets	<u>216,987,272</u>	<u>154,876,385</u>	<u>371,863,657</u>
DEFERRED OUTFLOWS OF RESOURCES			
Deferred loss on debt refunding	564,011	25,027	589,038
Deferred OPEB related outflows	622,588	194,848	817,436
Deferred pension related outflows	<u>2,301,907</u>	<u>734,509</u>	<u>3,036,416</u>
Total Deferred Outflows of Resources	<u>3,488,506</u>	<u>954,384</u>	<u>4,442,890</u>
LIABILITIES			
Accounts payable	1,141,700	2,356,880	3,498,580
Accrued liabilities	1,180,560	370,077	1,550,637
Retainage payable	154,437	28,747	183,184
Due to other governments	60,492	-	60,492
Unearned revenue	4,946,298	456,575	5,402,873
Accrued interest payable	286,255	60,113	346,368
Customer deposits	1,007	627,152	628,159

The accompanying notes are an integral part of these financial statements.

CITY OF SCHERTZ, TEXAS

STATEMENT OF NET POSITION

SEPTEMBER 30, 2021

	Primary Government		
	Governmental Activities	Business-Type Activities	Total
LIABILITIES (continued)			
Noncurrent liabilities:			
Due within one year:			
Compensated absences	\$ 235,612	\$ 72,971	\$ 308,583
Total OPEB liability	52,091	16,621	68,712
Service concession arrangement	55,241	-	55,241
Long-term debt	4,832,307	1,327,436	6,159,743
Due in more than one year:			
Compensated absences	942,450	291,881	1,234,331
Total OPEB liability	2,600,981	829,941	3,430,922
Net pension liability	11,352,654	3,622,486	14,975,140
Service concession arrangement	420,169	-	420,169
Long-term debt	<u>52,551,374</u>	<u>13,470,487</u>	<u>66,021,861</u>
Total Liabilities	<u>80,813,628</u>	<u>23,531,367</u>	<u>104,344,995</u>
DEFERRED INFLOWS OF RESOURCES			
Deferred service concession arrangement	306,961	-	306,961
Deferred OPEB related inflows	333,199	106,320	439,519
Deferred pension related inflows	<u>1,490,711</u>	<u>475,666</u>	<u>1,966,377</u>
Total Deferred Inflows of Resources	<u>2,130,871</u>	<u>581,986</u>	<u>2,712,857</u>
NET POSITION			
Net investment in capital assets	98,444,714	83,941,882	182,386,596
Restricted for:			
Police and municipal court	421,362	-	421,362
PEG capital fees	889,139	-	889,139
Tourism development	2,301,716	-	2,301,716
Economic development	21,806,474	-	21,806,474
Parks and tree mitigation	934,913	-	934,913
Debt service	934,899	-	934,899
Scholarships and other purposes	1,053,935	-	1,053,935
Construction	-	8,368,736	8,368,736
Unrestricted	<u>10,744,127</u>	<u>39,406,798</u>	<u>50,150,925</u>
Total Net Position	<u>\$ 137,531,279</u>	<u>\$ 131,717,416</u>	<u>\$ 269,248,695</u>

CITY OF SCHERTZ, TEXAS

STATEMENT OF ACTIVITIES

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Functions/Programs	Expenses	Program Revenues		
		Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions
Primary government:				
Governmental activities:				
General government	\$ 7,298,193	\$ 651,211	\$ 1,367,592	\$ -
Public safety	19,008,871	3,079,945	538,523	-
Public environment	5,364,408	902,712	-	7,959,576
Parks and recreation	3,395,458	528,886	-	-
Cultural	1,087,975	285,792	19,824	-
Administration	4,360,229	-	-	-
Interest	1,797,520	-	-	-
Total Governmental Activities	<u>42,312,654</u>	<u>5,448,546</u>	<u>1,925,939</u>	<u>7,959,576</u>
Business-type activities:				
Water and sewer	25,280,964	27,724,929	-	6,935,191
EMS	7,784,670	7,709,027	-	-
Total Business-Type Activities	<u>33,065,634</u>	<u>35,433,956</u>	<u>-</u>	<u>6,935,191</u>
Total Primary Government	<u>\$ 75,378,288</u>	<u>\$ 40,882,502</u>	<u>\$ 1,925,939</u>	<u>\$ 14,894,767</u>

General revenues:

 Taxes:

 Ad valorem

 Sales

 Franchise fees

 Hotel/motel

 Mixed drink

 Investment earnings

 Miscellaneous

Transfers

 Total General Revenues and Transfers

Change in Net Position

Net Position - Beginning

Net Position - Ending

Net (Expense) Revenue and Changes in Net Position		
Primary Government		
Governmental Activities	Business-Type Activities	Total
\$(5,279,390)	\$ -	\$(5,279,390)
(15,390,403)	-	(15,390,403)
3,497,880	-	3,497,880
(2,866,572)	-	(2,866,572)
(782,359)	-	(782,359)
(4,360,229)	-	(4,360,229)
(1,797,520)	-	(1,797,520)
(26,978,593)	-	(26,978,593)
-	9,379,156	9,379,156
-	(75,643)	(75,643)
-	9,303,513	9,303,513
(26,978,593)	9,303,513	(17,675,080)
21,463,804	-	21,463,804
16,838,731	-	16,838,731
2,305,108	-	2,305,108
518,921	-	518,921
68,730	-	68,730
104,613	68,354	172,967
1,408,270	754,268	2,162,538
20,354	(20,354)	-
42,728,531	802,268	43,530,799
15,749,938	10,105,781	25,855,719
121,781,341	121,611,635	243,392,976
\$ 137,531,279	\$ 131,717,416	\$ 269,248,695

CITY OF SCHERTZ, TEXAS

BALANCE SHEET
GOVERNMENTAL FUNDS

SEPTEMBER 30, 2021

	General Fund	Capital Projects Fund	Debt Service Fund
ASSETS			
Cash and cash equivalents	\$ 11,733,703	\$ 13,229,954	\$ 1,087,376
Investments	2,514,059	-	-
Receivables (net of allowances)			
Taxes	2,924,472	-	133,778
Accounts and other	1,636,735	258,142	-
Due from other funds	678,444	-	-
Inventory	134,373	-	-
Prepaid items	28,090	-	-
Restricted assets:			
Cash and cash equivalents	946,454	-	-
Total Assets	<u>20,596,330</u>	<u>13,488,096</u>	<u>1,221,154</u>
LIABILITIES			
Accounts payable	921,978	162,695	-
Accrued salaries and benefits	1,180,560	-	-
Retainage payable	-	154,437	-
Customer deposits	1,007	-	-
Due to other governments	60,492	-	-
Due to other funds	16,139	-	-
Unearned revenues	40,589	-	-
Total Liabilities	<u>2,220,765</u>	<u>317,132</u>	<u>-</u>
DEFERRED INFLOWS OF RESOURCES			
Unavailable revenues	1,896,998	-	133,778
Total Deferred Inflows of Resources	<u>1,896,998</u>	<u>-</u>	<u>133,778</u>
FUND BALANCES			
Nonspendable for:			
Inventory	134,373	-	-
Prepaid items	28,090	-	-
Restricted for:			
Police and public safety/municipal court	287,199	-	-
Municipal court	816,152	-	-
PEG capital fees	889,139	-	-
Capital improvement	-	5,185,166	-
Debt service	-	-	1,087,376
Tourism development	-	-	-
Parks and tree mitigation	-	-	-
Historical Committee and library	-	-	-
Economic development	-	-	-
Animal control	42,416	-	-
Scholarships	116,505	-	-
Committed for:			
Capital Projects	-	7,985,798	-
Civic Center/CIED	907,676	-	-
Assigned for:			
Property replacement	902,849	-	-
Subsequent year's budget	598,549	-	-
Unassigned	11,755,619	-	-
Total Fund Balances	<u>16,478,567</u>	<u>13,170,964</u>	<u>1,087,376</u>
Total Liabilities, Deferred Inflows of Resources, and Fund Balances	<u>\$ 20,596,330</u>	<u>\$ 13,488,096</u>	<u>\$ 1,221,154</u>

The accompanying notes are an integral part
of these financial statements.

Economic Development Corporation	American Rescue Plan Act Fund	Nonmajor Governmental Funds	Total Governmental Funds
\$ 18,542,752	\$ 4,905,952	\$ 5,240,371	\$ 54,740,108
2,206,135	-	-	4,720,194
1,054,214	-	-	4,112,464
7,949	-	64,942	1,967,768
-	-	-	678,444
-	-	-	134,373
990	-	-	29,080
-	-	-	946,454
<u>21,812,040</u>	<u>4,905,952</u>	<u>5,305,313</u>	<u>67,328,885</u>
5,809	-	51,218	1,141,700
-	-	-	1,180,560
-	-	-	154,437
-	-	-	1,007
-	-	-	60,492
-	-	678,444	694,583
-	4,905,709	-	4,946,298
<u>5,809</u>	<u>4,905,709</u>	<u>729,662</u>	<u>8,179,077</u>
-	-	-	2,030,776
<u>-</u>	<u>-</u>	<u>-</u>	<u>2,030,776</u>
-	-	-	134,373
-	-	-	28,090
-	-	134,163	421,362
-	-	-	816,152
-	-	-	889,139
-	-	1,801,040	6,986,206
-	-	-	1,087,376
-	-	2,301,716	2,301,716
-	-	934,913	934,913
-	-	78,862	78,862
21,806,231	243	-	21,806,474
-	-	-	42,416
-	-	-	116,505
-	-	-	7,985,798
-	-	-	907,676
-	-	-	902,849
-	-	-	598,549
-	-	(675,043)	11,080,576
<u>21,806,231</u>	<u>243</u>	<u>4,575,651</u>	<u>57,119,032</u>
\$ <u>21,812,040</u>	\$ <u>4,905,952</u>	\$ <u>5,305,313</u>	\$ <u>67,328,885</u>

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CITY OF SCHERTZ, TEXAS

**RECONCILIATION OF THE BALANCE SHEET OF GOVERNMENTAL FUNDS
TO THE STATEMENT OF NET POSITION**

SEPTEMBER 30, 2021

Total Fund Balances - Governmental Funds \$ 57,119,032

Amounts reported for governmental activities in the statement of net position are different because:

Capital assets used in governmental activities are not current financial resources and, therefore, are not reported in the governmental funds balance sheet. 149,570,599

Bonds payable and accrued compensated absences will not be liquidated with current financial resources and, therefore, have not been included in the fund financial statements. (56,059,597)

Interest payable on long-term debt is accrued in the government-wide financial statements, whereas in the fund financial statements, interest expenditures are reported when due. (286,255)

Premiums on bond issuances and deferred losses on bond refunding are recorded as other financing sources and uses when paid in the fund financial statements but are capitalized and amortized in the government-wide financial statements over the life of the bonds.
Premiums (2,502,146)
Deferred loss 564,011

Receivables from grants, property taxes and fines and fees are not available soon enough to pay for the current period's expenditures and are, therefore, deferred in the fund financial statements. 2,030,776

Included in the items related to debt is the recognition of the City's net pension liability, total OPEB liability, and related deferred outflows and inflows of resources.
Net pension liability (11,352,654)
Deferred outflows related to pensions 2,301,907
Deferred inflows related to pensions (1,490,711)
Total OPEB liability (2,653,072)
Deferred outflows related to OPEB 622,588
Deferred inflows related to OPEB (333,199)

Net Position of Governmental Activities \$ 137,531,279

CITY OF SCHERTZ, TEXAS

STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

	General Fund	Capital Projects Fund	Debt Service Fund
REVENUES			
Taxes	\$ 27,913,222	\$ -	\$ 7,102,016
Permits and fees	1,593,382	-	-
Service fees	1,628,589	-	-
Fines and fees	637,638	-	-
Intergovernmental	1,623,282	724,993	-
Investment earnings	29,147	12,333	1,593
Miscellaneous	781,333	501,922	125,000
Total Revenues	<u>34,206,593</u>	<u>1,239,248</u>	<u>7,228,609</u>
EXPENDITURES			
Current:			
General government	6,008,482	-	-
Public safety	17,166,400	-	-
Public environment	1,382,185	-	-
Parks and recreation	2,494,684	-	-
Cultural	1,040,276	-	-
Administration	3,858,317	-	-
Capital outlay	566,078	4,582,289	-
Debt service:			
Principal	-	-	4,955,000
Interest and fiscal charges	-	-	1,801,467
Bond issue costs	-	-	140,140
Total Expenditures	<u>32,516,422</u>	<u>4,582,289</u>	<u>6,896,607</u>
Excess (Deficiency) of Revenues Over Expenditures	<u>1,690,171</u>	<u>(3,343,041)</u>	<u>332,002</u>
OTHER FINANCING SOURCES (USES)			
Issuance of refunding debt	-	-	7,555,000
Premium on refunding debt	-	-	629,992
Payment to refunding escrow agent	-	-	(8,223,452)
Issuance of capital lease	136,535	-	-
Transfers in	-	6,384,362	7,915
Transfers out	(2,317,117)	(7,915)	-
Total Other Financing Sources (Uses)	<u>(2,180,582)</u>	<u>6,376,447</u>	<u>(30,545)</u>
NET CHANGE IN FUND BALANCE	<u>(490,411)</u>	<u>3,033,406</u>	<u>301,457</u>
FUND BALANCES - BEGINNING	<u>16,968,978</u>	<u>10,137,558</u>	<u>785,919</u>
FUND BALANCES - ENDING	<u>\$ 16,478,567</u>	<u>\$ 13,170,964</u>	<u>\$ 1,087,376</u>

The accompanying notes are an integral part
of these financial statements.

Economic Development Corporation	American Rescue Plan Act Fund	Nonmajor Governmental Funds	Total Governmental Funds
\$ 5,615,928	\$ -	\$ 518,921	\$ 41,150,087
-	-	219,513	1,812,895
-	-	912,406	2,540,995
-	-	5,844	643,482
-	303,000	1,931,599	4,582,874
56,144	243	5,153	104,613
-	-	15	1,408,270
<u>5,672,072</u>	<u>303,243</u>	<u>3,593,451</u>	<u>52,243,216</u>
306,025	-	266,408	6,580,915
-	303,000	638,018	18,107,418
-	-	-	1,382,185
-	-	39,995	2,534,679
-	-	19,708	1,059,984
528,442	-	72,464	4,459,223
-	-	66,889	5,215,256
-	-	-	4,955,000
-	-	-	1,801,467
-	-	-	140,140
<u>834,467</u>	<u>303,000</u>	<u>1,103,482</u>	<u>46,236,267</u>
<u>4,837,605</u>	<u>243</u>	<u>2,489,969</u>	<u>6,006,949</u>
-	-	-	7,555,000
-	-	-	629,992
-	-	-	(8,223,452)
-	-	-	136,535
-	-	3,109	6,395,386
(4,050,000)	-	-	(6,375,032)
<u>(4,050,000)</u>	<u>-</u>	<u>3,109</u>	<u>118,429</u>
787,605	243	2,493,078	6,125,378
<u>21,018,626</u>	<u>-</u>	<u>2,082,573</u>	<u>50,993,654</u>
\$ <u>21,806,231</u>	\$ <u>243</u>	\$ <u>4,575,651</u>	\$ <u>57,119,032</u>

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CITY OF SCHERTZ, TEXAS

RECONCILIATION OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Net Changes in Fund Balances - Governmental Funds \$ 6,125,378

Amounts reported for governmental activities in the statement of activities are different because:

Governmental funds report capital outlays as expenditures. However, in the governmental activities statement of activities, that cost of those assets is allocated over their estimated useful lives and reported as depreciation expense.

Capital outlay	12,233,480
Depreciation expense	(6,716,836)

The net effect of miscellaneous transactions involving capital assets (i.e., sales, trade-ins, or donations) is to decrease net position.

(25,975)

Revenues in the Statement of Activities that do not provide current financial resources are not reported as revenues in the funds.

Grants	(1,526,256)
Property taxes	45,488
Court fines	45,207

The issuance of long-term debt (e.g. bonds) provides current financial resources to governmental funds, while the repayment of the principal of long-term debt consumes the current financial resources of governmental funds. Neither transaction, however, has any effect on net position. Also, governmental funds report the effect of premiums, discounts, and similar items when debt is first issued, whereas the amounts are deferred and amortized in the Statement of Activities.

Issuance of long-term debt	(8,321,527)
Payment to escrow agent	8,223,452
Repayment of principal of long-term debt	5,173,199
Amortization of loss on refunding	(99,045)

Current year changes in certain long-term liabilities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds.

Compensated Absences	(210,522)
Net pension liability	887,699
Total OPEB liability	(125,871)

Interest payable on long-term debt is accrued in the government-wide financial statements, whereas in the fund financial statements, interest expenditures are reported when due.

42,067

Change in Net Position of Governmental Activities \$ 15,749,938

CITY OF SCHERTZ, TEXAS

**STATEMENT OF NET POSITION
PROPRIETARY FUNDS**

SEPTEMBER 30, 2021

	Business-Type Activities Enterprise Funds			Governmental Activities
	Water and Sewer System	Schertz EMS	Total Enterprise Fund	Internal Service Fund
ASSETS				
Current assets:				
Cash and cash equivalents	\$ 8,197,023	\$ 1,259,823	\$ 9,456,846	\$ -
Investments	1,163,351	-	1,163,351	-
Accounts receivable, net of allowance:				
Customer accounts	3,273,755	3,185,772	6,459,527	-
Due from other funds	-	16,139	16,139	-
Accrued interest	6,324	-	6,324	-
Inventory	82,883	101,572	184,455	-
Prepays	<u>-</u>	<u>2,311</u>	<u>2,311</u>	<u>-</u>
Total Current Assets	<u>12,723,336</u>	<u>4,565,617</u>	<u>17,288,953</u>	<u>-</u>
Noncurrent assets:				
Restricted assets:				
Cash and cash equivalents	20,271,954	-	20,271,954	-
Investments	1,830,287	-	1,830,287	-
Investment in joint ventures	16,741,666	-	16,741,666	-
Capital assets:				
Land	1,844,488	-	1,844,488	-
Water rights	70,245	-	70,245	-
Buildings and improvements	3,609,126	-	3,609,126	-
Machinery, equipment, and vehicles	3,282,108	2,932,859	6,214,967	-
Infrastructure	105,832,113	-	105,832,113	-
Construction in progress	19,942,794	-	19,942,794	-
Less: accumulated depreciation	<u>(36,963,688)</u>	<u>(1,806,520)</u>	<u>(38,770,208)</u>	<u>-</u>
Total Noncurrent Assets	<u>136,461,093</u>	<u>1,126,339</u>	<u>137,587,432</u>	<u>-</u>
Total Assets	<u>149,184,429</u>	<u>5,691,956</u>	<u>154,876,385</u>	<u>-</u>
DEFERRED OUTFLOWS OF RESOURCES				
Deferred loss on refunding	25,027	-	25,027	-
Deferred OPEB related outflows	62,568	132,280	194,848	-
Deferred pension related outflows	<u>227,731</u>	<u>506,778</u>	<u>734,509</u>	<u>-</u>
Total Deferred Outflows of Resources	<u>315,326</u>	<u>639,058</u>	<u>954,384</u>	<u>-</u>

The accompanying notes are an integral part of these financial statements.

CITY OF SCHERTZ, TEXAS

STATEMENT OF NET POSITION
PROPRIETARY FUNDS

SEPTEMBER 30, 2021

	Business-Type Activities Enterprise Funds			Governmental Activities
	Water and Sewer System	Schertz EMS	Total Enterprise Fund	Internal Service Fund
LIABILITIES				
Current liabilities:				
Accounts payable	\$ 2,223,567	\$ 133,313	\$ 2,356,880	\$ -
Accrued liabilities	100,403	269,674	370,077	-
Retainage payable	28,747	-	28,747	-
Customer deposits	627,152	-	627,152	-
Accrued interest	57,968	2,145	60,113	-
Unearned revenue	455,463	1,112	456,575	-
Current portion of long-term liabilities:				
Compensated absences	25,045	47,926	72,971	-
Total OPEB liability	5,153	11,468	16,621	-
Long-term debt	<u>1,065,000</u>	<u>262,436</u>	<u>1,327,436</u>	<u>-</u>
Total Current Liabilities	<u>4,588,498</u>	<u>728,074</u>	<u>5,316,572</u>	<u>-</u>
Noncurrent liabilities:				
Compensated absences	100,178	191,703	291,881	-
Total OPEB liability	257,320	572,621	829,941	-
Net pension liability	1,123,136	2,499,350	3,622,486	-
Long-term debt	<u>13,138,922</u>	<u>331,565</u>	<u>13,470,487</u>	<u>-</u>
Total Noncurrent Liabilities	<u>14,619,556</u>	<u>3,595,239</u>	<u>18,214,795</u>	<u>-</u>
Total Liabilities	<u>19,208,054</u>	<u>4,323,313</u>	<u>23,531,367</u>	<u>-</u>
DEFERRED INFLOWS OF RESOURCES				
Deferred OPEB related inflows	32,964	73,356	106,320	-
Deferred pension related inflows	<u>147,478</u>	<u>328,188</u>	<u>475,666</u>	<u>-</u>
Total Deferred Inflows of Resources	<u>180,442</u>	<u>401,544</u>	<u>581,986</u>	<u>-</u>
NET POSITION				
Net investment in capital assets	83,409,544	532,338	83,941,882	-
Restricted for construction	8,368,736	-	8,368,736	-
Unrestricted	<u>38,332,979</u>	<u>1,073,819</u>	<u>39,406,798</u>	<u>-</u>
Total Net Position	<u>\$ 130,111,259</u>	<u>\$ 1,606,157</u>	<u>\$ 131,717,416</u>	<u>\$ -</u>

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CITY OF SCHERTZ, TEXAS

STATEMENT OF REVENUES, EXPENSES AND
CHANGES IN FUND NET POSITION
PROPRIETARY FUNDS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

	Business-Type Activities Enterprise Funds		Governmental Activities	
	Water and Sewer System	Schertz EMS	Total Enterprise Funds	Internal Service Fund
OPERATING REVENUES				
Fees charged to users	\$ 27,245,602	\$ 7,709,027	\$ 34,954,629	\$ -
Charges for premiums	-	-	-	3,916,301
Other charges	182,414	-	182,414	-
Miscellaneous	<u>602,598</u>	<u>151,670</u>	<u>754,268</u>	<u>-</u>
Total Operating Revenues	<u>28,030,614</u>	<u>7,860,697</u>	<u>35,891,311</u>	<u>3,916,301</u>
OPERATING EXPENSES				
Personnel services	2,432,081	5,552,786	7,984,867	3,916,301
General and administrative	3,280,186	737,866	4,018,052	-
Contractual services	15,987,246	721,572	16,708,818	-
Supplies and maintenance	531,733	486,102	1,017,835	-
Depreciation	<u>2,534,305</u>	<u>286,344</u>	<u>2,820,649</u>	<u>-</u>
Total Operating Costs	<u>24,765,551</u>	<u>7,784,670</u>	<u>32,550,221</u>	<u>3,916,301</u>
Operating Income (Loss)	<u>3,265,063</u>	<u>76,027</u>	<u>3,341,090</u>	<u>-</u>
NON-OPERATING REVENUES (EXPENSES)				
Investment revenue	66,906	1,448	68,354	-
Lease revenue	296,913	-	296,913	-
Interest expense	<u>(515,413)</u>	<u>-</u>	<u>(515,413)</u>	<u>-</u>
Total Non-Operating Revenues (Expenses)	<u>(151,594)</u>	<u>1,448</u>	<u>(150,146)</u>	<u>-</u>
Income before contributions and transfers	3,113,469	77,475	3,190,944	-
Transfers out	<u>(20,354)</u>	<u>-</u>	<u>(20,354)</u>	<u>-</u>
Capital contributions - impact fees	1,691,371	-	1,691,371	-
Capital contributions - dedicated assets	<u>5,243,820</u>	<u>-</u>	<u>5,243,820</u>	<u>-</u>
CHANGE IN NET POSITION	<u>10,028,306</u>	<u>77,475</u>	<u>10,105,781</u>	<u>-</u>
NET POSITION - BEGINNING	<u>120,082,953</u>	<u>1,528,682</u>	<u>121,611,635</u>	<u>-</u>
NET POSITION - END OF YEAR	<u>\$ 130,111,259</u>	<u>\$ 1,606,157</u>	<u>\$ 131,717,416</u>	<u>\$ -</u>

The accompanying notes are an integral part
of these financial statements.

CITY OF SCHERTZ, TEXAS

**STATEMENT OF CASH FLOWS
PROPRIETARY FUNDS**

FOR THE YEAR ENDED SEPTEMBER 30, 2021

	Business-Type Activities Enterprise Funds			Governmental Activities
	Water and Sewer System	Schertz EMS	Total Enterprise	Internal Service Fund
CASH FLOWS FROM OPERATING ACTIVITIES				
Cash received from customers and users	\$ 28,887,299	\$ 7,161,623	\$ 36,048,922	\$ -
Cash received from interfund services	-	-	-	3,916,301
Cash paid to employees for services	(2,731,693)	(5,213,104)	(7,944,797)	(3,916,301)
Cash paid to suppliers for goods and services	(23,703,472)	(1,587,773)	(25,291,245)	-
Net Cash Provided By Operating Activities	<u>2,452,134</u>	<u>360,746</u>	<u>2,812,880</u>	<u>-</u>
CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES				
Transfers to other funds	(20,354)	-	(20,354)	-
Net Cash Used in Non-Capital Financing Activities	<u>(20,354)</u>	<u>-</u>	<u>(20,354)</u>	<u>-</u>
CASH FLOWS FROM CAPITAL & RELATED FINANCING ACTIVITIES				
Acquisition and construction of capital assets	(2,956,008)	(319,398)	(3,275,406)	-
Capital contributions - impact fees	1,691,371	-	1,691,371	-
Interest paid on long-term debt	(701,796)	(3,880)	(705,676)	-
Principal paid on long-term debt	(1,530,000)	(176,953)	(1,706,953)	-
Net Cash Used in Capital and Related Financing Activities	<u>(3,496,433)</u>	<u>(500,231)</u>	<u>(3,996,664)</u>	<u>-</u>
CASH FLOWS FROM INVESTING ACTIVITIES				
Sale (purchase) of investments	(22,071)	-	(22,071)	-
Payments from leases	296,913	-	296,913	-
Interest and investment earnings	<u>66,906</u>	<u>1,448</u>	<u>68,354</u>	<u>-</u>
Net Cash Provided By (Used in) Investing Activities	<u>341,748</u>	<u>1,448</u>	<u>343,196</u>	<u>-</u>
Net (Decrease) Increase in Cash and Cash Equivalents	(722,905)	(138,037)	(860,942)	-
Cash and cash equivalents at beginning of year:				
Cash and cash equivalents	11,686,996	1,397,860	13,084,856	-
Restricted cash and cash equivalents	<u>17,504,886</u>	<u>-</u>	<u>17,504,886</u>	<u>-</u>
	29,191,882	1,397,860	30,589,742	-
Cash and cash equivalents at end of year				
Cash and cash equivalents	8,197,023	1,259,823	9,456,846	-
Restricted cash and cash equivalents	<u>20,271,954</u>	<u>-</u>	<u>20,271,954</u>	<u>-</u>
	<u>\$ 28,468,977</u>	<u>\$ 1,259,823</u>	<u>\$ 29,728,800</u>	<u>\$ -</u>

The accompanying notes are an integral part of these financial statements.

CITY OF SCHERTZ, TEXAS

**STATEMENT OF CASH FLOWS
PROPRIETARY FUNDS**

FOR THE YEAR ENDED SEPTEMBER 30, 2021

	Business-Type Activities Enterprise Funds			Governmental Activities
	Water and Sewer System	Schertz EMS	Total Enterprise	Internal Service Fund
RECONCILIATION OF OPERATING INCOME (LOSS) TO NET				
CASH PROVIDED BY OPERATING ACTIVITIES				
Operating income (loss)	\$ 3,265,063	\$ 76,027	\$ 3,341,090	\$ -
Adjustments to reconcile operating income (loss) to net cash provided by operating activities:				
Depreciation	2,534,305	286,344	2,820,649	-
Change in investment in joint venture	(2,438,628)	-	(2,438,628)	-
Decrease (increase) in accounts receivable	778,999	(700,162)	78,837	-
Decrease (increase) in inventory	29,834	22,393	52,227	-
Increase (decrease) in deferred pension outflows	7,891	(110,010)	(102,119)	-
Increase (decrease) in deferred OPEB outflows	14,419	(76,138)	(61,719)	-
Increase (decrease) in accounts payable	(1,495,513)	335,374	(1,160,139)	-
Increase (decrease) in accrued liabilities	(44,993)	(210,993)	(255,986)	-
Increase (decrease) in customer deposits	66,961	-	66,961	-
Increase (decrease) in unearned revenue	10,725	1,088	11,813	-
Increase (decrease) in compensated absences	(806)	85,420	84,614	-
Increase (decrease) in net pension liability	(177,144)	336,370	159,226	-
Increase (decrease) in deferred OPEB inflows	(22,979)	17,549	(5,430)	-
Increase (decrease) in deferred pension inflows	14,358	21,984	36,342	-
Increase (decrease) in total OPEB liability	(90,358)	275,500	185,142	-
Net cash provided by operating activities	\$ <u>2,452,134</u>	\$ <u>360,746</u>	\$ <u>2,812,880</u>	\$ <u>-</u>
SCHEDULE OF NON-CASH CAPITAL ACTIVITIES				
Issuance of capital lease	\$ -	\$ 409,606	\$ 409,606	\$ -
Developer contributions of capital assets	<u>5,243,820</u>	<u>-</u>	<u>5,243,820</u>	<u>-</u>
Total non-cash capital activities	\$ <u>5,243,820</u>	\$ <u>409,606</u>	\$ <u>5,653,426</u>	\$ <u>-</u>

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CITY OF SCHERTZ, TEXAS

NOTES TO BASIC FINANCIAL STATEMENTS

SEPTEMBER 30, 2021

I. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The City of Schertz is a municipal corporation governed by an elected mayor and five-member council. The financial statements of the City have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the City's accounting policies are described below:

A. Reporting Entity

Component Units - As required by generally accepted accounting principles, these financial statements present the government and its component units, entities for which the government is considered to be financially accountable. Blended component units, although legally separate entities, are, in substance, part of the government's operations; thus, data from these units are combined with data of the primary government. Discretely presented component units, on the other hand, are reported in a separate column in the government-wide financial statements to emphasize it is legally separate from the government. The City reports the following component unit:

Schertz Economic Development Corporation - The Corporation was organized for the purpose of promoting economic development in order to eliminate unemployment and underemployment and to promote and encourage employment and public welfare of, for, and on behalf of the City. The board of directors consists of seven (7) members appointed by the city council. The City is financially accountable for the Corporation because the city council approves the Corporation's budget and appoints all board members. For financial reporting purposes, the SEDC is reported as a blended component unit due to the City having operational responsibility for the component unit, and that any debt issued by SEDC would be expected to be paid using City resources. Thus, SEDC is presented as a special revenue fund within the City's financial statements. Complete financial statements for the Schertz Economic Development Corporation may be obtained from City Hall.

Joint Ventures - A joint venture is a legally separate entity that results from a contractual arrangement and that is owned, operated, or governed by two or more participating governments. The following entities meet the criteria as joint ventures. Separate financial statements for these entities may be obtained at City Hall.

Schertz/Seguin Local Government Corporation - is a public, nonprofit corporation organized to aid, assist, and act on behalf of the cities of Schertz and Seguin in acquiring, constructing, maintaining, and operating a water utility system. The participating governments have an ongoing financial responsibility to fund the operation of the corporation through either purchase of services or by subsidizing the operations.

Cibolo Valley Local Government Corporation - is a public, nonprofit corporation organized July 28, 2011 to aid, assist, and act on behalf of the cities of Cibolo, Converse and Schertz in acquiring, constructing, maintaining, and operating a water utility system. The participating governments have an ongoing financial responsibility to fund the operation of the corporation through either purchase of services or by subsidizing the operations.

B. Government-Wide and Fund Financial Statements

The government-wide financial statements (i.e., the statement of net position and the statement of activities) report information on all of the activities of the primary government and its component units. For the most part, the effect of interfund activity has been removed from these statements. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include 1) charges of customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

Separate financial statements are provided for governmental funds and proprietary funds. Major individual governmental funds and major individual enterprise funds are reported as separate columns in the fund financial statements.

C. Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting, as are the proprietary fund financial statements. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they are levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon thereafter to pay liabilities of the current period. For this purpose, the City considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Nonexchange revenues that are measurable but not available are recorded as unavailable revenue (a deferred inflow of resources). These revenues are generally property taxes and warrants outstanding. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is due.

Exchange revenues (payments for services) received in advance of the service being provided are recorded as unearned revenue.

The City reports the following major governmental funds:

The General Fund is the City's primary operating fund which accounts for all financial resources of the general government, except those required to be accounted for in another fund.

The Capital Projects Fund accounts for the acquisition and construction of major capital facilities financed from bond proceeds, grants, and transfers from other funds.

The Debt Service Fund accounts for the resources accumulated and payments made for principal and interest on long-term general obligation debt of governmental funds.

Economic Development Corporation collects sales taxes to support business development and expansion within the City.

The American Rescue Plan Act Fund records revenue and expenditures related to the City's COVID-19 funding from the American Rescue Plan Act.

The City reports the following major enterprise funds:

The Water and Sewer System Fund accounts for the water and sewer services provided to the citizens through user charges.

The EMS Fund accounts for the emergency medical services provided to the citizens of the City and other participating governments through user charges.

Additionally, the City reports the following fund types:

Internal Service Fund accounts for the City's group medical insurance program.

As a general rule, the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions to this are charges between the City's general government function and various other functions of the City. Eliminations of these charges would distort the direct costs and program revenues reported for the various functions concerned.

Amounts reported as program revenues include 1) charges to customers or applications for goods, services, or privileges provided, 2) operating grants and contributions, and 3) capital grants and contributions. General revenues include all taxes and investment earnings.

Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the water and sewer enterprise fund and the EMS enterprise fund are charges to customers for sales and services. Operating expenses for enterprise funds include the cost of sales and services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

When both restricted and unrestricted resources are available for use, it is the City's policy to use restricted resources first, then unrestricted resources as they are needed.

D. Cash and Cash Equivalents

The City's cash and cash equivalents are considered to be cash on hand and demand deposits. Cash is reported as restricted when it has restrictions on its use narrower than the purpose of the fund in which it is reported. This can result in differences in presentation between fund statements and government-wide statements.

For purposes of the statement of cash flows, the City considers cash and other investments with maturities of three months or less from the date of purchase to be cash and cash equivalents.

E. Investments

The City is authorized to invest in (1) obligations of the United States or its agencies and instrumentalities; (2) direct obligations of the State of Texas or its agencies; (3) other obligations, the principal of and interest on which are unconditionally guaranteed or insured by the State of Texas or the United States; (4) obligations of states, agencies, counties, cities, and other political subdivisions of any state having been rated of not less than "AA" or its equivalent; (5) certificates of deposit issued by state and national banks domiciled in Texas that are guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or its successor, or secured by obligations mentioned above; and (6) fully collateralized direct repurchase agreements having a defined termination date. In addition, the City is authorized to invest in local government investment pools. The investment pools operate in accordance with appropriate state laws and regulations and have regulatory oversight from the Texas Public Funds Investment Act Sec. 2256.0016.

Investments for the City are reported at fair value, except for the position in investment pools, which are reported at net asset value per share (which approximates fair value) even though it is calculated using the amortized cost method.

The City categorized its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The fair value hierarchy, which has three levels, is based on the valuation inputs used to measure an asset's fair value: Level 1 inputs are quotes prices in active markets for identical assets; Level 2 inputs are significant other observable inputs; Level 3 inputs are significant unobservable inputs.

F. Receivables and Payables

Activities between the funds that are representative of inter-fund loans outstanding at the end of the fiscal year are referred to as due to/from other funds. Any residual balances outstanding between the governmental activities and business-type activities are reported in the government-wide financial statements as "internal balances".

Accounts receivable are reported net of allowances for uncollectible accounts. The allowance account represents management's estimate of uncollectible accounts based upon experience and historical trends.

Property taxes for the City are levied each October 1 on the taxable value as of the preceding January 1, the date a lien attaches, for all taxable real and personal property located in the City. Taxes are due by January 31 following the October 1 assessment date and become delinquent on February 1, at which time they begin accruing penalty and interest. The enforceable legal claim date for property taxes is the assessment date; therefore, the City did not record a receivable for accrual of future taxes at year end. Accordingly, no current taxes receivable are reported. Delinquent taxes have been reported in the financial statements net of the allowance for uncollectible taxes. Tax revenues are recognized as they become available. Accordingly, an amount equal to taxes not yet available has been reported as unavailable revenue (a deferred inflow of resources) at the government fund level.

G. Inventories and Prepaid Items

All inventories are valued at cost using the first-in/first-out (FIFO) method. Inventories of governmental funds are recorded as expenditures when consumed rather than when purchased.

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both governmental-wide and fund financial statements and in the fund financial statements are offset by a nonspendable fund balance which indicates they do not represent "available spendable resources". The cost of prepaid items is recorded as expenditures/expenses when consumed rather than when purchased.

H. Restricted Assets

Certain proceeds from bonds, resources set aside for their repayment, and other restrictive agreements are classified as restricted assets on the balance sheet because they are maintained in separate bank accounts and their use is limited by applicable bond covenants and/or contractual arrangements.

I. Capital Assets

Capital assets, which include land, buildings and improvements, machinery, equipment, vehicles, and infrastructure assets (i.e., roads, bridges, sidewalks, and similar items), are reported in the applicable governmental or business-type activities columns in the government-wide financial statements. Capital assets are defined by the City as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of one year. When capital assets are purchased, they are capitalized and depreciated in the government-wide financial statements and the proprietary fund statements. Capital assets are recorded as expenditures of the current period in the governmental fund financial statements.

Capital assets are valued at cost where historical records are available and at an estimated cost where no records exist. Donated capital assets, donated works of art and similar items received as part of a service concession arrangement are reported at acquisition value, rather than fair value.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend asset lives are not capitalized. Improvements to capital assets that materially extend the life of the asset or add to the value are capitalized. Major outlays for capital assets and improvements are capitalized as projects are constructed.

Capital assets are depreciated over their useful lives on a straight-line basis as follows:

<u>Assets</u>	<u>Use Lives (Years)</u>
Buildings and improvements	10 - 50
Machinery, equipment, and vehicles	2 - 20
Infrastructure	15 - 30

J. Deferred Inflows/Outflows of Resources

In addition to assets, the statement of financial position and/or balance sheet will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then. The City has the following items that qualify for reporting in this category.

- Deferred charges on refunding – A deferred charge on refunding results from the difference in the carrying value of refunded debt and its reacquisition price. This amount is deferred and amortized over the shorter of the life of the refunded or refunding debt.
- Pension and OPEB contributions after measurement date – These contributions are deferred and recognized in the following fiscal year.
- Difference in expected and actual pension and OPEB experience – This difference is deferred and recognized over the estimated average remaining lives of all members determined as of the measurement date.
- Changes in actuarial assumptions and other inputs – This difference is deferred and recognized over the estimated average remaining lives of all members determined as of the measurement date.

In addition to liabilities, the statement of financial position and/or balance sheet will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The City has the following types of items that qualify for reporting in this category.

- Unavailable revenue is reported only in the governmental funds balance sheet. These amounts are deferred and recognized as an inflow of resources in the period that the amounts become available.
- Difference in projected and actual earnings on pension assets – This difference is deferred and amortized over a closed five-year period.
- Difference in expected and actual pension and OPEB experience – This difference is deferred and recognized over the estimated average remaining lives of all members determined as of the measurement date.
- Changes in actuarial assumptions and other inputs – This difference is deferred and recognized over the estimated average remaining lives of all members determined as of the measurement date.

K. Compensated Absences

It is the City's policy to permit employees to accumulate earned but unused vacation and compensatory time benefits. There is no liability for unpaid accumulated sick leave since the City does not have a policy to pay any amounts when employees separate from service with the City. All vacation and compensatory time pay is accrued when incurred in the government-wide and proprietary fund financial statements. A liability for these amounts is reported in governmental funds only if they have matured, for example, as a result of employee resignations and retirements. The general fund, water and sewer fund and the EMS fund are used to liquidate compensated absences.

L. Pensions

The net pension liability, deferred inflows, and outflows of resources related to pensions, and pension expense, information about the fiduciary net position of the Texas Municipal Retirement System (TMRS), and additions to and deductions from TMRS's fiduciary net position have been determined on the same basis as they are reported by TMRS. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments are reported at fair value.

M. Other Post-Employment Benefits (OPEB)

Supplemental Death Benefits Fund. For purposes of measuring the total Texas Municipal Retirement System Supplemental Death Benefit Fund (TMRS SDBF) OPEB liability, related deferred outflows and inflows of resources, and expense, City specific information about its total TMRS SDBF liability and additions to/deductions from the City's total TMRS SDBF liability have been determined on the same basis as they are reported by TMRS. The TMRS SDBF expense and deferred (inflows)/outflows of resources related to TMRS SDBF, primarily result from changes in the components of the total TMRS SDBF liability. Most changes in the total TMRS SDBF liability will be included in TMRS SDBF expense in the period of the change. For example, changes in the total TMRS SDBF liability resulting from current-period service cost, interest on the TOL, and changes of benefit terms are required to be included in TMRS SDBF expense immediately. Changes in the total TMRS SDBF liability that have not been included in TMRS SDBF expense are required to be reported as deferred outflows of resources or deferred inflows of resources related to TMRS SDBF.

Retiree Health Insurance. For purposes of measuring the total OPEB liability, OPEB related deferred outflows and inflows of resources, and OPEB expense, benefit payments and refunds are recognized when due and payable in accordance with the benefit terms. Contributions are not required but are measured as payments by the City for benefits due and payable that are not reimbursed by plan assets. Information regarding the City's total OPEB liability is obtained from a report prepared by a consulting actuary, Gabriel Roeder Smith & Company.

N. Long-Term Obligations

In the government-wide financial statements, and proprietary fund types in the fund financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities, business-type activities, or proprietary fund type statement of net position. Bond premiums, discounts, and losses on defeasance are amortized over the life of the bonds using the straight-line method. Bonds payable are reported net of the applicable bond premium or discount. Losses on defeasance are reported as deferred outflows of resources. Bond issuance costs are expensed as incurred.

In the fund financial statements, governmental fund types recognize bond premiums and discounts, as well as bond issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

O. Fund Balance

Fund balances in governmental funds are classified as follows:

Nonspendable - Represents amounts that cannot be spent because they are either not in spendable form (such as inventory or prepaid items) or legally required to remain intact.

Restricted - Represents amounts that are constrained by external parties, constitutional provisions or enabling legislation.

Committed - Represents amounts that can only be used for a specific purpose because of a formal action by the government's highest level of decision-making authority: an ordinance adopted by City Council prior to the end of the fiscal year. Once adopted, the limitation imposed by the ordinance remains in place until a similar action is taken (the adoption of another ordinance) to remove or revise the limitation.

Assigned - Represents amounts which the City intends to use for a specific purpose but do not meet the criteria of restricted or committed. The City Council may make assignments through formal documentation in the minutes. The City Council authorized (by way of policy) the City Manager to also make assignments. The City Manager's assignments do not require formal action; however, the City Manager has not assigned any funds at this time.

Unassigned - Represents the residual balance that may be spent on any other purpose of the City. Only the General Fund reports positive unassigned fund balances; if another fund were to have unassigned fund balance, it would be in the event of a deficit.

When an expenditure is incurred for a purpose in which multiple classifications are available, the City considers restricted balances spent first, committed second, and assigned third.

P. Net Position

Net position represents the difference between assets plus deferred outflows of resources less liabilities and deferred inflows of resources. Net investment in capital assets consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowing used for the acquisition, construction or improvements of those assets, and adding back unspent proceeds. Net position is reported as restricted when there are limitations imposed by creditors, grantors, or laws or regulations of other governments.

Q. Estimates

The preparation of financial statements, in conformity with generally accepted accounting principles, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual amounts could differ from those estimates.

R. Deficit Equity

At September 30, 2021, the City has a deficit unassigned fund balance of \$681,330 in the Grant Fund. This deficit is due to timing differences between expenditures and reimbursements of grant funds.

S. Budgetary Information

Annual budgets are adopted on a basis consistent with generally accepted accounting principles for all governmental funds except the American rescue plan act fund, library advisory board fund, grant special revenue fund, police department forfeiture special revenue fund and the capital projects fund, which adopts project-length budgets.

T. Reclassifications

Certain reclassifications have been made in the presentation of the September 30, 2021 financial statements. All comparative information for prior periods has been reclassified to match the new presentation. The changes in presentation had no impact on the changes in net position or fund balance.

II. DETAILED NOTES ON ALL FUNDS AND ACTIVITIES

A. Cash, Cash Equivalents and Investments

As of September 30, 2021, the City had the following cash, cash equivalents and investments:

	Reported Value	Weighted Average Maturity (days)
Investment type:		
LOGIC	\$ 19,151,617	55
Lone Star Investment Pool	26,991,728	46
Texas CLASS	29,362,606	53
Certificates of Deposit	4,416,598	118
U.S. Agency Securities	<u>3,269,952</u>	404
Subtotal	83,192,501	
Plus: depository and petty cash	<u>9,936,693</u>	
Total cash and investments	<u>\$ 93,129,194</u>	

LOGIC, Lone Star Investment Pool and Texas CLASS are recorded as cash equivalents in the financial statements. All of the pools have redemption notice periods of one day and may redeem daily. The investment pools' authorities may only impose restrictions on redemptions in the event of a general suspension of trading on major securities markets, general banking moratorium or national state of emergency that affects the pools' liquidity.

Interest Rate Risk. As a means of limiting its exposure to fair value losses arising from rising interest rates, the City's investment policy limits the City's investment portfolio to highly liquid investments to meet unanticipated cash requirements, and/or to redeploy cash into other investments expected to outperform current holdings.

Credit Risk. State law limits investments in certificates of deposit to guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor or the National Credit Union Share Insurance Fund, or its successor and investment pools continuously rated no lower than AAA or an equivalent rating by at least one nationally recognized rating service. The City's investment policy does not further limit its investment choices. As of September 30, 2021, the City's investments in the pooled investment funds were rated AAAM by Standard & Poor's. The City has also invested in debt securities provided by the Federal Home Loan Bank, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Banks, and U.S Treasury Notes. As of September 30, 2021, the City's investments in debt securities were rated BBB+ by Standard & Poor's.

Custodial Credit Risk - Deposits. In the case of deposits, this is the risk that in the event of a bank failure, the government's deposits may not be returned. As of September 30, 2021, the City's cash and cash equivalents (including certificates of deposit, and component unit holdings) were fully collateralized by the City's depository by a combination of pledged collateral and FDIC insurance. All collateral is held in the City's name.

Custodial Credit Risk - Investments. For an investment, this is the risk that, in the event of the failure of the counterparty, the government will not be able to recover the value of its investment or collateral securities that are in the possession of an outside party. All of the government securities owned by the City are held by its agent in the City's name.

Restricted Cash - Cash is restricted in the Proprietary fund for construction projects, impact fees and customer deposits.

B. Property Taxes

Taxes are levied on and payable as of October 1. The City has contracted with the Guadalupe County Tax Assessor-Collector to collect taxes on its behalf. Current taxes become delinquent February 1. Current year delinquent taxes not paid by July 1 are turned over to attorneys for collection action. The total taxable value as of October 1, 2020, upon which the fiscal year 2021 levy was based, was \$4,070,815,340 (i.e., market value less exemptions).

The City is permitted by the Constitution of the State of Texas to levy taxes up to \$2.50 per \$100 of taxable assessed valuation for all governmental purposes. Pursuant to a decision of the Attorney General of the State of Texas, up to \$1.50 per \$100 of assessed valuation may be used for the payment of long-term debt. The combined tax rate to finance general governmental services, including the payment of principal and interest on long-term debt for the year ended September 30, 2021, was \$0.5121 per \$100 of assessed value, which means that the City has a tax margin of \$1.9879 for each \$100 value and could increase its annual tax levy by approximately \$80,923,738 based upon the present assessed valuation before the limit is reached.

However, the City may not adopt a tax rate that exceeds the tax rate calculated in accordance with the Texas Property Tax Code without holding a public hearing. The Property Tax Code subjects an increase in the effective tax rate to a referendum election, if petitioned by registered voters, when the effective tax rate increase is more than eight percent (8%) of the previous year's effective tax rate.

Property taxes are recorded as receivables and unearned revenues at the time the taxes are assessed. In governmental funds, revenues are recognized as the related ad valorem taxes are collected. Additional amounts estimated to be collectible in the time to be a resource for payment of obligations incurred during the fiscal year and therefore susceptible to accrual in accordance with generally accepted accounting principles have been recognized as revenue. In the government-wide financial statements, the entire levy is recognized as revenue, net of estimated uncollectible amounts (if any), at the levy date.

C. Receivables

Receivables as September 30, 2021 for the government's individual major funds and nonmajor funds in the aggregate, including the applicable allowances for uncollectible accounts, are as follows:

	Governmental Activities					Business-type Activities	
	General Fund	Capital Projects	Economic Development	Debt Service	Nonmajor Funds	Water and Sewer Fund	Schertz EMS
Receivables:							
Property taxes	\$ 290,523	\$ -	\$ -	\$ 142,317	\$ -	\$ -	\$ -
Sales tax	2,108,428	-	1,054,213	-	-	-	-
Occupancy taxes	-	-	-	-	64,942	-	-
Franchise taxes	521,521	-	-	-	-	-	-
Customers	-	-	-	-	-	3,306,756	7,081,986
Court fines	3,989,942	-	-	-	-	-	-
Grants	-	258,142	-	-	-	-	-
Other	41,394	-	7,949	-	-	-	-
Gross receivables	6,951,808	258,142	1,062,162	142,317	64,942	3,306,756	7,081,986
Less: allowance for uncollectible accounts	(2,390,601)	-	-	(8,539)	-	(33,001)	(3,896,214)
Net receivables	\$ 4,561,207	\$ 258,142	\$ 1,062,162	\$ 133,778	\$ 64,942	\$ 3,273,755	\$ 3,185,772

D. Deferred Inflows and Outflows of Resources

Governmental funds report unavailable revenue in connection with receivables for revenue that is not considered to be available to liquidate liabilities of the current period. At the end of the current fiscal year, the various components of unavailable revenue and unavailable revenue reported in the governmental funds were as follows:

	Unavailable
General Fund	
Delinquent property taxes receivable	\$ 273,092
Court fines	1,623,906
Total General Fund	1,896,998
Debt Service Fund	
Delinquent property taxes receivable	133,778
Total Debt Service Fund	133,778
Total Governmental Funds	\$ 2,030,776

Additionally, the proprietary funds and governmental activities statements of net position report various deferred outflows and inflows of resources, primarily due to pensions and OPEB, that are summarized by column. The following table presents the disaggregated amounts.

	Governmental Activities	Business-type Activities		Totals
		Water/Sewer	EMS	
Deferred outflows:				
Charge on refunding	\$ 564,011	\$ 25,027	\$ -	\$ 589,038
Related to pensions	2,301,907	227,731	506,778	3,036,416
Related to OPEB - SDBF	243,287	24,069	53,561	320,917
Related to OPEB - Retiree Health Plan	379,301	38,499	78,719	496,519
Total deferred outflow	\$ 3,488,506	\$ 315,326	\$ 639,058	\$ 4,442,890
Deferred inflows:				
Service concession arrangement	\$ 306,961	\$ -	\$ -	306,961
Related to pensions	1,490,711	147,478	328,188	1,966,377
Related to OPEB - SDBF	83,693	8,280	18,426	110,399
Related to OPEB - Retiree Health plan	249,506	24,684	54,930	329,120
Total deferred inflow	\$ 2,130,871	\$ 180,442	\$ 401,544	\$ 2,712,857

E. Interfund Balances and Transfers

The composition of interfund balances as of September 30, 2021 is as follows:

<u>Due From</u>	<u>Due To</u>	<u>Amount</u>	<u>Purpose</u>
EMS	General	\$ 16,139	Short-term pool cash loan
General	Nonmajor Governmental	678,444	Short-term pool cash loan

The following schedule briefly summarizes the City's transfer activity for the year ending September 30, 2021:

<u>Transfer From</u>	<u>Transfer To</u>	<u>Amount</u>	<u>Purpose</u>
General	Nonmajor governmental	\$ 3,109	Supplement funds sources
General	Capital Projects	2,314,008	Funding for various capital projects
Capital Projects	Debt Service	7,915	Supplement funds sources
EDC	Capital Projects	4,050,000	Funding for various capital projects
Water and Sewer System	Capital Projects	20,354	Funding for various capital projects

F. Capital Assets

Capital asset activity for the year ended September 30, 2021 was as follows:

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Reclassifications/ Retirements</u>	<u>Ending Balance</u>
Governmental activities:				
Capital assets not being depreciated:				
Land	\$ 8,074,199	\$ 236,787	\$ -	\$ 8,310,986
Construction in progress	<u>24,826,910</u>	<u>4,024,285</u>	<u>(2,156,044)</u>	<u>26,695,151</u>
Total capital assets not being depreciated	<u>32,901,109</u>	<u>4,261,072</u>	<u>(2,156,044)</u>	<u>35,006,137</u>
Capital assets being depreciated:				
Buildings and improvements	44,447,749	141,028	-	44,588,777
Machinery, equipment, and vehicles	14,552,416	726,581	(445,450)	14,833,547
Street and infrastructure	<u>119,945,442</u>	<u>7,104,799</u>	<u>2,156,044</u>	<u>129,206,285</u>
Total assets being depreciated	<u>178,945,607</u>	<u>7,972,408</u>	<u>1,710,594</u>	<u>188,628,609</u>
Less accumulated depreciation for:				
Buildings and improvements	(16,823,636)	(1,624,881)	-	(18,448,517)
Machinery, equipment, and vehicles	(7,430,818)	(1,180,477)	445,450	(8,165,845)
Street and infrastructure	<u>(43,512,332)</u>	<u>(3,937,453)</u>	<u>-</u>	<u>(47,449,785)</u>
Total accumulated depreciation	<u>(67,766,786)</u>	<u>(6,742,811)</u>	<u>445,450</u>	<u>(74,064,147)</u>
Total capital assets being depreciated, net	<u>111,178,821</u>	<u>1,229,597</u>	<u>2,156,044</u>	<u>114,564,462</u>
Governmental activities capital assets, net	<u>\$ 144,079,930</u>	<u>\$ 5,490,669</u>	<u>\$ -</u>	<u>\$ 149,570,599</u>

	Beginning Balance	Additions	Reclassifications/ Retirements	Ending Balance
Business-type activities:				
Capital assets, not being depreciated:				
Land	\$ 1,844,488	\$ -	\$ -	\$ 1,844,488
Water rights	70,245	-	-	70,245
Construction in progress	<u>17,266,273</u>	<u>2,773,773</u>	<u>(97,252)</u>	<u>19,942,794</u>
Total capital assets, not being depreciated	<u>19,181,006</u>	<u>2,773,773</u>	<u>(97,252)</u>	<u>21,857,527</u>
Capital assets being depreciated:				
Buildings and improvements	3,635,532	-	(26,406)	3,609,126
Machinery, equipment, and vehicles	5,976,040	1,062,704	(823,778)	6,214,966
Infrastructure	<u>100,588,293</u>	<u>5,243,820</u>	<u>-</u>	<u>105,832,113</u>
Total assets being depreciated	<u>110,199,865</u>	<u>6,306,524</u>	<u>(850,184)</u>	<u>115,656,205</u>
Less accumulated depreciation for:				
Buildings and improvements	(968,711)	(152,395)	-	(1,121,106)
Machinery, equipment, and vehicles	(5,758,894)	(572,191)	787,488	(5,543,597)
Infrastructure	<u>(30,009,441)</u>	<u>(2,096,063)</u>	<u>-</u>	<u>(32,105,504)</u>
Total accumulated depreciation	<u>(36,737,046)</u>	<u>(2,820,649)</u>	<u>787,488</u>	<u>(38,770,207)</u>
Total capital assets being depreciated, net	<u>73,462,819</u>	<u>3,485,875</u>	<u>(62,696)</u>	<u>76,885,998</u>
Business-type activities capital assets, net	<u>\$ 92,643,825</u>	<u>\$ 6,259,648</u>	<u>\$ (159,948)</u>	<u>\$ 98,743,525</u>

Depreciation expense was charged to functions/programs of the primary government as follows:

Governmental activities:	
General government	\$ 702,442
Public safety	1,108,487
Public environment	3,995,466
Parks and recreation	886,986
Cultural	42,377
Administration	<u>7,053</u>
Total	<u>\$ 6,742,811</u>
Business-type activities:	
Water and sewer system	\$ 2,534,305
EMS	<u>286,344</u>
Total	<u>\$ 2,820,649</u>
Total Depreciation	<u>\$ 9,563,460</u>

G. Operating Leases

The City has agreements with several telecommunication companies to place cellular towers on City water towers. The following schedule represents the future minimum lease payments.

Year Ending September 30,	Total
2022	\$ 250,687
2023	263,221
2024	276,382
2025	290,201
2026	304,711
2027-2028	<u>655,891</u>
	<u>\$ 2,041,093</u>

H. Long-Term Debt

Changes in long-term debt for the year ending September 30, 2021 are as follows:

	Beginning Balance	Issued	Refunded/ Retired	Ending Balance	Amount Due Within One Year
Governmental activities:					
General Obligation Bonds	\$ 34,615,000	\$ 7,555,000	\$ (8,400,000)	\$ 33,770,000	\$ 2,655,000
Certificates of Obligation	15,235,000	-	(1,035,000)	14,200,000	1,070,000
General Obligation Bonds- Private Placement	10,005,000	-	(3,385,000)	6,620,000	925,000
Tax Notes- Private Placement	345,000	-	(190,000)	155,000	155,000
Premium from Debt	2,170,381	629,992	(298,227)	2,502,146	-
Capital Lease	17,134	136,535	(17,134)	136,535	27,307
Compensated Absences	967,540	597,538	(387,016)	1,178,062	235,612
Total governmental	<u>\$ 63,355,055</u>	<u>\$ 8,919,065</u>	<u>\$ (13,712,377)</u>	<u>\$ 58,561,743</u>	<u>\$ 5,067,919</u>
Business-type activities:					
General Obligation Bonds	\$ 2,645,000	\$ -	\$ (590,000)	\$ 2,055,000	\$ 370,000
Certificates of Obligation	11,505,000	-	(850,000)	10,655,000	605,000
General Obligation Bonds- Private Placement	1,040,000	-	(200,000)	840,000	205,000
Tax Notes- Private Placement	150,000	-	(150,000)	-	-
Unamortized Premium	828,781	-	(55,979)	772,802	-
Capital Lease	132,468	409,606	(66,953)	475,121	147,436
Compensated Absences	249,269	215,291	(99,708)	364,852	72,971
Total business-type	<u>\$ 16,550,518</u>	<u>\$ 624,897</u>	<u>\$ (2,012,640)</u>	<u>\$ 15,162,775</u>	<u>\$ 1,400,407</u>

Bonds Payable

The City issues a variety of long-term debt instruments in order to acquire and/or construct major capital facilities and equipment for governmental activities. These instruments include general obligation bonds, certificates of obligation, and tax notes. These debt obligations are secured by primarily future property tax revenues. In some cases, these bonds are also secured by a pledge of net revenues from the utility system, emergency medical services and economic development sales taxes. However, the amount of the formal pledge is generally limited to \$1,000. Proprietary operating revenues for the year exceeded \$37.5 million and sales tax revenue was \$16.8 million.

Additionally, certain obligations that were marketed as private placements have been separately identified; however, the terms of these obligations are not significantly different than other obligations and do not have substantive acceleration clauses. Should the City default on these bonds, any registered owner of the obligations is entitled to seek a writ of mandamus from a court of proper jurisdiction requiring the City to make payment.

In November 2020, the City issued General Obligation Refunding Bonds, Series 2020 in the amount of \$7,555,000. These bonds have interest rates ranging from 1.50% to 4.00% and will mature in February 2036. These bonds refunded the General Obligation Refunding Bonds, Series 2011 to provide net present value savings of \$1,777,441, including the City's cash contribution of \$174,800. The bonds are secured by the City's ad valorem tax revenue.

Prior Year Refunding of Debt

The City defeased certain outstanding bonds by placing proceeds of new bonds in irrevocable trusts to provide for all future debt service payments. Accordingly, the respective trust accounts and liability for the defeased bonds are not included in the City's financial statements. As of September 30, 2021, the City does not have bonds considered defeased and outstanding.

A summary of the terms of long-term debt outstanding at September 30, 2021, is as follows:

	Issue Amount	Maturity	Rate	Balance
<u>Governmental Activities</u>				
General Obligation Bonds				
2012 Series	\$ 7,625,000	2032	2.00%	4,720,000
2014 Series, Refunding	8,450,000	2030	2.0% - 4.0%	7,800,000
2015 Series, Refunding	4,185,000	2031	2.0% - 3.25%	1,140,000
2016 Series	5,880,000	2036	2.0% - 4.0%	4,595,000
2017 Series	3,935,000	2037	2.0% - 4.0%	3,335,000
2018 Series, Refunding	5,830,000	2033	3.125% - 5%	4,625,000
2020 Series, Refunding	7,555,000	2036	1.5% - 4%	7,555,000
Private Placement obligations				
2007 Series GO	6,000,000	2027	4.07%	2,265,000
2018 Series GO Refunding	6,035,000	2028	2.12%	4,355,000
2015A Tax Notes	1,020,000	2023	1.54%	155,000
Certificates of Obligation				
2016 Series A	2,375,000	2036	2.0% - 4.0%	1,495,000
2016 Series B	1,475,000	2036	3.0% - 3.75%	1,190,000
2017 Series	4,935,000	2037	3.0% - 3.75%	3,825,000
2018 Series	4,845,000	2038	3.0% - 5.0%	4,180,000
2019 Series	4,015,000	2039	2.5% - 5%	<u>3,510,000</u>
Total Governmental Long-Term Obligations				\$ <u>54,745,000</u>

	Issue Amount	Maturity	Rate	Balance
<u>Business-type Activities</u>				
General Obligation Bonds				
2018 Series, Refunding	2,740,000	2026	3.125% - 5%	\$ 2,055,000
Certificates of Obligation				
2013 Series	4,965,000	2033	2.0% - 4.0%	2,275,000
2017 Series	540,000	2022	3.0% - 3.75%	115,000
2018 Series	5,595,000	2028	3.0% - 5.0%	5,040,000
2019 Series	3,480,000	2039	2.5% - 5%	3,225,000
Private Placement obligations				
2013 Series GO Refunding	2,130,000	2025	2.58%	<u>840,000</u>
Total Business-Type Long-Term Obligations				\$ <u>13,550,000</u>

Annual future debt service requirements of bonded debt as of September 30, 2021, are as follows:

Governmental activities:

Year Ended September 30,	General Obligation Bonds			Certificates of Obligation		
	Principal	Interest	Total	Principal	Interest	Total
2022	\$ 2,655,000	\$ 1,341,539	\$ 3,996,539	\$ 1,070,000	\$ 472,219	\$ 1,542,219
2023	2,750,000	1,046,890	3,796,890	1,120,000	432,319	1,552,319
2024	2,850,000	970,158	3,820,158	1,010,000	391,244	1,401,244
2025	2,250,000	889,602	3,139,602	905,000	352,719	1,257,719
2026	2,340,000	808,430	3,148,430	825,000	319,094	1,144,094
2027-2031	14,020,000	2,619,068	16,639,068	3,630,000	1,201,041	4,831,041
2032-2036	6,645,000	597,699	7,242,699	4,245,000	575,234	4,820,234
2037-2040	260,000	4,225	264,225	1,395,000	49,616	1,444,616
Total	\$ 33,770,000	\$ 8,277,612	\$ 42,047,612	\$ 14,200,000	\$ 3,793,485	\$ 17,993,485

Private Placement Debt						
Year Ended September 30,	General Obligation Bonds			Tax Notes		
	Principal	Interest	Total	Principal	Interest	Total
2022	\$ 925,000	\$ 171,392	\$ 1,096,392	\$ 155,000	\$ 2,387	\$ 157,387
2023	950,000	144,740	1,094,740	-	-	-
2024	980,000	117,214	1,097,214	-	-	-
2025	1,010,000	88,758	1,098,758	-	-	-
2026	1,035,000	59,428	1,094,428	-	-	-
2027-2028	1,720,000	36,270	1,756,270	-	-	-
Total	\$ 6,620,000	\$ 617,801	\$ 7,237,801	\$ 155,000	\$ 2,387	\$ 157,387

Business-type activities:

Year Ended September 30,	General Obligation Bonds			Certificates of Obligation		
	Principal	Interest	Total	Principal	Interest	Total
2022	\$ 370,000	\$ 93,500	\$ 463,500	\$ 605,000	\$ 378,775	\$ 983,775
2023	390,000	74,500	464,500	510,000	356,300	866,300
2024	410,000	54,500	464,500	530,000	333,613	863,613
2025	435,000	33,375	468,375	550,000	310,250	860,250
2026	450,000	11,250	461,250	580,000	285,788	865,788
2027-2031	-	-	-	3,280,000	1,035,775	4,315,775
2032-2036	-	-	-	3,160,000	440,841	3,600,841
2037-2040	-	-	-	1,440,000	40,528	1,480,528
Total	\$ 2,055,000	\$ 267,125	\$ 2,322,125	\$ 10,655,000	\$ 3,181,869	\$ 13,836,869

Private Placement Debt						
Year Ended September 30,	General Obligation Bonds			Tax Notes		
	Principal	Interest	Total	Principal	Interest	Total
2022	\$ 205,000	\$ 19,028	\$ 224,028	\$ -	\$ -	\$ -
2023	205,000	13,739	218,739	-	-	-
2024	215,000	8,321	223,321	-	-	-
2025	215,000	2,774	217,774	-	-	-
Total	\$ 840,000	\$ 43,860	\$ 883,860	\$ -	\$ -	\$ -

Capital Leases

The City enters into various lease agreements to finance machinery and equipment; they are classified as capital leases due to bargain-purchase options. Therefore, capital assets and a related capital lease obligation have been recorded at the present value of the future minimum lease payments at the inception date. The lease obligations are secured by the purchased equipment. The assets acquired through capital lease are reported in capital assets with the following accumulated depreciation at September 30, 2021:

	Governmental Activities	Business-type Activities
Assets:		
Equipment	\$ 136,535	\$ 742,573
Less: accumulated depreciation	(22,756)	(331,696)
Total	\$ 113,779	\$ 410,877

Future minimum lease payments are as follows:

Year Ending September 30,	Governmental Activities	Business-type Activities
2022	\$ 27,307	\$ 147,796
2023	27,307	81,921
2024	27,307	81,921
2025	27,307	81,921
2026	27,307	81,922
Total payments	136,535	475,481
Less: amount representing interest	-	(360)
Present value of minimum lease payments	\$ 136,535	\$ 475,121

I. Net Pension and Total OPEB Liabilities and Expenses

Amounts are aggregated into a single net pension liability and total OPEB liability, and expenses for certain columns. Below is the detail of net pension liability and total OPEB liability and expenses for governmental and business-type activities.

	Governmental Activities	Business-type Activities		Totals
		Water/ Sewer	EMS	
Net pension liability	\$ 11,352,654	\$ 1,123,136	\$ 2,499,350	\$ 14,975,140
Total OPEB liability:				
Due within one year:				
TMRS SDBF	\$ 3,194	\$ 316	\$ 703	\$ 4,213
Retiree health plan	48,897	4,837	10,765	64,499
Total due within one year	52,091	5,153	11,468	68,712
Due in within more than one year:				
TMRS SDBF	779,982	77,165	171,718	1,028,865
Retiree health plan	1,820,999	180,155	400,903	2,402,057
Total due in more than one year	2,600,981	257,320	572,621	3,430,922
Total OPEB liability	\$ 2,653,072	\$ 262,473	\$ 584,089	\$ 3,499,634
	Governmental Activities	Business-type Activities		Totals
		Water/ Sewer	EMS	
Pension expense	\$ 2,203,776	\$ 218,023	\$ 485,174	\$ 2,906,973
OPEB expense:				
TMRS SDBF	71,476	1,990	40,710	114,176
Retiree Health Plan	121,849	(1,772)	94,777	214,854
Total OPEB expense	\$ 193,325	\$ 218	\$ 135,487	\$ 329,030

III. OTHER INFORMATION

A. Retirement Plan

Plan Description. The City of Schertz participates as one of 888 plans in the nontraditional, joint contributory, hybrid defined benefit pension plan administered by the Texas Municipal Retirement System (TMRS). TMRS is an agency created by the state of Texas and administered in accordance with the TMRS Act, Subtitle G, Title 8, Texas Government Code (the TMRS Act) as an agent multiple-employer retirement system for municipal employees in the State of Texas. The TMRS Act places the general administration and management of the system with a six-member Board of Trustees. Although the Governor, with the advice and consent of the Senate, appoints the Board, TMRS is not fiscally dependent on the State of Texas. TMRS's defined benefit pension plan is a tax-qualified plan under Section 401(a) of the Internal Service Code. TMRS issues a publicly available annual comprehensive financial report (ACFR) that can be obtained at www.tmrs.com.

All eligible employees of the City are required to participate in TMRS.

Benefits Provided. TMRS provides retirement, disability, and death benefits. Benefit provisions are adopted by the governing body of the City, within the options available in the state statutes governing TMRS.

At retirement, the benefit is calculated as if the sum of the employee's contributions, with interest, and the City-financed monetary credits with interest were used to purchase an annuity. Members may choose to receive their retirement benefit in one of seven payment options. Members may also choose to receive a portion of their benefit as a Partial Lump Sum Distribution in an amount equal to 12, 24, or 36 monthly payments, which cannot exceed 75% of the member's deposits and interest.

The City grants monetary credits for service rendered of a theoretical amount equal to two times what would have been contributed by the employee, with interest. Monetary credits, also known as the matching ratio, are 200% of the employee's accumulated contributions and are only payable in the form of an annuity.

Beginning in 2008, the City granted an annually repeating (automatic) basis monetary credit referred to as an updated service credit (USC) which is a theoretical amount that takes into account salary increases or plan improvements. If at any time during their career an employee earns a USC, this amount remains in their account earning interest at 5% until retirement. At retirement, the benefit is calculated as if the sum of the employee's accumulated contributions with interest and the employer match plus employer-financed monetary credits, such as USC, with interest were used to purchase an annuity. Additionally, initiated in 2008, the City provided on an annually repeating (automatic) basis cost of living adjustments (COLA) for retirees equal to a percentage of the change in the consumer price index (CPI).

At the December 31, 2020 valuation and measurement date, the following employees were covered by the benefit terms:

Inactive employees or beneficiaries currently receiving benefits	126
Inactive employees entitled to but not yet receiving benefits	223
Active employees	354
Total	<u>703</u>

Contributions. The contribution rates for employees in TMRS are either 5%, 6%, or 7% of employee gross earnings, and the City matching percentages are either 100%, 150%, or 200%, both as adopted by the governing body of the City. Under the state law governing TMRS, the contribution rate for each city is determined annually by the actuary, using the Entry Age Normal (EAN) actuarial cost method. The actuarially determined rate is the estimated amount necessary to finance the cost of benefits earned by employees during the year, with an additional amount to finance any unfunded accrued liability.

Employees for the City were required to contribute 7% of their annual gross earnings during the fiscal year. The contribution rates for the City were 16.32% and 15.92% in calendar years 2021 and 2020, respectively. The City's contributions to TMRS for the year ended September 30, 2021 were \$3,700,948 and were equal to the required contributions.

Net Pension Liability. The City's Net Pension Liability (NPL) was measured as of December 31, 2020, and the Total Pension Liability (TPL) used to calculate the Net Pension Liability was determined by an actuarial valuation as of that date. The net pension liability is typically liquidated through the General Fund and Enterprise Funds.

Actuarial Assumptions

The Total Pension Liability in the December 31, 2020 actuarial valuation was determined using the following actuarial assumptions:

Inflation	2.50% per year
Overall payroll growth	2.75% per year
Investment rate of return	6.75% net of pension plan investment expense, including inflation

Salary increases are based on a service-related table. Mortality rates for active members are based on the PUB(10) mortality tables with the Public Safety table used for males and the General Employee table used for females. Mortality rates for healthy retirees and beneficiaries are based on the Gender-distinct 2019 Municipal Retirees of Texas mortality tables. The rates for actives, healthy retirees and beneficiaries are projected on a fully generational basis by Scale UMP to account for future mortality improvements. For disabled annuitants, the same mortality tables for healthy retirees is used with a 4-year set-forward for males and a 3-year set-forward for females. In addition, a 3.5% and 3.0% minimum mortality rate will be applied to reflect the impairment for younger members who become disabled for males and females. The rates are projected on a fully generational basis by Scale UMP to account for future mortality improvements subject to the floor.

The actuarial assumptions were developed primarily from the actuarial investigation of the experience of TMRS over the four-year period from December 31, 2014 to December 31, 2018. They were adopted in 2019 and first used in the December 31, 2019 actuarial valuation. The post-retirement mortality assumption for healthy annuitants and Annuity Purchase Rate (APRs) are based on the Mortality Experience Investigation Study covering 2009 through 2011 and dated December 31, 2013. In conjunction with these changes first used in the December 31, 2013 valuation, the System adopted the Entry Age Normal actuarial cost method and a one-time change to the amortization policy. Plan assets are managed on a total return basis with an emphasis on both capital appreciation as well as the production of income, in order to satisfy the short-term and long-term funding needs of TMRS.

The long-term expected rate of return on pension plan investments was determined using a building-block method in which best estimate ranges of expected future real rates of return (expected returns, net of pension plan investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation. In determining their best estimate of a recommended investment return assumption under the various alternative asset allocation portfolios, GRS focused on the area between (1) arithmetic mean (aggressive) without an adjustment for time (conservative) and (2) the geometric mean (conservative) with an adjustment for time (aggressive).

Asset Class	Target Allocation	Long-Term Expected Real Rate of Return (Arithmetic)
Core Fixed Income	10.00%	5.30%
Non-Core Fixed Income	20.00%	1.25%
Global Public Equity	30.00%	4.14%
Real Estate	10.00%	3.85%
Real Return	10.00%	4.00%
Absolute Return	10.00%	3.48%
Private Equity	<u>10.00%</u>	7.75%
Total	100.0%	

Discount Rate

The discount rate used to measure the Total Pension Liability was 6.75%. The projection of cash flows used to determine the discount rate assumed that employee and employer contributions will be made at the rates specified in statute. Based on that assumption, the pension plan's Fiduciary Net Position was projected to be available to make all projected future benefit payments of current active and inactive employees. Therefore, the long-term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the Total Pension Liability.

The below schedule presents the changes in the Net Pension Liability as of December 31, 2020:

	Increase (Decrease)		
	Total Pension Liability	Plan Fiduciary Net Position	Net Pension Liability
	(a)	(b)	(a)-(b)
Balance at 12/31/2019	\$ 78,211,777	\$ 62,639,563	\$ 15,572,214
Changes for the year:			
Service cost	3,761,994	-	3,761,994
Interest	5,326,206	-	5,326,206
Difference between expected and actual experience	(154,592)	-	(154,592)
Change in assumptions	-	-	-
Contributions - employer	-	3,327,434	(3,327,434)
Contributions - employee	-	1,474,466	(1,474,466)
Net investment income	-	4,760,749	(4,760,749)
Benefit payments, including refunds of employee contributions	(2,372,023)	(2,372,023)	-
Administrative expense	-	(30,767)	30,767
Other changes	-	(1,200)	1,200
Net changes	<u>6,561,585</u>	<u>7,158,659</u>	<u>(597,074)</u>
Balance at 12/31/2020	<u>\$ 84,773,362</u>	<u>\$ 69,798,222</u>	<u>\$ 14,975,140</u>

The following presents the net pension liability of the City, calculated using the discount rate of 6.75%, as well as what the City's net pension liability would be if it were calculated using a discount rate that is 1-percentage point lower (5.75%) or 1-percentage point higher (7.75%) than the current rate:

	1% Decrease in Discount Rate (5.75%)	Discount Rate (6.75%)	1% Increase in Discount Rate (7.75%)
Net pension liability	\$ 29,246,356	\$ 14,975,140	\$ 3,486,611

Pension Expense and Deferred Outflows/Inflows of Resources Related to Pensions. For the year ended September 30, 2021, the City recognized pension expense of \$2,906,973. Also, as of September 30, 2021, the City reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual economic experience	\$ 173,183	\$ 191,035
Changes in actuarial assumptions	162,538	
Difference between projected and actual investment earnings	-	1,775,342
Contributions subsequent to the measurement date	<u>2,700,695</u>	<u>-</u>
Total	<u>\$ 3,036,416</u>	<u>\$ 1,966,377</u>

\$2,700,695 reported as deferred outflows of resources related to pensions resulting from contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability for the year ending September 30, 2022. Other amounts reported as deferred outflows and inflows of resources related to pensions will be recognized in pension expense as follows:

For the Year Ended September 30,		
2022	\$(530,825)
2023		50,171
2024	(1,016,088)
2025	(130,884)
2026	(3,030)

B. **Other Post-Employment Benefits**

The City participates in two defined-benefit other post-employment benefit (OPEB) plans: the Texas Municipal Retirement System Supplemental Death Benefits Fund (TMRS SDBF), and its own single-employer retiree health plan. Both are described in detail below.

The total OPEB liabilities of both plans are typically liquidated through the General Fund and Enterprise Funds.

TMRS Supplemental Death Benefits Fund

Plan Description. The City voluntarily participates in a single-employer other postemployment benefit (OPEB) plan administered by TMRS. The Plan is a group-term life insurance plan known as the Supplemental Death Benefits Fund (SDBF). The Plan is established and administered in accordance with the TMRS Act identically to the City's pension plan. SDBF includes coverage for both active and retired members, and assets are commingled for the payment of such benefits. Therefore, the Plan does not qualify as an OPEB Trust in accordance with paragraph 4 of GASB Statement No. 75.

Benefits Provided. The SDBF provides group-term life insurance to City employees who are active members in TMRS, including or not including retirees. The City Council opted into this program via an ordinance, and may terminate coverage under, and discontinue participation in, the SDBF by adopting an ordinance before November 1 of any year to be effective the following January 1.

Payments from this fund are similar to group-term life insurance benefits, and are paid to the designated beneficiaries upon the receipt of an approved application for payment. The death benefit for active employees provides a lump-sum payment approximately equal to the employee's annual salary (calculated based on the employee's actual earnings for the 12-month period preceding the month of death). The death benefit for retirees is considered an other employment benefit and is a fixed amount of \$7,500.

Membership in the plan at December 31, 2020, the valuation and measurement date, consisted of:

Inactive employees or beneficiaries currently receiving benefits	98
Inactive employees entitled to but not yet receiving benefits	65
Active employees	354
Total	<u>517</u>

Contributions. The City contributes to the SDBF at a contractually required rate as determined by an annual actuarial valuation, which was 0.13% for 2021 and 0.12% for 2020, of which 0.05% and 0.02%, respectively, represented the retiree-only portion for each year, as a percentage of annual covered payroll. The rate is equal to the cost of providing one-year term life insurance. The funding policy for the SDBF program is to assure that adequate resources are available to meet all death benefit payments for the upcoming year; the intent is not to prefund retiree term life insurance during employees' entire careers. The City's contributions to the SDBF for the year ended September 30, 2021 were \$4,575 representing contributions for both active and retiree coverage, which equaled the required contributions each year.

Total OPEB Liability. The Total OPEB Liability in the December 31, 2020 actuarial valuation was determined using the following actuarial assumptions and inputs:

Measurement year ended December 31,	2020
Inflation rate	2.50% per annum
Discount rate	2.00%
Actuarial cost method	Entry Age Normal Method
Projected salary increases	3.50% to 11.5% including inflation
Administrative expenses	All administrative expenses are paid through the Pension Trust and accounted for under reporting requirements under GASB Statement No. 68.
Mortality Rates - Service Retirees	2019 Municipal Retirees of Texas Mortality Tables. The rates are projected on a fully generational bases with scale UMP.
Mortality Rates - Disabled Retirees	2019 Municipal Retirees of Texas Mortality Tables with a 4 year set forward for males and a 3 year set-forward for females. In addition, a 3.5% and 3% minimum mortality rate will be applied to reflect the impairment for younger members who become disabled for males and females, respectively. The rates are projected on a fully generational basis by scale UMP to account for future mortality improvements subject to the floor.

Changes in assumptions reflect the annual change in the municipal bond rate. The actuarial assumptions used in the December 31, 2020 valuation were based on the results of an actuarial experience study for the period December 31, 2014 to December 31, 2018.

Discount Rate. The SDBF program is treated as an unfunded OPEB plan because the SDBF trust covers both actives and retirees and the assets are not segregated for these groups. As such, a single discount rate of 2.00% was used to measure the total OPEB liability. Because the plan is essentially a “pay-as-you-go” plan, the single discount rate is equal to the prevailing municipal bond rate. The source of the municipal bond rate was fixed-income municipal bonds with 20 years to maturity that include only federally tax-exempt municipal bonds as reported in Fidelity Index’s “20-year Municipal GO AA Index” as of December 31, 2020.

Discount Rate Sensitivity Analysis. The following schedule shows the impact of the total OPEB liability if the discount rate used was 1% less than and 1% greater than the discount rate that was used (2.75%) in measuring the total OPEB liability.

	1% Decrease in Discount Rate (1.00%)	Discount Rate (2.00%)	1% Increase in Discount Rate (3.00%)
Total SDB OPEB Liability	\$ 1,306,428	\$ 1,033,078	\$ 829,320

Changes in the Total OPEB Liability. Total City's Total OPEB Liability (TOL), based on the above actuarial factors, as of December 31, 2020, the measurement and actuarial valuation date, was calculated as follows:

	Total OPEB Liability
Balance at 12/31/2019	\$ 810,086
Changes for the year:	
Service cost	50,554
Interest	22,915
Difference between expected and actual experience	(4,382)
Changes of assumptions or other inputs	158,118
Benefit payments, including refunds of employee contributions	(4,213)
Net changes	<u>222,992</u>
Balance at 12/31/2020	\$ <u>1,033,078</u>

Changes in assumptions and other inputs reflect a change in the discount rate from 3.71% to 2.00%.

OPEB Expense and Deferred Inflows and Outflows of Resources Related to OPEB. For the year ended September 30, 2021, the City recognized OPEB expense of \$114,175. Also, as of September 30, 2021, the City reported deferred outflows and inflows of resources related to the TMRS OPEB from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual economic experience	\$ 50,917	\$ 78,515
Changes in actuarial assumptions	266,690	31,884
Contributions subsequent to the measurement date	<u>3,310</u>	<u>-</u>
Total	\$ <u>320,917</u>	\$ <u>110,399</u>

\$3,310 reported as deferred outflows of resources related to OPEB resulting from contributions subsequent to the measurement date will be recognized as a reduction of the Total OPEB liability for the year ending September 30, 2022. Other amounts reported as deferred outflows and inflows of resources related to the TMRS OPEB will be recognized in OPEB expense in future periods as follows:

For the Year Ended September 30,	
2022	\$ 40,707
2023	40,707
2024	40,707
2025	35,388
2026	29,262
Thereafter	20,437

City of Schertz Retiree Health Other Post-Employment Benefit Plan

In addition to the TMRS OPEB, The City administers a single employer defined benefit healthcare plan for retirees, established under legal authority of the City Charter. The City is the only employer participating in the Plan. The Plan does not issue a publicly available financial report.

The City provides post-employment benefits for eligible participants enrolled in City-sponsored plans. The benefits are provided in the form of an implicit rate subsidy where the City contributes towards the retiree health premiums before achieving Medicare eligibility. While the Plan offers retiree only rates, a very small implicit liability still exists. Membership in the plan as of December 31, 2020, the valuation date, consisted of:

Inactive employees or beneficiaries currently receiving benefits	8
Inactive employees entitled to but not yet receiving benefits	-
Active employees	<u>332</u>
Total	<u>340</u>

Current active employees must be eligible for service retirement under the Texas Municipal Retirement System. To attain this eligibility active employees must be at least age 60 with 5 years of service or have at least 20 years of employment with the City. When a regular, full-time employee retires, they are eligible to maintain their coverage in the City's group health coverage. The City does not provide an explicit subsidy for retiree medical insurance. The liability for the City is due to the implicit rate.

The City made no direct contributions for monthly premiums. The retirees pay 102% of the monthly premiums which range based on the type of plan from \$508 for retiree only to \$1,796 for a retiree and their family.

The City's Retiree Health OPEB Liability (TOL) as of December 31, 2020, was calculated as follows:

	Total OPEB Liability
Balance at 12/31/2019	\$ 2,163,923
Changes for the year:	
Service cost	141,084
Interest	60,561
Difference between expected and actual experience	4,341
Changes of assumptions or other inputs	161,146
Benefit payments, including refunds of employee contributions	(64,499)
Net changes	<u>302,633</u>
Balance at 12/31/2020	\$ <u>2,466,556</u>

The actuarial valuation was performed as of December 31, 2019, and update procedures were used to roll forward the TOL to December 31, 2020. Changes of assumptions reflect a change in the discount rate from 2.75% as of December 31, 2019 to 2.00% as of December 31, 2020, revised TMRS demographic assumptions, and updates to both the health care trend and participation assumptions.

The following presents the TOL of the City, calculated using the discount rate of 2.00% as well as what the City's TOL would be if it were calculated using a discount rate that is 1-percentage point lower (1.00%) and 1-percentage point higher (3.00%) than the current rate:

	1% Decrease in Discount Rate (1.00%)	Discount Rate (2.00%)	1% Increase in Discount Rate (3.00%)
Total OPEB liability - retiree health	\$ 2,697,077	\$ 2,466,556	\$ 2,253,746

The following presents what the total OPEB liability of the City would be if it were calculated using healthcare cost trend rates that are 1-percentage point lower or 1-percentage point higher than the current healthcare cost trends:

	1% Decrease	Current Healthcare Cost Trend Rate Assumption	1% Increase
Total OPEB liability - retiree health	\$ 2,150,561	\$ 2,466,556	\$ 2,844,413

For the year ended September 30, 2021, the City recognized OPEB expense of \$214,856. Also, as of September 30, 2021, the City reported deferred outflows of resources and deferred inflows of resources related to OPEB from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual economic experience	\$ 14,419	\$ 272,039
Changes in actuarial assumptions	420,846	57,081
Contributions subsequent to the measurement date	<u>61,254</u>	<u>-</u>
Total	\$ <u>496,519</u>	\$ <u>329,120</u>

\$61,254 reported as deferred outflows of resources related to OPEB resulting from contributions subsequent to the measurement date will be recognized as a reduction of the Total OPEB liability for the year ending September 30, 2022. Other amounts reported as deferred outflows and inflows of resources related to the City's Retiree Health OPEB will be recognized in OPEB expense as follows:

For the Year Ended September 30,		
2022	\$	13,209
2023		13,209
2024		13,209
2025		13,209
2026		13,209
Thereafter		40,100

C. **Joint Ventures**

Schertz/Seguin Local Government Corporation

The Schertz/Seguin Local Government Corporation is a public, nonprofit corporation organized to aid, assist, and act on behalf of the cities of Schertz and Seguin in acquiring, constructing, maintaining, and operating a water utility system. The participating governments have an ongoing financial responsibility to fund the operation of the corporation through either purchase of services or by subsidizing the operations. Payments to the corporation are generally for the purchase of water treatment and for covering the Corporation's debt service requirements; they are reflected as "operating expenses" in the water and sewer fund and totaled \$3,908,231 for the year ended September 30, 2021. Separate financial statements for the Schertz/Seguin Local Government Corporation may be obtained from the City of Seguin, 210 East Gonzales Street, Seguin, Texas 78156.

The City of Schertz is jointly liable, together with the City of Seguin, for operating deficits and long-term debt of the Schertz/Seguin Local Government Corporation. The Corporation had net revenue bonds outstanding in the amount of \$158,006,349 (as of September 30, 2020, the most recent year for which information is available) to provide funds to build, improve, extend, enlarge and repair the Corporation's utility system, fund a reserve, and pay the costs of bond issuance. The bond resolution pledges intergovernmental contract revenues from the cities of Schertz and Seguin (the participating governments) to bond holders. Under the intergovernmental water supply contract, the participating governments are unconditionally obligated to pay their respective shares of annual contract revenue bond debt service from the operation of their respective utility systems.

The organizing documents for the Corporation provide that, in the event of dissolution, the net assets of the Corporation will be equally divided among the Cities of Schertz and Seguin. As such, the City's net investment in the joint venture has been recorded in the Water and Sewer Fund in the amount of \$15,780,946. This amount reflects the City's portion of the net position of SSLGC as of September 30, 2020, the most recent fiscal year for which information is available.

Cibolo Valley Local Government Corporation

The Cibolo Valley Local Government Corporation (CVLGC) is a public nonprofit corporation incorporated in March 2012 to assist and act on behalf of the cities of Schertz and Cibolo to obtain additional water sources. The participating governments have an ongoing financial responsibility to fund the operation of the corporation through either purchase of services or by subsidizing the operations. Payments to the corporation are generally for the purchase of wastewater treatment and for covering the Corporation's debt service requirements; they are reflected as "operating expenses" in the water and sewer fund and totaled \$100,000 for the year ended September 30, 2021. Separate financial statements for the CVLGC may be obtained from the City of Seguin, 210 East Gonzales Street, Seguin, Texas 78156.

The City of Schertz is jointly liable, together with the City of Cibolo, for operating deficits and long-term debt of CVLGC. In the event of dissolution, the net assets of the Corporation will be equally divided among the Cities of Schertz and Cibolo. As such, the City's net investment in the joint venture has been recorded in the Water and Sewer Fund in the amount of \$960,720 as of September 30, 2021.

D. Commitments and Contingencies

Tax Increment Financing (the "Zone")

The City is a principal in the City of Schertz Tax Increment Reinvestment Zone #2, pursuant to Chapter 311 of the Texas Tax Code. Under the terms of the Zone agreement, the City of Schertz, Bexar County, and San Antonio River Authority are funding infrastructure improvements through tax increment financing to the Sedona Development Project.

At the time the Zone was created, the property tax base was "frozen" and increment taxes resulting from the increases to property tax base are being used to finance Zone improvements. The total projected cost is a combined figure of \$45,000,000. Project costs of the developer will be funded up to 100% of the tax increment generated by the City of Schertz, Bexar County, and San Antonio River Authority (SARA). The City of Schertz (combined with SARA) have committed up to \$32,877,000 of the total \$45,000,000. The Zone has a statutory termination date of December 31, 2027. The TIRZ has collected \$3,514,642 from taxing entities (net of administrative reimbursements) and remitted \$2,625,000 to the developer as of September 30, 2021.

380 Agreements

The Chapter 380 Incentive program, authorized by Chapter 380 of the Texas Local Government Code, enables the City of Schertz to provide grants or reimbursements from the City's general fund. To become eligible for Chapter 380 Incentives, projects must: create at least of \$100 million in new real and personal property; or generate at least \$35 million in gross sales that is subject to the collection of local sales and use tax. Businesses that have a 380 Incentive agreement with the City are eligible to receive a reimbursement of taxes paid for the year if they have met the requirements outlined in the agreement by a certain date each year. For the fiscal year ended September 30, 2021, the City reimbursed \$621,736 in property taxes paid.

Economic Development Incentive Agreements

The City of Schertz Economic Development Corporation (the SEDC) negotiates economic development incentive agreement on behalf of the SEDC and the City of Schertz (the City) on an individual basis. As of September 30, 2021, the City had nine active incentive agreements.

On May 2, 2017, the City and the Corporation approved the Schertz Incentive Policy which outlines the City's primary tools to attract commercial investment and promote economic development. Projects are selected on a case-by-case basis in accordance current policy and state laws at the discretion of the governing body. All incentive agreements are formalized through a performance agreement with specified terms and recapture criteria.

The SEDC Incentive program, authorized by Chapters 501, 502 and 505 of the Texas Local Government Code, enables the Corporation to fund allowable projects from the collection of one-half of one percent of sales tax proceeds collected in the City of Schertz. In accordance with state law, the SEDC Incentive Policy establishes grants and loans for businesses that create Primary Jobs for the following categories: Existing Businesses (3 years of operation within City), Small Businesses (fewer than 50 full-time jobs or annual sales less than \$10 million), Large Impact Businesses (Up to \$100 million in taxable property), and Extra Large Businesses (over \$100 million in taxable property).

The City and Corporation's outstanding incentive agreement grants are as follows:

	<u>FY 2020-21 Amt.</u>	<u>Est. Remaining Grant</u>
City of Schertz - LGC 380.001	\$ 99,784	\$ 99,000
SEDC - LGC 501.101	224,384	192,150
SEDC - LGC 501.103	-	3,158,000

Service Concession Arrangement

The City entered into an agreement with Young Men's Christian Association of Greater San Antonio ("YMCA"), under which YMCA will operate and collect user fees from the Natatorium and Outdoor Pools for the next 20 years. YMCA will pay the city \$100,000 annually over the course of the arrangement to cover costs of debt service related to the facility; the present value of these installment payments is estimated to be \$782,371. The City will approve the rates and services that YMCA will provide, however, YMCA will retain all revenues earned from the operation of the Natatorium. The YMCA will remit all revenues received from operating the Outdoor Pools to the City with the exception of revenues earned from YMCA specific programs. As of September 30, 2021, the Natatorium is still under construction and is reported by the City as Construction in Progress. The City reports the Outdoor Pools and related equipment as capital assets recorded at historical cost. The City reports a receivable in the amount of \$782,371 on the government-wide statements at year-end pursuant to the service concession arrangement, and a liability of \$475,410 for the present value of maintenance costs estimated over the life of the Service Concession arrangement. The balance of these two amounts is recorded as a deferred inflow of resources.

Litigation

The City is the subject of various claims and litigation that have arisen in the course of its operations. Management is of the opinion that the City's liability in these cases, if decided adversely to the City, will not have a material effect on the City's financial position.

Cibolo Creek Municipal Authority

The Cibolo Creek Municipal Authority (CCMA) provides sewage treatment for the area in and around the City. In Fiscal year 2014, the City entered into an agreement with CCMA to construct a sewage treatment facility in the southern portion of the City to primarily serve citizens of the City but also neighboring Cities and future development. Because the City would be the primary customer at this time, the agreement stipulates that the City will pay all future debt service on the bonds issued by CCMA to finance the project. The City is the sole member at this time, so it is responsible for 100% of the project costs. Should other members join, the City's share of the costs would be reduced.

Future debt service on the CCMA bonds are as follows:

Year Ended September 30,	Principal	Interest	Total
2022	\$ 165,000	\$ 247,750	\$ 412,750
2023	170,000	242,800	412,800
2024	175,000	237,700	412,700
2025	180,000	232,450	412,450
2026	185,000	225,250	410,250
2027-2031	1,050,000	1,008,450	2,058,450
2032-2036	1,280,000	778,600	2,058,600
2037-2041	1,610,000	445,650	2,055,650
2042-2044	1,140,000	92,400	1,232,400
Total	\$ 5,955,000	\$ 3,511,050	\$ 9,466,050

Construction Commitments

The City of Schertz has entered into commitments for various projects as follows:

<i>Primary Government:</i>	Estimated Project Cost to City	Expended to Date	Estimated Future Commitment
Governmental Activities:			
FM 78 and Main Street	\$ 1,000,000	\$ 457,027	\$ 542,973
Fire Station 3	8,601,639	8,601,639	-
Pedestrian Routes Project	1,214,002	1,214,002	-
YMCA-Bathroom Reovation	549,746	549,746	-
Elbel Road Rehabilitation	1,783,000	125,133	1,657,867
Total Governmental Commitments	13,148,387	10,947,547	2,200,840
Business-Type Activities:			
Woman Hollering WasteWater	5,940,424	1,227,281	4,713,143
Corbett Elevated Water Tank	5,500,000	5,156,942	343,058
FM1103 Utility Relocation	1,351,645	1,351,645	-
Crest Oak Sewer Line	1,000,000	16,555	983,445
Corbett Ground Storage	4,965,545	114,254	4,851,291
Aviation Heights WL Replacement	2,185,484	88,123	2,097,362
Transmission Main 16"	2,500,000	417,795	2,082,205
FM1518 Utility Relocation	600,000	410,081	189,919
Total Business-Type Activities	24,043,098	8,782,675	15,260,423
Total Estimated Future Commitments	\$ 37,191,485	\$ 19,730,222	\$ 17,461,263

Risk Management

The City is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters. The City contracts with the Texas Municipal League Intergovernmental Risk Pool, a public entity risk pool currently operating as a common risk management and insurance program providing insurance coverage in the following areas: general liability, automobile liability and physical damage, law enforcement liability, worker's compensation, real and personal property, mobile equipment, and errors and omissions liability. TML is a multi-employer group that provides for a combination of risk sharing among pool participants and stop loss coverage. Contributions are set annually by the provider. Liability by the City is generally limited to the contributed amounts. There were no significant increases or decreases in coverage from the prior year. For the past three fiscal years, no claims or settlements have exceeded deductible amounts.

E. Subsequent Events

In October 2021, the City issued General Obligation Refunding Bonds, Series 2021 in the amount of \$6,015,000. These bonds have interest rates ranging from 2.00% and 3.00% and will mature in February 2028. These bonds will be used to refund the General Obligation Bonds, Series 2012 and the Tax and Limited Pledge Revenue Certificates of Obligation, Series 2013 to provide a present value savings and are secured by the City's ad valorem tax revenue.

In January 2022, the City issued Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2022 in the amount of \$9,390,000. These certificates have interest rates ranging from 2.125% and 3.00% and will mature in February 2032. These certificates will be used to fund multiple public improvement projects and are secured by the City's ad valorem tax revenue and utility system revenue.

F. New Accounting Standards

Significant new accounting standards issued by the Governmental Accounting Standards Board (GASB) not yet implemented by the City include the following:

Statement No. 87, *Leases* – This Statement will improve the accounting and financial reporting for leases by governments by requiring recognition of certain lease assets and liabilities previously classified as operating leases. It establishes a single model for lease accounting based on the principle that leases are financing the right to use an underlying asset. Under the Statement a lessee is required to recognize a lease liability and an intangible right-to-use asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resource, enhancing the relevance and consistency of information about leasing activities. This Statement will become effective for the City in fiscal year 2022.

Statement No. 96, *Subscription-Based Information Technology Arrangements* – This Statement provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (SBITAs) for government end users (governments). This Statement (1) defines a SBITA; (2) establishes that a SBITA results in a right-to-use subscription asset—an intangible asset—and a corresponding subscription liability; (3) provides the capitalization criteria for outlays other than subscription payments, including implementation costs of a SBITA; and (4) requires note disclosures regarding a SBITA. To the extent relevant, the standards for SBITAs are based on the standards established in Statement No. 87, *Leases*, as amended. This Statement will become effective for the City in fiscal year 2023.

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**REQUIRED
SUPPLEMENTARY INFORMATION**

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
GENERAL FUND**

FOR THE YEAR ENDED SEPTEMBER 30, 2021

	Original Budget	Final Budget	Actual Amounts	Variance With Final Budget Positive (Negative)
REVENUES				
Taxes	\$ 26,282,550	\$ 26,282,550	\$ 27,913,222	\$ 1,630,672
Permits and fees	1,824,110	1,824,110	1,593,382	(230,728)
Service fees	1,834,581	1,834,581	1,628,589	(205,992)
Fines and fees	904,028	904,028	637,638	(266,390)
Intergovernmental	1,127,550	1,127,550	1,623,282	495,732
Investment earnings	135,000	135,000	29,147	(105,853)
Miscellaneous	579,200	579,200	781,333	202,133
Total Revenues	<u>32,687,019</u>	<u>32,687,019</u>	<u>34,206,593</u>	<u>1,519,574</u>
EXPENDITURES				
General government:				
Council	134,488	134,988	105,990	28,998
City manager	1,276,356	1,279,134	1,249,953	29,181
Municipal court	367,740	368,465	343,557	24,908
311 customer relations	113,869	115,869	115,149	720
Planning & zoning	696,149	664,403	220,518	443,885
Legal	150,000	170,000	158,366	11,634
City secretary	208,840	211,340	204,992	6,348
Nondepartmental	1,974,475	1,627,428	1,831,744	(204,316)
Public affairs	628,421	639,026	603,791	35,235
Engineering	878,126	921,126	870,161	50,965
Citizens assistance	330,000	330,000	290,617	39,383
Special events	32,100	32,100	20,915	11,185
Total General Government	<u>6,790,564</u>	<u>6,493,879</u>	<u>6,015,753</u>	<u>478,126</u>
Public safety:				
Police department	10,172,679	10,298,956	9,955,404	343,552
Fire department	6,150,356	6,684,628	6,696,315	(11,687)
Inspection	1,023,497	1,024,222	974,333	49,889
Total Public Safety	<u>17,346,532</u>	<u>18,007,806</u>	<u>17,626,052</u>	<u>381,754</u>
Public environment:				
Streets	1,567,620	1,569,740	1,413,808	155,932
Total Public Environment	<u>1,567,620</u>	<u>1,569,740</u>	<u>1,413,808</u>	<u>155,932</u>
Parks and recreation:				
Parks	1,586,590	1,753,716	1,661,873	91,843
Pools	569,878	569,878	536,674	33,204
Community/Civic Center	393,047	393,047	307,776	85,271
Total Parks and Recreation	<u>2,549,515</u>	<u>2,716,641</u>	<u>2,506,323</u>	<u>210,318</u>
Cultural:				
Library	1,062,442	1,074,255	1,040,276	33,979
Total Cultural	<u>1,062,442</u>	<u>1,074,255</u>	<u>1,040,276</u>	<u>33,979</u>

CITY OF SCHERTZ, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
GENERAL FUND

FOR THE YEAR ENDED SEPTEMBER 30, 2021

	Original Budget	Final Budget	Actual Amounts	Variance With Final Budget Positive (Negative)
EXPENDITURES (CONTINUED)				
Administration:				
Information technology	2,637,316	2,638,646	2,517,578	121,068
Human resources	717,584	761,719	666,390	95,329
Finance	651,798	693,967	687,036	6,931
Purchasing & asset management	243,431	244,519	247,912	(3,393)
Building maintenance	1,631,808	1,863,808	1,663,631	200,177
Fleet service	1,061,752	1,083,597	1,025,477	58,120
Interfund charges	(2,893,732)	(2,893,732)	(2,893,814)	82
Total Administration	<u>4,049,957</u>	<u>4,392,524</u>	<u>3,914,210</u>	<u>478,314</u>
 Total Expenditures	<u>33,366,630</u>	<u>34,254,845</u>	<u>32,516,422</u>	<u>1,738,423</u>
 Excess of revenues over expenditures	(679,611)	(1,567,826)	1,690,171	3,257,997
OTHER FINANCING SOURCES (USES)				
Proceeds from capital lease	-	-	136,535	136,535
Transfers in	95,000	95,000	-	(95,000)
Transfers out	(592,050)	(2,259,279)	(2,317,117)	(57,838)
Total Other Financing Sources (Uses)	<u>(497,050)</u>	<u>(2,164,279)</u>	<u>(2,180,582)</u>	<u>(16,303)</u>
 NET CHANGE IN FUND BALANCE	<u>(1,176,661)</u>	<u>(3,732,105)</u>	<u>(490,411)</u>	<u>3,241,694</u>
 FUND BALANCE - BEGINNING	<u>16,968,978</u>	<u>16,968,978</u>	<u>16,968,978</u>	<u>-</u>
 FUND BALANCE - ENDING	<u>\$ 15,792,317</u>	<u>\$ 13,236,873</u>	<u>\$ 16,478,567</u>	<u>\$ 3,241,694</u>

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CITY OF SCHERTZ, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
ECONOMIC DEVELOPMENT CORPORATION
FOR THE YEAR ENDED SEPTEMBER 30, 2021

	Original Budget	Final Budget	Actual Amounts	Variance With Final Budget Positive (Negative)
REVENUES				
Taxes	\$ 4,507,371	\$ 4,507,371	\$ 5,615,928	\$ 1,108,557
Investment income	<u>141,000</u>	<u>141,000</u>	<u>56,144</u>	<u>(84,856)</u>
Total Revenues	<u>4,648,371</u>	<u>4,648,371</u>	<u>5,672,072</u>	<u>1,023,701</u>
EXPENDITURES				
Current:				
General government	3,521,830	3,521,330	306,025	3,215,305
Administration	<u>572,969</u>	<u>573,469</u>	<u>528,442</u>	<u>45,027</u>
Total Expenditures	<u>4,094,799</u>	<u>4,094,799</u>	<u>834,467</u>	<u>3,260,332</u>
OTHER FINANCING SOURCES (USES)				
Transfers out	(4,050,000)	(4,050,000)	(4,050,000)	-
Total Other Financing Sources (Uses)	<u>(4,050,000)</u>	<u>(4,050,000)</u>	<u>(4,050,000)</u>	<u>-</u>
NET CHANGE IN FUND BALANCE	<u>(3,496,428)</u>	<u>(3,496,428)</u>	<u>787,605</u>	<u>4,284,033</u>
FUND BALANCE - BEGINNING	<u>21,018,626</u>	<u>21,018,626</u>	<u>21,018,626</u>	<u>-</u>
FUND BALANCE - ENDING	<u>\$ 17,522,198</u>	<u>\$ 17,522,198</u>	<u>\$ 21,806,231</u>	<u>\$ 4,284,033</u>

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CITY OF SCHERTZ, TEXAS

NOTES TO BUDGETARY SCHEDULES

SEPTEMBER 30, 2021

Budgetary Information - The budget is prepared in accordance with accounting principles generally accepted in the United States of America. The City maintains strict budgetary controls. The objective of these controls is to ensure compliance with legal provision embodied in the annual appropriated budget approved by the City Council and as such is a good management control device. Annual budgets are adopted for the general fund, debt service fund, hotel occupancy tax, park fund, tree mitigation, police forfeiture fund, library advisory board fund, and the historical committee fund. Project-length financial plans are adopted for capital projects funds.

Budgetary preparation and control are exercised at the department level. Actual expenditures may not legally exceed appropriations at the fund level. Appropriations lapse at year-end.

For the fiscal year ended September 30, 2021, actual expenditures did not exceed budgeted expenditures at the fund level for any of the City's funds.

Encumbrance accounting, in which appropriations are recorded as budgetary expenditures, is not utilized by the City.

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF CHANGES IN NET PENSION LIABILITY AND RELATED RATIOS
TEXAS MUNICIPAL RETIREMENT SYSTEM**

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Measurement Date December 31,	2020	2019	2018
Total pension liability			
Service cost	\$ 3,761,994	\$ 3,421,878	\$ 3,301,265
Interest on total pension liability	5,326,206	4,898,478	4,505,483
Difference between expected and actual experience	(154,592)	(108,478)	34,393
Change of assumptions	-	263,015	-
Benefit payments/refunds of contributions	(2,372,023)	(2,244,447)	(1,914,159)
Net Change in Total Pension Liability	6,561,585	6,230,446	5,926,982
Total Pension Liability, Beginning	<u>78,211,777</u>	<u>71,981,331</u>	<u>66,054,349</u>
Total Pension Liability, Ending (a)	<u>\$ 84,773,362</u>	<u>\$ 78,211,777</u>	<u>\$ 71,981,331</u>
Plan fiduciary net position			
Contributions - employer	\$ 3,327,434	\$ 3,163,340	\$ 3,033,936
Contributions - employee	1,474,466	1,380,585	1,326,518
Net investment income	4,760,749	8,093,416	(1,540,890)
Benefit payments/refunds of contributions	(2,372,023)	(2,244,447)	(1,914,159)
Administrative expenses	(30,767)	(45,681)	(29,768)
Other	(1,200)	(1,373)	(1,554)
Net Change in Fiduciary Position	7,158,659	10,345,840	874,083
Fiduciary Net Position, Beginning	<u>62,639,563</u>	<u>52,293,723</u>	<u>51,419,640</u>
Fiduciary Net Position, Ending (b)	<u>69,798,222</u>	<u>62,639,563</u>	<u>52,293,723</u>
Net pension liability = (a)-(b)	<u>\$ 14,975,140</u>	<u>\$ 15,572,214</u>	<u>\$ 19,687,608</u>
Fiduciary Net Position as a Percentage of Total Pension Liability	82.34%	80.09%	72.65%
Covered Payroll	\$ 21,063,794	\$ 19,722,641	\$ 18,896,766
Net Pension Liability as a Percentage of Covered Payroll	71.09%	78.96%	104.19%

Note: GASB Statement No. 68 requires 10 years of data to be provided in this schedule. As of year-end, all years are not available. Additional years will be added in the future as the information becomes available.

2017	2016	2015	2014
\$ 3,073,538	\$ 2,855,745	\$ 2,724,337	\$ 2,558,743
4,111,517	3,763,562	3,556,428	3,245,266
416,585	139,216	120,434	(122,286)
-	-	59,193	-
(1,843,774)	(1,581,272)	(1,570,211)	(1,068,487)
5,757,866	5,177,251	4,890,181	4,613,236
<u>60,296,483</u>	<u>55,119,232</u>	<u>50,229,051</u>	<u>45,615,815</u>
<u>\$ 66,054,349</u>	<u>\$ 60,296,483</u>	<u>\$ 55,119,232</u>	<u>\$ 50,229,051</u>
\$ 2,793,644	\$ 2,627,335	\$ 2,542,565	\$ 2,403,929
1,232,232	1,152,864	1,095,260	1,077,097
5,999,805	2,602,572	53,742	1,841,586
(1,843,774)	(1,581,272)	(1,570,211)	(1,068,487)
(31,080)	(29,385)	(32,727)	(19,219)
(1,575)	(1,583)	(1,616)	(1,580)
8,149,252	4,770,531	2,087,013	4,233,326
<u>43,270,388</u>	<u>38,499,857</u>	<u>36,412,844</u>	<u>32,179,518</u>
<u>51,419,640</u>	<u>43,270,388</u>	<u>38,499,857</u>	<u>36,412,844</u>
<u>\$ 14,634,709</u>	<u>\$ 17,026,095</u>	<u>\$ 16,619,375</u>	<u>\$ 13,816,207</u>
77.84%	71.76%	69.85%	72.49%
\$ 17,603,310	\$ 16,478,620	\$ 15,648,114	\$ 15,389,154
83.14%	103.32%	106.21%	89.78%

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF EMPLOYER CONTRIBUTIONS
TEXAS MUNICIPAL RETIREMENT SYSTEM**

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Fiscal Year Ended September 30,	2021	2020	2019
Actuarially determined contribution	\$ 3,700,948	\$ 3,235,479	\$ 3,129,413
Contributions in relation to the actuarially determined contribution	<u>3,700,948</u>	<u>3,235,479</u>	<u>3,129,413</u>
Contribution deficiency (excess)	-	-	-
Covered payroll	22,879,083	20,401,412	19,520,269
Contributions as a percentage of covered payroll	16.18%	15.86%	16.03%

Note: GASB Statement No. 68 requires 10 years of data to be provided in this schedule. As of year-end, all years are not available. Additional years will be added in the future as the information becomes available.

NOTES TO SCHEDULE OF CONTRIBUTIONS

Valuation Date:

Actuarially determined contribution rates are calculated as of December 31st and become effective on January 1st, 13 months and a day later.

Methods and Assumptions Used to Determine Contribution Rates:

Actuarial cost method	Entry age normal
Amortization method	Level percentage of payroll, closed
Remaining amortization period	25 years
Asset valuation method	10 year smoothed market; 12% soft corridor
Inflation	2.5%
Salary increases	3.50% to 11.50% including inflation
Investment rate of return	6.75%
Retirement age	Experience-based table of rates that are specific to the City's plan of benefits. Last updated for the 2019 valuation pursuant to an experience study of the period 2014-2018.
Mortality	Post-retirement: 2019 Municipal Retirees of Texas Mortality Tables. The rates are projected on a fully generational basis with scale UMP. Pre-retirement: PUB(10) mortality tables, with the Public Safety table used for males and the General Employee table used for females. The rates are projected on a fully generational basis with scale UMP.

2018	2017	2016	2015
\$ 2,971,592	\$ 2,756,511	\$ 2,592,593	\$ 2,487,856
<u>2,971,592</u>	<u>2,756,511</u>	<u>2,592,593</u>	<u>2,487,856</u>
-	-	-	-
18,605,654	17,347,849	16,175,988	15,486,735
15.97%	15.89%	16.03%	16.06%

CITY OF SCHERTZ, TEXAS

SCHEDULE OF CHANGES IN TMRS OTHER POST-EMPLOYMENT BENEFIT LIABILITY AND RELATED RATIOS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Measurement Date December 31,	2020	2019	2018	2017
Total OPEB liability				
Service cost	\$ 50,554	\$ 33,528	\$ 37,794	\$ 29,926
Interest on total OPEB liability	22,915	26,904	21,182	20,123
Differences in actuarial experience	(4,382)	(105,282)	86,276	-
Change of assumptions	158,118	148,494	(54,027)	57,257
Benefit payments	(4,213)	(3,945)	(3,779)	(3,521)
Net change in total OPEB liability	222,992	99,699	87,446	103,785
Total OPEB liability, beginning	810,086	710,387	622,941	519,156
Total OPEB liability, ending (a)	\$ 1,033,078	\$ 810,086	\$ 710,387	\$ 622,941
Covered-employee payroll	\$ 21,063,794	\$ 19,722,641	\$ 18,896,766	\$ 17,603,310
Total OPEB liability as a percentage of covered-employee payroll	4.90%	4.11%	3.76%	3.54%

Note: 10 years of data is required to be provided in this schedule. As of year-end, all years are not available. Additional years will be added in the future as the information becomes available.

NOTES TO SCHEDULE

Valuation Date:

Actuarially determined contribution rates are calculated as of December 31st and become effective on January 1st, 13 months and a day later.

Methods and Assumptions Used to Determine Contribution Rates:

Inflation	2.50%
Salary increases	3.50% to 11.50% including inflation
Discount rate	2.00%
Administrative expenses	All administrative expenses are paid through the Pension Trust and accounted for under reporting requirements under GASB Statement No. 68.

Mortality rates - service retirees 2019 Municipal Retirees of Texas Mortality Tables. The rates are projected on a fully generational basis with scale UMP.

Mortality rates - disabled retirees 2019 Municipal Retirees of Texas Mortality Tables with a 4 year setforward for males and a 3 year set-forward for females. In addition, a 3.5% and 3% minimum mortality rate will be applied to reflect the impairment for younger members who become disabled for males and females, respectively. The rates are projected on a fully generational basis by Scale UMP to account for future mortality improvements subject to the 3% floor.

Other information No assets are accumulated in a trust that meets the criteria in paragraph 4 of Statement No. 75 to pay related benefits.

Changes in actuarial assumptions reflect changes in the discount rate and, in 2019, changes in assumptions adopted from review of plan provisions.

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF CHANGES IN CITY RETIREE HEALTH OTHER POST-EMPLOYMENT BENEFIT
LIABILITY AND RELATED RATIOS**

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Measurement Date December 31,	2020	2019	2018	2017
Total OPEB liability				
Service cost	\$ 141,084	\$ 125,648	\$ 121,821	\$ 107,517
Interest on total OPEB liability	60,561	78,646	67,947	69,435
Difference in actuarial experience	4,341	(343,086)	14,962	-
Change of assumptions	161,146	275,398	(81,106)	96,092
Benefit payments	(64,499)	(59,401)	(57,530)	(42,189)
Net change in total OPEB liability	302,633	77,205	66,094	230,855
Total OPEB liability, beginning	<u>2,163,923</u>	<u>2,086,718</u>	<u>2,020,624</u>	<u>1,789,769</u>
Total OPEB liability, ending (a)	<u>\$ 2,466,556</u>	<u>\$ 2,163,923</u>	<u>\$ 2,086,718</u>	<u>\$ 2,020,624</u>
Covered payroll	\$ 20,870,983	\$ 19,521,924	\$ 18,974,951	\$ 16,068,891
Total OPEB liability as a percentage of covered payroll	11.82%	11.08%	11.00%	12.57%

Note: 10 years of data is required to be provided in this schedule. As of year-end, all years are not available. Additional years will be added in the future as the information becomes available.

NOTES TO SCHEDULE

Valuation Date: December 31, 2020

Methods and Assumptions Used to Determine Contribution Rates:

Actuarial cost method Individual entry-age
Discount rate 2.00% as of December 31, 2020
Inflation 2.50%
Salary increases 3.50% to 11.50% including inflation
Demographic assumptions Based on the experience study covering the four-year period ending December 31, 2018 as conducted for the Texas Municipal Retirement System (TMRS).

Mortality For healthy retirees, the gender-distinct 2019 Municipal Retirees of Texas mortality tables are used. The rates are projected on a fully generational basis using the ultimate mortality improvement rates in the MP tables to account for future mortality improvements.

Health care trend rates Initial rate of 7.00% declining to an ultimate rate of 4.15% after 15 years.

Participation rates For all non-Medicare retirees, 30% if retiring from age 50 to 59, and 35% if retiring from age 60 to 64.

Other information The discount rate changed from 2.75% as of December 31, 2019 to 2.00% as of December 31, 2020.

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SUPPLEMENTARY INFORMATION

Comparative Schedules – Governmental Funds

General Fund
Economic Development Corporation
Debt Service Fund
Capital Projects Fund
American Recovery Program Act Fund

Combining Statements and Individual Fund Schedules - Nonmajor Governmental Funds

Hotel Occupancy Fund - will account for proceeds of hotel occupancy taxes to be used strictly for those kinds of programs that promote the tourism industry.

Park Fund - will account for revenues from developers' fees (in lieu of park land dedication), grants, and donations and is designed to monitor and manage improvement of the City's park system.

Tree Mitigation Fund - will account for revenues from permits, grants and donations to preserve and replace trees in the City.

Treasury Forfeitures Fund - will account for revenue received from drug related cases in conjunction with other law enforcement agencies within the jurisdiction of the U.S. Treasury department.

Justice Forfeitures Fund - will account for revenue received from drug related cases in conjunction with other law enforcement agencies within the jurisdiction of the US Department of Justice.

State Forfeitures Fund - will account for revenue received from drug related cases in conjunction with other law enforcement agencies within the jurisdiction of the State Forfeiture Program.

Grant Fund - will account for revenue and expenditures related to federal and state grant programs.

Library Advisory Board - to account for certain fees generated at the library to be used by the Board for general improvements to the Library.

Historical Committee Fund - will account for funds received for the preservation of the history of the City.

Capital Recovery Roadways Fund - to account for a fee assessed for capital recovery on new construction.

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CITY OF SCHERTZ, TEXAS**COMPARATIVE BALANCE SHEETS
GENERAL FUND****SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)**

	<u>2021</u>	<u>2020</u>
ASSETS		
Cash and cash equivalents	\$ 11,733,703	\$ 13,417,484
Investments	2,514,059	2,507,998
Receivables (net of allowances)		
Taxes	2,924,472	2,393,311
Accounts and other	1,636,735	1,854,763
Due from other funds	678,444	-
Inventory	134,373	99,871
Prepaid items	28,090	14,916
Restricted assets:		
Cash and cash equivalents	<u>946,454</u>	<u>867,708</u>
Total Assets	<u>20,596,330</u>	<u>21,156,051</u>
LIABILITIES		
Accounts payable	921,978	972,066
Accrued salaries and benefits	1,180,560	1,074,546
Customer deposits	1,007	141,987
Due to other governments	60,492	123,911
Due to other funds	16,139	16,139
Unearned revenues	<u>40,589</u>	<u>39,159</u>
Total Liabilities	<u>2,220,765</u>	<u>2,367,808</u>
DEFERRED INFLOWS OF RESOURCES		
Unavailable revenues	<u>1,896,998</u>	<u>1,819,265</u>
Total Deferred Inflows of Resources	<u>1,896,998</u>	<u>1,819,265</u>
FUND BALANCES		
Nonspendable for:		
Inventory	134,373	99,871
Prepaid items	28,090	14,916
Restricted for:		
Police and public safety/municipal court	287,199	226,092
Municipal court	816,152	823,452
PEG capital fees	889,139	807,140
Animal control	42,416	33,408
Veterans	-	2,109
Scholarships	116,505	104,156
Committed for:		
Civic Center/CIED	907,676	687,780
Assigned for:		
Property replacement	902,849	891,319
Subsequent year's budget	598,549	1,081,160
Unassigned	<u>11,755,619</u>	<u>12,197,575</u>
Total Fund Balances	<u>16,478,567</u>	<u>16,968,978</u>
Total Liabilities, Deferred inflows of Resources, and Fund Balances	<u>\$ 20,596,330</u>	<u>\$ 21,156,051</u>

CITY OF SCHERTZ, TEXAS**COMPARATIVE SCHEDULES OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
GENERAL FUND****FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED 2020)**

	<u>2021</u>	<u>2020</u>
REVENUES		
Taxes	\$ 27,913,222	\$ 25,000,163
Permits and fees	1,593,382	1,750,837
Service fees	1,628,589	1,724,150
Fines and fees	637,638	833,148
Intergovernmental	1,623,282	516,475
Investment earnings	29,147	300,369
Miscellaneous	781,333	559,393
Total Revenues	<u>34,206,593</u>	<u>30,684,535</u>
EXPENDITURES		
Current:		
General government	6,008,482	5,381,790
Public safety	17,166,400	15,690,248
Public environment	1,382,185	1,270,894
Parks and recreation	2,494,684	2,067,649
Cultural	1,040,276	1,034,435
Administration	3,858,317	2,799,004
Capital outlay	566,078	1,175,241
Debt service:		
Principal	-	44,544
Total Expenditures	<u>32,516,422</u>	<u>29,463,805</u>
Excess (Deficiency) of Revenues Over Expenditures	1,690,171	1,220,730
OTHER FINANCING SOURCES (USES)		
Proceeds from capital lease	136,535	-
Transfers out	(2,317,117)	(4,000,169)
Total Other Financing Sources (Uses)	<u>(2,180,582)</u>	<u>(4,000,169)</u>
NET CHANGE IN FUND BALANCE	(490,411)	(2,779,439)
FUND BALANCES - BEGINNING	<u>16,968,978</u>	<u>19,748,417</u>
FUND BALANCES - ENDING	<u>\$ 16,478,567</u>	<u>\$ 16,968,978</u>

CITY OF SCHERTZ, TEXAS

COMPARATIVE BALANCE SHEETS

ECONOMIC DEVELOPMENT CORPORATION

SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)

	<u>2021</u>	<u>2020</u>
ASSETS		
Cash and cash equivalents	\$ 18,542,752	\$ 22,032,946
Investments	2,206,135	2,169,760
Receivables, net of allowances:		
Taxes	1,054,214	818,817
Accounts and other	7,949	7,949
Prepaid items	<u>990</u>	<u>-</u>
Total Assets	<u>21,812,040</u>	<u>25,029,472</u>
LIABILITIES		
Accounts payable	<u>5,809</u>	<u>4,010,846</u>
Total Liabilities	<u>5,809</u>	<u>4,010,846</u>
FUND BALANCES		
Restricted for:		
Economic development	<u>21,806,231</u>	<u>21,018,626</u>
Total Fund Balances	<u>21,806,231</u>	<u>21,018,626</u>
Total Liabilities and Fund Balances	\$ <u>21,812,040</u>	\$ <u>25,029,472</u>

CITY OF SCHERTZ, TEXAS**COMPARATIVE SCHEDULES OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
ECONOMIC DEVELOPMENT CORPORATION****FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED 2020)**

	<u>2021</u>	<u>2020</u>
REVENUES		
Taxes	\$ 5,615,928	\$ 4,819,288
Investment earnings	<u>56,144</u>	<u>288,740</u>
Total Revenues	<u>5,672,072</u>	<u>5,108,028</u>
EXPENDITURES		
Current:		
General government	306,025	4,886,456
Administration	<u>528,442</u>	<u>480,202</u>
Total Expenditures	<u>834,467</u>	<u>5,366,658</u>
Excess (Deficiency) of Revenues Over (Under) Expenditures	4,837,605	(258,630)
OTHER FINANCING SOURCES (USES)		
Transfers out	(4,050,000)	(500,000)
Total Other Financing Sources (Uses)	<u>(4,050,000)</u>	<u>(500,000)</u>
NET CHANGE IN FUND BALANCE	787,605	(758,630)
FUND BALANCES - BEGINNING	<u>21,018,626</u>	<u>21,777,256</u>
FUND BALANCES - ENDING	<u>\$ 21,806,231</u>	<u>\$ 21,018,626</u>

CITY OF SCHERTZ, TEXAS

**COMPARATIVE BALANCE SHEETS
DEBT SERVICE FUND**

SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)

	<u>2021</u>	<u>2020</u>
ASSETS		
Cash and cash equivalents	\$ 1,087,376	\$ 785,919
Receivables, net of allowances:		
Taxes	<u>133,778</u>	<u>120,816</u>
Total Assets	<u>1,221,154</u>	<u>906,735</u>
DEFERRED INFLOWS OF RESOURCES		
Unavailable revenues	<u>133,778</u>	<u>120,816</u>
Total Deferred Inflows of Resources	<u>133,778</u>	<u>120,816</u>
FUND BALANCES		
Restricted for:		
Debt service	<u>1,087,376</u>	<u>785,919</u>
Total Fund Balances	<u>1,087,376</u>	<u>785,919</u>
Total Deferred Inflows of Resources and Fund Balances	\$ <u>1,221,154</u>	\$ <u>906,735</u>

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
DEBT SERVICE FUND
BUDGET AND ACTUAL**

**FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE ACTUAL TOTALS FOR 2020)**

	Original Budget	Final Budget	2021 Actual Amounts	Variance With Final Budget Positive (Negative)	2020 Actual Amounts
REVENUES					
Property taxes	\$ 6,980,821	\$ 6,980,821	\$ 7,102,016	\$ 121,195	\$ 6,714,516
Investment income	15,000	15,000	1,593	(13,407)	19,900
Miscellaneous	<u>100,000</u>	<u>100,000</u>	<u>125,000</u>	<u>25,000</u>	<u>75,000</u>
Total Revenue	<u>7,095,821</u>	<u>7,095,821</u>	<u>7,228,609</u>	<u>132,788</u>	<u>6,809,416</u>
EXPENDITURES					
Debt service:					
Principal	5,065,000	5,065,000	4,955,000	110,000	4,885,000
Interest and fiscal charges	1,979,861	1,979,861	1,801,467	178,394	2,136,523
Bond issue costs	<u>50,000</u>	<u>50,000</u>	<u>140,140</u>	<u>(90,140)</u>	<u>4,200</u>
Total Expenditures	<u>7,094,861</u>	<u>7,094,861</u>	<u>6,896,607</u>	<u>198,254</u>	<u>7,025,723</u>
Excess (Deficiency) of Revenues over Expenditures	960	960	332,002	(65,466)	(216,307)
OTHER FINANCING SOURCES (USES)					
Issuance of refunding debt	-	-	7,555,000	7,555,000	-
Premium on refunding debt	-	-	629,992	629,992	-
Payment to refunding escrow agent	-	-	(8,223,452)	(8,223,452)	-
Transfers in	<u>-</u>	<u>-</u>	<u>7,915</u>	<u>7,915</u>	<u>-</u>
Total Other Financing Sources (Uses)	<u>-</u>	<u>-</u>	<u>(30,545)</u>	<u>(30,545)</u>	<u>-</u>
NET CHANGE IN FUND BALANCE	960	960	301,457	300,497	(216,307)
FUND BALANCE - BEGINNING	<u>785,919</u>	<u>785,919</u>	<u>785,919</u>	<u>-</u>	<u>1,002,226</u>
FUND BALANCE - ENDING	<u>\$ 786,879</u>	<u>\$ 786,879</u>	<u>\$ 1,087,376</u>	<u>\$ 300,497</u>	<u>\$ 785,919</u>

CITY OF SCHERTZ, TEXAS

**COMPARATIVE BALANCE SHEETS
CAPITAL PROJECTS FUND**

SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)

	<u>2021</u>	<u>2020</u>
ASSETS		
Cash and cash equivalents	\$ 13,229,954	\$ 10,677,080
Accounts receivable, net of allowance	<u>258,142</u>	<u>-</u>
Total Assets	<u>13,488,096</u>	<u>10,677,080</u>
LIABILITIES		
Accounts payable	162,695	428,387
Retainage payable	<u>154,437</u>	<u>111,135</u>
Total Liabilities	<u>317,132</u>	<u>539,522</u>
FUND BALANCES		
Restricted for:		
Capital improvement	<u>5,185,166</u>	<u>6,065,616</u>
Committed for:		
Capital projects	<u>7,985,798</u>	<u>4,071,942</u>
Total Fund Balances	<u>13,170,964</u>	<u>10,137,558</u>
Total Liabilities and Fund Balance	\$ <u>13,488,096</u>	\$ <u>10,677,080</u>

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CITY OF SCHERTZ, TEXAS**COMPARATIVE SCHEDULES OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
CAPITAL PROJECTS FUND**

FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARTIVE TOTALS FOR THE YEAR ENDED 2020)

	<u>2021</u>	<u>2020</u>
REVENUES		
Intergovernmental	\$ 724,993	\$ -
Investment earnings	12,333	154,977
Miscellaneous	<u>501,922</u>	<u>132,901</u>
Total Revenues	<u>1,239,248</u>	<u>287,878</u>
EXPENDITURES		
Capital outlay	<u>4,582,289</u>	<u>7,837,991</u>
Total Expenditures	<u>4,582,289</u>	<u>7,837,991</u>
Excess (Deficiency) of Revenues Over Expenditures	(3,343,041)	(7,550,113)
OTHER FINANCING SOURCES (USES)		
Transfers in	6,384,362	4,500,000
Transfers out	(7,915)	-
Total Other Financing Sources (Uses)	<u>6,376,447</u>	<u>4,500,000</u>
NET CHANGE IN FUND BALANCE	3,033,406	(3,050,113)
FUND BALANCES - BEGINNING	<u>10,137,558</u>	<u>13,187,671</u>
FUND BALANCES - ENDING	\$ <u>13,170,964</u>	\$ <u>10,137,558</u>

CITY OF SCHERTZ, TEXAS

COMBINING BALANCE SHEET
NONMAJOR GOVERNMENTAL FUNDS

SEPTEMBER 30, 2021

	Special Revenue Funds			
	Hotel Occupancy Fund	Park Fund	Tree Mitigation	Treasury Forfeitures
ASSETS				
Cash and cash equivalents	\$ 2,240,387	\$ 287,017	\$ 660,896	\$ 32,560
Accounts receivable, net of allowance	<u>64,942</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Assets	<u>2,305,329</u>	<u>287,017</u>	<u>660,896</u>	<u>32,560</u>
LIABILITIES				
Accounts payable	3,613	-	13,000	-
Due to other funds	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Liabilities	<u>3,613</u>	<u>-</u>	<u>13,000</u>	<u>-</u>
FUND BALANCES				
Restricted for:				
Tourism development	2,301,716	-	-	-
Parks and tree mitigation	-	287,017	647,896	-
Police forfeiture	-	-	-	32,560
Roadways	-	-	-	-
Historical Committee and library	-	-	-	-
Unassigned	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Fund Balances	<u>2,301,716</u>	<u>287,017</u>	<u>647,896</u>	<u>32,560</u>
Total Liabilities and Fund Balances	<u>\$ 2,305,329</u>	<u>\$ 287,017</u>	<u>\$ 660,896</u>	<u>\$ 32,560</u>

Special Revenue Funds					Capital Projects Fund	Total Nonmajor Governmental Funds
Justice Forfeitures	State Forfeitures	Grant Fund	Library Advisory Board	Historical Committee Fund	Capital Recovery Roadways	
\$ 128,310	\$ 4,779	\$ 6,287	\$ 64,697	\$ 14,398	\$ 1,801,040	\$ 5,240,371
-	-	-	-	-	-	64,942
<u>128,310</u>	<u>4,779</u>	<u>6,287</u>	<u>64,697</u>	<u>14,398</u>	<u>1,801,040</u>	<u>5,305,313</u>
31,486	-	2,886	133	100	-	51,218
-	-	678,444	-	-	-	678,444
<u>31,486</u>	<u>-</u>	<u>681,330</u>	<u>133</u>	<u>100</u>	<u>-</u>	<u>729,662</u>
-	-	-	-	-	-	2,301,716
-	-	-	-	-	-	934,913
96,824	4,779	-	-	-	-	134,163
-	-	-	-	-	1,801,040	1,801,040
-	-	-	64,564	14,298	-	78,862
-	-	(675,043)	-	-	-	(675,043)
<u>96,824</u>	<u>4,779</u>	<u>(675,043)</u>	<u>64,564</u>	<u>14,298</u>	<u>1,801,040</u>	<u>4,575,651</u>
\$ <u>128,310</u>	\$ <u>4,779</u>	\$ <u>6,287</u>	\$ <u>64,697</u>	\$ <u>14,398</u>	\$ <u>1,801,040</u>	\$ <u>5,305,313</u>

CITY OF SCHERTZ, TEXAS

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCE
NONMAJOR GOVERNMENTAL FUNDS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

	Special Revenue Funds			
	Hotel Occupancy Fund	Park Fund	Tree Mitigation	Treasury Forfeiture
REVENUES				
Occupancy tax	\$ 518,921	\$ -	\$ -	\$ -
Permits and fees	-	-	219,513	-
Service fees	-	-	-	-
Fines and fees	-	-	-	-
Intergovernmental	-	-	-	-
Investment earnings	2,095	293	650	-
Miscellaneous	-	-	-	-
Total Revenues	<u>521,016</u>	<u>293</u>	<u>220,163</u>	<u>-</u>
EXPENDITURES				
Current:				
General government	263,300	-	-	-
Public safety	-	-	-	-
Parks and recreation	-	4,500	35,495	-
Cultural	-	-	-	-
Administration	72,464	-	-	-
Capital outlay	-	1,012	-	-
Total Expenditures	<u>335,764</u>	<u>5,512</u>	<u>35,495</u>	<u>-</u>
Excess (Deficiency) of Revenue Over Expenditures	<u>185,252</u>	<u>(5,219)</u>	<u>184,668</u>	<u>-</u>
OTHER FINANCING SOURCES (USES)				
Transfer in	-	-	-	-
Total Other Financing Sources (Uses)	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
NET CHANGE IN FUND BALANCES	<u>185,252</u>	<u>(5,219)</u>	<u>184,668</u>	<u>-</u>
FUND BALANCES - BEGINNING	<u>2,116,464</u>	<u>292,236</u>	<u>463,228</u>	<u>32,560</u>
FUND BALANCES - ENDING	<u>\$ 2,301,716</u>	<u>\$ 287,017</u>	<u>\$ 647,896</u>	<u>\$ 32,560</u>

Special Revenue Funds					Capital Projects Fund	Total Nonmajor Governmental Funds
Justice Forfeitures	State Forfeitures	Grant Fund	Library Advisory Board	Historical Committee Fund	Capital Recovery Roadways	
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 518,921
-	-	-	-	-	-	219,513
-	-	-	9,104	590	902,712	912,406
5,844	-	-	-	-	-	5,844
-	-	1,931,599	-	-	-	1,931,599
176	-	-	111	-	1,828	5,153
-	-	-	13	2	-	15
<u>6,020</u>	<u>-</u>	<u>1,931,599</u>	<u>9,228</u>	<u>592</u>	<u>904,540</u>	<u>3,593,451</u>
-	-	-	-	3,108	-	266,408
94,899	7,995	535,124	-	-	-	638,018
-	-	-	-	-	-	39,995
-	-	-	19,708	-	-	19,708
-	-	-	-	-	-	72,464
<u>24,750</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>41,127</u>	<u>66,889</u>
<u>119,649</u>	<u>7,995</u>	<u>535,124</u>	<u>19,708</u>	<u>3,108</u>	<u>41,127</u>	<u>1,103,482</u>
(113,629)	(7,995)	1,396,475	(10,480)	(2,516)	863,413	2,489,969
-	-	-	-	3,109	-	3,109
-	-	-	-	3,109	-	3,109
(113,629)	(7,995)	1,396,475	(10,480)	593	863,413	2,493,078
<u>210,453</u>	<u>12,774</u>	<u>(2,071,518)</u>	<u>75,044</u>	<u>13,705</u>	<u>937,627</u>	<u>2,082,573</u>
\$ <u>96,824</u>	\$ <u>4,779</u>	\$ <u>(675,043)</u>	\$ <u>64,564</u>	\$ <u>14,298</u>	\$ <u>1,801,040</u>	\$ <u>4,575,651</u>

CITY OF SCHERTZ, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
HOTEL OCCUPANCY FUND

FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE ACTUAL TOTALS FOR 2020)

	Original Budget	Final Budget	2021 Actual Amounts	Variance With Final Budget Positive (Negative)	2020 Actual Amounts
REVENUES					
Occupancy tax	\$ 520,000	\$ 520,000	\$ 518,921	\$(1,079)	\$ 268,946
Investment earnings	<u>20,750</u>	<u>20,750</u>	<u>2,095</u>	<u>(18,655)</u>	<u>26,224</u>
Total Revenues	<u>540,750</u>	<u>540,750</u>	<u>521,016</u>	<u>(19,734)</u>	<u>295,170</u>
EXPENDITURES					
Current:					
General government	181,466	226,354	263,300	(36,946)	95,954
Administration	72,464	72,464	72,464	-	74,428
Capital outlay	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>223,189</u>
Total Expenditures	<u>253,930</u>	<u>298,818</u>	<u>335,764</u>	<u>(36,946)</u>	<u>393,571</u>
NET CHANGE IN FUND BALANCE	<u>286,820</u>	<u>241,932</u>	<u>185,252</u>	<u>(56,680)</u>	<u>(98,401)</u>
FUND BALANCE - BEGINNING	<u>2,116,464</u>	<u>2,116,464</u>	<u>2,116,464</u>	<u>-</u>	<u>2,214,865</u>
FUND BALANCE - ENDING	<u>\$ 2,403,284</u>	<u>\$ 2,358,396</u>	<u>\$ 2,301,716</u>	<u>\$(56,680)</u>	<u>\$ 2,116,464</u>

CITY OF SCHERTZ, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
PARK FUND

FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE ACTUAL TOTALS FOR 2020)

	Original Budget	Final Budget	2021 Actual Amounts	Variance With Final Budget Positive (Negative)	2020 Actual Amounts
REVENUES					
Licenses and permits	\$ 70,000	\$ 70,000	\$ -	\$(70,000)	\$ 4,000
Investment earnings	3,500	3,500	293	(3,207)	3,325
Investment earnings	-	-	-	-	1
Total Revenues	<u>73,500</u>	<u>73,500</u>	<u>293</u>	<u>(73,207)</u>	<u>7,326</u>
EXPENDITURES					
Current:					
Parks and recreation	25,000	25,000	4,500	20,500	5,760
Capital outlay	<u>100,000</u>	<u>100,000</u>	<u>1,012</u>	<u>98,988</u>	-
Total Expenditures	<u>125,000</u>	<u>125,000</u>	<u>5,512</u>	<u>119,488</u>	<u>5,760</u>
NET CHANGE IN FUND BALANCE	<u>(51,500)</u>	<u>(51,500)</u>	<u>(5,219)</u>	<u>(192,695)</u>	<u>1,566</u>
FUND BALANCE - BEGINNING	<u>292,236</u>	<u>292,236</u>	<u>292,236</u>	<u>-</u>	<u>290,670</u>
FUND BALANCE - ENDING	<u>\$ 240,736</u>	<u>\$ 240,736</u>	<u>\$ 287,017</u>	<u>\$ 46,281</u>	<u>\$ 292,236</u>

CITY OF SCHERTZ, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
TREE MITIGATION FUND

FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE ACTUAL TOTALS FOR 2020)

	Original Budget	Final Budget	2021 Actual Amounts	Variance With Final Budget Positive (Negative)	2020 Actual Amounts
REVENUES					
Licenses and permits	\$ 70,000	\$ 70,000	\$ 219,513	\$ 149,513	\$ 52,427
Investment earnings	4,500	4,500	650	(3,850)	5,569
Miscellaneous	-	-	-	-	500
Total Revenues	<u>74,500</u>	<u>74,500</u>	<u>220,163</u>	<u>145,663</u>	<u>58,496</u>
EXPENDITURES					
Current:					
Parks and recreation	<u>70,000</u>	<u>70,000</u>	<u>35,495</u>	<u>34,505</u>	<u>28,674</u>
Total Expenditures	<u>70,000</u>	<u>70,000</u>	<u>35,495</u>	<u>34,505</u>	<u>28,674</u>
NET CHANGE IN FUND BALANCE	<u>4,500</u>	<u>4,500</u>	<u>184,668</u>	<u>180,168</u>	<u>29,822</u>
FUND BALANCE - BEGINNING	<u>463,228</u>	<u>463,228</u>	<u>463,228</u>	<u>-</u>	<u>433,406</u>
FUND BALANCE - ENDING	<u>\$ 467,728</u>	<u>\$ 467,728</u>	<u>\$ 647,896</u>	<u>\$ 180,168</u>	<u>\$ 463,228</u>

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
TREASURY FORFEITURES FUND**

**FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)**

	<u>2021</u>	<u>2020</u>
REVENUES		
Fines and fees	\$ <u>-</u>	\$ <u>4,400</u>
Total Revenues	<u>-</u>	<u>4,400</u>
EXPENDITURES		
Capital outlay	<u>-</u>	<u>206</u>
Total Expenditures	<u>-</u>	<u>206</u>
NET CHANGE IN FUND BALANCE	<u>-</u>	<u>4,194</u>
FUND BALANCE - BEGINNING	<u>32,560</u>	<u>28,160</u>
FUND BALANCE - ENDING	\$ <u>32,560</u>	\$ <u>32,354</u>

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
JUSTICE FORFEITURES FUND**

**FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)**

	<u>2021</u>	<u>2020</u>
REVENUES		
Fines and fees	\$ 5,844	\$ 35,444
Investment earnings	<u>176</u>	<u>2,747</u>
Total Revenues	<u>6,020</u>	<u>38,191</u>
EXPENDITURES		
Current:		
Public safety	94,899	42,063
Capital outlay	<u>24,750</u>	<u>40,465</u>
Total Expenditures	<u>119,649</u>	<u>82,528</u>
NET CHANGE IN FUND BALANCE	<u>(113,629)</u>	<u>(44,337)</u>
FUND BALANCE - BEGINNING	<u>210,453</u>	<u>254,790</u>
FUND BALANCE - ENDING	<u>\$ 96,824</u>	<u>\$ 210,453</u>

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE**

STATE FORFEITURES FUND

**FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)**

	<u>2021</u>	<u>2020</u>
REVENUES		
Fines and fees	\$ -	\$ 7,665
Investment earnings	-	-
Total Revenues	<u>-</u>	<u>7,665</u>
EXPENDITURES		
Current:		
Public safety	<u>7,995</u>	<u>-</u>
Total Expenditures	<u>7,995</u>	<u>-</u>
NET CHANGE IN FUND BALANCE	<u>(7,995)</u>	<u>7,665</u>
FUND BALANCE - BEGINNING	<u>12,774</u>	<u>5,109</u>
FUND BALANCE - ENDING	<u>\$ 4,779</u>	<u>\$ 12,774</u>

CITY OF SCHERTZ, TEXAS

SCHEDULE OF REVENUES, EXPEDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
LIBRARY ADVISORY BOARD

FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE ACTUAL TOTALS FOR 2020)

	Original Budget	Final Budget	2021 Actual Amounts	Variance With Final Budget Positive (Negative)	2020 Actual Amounts
REVENUES					
Service fees	\$ 20,000	\$ 20,000	\$ 9,104	\$(10,896)	\$ 9,204
Investment earnings	1,000	1,000	111	(889)	850
Miscellaneous	<u>200</u>	<u>200</u>	<u>13</u>	<u>(187)</u>	<u>4</u>
Total Revenues	<u>21,200</u>	<u>21,200</u>	<u>9,228</u>	<u>(11,972)</u>	<u>10,058</u>
EXPENDITURES					
Current:					
Cultural	<u>21,200</u>	<u>21,200</u>	<u>19,708</u>	<u>1,492</u>	<u>10,456</u>
Total Expenditures	<u>21,200</u>	<u>21,200</u>	<u>19,708</u>	<u>1,492</u>	<u>10,456</u>
NET CHANGE IN FUND BALANCE	<u>-</u>	<u>-</u>	<u>(10,480)</u>	<u>(10,480)</u>	<u>(398)</u>
FUND BALANCE - BEGINNING	<u>75,044</u>	<u>75,044</u>	<u>75,044</u>	<u>-</u>	<u>75,442</u>
FUND BALANCE - ENDING	<u>\$ 75,044</u>	<u>\$ 75,044</u>	<u>\$ 64,564</u>	<u>\$(10,480)</u>	<u>\$ 75,044</u>

CITY OF SCHERTZ, TEXAS

SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
HISTORICAL COMMITTEE FUND

FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE ACTUAL TOTALS FOR 2020)

	Original Budget	Final Budget	2021 Actual Amounts	Variance With Final Budget Positive (Negative)	2020 Actual Amounts
REVENUES					
Sale of merchandise	\$ 1,000	\$ 1,000	\$ 590	\$ (410)	\$ 43
Miscellaneous	<u>-</u>	<u>-</u>	<u>2</u>	<u>2</u>	<u>-</u>
Total Revenues	<u>1,000</u>	<u>1,000</u>	<u>592</u>	<u>(408)</u>	<u>43</u>
EXPENDITURES					
Current:					
General government	<u>11,750</u>	<u>11,750</u>	<u>3,108</u>	<u>8,642</u>	<u>169</u>
Total Expenditures	<u>11,750</u>	<u>11,750</u>	<u>3,108</u>	<u>8,642</u>	<u>169</u>
Excess of Revenues Over Expenditures	<u>(10,750)</u>	<u>(10,750)</u>	<u>(2,516)</u>	<u>8,234</u>	<u>(126)</u>
OTHER FINANCING SOURCES (USES)					
Transfers in	<u>10,750</u>	<u>10,750</u>	<u>3,109</u>	<u>(7,641)</u>	<u>169</u>
Total Other Financing Sources (Uses)	<u>10,750</u>	<u>10,750</u>	<u>3,109</u>	<u>(7,641)</u>	<u>169</u>
NET CHANGE IN FUND BALANCE	<u>-</u>	<u>-</u>	<u>593</u>	<u>593</u>	<u>43</u>
FUND BALANCE - BEGINNING	<u>13,705</u>	<u>13,705</u>	<u>13,705</u>	<u>-</u>	<u>13,662</u>
FUND BALANCE - ENDING	<u>\$ 13,705</u>	<u>\$ 13,705</u>	<u>\$ 14,298</u>	<u>\$ 593</u>	<u>\$ 13,705</u>

CITY OF SCHERTZ, TEXAS

**SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
CAPITAL RECOVERY ROADWAYS**

**FOR THE YEAR ENDED SEPTEMBER 30, 2021
(WITH COMPARATIVE TOTALS FOR 2020)**

	<u>2021</u>	<u>2020</u>
REVENUES		
Service fees	\$ 902,712	\$ 850,201
Investment earnings	<u>1,828</u>	<u>1,973</u>
Total Revenues	<u>904,540</u>	<u>852,174</u>
EXPENDITURES		
Capital outlay	<u>41,127</u>	<u>-</u>
Total Expenditures	<u>41,127</u>	<u>-</u>
NET CHANGE IN FUND BALANCE	<u>863,413</u>	<u>852,174</u>
FUND BALANCE - BEGINNING	<u>937,627</u>	<u>85,453</u>
FUND BALANCE - ENDING	<u>\$ 1,801,040</u>	<u>\$ 937,627</u>

STATISTICAL SECTION

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**STATISTICAL SECTION
(Unaudited)**

This part of the City of Schertz, Texas Annual Comprehensive Financial Report presents detailed information as a context for understanding what the information in the financial statements, note disclosures, and required supplementary information says about the City's overall financial health.

Contents	Page
Financial Trends These schedules contain trend information to help the reader understand how the City's financial performance and well-being have changed over time.	86 – 95
Revenue Capacity These schedules contain information to help the reader assess the City's most significant local revenue sources.	96 - 104
Debt Capacity These schedules present information to help the reader assess the affordability of the City's current levels of outstanding debt and the City's ability to issue additional debt in the future.	105 - 110
Demographic and Economic Information These schedules offer demographic and economic indicators to help the reader understand the environment within which the City's financial activities take place.	111 - 114
Operating Information These schedules contain service and infrastructure data to help the reader understand how the information in the City's financial report relates to the services the City provides and the activities it performs.	115 - 120

CITY OF SCHERTZ, TEXAS

NET POSITION BY COMPONENT

LAST TEN FISCAL YEARS
(ACCRUAL BASIS OF ACCOUNTING)
(UNAUDITED)

	Fiscal Year			
	2012	2013	2014	2015
Governmental activities				
Net investment in capital assets	\$ 56,616,809	\$ 57,543,618	\$ 62,792,671	\$ 68,125,738
Restricted	1,917,098	7,788,354	10,401,728	13,343,280
Unrestricted	<u>8,907,326</u>	<u>6,645,418</u>	<u>8,613,239</u>	<u>1,640,519</u>
Total Governmental Activities Net Position	<u>\$ 67,441,233</u>	<u>\$ 71,977,390</u>	<u>\$ 81,807,638</u>	<u>\$ 83,109,537</u>
Business-type activities				
Net investment in capital assets	\$ 50,161,157	\$ 53,071,836	\$ 53,674,437	\$ 59,625,205
Restricted	-	-	-	-
Unrestricted	<u>11,577,645</u>	<u>11,902,282</u>	<u>16,450,988</u>	<u>14,243,922</u>
Total Business-Type Activities Net Position	<u>\$ 61,738,802</u>	<u>\$ 64,974,118</u>	<u>\$ 70,125,425</u>	<u>\$ 73,869,127</u>
Primary government				
Net investment in capital assets	\$ 106,777,966	\$ 110,615,454	\$ 116,467,108	\$ 127,750,943
Restricted	1,917,098	7,788,354	10,401,728	13,343,280
Unrestricted	<u>20,484,971</u>	<u>18,547,700</u>	<u>25,064,227</u>	<u>15,884,441</u>
Total Primary Government Net Position	<u>\$ 129,180,035</u>	<u>\$ 136,951,508</u>	<u>\$ 151,933,063</u>	<u>\$ 156,978,664</u>

TABLE 1

Fiscal Year					
2016	2017	2018	2019	2020	2021
\$ 74,237,004	\$ 84,537,238	\$ 89,266,885	\$ 89,869,766	\$ 88,959,102	\$ 98,444,714
17,095,325	20,437,116	23,391,047	28,088,355	28,664,438	28,342,438
<u>2,231,341</u>	<u>1,673,567</u>	<u>2,351,236</u>	<u>2,920,717</u>	<u>4,157,801</u>	<u>10,744,127</u>
<u>\$ 93,563,670</u>	<u>\$ 106,647,921</u>	<u>\$ 115,009,168</u>	<u>\$ 120,878,838</u>	<u>\$ 121,781,341</u>	<u>\$ 137,531,279</u>
\$ 64,210,231	\$ 70,361,035	\$ 64,871,629	\$ 68,271,075	\$ 75,969,319	\$ 83,941,882
-	10,565,463	12,626,526	13,232,638	15,071,599	8,368,736
<u>15,737,470</u>	<u>20,781,291</u>	<u>20,870,671</u>	<u>33,254,008</u>	<u>30,570,717</u>	<u>39,406,798</u>
<u>\$ 79,947,701</u>	<u>\$ 101,707,789</u>	<u>\$ 98,368,826</u>	<u>\$ 114,757,721</u>	<u>\$ 121,611,635</u>	<u>\$ 131,717,416</u>
\$ 138,447,235	\$ 154,898,273	\$ 154,138,514	\$ 158,140,841	\$ 164,928,421	\$ 182,386,596
17,095,325	20,437,116	23,391,047	41,320,993	43,736,037	36,711,174
<u>17,968,811</u>	<u>22,454,858</u>	<u>35,848,433</u>	<u>36,174,725</u>	<u>34,728,518</u>	<u>50,150,925</u>
<u>\$ 173,511,371</u>	<u>\$ 197,790,247</u>	<u>\$ 213,377,994</u>	<u>\$ 235,636,559</u>	<u>\$ 243,392,976</u>	<u>\$ 269,248,695</u>

CITY OF SCHERTZ, TEXAS

CHANGE IN NET POSITION
LAST TEN FISCAL YEARS
(ACCRUAL BASIS OF ACCOUNTING)
(UNAUDITED)

	Fiscal Year			
	2012	2013	2014	2015
Expenses				
Governmental activities:				
General government	\$ 7,802,092	\$ 7,066,087	\$ 6,958,530	\$ 6,443,227
Public safety	9,103,676	9,567,595	10,025,703	10,836,712
Public environment	3,586,087	3,622,834	3,740,538	3,876,644
Parks and recreation	1,584,605	1,807,559	1,807,136	2,164,604
Cultural	916,967	907,676	870,159	892,194
Health	357,658	344,647	407,114	470,468
Administration	1,117,044	1,180,656	1,942,312	1,845,877
Interest and other fees	<u>2,302,912</u>	<u>3,340,951</u>	<u>2,352,856</u>	<u>2,226,635</u>
Total Governmental Activities Expenses	<u>26,771,041</u>	<u>27,838,005</u>	<u>28,104,348</u>	<u>28,756,361</u>
Business-type activities:				
Water and sewer	16,349,967	16,954,871	17,762,116	18,440,959
EMS	<u>3,758,425</u>	<u>3,959,445</u>	<u>4,268,125</u>	<u>4,719,526</u>
Total Business-Type Activities Expenses	<u>20,108,392</u>	<u>20,914,316</u>	<u>22,030,241</u>	<u>23,160,485</u>
Total Primary Government Expenses	<u>46,879,433</u>	<u>48,752,321</u>	<u>50,134,589</u>	<u>51,916,846</u>
Program Revenues				
Governmental activities:				
Charges for services:				
General government	2,286,488	2,230,800	1,974,637	1,840,547
Public safety	2,216,385	2,516,547	2,536,476	2,603,476
Public environment	-	-	-	-
Parks and recreation	541,512	721,222	917,639	794,003
Cultural	279,267	305,932	309,897	325,178
Health	36,746	38,149	32,429	26,744
Operating grants and contributions	764,997	234,084	220,264	336,252
Capital grants and contributions	<u>1,178,573</u>	<u>1,531,740</u>	<u>5,756,456</u>	<u>5,509,530</u>
Total Governmental Activities Program Revenues	<u>7,303,968</u>	<u>7,578,474</u>	<u>11,747,798</u>	<u>11,435,730</u>
Business-type activities:				
Charges for services:				
Water and sewer	17,411,568	17,696,327	19,147,872	20,700,369
EMS	3,561,114	4,459,600	4,533,753	4,415,126
Capital grants and contributions	<u>828,853</u>	<u>1,301,235</u>	<u>2,809,110</u>	<u>4,158,552</u>
Total Business-Type Activities Program Revenues	<u>21,801,535</u>	<u>23,457,162</u>	<u>26,490,735</u>	<u>29,274,047</u>
Total Primary Government Program Revenues	<u>29,105,503</u>	<u>31,035,636</u>	<u>38,238,533</u>	<u>40,709,777</u>
Net (expense) revenue:				
Governmental activities	(19,467,073)	(20,259,531)	(16,356,550)	(17,320,631)
Business-type activities	<u>1,693,143</u>	<u>2,542,846</u>	<u>4,460,494</u>	<u>6,113,562</u>
Total Primary Government Net Expense	<u>(17,773,930)</u>	<u>(17,716,685)</u>	<u>(11,896,056)</u>	<u>(11,207,069)</u>

TABLE 2

Fiscal Year					
2016	2017	2018	2019	2020	2021
\$ 6,557,778	\$ 6,253,926	\$ 7,421,918	\$ 6,534,013	\$ 10,310,363	\$ 7,298,193
12,141,968	13,061,120	13,899,278	15,448,886	16,575,191	19,008,871
4,147,653	4,460,540	4,930,723	5,495,192	8,825,099	5,364,408
2,034,964	2,859,974	2,707,292	3,022,278	3,012,134	3,395,458
954,871	1,004,747	1,042,085	1,119,650	1,089,564	1,087,975
570,204	776,494	724,780	516,890	596,288	-
1,954,276	3,052,102	3,067,983	3,853,255	3,419,407	4,360,229
<u>2,240,783</u>	<u>2,355,714</u>	<u>2,125,687</u>	<u>2,196,180</u>	<u>2,028,065</u>	<u>1,797,520</u>
<u>30,602,497</u>	<u>33,824,617</u>	<u>35,919,746</u>	<u>38,186,344</u>	<u>45,856,111</u>	<u>42,312,654</u>
20,269,111	21,346,078	23,579,854	25,608,390	24,349,219	25,280,964
<u>5,004,110</u>	<u>6,006,178</u>	<u>6,110,407</u>	<u>6,529,631</u>	<u>6,051,296</u>	<u>7,784,670</u>
<u>25,273,221</u>	<u>27,352,256</u>	<u>29,690,261</u>	<u>32,138,021</u>	<u>30,400,515</u>	<u>33,065,634</u>
<u>55,875,718</u>	<u>61,176,873</u>	<u>65,610,007</u>	<u>70,324,365</u>	<u>76,256,626</u>	<u>75,378,288</u>
1,507,252	874,737	1,013,698	947,538	836,246	651,211
2,415,537	4,131,548	4,104,911	3,177,329	3,276,129	3,079,945
-	-	-	138,920	850,201	902,712
788,727	544,460	640,231	484,495	331,174	528,886
326,079	330,412	313,668	311,575	299,944	285,792
30,308	29,742	27,930	21,101	26,304	-
342,485	552,878	776,942	692,042	2,113,673	1,925,939
<u>6,227,664</u>	<u>10,043,483</u>	<u>4,744,489</u>	<u>1,319,793</u>	<u>531,096</u>	<u>7,959,576</u>
<u>11,638,052</u>	<u>16,507,260</u>	<u>11,621,869</u>	<u>7,092,793</u>	<u>8,264,767</u>	<u>15,334,061</u>
22,003,794	25,390,713	27,099,237	27,333,475	29,709,279	27,724,929
5,921,223	6,366,894	6,092,559	6,596,618	6,114,891	7,709,027
<u>2,831,126</u>	<u>6,111,474</u>	<u>3,132,348</u>	<u>1,975,524</u>	<u>292,408</u>	<u>6,935,191</u>
<u>30,756,143</u>	<u>37,869,081</u>	<u>36,324,144</u>	<u>35,905,617</u>	<u>36,116,578</u>	<u>42,369,147</u>
<u>42,394,195</u>	<u>54,376,341</u>	<u>47,946,013</u>	<u>42,998,410</u>	<u>44,381,345</u>	<u>57,703,208</u>
(18,964,445)	(17,317,357)	(24,297,877)	(31,093,551)	(37,591,344)	(26,978,593)
<u>5,482,922</u>	<u>10,516,825</u>	<u>6,633,883</u>	<u>3,767,596</u>	<u>5,716,063</u>	<u>9,303,513</u>
<u>(13,481,523)</u>	<u>(6,800,532)</u>	<u>(17,663,994)</u>	<u>(27,325,955)</u>	<u>(31,875,281)</u>	<u>(17,675,080)</u>

CITY OF SCHERTZ, TEXAS

CHANGE IN NET POSITION
LAST TEN FISCAL YEARS
(ACCRUAL BASIS OF ACCOUNTING)
(UNAUDITED)

	Fiscal Year			
	2012	2013	2014	2015
General Revenues and Other Changes in Net Position				
Governmental activities:				
Taxes				
Ad valorem	\$ 11,298,204	\$ 12,359,146	\$ 12,794,172	\$ 14,139,037
Sales	7,968,212	9,637,097	10,553,382	10,315,125
Franchise fees	1,647,712	1,681,079	2,073,162	2,263,783
Hotel/motel	470,290	503,267	552,570	563,734
Mixed drink	28,586	30,421	39,917	43,656
Investment income	60,265	54,270	43,279	56,820
Miscellaneous	621,560	505,268	180,316	197,881
Transfers	(62,294)	25,140	(50,000)	(42,235)
Total Governmental Activities	<u>22,032,535</u>	<u>24,795,688</u>	<u>26,186,798</u>	<u>27,537,801</u>
Business-type activities:				
Interest and investment earnings	36,409	53,089	31,810	47,728
Miscellaneous	666,645	664,521	609,003	344,731
Transfers	62,294	(25,140)	50,000	42,235
Total Business-Type Activities	<u>765,348</u>	<u>692,470</u>	<u>690,813</u>	<u>434,694</u>
Total Primary Government	<u>22,797,883</u>	<u>25,488,158</u>	<u>26,877,611</u>	<u>27,972,495</u>
Change in Net Position				
Governmental activities	2,565,462	4,536,157	9,830,248	10,217,170
Business-type activities	<u>2,458,491</u>	<u>3,235,316</u>	<u>5,151,307</u>	<u>6,548,256</u>
Total Primary Government	\$ <u>5,023,953</u>	\$ <u>7,771,473</u>	\$ <u>14,981,555</u>	\$ <u>16,765,426</u>

Source: City financial statements

TABLE 2

Fiscal Year					
2016	2017	2018	2019	2020	2021
\$ 15,131,997	\$ 16,166,006	\$ 17,018,950	\$ 19,151,005	\$ 19,844,912	\$ 21,463,804
10,921,489	10,844,503	12,668,555	12,506,879	14,432,152	16,838,731
2,250,815	2,208,373	2,393,182	2,357,150	2,305,225	2,305,108
544,871	499,466	520,424	514,679	268,946	518,921
43,073	42,699	43,395	60,518	70,139	68,730
187,847	448,408	909,985	1,470,258	804,674	104,613
309,275	182,754	283,496	984,257	767,779	1,408,270
29,211	9,399	19,186	(81,525)	-	-
<u>29,418,578</u>	<u>30,401,608</u>	<u>33,857,173</u>	<u>36,963,221</u>	<u>38,493,827</u>	<u>42,708,177</u>
102,642	211,466	532,367	855,216	431,555	68,354
522,221	475,733	453,374	267,788	706,296	754,268
(29,211)	(9,399)	(19,186)	81,525	-	-
<u>595,652</u>	<u>677,800</u>	<u>966,555</u>	<u>1,204,529</u>	<u>1,137,851</u>	<u>822,622</u>
<u>30,014,230</u>	<u>31,079,408</u>	<u>34,823,728</u>	<u>38,167,750</u>	<u>39,631,678</u>	<u>43,530,799</u>
10,454,133	13,084,251	9,559,296	5,869,670	902,503	15,729,584
<u>6,078,574</u>	<u>11,194,625</u>	<u>7,600,438</u>	<u>4,972,125</u>	<u>6,853,914</u>	<u>10,126,135</u>
\$ <u>16,532,707</u>	\$ <u>24,278,876</u>	\$ <u>17,159,734</u>	\$ <u>10,841,795</u>	\$ <u>7,756,417</u>	\$ <u>25,855,719</u>

CITY OF SCHERTZ, TEXAS**FUND BALANCES OF GOVERNMENTAL FUNDS**

LAST TEN FISCAL YEARS
(MODIFIED ACCRUAL BASIS OF ACCOUNTING)
(UNAUDITED)

	2012	2013	2014	2015
General fund				
Non-spendable	\$ 186,003	\$ 925,291	\$ 110,253	\$ 117,084
Restricted	1,275,501	1,599,487	1,701,408	1,748,374
Committed	-	-	-	-
Assigned	322,656	456,034	694,916	785,005
Unassigned	<u>2,560,667</u>	<u>4,206,734</u>	<u>5,587,262</u>	<u>7,280,240</u>
Total general fund	<u>\$ 4,344,827</u>	<u>\$ 7,187,546</u>	<u>\$ 8,093,839</u>	<u>\$ 9,930,703</u>
All other governmental funds				
Restricted	\$ 22,462,562	\$ 22,742,237	\$ 19,261,995	\$ 21,191,968
Committed	-	165,000	31,718	-
Assigned	347,191	244,937	31,177	6,657
Unassigned	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total all other governmental funds	<u>\$ 22,809,753</u>	<u>\$ 23,152,174</u>	<u>\$ 19,324,890</u>	<u>\$ 21,198,625</u>

Source: Balance Sheets - Governmental Funds in City's ACFRs.

TABLE 3

2016	2017	2018	2019	2020	2021
\$ 220,503	\$ 98,263	\$ 94,876	\$ 131,925	\$ 114,787	\$ 162,463
1,929,636	1,994,905	2,027,125	2,196,037	1,996,357	2,151,411
-	-	-	-	687,780	907,676
752,503	854,198	3,080,557	5,580,626	1,972,479	1,501,398
8,509,467	9,976,169	12,548,013	9,228,612	12,197,575	11,755,619
<u>\$ 11,412,109</u>	<u>\$ 12,923,535</u>	<u>\$ 17,750,571</u>	<u>\$ 17,137,200</u>	<u>\$ 16,968,978</u>	<u>\$ 16,478,567</u>
\$ 27,252,908	\$ 35,721,031	\$ 37,772,240	\$ 39,009,399	\$ 32,024,252	\$ 33,329,710
342,519	454,376	454,376	687,779	4,071,942	7,985,798
6,743	-	-	-	-	-
-	-	-	-	(2,071,518)	(675,043)
<u>\$ 27,602,170</u>	<u>\$ 36,175,407</u>	<u>\$ 38,226,616</u>	<u>\$ 39,697,178</u>	<u>\$ 34,024,676</u>	<u>\$ 40,640,465</u>

CITY OF SCHERTZ, TEXAS

CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS
LAST TEN FISCAL YEARS
(MODIFIED ACCRUAL BASIS OF ACCOUNTING)
(UNAUDITED)

	2012	2013	2014	2015
Revenues				
Taxes	\$ 21,401,991	\$ 24,181,863	\$ 26,021,730	\$ 27,348,297
Permits and fees	1,363,461	1,609,954	1,805,047	1,731,302
Service fees	1,547,007	1,739,387	1,763,964	1,797,151
Fines and fees	2,027,613	1,927,744	1,750,311	1,534,588
Intergovernmental	1,000,413	492,332	221,769	393,607
Other revenue	<u>969,921</u>	<u>767,110</u>	<u>671,731</u>	<u>689,805</u>
Total Revenues	<u>28,310,406</u>	<u>30,718,390</u>	<u>32,234,552</u>	<u>33,494,750</u>
Expenditures				
Current:				
General government	7,094,834	6,311,276	5,981,439	5,582,441
Public safety	8,690,849	9,113,840	9,409,894	10,158,401
Public environment	976,327	951,528	1,012,607	952,663
Parks and recreation	1,398,692	1,412,329	1,338,232	1,658,197
Cultural	845,124	840,595	815,691	821,146
Health	346,318	341,961	394,918	404,008
Administration	1,249,557	1,289,078	2,270,041	2,056,646
Capital outlay	1,299,843	3,277,397	8,000,467	2,314,668
Debt service:				
Principal	2,704,898	3,217,325	3,695,597	3,918,008
Interest and fiscal charges	2,313,510	2,381,171	2,108,610	2,112,746
Bond issue costs	254,971	31,750	165,650	7,992
Payment to refund agent	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Expenditures	<u>27,174,923</u>	<u>29,168,250</u>	<u>35,193,146</u>	<u>29,986,916</u>
Excess of Revenues Over (Under)				
Expenditures	1,135,483	1,550,140	(2,958,594)	3,507,834
Other Financing Sources (Uses)				
Bond & debt issuances	14,370,000	1,635,000	8,583,715	245,000
Refunding bond issuance	-	-	-	-
Premium (discount) on bond issue	175,473	-	686,137	-
Payment to refund agent	(6,698,421)	-	(9,182,250)	-
Transfer in	139,635	788,084	1,243,833	989,120
Transfer out	<u>(201,929)</u>	<u>(788,084)</u>	<u>(1,293,832)</u>	<u>(1,031,355)</u>
Net Other Financing Sources (Uses)	<u>7,784,758</u>	<u>1,635,000</u>	<u>37,603</u>	<u>202,765</u>
Net Change in Fund Balances	\$ <u>8,920,241</u>	\$ <u>3,185,140</u>	\$ <u>(2,920,991)</u>	\$ <u>3,710,599</u>
Debt Service as a Percentage of				
Noncapital Expenditures	<u>19.5%</u>	<u>21.6%</u>	<u>21.3%</u>	<u>21.3%</u>

Source: Statement of Revenues, Expenditures, and Changes in Fund Balance for Governmental Funds.

TABLE 4

2016	2017	2018	2019	2020	2021
\$ 28,865,727	\$ 29,720,578	\$ 32,632,702	\$ 34,590,008	\$ 36,802,913	\$ 41,150,087
1,493,336	2,540,045	2,557,056	1,635,461	1,807,264	1,812,895
1,789,321	2,132,299	2,159,193	2,070,293	2,583,598	2,540,995
1,441,474	1,217,621	1,049,989	953,614	880,657	643,482
401,494	397,073	609,131	1,057,681	951,604	4,582,874
1,741,436	1,897,153	1,761,285	2,454,515	1,572,473	1,512,883
<u>35,732,788</u>	<u>37,904,769</u>	<u>40,769,356</u>	<u>42,761,572</u>	<u>44,598,509</u>	<u>52,243,216</u>
5,657,998	5,394,918	6,327,133	5,881,647	10,364,369	6,580,915
11,048,767	11,870,636	12,728,222	13,985,443	15,366,593	18,107,418
1,007,326	1,128,979	1,136,052	1,112,041	1,270,894	1,382,185
1,528,356	1,885,915	1,697,872	2,393,487	2,102,083	2,534,679
869,162	921,870	955,153	1,018,109	1,044,891	1,059,984
480,175	672,934	628,054	498,871	589,616	-
2,015,573	2,912,855	3,015,239	3,795,233	3,353,634	4,459,223
10,192,398	5,492,196	7,708,625	9,083,572	9,276,886	5,215,256
4,040,975	4,473,174	4,744,116	4,565,000	4,929,544	4,955,000
1,896,911	2,113,679	2,099,190	2,069,215	2,136,523	1,801,467
449,358	214,280	129,417	189,082	4,200	140,140
-	-	-	5,489,912	-	-
<u>39,186,999</u>	<u>37,081,436</u>	<u>41,169,073</u>	<u>50,081,612</u>	<u>50,439,233</u>	<u>46,236,267</u>
(3,454,211)	823,333	(399,717)	(7,320,040)	(5,840,724)	6,006,949
10,750,000	8,870,000	4,887,829	4,620,000	-	136,535
4,185,000	-	6,035,000	5,225,000	-	7,555,000
590,432	381,931	269,212	640,115	-	629,992
(4,215,482)	-	(6,159,623)	-	-	(8,223,452)
863,583	438,803	777,487	120,503	4,500,169	6,395,386
(834,371)	(429,404)	(758,302)	(202,028)	(4,500,169)	(6,375,032)
<u>11,339,162</u>	<u>9,261,330</u>	<u>5,051,603</u>	<u>10,403,590</u>	<u>-</u>	<u>118,429</u>
\$ <u>7,884,951</u>	\$ <u>10,084,663</u>	\$ <u>4,651,886</u>	\$ <u>3,083,550</u>	\$ <u>(5,840,724)</u>	\$ <u>6,125,378</u>
<u>20.5%</u>	<u>20.4%</u>	<u>22.2%</u>	<u>17.3%</u>	<u>16.2%</u>	<u>19.9%</u>

CITY OF SCHERTZ, TEXAS

GOVERNMENTAL FUNDS TAX REVENUES BY SOURCE
LAST TEN FISCAL YEARS
(MODIFIED ACCRUAL BASIS OF ACCOUNTING)
(UNAUDITED)

<u>Fiscal Year</u>	<u>Property Tax</u>	<u>Sales & Use Tax</u>	<u>Franchise Tax</u>	<u>Mixed Beverage</u>
2012	\$ 11,287,191	\$ 7,968,212	\$ 1,647,712	\$ 28,586
2013	12,329,999	9,637,097	1,681,079	30,421
2014	12,802,668	10,553,382	2,073,162	39,917
2015	14,161,999	10,315,125	2,263,783	43,553
2016	15,105,480	10,921,489	2,250,815	43,072
2017	16,125,537	10,844,503	2,208,373	42,668
2018	17,007,148	12,668,555	2,393,182	43,384
2019	19,150,782	12,506,879	2,357,150	60,518
2020	19,726,451	14,432,152	2,305,225	70,139
2021	21,418,597	16,838,731	2,305,108	68,730

TABLE 5

Bingo		Hotel Occupancy	Total
\$	-	\$ 470,290	\$ 21,401,991
	-	503,267	24,181,863
	31	552,570	26,021,730
	103	563,734	27,348,297
	1	544,870	28,865,727
	31	499,466	29,720,578
	11	520,424	32,632,704
	24	514,679	34,590,032
	24	268,946	36,802,937
	24	518,921	41,150,111

CITY OF SCHERTZ, TEXAS**TABLE 6****TOTAL WATER AND SEWER CONSUMPTION AND RATES****LAST TEN FISCAL YEARS**

Fiscal Year Ended September 30,	Total Water & Sewer Consumption (In Gallons)	Water & Sewer Base Rate	Water & Sewer Initial Rate Per 1,000 Gallons
2021	1,629,336,300	38.15	6.97
2020	1,982,664,200	38.15	6.97
2019	1,622,930,500	37.15	6.84
2018	1,583,312,400	35.61	6.53
2017	1,583,462,300	34.35	6.21
2016	1,509,250,000	30.11	5.73
2015	1,472,948,300	26.54	5.43
2014	1,543,351,600	24.38	5.17
2013	1,550,039,700	22.69	4.84
2012	1,604,952,300	22.69	4.84

CITY OF SCHERTZ, TEXAS

TABLE 7

PRINCIPAL WATER AND SEWER CONSUMERS

LAST TEN FISCAL YEARS

TAXPAYERS	2021			2012		
	Total Water Consumption (In Gallons)	Rank	Percentage of Total City Water Consumption	Total Water Consumption (In Gallons)	Rank	Percentage of Total City Water Consumption
Caterpillar	20,975,100	1	1.29%			
City of Cibolo	17,972,200	2	1.10%			
Republic Beverage Company	5,824,300	3	0.36%			
Sysco	8,056,600	4	0.49%	18,163,300	2	1.13%
Colgate Inc.	4,209,200	5	0.26%	6,766,200	4	0.42%
Silver Tree Nursing Rehab.	4,203,100	6	0.26%	6,304,900	6	0.39%
IPT San Antonio Logistics	4,173,400	7	0.26%	4,444,100	9	0.28%
YMCA	4,067,200	8	0.25%			
Atrium Inn	3,396,200	9	0.21%			
Manco Structures	3,331,300	10	0.20%			
Lions Fut Ball Club				25,141,000	1	1.57%
Beck Readymix Concrete				8,567,600	3	0.53%
IPT San Antonio Logistics				6,447,400	5	0.40%
Manco Structures				6,275,400	7	0.39%
Big Time Management				5,966,500	8	0.37%
City of Schertz (Soccer Field)				4,196,400	10	0.26%
TOTAL	<u>76,208,600</u>		4.68%	<u>92,272,800</u>		5.75%
Total City Water Consumption	1,629,336,300			1,604,952,300		

CITY OF SCHERTZ, TEXAS

TABLE 8

DIRECT AND OVERLAPPING PROPERTY TAX RATES

**LAST TEN FISCAL YEARS
(UNAUDITED)**

Fiscal Year	City Direct Rates			Overlapping School Districts	
	Basic Rate	Debt Service	Total	Schertz-Cibolo-Universal City ISD	Comal ISD
2021	0.3470	0.1651	0.5121	1.4106	1.2757
2020	0.3496	0.1650	0.5146	1.4200	1.3200
2019	0.3497	0.1649	0.5146	1.4900	1.3200
2018	0.3248	0.1662	0.4910	1.4900	1.3900
2017	0.3168	0.1743	0.4911	1.4700	1.3900
2016	0.3159	0.1752	0.4911	1.4900	1.3900
2015	0.3164	0.1810	0.4974	1.4900	1.3900
2014	0.3010	0.1964	0.4974	1.4900	1.4300
2013	0.2993	0.2006	0.4999	1.4600	1.4300
2012	0.2993	0.1850	0.4843	1.4350	1.4300

Overlapping Counties						
Fiscal Year	Bexar			Community		
	Bexar County	Hospital District	River Authority	College District	Comal County	Guadalupe County
2021	0.2624	0.2762	0.0186	0.1492	0.3224	0.3854
2020	0.2774	0.2762	0.0186	0.1492	0.3224	0.3319
2019	0.2774	0.2762	0.0186	0.1492	0.2952	0.3319
2018	0.2928	0.2762	0.0173	0.1492	0.3078	0.3799
2017	0.2928	0.2762	0.0173	0.1492	0.2928	0.3851
2016	0.2929	0.2762	0.0173	0.1492	0.2929	0.3851
2015	0.2929	0.2762	0.0178	0.1492	0.2929	0.3941
2014	0.2782	0.2762	0.0174	0.1492	0.2782	0.3999
2013	0.3052	0.2762	0.0174	0.1416	0.3504	0.4036
2012	0.3269	0.2762	0.0167	0.1416	0.3340	0.4036

CITY OF SCHERTZ, TEXAS

TABLE 9

PRINCIPAL PROPERTY OF TAX PAYERS

CURRENT YEAR AND NINE YEARS AGO

Taxpayer	2021			2012		
	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value
SYSCO San Antonio, Inc.	\$ 141,147,340	1	3.28%	\$ 44,955,071	2	2.28%
Caterpillar Inc.	107,425,724	2	2.49%	39,710,625	3	2.02%
Amazon Com Services Inc	83,888,434	3	1.95%			
Texas Circle 161 LLC	58,777,703	4	1.36%			
Republic Beverage Company	57,556,210	5	1.34%	47,821,320	1	2.43%
Colfin 2018-3 Industrial Owner LLC	51,009,011	6	1.18%			
1290 Entertainment LLC	19,923,909	7	0.46%			
H.E.Butt Grocery Co.	18,099,778	8	0.42%			
EM Limited Partnership	17,800,000	9	0.41%			
Piret(Doer Lane) Holdings LLC	<u>17,536,180</u>	10	<u>0.41%</u>			
Capital Group Companies Inc.				23,928,015	4	1.22%
San Antonio MTA Lp				23,026,185	5	1.17%
Capital Group Companies Inc.				17,587,923	6	0.89%
SC Schertz LLC				16,900,000	7	0.86%
Eye Care Centers of America Inc.				14,471,578	8	0.74%
Salof Properties II LLC				14,300,000	9	0.73%
Wal-Mart Real Estate Business Trust				<u>13,137,327</u>	10	<u>0.67%</u>
Totals	\$ <u>573,164,289</u>		<u>13.31%</u>	\$ <u>255,838,044</u>		<u>12.99%</u>
Total Taxable Assessed Value	\$ <u>4,306,840,068</u>			\$ <u>1,968,808,829</u>		

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CITY OF SCHERTZ, TEXAS

TABLE 10

PROPERTY TAX LEVIES AND COLLECTIONS

LAST TEN FISCAL YEARS
(UNAUDITED)

Fiscal Year Ended September 30,	Taxes Levied for the Fiscal Year	Collected Within Fiscal Year of Levy		Collections In Subsequent Years	Total Collections To Date	
		Amount	% of Levy		Amount	% of Levy
2021	\$ 22,011,090	\$ 21,787,625	98.98%	\$ -	\$ 21,787,625	98.98%
2020	20,854,329	20,758,493	99.54%	68,692	20,827,185	99.87%
2019	19,922,568	19,825,244	99.51%	85,062	19,910,306	99.94%
2018	18,010,824	17,899,825	99.38%	71,342	17,971,167	99.78%
2017	17,356,822	17,241,556	99.34%	72,675	17,314,231	99.75%
2016	16,238,180	16,160,248	99.52%	57,835	16,218,083	99.88%
2015	14,793,867	14,738,760	99.63%	44,730	14,783,490	99.93%
2014	13,383,759	13,297,258	99.35%	68,412	13,365,670	99.86%
2013	12,536,540	12,455,336	99.35%	71,432	12,526,768	99.92%
2012	11,239,572	11,159,974	99.29%	71,740	11,231,714	99.93%

CITY OF SCHERTZ, TEXAS**TAXABLE ASSESSED VALUE****LAST TEN FISCAL YEARS
(UNAUDITED)**

Fiscal Year Ended September 30,	Taxable Value January 1,	Residential Property	Commercial Property
2021	2020	\$ 3,060,963,760	\$ 1,505,592,717
2020	2019	3,004,686,341	1,613,615,732
2019	2018	2,860,333,982	1,401,636,211
2018	2017	2,049,067,806	2,344,365,139
2017	2016	1,895,085,016	2,269,590,522
2016	2015	1,702,601,947	2,087,223,204
2015	2014	1,568,651,309	1,793,803,709
2014	2013	1,445,731,509	1,540,565,195
2013	2012	1,383,423,359	1,396,349,905
2012	2011	1,337,223,390	1,233,687,039

*Taxable Assessed Value is before any applicable freeze adjustments.

Source: Bexar, Comal and Guadalupe County Appraisal Districts.

TABLE 11

Tax-Exempt Property		Other Property		Total Taxable Assessed Value*	Total Direct Tax Rate
\$	(716,028,336)	\$	276,109,231	\$ 4,070,815,340	0.5121
	(716,028,336)		250,185,870	4,152,459,607	0.5146
	(621,773,006)		260,571,835	3,900,769,022	0.5146
	(757,265,921)		146,860,809	3,647,504,903	0.4911
	(649,173,041)		132,002,406	3,375,850,131	0.4911
	(544,328,535)		130,353,515	3,037,267,611	0.4974
	(460,271,461)		135,084,054	2,752,562,574	0.4974
	(340,747,650)		107,013,520	2,600,365,551	0.4999
	(285,245,142)		105,837,429	2,411,270,623	0.4843
	(262,591,896)		102,952,090	2,363,893,708	0.4493

CITY OF SCHERTZ, TEXAS

RATIOS OF OUTSTANDING DEBT BY TYPE

LAST TEN FISCAL YEARS

Fiscal Year	Governmental Activities				Business-Type Activities	
	General Obligation Bonds	Certificates of Obligation	Tax Notes	Capital Lease	Revenue Bonds	Certificates of Obligation
2021	40,390,000	14,200,000	155,000	136,535	-	\$ 10,655,000
2020	44,620,000	15,415,000	345,000	25,695	-	11,200,000
2019	48,320,000	16,235,000	530,000	25,699	-	12,330,000
2018	52,752,896	13,636,966	715,000	34,264	-	13,211,178
2017	56,613,614	9,011,415	1,230,000	25,147	-	8,174,779
2016	56,352,272	4,057,189	1,740,000	58,321	-	8,331,966
2015	53,410,128	277,801	1,210,000	91,495	-	8,946,153
2014	56,487,433	543,934	1,585,000	123,370	-	9,561,204
2013	58,693,750	801,767	2,155,000	22,398	2,215,000	5,048,233
2012	60,878,759	1,581,300	190,000	60,190	2,342,656	5,383,700

TABLE 12

Business-Type Activities					
General Obligation Bonds	Capital Lease	Tax Notes	Total Primary Government	Percent of Gross Income	Per Capita
\$ 2,895,000	\$ 475,121	\$ -	\$ 68,906,656	4.25%	1,619
3,685,000	134,662	150,000	75,575,357	4.50%	1,769
4,445,000	199,421	460,000	82,545,120	5.60%	1,932
2,127,657	289,553	765,000	83,532,514	5.98%	2,028
2,533,626	92,721	1,065,000	75,076,605	6.22%	1,996
3,014,595	162,262	1,360,000	75,076,605	6.39%	1,979
3,490,564	231,803	1,640,000	69,297,944	5.99%	1,830
3,966,533	347,705	65,000	72,680,179	6.35%	1,992
2,127,502	-	130,000	71,193,650	6.50%	1,982
2,413,471	-	190,000	73,040,076	8.15%	2,117

RATIOS OF GENERAL BONDED DEBT OUTSTANDING
LAST TEN FISCAL YEARS

Fiscal Year	General Bonded Debt Outstanding				Percentage of Actual Taxable Value of Property	Per Capita
	General Obligation Bonds	Certificates of Obligation	Less: Amounts Available for Debt Service	Total		
2021	\$ 43,285,000	\$ 24,855,000	\$ (934,899)	\$ 67,205,101	1.65%	1,558
2020	46,223,908	15,801,473	(1,051,874)	60,973,507	1.47%	1,481
2019	54,687,960	16,834,029	(1,084,908)	70,437,081	1.81%	1,785
2018	54,880,553	13,636,966	(809,427)	67,708,092	1.86%	1,785
2017	59,147,240	9,011,415	(924,989)	67,233,666	1.99%	1,776
2016	59,366,867	4,057,189	(813,306)	62,610,750	2.06%	1,716
2015	56,900,692	277,801	(847,178)	56,331,315	2.05%	1,568
2014	60,453,966	543,934	(517,199)	60,480,701	2.33%	1,753
2013	60,821,252	801,767	(227,674)	61,395,345	2.55%	1,830
2012	63,292,230	1,581,300	(117,250)	64,756,280	2.74%	2,418

DIRECT AND OVERLAPPING GOVERNMENTAL ACTIVITIES DEBT

CURRENT YEAR

<u>Governmental Unit</u>	<u>Debt Outstanding</u>	<u>Estimated Percentage Applicable*</u>	<u>Estimated Share of Overlapping Debt</u>
<i>Debt repaid with property taxes:</i>			
Alamo CCD	\$ 437,790,000	0.32%	\$ 1,400,928
Bexar County	1,541,429,243	0.32%	4,932,574
Bexar County Hospital District	916,855,010	0.32%	2,933,936
Comal County	130,723,964	4.18%	5,464,262
Comal ISD	725,695,179	4.42%	32,075,727
Guadalupe County	17,905,000	20.10%	3,598,905
Schertz-Cibolo-Universal ISD	384,573,190	48.29%	<u>185,710,393</u>
Subtotal, Overlapping Debt			236,116,724
City Governmental Activities Direct Debt			<u>54,881,535</u>
TOTAL NET OVERLAPPING DEBT			\$ <u>290,998,259</u>

NOTES: The overlapping debt was received from the Municipal Advisory Council of Texas. Details regarding the City's outstanding debt can be found in the notes to the basic financial statements.

Overlapping debt is the proportionate share of the debts of local jurisdictions located wholly or in part within the limits of the City of Shertz. This schedule is intended to demonstrate the total debt that the City of Shertz property tax payers will be expected to repay. The amount of debt applicable to the City of Schertz is computed by (a) determining what portion of total assessed value of the overlapping jurisdiction lies within the limits of the City and (b) applying this percentage to the total governmental activities debt of the overlapping jurisdiction.

DEBT MARGIN INFORMATION

LAST TEN FISCAL YEARS

Assessed Value, 2020 Tax Roll \$ 4,070,815,340

Debt Limit - Texas statutes do not provide a legal debt limit for cities; however, through accepted practice a practical "economic" debt limit is considered to be 10% of the assessed value.

\$ 407,081,534

Amount of Applicable Debt:

General Bonded Debt	\$ 54,881,535	
Less Debt Service Net Position	(934,899)	<u>53,946,636</u>

DEBT MARGIN \$ 353,134,898

Total Net Debt as a Percentage of Debt Margin 15.28%

	Fiscal Year		
	2016	2017	2018
Assessed Value	\$ 3,375,850,131	\$ 3,647,504,903	\$ 3,783,027,833
Debt Limit	337,585,013	364,750,490	378,302,783
Total Net Debt Applicable to Limit	<u>61,181,169</u>	<u>65,792,916</u>	<u>66,329,699</u>
Total Debt Margin	\$ <u>276,403,844</u>	\$ <u>298,957,574</u>	\$ <u>311,973,084</u>
	2013	2014	2015
Assessed Value	\$ 2,600,365,551	\$ 2,752,562,574	\$ 3,037,267,611
Debt Limit	260,036,555	275,256,257	303,726,761
Total Net Debt Applicable to Limit	<u>60,499,568</u>	<u>56,803,499</u>	<u>53,424,303</u>
Total Debt Margin	\$ <u>199,536,987</u>	\$ <u>218,452,758</u>	\$ <u>250,302,458</u>
	2010	2011	2012
Assessed Value	\$ 2,363,893,708	\$ 2,411,270,623	\$ 2,600,365,551
Debt Limit	236,389,371	241,127,062	260,036,555
Total Net Debt Applicable to Limit	<u>55,298,550</u>	<u>60,973,626</u>	<u>60,499,568</u>
Total Debt Margin	\$ <u>181,090,821</u>	\$ <u>180,153,436</u>	\$ <u>199,536,987</u>

CITY OF SCHERTZ, TEXAS

TABLE 16

PLEDGED REVENUE COVERAGE

LAST TEN FISCAL YEARS

	Water Revenue Bonds						
	Utility	Less:	Net	Debt Service			
Fiscal	Service	Operating	Available				
Year	Charges	Expenses	Revenue	Principal	Interest	Coverage	
2021	\$ 28,030,614	\$ 22,231,246	\$ 5,799,368	\$ 1,856,953	\$ 515,413	2.44	
2020	29,735,911	24,032,772	5,703,139	1,961,953	612,643	2.22	
2019	27,246,250	22,622,986	4,623,264	1,845,132	561,880	1.92	
2018	27,099,237	20,802,263	6,296,974	1,671,134	391,609	3.05	
2017	25,390,713	18,697,162	6,693,551	1,554,541	368,390	3.48	
2016	22,003,794	17,603,487	4,400,307	1,441,741	417,346	2.37	
2015	20,700,369	15,916,597	4,783,772	1,448,407	428,912	2.55	
2014	19,147,872	15,246,653	3,901,219	1,010,500	426,100	2.72	
2013	17,696,327	14,553,274	3,143,053	728,800	359,680	2.89	
2012	17,411,568	14,185,126	3,226,442	697,100	396,968	2.95	

NOTE: Details regarding the City's outstanding debt can be found in the notes to the basic financial statements. Operating expenses do not include the depreciation, interest, or amortization expenses.

CITY OF SCHERTZ, TEXAS

TABLE 17

DEMOGRAPHIC AND ECONOMIC STATISTICS

LAST TEN FISCAL YEARS

Fiscal Year	Population	Personal Income	Per Capita Personal Income	Median Age	Education Level in Years of Schooling	School Enrollment	Unemployment Rate
2021	43,125	\$ 1,641,725,625	\$ 38,069	37.6	16.2	15,887	3.9%
2020	42,734	1,680,129,944	39,316	37.4	16.2	15,675	5.1%
2019	41,948	1,473,255,708	35,121	38.0	16.2	15,925	2.7%
2018	41,182	1,396,481,620	33,910	37.3	15.9	15,817	3.2%
2017	39,453	1,266,046,770	32,090	37.2	15.9	15,497	3.8%
2016	37,938	1,175,319,240	30,980	36.9	15.8	15,460	3.4%
2015	37,865	1,157,835,970	30,578	36.1	15.6	15,009	3.2%
2014	36,477	1,144,465,875	31,375	36.9	15.4	14,515	5.1%
2013	35,929	1,095,331,494	30,486	37.1	15.4	14,058	5.5%
2012	34,499	895,739,206	25,964	36.8	15.4	13,016	5.6%

Sources: Population, personal income, median age and education level information provided by City Economic Development Corporation. School enrollment provided by Schertz-Cibolo-Universal City Independent School District. Unemployment data provided by Texas Workforce Commission.

CITY OF SCHERTZ, TEXAS

TABLE 18

TOP TEN PRINCIPAL EMPLOYERS

CURRENT YEAR AND NINE YEARS AGO

Employer	2021		2012	
	Employees	Percentage of Total City Employment	Employees	Percentage of Total City Employment
Schertz-Cibolo-Universal City ISD	2,000	10.40%	944	5.86%
Amazon	1,302	6.80%		
Sysco Central Texas, Inc	827	4.30%	582	3.62%
Republic National Distributing Company	639	3.30%	250	1.55%
Fed Ex Ground - Doerr Lane, Schertz	580	3.00%		
Brandt Companies	527	2.70%	300	1.86%
City of Schertz	400	2.10%	344	2.14%
FedEx Freight	340	1.80%	141	0.88%
Visionworks	300	1.60%	542	3.37%
Hollingsworth Logistics Group	<u>286</u>	<u>1.50%</u>		
Wal-mart Stores			385	2.39%
H.E.B Grocery Co.			346	2.15%
Valero Diamond Distribution			<u>170</u>	<u>1.06%</u>
TOTAL	<u>7,201</u>	<u>37.50%</u>	<u>4,004</u>	<u>24.88%</u>

Source: City Economic Development Corporation

CITY OF SCHERTZ, TEXAS

FULL-TIME EQUIVALENT CITY GOVERNMENTAL EMPLOYEES BY FUNCTION

LAST TEN FISCAL YEARS

Function	Full-Time Equivalent Employees as of September 30,			
	2012	2013	2014	2015
<u>General Government</u>				
City Manager	7	7	6	6
Court Support	-	-	-	-
Municipal Court	6	6	6	6
Customer Relations	5	5	5	5
Planning and Zoning	3	3	3	3
General Services	15	13	13	13
City Secretary	2	2	2	2
Public Affairs	4	4	4	4
Records Management	1	1	1	1
Schertz Magazine	2	2	2	2
Engineer	4	3	3	3
GIS	2	2	2	2
Information Technology	4	6	6	6
Human Resources	4	4	4	4
Finance	6	6	6	8
Purchasing	5	4	3	3
Fleet Service	4	4	4	6
Building Maintenance	-	2	2	3
Facility Services	-	-	-	-
<u>Public Safety</u>				
Police	70	75	75	75
Fire	32	32	33	33
Inspections	7	7	8	9
Marshal Services	8	8	8	8
<u>Health</u>				
Animal Control	6	6	7	7
Environmental Health	-	-	-	-
<u>Parks and Culture</u>				
Parks	9	9	9	9
Pools	-	-	-	-
Event Facilities	1	1	1	1
Library	14	14	14	14
<u>Public Environment</u>				
Streets	14	14	14	14
<u>Public Works</u>				
Public Works	4	6	6	6
Business Office	10	10	10	10
<u>Water and Sewer</u>	17	16	16	16
<u>Drainage</u>	7	8	8	8
<u>EMS</u>	35	35	36	37
<u>Economic Development</u>	4	4	4	4
TOTAL	311	318	320	327

TABLE 19

Full-Time Equivalent Employees as of September 30,						
2016	2017	2018	2019	2020	2021	
5	5	5	5	5	5	
-	-	-	-	-	-	
6	6	6	4	4	4	
5	5	5	3	3	3	
4	4	4	3	3	4	
-	-	-	-	-	-	
2	2	2	2	2	2	
4	4	5	5	5	4	
1	1	-	-	-	-	
2	2	-	-	-	-	
7	7	7	7	8	8	
2	2	2	2	2	2	
6	7	8	8	8	8	
5	5	5	5	5	5	
8	8	8	7	7	7	
3	3	3	3	3	3	
6	6	6	7	8	8	
-	-	-	-	-	-	
16	16	17	10	10	11	
78	81	86	86	87	90	
36	39	45	45	46	46	
8	8	11	12	12	12	
8	5	-	-	-	-	
8	8	7	7	8	9	
3	3	4	4	4	5	
9	10	12	11	11	11	
-	-	-	-	-	-	
1	1	1	5	5	6	
14	14	15	14	14	14	
14	14	14	14	17	17	
4	4	4	4	4	4	
10	10	10	9	9	9	
16	16	19	19	19	21	
6	6	8	8	8	8	
39	41	45	45	45	55	
4	4	4	4	4	4	
339	346	366	357	365	384	

CITY OF SCHERTZ, TEXAS

OPERATING INDICATORS BY FUNCTION/PROGRAM

LAST TEN FISCAL YEARS

Function	Fiscal Year			
	2012	2013	2014	2015
<u>General Government</u>				
Building Permits Issued	2,643	3,054	2,869	3,087
<u>Schertz Tales</u>				
Number of Magazines Printed	168,000	168,000	180,000	180,000
<u>Police</u>				
CFS	19,434	19,894	19,067	36,138
Arrests	666	800	776	595
Traffic Violations	20,881	19,335	15,077	12,306
Accidents	1,665	1,960	1,823	2,040
<u>Fire</u>				
Number of Rescue/Other Responses	1,799	2,046	1,759	2,167
Number of Fire Responses	74	108	110	99
Number of Inspections	429	332	252	698
Number of Training Classes Conducted	168	132	125	150
Number of Pre-Plan Inspections	714	729	735	980
<u>EMS</u>				
Requests for Transport	7,545	8,391	8,840	9,286
Actual Transports	4,766	5,451	5,713	6,118
EMT Students	79	116	87	84
<u>Marshal Service</u>				
Warrants Issued	2,888	3,344	2,354	3,798
Warrants Cleared	4,118	4,687	3,781	3,691
Food Establishment Permits	123	127	82	135
Food Establishment Inspection	180	281	218	136
Foster/Adoption Inspections	14	24	16	22
<u>Parks</u>				
Facility Reservations	234	258	301	275
<u>Community and Civic Centers</u>				
Civic Center	325	444	458	478
Community Center Rentals	816	735	437	455
North Community Center Rentals	307	288	244	209

TABLE 20

Fiscal Year					
2016	2017	2018	2019	2020	2021
5,919	4,800	5,251	4,748	2,993	4,474
180,000	180,000	180,000	180,000	187,500	189,700
39,064	34,428	45,190	41,327	57,149	29,007
603	423	624	603	527	416
8,960	8,001	11,359	12,541	8,326	6,980
2,119	2,057	2,244	2,304	1,752	2,076
2,327	2,758	3,055	3,804	3,953	4,837
67	86	161	100	108	205
440	519	562	528	500	548
460	340	600	804	763	770
867	922	788	865	814	848
9,723	9,956	10,059	10,759	10,713	12,251
6,123	6,201	6,165	6,738	6,549	7,444
89	90	90	90	84	123
2,587	2,816	1,598	2,036	1,738	2,095
3,492	2,822	2,022	1,834	664	1,451
145	201	181	55	189	142
153	13	211	96	209	172
21	21	18	8	10	12
240	251	248	241	75	237
483	590	516	441	293	253
370	455	381	326	193	291
185	230	235	188	92	153

CITY OF SCHERTZ, TEXAS

OPERATING INDICATORS BY FUNCTION/PROGRAM

LAST TEN FISCAL YEARS

Function	Fiscal Year			
	2012	2013	2014	2015
<u>Animal Services</u>				
Number of Animals Handled	1,463	1,326	1,218	1,304
Number of Adoptions	291	362	309	357
Number of Return to Owners	149	231	222	213
Number of Transfers	312	301	316	296
<u>Library</u>				
Annual Circulation	410,312	404,691	395,998	394,766
Library Visits	256,349	254,633	253,237	259,413
Library Program Attendance	16,035	12,581	15,048	13,825
Registered Users	30,475	31,658	30,759	31,138
<u>Water</u>				
New Connections	271	168	235	369
Water Main Breaks	52	38	45	45
Total Consumption (Thousands of Gallons)	16,131,415	15,500,413	15,497,071	14,757,134
Daily Average Consumption (Thousands of Gallons)	44,196	42,466	42,458	40,431
Peak Daily Consumption (Thousands of Gallons)	9,290	9,483	10,089	8,385
Total Customers	12,557	12,757	13,324	13,570
Average Use Per Connection	5,517	5,905	5,467	5,135
<u>Sewer</u>				
Total Customers	10,988	11,456	11,578	11,413
<u>Facilities Maintenance</u>				
Number of Buildings Maintained	19	19	19	21
Square Footage	166,591	166,591	166,591	234,202

TABLE 20

Fiscal Year					
2016	2017	2018	2019	2020	2021
1,313	1,283	926	1,157	1,015	1,070
410	348	319	366	450	329
205	228	218	233	335	284
316	326	297	227	188	152
399,622	385,206	414,790	447,379	254,643	281,659
255,109	235,428	258,695	237,821	102,297	91,291
15,282	16,814	16,945	18,412	6,524	2,541
30,702	31,432	30,806	33,104	31,296	30,291
213	303	235	300	357	342
45	45	50	52	65	38
16,097,931	15,222,373	15,833,124	17,602,330	1,976,687	1,617,120
43,942	41,705	43,378	48,225	54,155	59,377
10,985	11,000	9,083	11,094	14,011	9,160
13,877	14,124	14,678	16,434	13,683	15,861
5,352	5,244	5,294	4,587	5,600	101,955
12,282	12,398	12,866	12,853	13,112	14,128
21	21	25	26	27	26
234,202	234,202	245,218	257,218	301,656	257,218

CITY OF SCHERTZ, TEXAS

CAPITAL ASSET STATISTICS BY FUNCTION/PROGRAM

LAST TEN FISCAL YEARS

Function	Fiscal Year			
	2012	2013	2014	2015
<u>Police</u>				
Stations	1	1	1	1
Patrol Units	42	42	42	48
<u>Fire</u>				
Stations	2	2	2	2
Fire Vehicles	13	13	15	16
<u>EMS</u>				
Ambulances	6	7	7	9
<u>Marshal Service</u>				
Vehicles	8	7	7	7
<u>Streets</u>				
Streets, Paved (Miles)	134	137	141	149
Streets, Unpaved (Miles)	5	5	5	5
<u>Parks and Recreation</u>				
Parks - Developed	17	13	13	14
Parks - Undeveloped	4	8	8	9
Playground	15	16	16	18
Swimming Pools	2	2	2	2
Baby Pools	2	2	2	2
Baseball/Softball Diamonds	9	12	12	15
Soccer Fields	12	12	12	12
Community Centers	4	4	4	4
<u>Animal Control</u>				
Control Vehicle	3	3	3	3
<u>Library</u>				
Facility	1	1	1	1
Volumes in Collection	81,468	86,221	100,478	113,085
<u>Water</u>				
Number of Pump Stations	5	5	5	5
Water Mains (Miles)	192	197	199	210
<u>Sewer</u>				
Sanitary Sewers (Miles)	85	87	90	96
Storm Sewers (Miles)	10	11	11	12
<u>Facilities Maintenance</u>				
Vehicles	4	5	5	6
<u>Fleet</u>				
Generators	3	3	3	4
Vehicles & Equipment				

TABLE 21

Fiscal Year					
2016	2017	2018	2019	2020	2021
1 50	1 64	1 69	1 68	1 72	1 66
2 16	2 16	3 18	3 19	3 20	3 20
9	8	8	9	9	10
7	7	7	7	7	7
153 5	159 5	153 5	165.4 5	165 5	167.5 5
15 10 19 2 2 15 12 4	20 4 19 4 2 15 12 4	21 4 19 4 2 15 12 4	21 4 20 4 2 15 12 4	21 4 21 4 2 15 12 4	21 5 21 4 2 15 12 4
4	3	4	4	6	6
1 97,412	1 107,382	1 110,266	1 150,972	1 139,447	1 149,965
5 211	5 221	5 225	5 228	6 228.5	7 231.4
98 12	110 12	113 13.6	116 13.8	116.2 13.8	119.5 14.7
6	6	11	11	10	8
4	4	7 384	10 352	7 341	8 376

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CITY OF SCHERTZ, TEXAS

SINGLE AUDIT REPORT

FOR THE YEAR ENDED SEPTEMBER 30, 2021

CITY OF SCHERTZ, TEXAS

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SEPTEMBER 30, 2021

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**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

Honorable Mayor and
Members of City Council
City of Schertz, Texas

We have audited in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Schertz, Texas (the "City") as of and for the year ended September 30, 2021, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated March 4, 2022. Our report includes a reference to other auditors who audited the financial statements of Schertz-Seguin Local Government Corporation and the Cibolo Valley Local Government Corporation, as described in our report on City of Schertz, Texas' financial statements. This report does not include the results of the other auditors' testing of internal control over financial reporting or compliance and other matters that are reported on separately by those auditors.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for determining audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

OFFICE LOCATIONS

TEXAS | Waco | Temple | Hillsboro | Houston
NEW MEXICO | Albuquerque

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free of material misstatements, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Pattillo, Brown & Hill, L.L.P.

Waco, Texas
March 4, 2022



**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR
EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER
COMPLIANCE IN ACCORDANCE WITH THE *UNIFORM GUIDANCE***

Honorable Mayor and
Members of City Council
City of Schertz, Texas

Report on Compliance for Each Major Federal Program

We have audited the City of Schertz, Texas' (the "City") compliance with the types of compliance requirements described in the U.S. *Office of Management and Budget (OMB) Compliance Supplement* that could have a direct and material effect on each of the City's major federal programs for the year ended September 30, 2021. The City's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with the requirements of laws, regulations, contracts, and grants applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of the City's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("*Uniform Guidance*"). Those standards and the *Uniform Guidance* require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the City's compliance.

Opinion on Each Major Federal Program

In our opinion, the City of Schertz, Texas, complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended September 30, 2021.

OFFICE LOCATIONS

TEXAS | Waco | Temple | Hillsboro | Houston
NEW MEXICO | Albuquerque

Report on Internal Control over Compliance

Management of the City is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the City's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with *Uniform Guidance*, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Report on Schedule of Expenditures of Federal Awards

We have audited the financial statements of the governmental activities, business-type activities, each major fund, and the aggregate remaining fund information of the City of Schertz, Texas, as of and for the year ended September 30, 2021, and the related notes to the financial statements, which collectively comprise the City's basic financial statements. We issued our report thereon dated March 4, 2022, which contained unmodified opinions on those financial statements. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying Schedule of Expenditures of Federal Awards is presented for purposes of additional analysis as required by Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)* and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Schedule of Expenditures of Federal Awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the *Uniform Guidance*. Accordingly, this report is not suitable for any other purpose.

Pattillo, Brown & Hill, L.L.P.

Waco, Texas
March 4, 2022

CITY OF SCHERTZ, TEXAS

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Federal Grantor/ Pass-Through Grantor/ Program Title	Assistance Listing Number	Pass-Through Entity Identifying Number	Federal Expenditures
<u>U.S. Department of Justice</u>			
Direct Programs:			
Equitable Sharing Agreement and Certification	16.922	N/A	<u>119,649</u>
Total Direct Programs			<u>119,649</u>
Total U.S. Department of Justice			<u>119,649</u>
<u>U.S. Department of Transportation</u>			
Passed through the Texas Department of Transportation:			
Highway Planning and Construction Cluster	20.205	0915-17-065	<u>724,993</u>
Total Texas Department of Transportation			<u>724,993</u>
Total U.S. Department of Transportation			<u>724,993</u>
<u>U.S. Department of Treasury</u>			
Passed through the Texas Division of Emergency Management:			
COVID-19 - State and Local Fiscal Recovery Fund (ARP Act)	21.027	TX2511	<u>303,000</u>
Total Texas Division of Emergency Management			<u>303,000</u>
Total U.S. Department of Treasury			<u>303,000</u>
<u>National Endowment for the Humanities (NEH)</u>			
Passed through the Texas State Library and Archives Commission:			
Grants to States - Interlibrary Loan Program (ILL)	45.310	902524	19,824
COVID-19 - National Leadership Grants - CARES Act			
Grant for Museums and Libraries	45.312	CAR1-21034	<u>24,491</u>
Total Texas State Library and Archives Commission			<u>44,315</u>
Total National Endowment for the Humanities (NEH)			<u>44,315</u>
<u>U.S. Department of Health and Human Services</u>			
Passed through the Texas Health and Human Services Commission:			
Medicaid Cluster - Ambulance Services -			
Uncompensated Care Costs	93.778	N/A	<u>466,757</u>
Total Texas Health and Human Services Commission			<u>466,757</u>
Total U.S. Health and Human Services Commission			<u>466,757</u>
<u>U.S. Department of Homeland Security</u>			
Passed through Texas Division of Emergency Management:			
Disaster Grants - Public Assistance - TIFMAS	97.036	N/A	<u>88,294</u>
Total Texas Division of Emergency Management			<u>88,294</u>
Passed through Texas Office of the Governor:			
Homeland Security Grant Program	97.067	N/A	<u>78,398</u>
Total Texas Office of the Governor			<u>78,398</u>
Total U.S. Department of Homeland Security			<u>166,692</u>
Total Expenditures of Federal Awards			<u>\$ 1,825,406</u>

The accompanying notes are an integral part of this schedule.

CITY OF SCHERTZ, TEXAS

NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

1. GENERAL

The accompanying schedule of expenditures of federal awards presents the activity of all applicable federal awards of the City of Schertz, Texas. The City's reporting entity is defined in Note I to the City's basic financial statements. Federal awards received directly from federal and state agencies as well as federal awards passed through other government agencies are included in the respective schedule.

2. BASIS OF ACCOUNTING

The accompanying schedule of expenditures of federal awards is presented using modified accrual basis of accounting, which is described in Note I to the City's basic financial statements.

3. RELATIONSHIP TO FEDERAL FINANCIAL REPORTS

Grant expenditure reports as of September 30, 2021, which have been submitted to grantor agencies will, in some cases, differ slightly from amounts disclosed herein. The reports prepared for grantor agencies are typically prepared at a later date and often reflect refined estimates of year-end accruals. The reports will agree at termination of the grant as the discrepancies noted are timing differences.

4. INDIRECT COSTS

The City has not elected to use the 10% de minimis indirect cost rate as allowed in the Uniform Guidance, Section 414.

5. PASS-THROUGH EXPENDITURES

None of the federal programs expended by the City were passed through to subrecipients.

CITY OF SCHERTZ, TEXAS

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

Summary of the Auditor's Results

Financial Statements:

Type of auditor's report issued:	Unmodified
Internal control over financial reporting: Material weakness(es) identified?	No
Significant deficiency(ies) identified that are not considered a material weakness?	None reported
Noncompliance material to financial statements noted?	No

Federal Awards:

Internal control over major programs: Material weakness(es) identified?	No
Significant deficiency(ies) identified that are not considered a material weakness?	None reported
Type of auditor's report issued on compliance for major federal programs	Unmodified
Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)?	None

Identification of major federal programs:

<u>Assistance Listing Number(s):</u>	<u>Name of Federal Program or Cluster:</u>
20.205	Highway Planning and Construction Cluster
21.027	COVID-19 - State and Local Fiscal Recovery Fund (ARP Act)

The dollar threshold used to distinguish between type A and type B federal programs.	\$750,000
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Auditee qualified as low-risk auditee?	No
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**Findings Relating to the Financial Statements Which
are Required to be Reported in Accordance With
Generally Accepted Government Auditing Standards**

None reported

Findings and Questioned Costs for Federal Awards

None reported

CITY OF SCHERTZ, TEXAS

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS

FOR THE YEAR ENDED SEPTEMBER 30, 2021

None

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022

Department: Police Department

Subject: Ordinance No. 22-G-14 - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas amending Chapter 66, Police - Articles I and II of the Code of Ordinances of the City of Schertz, Texas to provide for the establishment of the City of Schertz Police Department; establishing the position of Chief of Police and providing for the employment of Police Officers; prescribing the qualifications, duties and responsibilities of the Chief of Police and Police Officers establishing the jurisdictional boundaries of the department; providing a savings clause, and providing an effective date. *First Reading* (C. Kelm/M. Bane)

BACKGROUND

The City of Schertz Police Department is pursuing "Recognized" status from the Texas Police Chiefs Association's Law Enforcement Best Business Practices Recognition Program. The standards of the Recognition Program require specific language creating a police department and the authority and responsibility of both Officers and the Chief of Police than the current language. The proposed amended ordinance will meet the criteria as set forth Texas Police Chiefs Association's Law Enforcement Best Business Practices Recognition Program.

GOAL

To have City Council amend Chapter 66 Police Articles I and II, formally providing for the establishment of the Police Department by the enactment of this ordinance.

COMMUNITY BENEFIT

The Texas Chiefs of Police Law Enforcement Recognition Program is a voluntary process where police agencies in Texas prove their compliance with 166 Texas Law Enforcement Best Practices. Being "Recognized" means that a police agency has proven that it meets or exceeds all the identified Best Practices for Texas Law Enforcement. These Best Practices cover aspects of law enforcement operations such as use of force, protection of citizen rights, pursuits, property and evidence management, and patrol and investigative operations. Approving the changes to this ordinance is one step closer to obtaining Best Practices Recognition.

SUMMARY OF RECOMMENDED ACTION

Amend Chapter 66 Police Articles I and II of the Code of Ordinances of the City of Schertz.

FISCAL IMPACT

There is no fiscal impact to the City or Department.

RECOMMENDATION

Amend Chapter 66 Police Articles I and II of the Code of Ordinances of the City of Schertz.

Attachments

Ordinance NO. 22-G-14

ORDINANCE NO. 22-G-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING CHAPTER 66, ARTICLES I AND II OF THE CODE OF ORDINANCES, CITY OF SCHERTZ, TEXAS TO PROVIDE FOR THE ESTABLISHMENT OF THE CITY OF SCHERTZ POLICE DEPARTMENT; ESTABLISHING THE POSITION OF CHIEF OF POLICE AND PROVIDING FOR THE EMPLOYMENT OF POLICE OFFICERS; PRESCRIBING THE QUALIFICATIONS, DUTIES AND RESPONSIBILITIES OF THE CHIEF OF POLICE AND POLICE OFFICERS ESTABLISHING THE JURISDICTIONAL BOUNDARIES OF THE DEPARTMENT; PROVIDING A SAVINGS CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Texas Local Government Code Section 341.003 a home-rule municipality may provide for the establishment of a police department; and

WHEREAS, pursuant to such authority the City of Schertz, Texas has previously established a police department, the head of which is the Chief of Police of the City of Schertz; and

WHEREAS, The City of Schertz Police Department is pursuing "Recognized" status from the Texas Police Chiefs Association's Law Enforcement Best Business Practices Recognition Program, and

WHEREAS, the standards of the Recognition Program require explicit language creating a police department and the authority and responsibility of both Officers and the Chief of Police; and

WHEREAS, the City Council desire to formally provide for the establishment of the Police Department by the enactment of this ordinance.

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

Section 1. Chapter 66 Police Articles I and II of the City Code of the City of Schertz Texas is hereby amended as set forth in the attached 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 Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. 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 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 Council 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 subjectmatter 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 7. This Ordinance shall be in force and effect from and after its final passage, and it is so ordained.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS, THAT THIS ORDINANCE WAS PASSED and APPROVED on first reading this the 8th day of March, 2022.

PASSED, APPROVED and ADOPTED on second reading this the ____ day of _____, 2022.

APPROVED

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

EXHIBIT A

CHAPTER 66 POLICE ARTICLE I AND II ARE HEREBY AMENDED AS SET FORTH BELOW

[Deletions are shown as strikethrough and additions are shown as underscore]

Chapter 66 POLICE ARTICLE I. IN GENERAL

Sec. 66-1. Arrest without warrant.

- (a) ~~A police officer of the city may arrest an offender, without a warrant, for any offense committed in his presence or within his view.~~
- (b) ~~A police officer of the city may arrest, without warrant, when a felony or breach of the peace has been committed in the presence or within the view of a magistrate, and such magistrate verbally orders the arrest of the offender.~~
- (c) ~~A police officer of the city may arrest, without warrant, persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony or breach of the peace, or threaten to or are about to commit some offense against the laws of the city or state.~~
- (d) ~~Where it is shown by satisfactory proof to a police officer of the city, upon the representation of a creditable person that a felony has been committed, and that the offender is about to escape, so that there is no time to procure a warrant, such police officer may, without warrant, pursue and arrest the accused.~~

~~(Code 1976, § 14-1; Ord. No. 34, 7-11-1960)~~

~~State law reference(s) — Similar provisions, Vernon's Ann. C.C.P., arts. 14.01 — 14.04.~~

Sec. 66-1. Establishment of police department; jurisdiction.

There is hereby established a police department for the City of Schertz. The police department shall be composed of the Chief of Police and such other police officers and employees as the city council may provide. The jurisdiction of the police department shall be the corporate limits of the City and that property lying outside the city limits, which is owned by the City. When outside the jurisdictional limits of the City, police officers of the City of Schertz shall have and may exercise such authority and powers as may be granted to them as peace officers under the constitution and laws of the State of Texas and of the United States.

Sec. 66-2. Chief of Police.

The Chief of Police shall be appointed by the City Manager and be in charge of the police department. The Chief of Police shall organize the Department in conformity with the laws of the state and ordinances of the City. The Chief of Police may promulgate policies, procedures, rules, directives and orders for the administration of the department, including, but not limited to discipline within the Department.

Sec. 66-3. Qualifications, appointment and powers of police officers.

- (a) All police officers of the City of Schertz shall be appointed, promoted, disciplined and removed in accordance with the provisions of the City of Schertz Police Department Standard Operating Procedures and the City of Schertz Personnel Policy, as amended. No person may be appointed or continue to serve as a police officer who does not comply with the licensing requirements of the Texas Commission on Law Enforcement.
- (b) Police officers of the City shall possess such power and authority as is given to peace officers under the laws of the State of Texas and the ordinances of the City.
- (c) All personnel of the police department shall be bound by the most current directives, orders, rules, regulations, policies and procedures of the Schertz Police Department and City of Schertz. Failure to abide thereby shall subject the violating personnel to such disciplinary action as may be determined by the Chief of Police and / or City Management within the limits of state law and city ordinance.

Secs. 66-4 66-20. Reserved.

ARTICLE II. ~~RESERVE POLICEMEN~~RESERVED

~~Sec. 66-21. Authority to establish force; maximum number.~~

- ~~(a) In order to better preserve the general safety of the citizens of the city and to provide for trained police assistance in times of emergency, there is created a police reserve force for the city police department.~~
- ~~(b) The police reserve force shall be a volunteer organization with a membership restricted to not more than 25 in number. The police reserve force shall be under the control and direction of the city manager acting through the chief of police.~~

~~(Code 1976, § 14-13; Ord. No. 79-G-13, §§ I, II, 7-17-1979)~~

~~State law reference(s) — Municipal authority to establish police reserve force, Tex. Local Government Code, § 341.012(a).~~

~~Sec. 66-22. Training.~~

~~The police reserve force shall be operated under basic policies and rules as established by the city council. The city manager, acting through the chief of police, shall be responsible for ensuring that the policies and rules of the force are adhered to, and for the development of training programs and operating procedures.~~

~~(Code 1976, § 14-14; Ord. No. 79-G-13, § IV, 7-17-1979)~~

~~State law reference(s)—Governing authority shall establish training standards, Tex. Local Government Code, § 341.012(b).~~

~~Sec. 66-23. Compensation.~~

~~Members of the police reserve force shall serve without compensation, unless specifically authorized by the city council.~~

~~(Code 1976, § 14-15; Ord. No. 79-G-13, § II, 7-17-1979)~~

~~Sec. 66-24. Approval of appointments by council; carrying of weapons.~~

~~No person appointed as part of the police reserve force may carry a weapon or otherwise act as a police officer until he has been approved by the city council. After approval, he may carry a weapon only when authorized by the chief of police, and only when discharging official duties as a duly constituted peace officer.~~

~~(Code 1976, § 14-16; Ord. No. 79-G-13, § III, 7-17-1979)~~

~~State law reference(s)—Similar provision, Tex. Local Government Code, § 341.012(g).~~

~~Sec. 66-25. To serve at discretion of chief of police.~~

~~Members of the police reserve force shall act in the capacity of police officers only upon the direction and under the supervision of the chief of police. A member of the police reserve force shall have no police authority or power except when specifically assigned to duty by the chief of police.~~

~~(Code 1976, § 14-17; Ord. No. 79-G-13, § V, 7-17-1979)~~

~~State law reference(s)—Similar provisions, Tex. Local Government Code, § 341.012(e), (f).~~

Sec. 66-26. To act in supplementary capacity.

~~Reserve police officers shall act only in a supplementary capacity to the regular police force and shall, in no case, assume the full time duties of regular police officers without first complying with all requirements for such regular police officers and only then upon the express approval of the city council.~~

~~(Code 1976, § 14-18; Ord. No. 79-G-13, § VI, 7-17-1979)~~

~~State law reference(s) — Similar provision, Tex. Local Government Code, § 341.012(h). Sec. 66-27. Changing policies regarding the police reserve force.~~

~~The city council may at any time change the policies under which the police reserve force is organized and administered, and may expand or disband the unit as it may deem in the best interests of the safety and welfare of the city.~~

~~(Code 1976, § 14-19; Ord. No. 79-G-13, § VII, 7-17-1979)~~

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022
Department: Engineering
Subject: Monthly Update - on Major Projects in progress/CIP. (B. James/K. Woodlee)

Attachments

March 2022 Major Project Update

CITY COUNCIL MEMORANDUM

City Council Meeting: March 8, 2022

Department: City Manager

Subject: Update on Major Projects in Progress

Background

This is the monthly update on large 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: Closeout Phase
- Construction Start: June 2021
- Estimated Completion: September 2021
- Cost of Construction: \$1,372,794
- Project Update: Staff is working with the contractor to close out the final payments for the project.

2. Animal Adoption Center HVAC Replacement Project

- Project Status: Closeout Phase
- Construction Start: October 2021



- Estimated Completion: February 2022
- Cost of Construction: \$700,000
- Project Update: Team Mechanical has completed the installation of all new equipment. City Staff moved back into the facility during the last week of February. Team Mechanical is working to resolve punch items throughout the facility.

3. Civic Center HVAC Replacement Project

- Project Status: Design Phase and Procurement Phase
- Consultant: M&S Engineering
- Projected Completion: Spring 2022
- Design Cost: \$93,500 (NTE)
- Equipment Cost: \$185,600
- Project Update: M&S Engineering finalized the design in February and permits were submitted. Sullivan Contracting ordered the new equipment for the project at the end of January. A second resolution will be presented to Council on March 8th for the full construction cost. Construction is expected to begin in late March and be completed in early June.

4. Borgfeld Facility Renovation Project

- Project Status: Scope Development Phase/ Demo of existing drywall and insulation.
- Projected Completion: Summer 2022
- Project Update: Project will consist of renovating approximately 1600 SF of office space. This will be primarily done in house by the Facilities Team.

5. Animal Adoption Center Fence Project

- Project Status: In progress
- Project Completion: February, 2022
- Estimated Cost: \$40,000
- Project Update: Fence installation is complete. Gate has been installed and power has been run to the gate motor. Access controls and safety loops have been installed.
- Coordinating with IT for badge access to open the gate.

Drainage Projects:

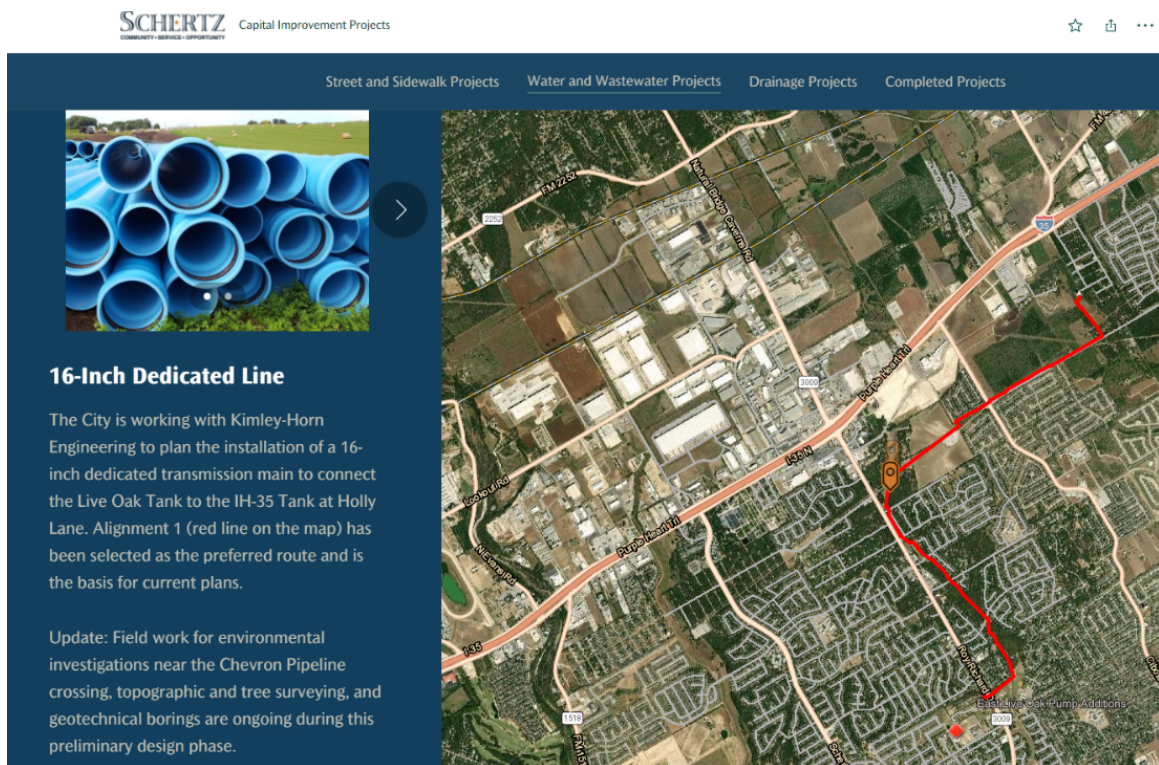
1. Savannah Square Detention Basin, Sycamore Creek at Westchester Drive, and Dietz Creek at Arroyo Verde (2020 Silt Removal Projects)

- Project Status: Construction Phase
- Consultant: Ford Engineering
- Construction Start: July 26, 2021
- Cost of Construction: \$291,627.47 (NTE \$320,000)
- Project Update: Myers Concrete Construction has completed 95% of the work to complete these three projects. A substantial completion walk-through was performed in February with city staff and the contractor. Remaining items are scheduled to be completed by the end of March.

1. Woman Hollering Creek Wastewater Interceptor Main and Lift Station

- ## 2. 24" Dedicated Transmission Main Design Phase II

- Project Status: Design Phase
- Consultant: Kimley-Horn & Associates
- Design Project Start Date: June 1, 2021
- Project Completion Date: Winter 2022
- Project Cost (Phase 2 Design): \$1,508,875.50



- Project Update: No update this month. The preliminary plans, project specifications, and cost estimate were received in November 2021 and are finalized to incorporate comments provided by City staff. The City of Schertz met with the City of Cibolo on January 12, 2022 to discuss impacts of the water main route on tree removal. Hydraulic modeling of the City's water system indicates that dedicated transmission main size performs better as an 18" or 24" main. Based on discussion with City staff and City management, the 100% design phase will include a 24-inch dedicated transmission main. The Public Works Department have been assisting the project team by uncovering existing water mains to confirm the depth and location of route crossings. The route of the Dedicated Transmission Main is provided on the CIP Map.

3. 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)
- Design Project Start Date: August 2020
- Expected Design Project Completion Date: Summer 2022
- Total Project Cost (Design Phase): \$129,795 (NTE \$143,000)
- Project Update: UEG is continuing to work with the landowner for the site and easement acquisition. Minor site revisions were requested by the property owner to keep the impact of the site to a minimum.

4. Aviation Heights Water Main Construction – Phases 5, 6, and 7 (Construction 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: Construction Phase
- Consultant: Ford Engineering
- Project Start Date: October 18, 2021
- Expected Project Completion Date: January 24, 2023
- Total Project Cost: \$1,785,484.25
- Project Update: Work continues by MC Fonseca to place the 8" water main along Brooks Avenue including temporary backfill and cold-mix asphalt. The water line on Aero Avenue, Winburn Avenue, and Brooks Avenue has been installed, tested, and is in service. The Contractor is working on obtaining rights-of-entry and temporary construction easements on private property where the new water meter will connect to water services near each home, as required. Aero Avenue paving is ongoing. Residents continue to reach out to City staff to answer questions about the status of the project, disturbance on private property, and water main shut-downs. City staff prepare an informational flyer that was sent out to all affected property owners.

5. 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: Contract Phase

- Consultant: None
- Project Start Date: Spring 2022
- Project Completion Date: Summer 2022
- Total Project Cost: \$1,269,119.78 (NTE)
- Project Update: Pipe bursting is anticipated to upgrade the existing 10” sanitary sewer main to a 15” sanitary sewer main. Public Works and Engineering staff reviewed a BuyBoard proposal and has a construction contract on the agenda for approval on March 8, 2022. BuyBoard was utilized based on the specific construction method and timing of letting this construction contract.

6. FM 1518 Utility Relocations

Overall project intent is to relocate the water and sewer utilities to avoid conflicts as part of the TXDOT FM 1518 Project. The current contract is for the design services of the project.

- Project Status: Design Phase
- Consultant: Halff Associates
- Design Project Start Date: June 2021
- Expected Design Project Completion Date: September 2022
- Total Project Cost: \$548,370 (NTE \$600,000)
- Project Update: Halff is completing the field survey and beginning the easement acquisition for the 16” water line proposed along Aztec Lane to avoid conflicts with relocation at the intersection of FM 1518 and FM 78.

7. 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: Design Phase
- Consultant: Ford Engineering
- Design Project Start Date: June 7, 2021
- Expected Project Completion Date: May 2022
- Total Project Cost: \$466,265.00
- Project Update: No change from last report. Design work is ongoing for the ground storage tank and pump station. Preliminary Design was received on December 9, 2021, including plans and supporting documents to identify potential design, construction, or operational problems and provide appropriate resolutions. City staff reviewed plans and comments have been provided to the design team. The project anticipates bidding during this summer.

Street 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 change since last report. All work has been completed.

2. 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: Council approved the construction contract on December 7th. The fog seal is expected to be applied in the spring when we have favorable weather.

3. Elbel Road Storm Drain and Paving

- Project Status: Design
- Consultant: Ford Engineering
- Project Start Date: October 4, 2021
- Project Completion Date: Spring 2022
- Total Project Cost: \$1,964,000
- Project Update: No change since last report. The project has been mostly completed. The traffic signal installation at Westchester will start in the near future. The traffic signal work and some other, minor work items will not have large impacts to traffic on Elbel. There will be some short duration, short distance single lane closures in the future as these work items are completed.

4. 2020 Street Preservation and Maintenance (Resurfacing) Project

- Project Status: Under Construction
- Consultant: Kimley-Horn & Associates
- Project Start Date: November 15, 2021
- Project Completion Date: Spring 2022
- Estimated Cost of Construction: \$2,153,000
- Project Update: The asphalt repairs have been temporarily placed on hold by the contractor. The uncertain nature of recent weather and the large temperature fluctuations have made it difficult for the contractor to make progress with the asphalt repairs. Once the weather stabilizes some, when the minimum temperatures stay higher more consistently, the contractor will start back up with the repairs. The slurry seal application is not expected until we have more favorable weather in the Spring.

5. Tri-County Parkway Reconstruction Project

- Project Status: Construction
- Consultant: Halff Associates
- Construction Start: Spring 2022
- Estimated Cost of Construction: \$4,900,000
- Project Update: Staff held a pre-construction meeting with the contractor on February 22nd. The new sanitary sewer pipe has been purchased and delivered to the contractor. The new manholes have not been delivered yet. The contractor is hopeful the project will start at the end of March, but the start date depends on delivery of the new manholes. Staff is working with EDC to create another project video and do another public outreach effort for the project.

6. 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 project is “Substantially Complete.” A detailed punch list has been created for the contractor. There are several items on the punch list for the contractor to address, including several clean up and re-seeding items. The contractor will be required to remove and replace a few segments of new concrete work as the finished product does not meet all specifications. The contractor has not been paid in full for the project yet. Final payment will not be made on the project until all the punch list items have been addressed.

7. Main Street Improvements Project

- Project Status: Design
- Consultant: Kimley-Horn Associates
- Project Update: The consultant met last week with the Main Street Committee. The consultant presented two options for the architectural features, lighting, landscaping, and other work elements in the projects. Initial cost estimates were also provided for each option. The Main Street Committee provided feedback and direction on which option/elements to pursue for the project. This allows the consultant to proceed with more detailed design and cost estimation. The consultant will prepare more detailed plans and present them to the Main Street Committee and the Historical Preservation Committee in April.

8. Eckhardt Road Maintenance Project

The City is partnering with Guadalupe County to have some heavy maintenance performed on the section of Eckhardt Road from the entrance to the Parklands Subdivision past the intersection with Green Valley Road. The City is purchasing materials and Guadalupe County is providing labor and equipment to perform a more complete maintenance effort than continuing to address individual potholes as they appear. The road will have a 2-Course Surface Treatment when completed. The project is currently on the County’s schedule to start March 7th, 2022, and be completed by June of 2022.

TxDOT Roadway Projects:

- 1. FM 1103 Improvement Project:** The FM 1103 project has been delayed due to some ongoing utility work and a proposed change in a retaining wall design. TxDOT is currently expecting ground breaking in June 2022. The start date continues to be subject to change.
- 2. FM 1518 Improvement Project:** TxDOT is in the Plans, Specs, and Estimates (PS&E) stage of the project. At this time, the design consultant for TxDOT has prepared 90% construction plans and is working toward 95% completion. The project was scheduled to be let for construction in September 2022 but that date has shifted and is now planned for September 2023. The delay allows additional time for utility relocations as well as incorporation into the full project schedule of the segment of right of way adjacent to JBSA Randolph. It was previously expected that that segment would lag behind the rest of the project, but will not allow the entire length from FM 78 to IH 10 to be completed at once.
- 3. I-35 Operational Improvements Project (FM 2252 to Schwab Road):** No change from last update. The contractor continues slow progress on the project. Work continues on project elements outside the travel lanes and on the VIA Park & Ride facilities. Mainlane paving with

porous friction course (PFC) asphalt has stopped due to cold night weather. It is expected to resume in late March or April 2022 once low nighttime temperatures are above 70 degrees. Completion of the project is now expected in late spring 2022.

4. **I-35 NEX (I-410 South to FM 1103):** A design-build contract for the central segment of the I-35 Northeast Expansion project has been awarded to Alamo NEX Construction. The central section runs from 410 N to FM 3009 is fully funded. Significant construction is expected to begin in spring 2022.
5. **IH-10 Graytown Road to Guadalupe County Line:** 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 and utility relocations are underway. (No City of Schertz utilities need to be relocated for this project.) Ramp and lane closures take place as necessary and occasionally include full closure of the main lanes for work such as bridge demolitions. The westbound frontage road bridge over Cibolo Creek has been reopened. Construction of the Trainer Hale Road overpass is progressing.

Studies and Plans:

1. 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 2022
- Total Project Cost: \$467,280 (NTE \$500,000)
- Project Update: Staff is working with LAN to fine tune land use assumptions in advance of Comprehensive Land Use Plan update to ensure that projections are appropriate. LAN continues to work on completion of utility models and have identified issues that require further investigation to confirm validity of assumptions. Once land use assumptions are approved and issues with the models are resolved, future conditions will be input to the models for development of the Capital Improvement Plan for the Impact Fee update.

2. 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: Summer 2022
- Total Project Cost: \$35,000
- Project Update: No change from last project update. Consultant and City staff have visited City sites for information collection. Consultant has submitted a final draft from the compiled information and Inventory Assessment is under review by staff.

Planning and Community Development Projects:

1. CityView Permitting and Development Software

The CityView software is currently configured by the CityView implementation team for testing. City Staff continues the process of validating and testing the software as we prepare to have the software installed on the City server. Once installed on the City server the final User Acceptance review will begin. Staff training is scheduled for the end of March and Go-live is scheduled for April 2022.

- Total Project Cost: \$523,766.00
- Project Start Date: June 2018
- Project Completion Date: February 2022

2. Comprehensive Land Use Plan Update

The Request for Qualifications (RFQ) has been posted and closes on March 30.