

Ricky Jones, Place 1
Tomas Mendoza, Place 2
John Mounce, Mayor Pro Tem, Place 3



Dylan James, Place 5
Chrissa Hartle, Place 6

James Clark, Mayor

**CITY OF JUSTIN
CITY COUNCIL AGENDA
JUNE 27, 2023
415 N. COLLEGE AVE.
6:00 P.M.**

CALL TO ORDER

Invocation and Pledge of Allegiance
American Flag

Texas Flag: *“Honor the Texas Flag; I pledge allegiance to
thee, Texas, one state, under God, one and indivisible”*

UPCOMING MEETINGS AND EVENTS

July 3 – Municipal Court
July 4 – City Hall closed for Independence day
July 11- City Council meeting
July 18 – Planning & Zoning Commission meeting
July 20 – EDC/CDC meeting
July 25 – City Council meeting

PRESENTATIONS/STAFF UPDATES

- Presentation from Northwest Metroport Chamber of Commerce
- Justin Community Library Kick off event update
- Justin Fun Day event update

PUBLIC COMMENT

In order to expedite the flow of business and to provide all citizens the opportunity to speak, the mayor may impose a three-minute limitation on any person addressing the Council. The Texas Open Meetings Act prohibits the City Council from discussing issues, which the public have not been given a seventy-two (72) hour notice. Issues raised may be referred to City staff for research and/or placed on a future agenda.

CONSENT AGENDA

Any Council Member may request an item on the Consent Agenda to be taken up for individual consideration.

1. Consider and take appropriate action to approve City Council minutes dated June 13, 2023.
2. Consider and take appropriate action to approve the contract with Venus Construction Company for the construction of the West Side Sewer Segment CP1 to CP2 in the amount of \$3,287,252 plus Alternative Bid Items.

ITEMS PULLED FROM CONSENT AGENDA

POSSIBLE ACTION ITEMS

3. Consider and take appropriate action regarding Resolution 611-23 approving amendments to the City of Justin Personnel Policy.
4. Consider and take appropriate action regarding appointments to and membership of the Justin Community Library Board.
5. Consider and take appropriate action to approve the 2023 Economic Development Action Plan.
6. Consider and take appropriate action to approve an Economic Development Incentives Policy.
7. *(second reading)* Consider an Ordinance regarding an amendment to the Planned Development (SF-2 and GB PD-722) for LaDera Farms legally described as A0439A M. GARNETT, TR 3, 53.182 ACRES, OLD DCAD TR 2 and A0439A M. GARNETT, TR 3D, 6.483 ACRES. *(Item tabled 6/13/23)*
8. *(first reading)* Consider and take appropriate action approving Ordinance 754-23 regarding FM 407 speed limits within the City of Justin.
9. *(first reading)* Consider and take appropriate action regarding Ordinance 755-23 amending Chapter 10 related to fence regulations.
10. Consider and take appropriate action regarding City Council process for appointment.
11. Consider and take appropriate action approving Resolution 612-23 to hold a public hearing for the appointment of City Council member, Place 4 for the remainder of the term.
12. Discuss, consider and take appropriate action regarding City Council meeting days and times.

EXECUTIVE SESSION *Council will convene into the Regular City Council meeting following Executive Session.*

Any item on this posted agenda could be discussed in Executive Session as long as it is within one of the permitted categories under sections 551.071 through 551.076 and Section 551.087 of the Texas Government Code.

- Under Section 551.071, to conduct private consultation with the City Attorney regarding:
 - City of Justin/Town of Northlake Interlocal Cooperative Agreement for Wastewater Improvements
 - Oncor Transmission Line
- Under Section 551.074, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee:
 - City Manager

Convene into executive session.

Adjourn into open meeting.

13. Discuss, consider, and act on items discussed in Executive

Session. **FUTURE AGENDA ITEMS**

ADJOURN

I, the undersigned authority, do hereby certify that the above notice of the meeting of the City Council of the City of Justin, Texas, is a true and correct copy of the said notice that I posted on the official bulletin board at Justin Municipal Complex, 415 North College Street, Justin, Texas, a place of convenience and readily accessible to the general public at all times, and said notice posted this 22nd day of June, 2023 by 5:00 p.m., at least 72 hours preceding the scheduled meeting time.

Brittany Andrews

Brittany Andrews, City Secretary

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 1 (Consent)

Title: Consider to approve City Council minutes dated June 13, 2023.

Department: Administration

Contact: City Secretary, Brittany Andrews

Recommendation: **Table** Consent item 1 to the July 11, 2023 City Council meeting.

Background:

City Attorney Review:

Attachments:

1.

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 2

Title: Consider and take appropriate action to approve the contract with Venus Construction Company for the construction of the West Side Sewer Segment CP1 to CP2 in the amount of \$3,287,252 plus Alternative Bid Items.

Department: Administration

Contact: Jarrod Greenwood, City Manager

Recommendation: Approve Resolution 610-23 for the Contract with Venus Construction Company.

Background: Over the last several years we have been working with landowners and developers to serve water and wastewater to areas on the west side of the City along FM 407. As you may recall, at the March 8, 2022 Regular Council Meeting, Council approved the West Side Sewer Improvement Agreement with multiple property owners that provided for participation among developers to partially fund installation of sewer lines, upgrading of the existing trunk line along Trail Creek to the City's sewer treatment plant, and established a process to distribute costs and ensure service to the proposed developments.

The proposed agreement with Venus Construction Company is the first contract to construct the improvements identified in the 2022 Agreement.

All of the developers that are a party to the Agreement have been notified of the construction and their funding has been requested per the terms of the Agreement.

We have received payments from Tally and Preserve. Both Hillwood (Petrus) and Bloomfield have confirmed their intent to pay via meetings & email. The City will transfer our and Range's portion before the June 30 deadline. The deadline to contribute funds is June 30th, 2023.

The Agreement allows for a 30-day period to notify parties that are out of compliance with the Agreement to become compliant. There is a 1% interest charge per month for a late payment for Phase 2 Costs. If a party doesn't pay, the system can be redesigned to exclude said parties' needs or phase 2 costs that were paid can be reimbursed to each party. The worst case scenario is the project is delayed and redesigned, which would

likely carry some redesign costs, however, the risk of this is very low. We anticipate all parties meeting this deadline.

Entity	Percentage	Amount	Notes
City of Justin	29.13%	1,111,488.94	Includes Range & Deblock
Tally	4.16%	158,729.63	Paid in full.
Justin 197 Partners	4.03%	153,769.32	Paid in full.
Petrus Tradition	22.72%	866,907.96	
Bloomfield (All)	39.96%	1,524,720.15	
Total	100.00%	\$ 3,815,616	

City Attorney Review:

Attachments:

1. Resolution 610-23 with exhibits

EXHIBIT A

RESOLUTION 610-23

CONSTRUCTION CONTRACT DOCUMENTS

FOR

JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

FOR THE

CITY OF JUSTIN

**415 N College Street
Justin, Texas 76247
Phone (940) 648-2541 – Fax (940) 648-1191**



JUSTIN
— 1887 —

MARCH 2023



GM civil

Engineering & Surveying

**2559 SW Grapevine Pkwy.
Grapevine, Texas 76051
817.329.4373**



2-25-23

Section 00 01 10

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Bid Forms

Section 00 42 00

BID PROPOSAL

TO:

City of Justin
c/o City Secretary
415 N College Street,
Justin, Texas 76247

Date: 04-13-2023

Name of Bidder: Venus Construction Company

Phone: 817-477-2050

Street Address: 1426 S Main

City and State: Mansfield, TX

Zip: 76063

The undersigned BIDDER, having examined the site, Plans, Specifications and other documents, HEREBY PROPOSES to furnish all labor, materials, tools, supplies, and necessary equipment to construct, complete in place and ready for use:

JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

For the Total Price of:

In Words: Three Million Two Hundred Eighty Seven Thousand Two Hundred Fifty Two Dollars

and 0 Cents

In Figures: \$3,287,252.00

Maximum contract time required by the Contractor for completion of these improvements, beginning on the date specified in the Notice to Proceed, is 130 Calendar days.

Receipt is acknowledged of the following Addenda:

Addendum No. 1 N/A

Addendum No. 2 N/A

Addendum No. 3 N/A

SUPPLEMENTS TO THIS BID:

The following Supplements are attached as an integral part of this Bid:

Document 00 42 10 - Unit Price Bid Form (If Applicable)
Document 00 43 10 - Bid Bond Form (Form May be Supplied by Bidder)
Document 00 45 10 - Form of Business
Document 00 45 13 - Statement of Bidder's Qualifications
Document 00 45 15 - Certificate of Bidder's Experience & Qualifications
Document 00 45 19 - Non-Collusion Affidavit
Document 00 45 43 - Resolution of Corporation (Form May be Supplied by Bidder)
Document 00 45 50 - Conflict of Interest Questionnaire (CIQ)

The undersigned, as Bidder, declares that the only person or parties interested in this Proposal as principals are those named herein, that this Proposal is made without collusion with any other person, firm or corporation.

Bidder: VENUS CONSTRUCTION
[Type the full name of your proprietorship, partnership, corporation, or joint venture.*]

By: Josh McAda 4-13-2023
[Signature**] [Date]

Name: Josh McAda President
[Type name] [Title]

(Seal - if Bidder is
a Corporation)

ATTEST:

As per

Address: 1426 S. MAIN, MANSFIELD, TEXAS 76063
[Mailing]

[Street, if different]

Telephone: 817-477-2050
[Type telephone number]

* If the Bid is a joint venture, add additional Bid form signature sheets for each member of the joint venture.

** The undersigned, as bidder, certifies that the only person or parties interested in this proposal as principals are those named herein; that the Bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the Contract for the Project.

Note: This document constitutes a government record, as defined by § 37.01 of the Texas Penal Code. Submission of a false government record is punishable as provided in § 37.10 of the Texas Penal Code.

00 42 10 UNIT PRICE BID FORM

Item No.	Description	Quantity	Unit	Unit Cost	Bid Amount
1.	36" ASTM F679/PS46 PVC PIPE	1,810	L.F.	\$310.00	\$561,100.00
2.	27" ASTM F679/PS46 PVC PIPE	3,034	L.F.	\$180.00	\$546,120.00
3.	8" SDR-26 PVC	60	L.F.	\$68.00	\$4,080.00
4.	15" SDR-26 PVC	375	L.F.	\$110.00	\$41,250.00
5.	36" SS Bore w/ 48" Coated Steel Casing Pipe (36" ASTM F679/PS46 Included)	312	L.F.	\$2,750.00	\$858,000.00
6.	27" SS Bore w/ 42" Coated Steel Casing Pipe (27" ASTM F679/PS46 Included)	108	L.F.	\$2,560.00	\$276,480.00
7.	Remove Ex. 12" S.S. Connection & Plug Ex. SSMH	1	Ea.	\$2,000.00	\$2,000.00
8.	Connect to Ex. 15" SS w/ Std. 5' Dia. Manhole w/ Corrosion Protection	1	Ea.	\$16,000.00	\$16,000.00
9.	Connect to Ex. 12" SS w/ Std. 6' Dia. Drop Manhole w/ Corrosion Protection	1	Ea.	\$21,500.00	\$21,500.00
10.	Connect to Ex. 8" SS w/ Std. 6' Dia. Drop Manhole w/ Corrosion Protection	1	Ea.	\$21,000.00	\$21,000.00
11.	Connect to Ex. SSMH, Rework Invert & Plug Existing Per Plans	3	Ea.	\$7,500.00	\$22,500.00
12.	Std. 6' Dia. Manhole w/ Corrosion Protection	14	Ea.	\$16,500.00	\$231,000.00
13.	Std. 6' Dia. Drop Manhole w/ Corrosion Protection	3	Ea.	\$20,000.00	\$60,000.00
14.	27" End & Plug	1	Ea.	\$3,900.00	\$3,900.00
15.	Extra Depth 5-FT Manhole	2	V.F.	\$638.00	\$1,276.00
16.	Extra Depth 6-FT Manhole	176	V.F.	\$810.00	\$142,560.00
17.	Connect to Existing Lift Station	1	Ea.	\$11,000.00	\$11,000.00
18.	Cement Stabilized Backfill	10	L.F.	\$115.00	\$1,150.00
19.	Trench Safety	5,279	L.F.	\$2.00	\$10,558.00
20.	T.V. Sanitary Sewer Line	5,699	L.F.	\$2.00	\$11,398.00
21.	BNSF Flagger Allowance	1	L.S.	\$25,000.00	\$25,000.00
22.	Remove & Replace 6" Thick Concrete Trail & Disk Golf Tee Box	105	S.Y.	\$185.00	\$19,425.00
23.	Materials & Compaction Testing	1	L.S.	\$31,000.00	\$31,000.00
24.	Construction Staking (Owner Provides Horizontal & Vertical Control)	1	L.S.	\$23,000.00	\$23,000.00
25.	Construction Stormwater Pollution Prevention, including silt fence, construction entrances, concrete washout, inspections, SWPPP preparation, & TDEC NOI	1	L.S.	\$40,000.00	\$40,000.00
26.	Seed, Stabilize, & Restore Disturbed Area (Assumed 30 Ft Width Along Sewer Trench) to Existing Conditions	158,970	S.F.	\$1.50	\$238,455.00
27.	Tree Clearing & Removal	2.5	Ac.	\$27,000.00	\$67,500.00
NO. OF WORKING DAYS					130
TOTAL JUSTIN WEST SIDE SEWER CP1 TO CP2					\$3,287,252.00
ALTERNATE BID ITEMS					
28.	Remove & Dispose of 3 S.S.M.H. Fill 255 L.F. 15" S.S. & 605 L.F. 8" S.S. w/ Concrete & Abandon in Place. Plug 8" EX. S.S.	1	L.S.	\$70,000.00	\$70,000.00
29.	Remove & Dispose of 3 S.S.M.H., 255 L.F. 15" S.S. & 605 L.F. 8". Backfill & Compact Trench to 95% Std. Proctor Density. Plug 8" EX. S.S.	1	L.S.	\$58,000.00	\$58,000.00

Section 00 43 10

BID BOND FORM

BIDDER (Name and Address):

Venus Construction Company
1426 S Main
Mansfield, TX 76063

SURETY (Name and Address of Principal Place of Business):

Great American Insurance Company
301 E 4th Street
Cincinnati, Ohio 45202

OWNER (Name and Address):

City of Justin
415 N College Street
Justin, Texas 76247

BID

BID DUE DATE: April 13th, 2023

PROJECT TITLE:
JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

BOND

BOND NUMBER:

DATE (Not later than Bid due date): April 13th, 2023

PENAL SUM: Five Percent of Greatest Amount Bid 5% of GAB
(Words) (Figures)

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent or representative.

BIDDER

Venus Construction Company (Seal)
Bidder's Name and Corporate Seal

By: Josh Mulla President
Signature and Title

Attest: [Signature] ESTIMATOR
Signature and Title

SURETY

Great American Insurance Company (Seal)
Surety's Name and Corporate Seal

By: [Signature] Lloyd Ray Pitts Jr, Attorney-In-Fact
Signature and Title
(Attach Power of Attorney)

Attest: [Signature] Melissa Pitts
Signature and Title
Melissa Pitts, Bond Secretary

- Note: (1) Above addresses are to be used for giving required notices.
(2) Any singular reference to Bidder, Surety, OWNER or other party shall be considered plural where applicable.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to OWNER upon default of Bidder any difference between the total amount of Bidder's Bid and the total amount of the Bid of the next lowest, responsible and responsive Bidder as determined by OWNER for the Work required by the Contract Documents, provided that:
 - A. If there is no such next lowest, responsible and responsive Bidder, and OWNER does not abandon the Project, then Bidder and Surety shall pay to OWNER the penal sum set forth on the face of this Bond, and
 - B. In no event shall Bidder's and Surety's obligation hereunder exceed the penal sum set forth on the face of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by Bidding Documents.
3. This obligation shall be null and void if:
 - A. OWNER accepts Bidder's Bid and Bidder does not deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by Bidding Documents and any performance and payment Bonds required by the Bidding Documents, or
 - B. All Bids are rejected by OWNER, or
 - C. OWNER fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and if applicable, consented to by Surety when required by paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from OWNER, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by OWNER and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirements of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer or proposal as applicable.

End of Section

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by
this power of attorney is not more than TWO

No. 0 20935

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
LLOYD RAY PITTS, JR.	BOTH OF	BOTH
WILLIAM D. BIRDSOING	DALLAS, TEXAS	\$100,000,000

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 10TH day of DECEMBER 2020

Attest

GREAT AMERICAN INSURANCE COMPANY



Stephen C. Beraha

Assistant Secretary

Mark V. Vicario

Divisional Senior Vice President

MARK VICARIO (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 10TH day of DECEMBER, 2020, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



SUSAN A KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

Susan A. Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this

day of



Stephen C. Beraha

Assistant Secretary

FORM OF BUSINESS

Fill in the appropriate area describing your firm's form of business and include the relevant attachments.

Corporation:

Corporate Name: Venus Construction Company
 State of Incorporation: Texas
 Mailing Address: P.O. Box 90 Mansfield, TX 76063

- Certificate of Assumed Name, if operating under a name different than that on the corporate charter (the Certificate must have been issued within the past ten years to be valid)
- Certificate of Good Standing*
- Certificate of Existence (if non-Texas corporation, Certificate of Authority) *

Partnership/Joint Venture:

Partnership/Joint Venture Name: _____
 Mailing Address: _____

- Copy of the Partnership or Joint Venture Agreement, or Affidavit with the name of the partnership or joint venture, the names of the individual partners or participants in the joint venture, and a statement that the partnership or joint venture is in existence
- Certificate of Assumed Name, (the Certificate must have been issued within the past ten years to be valid)
- If firm is a limited partnership, the Certificate of Limited Partnership
- If any partner or joint venture is a corporation, the above information relating to corporation must be included as to each sum partner or joint venture.

Sole Proprietorship

Name: _____
 Mailing Address: _____

- Certificate of Assumed Name, if operating under a name different than that of the sole proprietor (the Certificate must have been issued within the past ten years to be valid)

* *Must be furnished upon request of the Owner and must be less than 90 days old.*

 [Typed Name and Title of Authorized Representative]

 [Signature of Authorized Representative]

 [Typed Date]

END OF SECTION

STATEMENT OF BIDDER'S QUALIFICATIONS

The Bidder may provide his Statement of Bidder's Qualifications on separate typewritten sheets including all the information requested herein:

BIDDER: Venus Construction Company

1. ORGANIZATION

1.1 How many years has your organization been in business as a Contractor? 55

1.2 How many years has your organization been in business under its present business name? 55

1.2.1 Under what other or former names has your organization operated?

1.3 If your organization is a corporation, answer the following:

1.3.1 Date of incorporation: February 29, 1978
1.3.2 State of incorporation: Texas
1.3.3 President's name: Josh McAda
1.3.4 Vice-president's name(s): Sam McAda
Jake McAda
1.3.5 Secretary's name: Sandra Brown
1.3.6 Treasurer's name: Sandra Brown

1.4 If your organization is a partnership, answer the following:

1.4.1 Date of organization: _____
1.4.2 Type of partnership (if applicable): _____
1.4.3 Name(s) of general partner(s): _____

1.5 If your organization is individually owned, answer the following:

1.5.1 Date of organization: _____

1.5.2 Name of owner: _____

1.6 If the form of your organization is other than those listed above, describe it and name the principals:

2. LICENSING

✓ 2.1 On a separate sheet attached hereto, list jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable. Indicate name, license number and expiration date for Master Plumber or other trade required under the Instructions to Bidders section of this Bid.

✓ 2.2 On a separate sheet attached hereto, list jurisdictions in which your organization's partnership or trade name is filed.

3. EXPERIENCE

✓ 3.1 On a separate sheet attached hereto, list the categories of work that your organization normally performs with its own forces.

3.2 Claims and Suits. (If the answer to any of the questions below is yes, please attach details.)

3.2.1 Has your organization ever failed to complete any work awarded to it? **NO**

3.2.2 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers? **NO**

3.2.3 Has your organization filed any law suits or requested arbitration with regard to construction contracts within the last five years? **NO**

3.3 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? (If the answer is yes, please attach details.) **NO**

✓ 3.4 On a separate sheet attached hereto, list major construction projects your organization has in progress, giving the name of project, owner, architect, contract amount, percent complete and scheduled completion date.

3.4.1 State total worth of work in progress and under contract.

✓ 3.5 On a separate sheet attached hereto, list the major projects your organization has completed in the past five years, giving the name of project, owner, architect, contract amount, date of completion and percentage of the cost of the work performed with your own forces.

3.5.1 State annual amount of construction work performed each year during the past five years.

3.6 On a separate sheet attached hereto, list the construction experience and present commitments of the key individuals of your organization. Submit on separate sheets attached hereto, resumes

of Key Personnel as defined in the Instructions to Bidders. Bidder hereby certifies that the Resident Superintendent has the authority to act on behalf of the Contractor at all times.

- 3.7 Provide form 00423 "Certification of Bidder's Qualifications" as evidence that the Bidder meets the minimum criteria called out in the Instructions to Bidders.

4. REFERENCES

4.1 Trade References (3):

Fortiline Pipe Kris Slowik 704-788-9823
JM Materials David Weisberg 940-427-3645
Barton Trucking Chris Munro 817-379-1517

4.2 Bank References (2):

Veritex Community Bank Ashley Baker 817-477-1101

4.3 Surety:

Name and telephone number of Bonding Company:

Name, telephone and address of Agent:

469-661-0308
Great American Insurance Company
Pitts, Birdsong Bonds & Ins
1201 Talley Rd
Garland TX 75044
469-661-0308

5. FINANCING

5.1 Financial Statement

- 5.1.1 Attach a financial statement, preferably audited, including your organization's latest balance sheet and income statement showing the following items:

- a. Cash Flow Statement
- b. Notes to Financial Statement
- c. Auditor Statement
- d. Comparison Statements, if available
- e. Name and address of firm preparing attached financial statement, and date thereof.

- 5.1.2 Is the attached financial statement for the identical organization named on page one?

Yes

If not, on a separate sheet attached hereto, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent-subsidary).

- 5.2 Will the organization whose financial statement is attached act as guarantor of the contract for construction?

Yes

6. SIGNATURE

- 6.1 To be executed by a Principal of the firm authorized to certify the foregoing information:

Josh McAde, being duly sworn, deposes and says that the information provided herein is true and sufficiently complete so as not to be misleading.

- 6.2 Dated at 10:14 this 13 day of April, 2023.

Name of Organization:

Venus Construction Company

By:

Josh McAde

Printed Name:

Josh McAde

Title:

President

Work performed by Venus

Installation of Sewer pipe and Concrete paving

Fire Sprinkler

Jeff Woodall

RME-G-2225959

Expires: 09-22-2024

Plumbing

Master Plumber Bernard Lee Gunn

14834

Expires May, 31, 2023

Jurisdiction State of Texas

[illegible]

SCHEDULE A

Name, Location and Description of Project: Marine Creek Interceptor M-279A & M-365
Fort Worth, TX

Owner: City of Ft. Worth Design Engineer:

Date Completed: 9/2020 Contract Price: 2,710,660.00

Reference/Contact: Roberto Saucedo 817-392-2387
(include address & Phone#) 1000 Throckmorton St. Ft. Worth TX 76102

Name, Location and Description of Project: Eden Road, Arlington TX

Owner: City of Arlington Design Engineer: Weir & Associates

Date Completed: 4/2021 Contract Price: 2,325,644.99

Reference/Contact: Lori Du 817-456-6636
(include address & Phone#) 101 W. Abram St. Arlington TX

Name, Location and Description of Project: Hwy 174 N. Interceptor Cleburne TX

Owner: City of Arlington Design Engineer: Childress Engineers

Date Completed: 10/2019 Contract Price: 3,212,968.75

Reference/Contact: Jerome Hutt 817-645-1118
(include address & Phone#) 10 N. Robinson St. Cleburne TX 76031

Name, Location and Description of Project: Ridgela Country Club Dr. Ft. Worth

Owner: City of Fort Worth Design Engineer: DeOtte, Inc.

Date Completed: 03/2021 Contract Price: 1,712,493.82

Reference/Contact: John Kasovich 817-392-8480
(include address & Phone#) 1000 Throckmorton St. Ft. Worth TX 76102

Josh McAda

801 Abigail Way
Midlothian, TX 76065
(817) 819-0036

Recent Awards

2014, 2015, 2016, 2017, 2018

Inc. 500 – 5000 designation as one of the fastest growing private companies in the nation

2009 and 2014

Dallas 100 Entrepreneur Award as one of the fastest growing companies in the DFW Metroplex
2014

Rising Star Award – American Subcontractors Association, North Texas Chapter
ENR 600 Specialty Contracts

Experience:

Venus Construction Company – Mansfield TX 76063

President – 2001 – Present

Oversee all executive staff.

Oversee financial sustainability and growth.

Direct the overall day to day operations and management of the company.

Develop and maintain relationships with other associations, industry members, customers and government officials that are in the best interest of the company.

Provide visionary and strategic leadership for the organization.

Establish and maintain companywide systems and procedures for reporting, project controls, financial controls and employee relations.

Foreman – 1992-2001

Oversees crews working under my authority, including subcontractors

Keep daily logs as to time and personal on site, deliveries and changes in scope of work.

Maintain and keep timesheets for company employees under my authority

Attend job meetings and meet with professionals as necessary

Review project and keep both project manager and general superintendent updated.

Make request of general superintendent for material and equipment.

Memberships

American Subcontractors Association
The Associated General Contractors
Small Business Enterprise

Matt Upchurch
5850 Willoughby Ln
Frisco, TX 75033
Home: (469) 576-8156
Email: mattupchurch@outlook.com

EDUCATION

B.S. Accounting, University of Texas Richardson, Texas May 2004
Accounting GPA 3.37/4.00, Overall GPA 3.54/4.00
Cum Laude, Accounting Honor Society

CORE QUALIFICATIONS

CPA Candidate Actively Pursuing, Strong Knowledge US GAAP, Audit and Accounting Procedures for Construction Accounting, Experienced Budgeting & Forecasting, Cash Flow Management, Payroll Law, Sales Tax Related to Construction Industry, Texas Lien Law, Job and Equipment Costing for Construction

WORK EXPERIENCE

Venus Construction Company, Inc. Irving, TX Feb. 2020 – Present
Chief Financial Officer

- Implemented AnterraBI Cloud for improving financial reporting timing and better visibility to financial data.
- Assisted in raising capital and financing for working capital.
- Brought financial reporting in house previously performed by outside CPA firm.

Moss Utilities, L.L.C. Irving, TX Jul. 2018 – Feb. 2020
Chief Financial Officer (Start up with an opportunity to take on more responsibility)

- Implemented Insight Software Spreadsheet Server for improving financial reporting timing and better visibility to financial data.
- Assist in raising capital through various means.
- Improved internal processes for change orders increasing revenue and visibility
- Modified AP approval process using internal accounting system instead of external system allowing management to better track AP invoice pending approval and bottlenecks.

Vilhauer Enterprises, L.L.C. Frisco, TX Apr. 2014 – Jun. 2018
Controller (Growing company close to home no travel required)

- Provided guidance to management using profit fade analysis to identify low margin customers, categories, and jobs used to improve profit performance.
- Communicate with ownership and management to create timely ad hoc reporting targeting growth and areas of weakness.
- Successfully oversaw the company's growth from \$30.0M to \$99.2M in Gross Revenue.
- Manage company cashflow; communicating with ownership current cash position and strategic planning
- Oversee accounting department of five staff and assist HR manager. Established written performance standards and expectations for staff, reviewing work assignments and periodic goals for measurement.
- Setup vendor discount program resulting in \$50K added to the bottom line.
- Established processes improving the time to complete payroll while seeing payroll grow from 150 employees to 430 employees; primarily achieved using paperless process.

- Annually work with external CPAs negotiating Review & Audits, scheduling, and ensuring timely delivery of end-product to meet compliance guidelines.

Price Construction, Inc. Big Spring, TX Dec. 2012 – Mar. 2014
Controller (Opportunity to join well established construction company)

- Responsible for all accounting, payroll, and HR matters for operations from the following locations; Pecos, TX, Hobbs, NM, Big Spring, TX, Garden City, TX, San Angelo, TX, and McKinney, TX
- Successfully transferred accounting responsibilities from Big Spring, TX to McKinney, TX of a company with of 50 year history of operations. Involved terminating majority of accounting staff in Big Spring and hiring all new staff in McKinney, TX.
- Consolidated financial statements for multiple companies which each had multiple business segments.
- Improved financial reporting among segments to identify underperforming areas which either needed to be eliminated or improvements to increase profitability.
- Implemented process and procedures using new Viewpoint Vista Service Management module to improve speed and efficiency in which Oil Field Service billings were processed.

Xtreme Iron, LLC Frisco, TX May 2010 – Sep. 2012
Chief Financial Officer (Equipment Company Spin Off of Rodman LLC)

- Assisted creation equipment rental dealership start-up; including business processes, legal forms, accounting system implementation, etc.

Rodman, LLC Frisco, TX Apr. 2005 – May 2010
Accounting Manager

- Negotiated lending terms over of \$100 Million of capital expenditures
- Assisted in consolidating and improving financial reporting of \$250 Million company
- Created tools to improve accuracy of equipment internal hourly billing rates.
- Assisted Controller in consolidating financials and budgets in Excel monthly.

Saville, Dodgen & Company, P.A. Dallas, Texas Aug. 2003 – Apr. 2005
Audit Staff Accountant, Public Accounting

- Assist in audit of over \$100 Million in construction fleet assets.
- Audit nonprofit organizations and employee benefit plans.
- Performed QuickBooks and accounting process consulting.
- Compile financial statements, book adjustments, and assist clients.
- Assist in preparation of Federal Income Tax Filings; 1040, 1065, 1120, etc.
- Prepare business valuations, cost segregation pro forma, and client correspondence.

Emerson Partners Inc. Dallas, Texas May 2003 - Aug. 2003
Accounting Assistant, Commercial Real Estate Nov. 2000 - Dec. 2002

- Oversaw accounts payable for corporation.
- Assisted yearly in verifying over 25 Limited Partner's Tax Returns.

TECHNICAL SKILLS

Viewpoint Spectrum Dexter-Chaney, Viewpoint Vista Software (6 plus years), HCSS HeavyJob (6 plus years), Microsoft SQL Server (SSMS Query and Report Writing), MS Excel (advanced formulas, vlookup, pivot tables), Microsoft SharePoint 2010, Microsoft Dynamics GP 2010 (implementation)

AFFILIATIONS

Construction Financial Managers Association (DFW Chapter) and American Institute of Certified Public Accountants

Jeffrey T. Woodall, P.E.

701 Meadow Lane
Wylie, Texas 75098
(972) 302-1276 (cel)
woodallj2003@yahoo.com

EDUCATION 01/95-05/97	Texas A&M University, College Station, Texas <i>B.S. in Civil Engineering, August 1997</i>
01/93-12/94	Stephen F. Austin State University, Nacogdoches, Texas <i>Majoring in Physics and Mathematics</i>
REGISTRATIONS	Professional Civil Engineer Texas No. 99559 Fire Sprinkler Responsible Managing Employee Texas RME-G-2225959
SKILLS	MS Excel, MS Word, MS Project, MS Outlook, SureTrak, Microstation, AutoCAD, HCSS, and Sage 300
EXPERIENCE 05/17-Present	Venus Construction, Mansfield, Texas <i>Senior Project Manager</i> Managed underground utility projects for residential, commercial, and municipal projects.
EXPERIENCE 01/15-05/17	Vinson Construction, LLC, New Braunfels, Texas <i>Vice President</i> Managed all auger boring operations. Duties included: business development, contract negotiations, estimating, value engineering, billing, field supervision, change orders and project closeout.
EXPERIENCE 07/14-12/14	Sage Contractor Services, Los Angeles, California <i>Superintendent</i> Managed the finish work completion of a \$15M Music Center at the Los Angeles City College for the surety Liberty Mutual. The original GC defaulted on the contract. Duties included: on-site supervision of finish work, quality control, risk management, project closeout and punch-list.
EXPERIENCE 07/13-7/14	Sage Contractor Services, Barstow, California <i>Superintendent</i> Managed the completion of an \$26M Performing Arts Center at the Barstow Community College for the surety Federal Insurance Company. The original GC defaulted on the contract. Duties included: scheduling, managing 70 subcontractors, identifying and pricing change orders, risk management, quality control, project planning, preparation of monthly payment applications, conducting project meetings, preparing as-builts, detailed documentation of daily work, project closeout and punch-list.
EXPERIENCE 11/12-7/13	Omega Contracting, Inc., Dallas, Texas <i>Project Manager</i> Simultaneously managed 10 City of Dallas and Irving projects for utility and paving rehabilitation. Identified, prepared, and negotiated change orders and value engineering opportunities. Worked with management on cultivating new clients and estimating future projects.
EXPERIENCE 01/11-11/12	Sage Contractor Services, Dallas, Texas & Minot, North Dakota <i>Project Manager</i>

Worked as a contract employee for the construction administration firm for sureties (North American Specialty Insurance Corporation & Employers Mutual Casualty) to close-out underground utility projects that were defaulted on by the original contractors. Duties included: preparation of project schedules, managing subcontractors, identifying and pricing change orders, risk management, project planning, preparation of monthly payment applications, managing project equipment and personnel, managing project materials, provided detailed daily documentation closeout and punch-list.

- 07/09-01/11 **WR Hodgson Co., LP, Celina, Texas**
Project Manager
Managed underground utility construction for 33 municipal projects ranging from \$500k to \$7M, duties included: preparation of project schedules, managing subcontractors, identifying and pricing change orders, risk management, project planning, value engineering, project startup, preparation of monthly payment applications, managing project equipment and personnel, managing project materials, project closeout and punch-list.
- 01/07-07/09 **Dowager Utility Construction, Ltd., Dallas, Texas**
Senior Project Manager
Managed underground utility construction for DART light rail expansion project for the Blue Line sections of Bryan-Hawkins, NWROF, TRE Grade Separation and NW1B. Prepared and maintained schedules for project status and coordinated with the general contractor (Archer Western). Analyzed plans for constructability, scheduling, value engineering, and discrepancies. Coordinated construction activities with GC, subs, City of Dallas, DART, existing utilities, traffic control, testing, and personnel allocations. Prepared daily reports on work completed, and monthly payment applications. Identified, priced, and negotiated change orders. Prepared RFI's for issues that arose during construction, and performed field design changes for other issues. Estimated and prepared bids for future utility work, including quantity take-offs and scheduling.
- 06/97-01/07 **Turner Collie & Braden, Inc. (AECOM), Dallas, Texas**
Graduate Engineer III
Designed storm sewers, sanitary sewers, water lines, grading, and roads for both residential and commercial land development projects. Provided due diligence, platting, zoning, cost estimating, site design, and construction phase services for lenders. Prepared proposals, budgets, bid schedules, specifications, and contract documents. Managed entire projects from inception to completion. Involved in all aspects of project including: city meetings, client meetings, construction meetings, subcontractor coordination, environmental permitting, and construction phase services.
- 11/88-11/92 **United States Coast Guard, Galveston, Texas**
Marine Science Technician Petty Officer 2nd Class (MST2)
Served 18 months on Coast Guard Cutter Valiant WMEC-621, duties included: search and rescue, drug interdiction, flight deck fireman, and maintenance of ship propulsion and other mechanical systems. Served remaining enlistment at a Marine Safety Office, duties included: computer systems manager, meteorologist, enforcement of federal environmental laws and fines, enforcement of federal fisheries laws and fines, port security, inspections of foreign oil tankers before entering U.S. waters, and regulating transportation of explosive materials through U.S. waterways and ports.

ACTIVITIES Texas Society of Professional Surveyors, American Society of Civil Engineers

REFERENCES Available upon request

VENUS CONSTRUCTION COMPANY
BALANCE SHEET
AUGUST 2022

ASSETS	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22
CURRENT ASSETS:							
Cash	192,347	306,822	103,574	682,032	719,848	335,356	899,967
Accounts Receivable	7,145,457	8,539,052	7,076,049	6,613,660	7,774,139	9,358,495	10,918,188
Accounts Receivable Retainage	6,309,141	6,391,940	6,415,513	6,590,386	6,733,350	6,940,663	7,493,273
Other Current Assets	144,349	218,102	281,111	280,849	295,763	305,119	183,924
Cost In Excess of Billings	2,920,064	2,441,682	3,080,788	3,189,796	3,539,549	3,669,650	2,680,490
TOTAL CURRENT ASSETS	16,711,357	17,897,598	16,957,035	17,356,722	19,062,649	20,609,284	22,175,842
PROPERTY AND EQUIPMENT:							
Building	1,389,095	1,389,095	1,389,095	1,389,095	1,389,095	1,389,095	1,389,095
Autos & Trucks	1,838,950	1,838,950	1,838,950	1,913,890	1,913,890	2,114,411	2,191,617
Construction Equipment	1,980,061	1,980,061	1,980,061	1,980,061	1,991,110	1,991,543	1,983,508
Furniture and Fixtures	277,167	277,167	277,167	277,167	277,167	277,167	277,167
GROSS PROPERTY & EQUIPMENT	5,485,272	5,485,272	5,485,272	5,560,213	5,571,262	5,772,217	5,841,388
Less accumulated depreciation	3,073,928	3,133,647	3,193,367	3,254,148	3,315,085	3,378,864	3,451,416
NET PROPERTY EQUIPMENT	2,411,344	2,351,625	2,291,905	2,306,065	2,256,176	2,393,353	2,389,972
OTHER ASSETS:							
Unapproved receivable - ERC	2,868,048	2,868,048	2,868,048	2,868,048	2,868,048	2,868,048	2,868,048
Receivable - Related Party	1,675,113	1,702,301	1,696,472	1,540,510	1,598,029	1,549,505	446,874
TOTAL OTHER ASSETS	4,543,161	4,570,348	4,564,520	4,408,557	4,466,077	4,417,553	3,314,922
TOTAL ASSETS	23,665,862	24,819,571	23,813,460	24,071,344	25,784,902	27,420,189	27,880,736

VENUS CONSTRUCTION COMPANY
BALANCE SHEET
AUGUST 2022

	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22
LIABILITIES AND STOCKHOLDERS' EQUITY							
CURRENT LIABILITIES:							
Accounts Payable	9,661,646	9,946,448	9,956,748	9,636,697	10,564,252	12,643,298	13,023,531
Credit Cards	34,242	27,863	48,315	2,493	(42,507)	37,877	21,442
Payroll & Payroll taxes payable	1,499,546	1,483,440	1,069,790	1,166,300	1,378,233	1,280,973	614,418
Accrued expenses	275,015	275,015	275,015	293,746	275,015	278,299	66,041
Income taxes payable	333,983	392,362	378,478	408,713	469,651	608,212	566,703
Related Party Payable	(6,300)	(6,300)	(6,300)	(6,300)	(6,300)	(6,300)	(6,300)
Current portion of LT Debt	298,633	298,633	298,633	298,633	297,753	320,424	266,275
Line of credit	708,788	1,396,663	727,679	1,441,577	1,420,202	1,064,292	1,387,184
Billings in excess of cost	2,304,714	2,249,859	2,387,931	1,974,373	2,378,118	1,428,241	2,231,275
TOTAL CURRENT LIABILITIES	15,110,266	16,063,983	15,136,290	15,216,233	16,734,417	17,655,315	18,170,569
NONCURRENT LIABILITIES:							
Deferred incomes taxes							
Long Term debt, less current portion	1,277,726	1,244,202	1,221,321	1,278,319	1,263,492	1,423,638	1,534,968
TOTAL NONCURRENT LIABILITIES	1,277,726	1,244,202	1,221,321	1,278,319	1,263,492	1,423,638	1,534,968
STOCKHOLDERS' EQUITY							
Common Stock, No Par Value, 100,000 shares authorized, 50,000 shares issues,							
36,250 shares outstanding	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Additional Paid in Capital	325,584	325,584	325,584	325,584	325,584	325,584	325,584
Cost of 13,750 shares Treasury Stock	(224,059)	(224,059)	(224,059)	(224,059)	(224,059)	(224,059)	(224,059)
Retained Earnings	7,126,345	7,359,861	7,304,325	7,425,267	7,635,469	8,189,711	8,023,675
TOTAL STOCKHOLDERS' EQUITY	7,277,870	7,511,386	7,455,850	7,576,792	7,786,993	8,341,236	8,175,200
TOTAL LIABILITIES AND EQUITY	23,665,862	24,819,571	23,813,460	24,071,344	25,784,902	27,420,189	27,880,736

VENUS CONSTRUCTION COMPANY
INCOME STATEMENT
SEVEN MONTHS ENDING AUGUST 2022

	2/28/2022	3/31/2022	4/30/2022	5/31/2022	6/30/2022	7/31/2022	8/31/2022	2023 YTD
Contract Revenue	6,172,825	6,912,160	5,737,877	6,287,258	6,395,295	8,121,992	7,990,840	47,618,247
Cost of Revenue								
Labor And Burden	968,933	1,226,280	1,151,708	1,240,923	1,324,325	1,276,373	1,478,931	8,667,472
Materials	3,095,445	3,726,378	2,486,897	2,932,506	3,117,325	3,846,853	4,569,125	23,774,530
Equipment	771,918	679,886	692,469	551,865	765,475	840,673	865,882	5,168,167
Subcontractor	345,397	294,714	725,791	363,734	346,077	636,977	604,351	3,317,041
Other Job Cost	(77,970)	13,653	58,184	635,727	17,375	146,978	(66,449)	727,497
Total Cost of Revenue	5,103,722	5,940,911	5,115,049	5,724,755	5,570,577	6,747,853	7,451,840	41,654,708
GROSS PROFIT	1,069,103	971,249	622,827	562,502	824,718	1,374,139	539,000	5,963,539
	17%	14%	11%	9%	13%	17%	7%	13%
General and Administrative								
Bad Debt Expense	-	-	-	-	-	-	-	-
Computer Related Expenses	8,435	18,512	14,343	19,090	2,500	15,750	96,564	175,194
Depreciation	(411)	5,953	5,953	165	5,953	5,953	13,102	36,668
Entertainment And Travel	35,883	18,982	44,474	1,013	1,600	80,588	21,352	203,892
Insurance Expenses	97,927	66,440	131,776	38,016	81,886	67,707	98,146	581,898
Office And Other Expenses	72,656	115,282	94,549	29,654	90,874	152,641	125,009	680,666
Professional Expenses	4,325	(770)	85	3,000	68	-	-	6,708
Taxes Property/Other	1,396	670	-	100	81	-	667	2,914
Utilities Expense	4,729	4,456	9,128	2,487	4,047	3,524	1,307	29,678
Wages And Burden	332,171	445,389	378,380	305,330	351,862	342,389	361,793	2,517,315
Total General and Administrative	557,111	674,913	678,689	398,856	538,871	668,553	717,940	4,234,933
	9.03%	9.76%	11.83%	6.34%	8.43%	8.23%	8.98%	8.89%
INCOME FROM OPERATIONS	511,992	296,336	(55,861)	163,647	285,847	705,586	(178,940)	1,728,606
Other Income (Expense)								
Other Income	-	-	-	-	1,946	3,114	6,899	11,959
Other Expense	-	-	(195)	344	(1,044)	(2,884)	(18,230)	(22,009)
Interest Expense	(7,126)	(7,923)	(13,364)	(12,814)	(15,609)	(13,013)	(17,273)	(87,123)
Gain on PPP Debt Forgiveness	-	-	-	-	-	-	-	-
Other Income - ERC	-	-	-	-	-	-	-	-

VENUS CONSTRUCTION COMPANY
INCOME STATEMENT
SEVEN MONTHS ENDING AUGUST 2022

	2/28/2022	3/31/2022	4/30/2022	5/31/2022	6/30/2022	7/31/2022	8/31/2022	2023 YTD
Gain/Loss on Sale of Assets	-	-	-	-	-	-	-	-
TOTAL OTHER INCOME (EXPENSE)	(7,126)	(7,923)	(13,559)	(12,469)	(14,707)	(12,783)	(28,605)	(97,173)
Income Taxes								
Federal Taxes, Current	100,766	54,896	(13,884)	30,235	60,938	138,561	(41,509)	330,003
Federal Taxes, Deferred	-	-	-	-	-	-	-	-
States Taxes, Current	1,038	-	-	-	-	-	-	1,038
TOTAL INCOME TAXES	101,804	54,896	(13,884)	30,235	60,938	138,561	(41,509)	331,041
NET INCOME	403,062	233,516	(55,536)	120,942	210,201	554,243	(166,036)	1,300,392
Addbacks								
Interest	7,126	7,923	13,364	12,814	15,609	13,013	17,273	69,849
Taxes	101,804	54,896	(13,884)	30,235	60,938	138,561	(41,509)	372,550
Depreciation	53,168	59,719	59,719	54,993	60,938	63,778	72,552	352,316
Total Addbacks	162,098	122,539	59,199	98,042	137,485	215,352	48,316	794,715
EBITDA	565,160	356,055	3,663	218,984	347,686	769,594	(117,720)	2,261,144

VENUS CONSTRUCTION COMPANY

FINANCIAL STATEMENTS

AS OF

JANUARY 31, 2021

Reiter & Rivers, LLC
Certified Public Accountants
110 E Polk St
Richardson, TX 75081-4131

REITER & RIVERS, LLC
Certified Public Accountants

110 E POLK ST
RICHARDSON, TX 75081-4131

972-238-1300
FAX 972-918-0864

Independent Accountants' Review Report

To the Shareholders
Venus Construction Company
Mansfield, Texas

We have reviewed the accompanying financial statements of Venus Construction Company (a Texas corporation), which comprise the balance sheet as of January 31, 2021, and the related statements of operations and retained earnings, and cash flows for the year then ended, and the related notes to the financial statements. A review includes primarily applying analytical procedures to management's financial data and making inquiries of company management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion.

Management's Responsibility for the Financial Statements

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 the financial statements that are free from material misstatement whether due to fraud or error.

Accountant's Responsibility

Our responsibility is to conduct the review in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the financial statements for them to be in accordance with accounting principles generally accepted in the United States of America. We believe that the results of our procedures provide a reasonable basis for our conclusion.

Accountant's Conclusion

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in accordance with accounting principles generally accepted in the United States of America.

Reiter & Rivers, LLC

July 30, 2021

VENUS CONSTRUCTION COMPANY

BALANCE SHEET

JANUARY 31, 2021

ASSETS

CURRENT ASSETS:

Cash	\$ 53,559
Accounts receivable, including retention of \$5,542,791	12,652,145
Other Current Assets	59,920
Costs and estimated earnings in excess of billings on uncompleted contracts	<u>1,902,657</u>
TOTAL CURRENT ASSETS	<u>14,668,281</u>

PROPERTY AND EQUIPMENT:

Building	1,371,974
Autos and Trucks	1,697,326
Construction Equipment	1,428,088
Furniture and Fixtures	<u>274,975</u>
	4,772,363
Less accumulated depreciation	<u>2,562,972</u>
	<u>2,209,391</u>

OTHER ASSETS:

Receivable - Related Party	<u>646,539</u>
----------------------------	----------------

TOTAL ASSETS **\$ 17,524,211**

See accompanying notes and accountants' report.

VENUS CONSTRUCTION COMPANY

BALANCE SHEET

JANUARY 31, 2021

LIABILITIES AND STOCKHOLDERS' EQUITY

CURRENT LIABILITIES:

Accounts payable	\$ 7,897,724
Credit cards	12,108
Payroll taxes payable	1,272,421
Accrued expenses	242,309
Line-of-credit	1,480,000
Current portion of long-term debt	365,365
Income Taxes Payable	17,621
Amount billed in excess of cost and estimated earnings on uncompleted contracts	<u>1,077,248</u>
TOTAL CURRENT LIABILITIES	<u>12,364,797</u>

NONCURRENT LIABILITIES:

Long-term debt, less current portion	<u>3,112,713</u>
TOTAL NONCURRENT LIABILITIES	<u>3,112,713</u>

STOCKHOLDERS' EQUITY:

Common Stock, No Par Value, 100,000 shares authorized, 50,000 shares issues, 36,250 shares outstanding	50,000
Additional Paid in Capital	325,584
Cost of 13,750 shares of Treasury Stock	(224,059)
Retained Earnings	<u>1,895,178</u>
	<u>2,046,702</u>

TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY \$ 17,524,211

See accompanying notes and accountants' report.

VENUS CONSTRUCTION COMPANY

STATEMENT OF OPERATIONS AND RETAINED EARNINGS

YEAR ENDED JANUARY 31, 2021

Contract revenues earned	\$ 55,291,104
Less cost of revenues earned	<u>50,887,354</u>
GROSS PROFIT	4,403,751
General and administrative expenses	<u>4,137,533</u>
INCOME FROM OPERATIONS	<u>266,217</u>
Other income (expense)	
Gain on disposal of equipment	53,325
Interest Expense	(236,011)
Miscellaneous income	<u>377</u>
OTHER INCOME (EXPENSE)	<u>(182,308)</u>
INCOME (LOSS) BEFORE INCOME TAX	<u>83,909</u>
Income Taxes	
Current	17,621
Deferred	<u>-</u>
	<u>17,621</u>
NET INCOME	66,288
Beginning retained earnings	<u>1,828,889</u>
ENDING RETAINED EARNINGS	<u>\$ 1,895,178</u>

See accompanying notes and accountants' report.

CERTIFICATE OF BIDDER'S
EXPERIENCE & QUALIFICATIONS

The undersigned bidder certifies that he is, at the time of bidding, and shall be, throughout the period of the Contract, licensed by the State of Texas to do the type of work required under terms of the contract documents. Bidder further certifies that he is skilled and regularly engaged in the general class and type of work called for in the contract documents.

The bidder represents that he is competent, knowledgeable and has special skills on the nature, extent and inherent conditions of the work to be performed. Bidder further acknowledges that there are certain peculiar and inherent conditions existent in the construction of the particular facilities that may create, during the construction program, unusual or peculiar unsafe conditions hazardous to persons and property. Bidder expressly acknowledges that he is aware of such peculiar risks and that he has the skill and experience to foresee and to adopt protective measures to adequately and safely perform the construction work with respect to such hazards.

Signed this 13 day of April, 2023.

Venus Construction Company
Name of Bidder

N/A
Contractor's License No. and State

Sash Madden
Signature of Bidder

President
Title of Signatory

END OF SECTION

NON-COLLUSION AFFIDAVIT

State of Texas §
County of Tarrant §

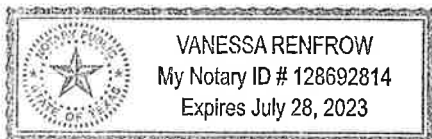
Josh McAda, being duly sworn, deposes and says that:

- (1) He (she) is President of Venus Construction Company, the Bidder submitting the attached Proposal;
- (2) He (she) is fully informed respecting the preparation and contents of the attached Bid and any and all appurtenances thereof;
- (3) Such Bid is genuine and is not a collusive Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive Bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Owner or any other person interested in the proposed contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit.

Signature: Josh McAda

Title: President

Subscribed and sworn to me this 13 day of April, 2023.



By: Vanessa Renfrow
Notary Public in and for Tarrant
County, Texas
My commission expires 7/28/23

END OF SECTION

RESOLUTION OF CORPORATION

I hereby certify that it was RESOLVED by a quorum of the directors of

VENUS CONSTRUCTION

[Name of Corporation / Contractor]

meeting on this 6th day of JANUARY, 2022, that JOSEH MCADA

[Corporate Representative]

be, and hereby is, authorized to act on behalf of the Corporation, as its representative, in all business transactions conducted in the State of Texas, and that the above resolution was unanimously ratified by the Board of Directors at said meeting and that the resolution has not been rescinded or amended and is now in full force and effect; and in authentication of the adoption of this resolution, I subscribe my name and affix the seal of the Corporation on this

13th day of April, 2022.

Janessa Raydon

Secretary/Assistant Secretary

[Seal]

END OF SECTION

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor or other person doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of person who has a business relationship with local governmental entity.

N/A

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has employment or business relationship.

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes

☐ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes

☐ No

D. Describe each employment or business relationship with the local government officer named in this section.

4

Signature of person doing business with the governmental entity

Date

POST-BID PROCEDURES

1.0 DOCUMENT INCLUDES

- A. Notice of Intent to Award.
- B. Agreement.
- C. Requirements of Bidder.
- D. Failure of Bidder to comply with requirements.
- E. Notice to Proceed.
- F. Pre-construction Conference.
- G. Starting the Project.

2.0 NOTICE OF INTENT TO AWARD

- A. Owner reserves the right to reject any and all Bids, to waive any and all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, Owner reserves the right to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of words.

3.0 FORM OF AGREEMENT

- A. The Agreement shall be Document 00 52 00 - Agreement Between the Owner and Contractor, together with Supplements enumerated in and attached thereto.

4.0 REQUIREMENTS OF BIDDER

- A. Within 14 days of receipt of the Notice of Intent to Award, the Low Bidder shall execute and deliver to the Engineer for the Owner's approval those documents indicated by an "X" below:
 - ☒ Document 00 52 00 – Standard Form of Agreement
 - ☒ Document 00 61 10 - Performance Bond
 - ☒ Document 00 61 15 - Payment Bond
 - ☒ Document 00 61 20 – Maintenance Bond
 - ☒ Document 00 61 25 – Certificate of Insurance (Form to be Supplied by Contractor)
 - ☒ Document 00 61 30 – State Sales Tax - Separated Contract Certificate
 - ☒ Document 00 61 40 – Contractor's Act of Assurance
 - ☒ Document 00 61 45 – Certificate of Interested Parties (Form 1295 – Completed Online)
 - ☒ Document 00 61 50 – Certification Regarding Debarment, Suspension, and other Responsibility Matters

5.0 FAILURE OF BIDDER TO COMPLY WITH REQUIREMENTS

- A. Should the Bidder on receipt of the Notice of Intent to Award fail to comply with requirements of this Section 00 46 00 within the stated time, the Owner may declare the award in default and require forfeiture of the Security Deposit.
- B. After Owner's written notice of default to the Bidder, Owner may award the Contract to the responsible Bidder whose offer is the next lowest bid, and the Security Deposit of the Bidder in

default shall be forfeited to the Owner in accordance with the provisions of Section 00 21 00 - Instructions to Bidders.

6.0 NOTICE TO PROCEED

- A. Upon Owner's execution of the Agreement and delivery to Contractor, the Engineer shall give the Contractor Notice to proceed within 30 days after the Effective Date of the Agreement, which notice shall establish the Date of Commencement of the Work.

7.0 PRE-CONSTRUCTION CONFERENCE

- A. Not later than 10 days after the date of Notice to Proceed, but before Contractor starts work at the site, Owner will convene a Pre-construction Conference as specified in Section 01 31 10 - Coordination and Meetings.

8.0 STARTING THE PROJECT

- A. Contractor shall start performance of the Work at the site on the Date of the Commencement of the Work, but no Work shall be done at the site prior to that date.

END OF DOCUMENT

Tab 2

Contract Forms

**STANDARD FORM OF AGREEMENT
BETWEEN THE CITY OF JUSTIN AND CONTRACTOR**

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2023 by and between the City of Justin (hereinafter called OWNER) and

Venus Construction Company of the City of Mansfield,

County of Tarrant, State of Texas
(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. PROJECT SCOPE

The PROJECT for the WORK detailed under the Contract Documents (see Article 8 of this Agreement for items included in the Contract Documents) is generally identified as following:

JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

Article 2. CONTRACT TIME.

The Work will be completed within the time stated in the Bid Proposal, and ready for payment in accordance with Item 103 of the General Provisions.

Article 3. CONTRACT PRICE.

3.1. OWNER shall pay CONTRACTOR the prices in the CONTRACTOR'S bid proposal plus additional work performed or when authorized by OWNER.

Article 4. PAYMENT PROCEDURES.

4.1. Payment to CONTRACTOR will be monthly upon receipt of invoices from the CONTRACTOR. All charges are to be less sales tax as OWNER is tax exempt.

Article 5. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this agreement, CONTRACTOR makes the following representations:

5.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents and Specifications.

5.2. CONTRACTOR has correlated the results of all such observations and studies with the terms and conditions of the Contract Documents.

5.3. CONTRACTOR has given OWNER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution by OWNER is acceptable to CONTRACTOR.

Article 6. MISCELLANEOUS.

6.1. ASSIGNMENTS: No assignments by a party hereto of any rights under or interest in the Contract Documents will be binding on another party hereto without written consent of the party sought to be bound; and specifically but without limitation moneys that may come due and moneys that are 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 written consent to an assignment will release the assignor from any duty or responsibility under the Contract Documents.

6.2. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

6.3. TERMINATION: OWNER may terminate the Contract by giving CONTRACTOR notice in writing. Upon delivery of such notice by OWNER to CONTRACTOR, CONTRACTOR shall discontinue all services in connection with the performance of the Contract and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Contract. As soon as practicable after receipt of notice of termination, CONTRACTOR shall submit a statement, showing in detail the services performed under this Contract to the date of termination. OWNER shall then pay CONTRACTOR that portion of the prescribed charges which the services actually performed under this Contract bear to the total services called for under this Contract less such payments on account of the charges as have been previously made.

6.4. SUBCONTRACTING:

1. CONTRACTOR shall not award any work to any subcontractor until CONTRACTOR submits to OWNER a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as OWNER may require.

2. CONTRACTOR shall be fully responsible to OWNER for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for acts and omissions of persons directly employed by him.

3. Nothing contained in this Contract shall create any contractual relation between any subcontractor and OWNER. CONTRACTOR is an independent contractor.

Article 7. GOVERNING LAWS, VENUE.

The Contract shall be construed according to the laws of the State of Texas; and, venue shall lie in the State district courts of Denton County, Texas.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire agreement between the OWNER and CONTRACTOR, same being attached hereto and incorporated herein as Exhibit A, consist of the following:

8.1 The Contract Documents consist of the documents listed in the table of contents of the Project Manual and the drawings listed on the Sheet Index in the Drawings.

8.2 Addenda numbers ____ N/A ____, inclusive.

8.3 Contractor's References

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

Article 9. INDEMNIFICATION.

The CONTRACTOR hereby agrees to defend, indemnify, and hold the City and all of its officers, agent, employees, and elected officials whole and harmless against any and all claims for damages, cost, and expenses of persons or property that may arise out of, or be occasioned by, of from any negligent act, or omission of the CONTRACTOR, or any agent, servant, or employee of the CONTRACTOR in the execution of performance of this Contract, without regard to whether such persons are under the direction of City agents or employees.

Executed on behalf of the CONTRACTOR by its owner shown below, and on behalf of the OWNER by its City Manager, or authorized representative, this agreement will be effective

on the _____ day of _____, 2023.

OWNER:

CITY OF JUSTIN
415 N. COLLEGE STREET
JUSTIN, TEXAS 76247

By: _____

Jarod Greenwood, Interim City Manager
Print Name

CONTRACTOR:

Name: Venus Construction Company

Address: 1426 S. Main

City: Mansfield

State & Zip: TX, 76063

By: Josh McAdg

Josh McAdg
Print Name

817-477-2050
Telephone Number

CONTRACTOR'S Seal
(if incorporated)

(City Attorney review if Contracted Service Cost is Greater than \$15,000)

Approved as to Form and Legality this _____ day of _____, 20 ____.

OWNER's Attorney

PERFORMANCE BOND

STATE OF TEXAS
COUNTY OF DENTON

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, Venus Construction Company, hereinafter called the Principal, and Great American Insurance Company, hereinafter called the Surety, are held and firmly bound unto the City of Justin as Owner, in the sum of Three Million Two Hundred Eighty Seven Thousand Two Hundred Fifty Two & 00/100 Dollars (\$3,287,252.00), for the payment whereof the Principal and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has, by means of a written agreement, dated _____, entered into a Contract with the Owner for:

JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

as set out in said Contract, a copy of which is by reference made a part hereof;

NOW THEREFORE the conditions of this obligation are such that, if the Principal shall faithfully perform the Contract in accordance with the Plans, specifications and contract documents and shall fully indemnify and save harmless the Owner from all cost and damage which Owner may suffer by reason of Principal's default or failure so to do, and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any such default or failure;

AND FURTHER, that if the Principal shall pay all persons, who have contracts directly with the Principal for labor and/or materials, failing which such persons shall have a direct right of action against the Principal and the Surety under this obligation, subject to Owner's priority, then the obligation shall be null and void, otherwise it shall remain in full force and effect.

AND PROVIDED, that any alterations which may be made in the terms of the Contract or in the work to be done under it, or the giving by the Owner of any extension of time for the performance of the contract, or any other forbearance on the part of either the Owner or the Principal to the other shall not in any way release the Principal and the Surety, or either of them, their heirs, executors, administrators, successors, or assigns from their liability hereunder, notice to the Surety of any alteration, extension or forbearance being hereby waived.

AND PROVIDED, in the event Principal is in default under the Contract as defined herein, Surety will within fifteen (15) days of determination by Owner of such default take over and assume completion of said Contract and become entitled to the payment of the balance of the Contract price, subject to Owner's priority.

AND PROVIDED, that if any suit is brought under this Surety Bond, venue shall lie in Denton County, Texas.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their several seals this _____ day of _____, 2023, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

WITNESSED:

Janessa Oefele
Melvin Pitts

Principal: Venus Construction Company

By: Josh McAda

Surety: Great American Insurance Company

By: Lloyd Ray Pitts Jr
Lloyd Ray Pitts Jr Attorney-in-fact
(SEAL)

PAYMENT BOND

Bond Number: CA4370607

STATE OF TEXAS

§
§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DENTON §

THAT WE, Venus Construction Company as Principal, and Great American Insurance Company, as Surety, are hereby held and firmly bound unto the City of Justin, as Owner, in the sum of Three Million Two Hundred Eighty Seven Thousand Two Hundred Fifty Two & 00/100 Dollars (\$3,287,252.00), for the payment, whereof the said Principal and Surety bind themselves, their heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The Conditions of this obligation are such that whereas the Principal entered into a certain contract, hereto attached, and made a part hereof, with the Owner dated _____, 2023, for:

JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

NOW THEREFORE, the conditions of this obligation are such that, if the Principal shall promptly make payment to all claimants as defined in Article 5160 Revised Civil Statutes of Texas, supplying labor and materials in the prosecution of the work provided for in said contract, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

This bond is made and entered into solely for the protection of all claimants supplying labor and material in the prosecution of the work provided for in said contract, and all such claimants shall have a direct right of action under the bond as provided in Article 5160, Revised Civil Statutes of Texas.

AND PROVIDED, that any alterations which may be made in the terms of the contract, or in the work to be done under it, or the giving by the Owner of any extension of time for the performance of the Contract, or any other forbearance on the part of either the Owner or the Principal to the other shall not in any way release the Principal and the Surety, or either of them, their heirs, executors, administrators, successors, or assigns from their liability hereunder, notice to the Surety of any alteration, extension or forbearance being hereby waived.

AND PROVIDED, that if any suit is brought under this Payment Bond, venue shall lie in Denton County, Texas.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their several seals this _____ day of _____, 2023, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

WITNESSED:

Vanessa Beal
Meelin Pitts

Principal: Venus Construction CompanyBy: *Josh McAda*Surety: Great American Insurance CompanyBy: *Lloyd Ray Pitts Jr*

Lloyd Ray Pitts Jr Attorney-in-fact

(SEAL)

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by
this power of attorney is not more than TWO

No. 0 20935

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
LLOYD RAY PITTS, JR.	BOTH OF	BOTH
WILLIAM D. BIRDSONG	DALLAS, TEXAS	\$100,000,000

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 10TH day of DECEMBER 2020

Attest

GREAT AMERICAN INSURANCE COMPANY



Assistant Secretary

Steph C. B.

Mark V. Vicario

Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

MARK VICARIO (877-377-2405)

On this 10TH day of DECEMBER, 2020, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



SUSAN A KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

Susan A Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this

day of



Steph C. B.

Assistant Secretary



**Great American Insurance Company of New York
Great American Alliance Insurance Company
Great American Insurance Company**

IMPORTANT NOTICE:

To obtain information or make a complaint:

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance at:

P.O. Box 149104
Austin, TX 78714-9091
FAX: 1-512-490-1007

Your notice of claim against the attached bond may be given to the surety company that issued the bond by sending it by certified or registered mail to the following address:

Mailing Address: Great American Insurance Company
P.O. Box 2119
Cincinnati, Ohio 45202

Physical Address: Great American Insurance Company
301 E. Fourth Street
Cincinnati, Ohio 45202

You may also contact the Great American Insurance Company Claim office by:

Fax: 1-888-290-3706
Telephone: 1-513-369-5091
Email: bondclaims@gaic.com

PREMIUM OR CLAIM DISPUTES:

If you have a dispute concerning a premium, you should contact the agent first. If you have a dispute concerning a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document.

Section 00 61 20
MAINTENANCE BOND

Bond Number: CA4370607

STATE OF TEXAS §
COUNTY OF DENTON §

KNOW ALL MEN BY THESE PRESENTS:

That Venus Construction Company as principal (the CONTRACTOR)

and Great American Insurance Company, a corporation organized under the laws of the

State of Ohio and authorized to do business in the State of Texas as sureties, do hereby expressly acknowledge themselves to be held and bound to pay unto the City of Justin, a municipal corporation, (the OWNER) the sum of:

Three Million Two Hundred Eighty Seven Thousand Two Hundred Fifty Two & 00/100 Dollars
(One hundred (100%) percent of final contract price)

(\$3,287,252.00) for the payment of which sum well and truly to be made unto said City of Justin and its successors, said Principal and Surety do hereby bind themselves, their assigns, and successors jointly and severally. This obligation is conditioned, however, that, whereas said CONTRACTOR has this day entered into a written contract with said City of Justin to build and construct the following project:

JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

which contract and the plans and specifications therein mentioned and adopted by the City of Justin are hereby expressly made a part thereof as though the same were written and embodied herein.

WHEREAS, under the specifications and contract, it is provided that the CONTRACTOR shall maintain and keep in good repair the work constructed and/or equipment furnished by him as contemplated by the plans, specifications, drawings, etc., and perform for a period of two (2) years. The period shall be two (2) years from the date of final acceptance as shown on the "Letter of Final Acceptance" as issued by the ENGINEER.

The CONTRACTOR agrees to make all necessary repairs, reconstruction and renewal of any part of said construction, and to furnish the labor and materials to make good and to repair any defective condition growing out of or on account of the breakage or failure of any substance or the improper function of any part of the constructed work. The CONTRACTOR shall reimburse the OWNER for the costs of all Engineering and special services required to be furnished by the OWNER which are directly attributable to the restoration of the constructed work. Said maintenance contemplates the complete restoration of the constructed work to a functional use during the said period as set forth above. It is being understood that the purpose of this section is to require the correction of all defective conditions resulting from materials furnished or work and labor performed by said CONTRACTOR under the conditions prescribed by the Contract Documents. In case the said CONTRACTOR shall fail or refuse to perform as provided within ten (10) days after proper written notifications have been furnished to him by the OWNER, it is agreed that the OWNER may do said work and supply such materials and the said CONTRACTOR and Sureties herein shall be subject to the liquidated damages mentioned in said Contract for each calendar day's failure on its part to comply with the terms of the said provision of the said Contract and this Maintenance Bond.

NOW THEREFORE, if the said CONTRACTOR shall keep and perform its said agreement to maintain said work and keep the same in good repair for the said maintenance period as provided above, then these presents shall be null and void and have no further effect, but if default shall be made by the said CONTRACTOR in the performance of its contract to do so maintain and repair damages in the premises, as provided, and it is further understood and agreed that this obligation shall be a continuing one against the principal and sureties hereon, and that successive recoveries may be had hereon for successive breaches until the full amount shall have been exhausted; and it is further

understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished, or in any manner affected from any clause during said time.

IN WITNESS WHEREOF, Venus Construction Company (CONTRACTOR) has caused by these presents to be executed by _____ (CONTRACTOR'S Principal) and the said Surety, **Great American Insurance Company**, has caused these presents to be executed by its Attorney-In-Fact who has hereto set his/her hand this _____ day of _____, 2023.

Venus Construction Company

Contractor

By: Josh McAda

Name: Josh McAda

Title: President

Address: 1426 S Main

Mansfield, TX 76063

Great American Insurance Company

Surety

By: Lloyd Ray Pitts Jr

Name: Lloyd Ray Pitts Jr

Title: Attorney-In-Fact

Address: 301 E 4th Street

Cincinnati, Ohio 45202

Attest: Sandra Brown

Name and Title

Venus Const Co.

Company or Employer

Attest: Melissa Pitts

Name and Title – Melissa Pitts – Bond Secretary

Pitts Birdsong Bonds & Insurance

Company or Employer

The name and address of the Resident Agent of the Surety is:

Name: Lloyd Ray Pitts Jr

Firm Name: Pitts Birdsong Bonds & Insurance

Address: 1206 Apollo Rd #850367

City, State, Zip Richardson, TX 75085

Telephone: 469-661-0314

For additional information on the above-named surety, you may contact the Texas Department of Insurance at (800) 578-4677.

NOTES:

1. Power of Attorney must be attached.
2. The Maintenance Bond effective date will begin when the "Final Letter of Acceptance" is issued by the Owner.

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by
this power of attorney is not more than TWO

No. 0 20935

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
LLOYD RAY PITTS, JR.	BOTH OF	BOTH
WILLIAM D. BIRDSONG	DALLAS, TEXAS	\$100,000,000

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 10TH day of DECEMBER 2020

Attest

GREAT AMERICAN INSURANCE COMPANY



Stephen C. Beraha

Assistant Secretary

Mark V. Vicario

Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 10TH day of DECEMBER, 2020, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.

MARK VICARIO (877-377-2405)



SUSAN A KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

Susan A. Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this

day of



Stephen C. Beraha

Assistant Secretary



**Great American Insurance Company of New York
Great American Alliance Insurance Company
Great American Insurance Company**

IMPORTANT NOTICE:

To obtain information or make a complaint:

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance at:

P.O. Box 149104
Austin, TX 78714-9091
FAX: 1-512-490-1007

Your notice of claim against the attached bond may be given to the surety company that issued the bond by sending it by certified or registered mail to the following address:

Mailing Address: Great American Insurance Company
P.O. Box 2119
Cincinnati, Ohio 45202

Physical Address: Great American Insurance Company
301 E. Fourth Street
Cincinnati, Ohio 45202

You may also contact the Great American Insurance Company Claim office by:

Fax: 1-888-290-3706

Telephone: 1-513-369-5091

Email: bondclaims@gaic.com

PREMIUM OR CLAIM DISPUTES:

If you have a dispute concerning a premium, you should contact the agent first. If you have a dispute concerning a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/30/2023

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

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

PRODUCER K & S Insurance 0104 2255 Ridge Rd, Ste 333 Rockwall TX 75087	CONTACT NAME: Ashley Smalley	
	PHONE (A/C, Ho, Ext): 972-771-4071	FAX (A/C, No): 972-771-4695
	E-MAIL ADDRESS: ashley.smalley@kandsins.com	
INSURED VENUCON-02 Venus Construction Co. Inc. dba Venus Construction Company Tierra X Excavation, LLC, CLLA Group, LLC, Midlothian Machinery, LLC 1426 S. Main Mansfield TX 76063	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Arch Insurance Company	
	INSURER B: Ironshore Specialty Insurance	
	INSURER C: Transguard Insurance Co of Ame	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:** 1377190395**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADOL SUBR MSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:		41PKG1991900	4/16/2023	4/16/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMPROP AGG \$2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY		41PKG1991900	4/16/2023	4/16/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000		414FP1991900	4/16/2023	4/16/2024	EACH OCCURRENCE \$8,000,000 AGGREGATE \$8,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N N/A	41WC1991900	4/16/2023	4/16/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B C	Pollution Liability Contractors Equipment		ICELLUW00147604 IMP4000887-00	4/16/2023 4/16/2023	4/16/2024 4/16/2024	Pollution-Aggregate 2,000,000 Pollution-Each Cond 1,000,000 Leased/Rented Equip 1,000,000

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

General Liability, Business Auto Liability and Pollution liability policies include blanket automatic additional insured endorsements that provide additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status. General Liability, Business Auto Liability, Umbrella and Pollution Liability policies contain an endorsement with "Primary and Noncontributory" wording. General Liability, Business Auto Liability, Umbrella, Pollution Liability and Workers Compensation policies include blanket automatic waiver of subrogation endorsements that provide this feature, only when there is a written contract between the named insured and the certificate holder that requires it. Umbrella overlays the General Liability, Business Auto Liability and Employers' Liability policies.

*ALWAYS REFER TO THE POLICY FORMS FOR SPECIFIC WORDING OF SUCH COVERAGE, LIMITS, CONDITIONS AND EXCLUSIONS.
See Attached...

CERTIFICATE HOLDER**CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

City of Justin
415 N College Street
Justin TX 76247

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STATE SALES TAX - SEPARATED CONTRACT CERTIFICATE

DATE: _____

PROJECT: JUSTIN WEST SIDE SEWER SEGMENT CP1 TO CP2

PROJECT ID: _____

TO: The City of JustinSUMMARY SEPARATION OF MATERIALS AND LABOR:

The total amount bid shall be separated into Materials Costs and Services Charges, which result in a "Separated Contract". The Bidder is expected to comply with all the requirements of the State Sales Tax Law, plus separate the total Contract amount, for the total amount bid listed in the Proposal into material costs and services charges as provided below.

Materials which are incorporated into or become part of the project are exempt from sales tax. The Contractor is expected to execute a resale certificate instead of paying the sales tax at the time of purchase. The Corporation will issue an exemption certificate for the materials as long as they are a part of the finished project

If the Contractor does not issue a resale certificate, then the amount of sales tax must be included in the prices quoted. No additional compensation, beyond the prices quoted, is due the Contractor for sales tax.

MATERIALS.....\$1,269,082.00

SERVICES.....\$ 2,018,170.00

TOTAL AMOUNT BID.....\$ 3,287,252.00

Venus Construction Company
PRINCIPAL(817) 477-2050
TELEPHONE NUMBERJosh McAda
SIGNATUREJosh McAda, President
NAME & TITLE

END OF SECTION

CONTRACTOR'S ACT OF ASSURANCE

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF Tarrant

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas,

on this day personally appeared Josh McAda, Affiant,
[Affiant]

who being by me duly sworn on his oath stated that he is President, of
[Title]

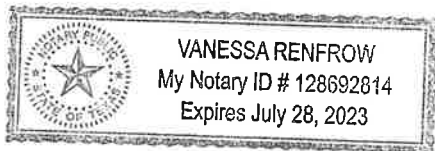
the Venus Construction Company,
Contractor, that he is authorized to represent Contractor
[Contractor]

pursuant to provisions of a resolution adopted on this 5 day of June, 2023. A duly
certified copy of such resolution is attached to and is hereby made a part of this document.

Affiant, in such capacity declares and assures the Owner that Contractor will construct the Project in accordance
with sound construction practice, all laws of the State of Texas, and the regulations of the Owner.

Josh McAda
[Affiant]

SWORN AND SUBSCRIBED before me on this 5 day of June, 2023



Vanessa Renfrow
Notary Public in and for the State of TEXAS
Vanessa Renfrow
[Print or Type Notary Public Name]

My Commission Expires: 7/28/23
[Expiration Date]

[Seal]

END OF DOCUMENT

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.

Venus Construction Company
Mansfield, TX United States

Certificate Number:
2023-1028336

Date Filed:
05/31/2023

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

City of Justin

Date Acknowledged:

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.

2023-WW-01
Sanitary Sewer

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	McAda, Josh	Mansfield, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Josh McAdh, and my date of birth is October 19, 2023

My address is 1426 S. Main St. Mansfield TX 76063 USA
(street) (city) (state) (zip code) (country)

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

Executed in Johnson County, State of Texas, on the 31 day of May, 2023.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATION REGARDING DEBARMENT,
SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction: violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Section 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Venus Construction Company
[Typed Name of Company:]

Josh McAda, President
[Typed Name & Title of Authorized Representative]

Josh McAda
[Signature of Authorized Representative]

June 5 2023
[Date]

If unable certify the above statements, explanation is attached.

END OF SECTION

Tab 3

Conditions of Agreement

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

Section 00 72 00

**STANDARD
GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT**

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by



The Associated General Contractors of America



Knowledge for Creating
and Sustaining
the Built Environment

Construction Specifications Institute

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National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314

American Council of Engineering Companies
1015 15th Street, N.W., Washington, DC 20005

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400

These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor Nos. C-520 or C-525 (2002 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC Construction Documents, General and Instructions (No. C-001) (2002 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. C-800) (2002 Edition).

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. 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 which is evidence of the agreement between Owner and Contractor covering the Work.

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. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidder*--The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, bid security of acceptable form, if any, and the Bid Form with any supplements.

9. *Change Order*--A document recommended by Engineer 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, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*-- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor's submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

13. *Contract Price*--The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor*--The individual or entity with whom Owner has entered into the Agreement.

16. *Cost of the Work*--See Paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer*--The individual or entity named as such in the Agreement.

20. *Field Order*--A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

21. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

22. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Notice of Award*--The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.

28. *Notice to Proceed*--A written notice given 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 under the Contract Documents.

29. *Owner*--The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.

30. *PCBs*--Polychlorinated biphenyls.

31. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *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.

33. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

34. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

35. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

36. *Related Entity* -- An officer, director, partner, employee, agent, consultant, or subcontractor.

37. *Resident Project Representative*--The authorized representative of Engineer who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Schedule of Submittals*--A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *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.

41. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

42. *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 for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

43. *Specifications*--That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain

administrative requirements and procedural matters applicable thereto.

44. *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 at the Site.

45. *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.

46. *Successful Bidder*--The Bidder submitting a responsive Bid to whom Owner makes an award.

47. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

48. *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 any Subcontractor.

49. *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 those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

50. *Unit Price Work*--Work to be paid for on the basis of unit prices.

51. *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, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

52. *Work Change Directive*--A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times

but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following 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 requirements of and information in the Contract Documents and conformance with the design concept of the completed 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 Paragraph 9.09 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 14.04 or 14.05).

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. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases which 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. 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.

B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5.

2.02 Copies of Documents

A. Owner shall furnish to Contractor up to ten printed or hard copies of the Drawings and Project Manual. Additional copies will be furnished upon request at the cost of reproduction.

2.03 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 Agreement

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 Agreement. 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 Agreement, whichever date is earlier.

2.04 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 the date on which the Contract Times commence to run.

2.05 Before Starting Construction

A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), 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 Documents;

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.

2.06 Preconstruction Conference

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 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 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 2.05.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 component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, 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. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

A. Standards, Specifications, Codes, Laws, and Regulations

1. Reference to standards, specifications, manuals, 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, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement 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 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 Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of, their Related Entities, 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 Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, 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 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

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 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 Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); 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 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample; (Subject to the provisions of Paragraph 6.17.D.3); or
3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier or other individual or entity performing or furnishing all of the Work under a 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 Engineer's consultants, including electronic media editions; or
2. reuse any of 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 adaption by Engineer.

B. The prohibition 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.

3.06 *Electronic Data*

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's

sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party..

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *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. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

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 the Work is to be performed 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.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities 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.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed 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 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; 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 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 6.16.A), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition 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 meet any one or more of the categories described in Paragraph 4.03.A; and

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 Paragraphs 9.07 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. Contractor knew of the existence of such conditions at the time Contractor made a final 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

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or 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) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous 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 shall not be responsible for the accuracy or completeness of any such information or data; 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 such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, 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 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will

promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *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.

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the Engineer in the preparation of the Contract Documents.

B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities 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 any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) 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.

E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. 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, either party may make a Claim therefor as provided in Paragraph 10.05.

F. 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. If Owner and Contractor cannot agree as to

entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, 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: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06. G shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, 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 created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.H shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish performance and payment bonds, 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 Documents. 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 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, 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 requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Owner shall deliver to Contractor, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.

5.04 *Contractor's Liability Insurance*

A. Contractor shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection

from claims set forth below which 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:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

b. by any other person for any other reason;

5. 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; and

6. 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.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insured (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, 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;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

7. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment.

a. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and one year thereafter.

5.05 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, 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.

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementary Conditions, Owner shall purchase and maintain property insurance upon the Work at the Site in the amount of the full 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 interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, (other than caused by flood) and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;

5. allow for partial utilization of the Work by Owner;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. Owner shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. Owner shall not be responsible for purchasing and maintaining any property insurance specified in this Paragraph 5.06 to protect the interests of Contractor, Subcontractors, or others in the Work to the extent of any

deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by Contractor, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If Contractor requests in writing that other special insurance be included in the property insurance policies provided under Paragraph 5.06, Owner shall, if possible, include such insurance, and the cost thereof will be charged to Contractor by appropriate Change Order. Prior to commencement of the Work at the Site, Owner shall in writing advise Contractor whether or not such other insurance has been procured by Owner.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies 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 of the insureds or additional insureds thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, 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 Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insured or additional insured (and the officers, directors, 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 as trustee or otherwise payable under any policy so issued.

B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, 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 utilization pursuant to Paragraph 14.05, after Substantial Completion pursuant to Paragraph 14.04, or after final payment pursuant to Paragraph 14.07.

C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 5.07.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, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either Owner or Contractor has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract

Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, 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. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *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. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents.

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. The superintendent will be Contractor's representative at the Site and shall have authority to act on behalf of Contractor. All communications given to or

received from the superintendent shall be binding on Contractor.

6.02 *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. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *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.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, 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.

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 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 2.07) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "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 specification or description 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 or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *"Or-Equal" Items:* If in Engineer's sole discretion 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, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, 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

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.

2. Substitute Items

a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. Contractor shall submit sufficient information as provided below to allow Engineer to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented in the General Requirements and as Engineer may decide is appropriate under the circumstances.

d. 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:

1) shall certify that the proposed substitute item will:

a) perform adequately the functions and achieve the results called for by the general design,

b) be similar in substance to that specified, and

c) be suited to the same use as that specified;

2) will state:

a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time;

b) whether or not 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

c) whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;

3) will identify:

a) all variations of the proposed substitute item from that specified, and

b) available engineering, sales, maintenance, repair, and replacement services;

4) and shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change,

B. Substitute Construction Methods or Procedures: If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

C. Engineer's Evaluation: Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.

D. Special Guarantee: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

E. Engineer's Cost Reimbursement: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute item so proposed or submitted by Contractor, Contractor shall reimburse Owner for the charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the 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.

F. Contractor's Expense: Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. 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 any right of Owner or Engineer to reject defective Work.

C. 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. 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 anything in the Contract Documents create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual

or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

F. 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.

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, and Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, 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 such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *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, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, 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.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, 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 opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *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 knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear 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. However, it shall not be Contractor's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 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.

6.11 Use of Site and Other Areas

A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, 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 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 by or based upon Contractor's performance of the Work.

B. Removal of Debris During Performance of the Work: During the progress of the Work Contractor shall keep the Site and other 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 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 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 property to stresses or pressures that will endanger it.

6.12 Record Documents

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

6.13 Safety and Protection

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. 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, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

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 owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.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 (except damage or loss attributable to the fault of Draw-

ings or Specifications or to the acts or omissions of Owner or Engineer or , 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).

D. Contractor's duties and responsibilities for safety and for protection of the Work 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 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *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.

6.15 *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.

6.16 *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.

6.17 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. Shop Drawings

a. Submit number of copies specified in the General Requirements.

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 6.17.D.

2. *Samples:* Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

b. 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 6.17.D.

B. 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. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. the suitability of all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto; and

d. shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

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 and approval of that 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 both a written communication separate from the Shop Drawing's or Sample Submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

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 (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval 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 6.17.C.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's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

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.

6.18 Continuing the Work

A. 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, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 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 Related Entities shall be entitled to rely on representation of 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 or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others; or

7. any correction of defective Work by Owner.

6.20 Indemnification

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, 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 .

B. In any and all claims against Owner or Engineer or any of their respective consultants, agents, officers, directors, partners, or employees 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 6.20.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 6.20.A shall not extend to the liability of Engineer and Engineer's officers, directors, 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.

6.21 *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 law.

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, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to 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 6.21, 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 6.17.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 - OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the Work with theirs. 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 their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, 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.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.

B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's actions or inactions.

C. Contractor shall be liable to Owner and any other contractor for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's action or inactions.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

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

8.02 *Replacement of Engineer*

A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

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

8.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by Engineer in preparing the Contract Documents.

8.06 *Insurance*

A. Owner's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility in respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *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.

8.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. If and to the extent Owner has agreed to furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents, Owner's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *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 Documents and will not be changed without written consent of Owner and Engineer.

9.02 *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 9.09. 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.

9.03 *Project Representative*

A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. 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.

9.04 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which 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. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.

B. In connection with 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, see Paragraph 6.21.

C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.

D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

A. 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 Paragraph 10.05.

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

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believe that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show

partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents 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 14.07.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 9.09 shall also apply to, the Resident Project Representative, if any, and assistants, if any.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *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 by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall

promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *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 as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. 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; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice 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) is required by the provisions of any bond to be given to a surety, 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.

10.05 *Claims*

A. *Engineer's Decision Required:* All Claims, except those waived pursuant to Paragraph 14.09, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

B. *Notice:* Written notice stating the general nature of each Claim, shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal (unless Engineer allows additional time).

C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part,

2. approve the Claim, or

3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

E. Engineer's written action under Paragraph 10.05.C or denial pursuant to Paragraphs 10.05.C.3 or 10.05.D will be final and binding upon Owner and Contractor, unless Owner or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

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 at the Site. 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, 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 11.01.

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, 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 5.06.D), 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 telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. 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 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which 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 Paragraphs 11.01.A and 11.01.B.

C. Contractor's Fee: When all the Work 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 or when a Claim for an 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 12.01.C.

D. Documentation: Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, 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.

11.02 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

1. Contractor agrees that:

a. 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

b. 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

1. 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.

11.03 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. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.

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. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. Contractor believes that Contractor 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 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for 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, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an

allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

C. *Contractor's Fee:* 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 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

b. for costs incurred under Paragraph 11.01.A.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 Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

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 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted

by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, 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 Price or the Contract Times, or both. 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.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is 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 described in this Paragraph 12.03.C.

D. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or 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) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

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

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and
3. as otherwise specifically provided in the Contract Documents.

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 and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to

be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. 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, it must, if requested by Engineer, be uncovered for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, 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, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, 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 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 Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. 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, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *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, 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.

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. 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 removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year 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 land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or
2. correct such defective Work; or
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 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. 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) will be paid by Contractor.

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 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. 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) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.

13.09 *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 in accordance with Paragraph 13.06.A, 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, 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 13.09, 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, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, 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 (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) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. 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 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.07.A 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.

14.02 *Progress Payments*

A. 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 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.

B. Review of Applications

1. Engineer will, within 10 days after receipt of each Application for Payment, 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 on the Site 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, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and to 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 Documents; or

b. that 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 moneys 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 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent

inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
- d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. Reduction in Payment

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

- a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;
- b. 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;
- c. there are other items entitling Owner to a set-off against the amount recommended; or
- d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action 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, when Contractor corrects to Owner's satisfaction the reasons for such action.

3. If it is subsequently determined that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1.

14.03 Contractor's Warranty of Title

A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 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 (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly 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 tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within 14 days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said 14 days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial

Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

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. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor will certify to Owner and Engineer that such part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and 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 14.04 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 5.10 regarding property insurance.

14.06 *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 is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *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, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.7;

b. consent of the surety, if any, to final payment;

c. a list of all Claims against Owner that Contractor believes are unsettled; and

d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 14.07.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible 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.

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 Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. 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 14.09. 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. Payment Becomes Due

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and, will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance

with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *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 notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will 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 established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. 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

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.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 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) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed 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.

D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

E. 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. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B, and 15.02.C.

15.03 *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;

3. 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) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 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 15.03.

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 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 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 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 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Either Owner or Contractor may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be

governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 10.05.E.

B. Owner and Contractor shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 10.05.C or a denial pursuant to Paragraphs 10.05.C.3 or 10.05.D shall become final and binding 30 days after termination of the mediation unless, within that time period, Owner or Contractor:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or

2. agrees with the other party to submit the Claim to another dispute resolution process, or

3. gives written notice to the other party of their intent to submit the Claim to a court of competent jurisdiction.

ARTICLE 17 - MISCELLANEOUS

17.01 *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 to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or

2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents 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.

17.03 *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 Documents. 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.

17.04 *Survival of Obligations*

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

17.05 *Controlling Law*

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

17.06 *Headings*

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

Section 00 73 10

SPECIAL PROVISIONS

PART 1 – GENERAL

1.01 BONDS

Bidders must submit with the Bid a Cashier's or Certified Check payable to the City of Justin, in the amount of 5% of the maximum price bid, or submit a Bid Bond in the same amount from a surety Company to the City, as a guarantee that the bidder will enter into a contract and execute the required bonds after the acceptance of the bid and award of the contract.

In accordance with Chapter 2253 of the Local Government Code of Texas, V.T.C.A., the successful bidder will be required to furnish Performance, Payment, and Maintenance Bonds in the full amount of the contract. The Bonds must be executed by an approved Surety Company holding a permit from the State of Texas to act as Surety. Each Bond shall be accompanied by a "Power of Attorney" authorizing the attorney-in-fact to bind the Surety and certified to include the date of the bond.

1.02 WARRANTY

The work performed under this Contract shall be warranted to be free from defects in materials and workmanship for a period of two (2) years from the date of acceptance. If the owner determines that the process has failed during the warranty period, the Contractor will perform and make all repairs at no additional cost to the Owner.

1.03 INSURANCE REQUIREMENTS

A. CONTRACTOR'S INSURANCE

Without limiting any of the other obligations or liabilities of the CONTRACTOR, during the term of the contract the CONTRACTOR and each subcontractor, at their own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly approved to do business in the State of Texas and satisfactory to the OWNER. Certificates of each policy shall be delivered to the OWNER before any work is started, along with a written statement from the issuing company stating that said policy shall not be canceled, non-renewed or materially changed without 30 days advance written notice being given to the OWNER, except when the policy is being canceled for nonpayment of premium, in which case 10 days advance written notice is required. Prior to the effective date of cancellation, the CONTRACTOR must deliver to the OWNER a replacement certificate of insurance or proof of reinstatement. Coverage shall be of the following types and not less than the specified amounts.

- (1) workers' compensation as required by Texas law, with the policy endorsed to provide a waiver of subrogation as to the OWNER; employer's liability insurance of not less than \$100,000 for each accident, \$100,000 disease --- each employee, \$500,000 disease-policy limit.
- (2) commercial general liability insurance, including independent contractor's liability, completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of

this contract, fully insuring CONTRACTOR'S (or subcontractor's) liability for injury to or death of OWNER'S employees and third parties, extended to include personal injury liability coverage with damage to property of third parties, with minimum limits as set forth below:

General Aggregate	\$1,000,000
Products – Components/Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$ 600,000
Each Occurrence	\$ 600,000
Fire Damage (any one fire)	\$ 50,000
Medical Expense (any one person)	\$ 5,000

The policy shall include coverage extended to apply to operations, asbestos hazards (if this project involves work with asbestos) and XCU (explosion, collapse and underground) hazards. The completed operations coverage must be maintained for a minimum of one year after final completion and acceptance of the work, with evidence of same filed with OWNER.

- (3) comprehensive automobile and truck liability insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage minimum limit of \$600,000 per occurrence; or separate limits of \$250,000 for bodily injury (per person), \$500,000 for bodily injury (per accident) and \$100,000 for property damage. Such insurance shall include coverage for loading and unloading hazards.

B. OWNER'S PROTECTIVE LIABILITY INSURANCE

CONTRACTOR shall obtain, pay for and maintain at all times during the prosecution of the work under this contract an OWNER'S protective liability insurance policy naming the OWNER and the Engineer as insureds for property damage and bodily injury, which may arise in the prosecution of the work or CONTRACTOR'S operations under this contract. Coverage shall be on an "occurrence" basis, and the policy shall be issued by the same insurance company that carries the CONTRACTOR'S liability insurance with a combined bodily injury and property damage minimum limit of \$600,000 per occurrence and \$1,000,000 aggregate.

C. "UMBRELLA" LIABILITY INSURANCE

If required by OWNER, CONTRACTOR shall obtain, pay for and maintain umbrella liability insurance during the contract term, insuring CONTRACTOR for an amount of not less than \$1,000,000 per occurrence combined limit for bodily injury and property damage that follows form and applies in excess of the primary liability coverages required hereinabove. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted. OWNER and Engineer shall be named as additional insureds.

D. POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

- (1) Each insurance policy to be furnished by CONTRACTOR shall include the following conditions by endorsement to the policy:
 - (i) each policy shall name the OWNER as an additional insured as to all applicable coverage;

- (ii) each policy shall require that 30 days prior to the cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to OWNER by certified mail. If the policy is canceled for nonpayment of premium, only 10 days written notice to OWNER is required.
 - (iii) the term "OWNER" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the OWNER and individual members, employees and agents thereof in their official capacities and/or while acting on behalf of the OWNER;
 - (iv) the policy phrase "other insurance" shall not apply to the OWNER where the OWNER is an additional insured on the policy; and
 - (v) all provisions of the contract concerning liability, duty and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- (2) Insurance furnished by the CONTRACTOR shall be in accordance with the following requirements:
 - (i) any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by the CONTRACTOR. The OWNER'S decision thereon shall be final;
 - (ii) all policies are to be written through companies duly licensed to transact that class of insurance in the State of Texas; and
 - (iii) all liability policies required herein shall be written with an "occurrence" basis coverage trigger.
- (3) CONTRACTOR agrees to the following:
 - (i) CONTRACTOR hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the OWNER, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies;
 - (ii) companies issuing the insurance policies and CONTRACTOR shall have no recourse against the OWNER for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the CONTRACTOR;
 - (iii) approval, disapproval or failure to act by the OWNER regarding any insurance supplied by the CONTRACTOR (or any subcontractors) shall not relieve the CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate the CONTRACTOR from liability; and

- (iv) no special payments shall be made for any insurance that the CONTRACTOR and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of such insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

E. VEHICLES INSURANCE

The successful Bidder shall meet the minimum Texas State Financial Responsibility Act requirements for the operation of vehicle(s) used while performing services in the City.

1.04 ASSIGNMENT

The successful Bidder's rights and duties awarded by the agreement may not be assigned to another without written consent of the City signed by the City's authorized agent. Such consent shall not relieve the assigner of the liability in the event of default by the assignee.

1.05 CONTRACT TIME AND LIQUIDATED DAMAGES

As time is of the essence on this Contract, the Contractor agrees to commence work under this Contract within ten (10) days from the date specified in the "Notice to Proceed" and to totally complete the work within _____ consecutive calendar days after the date specified in the "Notice to Proceed", subject to such extensions of time as are indicated in the General Provisions. The Contractor further agrees to pay as liquidated damages, the sum of \$500.00 for each calendar day that any work remains uncompleted after the time specified above or after any extensions of time as are provided in the General Provisions. It is understood between the parties hereto that the sum of \$500.00 per day shall be treated as liquidated damages and not as a penalty, and the Owner may withhold from the Contractor's compensation such sums as liquidated damages.

1.06 PAYMENT

Contractor shall submit to the City a monthly invoice for services performed that month. The City is exempt from Federal Excise and State Sales Tax; therefore, tax must not be included in the bid price.

1.07 SITE SURVEYING

The Contractor shall be responsible for all required site surveying to include: lines, grades, centerlines, off-set stakes, etc. necessary to lay out and install the paving, storm drain, water, and sanitary sewer system improvements as designed and shown on the plan sheets in these contract documents.

1.08 UTILITY LOCATES AND COORDINATION

The Contractor shall be responsible for securing the services of a utility location firm to provide "locates" for any underground utilities in the areas of the proposed construction. All coordination of such activities shall be the responsibility of the Contractor.

1.09 CITIZEN NOTIFICATION

The Contractor shall be responsible for the preparation and distribution of a City-approved "Notice of Construction" letter to all businesses and residents who will be directly affected by the proposed paving, storm drain, water, and sewer construction activities. The City Project Inspector will designate to the Contractor which houses/businesses are to receive the notices. This notice must include contact phone numbers for the Contractor and a brief description of the duration and general type of work to be done.

1.10 CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions, or specifications. All change orders to the agreement will be made in writing and not effective unless signed by an authorized representative of the City.

1.11 NON-DISCRIMINATION

- A. Contractor shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, ancestry, national origin, disability, or place of birth.
- B. Contractor shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, ancestry, national origin, disability, or place of birth. This action shall include, but not be limited to, the following; employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection of training, including apprenticeship.

1.12 LIENS

The successful Bidder agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the City's request, by seller or seller's vendor(s) and if the City requests, a proper release of all liens or satisfactory evidence of freedom from liens shall be delivered to the City.

1.13 PATENT INDEMNITY

The successful Bidder hereby warrants that the use or sale of the products and materials delivered hereunder will not infringe on the rights of any patent, copyright, or registered trademark, covering such materials and the successful Bidder agrees to indemnify and hold harmless the City for any and all costs, expenses, judgments, and damages which the City may have to pay or incur.

1.14 INDEMNITY

The successful Bidder agrees to defend, indemnify, and hold the City and all of its officers, agent, employees, and elected officials whole and harmless against any and all claims for damages, costs, and expenses of persons or property that may arise out of, or be occasioned by, or from any negligent act, or omission of the successful Bidder, or any agent, servant, or employee of the successful Bidder in the execution of performance of this agreement, without regard to whether such persons are under the direction of City agents or employees.

1.15. GRATUITIES/BRIBES

The City may, by written notice to the successful Bidder, cancel this agreement without liability to the successful Bidder if it is determined by the City that gratuities or bribes in the form of entertainment, gifts, or otherwise, were offered or given by the successful Bidder, or its agent or representative to any City officer, employee or elected representative with respect to the performance of the agreement. In addition, the successful Bidder may be subject to penalties stated in Title 8 of the Texas Penal Code.

1.16 TERMINATION OF AGREEMENT

The City reserves the right to terminate this agreement with ten (10) days written notice if the successful Bidder fails to perform in a manner deemed acceptable to the City. Upon delivery of such notice by the City to the successful Bidder, the successful Bidder shall discontinue all services in connection with the performance of this agreement and shall discontinue all services in connection with the performance of this agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such order or contracts are chargeable to this agreement. As soon as practicable after receipt of notice of termination, the Bidder shall submit a statement to the City for payment of that portion of agreement successfully performed.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (C-700, 2002 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

SC-2.03.A Delete the last sentence of paragraph 2.03.A.

SC-2.05.A.4 Add the following new paragraph immediately after paragraph 2.05.A.3;

4. the anticipated amount of the first progress payment.

SC-5.04 Add the following new paragraph immediately after paragraph 5.04.B:

A. The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation and related coverage's under paragraphs 5.04.A.1 and A.2 of the General Conditions.
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoreman's): Statutory
 - c. Employer's Liability

	\$ <u>100,000</u> for each accident
	\$ <u>100,000</u> for disease – each employee
	\$ <u>500,000</u> disease – policy limit
2. Contractor's General Liability under paragraph's 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor:
 - a. General Aggregate \$ 1,000,000
 - b. Products – Completed Operations Aggregate \$ 1,000,000
 - c. Personal and Advertising Injury \$ 600,000
 - d. Each Occurrence (Bodily Injury and Property Damage) \$ 600,000
 - e. Property Damage liability insurance will provide Explosion, Collapse and Underground coverages where applicable.

f. Excess or Umbrella Liability

- 1) General Aggregate \$ 1,000,000
- 2) Each Occurrence \$ 1,000,000

3. Automobile Liability under paragraph 5.04.A.6 of the General Conditions:

a. Bodily Injury:

Each Person	\$ <u>250,000</u>
Each Accident	\$ <u>500,000</u>

b. Property Damage:

Each Accident	\$ <u>100,000</u>
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4. The Contractual Liability coverage required by paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:

a. Bodily Injury:

Each Accident	\$ <u>600,000</u>
Annual Aggregate	\$ <u>1,000,000</u>

b. Property Damage:

Each Accident	\$ <u>600,000</u>
Annual Aggregate	\$ <u>1,000,000</u>

5. Additional named insureds: Owner, Engineer

SC-5.06.A. Delete paragraph 5.06.A in its entirety and insert the following in its place:

A. CONTRACTOR shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof.

This insurance shall:

- 1. Include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;
- 2. Be written on a Builder's Risk "all – risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss and 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, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.
- 3. Include expense incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
- 4. Cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided

that such materials and equipment have been included in an Application for Payment recommended by ENGINEER; and

5. Allow for partial utilization of the Work by OWNER;
6. Include testing and startup; and
7. Be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR and ENGINEER with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

CONTRACTOR shall be responsible for any deductible or self – insured retention.

The policies of insurance required to be purchased and maintained by CONTRACTOR in accordance with this paragraph SC-5.06 shall comply with the requirements of paragraph 5.06C. of the General Conditions.

SC-5.06.E. Delete paragraph 5.06.E in it's entirety.

SC-6.01.C Add the following new paragraph immediately after paragraph 6.01.B:

- C. At all times during the progress of the Work, CONTRACTOR shall be responsible for the security of all completed work, all materials stored but not yet incorporated into the Work, and material assets used to perform the Work.

SC-6.02.C Add the following paragraphs immediately after paragraph 6.02.B:

- C. Regular working hours are as established in General Conditions paragraph 6.02.B. If, at CONTRACTOR'S request and for his benefit, the OWNER consents to performance of work by CONTRACTOR outside of normal working hours, CONTRACTOR shall reimburse the OWNER for all reasonable costs associated with maintaining Resident Project Representative, Testing Laboratory, and Engineer functions during that or those overtime work period(s). Reasonable costs, in this instance, shall be taken to mean:
 1. Payroll costs for full-time employees required to perform the Resident Project Representative and Engineer functions. 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, vacation and holiday pay application thereto. The expenses of performing overtime 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. Supplemental costs including:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Resident Project Representative staff, and Engineer staff incurred in discharge of duties connected with the overtime work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, which are consumed in the performance of the overtime work.
 - c. Rentals of equipment and machinery, and the parts thereof in accordance with rental agreements 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 overtime work.

- d. Sales, consumer, use, and other similar tax related to the overtime work as imposed by Laws and Regulations.
- e. The cost of additional fuel.
- f. Minor expenses such as telegrams, long distance telephone calls, expressage, and similar petty cash items in connection with the overtime work.
- g. Testing Laboratory overtime charges.

SC-6.04.A. Add the following sentence to the end of paragraph 6.04.A;

Updated progress schedule shall be submitted at least monthly.

SC-6.08.B Add the following new paragraph immediately after paragraph 6.08.A:

- B. Work sites and easements; and permits for construction inside highway right-of-way; and licenses agreements for crossing railroads; as required to construct the Work will be acquired by the Owner. The Contractor shall comply with the provisions of such easements, permits and license agreements. Acquisition of any other special licenses and permits required will be the responsibility of the Contractor. The lands involved will be assumed to encompass at least the minimum areas needed to complete the Work, but this does not necessarily mean that all trenches or other excavations can be back-sloped without bracing or shoring. Copies of all such deeds, easements, permits, etc., shall be made available to the Contractor.

SC-6.12.B Add the following new paragraphs; immediately after paragraph 6.12.A:

- B. OWNER reserves the right to stop work for CONTRACTOR'S failure to maintain Record Drawings as described herein. CONTRACTOR shall make no claim for damages as a result of OWNER stopping work for CONTRACTOR'S failure to maintain Record Drawings.
- C. CONTRACTOR'S failure to maintain Record Drawings as described herein will result in the suspension of Progress Payment(s) until such time as the Record Drawings are made current to the OWNER'S satisfaction. CONTRACTOR shall make no claim for damages as a result of the suspension of Progress Payment(s) due to CONTRACTOR'S failure to maintain Record Drawings.

SC-9.10 Add the following paragraphs immediately after paragraph 9.09:

9.10 Resident Project Representative

- A. The authority and duties of the Resident Project Representative is limited to examining the material furnished and observing the work done, and to report findings to the OWNER and ENGINEER. The OWNER does not underwrite, guarantee or insure the work done by the Contractors, and since it is the Contractor's responsibility to perform the work in accordance with the Contract Documents, the OWNER is not responsible or liable for the Contractor's failure to do so. Failure by any Resident Project Representative or other personnel engaged in on-the-site observation to discover defects or deficiencies in the work

of the Contractors shall never relieve the Contractors for liability thereof or subject the OWNER to any liability for any such defect or deficiencies.

- B. Neither Resident Project Representative's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Resident Project Representative 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 Resident Project Representative shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Resident Project Representative to CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- C. Resident Project Representative 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. Resident Project Representative will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.
- D. Resident Project Representative 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.
- E. Resident Project Representative'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 14.07.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.
- F. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to Resident Project Representative's assistants.

SC-11.03.D Delete paragraph 11.03.D. in its entirety and insert the following in its place:

- D. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
 - 1. If the total cost of a particular item of Unit Price Work amounts to 10% or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than 25% from the estimated quantity of such item indicated in the Agreement;
 - 2. If there is no corresponding adjustment with respect to any other item of Work; and
 - 3. If CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof; or if OWNER believes that the quantity variation entitles OWNER to an adjustment in the unit price, either OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Article 10 if the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

SC-14.02.A.1 Revise the submittal date to the 25th of each month.

SC-14.02.A.4 Add the following new paragraph immediately after paragraph 14.02.A.3;

4. The anticipated amount of the next progress payment shall be submitted with each application for payment

SC-14.02.C.1 At the beginning of paragraph 14.02.C.1 Delete "Ten" and put in its place "Forty-Five".

SC-17.07 Add the following paragraph immediately after paragraph 17.06:

17.07 *Contractor Claims and Third – Party Beneficiaries*

- A. Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the OWNER will be the beneficiary of any undertaking by the ENGINEER.

END OF SECTION

Section 00 73 16

INSURANCE REQUIREMENTS

Part 1 – GENERAL

1.1 Certificate of Insurance

A. Prior to the approval of this contract by the Owner, CONTRACTOR shall furnish a completed Insurance Certificate to the Engineer's Office, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. OWNER SHALL HAVE NO DUTY TO PAY OR PERFORM THIS CONTRACT OR AGREEMENT UNTIL SUCH CERTIFICATE SHALL HAVE BEEN DELIVERED TO THE ENGINEER'S OFFICE, and no officer or employee shall have authority to waive this requirement.

1.2 Insurance Coverage Required

A. OWNER reserves the right to review the insurance requirements of this section during the effective period of the contract and to adjust insurance coverages and their limits when deemed necessary and prudent by the Owner based upon changes in statutory law, court decisions, or the claims history of the industry as well as the CONTRACTOR.

B. Subject to CONTRACTOR'S right to maintain reasonable deductibles in such amounts as are approved by OWNER, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at CONTRACTOR'S sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to the OWNER, in the following type(s) and amounts:

COVERAGES	LIMITS
1. Workers' Compensation and Employers Liability	Statutory \$100,000/500,000/100,000
2. Commercial General (public) Liability insurance including coverage for the following: a. Premises/operations b. Independent contractors c. Products/completed operations d. Personal injury e. Contractual liability f. Medical payments g. Underground hazard h. Explosion & collapse hazards i. OWNER'S property in CONTRACTOR'S care, custody or control Page	Combined single limit for bodily injury and property damage of \$600,000 per occurrence or its equivalent

3. **Comprehensive Automobile Liability**

Combined single limit for bodily insurance, including coverage for injury and property damage of loading and unloading hazards, for: \$100,000 per occurrence

- a. Owned/leased vehicles or its equivalent
- b. Non-owned vehicles
- c. Hired vehicle

1.3 REQUIRED PROVISIONS

A. CONTRACTOR agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:

- 1. _____ (OWNER) and its officers, and employees as additional insureds, (as the interests of each insured may appear) as to all applicable coverage;
- 2. Provide for 45 days notice to OWNER for cancellation, non-renewal, or material change;
- 3. Provide for notice to OWNER at the address shown below by registered mail;
- 4. CONTRACTOR agrees to waive subrogation against the OWNER, its officers and employees for injuries, including death, property damage, or any other loss;
- 5. Provide that all provisions of this contract concerning liability, duty, and standard of care, together with the indemnification provision cited below, shall be underwritten by contractual liability coverage sufficient to include such

1.4 INDEMNITY PROVISION

A. The following is to be included in CONTRACTOR'S Insurance Certificate either by verbatim recitation or specific reference to this section.

CONTRACTOR agrees to defend, indemnify and hold OWNER, its officers, agents and employees, harmless against any and all claims, lawsuits, judgements, costs, and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by CONTRACTOR'S breach of any of the terms or provisions of this contract, or by any other negligent or strictly liable act or omission of CONTRACTOR, its officers, agents, employees, or subcontractors, in the performance of this contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of OWNER, its officers, agents, or employees and in the event of joint and concurrent negligence or fault of CONTRACTOR and OWNER, responsibility, and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any defenses of the parties under Texas law. The provision of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

1.5 ADDITIONAL POLICY ENDORSEMENTS

A. OWNER shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by OWNER, CONTRACTOR shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof.

1.6 NOTICES

A. CONTRACTOR shall notify OWNER in the event of any changes in coverage and shall give such notices not less than 45 days prior to the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE. All notices shall be given to OWNER at the following address:

1.7 CONTRACTOR RESPONSIBILITY

A. Approval, disapproval or failure to act by the OWNER regarding any insurance supplied by the CONTRACTOR shall not relieve the CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate the CONTRACTOR from liability.

Section 00 73 46

FEDERAL WAGE RATE DECISION

1.01 The minimum wage rates for this project are duplicated following.

END OF SECTION

Tab 4

General Requirements

SUBMITTAL PROCEDURES

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Submittal procedures for:
 - 1. Schedule of Values.
 - 2. Construction Schedules.
 - 3. Shop Drawings, Product Data, and Samples
 - 4. Operations and Maintenance Data.
 - 5. Manufacturer's Certificates.
 - 6. Construction Photographs.
 - 7. Project Record Documents.
 - 8. Video Tapes.
 - 9. Design Mixes.

1.02 SUBMITTAL PROCEDURES

- A. Scheduling and Handling:
 - 1. Schedule submittals well in advance of the need for the material or equipment for construction. Allow time to make delivery of material or equipment after submittal has been approved.
 - 2. Develop a submittal schedule that allows sufficient time for initial review, correction, resubmission and final review of all submittals. The Engineer will review and return submittals to the Contractor as expeditiously as possible but the amount of time required for review will vary depending on the complexity and quantity of data submitted. In no case will a submittal schedule be acceptable which allows less than 30 days for initial review by the Engineer. This time for review shall in no way be justification for delays or additional compensation to the Contractor. Recognizing that time is of the essence, the Contractor is to stamp the top of each submittal with the words ROUTINE or CRITICAL. Routine submittals shall be processed in accordance with the timeframe set forth previously. Critical submittals are those that: were overlooked by the Contractor, involve complex coordination, or are crucial to the successful completion of a specific portion of the project. For critical submittals:
 - i. Contractor shall indicate on the submittal his realistically estimated date of when a review must be returned;
 - ii. Upon return of critical submittals, Contractor shall date-stamp the transmittal page with date and time received;
 - iii. Contractor is cautioned that the use of critical submittals is not a substitute for proper due diligence on his part. Review of critical submittals found to be routine shall be accompanied by an invoice for excess time and material expenditures that were required in order to complete the critical review as compared to a routine review. The Resident Project Representative shall make the determination as to whether a critical submittal was in fact routine.
 - 3. The Engineer's review of submittals covers only general conformity to the Drawings, Specifications and dimensions which affect the layout. The Contractor is responsible for

quantity determination. Quantities may be verified by the Engineer. The Contractor is responsible for any errors, omissions or deviations from the Contract requirements; review of submittals in no way relieves the Contractor from his obligation to furnish required items according to the Drawings and Specifications.

4. Submit sufficient copies of documents. Unless otherwise specified in the following paragraphs or in the Specifications, provide 6 copies in addition to the number the Contractor requires returned. For portions of the project involving electrical or signal components, provide one additional copy (7 copies in addition to the number the Contractor requires returned).
5. Revise and resubmit submittals as required. Identify all changes made since previous submittal.
6. A maximum of three (3) reviews will be conducted on any one submittal. Submittals requiring more than three (3) reviews will be considered inadequate and result in a recovery of review expenses from the Contractor.
7. The Contractor shall assume the risk for material or equipment which is fabricated or delivered prior to approval. No material or equipment shall be incorporated into the Work or included in periodic progress payments until approval has been obtained in the specified manner.

B. Transmittal Form and Numbering:

1. Transmit each submittal to the Engineer with a Transmittal Cover.
2. Sequentially number each transmittal form beginning with the number 1. Re-submittals shall use the original number with an alphabetic suffix (i.e., 2A for first re-submittal of Submittal 2 or 15C for third re-submittal of Submittal 15). Each submittal shall only contain one type of work, material, or equipment. Mixed submittals will not be accepted.
3. Identify time nature of submittal, either ROUTINE or CRITICAL.
4. Identify variations from requirements of Contract Documents and identify product or system limitations.
5. For submittal numbering of video tapes, see paragraph 1.10 Video.

C. Transmittal Cover:

1. Transmittal Cover, certifying that the items have been reviewed in detail and are correct and in accordance with Contract Documents, except as noted by any requested variance. A stamp may be used to print the information on the Transmittal Cover except for the Contractor's signature. Regardless of whether the transmittal cover is typed or stamped, the transmittal cover text shall be a minimum of fourteen (14) point.
2. As a minimum, Transmittal Cover information shall include:
 - i. Contractor's name.
 - ii. Job number.
 - iii. Submittal number.
 - iv. Certification statement that the Contractor has reviewed the submittal and it is in compliance with the Contract Documents.
 - v. Signature line for Contractor.
 - vi. Submittal type – routine or critical
3. The bottom half of the Transmittal Cover shall be kept blank.

1.03 SCHEDULE OF VALUES

- A. Submit a Schedule of Values in accordance with Section 01 29 70 - Schedule of Values.

1.04 CONSTRUCTION SCHEDULES

- A. Submit Construction Schedules as provided in Project Manual.

1.05 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

- A. Submit shop drawings in accordance with Section 01 33 20 - Shop Drawings, Product Data, and Samples.

1.06 OPERATIONS AND MAINTENANCE DATA

- A. Submit Operations and Maintenance data in accordance with Section 01 78 20 - Operations and Maintenance Data.

1.07 MANUFACTURER'S CERTIFICATES

- A. When required in Specification sections, submit manufacturers' certificate of compliance for review by Engineer.
- B. Transmittal Cover, as described in paragraph 1.02C, shall be placed on front page of the certification.
- C. Submit supporting reference data, affidavits, and certifications as appropriate.
- D. Certificates may be recent or previous test results on material or product, but must be acceptable to Engineer.

1.08 CONSTRUCTION PHOTOGRAPHS

- A. Submit Construction Photographs in accordance with Section 01 32 30 – Construction Photographs.

1.09 PROJECT RECORD DOCUMENTS

- A. Submit Project Record Documents in accordance with Section 01 78 10 - Project Record Documents.

1.10 VIDEO

- A. Submit television video tapes as required by the specification items.
- B. Transmittal forms for video tapes shall be numbered sequentially beginning with T01, T02, T03, etc.

1.11 DESIGN MIXES

- A. When specified in Specifications, submit design mixes for review.
- B. Transmittal Cover, as described in paragraph 1.02C, shall be placed on front page of each design mix.
- C. Mark each design mix to identify proportions, gradations, and additives for each class and type of design mix submitted. Include applicable test results on samples for each mix.
- D. Maintain a copy of approved design mixes at mixing plant.

PART 2 P R O D U C T S - Not Used

PART 3 EXECUTION

- A. Submittals made as part of this project will become a vital portion of the project record and will be referenced by the Owner for the useful life of the project. All submittals shall be of high quality. To this end, the following requirements are made:
 - 1. As much as possible, all catalog cuts and manufacturer's information shall be original.
 - 2. Copies, when required, shall be clean and entirely legible.
 - 3. Neither facsimiles nor copies of facsimiles are to be included as part of any submittal.
 - 4. Binders, if used, shall be rugged, lock-ring type. Spine of binders shall be clearly labeled with the information outlined in items 1.02 C.2.
- B. Reviewed submittals shall be returned to Contractor for distribution to subcontractors and other trades as required. As a minimum, submittals returned to the Contractor will be marked with review comments indicating findings of the review and giving instruction as to necessity of a re-submittal. The Engineer may, at his option, use a stamp for this purpose. Detailed correspondence covering the review may also accompany returned submittals.

END OF SECTION

TESTING LABORATORY SERVICES (BY CONTRACTOR)

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Testing laboratory services and Contractor responsibilities related to those services.

1.02 REFERENCES

- A. ASTM E 329 - Specification for Minimum Requirements for Agencies Engaged the Testing and/or Inspection of Materials Used in Construction.

1.03 SELECTION AND PAYMENT

- A. The Contractor shall employ and pay for the services of an independent testing laboratory, or laboratories, to perform product and material quality control, perform in-place quality control and verification identified in individual Specification sections.
- B. The cost of all testing required for this project shall be the responsibility of the Contractor. He shall coordinate all testing with the Owner's Representative. The cost of any retests required as a result of failing tests shall also be borne by the Contractor.

1.04 QUALIFICATION OF LABORATORY

- A. Meet laboratory requirements of ASTM E 329.
- B. Where a laboratory subcontracts any part of the testing services, such work shall be placed with a laboratory complying with the requirements of this Section.

1.05 LABORATORY REPORTS

- A. The testing laboratory shall provide and distribute copies of laboratory reports to the distribution list provided by the Engineer.
- B. One copy of each laboratory report distributed or faxed to the Contractor shall be kept at the site field office for the duration of the project.
- C. Before close of business on the working day following test completion and review, reports which indicate failing test results shall be transmitted immediately via fax from the testing laboratory to the material supplier, Contractor, Engineer and Owner's Representative.

1.06 LIMITS ON TESTING LABORATORY AUTHORITY

- A. Laboratory may not release, revoke, alter, or enlarge on requirements of Contract Documents.
- B. Laboratory may not approve or accept any portion of the Work.
- C. Laboratory may not assume any duties of the Contractor.
- D. Laboratory has no authority to stop the Work.

1.07 CONTRACTOR RESPONSIBILITIES

- A. Provide safe access to the Work and to manufacturer's facilities for the Engineer, Owner's Representative and for testing laboratory personnel.
- B. Provide to the testing laboratory a copy of the construction schedule and a copy of each update to the construction schedule.
- C. Notify the Owner's Representative and the testing laboratory during normal working hours of the 24 hours in advance of the expected time for operations requiring inspection and testing services.

If the Contractor fails to make timely prior notification, then the Contractor shall not proceed with the operations requiring inspection and testing services.

- D. Request and monitor testing as required to provide timely results and to avoid delay to the Work. Provide samples to the laboratory in sufficient time to allow the required test to be performed in accordance with specified test methods before the intended use of the material.
- E. Cooperate with laboratory personnel in collecting samples on site. Provide incidental labor and facilities for safe access to the Work to be tested to obtain and handle samples at the site and to facilitate tests and inspections including storage of test samples.
- C. Employment of a testing laboratory by the Contractor shall not relieve Contractor of obligation to perform work in accordance with requirements of Contract Documents.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION

3.01 CONDUCTING TESTING

- A. Laboratory sampling and testing specified in individual Specification sections.

END OF SECTION

Tab 5

Specifications

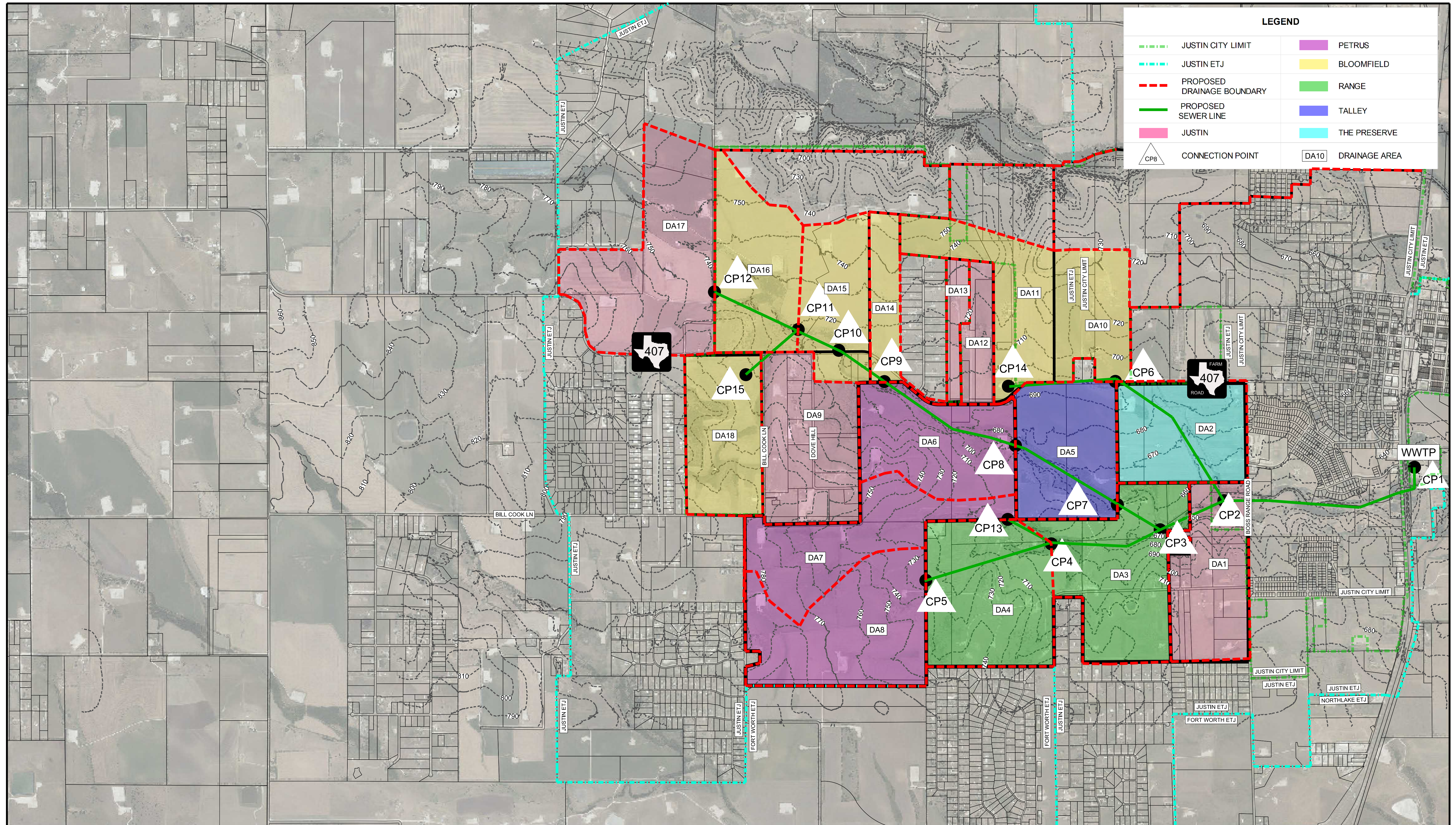
SECTION 02 00 00

PROJECT SPECIFICATIONS

MATERIAL SPECIFICATIONS: All construction shall be subject to the inspection and approval of the City Engineer, and Inspectors of the City of Justin. This contract and project are governed by the following published specifications, except as modified by the Special Provisions. In the event of a conflict of the specifications, City of Justin shall determine which specification shall govern for a particular circumstance.

*PUBLIC WORKS CONSTRUCTION STANDARDS 2017,
NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS*

*CITY OF JUSTIN TCSS MANUAL & TECHNICAL CONSTRUCTION DRAWING
STANDARDS*



**NOTICE OF PHASE 2 COST NOTICE (Segment CP1-CP2)
UNDER THE WEST SIDE REGIONAL SANITARY SEWER AGREEMENT**

05/31/2023

VIA EMAIL

Attn: Mayor
City of Justin, Texas
415 North College Ave.
Justin, Texas 76247
E-mail: jclark@cityofjustin.com

Attn: Brian Carlock
Petrus Investment, L.P.
c/o Hillwood Development Company, LLC
3000 Turtle Creek Blvd.
Dallas, TX 75219
E-mail: brian.carlock@hillwood.com

Attn: Tommy Cansler
TCCI Range – Mead 2021 LLC
c/o TCCI Land Development
14675 Dallas Parkway, Suite 575
Dallas, Texas 75254
E-mail: 111tcci@att.net

Attn: Curtis Tally
CNR Tally/Trail Creek Acres
Box 6
Justin, TX 76247
E-mail: curtistally@yahoo.com

Attn: Steve Fluker
Justin 197 Partners, LP
5055 Keller Springs Road, Suite 500
Addison, Texas 75001
E-mail: SteveF@trezcapital.com

Attn: Don Dykstra
BLOOMFIELD 190
Bloomfield Homes, L.P.
1050 E. Hwy 114, Ste 210
Southlake, TX 76092
E-mail: Don@bloomfieldhomes.net

Attn: Don Dykstra
Justin Timberbrook, LLC
1050 E. Hwy 114, Ste 210
Southlake, TX 76092
E-mail: Don@bloomfieldhomes.net

Attn: Don Dykstra
BLOOMFIELD TRADITION NORTH
Bloomfield Homes, L.P.
1050 E. Hwy 114, Ste 210
Southlake, TX 76092
E-mail: Don@bloomfieldhomes.net

Attn: Don Dykstra
BLOOMFIELD 300
Bloomfield Homes, L.P.
1050 E. Hwy 114, Ste 210
Southlake, TX 76092
E-mail: Don@bloomfieldhomes.net

Re: Notice of Phase 2 Costs for Segment CP1-CP2 of the West Side Sewer System under the City of Justin West Side Regional Sanitary Sewer Agreement for Construction

To Whom it May Concern:

As required by Article III of the City of Justin West Side Sewer Regional Sanitary Sewer Agreement (the “Agreement”), effective April 7th, 2022, by and between the City of Justin, Texas (the “City”) and the Owners (as defined therein), NOTICE IS HEREBY GIVEN of the following Phase 2 costs required to be paid to the City on or before thirty (30) days following receipt of this notice for deposit in the West Side Sewer System Construction Fund (as defined in the Agreement). Justin 197 Partners, LP, will design and construct this segment.

Pursuant to §3.3(2) of the Agreement, please provide written confirmation of required capacity that confirms the Owners cost allocation described below has not changed, or alternatively, providing updated land use assumptions so that the below cost allocations may be updated before design begins.

Segment CP1-CP2:

Construction Costs (see attached cost allocation spreadsheet) = \$3,815,616

Cost Allocation:

Entity	Percentage	Amount	Notes
City of Justin	33.29%	1,270,218.57	Includes Range, Tally, & Deblock
Justin 197 Partners	4.03%	153,769.32	
Petrus Tradition	22.72%	866,907.96	
Bloomfield (All)	39.96%	1,524,720.15	
Total	100.00%	\$ 3,815,616	

Payment may be made by check payable to **City of Justin, Texas** at the following address:

City of Justin, Texas
Attn: Josh Armstrong
415 N. College Avenue
Justin, TX 76247

Please include a copy of this letter with your payment.

Sincerely,



Name: Jarrod Greenwood

Title: City Manager

cc:

Attn: Matthew Boyle
Boyle Lowry
4201 Wingren, Suite 108
Irving, Texas 75062
E-mail: mcgboyle@boyle-lowry.com

Attn: George Pack
TCCI Land Development
14675 Dallas Parkway, Suite 575
Dallas, Texas 75254
E-mail: george@tccitx.com

Attn: Troy Christensen
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
E-mail: troy.christensen@haynesboone.com

Attn: Misty Ventura
Shupe Ventura, PLLC
9406 Biscayne Boulevard
Dallas, Texas 75218
E-mail: misty.ventura@svlandlaw.com

Attn: Rich Alburque
TCCI Land Development
14675 Dallas Parkway, Suite 575
Dallas, Texas 75254
E-mail: rich@tccitx.com

Attn: Drew Slone
500 Winstead Building, 2728 N. Harwood St.
Dallas, Texas 75201
E-mail: dslone@winstead.com

RESOLUTION NO. 610-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JUSTIN, TEXAS, ENTERING INTO AN AGREEMENT WITH VENUS CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF THE WEST SIDE SEWER SEGMENT CP1 TO CP2 IN THE AMOUNT OF \$3,287,252 PLUS ALTERNATIVE BID ITEMS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF JUSTIN, TEXAS.

WHEREAS, the City of Justin (the “City”), Texas is a Home Rule municipality located in Denton County; and

WHEREAS, Council desires to plan for and provide adequate city services for community growth, which includes a municipal sanitary sewer system; and

WHEREAS, On March 8, 2022 Council approved the West Side Sewer Improvement Agreement to plan for sanitary sewer service to certain areas of the City and to identify funding participation among the parties to the Agreement; and

WHEREAS, On March 14, 2023 Council adopted a Comprehensive Plan with the passage of Ordinance 747-23; and

WHEREAS, the City Council find that construction of the sanitary sewer lines in the proposed Agreement is sound infrastructure planning consistent with goals and objectives within the adopted Strategic Pillars and Comprehensive Plan; and

WHEREAS, the City Council find that construction of the proposed sanitary sewer lines achieves the City’s desire to provide adequate city services; and

WHEREAS, the City Council finds that the passage of this Resolution is in the best interest of the public.

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

SECTION 1. The recitals set forth above are true and correct and are incorporated herein by reference as part of this Resolution.

SECTION 2. THAT, the City Council of the City of Justin, Texas, hereby approve the Agreement with Venus Construction Company in the amount of \$3,287,252 plus Alternative Bid Items, attached hereto as Exhibit “A”, relating to the construction of the West Side Sewer Segment CP1 to CP2, attached hereto as Exhibit “B”; and further authorizes the City Manager execute said Agreement on behalf of the City of Justin, Texas.

SECTION 3. THAT, the construction cost of this project, has been secured through the 2022 West Side Sewer Improvement Agreement.

SECTION 4: If any portion of this Resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determines that it would have adopted this Resolution without the invalid provision.

SECTION 5: That this resolution shall become effective from and after its date of passage.

DULY PASSED by the City Council of the City of Justin, Texas, on the 27th day of June, 2023.

APPROVED:

James Clark, Mayor

ATTEST:

Brittany Andrews, City Secretary

APPROVED AS TO FORM:

City Attorney

Justin West Side Regional Sanitary Sewer March 2023

19-Jun-23

Sewer Segment CP1-CP2

Description	Qty	LF	Unit Price	Amount
36" Sanitary Sewer Main	1,810	LF	\$310	\$561,100
27" Sanitary Sewer Main	3,034	LF	\$180	\$546,120
15" Sanitary Sewer Main	375	LF	\$110	\$41,250
8" Sanitary Sewer Main	60	LF	\$68	\$4,080
36" Sewer Bore & Casing Pipe	312	LF	\$2,750	\$858,000
27" Sewer Bore & Casing Pipe	108	LF	\$2,560	\$276,480
6' Dia. Manhole	14	EA	\$16,500	\$231,000
6' Dia. Drop Manhole	3	EA	\$20,000	\$60,000
Extra Depth 5-FT Manhole	2	VF	\$638	\$1,276
Extra Depth 6-FT Manhole	176	VF	\$810	\$142,560
Core into Existing Lift Station	1	EA	\$11,000	\$11,000
Cement Stabilized Backfill	10	LF	\$115	\$1,150
Connect to Ex. 15" SS w/ Std. 5' Dia. Manhole	1	EA	\$16,000	\$16,000
Connect to Ex. 12" SS w/ Std. 6' Dia. Drop Manhole	1	EA	\$21,500	\$21,500
Connect to Ex. 8" SS w/ Std. 6' Dia. Drop Manhole	1	EA	\$21,000	\$21,000
Connect to Ex. SSMH, Rework Invert & Plug Existing Per Plans	3	EA	\$7,500	\$22,500
Remove Ex. 12" S.S. Connection & Plug Ex. SSMH	1	EA	\$2,000	\$2,000
27" Sanitary Sewer Plug	1	EA	\$3,900	\$3,900
Trench Safety	5,279	LF	\$2.00	\$10,558
TV Sanitary Sewer Line	5,699	LF	\$2.00	\$11,398
BNSF Flagger Allowance	1	LS	\$25,000	\$25,000
Remove & Replace Trail and Disk Golf Tee Box	105	SY	\$185	\$19,425
Materials & Compaction Testing	1	LS	\$31,000	\$31,000
Construction Staking	1	LS	\$23,000	\$23,000
SWPPP	1	LS	\$40,000	\$40,000
Seed Stabilize & Restore Disturbed Area	158,970	S.F.	\$1.50	\$238,455
Tree Clearing & Removal	2.5	AC	\$27,000	\$67,500
Total				\$3,287,252
Construction Management	4%	%		\$131,490
Easement Acquisition	1.00	LS	\$50,000	\$50,000
Contingency	10%	%	\$3,468,742	\$346,874
Total:				\$3,815,616
Cost Allocations:				
	City:	17.44%		\$665,506
	Range:	10.27%		\$391,772
	Tally:	4.16%		\$158,592
	Preserve:	4.03%		\$153,764
	Bloomfield Timberbrook:	2.94%		\$112,245
	Bloomfield Tradition North:	7.72%		\$294,493
	Bloomfield 300:	3.36%		\$128,177
	Bloomfield 190:	4.43%		\$168,971
	Bloomfield Timberbrook West:	2.21%		\$84,486
	Deblock	1.42%		\$54,312
	Petrus Tradition:	22.72%		\$867,065
	Bloomfield Constellation:	19.30%		\$736,233
	Total:	100%	\$	3,815,616

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 3

Title: Consider and take appropriate action regarding Resolution 611-23 approving amendments to the City of Justin Personnel Policy.

Department: Administration

Contact: Human Resources Generalist, Janet Holden

Recommendation: Approval of Resolution

Background: In October 2022 – the Personnel Policy Manual was updated and approved by Council. Personnel Manuals should be reviewed and updated annually to comply with any law changes as well as to maintain current policies and procedures for the City personnel. These changes are reviewed and approved by the Personnel Manual Committee prior to being brought to Council for review and approval.

City Attorney Review:

Attachments:

1. Bereavement Leave Policy – New – adding a true bereavement policy.
2. Certification Policy – Revised- updating certification pay.
3. Compensation Policy – Revised – adding pay grade spreadsheet to personnel manual.
4. Disciplinary Action – Revised – adding Human Resources Review.
5. Emergency Leave – Revised – removing Bereavement leave from policy.
6. Flextime – Revised – adding options of what is considered Flex Scheduling
7. Holiday Pay – Revised – addition of Juneteenth
8. Police Department Holiday Pay – Addition - adding Police Holiday pay policy to personnel manual.
9. Inclement Weather – Revised – clarification of pay for employees due to City closure.
10. Sick Leave – Revised – addition of Foster children
11. Sick Pool Policy – New – replacement of Sick Leave Donation Policy
12. Standard of Conduct – Revised – additional clarification of employee conduct

13. Telecommute Policy – New policy requested by staff to compete with other Cities
14. Uniformed Employees – Revised – Clarification of representation of the City of Justin
15. Vehicle and Equipment Accidents – Revised – Adding drug testing in case of vehicle or equipment accidents.
16. Water/Wastewater Non-Exempt on Call – Revised – removal of the ability to drive personal vehicles while On-Call

RESOLUTION NO. 611-23

**A RESOLUTION OF THE CITY OF JUSTIN CITY COUNCIL
AMENDING AND ADOPTING THE REVISED CITY OF
JUSTIN PERSONNEL POLICIES AS ATTACHED AS
EXHIBIT A; PROVIDING FOR A REPEALING CLAUSE;
AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City of Justin (the “City”), Texas is a Home Rule municipality located in Denton County; and

WHEREAS, the City Council of the City of Justin from time to time find it may be necessary to review and amend the City of Justin Personnel Policies to ensure compliance with laws and address changes within the organization; and

WHEREAS, all constitutional, statutory and legal prerequisites for the passage of this Resolution have been met, including but not limited to the Open Meetings Act; and

WHEREAS, the City Council has determined that it is in the best interest of the City of Justin and its employees to adopt this Resolution.

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

SECTION 1. The recitals set forth above are true and correct and are incorporated herein by reference as part of this Resolution.

SECTION 2. The City Council hereby approves the amendments to the City of Justin Personnel Policies as presented in Exhibit A.

SECTION 3. All orders, ordinances, and 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. That this Resolution and associated exhibits shall become effective June 27, 2023.

DULY PASSED by the City Council of the City of Justin, Texas, on the 27th day of June, 2023.

APPROVED:

James Clark, Mayor

ATTEST:

Brittany Andrews, City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A:

Personnel Policy Additions/Changes

Sec. 5. 20 Bereavement Leave – New

Sec. 3.9 Certification Compensation – Revised – changing and removing certification pay. Adding Fire Department and Planning & Development Certification Pay

A. Certification Pay Schedule

Section 3.13 Compensation Plan – Revised

A. Compensation Plan Pay Grade Spreadsheet

Sec. 7.1 Types of Disciplinary Action – Revised

Sec 5.6 Emergency Leave -Revised – Removal of use for Bereavement

Sec.4.5 Compensatory/Flex Time – Revised Flex Time

Sec.5.1 Holiday – Addition of additional holiday and addition of Police Department Holiday Pay

Sec. 4.3 Inclement Weather – Revised

Sec. 5.4 Sick Leave – Revised to include Foster Children. Increase annual accrual amount.

Chapter XII – remove Sick leave donation and replace with Sick Leave Pool

Sec 6.1 – Standards of Conduct – Addition of employee conduct both on and off of the job.

Sec. 4.23 – Telecommuting – New – to allow employees flexibility work options.

Sec 2.7 Dress Code Revised

Uniformed Employees – uniformed employees representing the City of Justin

Sec. 4.18 Vehicle and Equipment Accidents – Revised to include drug testing after an accident.

Sec. 4.8 Call Duty Pay – Revised

Water, Wastewater Non-Exempt Employees – required to use a City vehicle for their on-call duty.

Sec. 5.20 Bereavement Leave - New

It is the policy of the City of Justin to provide paid leave to regular full-time employees in cases of death of family members, which may be referred to as “bereavement leave”, to allow time for the employee to attend to the needs of the situation. Uses of this leave may include making funeral arrangements and attending funeral services, including travel time.

While there is no accrual of bereavement leave, each regular full-time employee will be eligible for up to three (3) paid working days of bereavement leave per occurrence of the death of an immediate family member.

Up to five (5) paid working days of bereavement leave may be provided per occurrence for the death of a spouse or parent or a domestic partner (defined as an unrelated and unmarried person who shares common living quarters with an employee and lives in a committed, intimate relationship that is not legally defined as marriage).

For the purposes of this bereavement policy, immediate family is defined as current spouse, current domestic partner, child, stepchild, mother, father, mother-in-law, father-in-law, employee’s grandparents, brother or sister, brother-in-law, sister-in-law, and grandchildren.

Employees who wish to take bereavement leave must notify their supervisor immediately. Employees may take additional time off as vacation, compensatory time or, if no vacation or compensatory time is available, as authorized leave without pay upon approval of the Department Director.

Bereavement leave hours will not be considered “hours worked” for the purposes of overtime and will be paid at the employee’s straight time rate.

Employees who wish to attend funerals for other than immediate family must use vacation leave.

Sec. 3.9 – Certification Compensation - Revised

Certification compensation will be offered to regular full-time employees. This benefit is offered for certifications within your job duties if they are not listed as a requirement within your job description.

An eligible employee will only be paid for the highest level of certification held.

See the below chart for Certification Pay:

Proposed Certification Pay Schedule

Certified Government Finance Officer	\$75/month	Preferred
Texas Municipal Clerks Certification	\$100/month	Required - Eliminate
	\$25/month per each passed course (4)	Eliminate
Planning & Development (Matt developed policy)		
Chief Building Official	\$75/month	New
Code Enforcement Officer II	\$75/month	New
Plumbing Inspector License	\$75/month	New
International Code Council Certification	\$75/month	New
GIS Professional Certification	\$75/month	New
Fire Inspector Certification	\$75/month	New
Basic Code Enforcement	\$25/month	Required - Eliminate
<u>Paid only if not required for position</u>		
Fire Department		
Master Fire Fighter	\$100/month	New
Advanced Fire Fighter	\$75/month	New
Intermediate Fire Fighter	\$50/month	New
<u>Can only be paid for highest level of certification</u>		
TECQ Water		
A	\$100/month	
B	\$75/month	
C/Ground Water Treatment C	\$50/month	
D	\$15/month	Required - Eliminate
<u>Can only be paid for the highest level of wastewater license if multiple is held</u>		
TECQ Wastewater Treatment/Collection		
A/Collection III	\$100/month	
B/Collection	\$75/month	
C/Collection II	\$50/month	
D/Collection I	15/month	Required - Eliminate
<u>Can only be paid for the highest level of wastewater license if multiple is held</u>		
TCOLE Peace Officer		
Master Peace Officer	\$100/month	
Advanced Peace Officer	\$75/month	
Intermediate Peace Officer	\$50/month	
Basic Peace Officer	\$15/month	Eliminate
*Field Training Officer	\$50/month	

*FTO pay is only received for pay periods in which an individual is acting as a field training officer during any pay period

Municipal Court Clerk Certification

CCM	\$100/month	New
Level III	\$75/month	
Level II	\$50/month	
Level I	\$25/month	Preferred

Water/Wastewater On-Call Pay

\$80 per week if serving in on-call capacity (prorated if not on call for a full week)

\$120 per week if serving in on-call capacity during a week with a City-observed holiday.

City of Justin Compensation Plan

Title	Pay Grade		Min.	Mid.	Max.
Library Assistant I	3	A	\$29,536.00	\$37,024.00	\$44,428.80
Library /Court Assistant		M	\$2,461.33	\$3,085.33	\$3,702.40
Customer Service Specialist		BW	\$1,136.00	\$1,424.00	\$1,708.80
		H	\$14.24	\$17.80	\$21.36
Utility Maintenance Operator	4	A	\$32,572.80	\$40,726.40	\$48,859.20
		M	\$2,714.40	\$3,393.87	\$4,071.60
		BW	\$1,368.18	\$1,566.40	\$1,879.20
		H	\$15.66	\$19.58	\$23.49
Parks & Municipal Maintenance	5	A	\$35,838.40	\$44,782.40	\$53,747.20
Parks Worker 1		M	\$2,986.53	\$3,731.87	\$4,478.93
Public Works Administrative Coordinator		BW	\$1,378.40	\$1,722.40	\$2,067.20
		H	\$17.23	\$21.53	\$25.84
Water Crew Leader	6	A	\$39,416.00	\$49,275.20	\$59,113.60
Waste Water Lead		M	\$3,284.67	\$4,106.27	\$4,926.13
Project Assistant		BW	\$1,516.00	\$1,895.20	\$2,273.60
Development Services Specialist		H	\$18.95	\$23.69	\$28.42
Parks Crew Leader					
Municipal Maintenance Crew Leader					
Accounting Technician					
Code Enforcement Officer	7	A	\$43,347.20	\$54,184.00	\$64,041.60
		M	\$3,612.27	\$4,515.33	\$5,420.13
		BW	\$1,667.20	\$2,084.00	\$2,501.60
		H	\$20.84	\$26.05	\$31.27
Parks & Municipal Superintendent	8	A	\$47,694.40	\$59,612.80	\$71,531.20
Construction Inspector		M	\$3,974.53	\$4,967.73	\$5,960.93
GIS Technician		BW	\$1,834.40	\$2,292.80	\$2,751.20
Building Plans Examiner		H	\$22.93	\$28.66	\$34.39
Public Relations Coordinator	9	A	\$52,457.60	\$65,582.40	\$78,686.40
Senior Construction Inspector		M	\$4,371.47	\$5,465.20	\$6,557.20
Utilitiy Billing Supervisor		BW	\$2,017.60	\$2,522.40	\$3,026.40
		H	\$25.22	\$31.53	\$37.83
Human Resouces Generalist	10	A	\$57,699.20	\$72,134.40	\$86,548.80
		M	\$4,808.27	\$6,011.20	\$7,212.40
		BW	\$2,219.20	\$2,774.40	\$3,328.80
		H	\$27.74	\$34.68	\$41.61

Title	Pay Grade		Min.	Mid.	Max.
City Secretary	11	A	\$63,481.60	\$79,352.00	\$95,222.40
Building Official		M	\$5,290.13	\$6,612.67	\$7,935.20
		BW	\$2,441.60	\$3,052.00	\$3,662.40
		H	\$30.52	\$38.15	\$45.78

Financial Anaylist	12	A	\$69,825.60	\$87,276.80	\$104,728.00
Uiltiy Superintendent		M	\$5,818.80	\$7,273.07	\$8,727.33
		BW	\$2,685.60	\$3,356.80	\$4,028.00
		H	\$33.57	\$41.96	\$50.35

Library/Court Administrator	14	A	\$84,487.00	\$105,609.00	\$126,731.00
Director of Planning & Development		M	\$7,040.58	\$8,800.75	\$10,560.92
Controller		BW	\$3,247.50	\$4,061.88	\$4,874.27
		H	\$40.62	\$50.77	\$60.93

Director of Strategic Services	15	A	\$92,936.00	\$116,170.00	\$139,404.00
Finance Director		M	\$7,744.67	\$9,680.83	\$11,617.00
Public Works Director		BW	\$3,574.46	\$4,468.08	\$5,361.69
		H	\$44.68	\$55.85	\$67.02

Assistant City Manager	16	A	\$102,230.00	\$127,787.00	\$153,345.00
		M	\$8,519.17	\$63,893.50	\$12,778.75
		BW	\$3,931.92	\$4,914.88	\$5,897.88
		H	\$49.15	\$61.44	\$73.72
City Manager	18	A	\$123,698.00	\$154,623.00	\$185,547.00
		M	\$10,308.17	\$12,885.25	\$15,462.25
		BW	\$4,757.62	\$5,947.04	\$7,136.42
		H	\$59.47	\$74.34	\$89.21

Police Department	Pay Grade		Min.	Mid.	Max.
Administrative Assistant	5	A	\$35,838.40	\$44,782.40	\$53,747.20
		M	\$2,986.53	\$3,731.87	\$4,478.93
		BW	\$1,378.40	\$1,722.40	\$2,067.20
		H	\$17.23	\$21.53	\$25.84

Police Cadet	8	A	\$47,694.40	\$59,612.80	\$71,531.20
		M	\$3,975.53	\$4,967.73	\$5,960.93
		BW	\$1,834.40	\$2,292.80	\$2,751.20
		H	\$22.93	\$28.66	\$34.39

Patrol Officer Peace Officer	9	A	\$52,457.60	\$65,582.40	\$78,686.40
		M	\$4,371.47	\$5,465.20	\$6,557.20
		BW	\$2,017.60	\$2,522.40	\$3,026.40
		H	\$25.22	\$31.53	\$37.83

Corporal Detective	11	A	\$63,481.60	\$79,352.00	\$95,222.40
		M	\$5,290.13	\$6,612.67	\$7,935.20
		BW	\$2,441.60	\$3,052.00	\$3,662.40
		H	\$30.52	\$38.15	\$45.78

Sergeant	12	A	\$69,825.60	\$87,276.80	\$104,728.00
		M	\$5,818.80	\$7,273.07	\$8,727.33
		BW	\$2,685.60	\$3,356.80	\$4,028.00
		H	\$33.57	\$41.96	\$50.35

Lieutenant	13	A	\$76,807.00	\$96,008.00	\$115,210.00
		M	\$6,400.58	\$8,000.67	\$9,600.83
		BW	\$2,954.12	\$3,692.62	\$4,431.15
		H	\$36.93	\$46.16	\$55.39

Police Chief	16	A	\$102,230.00	\$127,787.00	\$153,345.00
		M	\$8,519.17	\$63,893.50	\$12,778.75
		BW	\$3,931.92	\$4,914.88	\$5,897.88
		H	\$49.15	\$61.44	\$73.72

Fire Department		Current
EMT Basic	A*	\$56,560.00
	M*	\$4,713.33
	BW*	\$2,175.38
	H	\$18.71

EMT Paramedic	A*	\$58,011.00
	M*	\$4,834.25
	BW*	\$2,231.19
	H	\$19.19

* Includes OT of 14 hours/106 Reg Hours

Fire Department			Current		
Assistant Fire Chief	13	A*	\$76,807.00	\$96,008.00	\$115,210.00
		M*	\$6,400.58	\$8,000.67	\$9,600.83
		BW*	\$2,954.12	\$3,692.62	\$4,431.15
		H	\$36.93	\$46.16	\$55.39

Fire Department			Current		
Part Time Fire Chief	15	A*	\$92,936.00	\$116,170.00	\$139,404.00
		M*	\$7,744.67	\$9,680.83	\$11,617.00
		BW*	\$3,574.46	\$4,468.08	\$5,361.69
		H	\$44.68	\$55.85	\$67.02

Sec. 3.13 COMPENSATION PLAN - Revised

(A) Compensation for Classified Positions

1. Each job shall be assigned to one of the classified grade levels. The compensation plan shall specify an entry, mid and maximum level with an hourly wage or salary, within each pay grade for each classification. The City Council as part of its annual budget process will consider the allocation of funds for pay plan adjustments to the pay plan. The Council may also consider the allocation of funds for additional raises (for example, to employees who have already reached the maximum pay grade level).
2. Employees at the top of a pay grade may be eligible for a base or pay plan adjustment, if authorized by the City Council.
3. Probationary employees are not eligible for pay increases until the completion of probation.

(B) Amendments to Plan

The compensation plan may be amended, as circumstances require, through changes recommended by the City Manager and approved by the City Council.

CHAPTER VII

DISCIPLINARY GUIDELINES

Sec. 7.1 – Types of Disciplinary Action: - Revised

Formal disciplinary action taken shall be consistent with the nature of the deficiency or infraction involved and the record of the employee. Formal disciplinary action may include oral reprimand, written reprimand, suspension, reduction in pay, demotion, or dismissal. Any of the foregoing types of formal disciplinary action may be invoked for a particular deficiency or infraction depending upon the exact circumstances. **All formal disciplinary action should be reviewed with Human Resources prior to implementation with the employee.** An employee may normally be warned by his/her Department Director at any time that he/she may be dismissed or otherwise disciplined for further unsatisfactory performance and/or conduct. Informal disciplinary action may be documented in the employee's official personnel file at the discretion of the Department Director.

1. **Oral Reprimand** – an oral reprimand (admonishment) identifies all violations and indicates areas needing improvement. A written record of this warning may be maintained in the official employee personnel file.
2. **Written Reprimand** – Written reprimand becomes a permanent part of the disciplinary record maintained in the official Employee Personnel file maintained in the Human Resources Department.
3. **Suspension** – Time off without pay for a period of not less than one (1) hour nor more than thirty (30) calendar days. Employees will receive a written notice (Statement of Suspension) prior to the suspension and will have the right to respond to the charges alleged by filing an appeal in writing within five (5) calendar days. When an employee is under investigation for a crime or official misconduct or is awaiting hearing or trial in a criminal matter, he or she may be suspended without pay for the duration of the proceedings when such suspension would be in the interest of the City and the public. If the investigation or proceedings clear the employee, he/she shall be eligible for reinstatement with full pay and benefits restored. A suspension becomes a permanent part of the disciplinary record maintained in the official Personnel File maintained in Human Resource.
4. **Reduction in Pay** – Reduction of an employee's pay within reason. A written notice of reduction must be given to the employee which describes the deficiency or infraction involved and which states the consequences of further unsatisfactory performance and/or conduct. The reduction shall be permanently noted in the employee's official Personnel File, but the employee shall not be disqualified from consideration for later pay increases.
5. **Demotion** – Demotion of an employee. A notice of demotion must be given to the employee which describes the deficiency or infraction involved and which states the

likely consequences of further unsatisfactory performance and/or conduct. The demotion shall be permanently noted in the employee's official Personnel File, but the employee shall not be disqualified from consideration for later advancement.

6. **Dismissal** – Termination of the individual's employment with the City. An employee who has been dismissed will have the right to appeal against the dismissal by filing a written appeal with the City Manager within three (3) calendar days of the dismissal and follow the Appeal of Disciplinary Actions process in Section 7.1.1. The City Manager shall receive a copy of the written appeal as soon as possible.

Sec. 7.1.1 – Appeal of Disciplinary Actions:

1. Any employee dissatisfied with any disciplinary action by his or her Department Director may file an appeal in writing with the City Manager. All appeals must be filed within three (3) calendar days, or the disciplinary action will be deemed final. Once an appeal has been filed, the City Manager must respond to the appeal within ten (10) business days.
2. Written appeals must contain the following information:
 - The type of disciplinary action being appealed and the effective date of the action.
 - The specific reason the discipline is judged to be unjust or otherwise in error.
 - The remedy or solution sought.
 - The signature of the disciplined employee.
3. The City Manager, after careful investigation of the facts, shall have broad authority to approve, disapprove, modify, or rescind any disciplinary action taken or proposed. The decision of the City Manager shall be final.

Sec. 5.6 – Emergency Leave – Revised – Removed use for bereavement

All full-time and part-time-30 employees may be granted emergency leave with pay in case of hospitalization, serious illness, in the immediate family (spouse, child, mother, father, mother-in-law, father-in-law, employee's grandparents, brother or sister, grandchildren) or any emergency under extenuating circumstances that demands immediate action as follows:

1. Up to three (3) days but not to exceed twenty-four (24) hours in a payroll calendar year.
2. Emergency leave shall not be authorized until approved by the City Manager.
3. Emergency leave will not be charged against sick leave or vacation time until after the three (3) days of emergency leave are exhausted.

FLEX-TIME - Revised

Flextime is a tool used to allow employees to work hours that are not within the standard work schedule. There are times when a department's operational needs require employees to either come in earlier than their normal reporting time, or to stay later than their normal end of shift time.

The adjustment of an employee's work schedule must be approved in advance by the immediate supervisor prior to the employee working the adjusted schedule. It is the responsibility of the immediate supervisor to verify and ensure the performance of employees who are granted flextime. Good relationships among everyone involved are important for a successful flex-time policy. Trust is a big factor; supervisors must feel confident that employees will not abuse the benefits that are inherent in a flex-time schedule. Flextime is a privilege, not a right, and if abused, can be taken away at the discretion of the supervisor.

Examples of Flextime schedules:

- **Adjusted leave or start time.** An employee may be allowed to report later or leave earlier.
- **Adjusted Lunch Period.** An employee's length of their lunch period may be adjusted while still working a full day.
- **Compressed Workweek.** An employee may, for example, be allowed to work four nine(9) hour days and one four (4) hour day.

LEAVES AND ABSENCES - Revised

Sec. 5.1 – Holidays

New Year's Day	January 1
Martin Luther King Day	January 17
President's Day	Third Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday After Thanksgiving	Fourth Friday in November
Christmas Eve	December 24
Christmas Day	December 25

When a holiday falls on Saturday, the preceding Friday will be observed as the holiday. When a holiday falls on Sunday, the following Monday will be observed. When Christmas Eve and Christmas Day fall on Saturday and Sunday, respectively, the holidays will be observed on the Friday before and the Monday afterwards. An employee must work the day before and day after the holiday or be on approved vacation or sick time to receive holiday pay. .

Holiday pay added to Personal Manual for Police Department under Holiday Pay

Police Department Uniformed Officers will accrue a total of 96 hours of holiday time per calendar year to use at any time. Holiday time will not accrue. Should a Police Department employee leave employment during the year after taking Holiday time, any over payment of holiday time will be paid back to the City from the employee's final check.

Sec. 4.3 – Inclement Weather - Revised

Except for extraordinary circumstances, City offices DO NOT CLOSE. All City employees whether exempt or nonexempt, are expected to make a sincere effort to report to work during inclement weather conditions or other emergency situations.

If an employee determines that the weather conditions constitute a danger to life and/or property, the employee must notify the immediate supervisor and/or Department Director and decide to report to work if weather conditions improve. Any leave taken due to inclement weather can be flexed or charged to vacation. Regular full-time and part-time non-exempt employees who are unable to flex their time and who have no accrued vacation time available will not be paid for the time missed. Should the City Manager decide to close early, all employees who report to work will be paid for a full day.

The Department Director/immediate supervisor is responsible for seeing that City services are staffed while City offices are open for business during inclement weather or emergency conditions. Any City service that cannot be provided during inclement weather or other emergency conditions must be immediately reported to the City Manager's Office.

When weather or other conditions are such that the City Manager declares City offices/departments officially closed, all affected personnel, i.e. those non-essential employees who were scheduled to work during the time of closure, will be granted administrative leave for the time the office/department is closed.

Sec. 5.4 – Sick Leave - Revised

The intent of sick leave is to prevent a loss of income to a regular employee who is absent due to an illness which is not a job-related illness and for medical appointment, illness, or injury.

Regular employees accrue sick leave at the rate of 3.08 hours per pay period for a total of eighty (80) hours per year. Part-time-30 regular employees earn sick leave in proportion to the number of hours worked. Fire Department employees working 24-hour shifts shall accrue sick leave at a rate of twelve (12) hours per month.

Sick leave may be used for illness or injury, eye, or dental care, or medical treatment or examination. A limited amount of sick leave may also be used when serious illness or injury in the employee's immediate family, **including foster children**, requires it, provided the Department Director approves.

Sick leave may not be used in advance of being earned. Sick leave may be accrued up to **sixty (60) days or four hundred & eighty (480) hours maximum leave**. Upon separation, all sick leave shall be cancelled, except an employee hired prior to October 1, 2018, who retires with twenty (20) years of service shall be paid **a lump sum of up to 200 hours of accrued sick leave**.

Official holidays and regular days off shall not count against sick leave.

An employee who has been absent because of illness or injury may be required to furnish a physician's release prior to return-to-work status. The City Manager may require satisfactory proof of illness or the need to attend to a family member and disallow any sick leave in the absence of a physician's statement. Employees who willfully use sick leave for purposes other than those which are intended in this policy, shall be subject to disciplinary action including possibly being dismissed from service.

Employees who become ill during the period of their vacation may request that their vacation be temporarily terminated, and their time charged to sick leave. A physician's statement will normally be required in such instances.

When an employee's accumulated sick leave has been exhausted, unused vacation time or personal day hours may be used as sick leave upon request of the employee and approved of the Department Director. When the absence exceeds the amount of paid leave earned and authorized, the employee will be placed on leave of absence without pay until he or she returns to work.

Sick leave will not be advanced, nor will sick leave accrue during leaves of absences without pay.

CHAPTER XII

SICK LEAVE POOL- NEW

Sec. 12.0 – Sick Leave Pool

This Pool establishes a Sick Leave Pool to provide additional sick leave for eligible employees who have exhausted all paid leave and suffered a loss of compensation because of a catastrophic illness or injury of the employee or a member of the employee's immediate family.

Sec 12.1 – Sick Leave Pool Definitions

“Catastrophic illness or injury” is any prolonged illness or injury which causes an employee to be unable to perform, with reasonable continuity, the substantial, material, and essential functions of his job for medically related reasons due to a serious health condition of self, or member of the employee's immediate family as certified by a licensed health care provider.

Such catastrophic illness or injury does not include pregnancy, or any illness or injury caused by employee's willful misconduct, or purposely self-inflicted. It also does not include any illness or injury that occurs while on leave without pay or absence without leave or is a result of another job.

A. A qualifying injury or illness is one that:

1. Poses a threat to life and/or.
2. Requires in-patient or hospice care or extensive outpatient treatment or care and/or.
3. Requires the services of a licensed physician for an extended period of time, and.
4. Causes the employee to miss at least 10 days of work; and
5. Causes the employee to need additional time off from work after exhaustion of all forms of paid leave.

B. “Immediate family” means employee's spouse, parent, or child (including foster child certified by the Texas Department of Protective Services), living in the employee's household who are totally dependent upon the employee for personal care or services on a continuing basis.

C. “Eligible Employee” means an employee who meets all the criteria set forth below:

1. Has experienced a catastrophic illness or injury of self or member of immediate family.
2. Has exhausted all accrued paid leave.
3. Has been continuously employed by the City for at least six months and
4. Has not been awarded worker's compensation benefits or long-term or short-term disability benefits; and

Sec 12.2 Contributions to the Sick Pool

- A. Contribution to the sick leave pool is voluntary.
- B. Contributions to the pool must be in units of eight (8) hours.
- C. Employees are permitted to contribute up to 240 hours to the Sick Leave pool each calendar year.
- D. Employees must maintain an eighty (80) hour minimum in their individual sick leave banks to donate to the pool.
- E. Sick leave contributed to the pool may not be designated for the use of a particular person; and
- F. All time contributed to the sick leave pool is non-refundable.

Sec 12.3 Applying for Sick Pool Time

- A. A Request for Sick Leave Pool time must be submitted in writing to the Human Resources Department along with a Doctor's certification stating the need for the requested time off.
 - 1. The Doctor certification must be signed by a licensed medical practitioner, as defined in the Texas Insurance Code, who is practicing within the scope of his/her license.
 - 2. The Doctor's certification must include the date the medical condition began and the probable duration, the estimate of time that the employee will be unable to perform work of any kind or whether it is necessary for the employee to work a reduced schedule.
- B. A renewal application form and physician certification must be filled out and signed by a physician every 30 calendar days that the employee is eligible for and requires the use of pool leave.
- C. If the employee is incapacitated so that he cannot provide the application and/or physician's certification, an employee spokesperson (family member, physician, or another employee) may provide this to the City.
- D. Leave from the sick leave pool, which is taken because of a catastrophic illness or an injury to the employee or the employee's immediate family, will run concurrently with leave under the Family and Medical Leave Act (FMLA). If there is any conflict between the City's Sick Leave Pool policy and the City's FMLA policy, the FMLA policy shall take precedence.

Sec 12.4 Sick Pool Hour Disbursement Details

- A. An employee can request up to 240 hours of donated sick leave at a time (if available in the sick leave pool).
- B. Should the employee need additional hours of donated leave the employee, or a representative, may approach the Human Resources Department to request up to an additional 240 hours. At that time the employee or representative must present Human Resources with a written request and physician's certification stating when the employee

will be able to return to work. Any additional hours after the initial 240 hours must be approved by the City Manager before they are withdrawn from the sick leave pool.

Sec 12.5 Sick Pool Approval Process

- A. Human Resources will review all applications and certifications for use of sick leave pool time. Once confirming that all the necessary information has been provided, and the status of the Sick Pool balance has been determined the request for use of the Sick Pool time will be presented to the City Manager for approval.
- B. Application for pool leave is on a first come first served basis and is contingent upon the available balance in the pool at the time of application as well as the employee's ability to meet the necessary criteria listed in Sec 12.2 above.
- C. No more than 240 hours will be granted at one time.
- D. The lifetime maximum that can be received by any employee is 720 hours.
- E. Within ten working days from submission of the appropriate application and documentation to the Human Resource Department a decision will be returned in writing.

Sec 12.6 Use of Sick Leave Pool Days

- A. An employee may use sick leave assigned from the pool in the same manner as sick leave accrued pursuant to the Personnel Policies and shall be treated in the same manner and shall be entitled to accrue the same benefits as an employee who uses such accrued sick leave. However, as soon as leave is accrued, earned paid time will be used in lieu of the contributed time from the pool.
- B. Employee and City contributions to insurance, retirement, etc. will continue while the employee is on sick leave pool time.
- C. While out on pool time, any across the board salary increases, COLA's market adjustments, etc., which are independent of performance, will be awarded to the employee.
- D. While out on pool time, employees will not be permitted to perform outside work for compensation prior to returning from pool leave and working his/her scheduled shift. Employees found to conflict with this policy will be subject to the loss of the paid leave time, will lose all remaining sick leave pool time and will be subject to disciplinary action, up to and including termination.
- E. When the employee is absent from work because of a catastrophic illness or injury, prior to the employee's return to work, the employee must submit to the Human Resources Department a licensed health care provider's written statement that the employee was required to be absent from duty because of the condition and the date the employee is able to return to work. The statement must also specify what limitations, if any, exist on the employee's ability to perform his or her job duties or pose a threat to the safety of the employee or others.
- F. If the employee's health care provider releases the employee to return to work before the end of the approved sick leave pool period, the employee must notify their supervisor and the Human Resources Department and make arrangements to return to work as soon as possible.
- G. If a member withdraws sick leave hours from the sick leave pool and is certified by his

health care provider to return to work before all the sick leave hours have been used, the remaining balance of awarded and unused sick leave hours will be returned to the sick leave pool.

Sec 12.7 No Property Rights or Entitlements Exist

- A. No Property rights or entitlement exist to sick leave contributions provided by this sick leave pool policy or any previous donations of sick leave.
- B. The estate of a deceased employee shall not be entitled to payment for unused sick leave assigned from the pool.
- C. Awards from the pool are prospective. State law prohibits the retroactive granting of sick leave or sick leave pool hours. Employees who have exhausted all accrued paid leave will be put on leave without pay until a Sick Leave Pool award, if any, is approved.
- D. The City reserves the right to change modify, amend, revoke, or rescind all or part of this policy at the discretion of the City Council.

Sec. 12.8 Exceptions to the Sick Leave Pool

Exceptions to the Sick Leave Pool Policy may be granted at the discretion of the City Manager.

Sec. 6.1 – Standards of Conduct - Revised

Acknowledging that we are directly accountable to the citizens and taxpayers of the City of Justin, an employee's conduct, **both on and off the job**, will be such as to reflect favorably upon this City **whether inside or outside the City's limits**. Obeying all the laws of the United States, State of Texas, City of Justin, and any local government under whose jurisdiction that employee may be at any time. Conducting oneself publicly in conformance to community standards of good order and common decency. Recognizing that each citizen's opinion of the worth of this municipal government is a valid reflection upon our competency, an employee will respond courteously and promptly to any request or complaint received and, if unable to satisfy or resolve a citizen's concern, the employee will immediately refer that citizen to the appropriate individual or municipal agency for resolution.

It shall be the duty of the City of Justin employees to maintain a high standard of cooperation, proficiency, and economy in their work for the City. Department Heads shall organize and direct the work of their departments to achieve these objectives. If work habits, attitude, production, and/or personal conduct of the employee becomes a problem the employee should be notified at the time they are observed, and appropriate action taken. Counseling and warning the employee in sufficient time for improvements should ordinarily precede formal disciplinary action, but nothing herein shall prevent immediate formal action as provided elsewhere in these policies whenever it is in the best interest of the City.

A list of the more common offenses is presented here as a statement of the City's commitment to enforce a standard which will put this organization above reproach in our dealings with the public and with each other. The list is also presented to assure consistent and certain limits which define acceptable conduct for municipal personnel.

When any violation of this policy occurs, it will receive full and just consideration by supervisory and management personnel. The decision to take disciplinary action will include careful consideration, by the supervisor, Human Resources, and the City Manager of an employee's work record with the City of Justin, including length of service, performance record, position progress, and other indications of the employee's value. The following list of more common offenses does not limit management's right to discipline or discharge an employee for reasons other than those specified in the list.

Note: All active employees' discipline/counseling actions become a part of their official employee personnel file maintained in the Human Resources Department. After employment terminates with the City, the Texas Records Retention Schedules become effective.

Sec. 4.23. Telecommuting - New

The City of Justin considers telecommuting to be a viable, flexible work option that will help employees accomplish their work effectively without disruption to City Services. Telecommuting may be appropriate for some employees and jobs but not for others, depending, for example, on the essential functions of the position and the employee's experience with the city in the particular position. Telecommuting is not an entitlement, it is not a Citywide benefit, and it in no way changes the terms and conditions of employment with the City of Justin.

A. Purpose and Scope

1. The City considers the work alternative of telecommuting which would allow employees the ability to work from home or a remote location when it is mutually beneficial to the organization and the employee and when it complies with guidelines as set forth by the City. Eligible employees may telecommute up to a maximum of two (2) days per workweek.
2. Telecommuting is not a widespread employee benefit, but an alternative method of meeting the needs of the City. Since telecommuting is a privilege, the organization has the right to refuse to make telecommuting available to an employee and to terminate a telecommuting arrangement at any time.
3. Department Directors will determine if an employee is eligible to be placed on a telecommuting assignment. Department Directors will be guided in their decision-making by their assessment of job duties that may be conducive to working remotely and operational needs assessments. All telecommuting assignments regardless of their basis must be approved by the Department Director. Because the City provides essential services to members of the community, there are positions in the City that require the employee to be physically present in the workplace. Employees are not required to telecommute, and employees have the right to decline to telecommute if the option is made available to them. Employees who do choose to telecommute have the right to cease telecommuting and return to his or her former in-office work pattern at any time.
4. The Department Director's request for an employee to telecommute for more than two (2) days per week will require the City Manager's approval.

B. Job Responsibilities and Regular Communication:

1. While telecommuting, employees must perform the full range of their normal job duties. Employees and supervisors should maintain communication throughout the workday, through email, by phone, video chat or other means. Manager and supervisors will be expected to establish and communicate work expectations of employees working remotely, including setting work priorities, deadlines and reviewing work assignments.

2. The duties, responsibilities, and conditions of employment remain the same as if the employee were working at their regular work site. Job responsibilities, standards of performance and performance reviews remain the same as they would be if the employee were working at the regular City work site. The employee shall comply with all City policies and procedures while working at home or in an alternate location.
3. Supervisors and managers shall ensure that telecommuting employees meet expectations and successfully execute their job duties. Supervisors and managers shall ensure that productivity and service quality is maintained while employees are telecommuting.
4. Departmental requirements take precedence over the schedule and telecommuting arrangements specified in the Telecommuting Agreement if there is a scheduling conflict. Management will provide the employee with advance notice, if at all possible, when flextime schedules or telecommuting must be curtailed. Employees are required to report to the office when requested.

C. Work Schedules and Time Worked.

1. Telecommuting employees must coordinate with their supervisor the set hours that will be devoted to performing their work. Start and end times for telecommuting employees should be communicated in advance and should be consistent from day-to-day, as much as possible. As approved by the employee's supervisor, an employee's start time and end time may be permitted to be different from the employee's normal hours when working on-site.
2. Employees who are not exempt from overtime requirements under the Fair Labor Standards Act (FLSA) will be required to accurately record all hours worked. Employees should coordinate with their supervisor for any periods of time during the workday when they will not be working. Any overtime must be authorized in advance by the employee's supervisor.
3. Employees exempt from FLSA should record any full-day absences with paid leave on the bi-weekly timesheet in accordance with normal protocols.

D. Equipment and Tech Support.

1. Electronic equipment needed for employees to telecommute will be supplied by the City to the extent resources are available. In certain circumstances and/or if sufficient resources are not available, employees may be required to use their personal phones, computers, or other equipment. Equipment supplied by the employee, if deemed appropriate by the organization, will be maintained by the employee. The City accepts no responsibility for damage or repairs to employee-owned equipment and reserves the right to make determinations as to appropriate equipment subject to change at any time. Equipment supplied by the City is to be used for business purposes only. The

employee must sign inventory Telecommuting Assignment Form with an inventory of the City property authorized for telecommuting use and thereby agree to take appropriate action to protect the items from damage or theft. All City-owned equipment issued to an employee must be returned immediately at the conclusion of the telecommuting arrangement. Employees are responsible for both providing access to and ensuring the adequacy of internet bandwidth suitable for any work performed at an alternate work location.

2. The City will provide employees with appropriate office supplies (pens, paper, etc.) as deemed necessary. Telecommuting employees will establish an appropriate work environment within the remote work- space including but not limited to desk, tabletop, or other location that provides optimal work productivity. Given the nature of this program, employees are not expected to purchase furniture or equipment to arrange a home workspace.

Uniformed Employees - Revised

Employees required to wear uniforms and/or specified apparel will be provided new uniforms and apparel with required insignia upon employment. Replacement uniforms and apparel will be furnished at the City's expense on "as needed" basis and per individual Department Guidelines.

Uniform shirts must be worn buttoned and always tucked in. Uniform trousers/pants must be worn free of rips, holes, or tears.

Each Department determines what type of footwear to be worn based on the safety needs of the job. Uniformed employees who terminate employment with the City must return all uniforms and apparel issued by the City by the time his/her final paycheck is issued. Department Directors are responsible for the removal and return of identifying patches and insignia.

Employees will not wear City-issued uniforms, including any issued hat, for other than City work. However, uniforms may be worn to and from work, including any incidental stops that may occur while on the way to and from work (examples include basic errands such as trips to the bank or grocery store). **An employee who wears the City of Justin uniform is representing the City of Justin, and will conduct themselves in a professional manner at all times whether the employee is on or off duty or outside of the City of Justin.**

Sec. 4.18 – Vehicle and Equipment Accidents - Revised

If an employee is involved in an accident, in the course of performing their duties, while driving a City or personal vehicle, that individual will be required to follow the specific accident-reporting procedure outlined by the department. The following steps should be followed by all employees.

- Stop the vehicle at the scene of the accident without obstructing traffic more than necessary and stay at the scene of the accident.
- Activate warning/safety lights
- Contact the Police Department or Sheriff's Department as applicable
- Contact supervisor
- Give a statement of facts of the sequence of events to the investigating officer.
- The driver will be drug tested as soon as practicable but not later than 32 hours after the accident.

The employee's supervisor will investigate all accidents involving a City vehicle that is a part of their departmental fleet. The supervisor and employee will complete and submit a City of Justin Incident Investigation Report within 48 hours of the accident to the City Secretary and Human Resources.

An employee that fails to report an accident or injury within eight (8) hours of the accident, or who falsifies any information pertaining to an accident, will be subject to disciplinary action up to and including termination.

Water, Wastewater Non-Exempt Employees - Revised

When an employee is assigned call duty for a week's time period he/she will be paid \$80.00 on call premium. When an employee is assigned to be on-call, he/she must be able to report to work within 45 minutes.

The individual taking call duty during all City observed Holidays will receive \$120.00 on-call premium for that week.

Employees who are called to respond to a call or to perform routine checks on a non-scheduled workday will be paid a minimum of two (2) hours for each time he/she is called in. **Employees who are assigned call duty must use a City of Justin vehicle for their on-call duty.**

An employee who is called in to work by his or her supervisor/manager will be paid a minimum of two (2) hours worked.

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 4

Title: Consider and take appropriate action regarding appointment to and membership of the Justin Library Board.

Department: Library

Contact: Library Director, Lesa Keith

Recommendation: Appoint Kayce Strader to Place 5 on the Library Advisory Board.

Recommendation: Appoint Heather Beatty to Place 7 on the Library Advisory Board.

Background: The Justin Advisory Boards have recommended Kayce Strader & Heather Beatty's applications for approval before City Council. Both applications are attached for reference, and have been invited to attend the meeting for any additional questions.

City Attorney Review:

Attachments:

1. Kayce Strader Application
2. Heather Beatty Application

Board, Commission & Committee Application

First Name	Heather
Last Name	Beatty
Address	245 Hilltop Dr
City	Justin
State	TX
Zip Code	76247
Mailing Address (If different)	<i>Field not completed.</i>
City	<i>Field not completed.</i>
State	<i>Field not completed.</i>
Zip Code	<i>Field not completed.</i>
Phone Number	325-374-6549
Email Address	hjbeatty@gmail.com
Are you over the age of 18?	Yes
Are you a registered voter?	Yes
Are you a Justin resident, property, business owner, or City Staff?	Yes
Current Occupation/Employer	Administration assistant
Education, Licenses, or Certifications	RN (inactive)
Are you a current or past member of a Council-appointed Board, Commission, or Corporation?	No

On which Board, Commission, or Committee are you interested in serving? (First Choice)

Justin Community Library Board

If you have a second choice for a Board, Commission, or Committee on which you would like to serve, please also select that.

Field not completed.

What work experience, educational experience, community involvement, and/or other skills do you have that would qualify you for a Council-appointed Board, Commission, or Committee?

We homeschool and have been involved with the library since 2012.

List any additional information which you believe would be of value for the City Council to know about you.

I love Justin and want to get involved with the community more.

Do you or any member of your immediate family residing in your household, hold a position (paid or unpaid) with any person or organization, or have a contract with or any obligation to any person or entity which might constitute a conflict of interest?

No

Have you ever been convicted of a felony, violation of law, or misdemeanor involving moral turpitude (any offense involving lying, stealing, or cheating?)

No

Are there any criminal charges or proceedings pending against you?

No

By typing your full name in the box, you acknowledge that the information provided is correct to the best of your ability.

Heather Beatty

Date of Submission

4/21/2023

Lesa Keith

From: Brittany Andrews
Sent: Monday, August 29, 2022 4:56 PM
To: Lesa Keith
Subject: FW: Online Form Submittal: Board, Commission & Committee Application

Thank you,

Brittany Andrews, City Secretary TRMC
City of Justin
415 N. College Ave.
Justin, TX 76247

ATTENTION ELECTED OFFICIALS:

A "Reply to All" of this email could lead to violations of the Texas Open Meetings Act. Please reply only to the sender.

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From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Monday, August 29, 2022 4:51 PM
To: Brittany Andrews <bandrews@cityofjustin.com>; Abbey Reece <areece@cityofjustin.com>
Subject: Online Form Submittal: Board, Commission & Committee Application

Board, Commission & Committee Application

First Name	Kayce
Last Name	Strader
Address	9465 Strader Ln
City	Justin
State	Texas
Zip Code	76247
Mailing Address (If different)	Field not completed.

City	Field not completed.
State	Field not completed.
Zip Code	Field not completed.
Phone Number	817-229-5334
Email Address	<u>kayce.strader@gmail.com</u>
Are you over the age of 18?	Yes
Are you a registered voter?	Yes
Are you a Justin resident, property, business owner, or City Staff?	Yes
Current Occupation/Employer	Nonprofit Consultant, Homemaker
Education, Licenses, or Certifications	Bachelor's in Communications, Master's in Public Administration, Certified DISC Analyst
Are you a current or past member of a Council-appointed Board, Commission, or Corporation?	No
On which Board, Commission, or Committee are you interested in serving? (First Choice)	Justin Community Library Board
If you have a second choice for a Board, Commission, or Committee on which you would like to serve, please also select that.	Field not completed.
What work experience, educational experience, community involvement, and/or other skills do you have that would qualify you for a Council-appointed Board, Commission, or Committee?	In my consulting work, I help nonprofit organizations with strategic planning, impact measurement, and team building. I have written federal grants. I have been a director of development, overseeing galas and executing fundraising goals. I have run community-wide events in the past, including the Mayor's Day of Concern for the Hungry in Denton.

List any additional information which you believe would be of value for the City Council to know about you.	We love our community - our children are 6th generation Justinites - and the library. My husband and I both came to the Justin library as children. Now, with children of our own, we appreciate the resource and center the library is in our lives.
Do you or any member of your immediate family residing in your household, hold a position (paid or unpaid) with any person or organization, or have a contract with or any obligation to any person or entity which might constitute a conflict of interest?	No
Have you ever been convicted of a felony, violation of law, or misdemeanor involving moral turpitude (any offense involving lying, stealing, or cheating?)	No
Are there any criminal charges or proceedings pending against you?	No
By typing your full name in the box, you acknowledge that the information provided is correct to the best of your ability.	Kayce Strader
Date of Submission	8/29/2022

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City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 5

Title: Consider and take appropriate action to approve the 2023 Economic Development Action Plan.

Department: Administration

Contact: Assistant City Manager, Abbey Reece

Recommendation: Approve the Action Plan as presented.

Background: The EDC (Type A) Boards contracted with Consultant, Greg Last, to develop a 3–5 year action. The board members felt this was a good decision in planning for future commercial growth and making sure they are taking the necessary steps in capitalizing on commercial opportunities.

Since the beginning of this year, staff and board members have worked diligently with Greg to identify a list of goals/objectives and a list of priorities to focus on over the next five years. The board was tasked with performing a SWOT analysis for not only the EDC but also the City as well, which was a great way to identify our strengths and weaknesses.

It is also important to note that per the EDC bylaws, they are required to submit an annual work plan to council, and staff is recommending that this action plan be utilized as the annual work plan submittal for this year. I also want to note that as part of the City's Comprehensive Plan, and ED Plan was suggested as a project to be completed.

There are several projects that were identified in this action plan that the board has already implemented and are taking before council. One of which is an official incentives policy on the council agenda for this evening. Other examples of projects include: an updated façade enhancement application, updated agenda format, increased member training, and an available commercial sites/buildings summary.

I want to personally thank each board member and Greg Last for working so diligently to provide this thorough plan.

City Attorney Review:

Attachments:

1. 2023 Action Plan

JUSTIN

1887

"Everything a Hometown Should Be"

Economic Development Corporation

2023 Action Plan

2023-04-28



Prepared By
Economic Development Corporation

Steven Turney, President
Bailey Acosta, Vice President

Ron Williams, Secretary
Mike Russ

Lisa Hott
Tanner Haydin

Melissa Green

Submitted To
City Council

James Clark, Mayor
John Mounce, Mayor Pro Tem

Tomas Mendoza
Dylan James

Chrissa Hartle
Ricky Jones

Contributing Staff

Jarrod Greenwood, City Manager
Abbey Reece, Assistant City Manager
www.JustinTXEDC.com

Assisted By


 EDP Best Practices, LLC
Greg Last, CEO
www.EDPBestPractices.com

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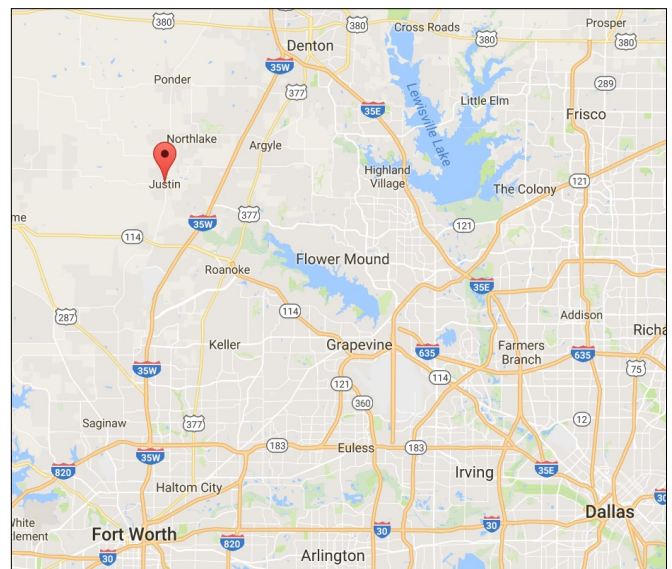


INTRODUCTION

Community Facts: Following are some brief facts about the City of Justin, Texas.

- Incorporated in 1887
- 2020 Census estimated population of 4,517
- 2023 estimated population of 5,451
- 2032 projected population of 12,428
- 4.40 sq. miles in City Limits, 14.57 with ETJ

Location in DFW Region: The City of Justin (City) is located in Denton County in the Dallas / Fort Worth region of north central Texas. Justin is located five miles west of IH-35W, four miles north of SH-114 and Texas Motor Speedway. Alliance Airport is only eight miles south, and DFW airport is 25 miles east.



Action Plan Purpose: This Action Plan (Plan) is intended to identify and prioritize goals and objectives providing direction for the Justin Economic Development Corporation (JEDC) Board.

Process to Prepare Plan:

1. Identify all organizational documents, budget, resources, prior projects and summarize in Plan
2. Request pre-meeting SWOT and Objectives from participants for initial ideas
3. Summarize all responses in the draft Plan
4. Discuss / review all input and create finalized Goals & Objectives list
5. Create a prioritized list of Objectives by having participants execute a forced-ranking of all Objectives
6. Review and revise Plan for final adoption



COMMUNITY HIGHLIGHTS

Demographics

- Population: 5,451
- Build-out Population: approx. 20,000
- New Home Prices: \$300,000-\$600,000
- Average Household Income: \$97,000

Major Highlights

- Financial Stability: “AA-” Bond Rating
- Academics: Northwest Independent School District
- 2019 Winner of the Community Spotlight Award from the Greater Fort Worth Builders Association
- Dedicated to a high level of service for residents from parks and events to utilities and public safety.
- Significant residential growth supporting new & existing businesses

Justin is strategically located at the intersection of FM 407 and FM 156, four miles north of SH-114 and just minutes away from the GE Locomotive Plant and Texas Motor Speedway.

Justin is a friendly community known for western appeal and small-town charm and is often referred to as the boot capital of the western world. Justin offers a rural landscape, over 50 acres of park space for residents to enjoy, as well as unique shopping and dining experiences.

The growth around IH-35W north has been incredible to say the least, and there is no denying the prosperity headed to Justin! The City’s population will more than double in less than 10 years, and there is an emphasis now on preserving our small-town rural charm as the City grows.

Justin is committed to quality development and continues to provide excellent public service to businesses and residents. The City has been working hard to prepare itself for this significant population growth and is currently undertaking many infrastructure improvements throughout the city in order to ensure sustainability citywide. The Justin City Council is committed to promoting a sustainable community through the implementation of forward-thinking policies and programs. Special attention is focused on ensuring that Justin’s quality of life is not only enjoyed by today’s residents but guaranteed for future generations to come.

DEVELOPMENT HIGHLIGHTS

Justin is facing rapid residential growth which will set the City up for great future retail opportunities. Ample space is still available for residential and commercial development, including properties along the FM 156 and FM 407 corridors. Over 2,000 homes/dwelling units are currently in the planning or platting phases with several subdivisions actively building homes with price points between the mid \$200s and upper \$400s. Timberbrook, the City’s largest planned development, is under construction now with home sites, amenity centers, hike and bike trails, and a dog park. Justin offers a diverse range of residential opportunities with a large lot option in Legacy Ranch, and a 300-unit multi-family complex, The Village at Reatta, and everything in between.

With completion of the newly-expanded FM 156 roadway through the City, the City is observing significant interest in new commercial development and revitalization of existing businesses. In 2020, the City invested approximately \$2MM in improvements to the Old Town business district by constructing a downtown parking area and improving drainage. With over 200 parking spaces at completion, there continues to be abundant opportunities for new and expanding businesses. The FM 156 corridor looks a whole lot greener, after the completion of Phase 1 of the Green Ribbon Landscaping Award in partnership with TxDOT and Denton County. The Downtown Parking, Lighting and Landscaping Project has also begun.

With several active subdivisions and many plans for future growth and expansion, Justin offers a full array of housing types, prices, and amenities to meet the needs of our current and new residents.



ESTABLISHMENT

Authorization: The JEDC was authorized for establishment by Section 4A of the Development Corporation Act of 1979 (The Act) as amended.

Sales Tax Election: On May 4, 2002 the residents of the City approved *“The adoption of a sales and use tax for the promotion and development of new and expanded business enterprises at the rate of one-half of one percent.”* The City held an election in 2018 which was approved, changing the one-half of one percent to one-quarter of one percent. The City Council on May 21, 2018 also approved Ordinance 646-18 authorizing the Type A Board to do Type B projects. Following is the eligible projects for the Type B Board.

Sales Tax Election FOR THE B BOARD: On May 3, 2003 the residents of the City approved *“The adoption of a Section 4B sales and use tax at the rate of one-half of one percent to undertake projects as described in Section 4B of Article 5190.6, including but not limited to projects for sewer and water infrastructure, sewer plant, road improvements, drainage improvements and any other general capital expenditures that are municipally owned and related to any of the foregoing projects and any other project that the Board determines will promote new or expanded business enterprises and the maintenance and operations expenses for any of the above describe projects.”*

Articles of Incorporation: The Articles of Incorporation (Articles) were approved on June 10, 2002 by City Council Resolution 281 approving the form of Articles of Incorporation for the Corporation; and appointing the members of the initial Board of Directors.

Article Four, Purpose states that *“The Corporation is organized exclusively for, and may issue bonds on behalf of, the City for the public purposes of the promotion and development of new and expanded business enterprises and to provide and encourage employment in the furtherance of the public welfare.”* It further added *“... the additional powers provided Sections 4A and 23 of the Development Corporation Act...”*

JEDC Bylaws: On April 13, 2020, the City Council approved the latest amendment to the Bylaws for the JEDC.

ORGANIZATIONAL

Meetings: The JEDC Board typically meets at 415 N. College Ave, unless otherwise posted, at 6:00 p.m. on the third Thursday of each month.

Staffing: The EDC Board had an Executive Director that reported to the board but separated outside of “City Staff” until 2018. The ED director and board members met at a separate building that the EDC owns. After the director resigned in 2018, City management thought it would be wise to combine the job duties into a current City staff role to increase communication between departments such as development that work so closely with ED.

The Assistant City Manager is the current staff liaison for the boards. All ED functions under this role. There is also assistance from the finance department with handling the bank accounts and budgets. The Assistant City Manager reports to the City Manager.

Board Membership: The JEDC Board is composed of seven (7) members, appointed by the Council for two-year terms. These members are reflected on the cover of this Action Plan. Board members are not compensated for their commitment.

Annual Meeting: The last meeting of the corporation’s fiscal year shall be designated as the Annual Meeting. It will be held at a time and place designated by the Board and in conjunction with a special called or regular meeting of the City Council.

Officer Elections: Each year in January, the EDC Board shall select a President, Vice President, and Secretary from among the membership.

Vision Statement: *Our vision is to strengthen and promote Justin as a viable economic center while maintaining a desirable quality of life for our current and future residents.*

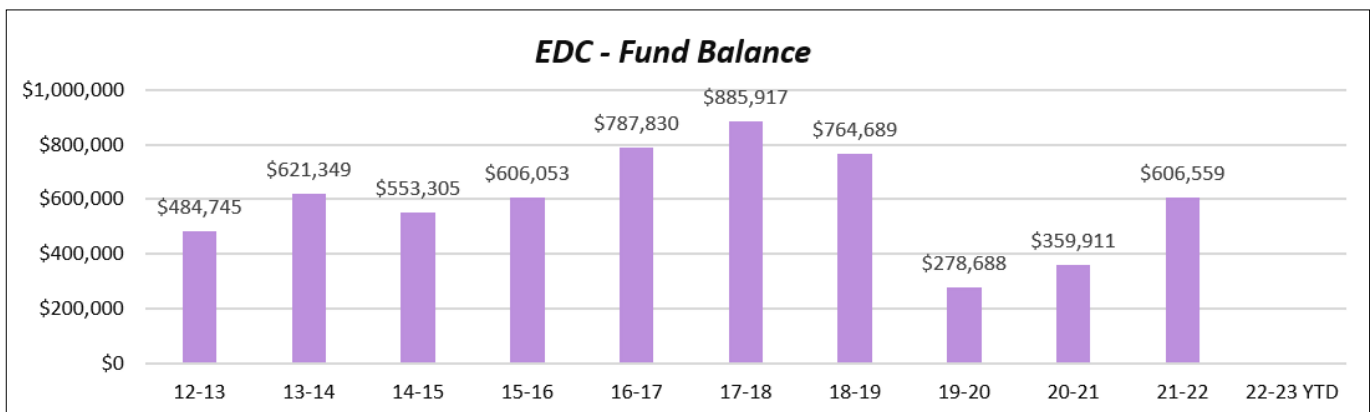
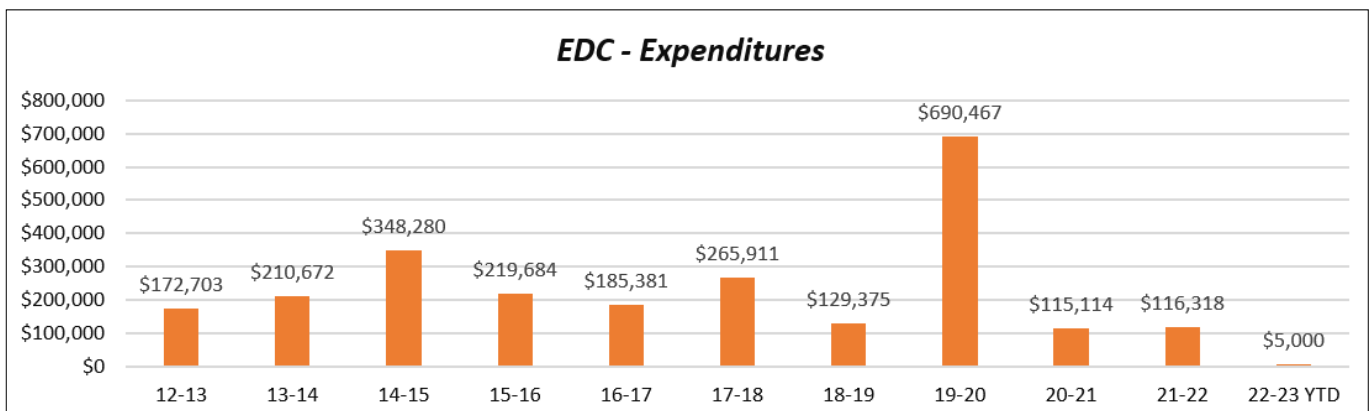
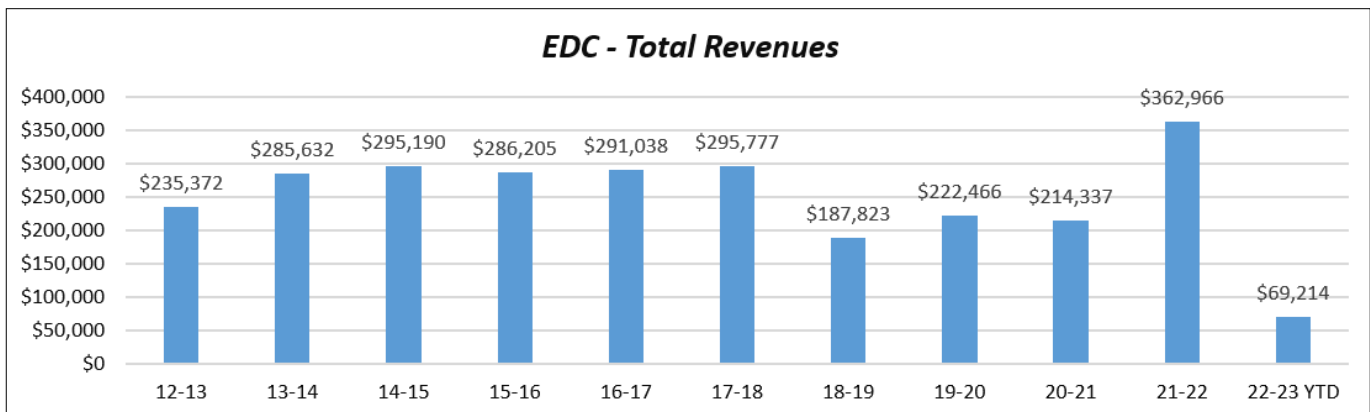
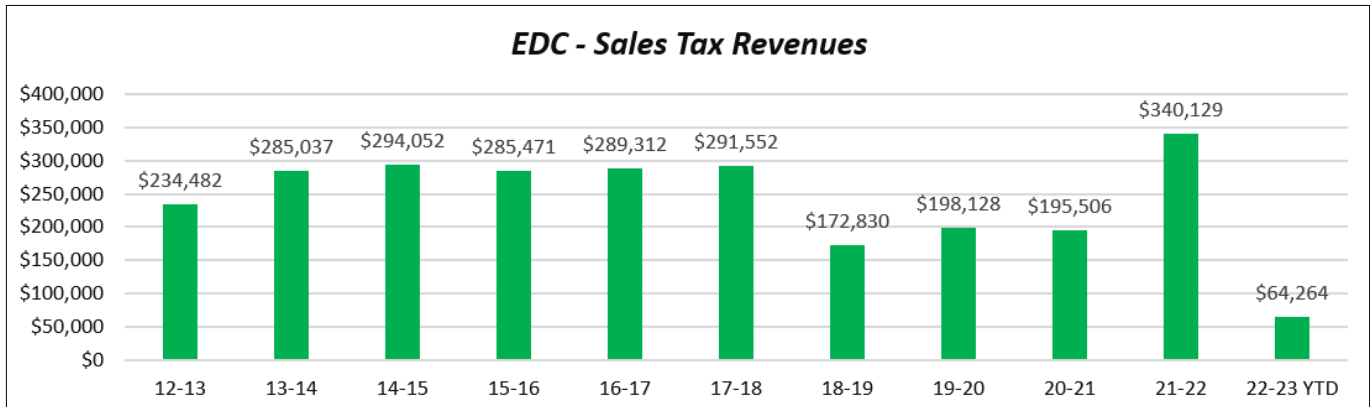
Mission Statement: *Enhance and improve the development and quality of life in the City of Justin. This is to be achieved by working simultaneously to increase and improve the following areas.*

- Retail Sales
- Commercial and/or Manufacturing
- Infrastructure



FINANCIALS

Following are major financial aspects of the JEDC. All data reflect a Fiscal Year of October 1 to September 30. Fiscal Years 21-22 and 22-23 are unaudited and subject to change.



RESOURCES - City

The City and other agencies maintain the following resources which are often beneficial to the JEDC.

City Website - www.CityOfJustin.com

The City maintains a comprehensive website at the URL shown above. *Represents items available on the website.

City Planning Components

The City has adopted the following planning components.

- Zoning Ordinance
- Future Land Use Plan
- Master Thoroughfare Plan
- Master Parks, Recreation & Open Space Plan
- Capital Improvement Plan

City Maps

The City maintains the following maps.

- Interactive GIS Map
- Existing Zoning Map
- Future Land Use Plan
- Parks, Recreation & Open Space Plan
- Thoroughfare Plan
- Flood Plain / Floodway Map

Appraisal District - www.DentonCAD.com

The Appraisal District maintains a GIS mapping system including the following information.

- Parcel maps
- Parcel data

Metroport Chamber of Commerce

www.MetroportChamber.org

Justin is a member of the Metroport Chamber of Commerce. This 7-member Chamber provides great regional data for economic development.



RESOURCES - JEDC

The JEDC maintains the following resources in addition to the City resources.

JEDC Website - www.JustinTXEDC.com

The JEDC maintains a professional webpage dedicated to purposes of the JEDC at the URL shown above. Significant effort is put into the maintenance and update of information available on the website. *Represents items available on the website.

Economic Development Plans & Studies

The JEDC and / or the City have adopted the following plans or studies related to economic development.

- A Market Assessment Plan was done in 2019 by Catalyst Commercial

Data

The JEDC maintains the following data on their website:

- Single-page infographic on demographics
- Traffic Count Study—2022
- Retail data is included in the Market Assessment Plan mentioned above

Business Directory*

The JEDC maintains a Business Directory on their website and currently has 111 business listings.



RESOURCES - JEDC cont.

Incentives*

The City has adopted the following incentive grant programs which are implemented by the JEDC.

Advertising Grant

If you are interested in paid advertising in a local magazine, submit this application for consideration. Applicants must have a business within city limits and MLM's are not eligible.

Façade and Sign Grant

The Justin Façade and Sign Grant Program is a revitalization effort designed to enhance the unique character of the City through historic preservation and community involvement, while at the same time promoting our downtown and new growth. As an economic incentive, the Justin EDC / CDC Boards have designed the following façade & sign grant program.

General Business Reimbursement Grant

The Justin General Business Reimbursement Grant Program is an economic tool designed to assist Justin businesses with various projects as approved by the Justin EDC / CDC Boards. As an economic incentive, they have designed the following general business reimbursement grant program.

Incentives Policy

The Board approved an Incentives Policy in 2017 but the City Council has not formally adopted the Policy at this time. This will be pursued in the near term. The City has used or is willing to use the following incentives.

- Tax abatement
- Chapter 380 Agreements - Sales Tax Grants
- Infrastructure incentives
- Employment incentives
- Retention and expansion incentives

JEDC Owned Real Estate*

In 2009 the JEDC acquired approximately 0.21 acres located at 117 W. 4th St., Justin, TX 76247. The property has an existing 1,356 s.f. building which is fully leased at this time.

Available Properties Listing

The JEDC currently does not maintain a listing of available property and buildings on its website but is evaluating a contract to provide that service.

Printed Marketing Materials

Following are primary marketing materials currently in use. Staff intends to discuss enhancements with the JEDC Board in January, 2023.

- Three large fabric banners with pictures and stats and matching tablecloth we use at events
- Folders that contain zoning and pending development map
- A one-page Fast Facts (needs updated)

Promotional Items

Staff maintains the following as promotional items.

- Stress balls in the shape of a cowboy hat that seem to go over really well at events
- Personalized pens, notepads, and koozies



Promotional Videos*

The JEDC maintains two promotional videos:

- Welcome to Justin
- "Why Justin?" citizen / business testimonials

Business Roundtables*

We host two business roundtables a year, one in the Spring and Fall. We invite business owners, commercial property owners, and other community stakeholders to join us as we give updates from the city and invite guest speakers to provide resources to the business community.



ACTIVITIES-PROJECTS SUMMARY

Economic Development Corporation

Following is a summary of activities and projects currently in progress or completed in recent years.

Date	Activity / Project	Description	Notes
In Progress	EDC Facebook Page/City Website	Marketing/information tool for ED	
In Progress	Comprehensive Plan	Economic Development Portion	
In Progress	Property Enhancement Incentives Policy	Sign and Façade Grants	
In Progress	Mule Barn Parking Incentive Agreement	Agreement for upgraded parking to Mule Barn, Lonesome Spur, and Justin Boots	
In Progress	Adam's Furniture Enhancement Grant	Ongoing discussions for updated signage and exterior upgrades	
In Progress	Mom's Café Façade Grant	Application being reviewed for updated signage, exterior paint, and park striping	
In Progress	City Monument Signage	Design work and pricing are being discussed	
In Progress	Justin Town Square Chapter 380	Land transfer for CDC but EDC contributing money towards infrastructure cost as well	\$75,000 from each board
2022-10	Bespoke Art Studio Façade Grant	New signage, awnings, and mural	
2022-10	Traffic Count Study	Updated 2022 counts	
2022-08	Justin Business Roundtable	Hosted for local businesses and land owners	
2022-07	Santini's Sweets & Gelato Advertising Grant	76247 Magazine	
2022-03	Metroport Chamber Alliance Development Forum	Market Table	
2022-02	Justin Business Roundtable	Hosted for local businesses and land owners	
2022-02	2021 Economic Excellence Award	Texas Economic Development Council	
2021-12	Launch of online Business Directory		
2021-11	Margarita's Mexican Restaurant Façade Grant	New signage and exterior upgrades	
2021-10	Downtown Mural Project	Completion of black and white train station mural near 4th St.	
2021-03	Contre Management, LLC	Sign Grant for downtown business	
2020-07	Downtown Parking Project	Additional 200 parking spaces added to downtown area	\$600,000
2016	156 Communication Project	Communication efforts and business support during the widening of hwy 156	
2015-06	Taylor Drainage Project		
2015-06	Visitor Guide		Will update every 1-2 years
2015-06	Welcome to Wise (Marketing)		
2015-03-26	EDC Roof		
2015-02	ReBranding Efforts	Create a new logo for the City and EDC/CDC	
2014-11	EDC Parking Lot	Repave old parking lot for overall appearance and provide more downtown parking	
2014-11	Volleyball Court- City Hall	Assist with sand volleyball at City Park	
2014-11	Basketball Court- Reatta Ridge		
2014-11	Backstops for Justin Community Park		
2014-10	Waterfountain- Bishop Park	Replace waterfountain at Bishop Park off 156	
2014-09	City/ED Website		
	Business Retention	Recognize Business of the quarter/6 months in ED newsletter	
	Industrial Development	Modify Design Guidelines	



SWOT ANALYSIS

Economic Development Corporation

Participants provided SWOT ideas pre-meeting and with discussion.

[Note: The items on the left in black came from the SWOT Working List which combined input provided by participants into a single representative comment. The blue text on the right are Objectives that have been incorporated in the list of Goals and Objectives on the following pages. Items in black on the right are potential action items that I think do not rise to the level of an Objective, or are not something the EDC is eligible to do. Blank lines on the right are items that I'm not sure can be addressed by the EDC.]

STRENGTHS - JEDC	
What are our strengths?	How do we build upon them?
<ul style="list-style-type: none"> • Board, experience, diversity, skillsets • Board members motivated and passionate • Board comradery, relationships • Shared / common vision • Reputation as productive Board • Receptivity to new ideas • Interest and commitment to serve on Board • Recent JEDC successes (enhancements, online videos, murals) 	<ul style="list-style-type: none"> • Implement Best Practices' Board Member Application • Adopt an Action Plan and implement objectives • • Adopt an Action Plan and implement objectives • Adopt an Action Plan and implement objectives • • • Support completion of another mural with marketing and funding
WEAKNESSES - JEDC	
What are our weaknesses?	How do we reduce or eliminate them?
<ul style="list-style-type: none"> • Ability to commit necessary time • Limited funding • Experience dealing with community growth • Inhospitable meeting environment • Currently no plan for the future • Lack of direction from City Council • Inability to stay ahead of the issues • Potential commercial properties controlled by families • Limited experience in Economic Development 	<ul style="list-style-type: none"> • Implement Best Practices' Board meeting agenda for efficient / productive meetings • Adopt target reserve / sinking fund levels to accomplish objectives • Develop and implement a training program for Board members • Implement Best Practices' Board meeting agenda for efficient / productive meetings • Adopt an Action Plan and implement objectives • Hold a joint meeting with City Council to discuss direction for EDO • Hold an annual issues / opportunities workshop setting short-long term goals • Develop a program to engage local land owners • Develop and implement a training program for Board members

*Items shown in blue text are included in the Objectives Summary



SWOT ANALYSIS

Economic Development Corporation

Participants provided SWOT ideas pre-meeting and with discussion.

OPPORTUNITIES - JEDC	
What are our opportunities?	How do we take advantage of them?
<ul style="list-style-type: none"> • Develop a Sites & Buildings Summary • Updating / enhancing Incentives Policy • Enhance relationships with local businesses • Enhance partnership with Parks Board • Develop a clear direction • Take advantage of Alliance proximity • Continue support for small businesses • Enhance efforts to support Downtown • Increase Light Industrial development opportunities • Continue emphasis on mom / pop “small-town” businesses • Establish desired standards for development • Increase exposure with local Chamber / allies • Create a destination of unique experiences 	<ul style="list-style-type: none"> • Develop a comprehensive Sites & Buildings Summary • Update / enhance Incentives Policy to contemporary options and procedures • Implement a comprehensive BRE program • Hold a joint meeting with City Council and the Parks Board • Adopt an Action Plan and implement objectives • Increase engagement with Chamber and local business events for marketing purposes • Implement a comprehensive BRE program • Implement a comprehensive BRE program • Ensure Comprehensive Plan / FLUP identifies opportunities for diverse commercial growth • Implement a comprehensive BRE program • Support contemporary development standards and regulations • Increase engagement with Chamber and local business events for marketing purposes • Identify opportunities to create unique destination businesses
THREATS - JEDC	
What are our threats?	How do we overcome or minimize them?
<ul style="list-style-type: none"> • Splitting the EDC & CDC boards • City Council holding us back • Inadequate direction from City Council • Competition from neighboring cities • Inability to compete due to budget restraints • Continued changes in City Manager’s Office 	<ul style="list-style-type: none"> • Maintain combined EDC / CDC Boards • Hold a joint meeting with City Council to discuss direction for EDO • Adopt an Action Plan and implement objectives • Update / enhance Incentives Policy to contemporary options and procedures • Adopt target reserve / sinking fund levels to accomplish objectives • Adopt an Action Plan and implement objectives

*Items shown in blue text are included in the Objectives Summary



SWOT ANALYSIS

City of Justin, Texas

Participants provided SWOT ideas pre-meeting and with discussion.

STRENGTHS - City of Justin	
What are our strengths?	How do we build upon them?
<ul style="list-style-type: none"> • Small-town vibe / feel • Proximity to major roadways • General receptivity to residential and commercial growth • Communications and quality City website • Dedicated to its residents • Strong financials, good credit • Professional City Staff • Strong Mayor and City Council • Where people want to be • Housing diversity • High traffic counts on FM 156 	<ul style="list-style-type: none"> • • Develop data / graphics showing connectivity to highways • • Develop and maintain a cutting-edge best practices website • • Participate and contribute to Bond-Rating research / presentations • • • • Develop / maintain a current Residential Development Report • Develop / maintain a current Traffic Count Report
WEAKNESSES - City of Justin	
What are our weaknesses?	How do we reduce or eliminate them?
<ul style="list-style-type: none"> • Lack of retail, restaurants, grocery • No major roads except FM 156 • Lack of urgent care / pharmacy • Inadequate East-West arterials • Train impacts on traffic / redevelopment • Infrastructure not ready for growth • Availability of sports fields / complexes • Perception as "small town" • Turnover in Manager and City Council 	<ul style="list-style-type: none"> • Develop a Residential Development Report • Develop data / graphics showing connectivity to highways • Develop a Residential Development Report • Support development of a Capital Improvement Plan (CIP) for the City • • Support development of a Capital Improvement Plan (CIP) for the City • Support development of a Parks, Recreation and Open Space Master Plan • • Adopt an Action Plan and implement objectives

*Items shown in blue text are included in the Objectives Summary



SWOT ANALYSIS

City of Justin, Texas

Participants provided SWOT ideas pre-meeting and with discussion.

OPPORTUNITIES - City of Justin	
What are our opportunities?	How do we take advantage of them?
<ul style="list-style-type: none">• More diversity in housing choices• Existing real estate along FM 156 and FM 407• Increased marketing to raise awareness of opportunities• Continued residential growth• Development that increases tax base• Improve relationships with neighboring cities• Implement another mural project• Recent commercial interest in Town Square and Downtown• Interest in retail development	<ul style="list-style-type: none">• Encourage Council & PZ to support housing diversity• Develop a comprehensive Sites & Buildings Summary• Enhance branding of City and business opportunities• Encourage Council & PZ to support residential growth• Develop a comprehensive Sites & Buildings Summary• Support completion of another mural with marketing and funding• Develop marketing initiatives to support Downtown and Town Square development• Develop / maintain a current Residential Development Report
THREATS - City of Justin	
What are our threats?	How do we overcome or minimize them?
<ul style="list-style-type: none">• Traffic exceeds capacity of roadways• Competition from neighboring cities• Downturn in residential market• Oversupply of vacant residential lots• Turnover in Manager and City Council• Infrastructure lagging growth demand• Lack of adequate staffing	<ul style="list-style-type: none">• Support development of a Capital Improvement Plan (CIP) for the City• Enhance branding of City and business opportunities• Hold an annual issues / opportunities workshop setting short-long term goals• Adopt an Action Plan and implement objectives• Support development of a Capital Improvement Plan (CIP) for the City

*Items shown in [blue text](#) are included in the Objectives Summary



PRIORITIZED OBJECTIVES

Page 1 of 3

Economic Development Corporation

Following are the results of the prioritization of the Objectives adopted by the participants.

Rank	Score	Priority of Objective Highest ----- Lowest					Goal	Objective	Description
1A	4.57	4	3				ENH	Encourage City / CDC to prioritize downtown enhancements	Identify and prioritize enhancements to maintain a vibrant and sustainable downtown
1B	4.57	5	1	1			PLAN	Adopt an Action Plan and implement objectives	A plan of action for the near term (1-5 yrs) for the Board and Staff to advance prioritized objectives
1C	4.57	5	1	1			RED	Develop a comprehensive Sites & Buildings Summary	A summary showing the location of available sites or buildings and a matrix of data and contacts for each
4	4.00	3	1	3			ADM	Conduct a review of funded projects and benefits derived from those projects	Conduct a review of funded projects and benefits derived from those projects
5A	3.86	3	2	1		1	ADM	Provide an annual report to City Council	A report to City Council discussing activities, goals & objectives for the EDO
5B	3.86	4	1		1	1	EDU	Hold training to understand the City Comp Plan	Training that covers all aspects of the City's Comprehensive Land Use Plan
5C	3.86	2	2	3			M&P	Emphasize advantages with targeted marketing materials and website	Highlight advantages with targeted marketing materials and on the EDO website
5D	3.86	2	3	1	1		M&P	Identify opportunities to create unique destination businesses	E.g., special getaways, dining, small hotels or rental cottages, live entertainment, a real saloon, eclectic shopping, coffee shops,
9A	3.71	2	2	2	1		ADM	Better communicate EDO programs and successes	Communicate the responsibilities and prior successes of the EDO via website and other available means
9B	3.71	3	2		1	1	ENH	Fund enhancements to City entry portals or along highway corridors	Identify critical entry portals / corridors and fund enhancements such as signage, landscaping, lighting, etc.
9C	3.71	1	4	1	1		INF	Support development of a Capital Improvement Plan (CIP) for the City	A Plan that identifies current and future infrastructure needs and prioritizes construction
9D	3.71	3	1	2		1	RES	Develop / maintain a current Traffic Count Report	A report that graphically identifies the location of 24-hour, two-way, traffic counts for retail attraction
13	3.57	2	1	3	1		M&P	Enhance branding of City and business opportunities	Enhance the branding of the City and opportunities for business
14A	3.43	2	1	2	2		ADM	Develop and maintain a cutting-edge best practices website	Develop and maintain a professionally designed website with comprehensive and organized content
14B	3.43	2	2	1	1	1	EDU	Develop and implement a training program for Board members	Implement a schedule of training for Board members on various topics (e.g. BRE, incentives, planning, expansion)
14C	3.43	2	1	2	2		ENH	Partner with the Parks Board / City to update / build our park facilities	Partner with the Parks Board / City to update / build our park facilities
14D	3.43	1	3	1	2		PART	Hold a joint meeting with City Council to discuss direction for EDO	A joint meeting with City Council to discuss activities, goals & objectives for the EDO
14E	3.43	2	1	2	2		RES	Develop / maintain a current Residential Development Report	Develop a Residential Development Report to show the existing and planned housing in the region
14F	3.43	3	1	1		2	RES	Develop info on availability of incentives	A summary of what is available, how to request it, and what has been done in the past



PRIORITIZED OBJECTIVES

Economic Development Corporation

Following are the results of the prioritization of the Objectives adopted by the participants.

Rank	Score	Priority of Objective Highest ----- Lowest						Goal	Objective	Description
20A	3.29	2	1	2	1	1		BRE	Implement a comprehensive BRE program	Implement a BRE program that includes various programs to support and grow existing businesses
20B	3.29	3		2		2		ENH	Support completion of another mural with marketing and funding	Support completion of another mural with marketing and funding
20C	3.29	1	2	2	2			M&P	Develop broker-developer outreach using contacts database	Establish contact info in CRM for broker-developers and utilize to implement marketing initiatives
20D	3.29	1	2	2	2			PLAN	Ensure Comprehensive Plan / FLUP identifies opportunities for diverse commercial growth	Ensure that the Comp Plan / Future Land Use Plan identifies opportunities for diverse commercial growth
20E	3.29	1	2	2	2			RED	Identify / develop light industrial land uses	Identify desired Light Industrial land uses and pursue development of property to meet their needs
25A	3.14	1	3	1		2		ADM	Implement Best Practices' Board meeting agenda for efficient / productive meetings	Implement Best Practices' Board meeting agenda for efficient / productive meetings
25B	3.14	1	3		2	1		M&P	Develop marketing initiatives to support Downtown and Town Square development	Develop marketing initiatives to support Downtown and Town Square development
25C	3.14	1	1	3	2			PART	Hold a joint meeting with City Council and the Parks Board	A joint meeting with City Council and the Parks Board to discuss activities, goals & objectives
25D	3.14	1	2	1	3			PART	Partner with the Parks board on community enhancement opportunities	Partner with the Parks board on community enhancement opportunities
25E	3.14	1	2	2	1	1		RES	Contract for professional videography as needed for M&P	Contract for professional videography to be used in marketing & promotion and on website
30A	3.00	2		2	2	1		ADM	Implement Best Practices' Board Member Application	Implement the Best Practices' Board Member Application to ensure quality and fit for Board
30B	3.00	1	2	1	2	1		FIN	Adopt target reserve / sinking fund levels to accomplish objectives	Determine adequate reserves to weather economic downturns and take advantage of opportunities
30C	3.00	1	1	2	3			RES	Maintain a list of all contacts using excel	Set up an Excel file that allows accumulation of all contacts of potential benefit to the EDO
33A	2.86		2	3	1	1		EDU	Board / Staff to attend TEDC training opportunities in the coming year	Board / Staff to attend TEDC training opportunities in the coming year
33B	2.86	3			1	3		ENH	Assist in development of sports fields / complexes	Promote and assist in funding development of sports fields to enhance the community
35A	2.71	1	2		2	2		PLAN	Hold an annual issues / opportunities workshop setting short-long term goals	Board / Staff to hold an annual issues / opportunities workshop to develop short and long-term goals
35B	2.71	1	1	2	1	2		RES	Contract for aerial photos / maps to market local and regional assets	Contract for aerial photos / maps to market local and regional assets
35C	2.71		3	1	1	2		RES	Develop small (tri-fold) marketing pamphlet	Develop a small marketing pamphlet for distribution at events or as needed
38A	2.57	1	1	1	2	2		RED	Address downtown parking needs	Evaluate the necessity of a Downtown Parking Plan to address the need for additional downtown parking
38B	2.57		2	2	1	2		RES	Develop data / graphics showing connectivity to highways	Develop graphics showing proximity and travel time to major highways / interstates



PRIORITIZED OBJECTIVES

Economic Development Corporation

Following are the results of the prioritization of the Objectives adopted by the participants.

Rank	Score	Priority of Objective Highest ----- Lowest					Goal	Objective	Description
40A	2.43		1	3	1	2	FIN	Establish an Incentive Management Program	A program to document, track and report on active incentive agreements and obligations
40B	2.43		3		1	3	ENH	Expand the park system to the area south of the Meadowlands Park, making the pond / dock accessible	Expand the park system to the area south of the Meadowlands Park making the pond accessible.
40C	2.43		1	2	3	1	M&P	Attend and exhibit at the Metroport Alliance Development Forum	Attend and exhibit at the Metroport Alliance Development Forum
40D	2.43	1	1	1	1	3	PLAN	Update / enhance Incentives Policy to contemporary options and procedures	Update / enhance Incentives Policy to contemporary options and procedures
40E	2.43		1	2	3	1	RED	Pursue redevelopment in the Downtown area near 4th Street and Sealy	Pursue redevelopment in the Downtown area near 4th Street and Sealy
45A	2.29	1		2	1	3	EDU	Each new Board member to complete required orientation reading within two months of appointment	Each new Board member to complete required orientation reading within two months of appointment
45B	2.29		1	2	2	2	M&P	Increase engagement with Chamber and local business events for marketing purposes	Increase engagement with Chamber and local business events for marketing purposes
47	2.14		1	1	3	2	ADM	Evaluate hiring a full-time EDO Director	Evaluate the potential benefits from hiring a full-time Director to implement EDO programs
48A	2.00			2	3	2	ADM	Participate and contribute to Bond-Rating research / presentations	Participate and contribute to Bond-Rating research / presentations
48B	2.00		1	1	2	3	ADM	Evaluate becoming a Main Street Community and hiring a MS Manager	Evaluate becoming a Main Street Community and hiring a Main Street Manager
48C	2.00		2		1	4	PLAN	Support contemporary development standards and regulations	Assist in the research or preparation of contemporary zoning, subdivision or other development regulations
48D	2.00	1			3	3	WORK	Partner with North Central Texas College and advertise their courses / trainings for local businesses	Partner with North Central Texas College and advertise their courses / trainings for local businesses
52	1.86			1	4	2	PART	Develop a program to engage local land owners	Program to reach out to local land owners with commercial properties and establish a relationship
53	1.71			2	1	4	RED	Explore long-term possibilities with Taylor's Farm adjacent to the north LIA.	Explore long-term possibilities with Taylor's Farm across 407 from the Meadowlands and adjoining the north LIA.
54	1.29				2	5	FIN	Reach out to charitable foundations (Meadows Foundation) to support public structures and programs that help people	Reach out to charitable foundations (Meadows Foundation) to support public structures and programs that help people

Goals Legend:

ADM - Enhance administration, management and reporting efforts
 FIN - Maintain / improve financial management systems and processes
 BRE - Retain and support existing businesses
 EDU - Increase the education and training of Staff and Board members
 ENH - Provide community enhancements that support business development
 INF - Provide public infrastructure to support business development
 M&P - Enhance marketing / promotion efforts
 PART - Enhance relationships with partners, allies and stakeholders
 PLAN - Update / enhance economic development plans and policies
 RED - Analyze and promote real estate development / redevelopment opportunities
 RES - Identify, develop and enhance Economic Development resources
 WORK - Implement programs to understand and enhance the workforce



GOALS & OBJECTIVES

Page 1 of 3

Economic Development Corporation

Following is a summary of the Goals & Objectives sorted by Goals (tan rows).

Rank	Objective	Description
GOAL: Enhance administration, management and reporting efforts (ADM)		
4	Conduct a review of funded projects and benefits derived from those projects	Conduct a review of funded projects and benefits derived from those projects
5A	Provide an annual report to City Council	A report to City Council discussing activities, goals & objectives for the EDO
9A	Better communicate EDO programs and successes	Communicate the responsibilities and prior successes of the EDO via website and other available means
14A	Develop and maintain a cutting-edge best practices website	Develop and maintain a professionally designed website with comprehensive and organized content
25A	Implement Best Practices' Board meeting agenda for efficient / productive meetings	Implement Best Practices' Board meeting agenda for efficient / productive meetings
30A	Implement Best Practices' Board Member Application	Implement the Best Practices' Board Member Application to ensure quality and fit for Board
47	Evaluate hiring a full-time EDO Director	Evaluate the potential benefits from hiring a full-time Director to implement EDO programs
48A	Participate and contribute to Bond-Rating research / presentations	Participate and contribute to Bond-Rating research / presentations
48B	Evaluate becoming a Main Street Community and hiring a MS Manager	Evaluate becoming a Main Street Community and hiring a Main Street Manager
GOAL: Maintain / improve financial management systems and processes (FIN)		
30B	Adopt target reserve / sinking fund levels to accomplish objectives	Determine adequate reserves to weather economic downturns and take advantage of opportunities
40A	Establish an Incentive Management Program	A program to document, track and report on active incentive agreements and obligations
54	Reach out to charitable foundations (Meadows Foundation) to support public structures and programs that help people	Reach out to charitable foundations (Meadows Foundation) to support public structures and programs that help people
GOAL: Retain and support existing businesses (Business Retention & Expansion) (BRE)		
20A	Implement a comprehensive BRE program	Implement a BRE program that includes various programs to support and grow existing businesses
GOAL: Increase the education and training of Staff and Board members (EDU)		
5B	Hold training to understand the City Comp Plan	Training that covers all aspects of the City's Comprehensive Land Use Plan
14B	Develop and implement a training program for Board members	Implement a schedule of training for Board members on various topics (e.g. BRE, incentives, planning, expansion)
33A	Board / Staff to attend TEDC training opportunities in the coming year	Board / Staff to attend TEDC training opportunities in the coming year
45A	Each new Board member to complete required orientation reading within two months of appointment	Each new Board member to complete required orientation reading within two months of appointment



GOALS & OBJECTIVES

Economic Development Corporation

Following is a summary of the Goals & Objectives sorted by Goals (tan rows).

Rank	Objective	Description
GOAL: Provide community enhancements that support business development (ENH)		
1A	Encourage City / CDC to prioritize downtown enhancements	Identify and prioritize enhancements to maintain a vibrant and sustainable downtown
9B	Fund enhancements to City entry portals or along highway corridors	Identify critical entry portals / corridors and fund enhancements such as signage, landscaping, lighting, etc.
14C	Partner with the Parks Board / City to update / build our park facilities	Partner with the Parks Board / City to update / build our park facilities
20B	Support completion of another mural with marketing and funding	Support completion of another mural with marketing and funding
33B	Assist in development of sports fields / complexes	Promote and assist in funding development of sports fields to enhance the community
40B	Expand the park system to the area south of the Meadowlands Park, making the pond / dock accessible	Expand the park system to the area south of the Meadowlands Park making the pond accessible.
GOAL: Provide public infrastructure to support business development (INF)		
9C	Support development of a Capital Improvement Plan (CIP) for the City	A Plan that identifies current and future infrastructure needs and prioritizes construction
GOAL: Enhance marketing / promotion efforts (M&P)		
5C	Emphasize advantages with targeted marketing materials and website	Highlight advantages with targeted marketing materials and on the EDO website
5D	Identify opportunities to create unique destination businesses	E.g., special getaways, dining, small hotels or rental cottages, live entertainment, a real saloon, eclectic shopping, coffee shops,
13	Enhance branding of City and business opportunities	Enhance the branding of the City and opportunities for business
20C	Develop broker-developer outreach using contacts database	Establish contact info in CRM for broker-developers and utilize to implement marketing initiatives
25B	Develop marketing initiatives to support Downtown and Town Square development	Develop marketing initiatives to support Downtown and Town Square development
40C	Attend and exhibit at the Metroport Alliance Development Forum	Attend and exhibit at the Metroport Alliance Development Forum
45B	Increase engagement with Chamber and local business events for marketing purposes	Increase engagement with Chamber and local business events for marketing purposes
GOAL: Enhance relationships with partners, allies and stakeholders (PART)		
14D	Hold a joint meeting with City Council to discuss direction for EDO	A joint meeting with City Council to discuss activities, goals & objectives for the EDO
25C	Hold a joint meeting with City Council and the Parks Board	A joint meeting with City Council and the Parks Board to discuss activities, goals & objectives
25D	Partner with the Parks board on community enhancement opportunities	Partner with the Parks board on community enhancement opportunities
52	Develop a program to engage local land owners	Program to reach out to local land owners with commercial properties and establish a relationship



GOALS & OBJECTIVES

Economic Development Corporation

Following is a summary of the Goals & Objectives sorted by Goals (tan rows).

Rank	Objective	Description
GOAL: Update / enhance economic development plans and policies (PLAN)		
1B	Adopt an Action Plan and implement objectives	A plan of action for the near term (1-5 yrs) for the Board and Staff to advance prioritized objectives
20D	Ensure Comprehensive Plan / FLUP identifies opportunities for diverse commercial growth	Ensure that the Comp Plan / Future Land Use Plan identifies opportunities for diverse commercial growth
35A	Hold an annual issues / opportunities workshop setting short-long term goals	Board / Staff to hold an annual issues / opportunities workshop to develop short and long-term goals
40D	Update / enhance Incentives Policy to contemporary options and procedures	Update / enhance Incentives Policy to contemporary options and procedures
48C	Support contemporary development standards and regulations	Assist in the research or preparation of contemporary zoning, subdivision or other development regulations
GOAL: Analyze and promote real estate development / redevelopment opportunities (RED)		
1C	Develop a comprehensive Sites & Buildings Summary	A summary showing the location of available sites or buildings and a matrix of data and contacts for each
20E	Identify / develop light industrial land uses	Identify desired Light Industrial land uses and pursue development of property to meet their needs
38A	Address downtown parking needs	Evaluate the necessity of a Downtown Parking Plan to address the need for additional downtown parking
40E	Pursue redevelopment in the Downtown area near 4th Street and Sealy	Pursue redevelopment in the Downtown area near 4th Street and Sealy
53	Explore long-term possibilities with Taylor's Farm adjacent to the north LIA.	Explore long-term possibilities with Taylor's Farm across 407 from the Meadowlands and adjoining the north LIA.
GOAL: Identify, develop and enhance Economic Development resources (RES)		
9D	Develop / maintain a current Traffic Count Report	A report that graphically identifies the location of 24-hour, two-way, traffic counts for retail attraction
14E	Develop / maintain a current Residential Development Report	Develop a Residential Development Report to show the existing and planned housing in the region
14F	Develop info on availability of incentives	A summary of what is available, how to request it, and what has been done in the past
25E	Contract for professional videography as needed for M&P	Contract for professional videography to be used in marketing & promotion and on website
30C	Maintain a list of all contacts using excel	Set up an Excel file that allows accumulation of all contacts of potential benefit to the EDO
35B	Contract for aerial photos / maps to market local and regional assets	Contract for aerial photos / maps to market local and regional assets
35C	Develop small (tri-fold) marketing pamphlet	Develop a small marketing pamphlet for distribution at events or as needed
38B	Develop data / graphics showing connectivity to highways	Develop graphics showing proximity and travel time to major highways / interstates
GOAL: Implement programs to understand and enhance the workforce (WORK)		
48D	Partner with North Central Texas College and advertise their courses / trainings for local businesses	Partner with North Central Texas College and advertise their courses / trainings for local businesses



M-G-O PROGRESS REPORT

Page 1 of 2

Economic Development Corporation

This **Mission - Goals - Objectives Progress Report** summarizes the *Prioritized Objectives* in a format that allows monitoring and reporting of progress on a regular basis. (Two-page example only)

Prior.	Objective	When	Resp.	%	Notes
1A	Encourage City / CDC to prioritize downtown enhancements				
1B	Adopt an Action Plan and implement objectives				
1C	Develop a comprehensive Sites & Buildings Summary				
4	Conduct a review of funded projects and benefits derived from those projects				
5A	Provide an annual report to City Council				
5B	Hold training to understand the City Comp Plan				
5C	Emphasize advantages with targeted marketing materials and website				
5D	Identify opportunities to create unique destination businesses				
9A	Better communicate EDO programs and successes				
9B	Fund enhancements to City entry portals or along highway corridors				
9C	Support development of a Capital Improvement Plan (CIP) for the City				



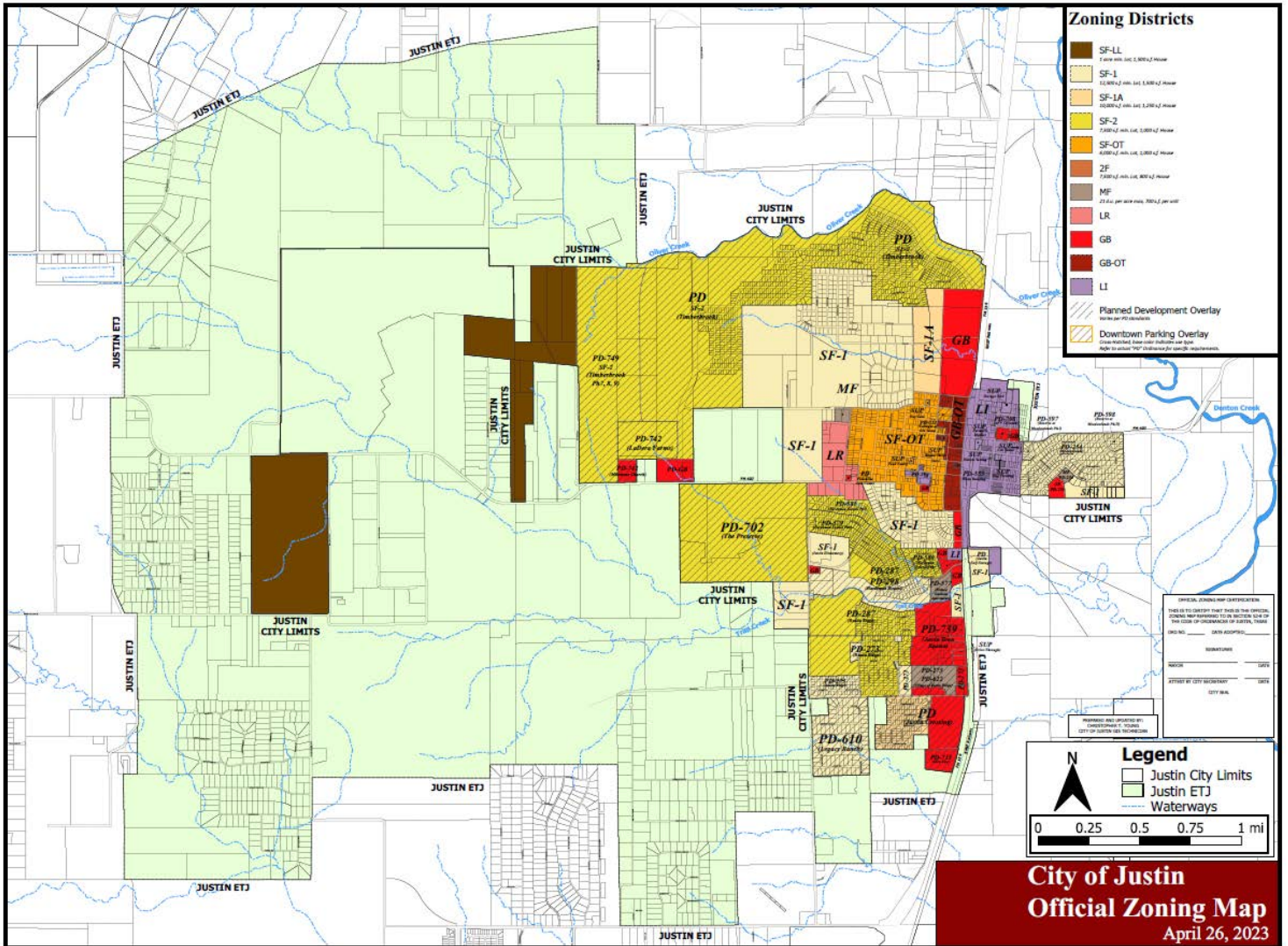
Economic Development Corporation

Prior.	Objective	When	Resp.	%	Notes
9D	Develop / maintain a current Traffic Count Report				
13	Enhance branding of City and business opportunities				
14A	Develop and maintain a cutting-edge best practices website				
14B	Develop and implement a training program for Board members				
14C	Partner with the Parks Board / City to update / build our park facilities				
14D	Hold a joint meeting with City Council to discuss direction for EDO				
14E	Develop / maintain a current Residential Development Report				
14F	Develop info on availability of incentives				
20A	Implement a comprehensive BRE program				
20B	Support completion of another mural with marketing and funding				
20C	Develop broker-developer outreach using contacts database				
20D	Ensure Comprehensive Plan / FLUP identifies opportunities for diverse commercial growth				
20E	Identify / develop light industrial land uses				



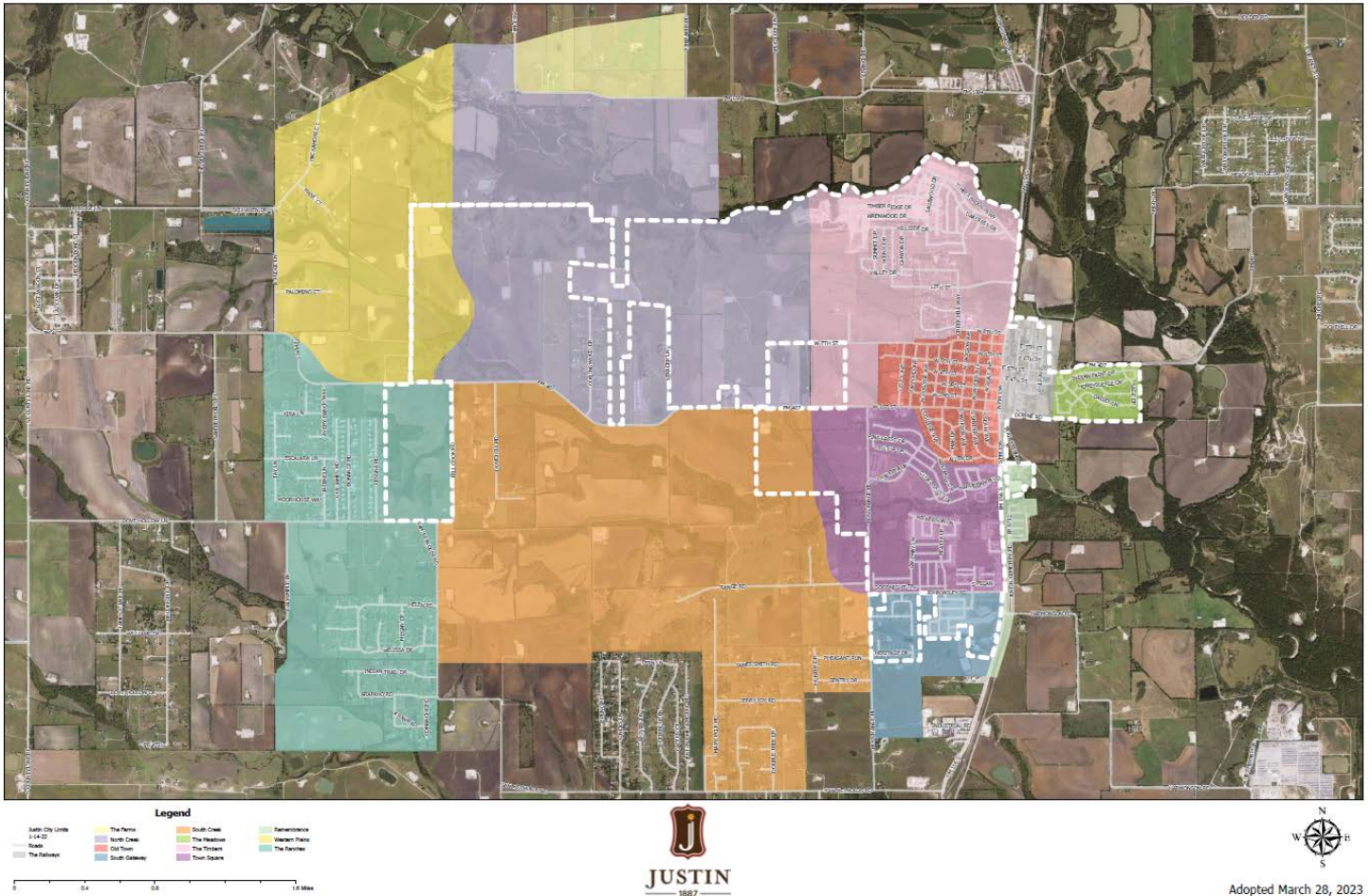
Appendix A

Existing Zoning Map



Appendix B

Experience Districts



Appendix C

Terms & Definitions

Following are terms used in this Action Plan or referenced during development of the Plan.
For a comprehensive list of Economic Development Terms, visit www.EDPBestPractices.com.

Action Plan: A plan developed by an organization to help them focus on goals, objectives, and tasks needed in the near term in order to accomplish their mission.

BRE - Business Retention & Expansion: Programs that support and expand existing businesses.

CIP - Capital Improvement Plan: A plan for funding improvements to public infrastructure.

EDC - Economic Development Corporation: An organization of the City funded by City sales tax.

EDO - Economic Development Organization: A generic description to represent all types of ED agencies.

FLUP - Future Land Use Plan: A map of the City showing the desired ultimate land use for all properties in the City.

Goal: A statement of a high-level action to be accomplished through the completion of objectives.

Incentives: Various inducements that a City might offer a business or developer to invest in their City.

Incentives Policy: A Policy approved by the governing body identifying their receptivity to providing various types of incentives, and administrative processes to implement the incentives.

Infrastructure: Typically means the water, sewer, streets and drainage improvements owned and maintained by the City.

Marketing Collateral: Any number of resources used to help an EDO market their jurisdiction.

Marketing Plan: A Plan identifying the venues, targets, and resources needed to market a jurisdiction. Often includes a schedule and budget of events.

Master Planning Components: Typically a Future Land Use Plan, Thoroughfare Plan, Park Master Plan, Trail System Plan, Water / Sewer Plans.

Mission: A statement identifying the purpose of an organization.

NTCAR - North Texas Commercial Association of Realtors:
An organization of commercial brokers in the DFW region. www.NTCAR.org

Objective: A statement identifying what needs to be done to meet a goal.

Prioritization Process: The process of allowing all Board members to rank the identified objectives resulting in a cumulative ranking for the Board.

Prospect: A potential new business.

SCR - Society of Commercial Realtors: An organization of commercial brokers active primarily in Tarrant County.

Sites & Buildings Summary: A document showing graphically the location of all available land sites in the City, with broker contact information and brief notes on zoning, land use plan, utilities, etc.

SOP - Standard Operating Procedure: A procedure pre-established to handle a particular issue consistently.

SWOT Analysis: An analysis of the Strengths, Weaknesses, Opportunities and Threats.

TEDC - Texas Economic Development Council: A state-wide organization of professionals and volunteers in the economic development industry.

Traffic Count Report: A summary of 24 hour, two-way counts of vehicles passing a particular point on a roadway.

TxDOT: The Texas Department of Transportation.

Zoning Map: A map of the City showing the existing zoning for all properties.



City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 6

Title: Consider and take appropriate action to approve an Economic Development Incentives Policy.

Department: Administration

Contact: Assistant City Manager, Abbey Reece

Recommendation: Approve the Incentives Policy as presented.

Background: One of the items that was brought to light in the ED Action Plan process was that the council had not formally adopted an incentives policy. One was brought before council in 2018 when there was a full time ED Director; however, the item was for discussion only and was never brought back.

The boards have been utilizing a lot of what is outlined in the policy such as façade reimbursements, sales tax agreements, etc. The city has also partnered with the boards on a Chapter 380 agreement most recently with the Justin Town Square Project. The purpose of adopting an official policy is to outline what the goals are for grants and/or abatements, and to help outline some parameters to be used for the boards.

After Greg Last made a few updates, our attorneys have reviewed the policy, and the boards approved it at their May meeting.

City Attorney Review:

Attachments:

1. 2023 Incentives Policy
2. Ordinance

Justin, Texas

Incentives Policy

WHEREAS, the City's Type A Economic Development Corporation on ___, 2023 and the City's Type B Community Development Corporation on ___, 2023 considered and recommended approval of this incentives Policy to the City Council; and

WHEREAS, upon full review and consideration of this Policy, the City Council is of the opinion that this Policy will assist in implementing programs whereby economic development will be promoted and business and commercial activity will be stimulated in the City.

BE IT KNOWN, that the City Council on ___, 2023 approved Resolution adopting the following guidelines and criteria as the City of Justin's Incentive Policy.

1. INTRODUCTION/GOALS

It is the intent of this Policy to provide guidelines and criteria, requirements, and procedures to evaluate and approve any Incentives deemed necessary by the City for the furtherance of its economic development and community goals. This Policy shall include provisions for Tax Abatement as well as use of Type A or Type B economic development sales tax funds, and any other resources as approved by the City Council. Incentives may be considered for both new facilities and for the expansion or modernization of existing facilities and structures. Nothing herein shall imply or suggest that the City is under any obligation to provide any Incentive to any Applicant. The Council retains the right to evaluate applications and grant Incentives, if any, as deemed appropriate on a case-by-case basis without the necessity of amending any contrary provisions of this Policy. Following are the goals of this Policy.

- A. When in the best interests of the City, provide Incentives to existing businesses that will enhance the commercial viability and sustainability of existing commercial properties in the City;
- B. When in the best interests of the City, provide Incentives to attract desired businesses or developers to invest in the City;
- C. Encourage development and redevelopment of targeted areas in the City;
- D. Create or enhance employment opportunities in the City;
- E. Increase the non-residential ad-valorem tax and/or sales and use tax revenue base and/or utility revenue for the City; and
- F. Ensure that all policies, procedures and any resulting Performance Agreements related to the provision of incentives to stimulate economic development shall comply with all applicable state statutes.

2. DEFINITIONS

The following definitions shall apply to the terms used in this Policy. These Definitions shall apply to all subsequent Incentive Agreements unless amended by that Incentive Agreement.

Agreement: Shall mean an incentive Agreement as defined herein.

Agreement: Incentive: Shall mean a written agreement summarizing the performance requirements of a business or developer and the Incentives to be provided by the City upon fulfillment of those performance requirements (e.g. Tax Abatement Agreement, Chapter 380 Agreement, and Performance Agreement).

Agreement—Chapter 380: An agreement pursuant to Chapter 380 of the Texas Local Government Code authorizing municipalities to establish and provide for the administration of programs that promote economic development and stimulate business and commercial activity in the City

Agreement—Performance: An agreement pursuant to Section 501.158 of the Texas Local Government Code authorizing Development Corporations and / or Municipal Development Districts to enter into an agreement establishing and providing for economic development grants that promote economic development and stimulate business and commercial activity in the City.

Agreement—Tax Abatement: An agreement pursuant to the requirements of the Property Redevelopment and Tax Abatement Act, V.T.C.A. Tax Code, Chapter 312.

Act: Shall mean the Development Corporation Act, now codified in Chapters 501-505 of the Texas Local Government Code.

Applicant: Shall mean the Property owner or business occupant signing the Incentives Application.

Application: Shall mean the Incentives Application as maintained by Staff.

Appraisal District: Shall mean the Denton County Appraisal District.

Base Year Value: Shall mean the assessed value of the Facility on the 1st of January preceding the execution of an Incentive Agreement.

Benefits: Any combination of group benefits for health care, dental care, vision care, disability insurance, or life insurance, and paid time off (e.g. vacation, sick time, holidays, maternity / paternity leave).

Board A: Shall mean the Board of the Type A Economic Development Corporation of the City.

Board B: Shall mean the Board of the Type B Economic Development Corporation of the City.

Business Personal Property: Shall be as defined by the Denton County Appraisal District.

City: The City of Justin, Texas.

City Council: The City Council of City.

Code Violations: Shall be as defined in the City's adopted building or zoning codes.

Construction Costs: The cost of permits, fees, construction materials, and installation labor. All other associated costs are deemed excluded, including, but not exclusively, the following costs: design, construction document preparation, bidding, and construction financing.

County: Shall mean Denton County, Texas.

Development Corporation Act: Shall mean the Texas Development Corporation Act of 1979 (the Act), now codified in Title 12, Subtitle C1, Chapters 501-505 of the Texas Local Government Code, authorizing communities to collect Type A and / or Type B economic development sales and use taxes.

Effective Date: The date this Policy was approved by the City Council.

Employee, Full-Time: Shall mean any employee of the company that regularly works a minimum of thirty (30) hours per week.

Employee, Part-Time: Shall mean any employee that regularly works less than thirty (30) hours a week.

Employees, Full-Time Equivalent (FTE): Shall mean the number of employees equivalent to full-time employees, e.g. two part-time employees working 20 hours each is equal to one full-time employee.

Expansion: Shall mean the addition of buildings, structures, fixed equipment or machinery for the purpose of increasing production capacity.

Facility: Shall mean the Property, building(s) and improvements.

Freeport Exemption: If adopted by the City, the Freeport Exemption from ad valorem taxation applies on eligible inventory only if qualifying goods, wares, merchandise, ores, and certain aircraft and aircraft parts have been detained in the state for 175 days or less for the purpose of assembly, storage, manufacturing, processing, or fabricating.

Grants: Funds provided by the City for a particular Project in accordance with this Policy.

Impact Fees: Fees adopted by the City in accordance with Chapter 395 of the Local Government Code.

Incentives: Shall be as defined in Section 5 herein.

Modernization: Shall mean the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of the operation, and extends the economic life of the Facility. This shall not include reconditioning, refurbishing, repairing or completion of deferred maintenance on the Facility or its equipment.

Payroll: The company's total expenditures for all employees for the month immediately preceding the Application, multiplied by twelve (12).

Policy: Shall mean this Incentives Policy.

Primary Job: A job that is 1) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets, infusing new dollars into the local economy; and 2) included in an acceptable sector of the North American Industry Classification System (NAICS) as identified in Section 501.002 (12) of the Act.

Project: The initiative or investment to be provided in accordance with the performance standards of any Performance Agreement providing Incentives. To the extent that any Type A or Type B funds are to be used as Incentives, the Project shall meet the definitions provided in the Act.

Project Classification: Shall be as defined in Section 6 herein.

Project Eligibility: Shall be as defined in Section 3 herein.

Property: Shall mean the physical parcel of land for which Incentives are being granted.

Property—Business Personal: Shall mean the tangible and movable items used in the course of business not permanently affixed to, or part of, the real estate. Examples of Business Personal Property (BPP) include: furniture, machinery and equipment, computers, vehicles, inventory and supplies.

Property—Real: Shall mean the Property and the Improvements constructed on the Property.

Public Works Improvements: Shall mean improvements that upon completion and acceptance shall be owned by the City. (e.g. water, sewer, streets, drainage)

Recapture (aka Claw-back): A provision in a Incentive Agreement that states how and to what extent any Incentives provided must be paid back to the City if the required performance criteria are not met.

Staff: The City Manager or their designee.

Tax Abatement: Shall mean the full or partial exemption from paying ad valorem taxes on real property or tangible Business Personal Property in accordance with provisions of Chapter 312 of the Texas Tax Code.

Tax—Ad Valorem: Shall mean the tax collected by the City from the owners of taxable real and tangible Business Personal Property.

Tax—Type A Sales: Shall mean the sales and use tax collected and directed to the Type A EDC.

Tax—Type B Sales: Shall mean the sales and use tax collected and directed to the Type B EDC.

Tax—General Fund Sales: Shall mean the sales and use tax collected by the City and deposited in the City's General Fund.

Tax—Hotel Occupancy (HOT): Shall mean the tax collected by the City pursuant to Chapter 351 of the Texas Tax Code.

3. **GENERAL ELIGIBILITY**

The following shall establish the minimum eligibility for receiving Incentives identified in this Policy.

- A. Properties: Only properties meeting the following requirements shall be eligible to receive Incentives outlined by this Policy:
 - i. Within the City: The property must be located within the City's municipal boundaries.
 - ii. Zoning: Property must be zoned for the proposed uses, or the Applicant must state their intent to submit a rezoning request to the appropriate district. Any Incentives shall be conditional upon a successful rezoning process.
 - iii. Regulatory Compliance: Property must conform with all City ordinances and regulations.
 - iv. Taxes: The property shall be in good standing as it relates to taxes due to the City.
 - v. Liens: The property shall be in good standing as it relates to any liens held by the City.

- vi. Ownership: Property owners must provide proof of ownership.
 - vii. Code Violations: Property must not have any outstanding code violations with the City.
 - viii. Construction Commencement: Construction for the Facility must not have commenced prior to the approval of a Performance Agreement.
- B. Businesses: Only businesses meeting the following requirements shall be eligible to receive incentives outlined by this Policy:
- i. Taxes: The business shall be in good standing as it relates to taxes due to the City.
 - ii. Property Owner Approval: Businesses, if not the owner of the property to be occupied, must provide a copy of their lease agreement and support of the Incentives Application from the Property Owner prior to City approval of the Application.
- C. Statutory Limitations: It is the intent of the City to comply with all statutory limitations on the use of any Type A or Type B sales and use tax funds for Projects as authorized by the Act.

4. **PRIORITIES**

The City has determined that the following are priorities for the Incentives potentially granted pursuant to this Policy. The evaluation of the merits of any Application shall take into consideration whether or not the Application also meets these priorities.

- A. Geographic Areas: The following are the City's preferences for providing incentives in geographic areas of the City.
- i. High Priority:
 - a. Locations where a new development may be the catalyst for additional private investments, or which spur activity in underutilized areas.
 - b. Locations where new development utilizes existing public infrastructure (e.g. roadways, utilities), or which bring about enhancement of the public infrastructure.
 - c. Redevelopment of aged or under-performing business areas.
- B. Businesses: The following are the City's preferences for providing incentives to certain types of businesses in the City.
- i. High Priority:
 - a. Businesses that add significant ad valorem tax value and revenues.
 - b. Businesses that add significant sales tax revenues.
 - c. Businesses that enhance the tourism draw of the City.
 - d. Businesses that enhance revenues from City utilities, particularly natural gas, sanitary sewer, and reclaimed water.

- e. Businesses that generate quality employment opportunities and high paying jobs.
 - f. Businesses which are judged by the City to be unlikely to develop in a timely fashion without providing a financial catalyst.
 - g. Businesses, which are likely in the opinion of the City, to develop in a timely fashion without providing a financial catalyst (e.g. automotive and related uses, fast food).
 - h. Businesses which are judged to provide a strong positive quality of life impact for the citizens of Justin.
 - i. Businesses and improvements which enhance the Downtown and Historic District.
 - j. Businesses which have a positive impact on the natural environment.
 - k. Businesses which provide advanced technology/emerging technology or similar services.
 - l. Hospitality/hotel/conference center or similar facility.
 - m. Light manufacturing.
 - n. Medical Services.
- ii. Low Priority:
- a. High water users.
 - b. Businesses involved hazardous materials or which create added costs for pre-treatment of wastewater.
 - c. Businesses that are duplicative to existing businesses and/or detrimental to the sustainability of the downtown area.

5. **INCENTIVES**

Following are Incentives that the City, on a case-by-case basis, could consider granting for specific Projects depending on the merits of the Project. Incentives, including tax abatements are available to new facilities and structures and the Expansion and Modernization of existing Facilities and structures. This shall include the redevelopment of existing properties. Any Incentives provided pursuant to this Policy shall not reduce the Base Year Value of the Facility.

- A. **Financial - Ad Valorem Taxes:** The City may consider granting the following Incentives relative to Ad Valorem Taxes.
 - i. **Real Property Tax:** The City may consider abating the taxes on Real Property by approval of a Tax Abatement Agreement or by approval of an Incentive Agreement granting back Real Property taxes paid to the City.

- ii. **Business Personal Property Tax:** The City may consider abating the taxes on tangible Business Personal Property by approval of a Tax Abatement Agreement or by City approval of a 380 Agreement granting back Business Personal Property taxes paid to the City.
 - iii. **Inventory Tax:** The City grants relief of inventory taxes through their prior adoption of the Freeport Exemption. Inventory that is not eligible for Freeport Exemption is also not eligible for Incentives through this Policy.
 - iv. **Tax Stabilization / Incremental Increase:** In a situation where an existing Facility may be Expanded or Modernized, the City may consider stabilizing the ad valorem taxes collected as of the date of completion and / or an incremental yearly increase to market rates. This shall be accomplished by granting back the increase in taxes paid to the City.
- B. **Financial - Sales Tax Grants / Reimbursements:** Through approval of a 380 Agreement, the City may provide Grants of all or a portion of the following sales and use taxes. Where the Project is a retail development, for the purposes of evaluating and granting incentives in accordance with this Policy, sales and use taxes shall be measured net of any business relocations occurring within the City. i.e. if a retail business is currently operating in the City, and relocates to the new development, its sales taxes shall be excluded from the calculation of new sales taxes generated.
 - i. **Sales Tax - Development Corporation:** The sales tax going to the City's Type A and Type B Economic Development Sales Tax funds.
 - ii. **Alcohol Sales Tax:** The sales taxes collected by the City from the sale of alcohol in the City.
- C. **Financial - Fee Reductions / Credits:** The City may consider the reduction or credit of all or a portion of the following fees when applied to an impact fee eligible project. This shall not include any charges by third-parties assisting the City with implementation of services provided by the fees unless so provided in an approved Incentive Agreement.
 - i. **Impact Fee - Water:** Any water Impact Fee charged by the City. This shall not include the "pass-through" Impact Fees owed to any other Agency.
 - ii. **Impact Fee - Wastewater:** Any wastewater (aka sanitary sewer) Impact Fee charged by the City. This shall not include the "pass-through" Impact Fees owed to any other Agency.
 - iii. **Impact Fee - Roadway:** Any roadway Impact Fee charged by the City.
 - iv. **Road Participation Fee:** Any roadway participation fee charged by the City.
 - v. **Drainage Improvement Fee:** Any fee charged for the improvement of drainage facilities in the City.
 - vi. **Building Permit Fee:** Any fee related to the review of non-Public Works construction plans and building plans required for the issuance of a building permit.
 - vii. **Plan Review Fee:** Any fee related to the review and administrative processing of construction plans for Public Works Improvements.
 - viii. **Inspection Fee:** Any fee related to the inspection of Public Works Improvements.

- D. Financial - Misc.: The City may consider the following miscellaneous financial Incentives.
- i. Equipment Purchase: Funds provided to assist with or provide for the purchase of equipment that increases production for the business
 - ii. Forgivable Loan: An agreement by the City to provide a loan whose repayment may be forgiven under particular circumstances.
 - iii. Tax Abatement: Under a separate policy, the City may consider abating ad-valorem taxes in addition to the provisions contained in this policy.
 - iv. Improvement Grants: Under a separate policy, the City may consider matching a portion of the cost of improvement made in the Downtown District.
- E. Sales, Lease or Exchange of Land or Buildings: The City recognizes that the sale and conveyance, lease, or exchange of certain property owned by the City may meet the objectives identified in this Policy, in accordance with the provisions of Section 272.001 of the Local Government Code, the City may consider the sale, lease or exchange of land without the necessity of accepting written bids pursuant to a published notice and at or below market value to further the objectives identified herein.
- i. Build-to-Suit / Leaseback: An agreement where the City builds a building or Facility to suit the needs of the Applicant in exchange for a commitment from the Applicant to lease the Facility from the City.
 - ii. Free / Reduced-Cost Land: Any provision where the City provides free or reduced-cost lands to the Applicant.
 - iii. Free / Reduced-Cost Building: Any provision where the City provides a free or reduced-cost building to the Applicant.
 - iv. Land Lease: Any provision where the City leases rights to City-owned land to the Applicant to allow construction of their Facility.
- F. Employment-Related: The City may consider the following employment-related Incentives.
- i. Relocation Assistance: Any provision where the City provides assistance to new employees relocating to residency within the City.
 - ii. Cash for Employment: Any provision where the City provides for one-time payments to the Business for each new employee of a certain classification established at a new or existing Facility in the City.
 - iii. Employee Recruitment Assistance: Any provision where the City provides assistance with the recruiting of new employees to a new or existing Facility in the City.
 - iv. Employee Training Assistance: Any provision where the City provides assistance in the training of new employees employed at a new or existing facility in the City.
- G. Infrastructure Assistance: The City may consider the following infrastructure assistance Incentives.

- i. Water Line Extensions: Participation in all or a portion of the costs of extending or oversizing water distribution lines to the Facility.
 - ii. Sewer Line Extensions: Participation in all or a portion of the costs of extending or oversizing sanitary sewer lines to the Facility.
 - iii. Gas: Participation in all or a portion of the costs of improving or extending City gas lines to the Facility.
 - iv. Electric: Participation in all or a portion of the costs of improving or extending City electric lines to the Facility.
 - v. Roadway Improvements: Participation in all or a portion of the costs of roadway improvements serving the Facility.
 - vi. Storm Drainage Improvements: Participation in all or a portion of the costs of storm drainage improvements at or downstream of the Facility.
 - i. Franchise Utility Extensions: Participation in all or a portion of the costs of extending franchise utility services to the Facility.
 - ii. Franchise Utility Undergrounding: Participation in all or a portion of the costs of placing franchise utility services underground to the Facility.
- H. Development Cost Participation: The City may consider participation in the following development cost Incentives.
 - i. Demolition: Participation in all or a portion of the costs of demolishing existing structures on a property.
 - ii. Environmental Mitigation: Participation in all or a portion of the costs of mitigating environmental issues on a property in accordance with Sections 504.304 and 505.305 of the Local Government Code.
- I. Process Related: The City may consider the following process-related Incentives. In all instances, any accelerated or unique process shall meet all statutory requirements.
 - i. Entitlement Processing: Provisions allowing an accelerated consideration of public Entitlements (e.g. zoning and/or platting) for the Project.
 - ii. Fast-track Permitting: Provisions allowing an accelerated review of building and construction plans for the Project.
 - iii. Dedicated Inspections: Provisions allowing for City inspector(s) to be dedicated solely or primarily to the Project either at critical times or throughout construction of the Project. This may or may not include a requirement for on-site office space to accommodate the inspector.
 - iv.
 - a. Exemptions: This shall not include the costs of "call-back" inspections, weekend inspections, or holiday inspections.
- J. Economic Development District Establishment: In instances where the Project is of a significant scope and scale, the City may consider the establishment of unique economic development districts.

- K. Hotel Occupancy Tax: The City may consider the use of Hotel Occupancy Tax in accordance with the provisions of Chapter 321 of the Texas Tax Code.
- L. Support for State Incentives: The City may consider providing support for the Project in the application and processing of State of Texas incentives.

6. **PROJECT CLASSIFICATIONS**

The following Project Classifications shall identify the minimum performance requirements for each project classification for the purposes of determining the eligibility of Incentives for different types of Projects. These requirements are new construction, revenues or employees attributable to the Project.

Project Classification	Min. New Construction Cost	Min. New FTE Employees	Min. New Taxable Sales (annually)	Notes
Corporation	1,000,000	25	-	Significant office uses, e.g. Corporate HQ or regional HQ
Industrial	1,000,000	25	-	Owner occupied, industrial / logistics business
Hotel/Conf. Center	TBD	TBD	TBD	Hospitality or entertainment venues including hotels and conference centers
Retail	-	-	500,000	Clothing stores, restaurants, etc.
Development	-	-	500,000	Offices, medical, tech
Expansion	TBD	-	-	Expansion of existing business

8. **ADMINISTRATIVE PROCEDURES**

The Applicant shall follow the Administrative Procedures noted below to apply for Incentives as identified herein.

- A. Pre-Submittal: All Applicants are encouraged to meet with Staff prior to preparation of an Application. Contact the following to set up a meeting. Assistant City Manager, Abbey Reece at areece@cityofjustin.com. City Hall is located at 415 N. College Ave. Justin, TX 76247.
- B. Application: The submittal of an Application is required prior to any evaluation of the request for Incentives. The Application shall be on a form prepared by Staff and available on the City's website or in the office of Economic Development.
- i. Required Information: The following shall be included with the Application.
- Legal description of the property.
 - Proof of ownership of the property or the signed purchase agreement.
 - Drawings, renderings, plans of the proposed improvements.
 - Current ad valorem tax appraised value estimates by the applicable appraisal district showing appraised values for three similar type and size projects within the County.
 - If Applicant is not the property owner (lease only):

1. Written approval of the Incentive Application from the owner
 2. Copy of the signed lease agreement
- f. Projected Start Date and Completion Date. (Note: No incentives will be considered for a project which is already under development)
- ii. Required Performance Criteria: Provide the following information over time from establishment to full operation.
- a. Improvements: List the kind, number, use, square footage and location of all the proposed improvements on the property.
 - b. Construction Cost of Improvements: An estimate of the construction costs of all improvements.
 - c. Estimated Appraised Value of Improvements: An estimate of the appraised value of all improvements post project completion.
 - d. Jobs: Number, type, quality and wage levels of jobs created as a result of the project, and the projected timing of job creation.
 - e. Payroll: As defined in Section 2.
 - f. Benefits : Benefits provided to employees.
 - g. Capital Investment: Total capital investment including acquisitions, site improvements, building costs and equipment.
 - h. Taxable Sales: The amount of taxable sales that is generated at the Facility.
 - i. Infrastructure: The extent that any infrastructure component of the City is enhanced or expanded.
- ii. Requested Incentives: The Applicant shall itemize the Incentives they are requesting from the City. These are to be prioritized by order of preference by the Applicant.
- iii. Amendments: Staff may amend the form of the Application as needed to more efficiently evaluate the merits of requested Incentives.

C. Review & Evaluation: Following are review criteria and steps to review and evaluate the application.

- i. Review Criteria:
- a. Completeness of Application: Completeness of the Application to include all required documentation.
 - b. Priorities: Determining if the application is in a high-priority business classification or is it located in a high-priority geographic area.
 - c. General Eligibility: Determining if the project meets the general eligibility requirements of this policy.

- d. Revenues: Estimating the net new or increased tax and utility revenue benefits to the City.
 - e. Impacts: An estimation of the positive and negative impacts that the Project might have.
 - 1. Duplication of Existing Businesses: Determining to what extent the project has a negative impact on the profitability of existing businesses.
 - 2. Private Investment Catalyst: Determining to what extent the Project acts as a catalyst for future private investment.
 - 3. City Services: Determining to what extent the project has an impact (positive or negative) on the utilities, services or infrastructure of the City.
 - 4. Transparency: Determining the extent which the applicant is willing to provide information to properly evaluate the projected benefits of the project including the cost of property/site acquisition and actual construction costs.
 - ii. Staff Evaluation and Recommendation: The coordinating Staff member shall convene a team of the appropriate Staff members to evaluate the Application. Upon review, Staff shall prepare a recommendation to forward to the Board.
 - a. Site Visit: Prior to formal evaluation of the Application, the Applicant shall allow Staff the opportunity to visit the property to verify its status prior to any Incentives.
 - b. Return on Investment/Break-even Analysis: Staff shall analyze the return on investment of incentives in the Project and / or the timing required for new revenues to “break-even” with the cost of the proposed incentives.
 - c. Staff shall utilize the guidelines provided in the Incentive Policy in making recommendations.
 - iii. Consulting Services: To the extent that a consulting service is deemed necessary by the City to aid in their evaluation (e.g. financial impacts / cost-benefit analysis, infrastructure impacts or capabilities), the City may require that the Applicant participate up front in the cost of obtaining these services.
- D. Approvals: The following shall be required for approval of Incentives.
- i. Board Recommendation: Where funds to be used for any Incentive herein are subject to authorization of a Board, the Board shall consider the request for Incentives and make a recommendation to the City Council.
 - ii. City Council: The Council shall make the final decision regarding the merits of the Application and the appropriate Incentives to be provided, if any.
- E. Performance Agreement: Upon mutual agreement on the Project's performance requirements and the Incentives to be provided by the City, a Performance Agreement shall be prepared to the satisfaction of both parties and approved by the Council.
- i. Approval Process: All Performance Agreements, including any Tax Abatement Agreement, shall follow and comply with all statutory requirements for notice, hearings, and readings

where applicable.

- ii. Minimum Requirements: Any Performance Agreement shall include the following at a minimum:
 - a. Improvements: List the kind, number and location of all the proposed improvements on the Property.
 - b. Base Year Value: Provide that the agreement does not include any reduction in base year values.
 - c. Access: Provide access to and authorize inspection of the property by City employees to ensure that the improvements or repairs are made according to the specifications and conditions in the Incentive Agreement.
 - d. Uses: Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.
 - e. Recapture Provisions: Provide for the recapture of any Incentive Agreement provided as a result of the if the owner of the Property fails to make the improvements or repairs or if values used to provide incentives are not maintained.
 - f. Term: Describe the term of the Incentive Agreement.
 - g. Certification: Require the owner of the Property to certify annually to the City that the the owner is in compliance with each applicable term of the Incentive Agreement.
 - h. Cancellation / Modification: Provide that the City may cancel or modify the Incentive Agreement if the property owner fails to comply with the agreement.
- iii. Compliance Reporting: All Incentive Agreements shall include requirements for reporting compliance with the provisions of the agreement prior to disbursement of incentive funds.
- iv. Amendments: Provide that the Incentive Agreement may only be amended by the City.

9. APPLICANT / OWNER CERTIFICATIONS

- A. Application Accuracy: The Applicant shall certify that the information provided in this Application, and all that may have been affixed hereto, is true and correct, and that the City may rely on all of the information contained herein, and all that may have been affixed hereto, as being true and correct.
- B. Discretionary Rights: The Applicant shall acknowledge that the City has the absolute right of discretion in deciding whether or not to approve any Incentive relative to this Application, whether or not such discretion is deemed arbitrary or without basis in fact.

10. GENERAL PROVISIONS

- A. Flexibility: The terms and conditions of this Policy are to be considered guidelines for City staff and City Council during their deliberation and evaluation. The City reserves the right to modify the terms and conditions herein at any time, including for any pending application on a

case-by-case basis.

- B. Section or Other Headings: Section or other headings contained in this Policy are for reference purposes only and shall not affect in any way the meaning or interpretation of this Policy.
- C. Severability: In the event that any provision of this Policy is illegal, invalid, or unenforceable under present or future laws, the remainder of this Policy shall not be affected thereby.

— Remainder of this page left blank intentionally —

CITY OF JUSTIN, TEXAS
RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF JUSTIN, TEXAS,
APPROVING THE TERMS AND CONDITIONS OF AN INCENTIVES
POLICY TO PROMOTE ECONOMIC DEVELOPMENT AND
STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE
TOWN; ESTABLISHING GUIDELINES AND CRITERIA FOR
APPROVAL OF TAX ABATEMENTS AND OTHER INCENTIVES; AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, The Texas Development Corporation Act ("the Act"), now codified in Chapters 501-505 of the Texas Local Government Code, authorizes communities to collect Type A and/or Type B economic development sales and use taxes; and

WHEREAS, the City Council of the City on June 10, 2002 passed a Resolution establishing a Type A Economic Development Corporation; and

WHEREAS, the City Council of the City on July 14, 2003 passed a Resolution establishing a Type B Community Development Corporation; and

WHEREAS, Chapter 380 of the Texas Local Government Code authorizes municipalities to establish and provide for the administration of programs that promote economic development and stimulate business and commercial activity in the City; and

WHEREAS, the City hereby elects to grant tax abatements pursuant to the guidelines and criteria established in the Policy; and

WHEREAS, the City desires to attract high-quality long-term investment and the creation of new jobs and to stimulate business and commercial activity in the City; and

WHEREAS, the City recognizes that it may be necessary to provide economic development incentives utilizing public resources in addition to the Type A and Type B sales taxes; and

WHEREAS, the City recognizes the importance of retaining existing businesses, attracting new businesses, and providing for the redevelopment of sub-standard properties;

WHEREAS, the City desires to protect and enhance the City's fiscal ability to provide high-quality municipal services for the residents and businesses in the City; and

WHEREAS, the City's Type A Economic Development Corporation and the City's Type B Community Development Corporation on May 18, 2023 considered and recommended approval of the attached Incentives Policy ("Policy") to the City Council; and

WHEREAS, upon full review and consideration of the Policy attached as Exhibit A and all matters attendant and related thereto, the City Council is of the opinion that the Policy will assist in implementing programs whereby economic development will be promoted and business and commercial activity will be stimulated in the City.

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

SECTION 1.

The City Council finds that the guidelines and criteria of the Policy, attached hereto as Exhibit "A", will promote economic development and stimulate business and commercial activity in the City.

SECTION 2.

The City Council hereby adopts the Policy, attached hereto as Exhibit "A", authorizing the City to participate in tax abatement and other incentives and take other specified actions, in accordance with the guidelines and criteria outlined in the Policy.

SECTION 3.

The guidelines and criteria of the Policy, having been reviewed by the City Council of Justin and found to be acceptable and in the best interest of the City and its citizens and businesses, are hereby approved.

SECTION 4.

This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this the 27th day of June, 2023.

James Clark, Mayor

Brittany Andrews, City Secretary

EXHIBIT A
Incentives Policy

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 7

Title: (*second reading*) Consider an Ordinance regarding an amendment to the Planned Development (SF-2 and GB PD-722) for LaDera Farms legally described as A0439A M. GARNETT, TR 3, 53.182 ACRES, OLD DCAD TR 2 and A0439A M. GARNETT, TR 3D, 6.483 ACRES.

Department: Development

Contact: Director of Planning and Development, Matt Cyr

The Applicant has formally requested to defer the consideration of the item until July 11, 2023. Staff has informed the Applicant that the Council previously indicated in their motion that a final decision would be reached on June 27th. However, the Applicant has expressed their inability to attend the upcoming meeting due to a conflicting commitment to another City Council meeting.

Recommendation:

Staff recommends consideration based on the request. If City Council is to approve the item, Staff recommends approving with the condition that the Paving Exhibit be included as part of the Planned Development documentation.

P&Z Recommendation: The Planning and Zoning Commission recommended approval by a 3-2 vote on April 18, 2023, with the condition that the Paving Exhibit be inserted into the Planned Development documentation and the concrete be extended to reach the intersections of the streets as outlined in the Paving Exhibit.

The Conversation centered around the following topics: if fiscal consideration should be the sole driver for the change and if pavement in this area is harmonious with the other developments within town. Other comments were made about the City not maintaining the pavement and the use being less intense as well.

Staff Analysis:

Overall, the difference between asphalt and concrete is that asphalt is less durable than concrete and an inferior product. With proper maintenance, asphalt can typically last around 30 years. Alternatively, concrete provides a sturdy, long-lasting option and can last more than 50 years. However, the roads within LaDera are planned to be private since it is a gated community and traffic will be less intensive based on the use. The ultimate question is whether the Commission and Council want to approve a change from the current Planned Development to allow asphalt as an option.

Engineering Analysis and Miscellaneous:

Below is a general engineering analysis provided by Westwood. Staff will be available to answer any questions if needed.

Asphalt: Asphalt surfaces are generally durable and flexible, capable of withstanding moderate to heavy traffic loads. They can withstand the freeze-thaw cycles experienced in many regions, including Texas. However, over time, asphalt may be prone to cracking and degradation due to factors such as UV exposure, oxidation, and heavy traffic. Regular maintenance, such as sealing and crack filling, is essential to prolong the lifespan of asphalt surfaces.

Concrete: Concrete surfaces offer excellent durability and strength. They can withstand heavy loads and are less susceptible to cracking compared to asphalt. Proper curing, joint placement, and reinforcement are crucial to enhance the longevity of concrete surfaces.

The information below shows the cost to patch concrete and asphalt. Please note the prices and assumptions are an estimate as actual cost depends on a myriad of factors.

Assuming the following:

1. 10 tons of asphalt mix required for asphalt patching.
2. 5 cubic yards of concrete required for concrete patching.
3. 8 labor hours required for both asphalt and concrete patching.

Asphalt Patching:

Material Cost = 10 tons × \$70/ton = \$700

Labor Cost = 8 hours × \$65/hour = \$520

Equipment Cost = \$300

Additional Costs = 10% × Material and Labor (\$700 + \$520) = \$122

Total Cost = (\$700 + \$520 + \$300) + \$122 = **\$1,642**

Concrete Patching:

Material Cost = 5 cubic yards × \$125/cubic yard = \$625

Labor Cost = 8 hours × \$80/hour = \$640

Equipment Cost = \$350

Additional Costs = 10% × Material and Labor (\$625 + \$640) = \$126.50

Total Cost = (\$625 + \$640 + \$350) + \$126.50 = **\$1,741.50**

Background:

The Applicant is requesting to amend the Planned Development that was approved on December 13, 2023, to allow for asphalt roads. Currently, the Planned Development conditions prohibit asphalt and requires concrete for the roads.

The developer plans to utilize asphalt (Street Section B) for the majority of the development. An exhibit will be provide during the presentation for the Commission.

The development is a privately maintained development, which means the City is not responsible for the maintenance of the roads.

City Attorney Review: N/A

Attachments:

1. P&Z Staff Report
2. Supporting Documentation
3. Proposed Ordinance

PLANNING & ZONING COMMISSION MEETING
Staff Report
April 18, 2023

STAFF CONTACT: Matt Cyr, Director of Planning and Development Services

PROJECT: Consider and act upon a recommendation to City Council for an amendment to the Planned Development (SF-2 and GB PD-722) for LaDera Farms legally described as A0439A M. GARNETT, TR 3, 53.182 ACRES, OLD DCAD TR 2 and A0439A M. GARNETT, TR 3D, 6.483 ACRES.

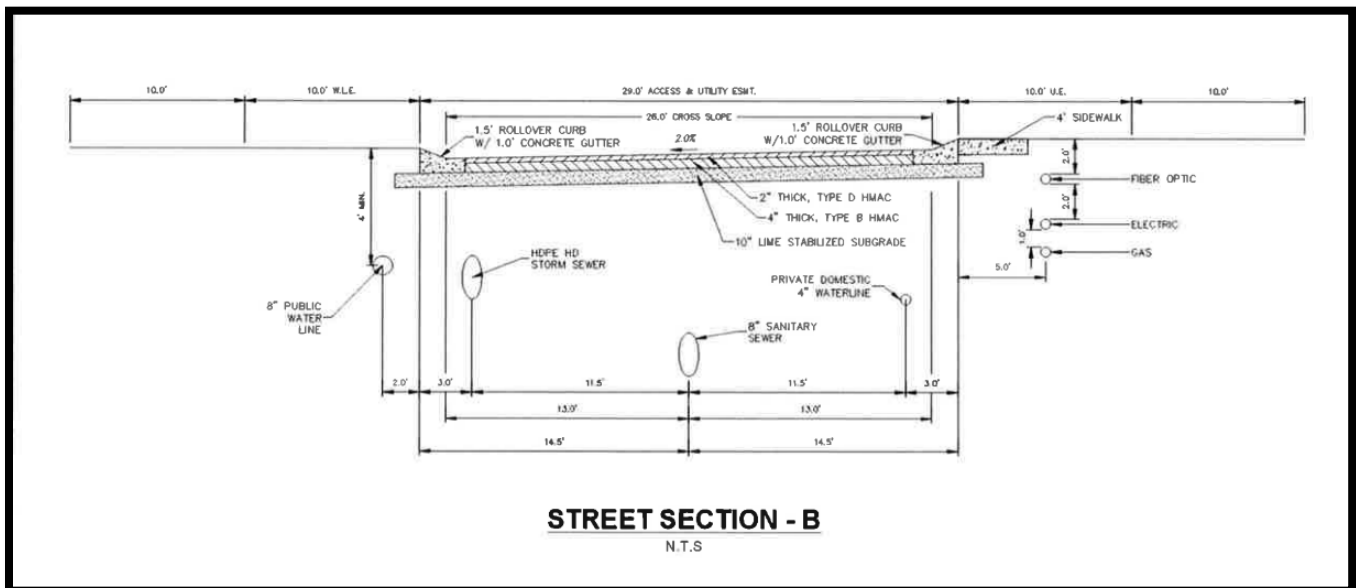
APPLICANT: Justin Lansdowne; McAdams, John Delin (Developer); Integrity Groups

EXECUTIVE SUMMARY:

The Applicant is requesting to amend the Planned Development that was approved on December 13, 2023, to allow for asphalt roads. Currently, the Planned Development conditions prohibit asphalt and requires concrete for the roads. The developer plans to utilize asphalt (Street Section B) for the majority of the development. An exhibit will be provide during the presentation for the Commission.

The development is a privately maintained development, which means the City is not responsible for the maintenance of the roads.

PROPOSED STREET SECTION:



ACTION CONSIDERED:

- 1) The Commission is to make a recommendation to City Council to approve, approve with conditions, table with clarification and intent, or deny the variance requests

STAFF ANALYSIS:

Overall, the difference between asphalt and concrete is that asphalt is less durable than concrete and an inferior product. With proper maintenance, asphalt can typically last around 30 years. Alternatively, concrete provides a sturdy, long-lasting option and can last more than 50 years. However, the roads within LaDera are planned to be private since it is a gated community and traffic will be less intensive based on the use. The ultimate question is whether the Commission and Council want to approve a change from the current Planned Development to allow asphalt as an option.

STAFF RECOMMENDATION:

Staff recommends consideration based on the request.

ATTACHMENTS:

1. Supporting Documentation
2. Proposed Ordinance

April 4, 2023

City of Justin
Matt Cyr
Director of Development Services
415 N College Avenue
Justin, TX 76247
RE: Ladera at Timberbrook PD Amendment

Dear Matt Cyr,

On behalf of our client John Delin with Integrity Group, we respectfully submit the attached amended Development Regulations for Ladera at Timberbrook.

The proposed changes to the PD are to modify Exhibit C LADERA AT TIMBERBROOK MILESTONE CHURCH DEVELOPMENT REGULATIONS to add a "Street Section – B" in Tract 1, Section XII - Streets and Access. This new street section makes use of asphalt pavement.

If you have any questions or need any further information please let us know.

Sincerely,

MCADAMS



Justin Lansdowne, PE
Senior Project Manager

SELECT APPLICATION TYPE

☐ Zoning Change ☐ Special Use Permit ☒ Planned Development

DEVELOPMENT

Project Address West of Timberbrook Pkwy, North of 407
 Project Name LADERA AT TIMBERBROOK
 Legal Description 37.216 AC IN MARGARET GARNETT SURVEY, AB-439, JUSTIN, TX Acreage 32.6
 Current Zoning PD-LADERA TIMBERBROOK Proposed Zoning CHANGING TO ASPHALT STORAGE
 Current Use PD-LADERA TIMBERBROOK Proposed Use " " " "

OWNER INFORMATION

Company/Name JT LADERA, LLC
 Contact Name JOHN DELIN
 Address 361 W. BYRON NELSON BLVD., SUITE 104 City ROANOKE State TX Zip 76262
 Phone 817.919.8111 Email JOHN@INTEGRITYGROUPPS.COM

For additional owners, please include additional copies of this page. The property owner MUST sign the application or submit a notarized letter of authorization.

REPRESENTATIVE/AGENT INFORMATION

Company McAdams Contact Name Justin Lansdowne
 Address 201 COUNTRY VIEW DR City ROANOKE State TX Zip 76262
 Phone 940.390.0355 Email jlanstowne@mcadamsco.com

CERTIFICATION

I certify that the above information is correct and complete to the best of my acknowledge and ability, and that I will be fully prepared to present the proposal at a Planning and Zoning Commission and City Council public hearing. I reserve the right to withdraw this proposal at any time by filing a written request with the Development Services Department.

[Signature] MARGARET GARNETT 04-03-23
 Owner Signature Date
[Signature] 4/4/23
 Agent Signature Date

JOHN DELIN
 Owner Name (Print)
JUSTIN LANSDOWNE
 Agent Name (Print)

APPLICATION SUBMITTAL REQUIREMENTS

Applications submitted without original signatures and all required documents and information will not be reviewed and will be returned to the applicant for revision. Please be sure that all required items are included for the type of application requested.

Zoning information is available online in Chapter 52 of the City of Justin Code of Ordinances. If you have questions about the application process or any submittal requirements, please call the Development Services Department at (940) 648-2541 Ext. 5.

ALL APPLICATIONS must be submitted to development@cityofjustin.com.

The following items are required with all types of applications:

- ☐ Zoning Application form.
- ☐ Application filing fee as required by the City of Justin Fee Schedule. This fee is non-refundable.
- ☐ One digital copy of the subdivision plat (if the property is platted)
- ☐ If request is for (i) a portion of a platted lot, or (ii) an unplotted lot, surveyed site boundary dimensions (metes and bounds) and gross acreage determined by a licensed surveyor must be provided electronically in PDF format and paper copy.
- ☐ Original paid receipt or tax certificate indicate that the property taxes have been paid for the property. The certificate may be obtained for a fee from the Denton County Tax Office at
- ☐ Completed trip generation data form, if requested by the City Engineer. This will be used to determine if a traffic impact analysis will be required for the development.
- ☐ If the ownership does not match the ownership on the Denton County Appraisal District website, a warranty deed shall be submitted with this application. Please verify ownership prior to submitting the application.
- ☐ Additional information may be requested by the Development Review Committee if deemed essential for review and consideration by the Planning and Zoning Commission and City Council.
- ☐ Additional application submittal requirements, based on the specific type of application (see below)

ZONING CHANGE

- ☐ Zoning exhibit indicating the proposed land area of the zoning area request. The exhibit must show the abutting properties, adjacent streets, and all structures on the property. A copy of a subdivision plat or a copy of a property survey less than two years old will satisfy this requirement.

PLANNED DEVELOPMENT

- ☒ A written statement describing what the applicant wants to achieve in the development of the property and how the proposal conforms to the development standards established in Chapter 52 Article IV. Planned Developments of the City Code of Ordinances. This statement should be prepared as a narrative description of the character of the proposed development and rationale behind the assumptions and choices made by the applicant, including the use and ownership of open spaces. This is the applicant's opportunity to describe what they want to do with the property and why. The applicant may also submit drawings, photographs, company information and other relevant material with the application.
- ☐ Confirmation of the required pre-submittal meeting with City staff.
- ☐ A Site Plan showing the items indicated in the technical requirements described below for SITE PLAN.

SPECIAL USE PERMIT

- ☐ A written statement describing what is to be achieved in the development proposal for the property.
- ☐ Site Plan showing the items indicated in the technical requirements described below for SITE PLAN.

SITE PLAN

Applications requiring a site plan must show the items indicated in the technical

- ☐ **SITE LAYOUT**
 - o Location map, north arrow, graphic and written scale (not less than 1" = 60').
 - o Existing zoning and land use of the properties adjacent to the site.
 - o Existing structures on the site, indicating setbacks from property lines.
 - o Proposed land uses and building locations, indicating setbacks from property lines.
 - o Square footage, acreage, and density of all proposed land use and lots.
 - o Location and gross area of all streets, sidewalks, and other paved surfaces and its percentage of total property area.
 - o Gross area of open space area and recreational areas and its percentage of total property area.
 - o Existing and proposed public and private rights-of-ways, easements, access points into the property, and street names.
 - o Calculations and location of all off-street parking and loading facilities.
 - o Location, type, and elevation drawings of all signs, including ground and building-mounted signs.
 - o For residential uses, the number, type, and density of each type of dwelling unit (i.e., single-family, multi-family, townhouse, etc.).
- ☐ **LANDSCAPE PLAN**
 - o Plans demonstrating compliance with standards described in Chapter 52, Zoning of the City's Code of Ordinances, showing all required and proposed landscape setbacks, buffer yards, screening, and fencing.
 - o Tree preservation plan per Chapter 52, Zoning of the City of Justin Code of Ordinances if protected trees are present on the property.
- ☐ **BUILDING ELEVATIONS**
 - o Plans demonstrating compliance with standards for exterior appearance quality as described in Chapter 52, Zoning of City of Justin Code of Ordinances.
 - o Elevation drawings of all sides of building, showing dimensions, height, building materials, color, texture, and design.
 - o Percentage calculations of building materials for each facade.
- ☐ **PHOTOMETRIC PLAN**
 - o Plans demonstrating compliance with standards described in the Zoning Chapter.
 - o Location, type, and number of all exterior lighting, including building and pole mounted fixtures.
 - o Lighting manufacturer specifications or cut sheets of each type of luminaire equipment.
 - o Calculations and analysis of anticipated light distribution generated by all exterior lights.
- ☐ **ENGINEERING PLANS**
 - o Civil engineering plans for all public and private improvements for water, sanitary sewer, storm-water, grading, and drainage. Plans must demonstrate compliance with the City of Justin TCSS Manual.
 - o Traffic impact analysis or traffic circulation analysis, if required by the City Engineer for this property.

EXHIBIT "C"

LADERA AT TIMBERBROOK

MILESTONE CHURCH

DEVELOPMENT REGULATIONS

Planned Development – 41.217 Acres

I. PURPOSE

This Planned Development includes two tracts of land as shown on Exhibit "A".

Tract 1 is planned as Ladera at Timberbrook is a proposed aged-restricted, low-maintenance gated, single family home, residential community integrated with quality amenities such as walking trails, activity center "The HUB", with pool, pickle ball courts, an additional activity building called "The Shack", amenity pond, parks, and open space areas that provide for an enhanced quality of life for active adults seeking a lock and leave, low-maintenance lifestyle within the City of Justin.

Tract 2 is planned as Milestone Church, which is an approximately fifty thousand (50,000) square foot church. The church is planning on having an entrance/exit onto Timberbrook Parkway as well as FM 407.

The development regulations herein apply to either Tract 1 or Tract 2 as indicated.

II. DEVELOPMENT PLAN

Each tract shall be developed in accordance with the Timberbrook Planned Agreement and then the City of Justin regulations unless stated otherwise herein or shown otherwise on the Development Plan (Exhibit "D"), Elevations and Floorplans (Exhibit "E"), and Landscape Plans (Exhibit "F").

TRACT 1- LADERA AT TIMBERBROOK

The following standards shall apply to Tract 1, Ladera at Timberbrook.

III. USES

A. Permitted Uses - The following uses shall be permitted by right:

- 1) Single Family Detached Dwelling- Shall be age restricted to residents 55 years of age and older.
- 2) Two-Family Residential- Two family attached dwelling units
- 3) Activity Center (HUB)
- 4) Community Pool
- 5) The Shack (reduced size additional amenity building)

B. Accessory Uses - The following uses shall be permitted as accessory uses:

- 1) Gazebos
- 2) Pavilions
- 3) Tennis and Sport Courts

EXHIBIT "C"

4) Accessory Buildings

5) Pond

IV. CONDOMINIUM ASSOCIATION

A Condominium Owners Association (COA) shall be required and shall be responsible for the maintenance of the common areas, entry features, accessory structures, and perimeter fencing and landscaping.

V. LANDSCAPE SETBACK REQUIREMENTS

There shall be a landscape setback with a minimum width of twenty (20) feet from the perimeter property line to a residential structure. Trails shall be permitted within the landscape easement.

VI. AREA REQUIREMENTS

Ladera at Timberbrook is a condominium community and individual dwelling units will not be platted into individual residential lots. The site will remain as one lot with approximately one hundred and fifty-seven (157) dwellings units. There shall not be more than five (5) five-family residential buildings, ten (10) dwelling units total. Therefore, the reference to setbacks shall be used as building separation from other buildings and from the private street.

Side Yard Setback (Between Buildings)	Front Yard Setback (Front of Building to Back of Curb)	Rear Yard Setback (Between Buildings)
6' Minimum	20' Minimum	20' Minimum

VII. DEVELOPMENT AND PERFORMANCE STANDARDS

Minimum Lot Size	Minimum Lot Width	Minimum Lot Depth	Maximum Height	Maximum Lot Coverage (percent of lot area)	Minimum Dwelling Size (square feet)
N/A	N/A	N/A	35' or 2 ½ Stories	65%*	1,100**

* Lot Coverage based on total building coverage (excluding accessory uses) for the entire 41.217-acre site.

** Air-conditioned space.

VIII. RESIDENTIAL DENSITY

The gross residential density for Ladera at Timberbrook not exceed five (5) units per gross acre (du/ac). Residential density shall be calculated using the gross land area of thirty two (32) acres.

EXHIBIT "C"

IX. BUILDING DESIGN

- A. The dwelling units and activity center shall be generally constructed in accordance with the building elevations shown in Exhibit "E".
- B. Residential buildings and the activity center shall be a total of eighty (80) percent masonry including brick or stone on the main floor. An exception to that requirement is the Activity Center and Shack shall have a minimum of fifty (50) percent masonry.
- C. Minimum roof pitch of residential structures shall be 4:12 for rear elevations and 8:12 minimum for front elevations, with exceptions to dormers and shed roofs.
- D. Mailboxes shall be cluster boxes of 14 or greater boxes. Sufficient structural support to keep the mailbox upright is required. Mailboxes may be made from metal.
- E. Cementitious fiberboard may constitute up to one hundred (100) percent of the exterior facades of stories other than the first floor.
- F. Attached Pergolas and Patio Covers shall be permitted and shall extend no more than five (5) feet into the rear yard.

X. TRAILS, SCREENING AND LANDSCAPING

Screening and landscaping shall be generally installed in accordance with the Landscape Plan, Exhibit "F" in addition to the following:

- A. There shall be an ornamental metal fence or pre-cast (Simtek) wall of at least six (6) feet in height located around the perimeter of the property. The Simtek will be on the North and South side of the project, as detailed on the site plan. The West side will be six (6) foot ornamental metal fencing. The East side will be a combination of ornamental metal and masonry columns.
- B. Each front yard shall have one (1) canopy tree with a minimum caliper size of four (4) inches, as measured six (6) inches above grade, from the approved plant list for the City of Justin.
- C. Residential fencing shall consist of ornamental metal or vinyl and have a minimum height of four (4) feet and a maximum height of six (6) feet.
- D. Residential fencing shall be permitted within the twenty foot (20) perimeter landscape buffer.
- E. There shall be a minimum of twenty (20) foot landscape buffer between Tract 1 and Tract 2. The following standards shall apply for every one hundred (100) linear feet of landscape buffer length:
 - a. There shall be a minimum of two (2) canopy trees.

EXHIBIT "C"

- b. There shall be a minimum of three (3) understory trees.
 - c. There shall be a minimum of twelve (12) screening shrubs.
 - d. There shall be a six foot (6') pre-cast (Simtek) wall on the Tract 1 side of the property.
- F. There shall be a minimum twenty (20) foot landscape buffer along Timberbrook Parkway. The following standards shall apply for every one hundred (100) linear feet of landscape buffer length:
- a. There shall be a minimum of four (4) canopy trees.
 - b. There shall be a minimum of four (4) understory trees.
 - c. There shall be a minimum of ten (10) screening shrubs.
 - d. There shall be a six foot (6') ornamental metal fence with masonry columns.
 - e. Berms shall not be required.
- G. There shall be no fences on or within the trail.
- H. A Landscape Plan with tree species shall be submitted at the time of Construction Plans.

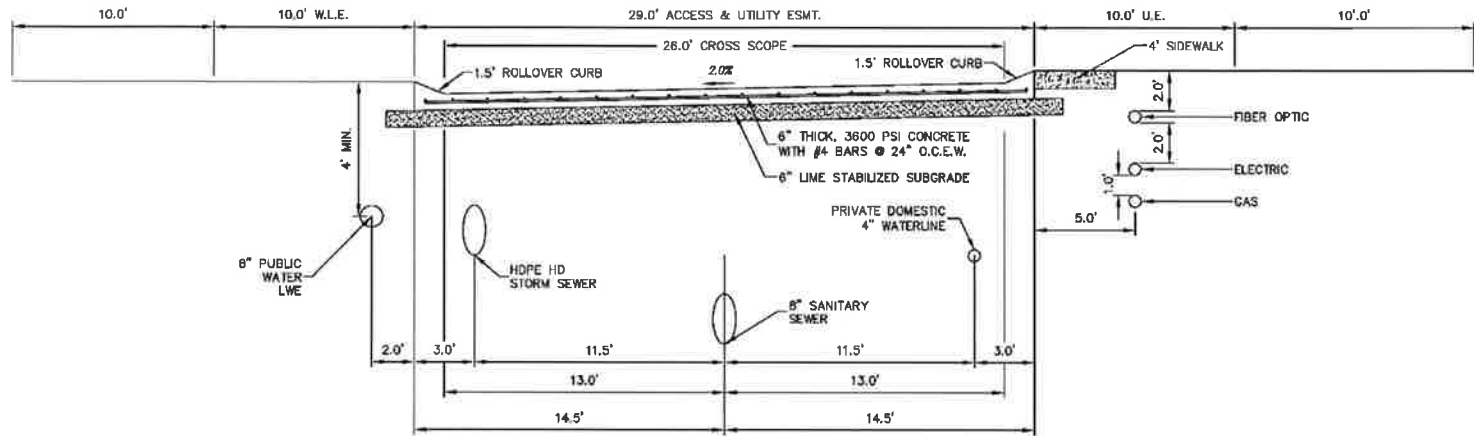
XI. PARKING

Off street parking shall be allowed in areas shown on the approved Development Plan, Exhibit "D".

XII. STREETS AND ACCESS

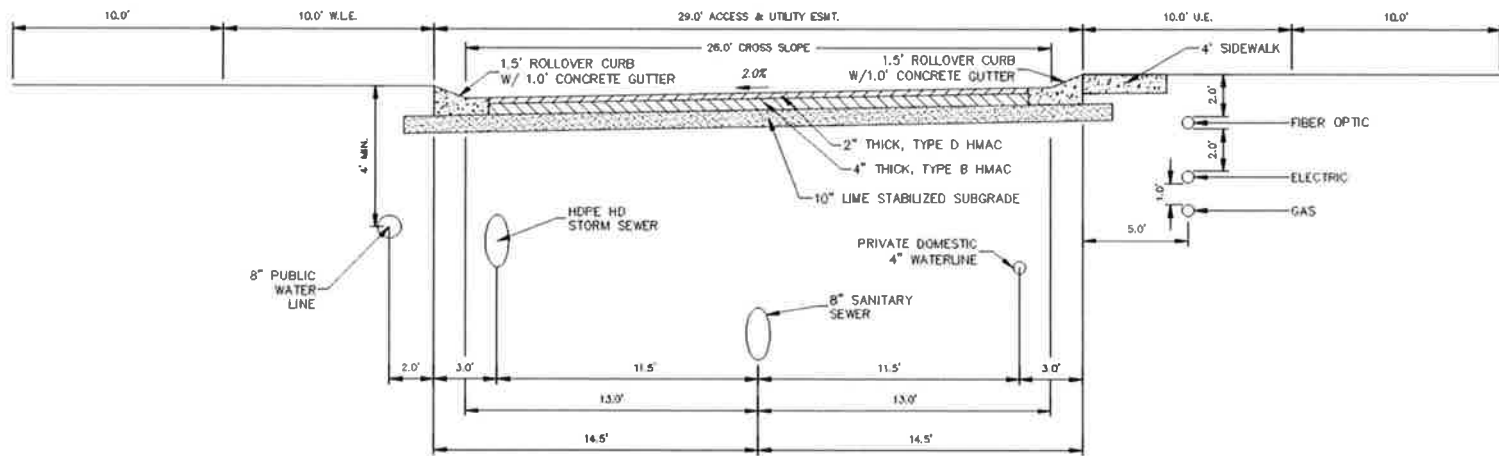
- A. The proposed streets shall be privately maintained by the Condominium Association of Ladera of Timberbrook.
- B. The private streets shall conform to the street sections shown below.
- C. All storm and streets shall be labeled private and maintained by the Condominium Owners Association.

EXHIBIT "C"



STREET SECTION - A

N.T.S.



STREET SECTION - B

N.T.S.

EXHIBIT "C"

XIII. OPEN SPACE

The minimum required designated open space area shall be thirty percent (30%) of the gross land area.

- A. The perimeter landscape buffer shall be counted toward open space.

XIV. EXHIBITS

All attached Exhibits to be adopted by this ordinance.

TRACT 2- MILESTONE CHURCH

I. LANDSCAPE AND BUFFER REQUIREMENTS

Screening and landscaping shall be generally installed in accordance with the Landscape Plan. Exhibit "F" in addition to the following:

- A. The interior landscaping area of the property shall be a minimum of ten percent (10%).
 - a. Detention and Retention ponds shall be counted toward interior landscaping.
 - b. Street buffer trees shall be counted toward the total plant count.
- B. Interior Landscape Planting Requirements are as follows:
 - a. One canopy tree per six hundred (600) square feet of the required ten percent (10%) of the interior landscape, planted a minimum of twelve feet (12') on center.
 - b. One understory tree per three hundred (300') square feet of the required ten percent (10%) of the interior landscape, planted a minimum of eight feet (8') on center
 - c. Shrubs shall be planted along the street frontage and along parking isles where applicable.
 - d. There shall be no ground cover requirement.
- C. There shall be a twenty (20') foot landscape buffer along FM 407. The following standards shall apply for every one hundred (100) linear feet of landscape buffer:
 - a. There shall be a minimum of four (4) canopy trees.
 - b. There shall be a minimum of four (4) understory trees.
 - c. There shall be a minimum of ten (10) screening shrubs.
 - d. There shall be no fencing requirement.
 - e. Three foot (3') berms shall not be required.

EXHIBIT "C"

- D. A Landscape Plan with tree species shall be submitted at the time with Construction Plans.

II. Non-Residential Design Standards

- A. The total exterior wall surface of all main building facing public streets shall have a minimum of seventy-five (75) percent stone construction, excluding windows and doors.
- B. The maximum building height shall be forty (40') feet.
- C. The façade adjacent to a street shall be constructed of a minimum of seventy-five (75) percent of the following materials including but not limited to:
 - a. Stone
 - b. Cast stone
 - c. Decorative concrete stamped and stained to resemble the appearance of stone.
 - d. Or similar
- D. Accent materials for the architectural details shall be in conformance with the architectural style of the main building. There shall be no old west material required.
- E. Along the façade adjacent to the street, buildings shall provide an awning with a pitch of no greater than 2:12, for fifty (50) percent of the frontage which projects no less than six (6) feet from the building face, with no required posts.
- F. Old West detail devices shall not be required.
- G. In lieu of "old west" detail devices not being required the church will work with the City of Justin to add enhancements to the building and to the landscaping.

III. Signage

- A. The total area of the building mounted sign facing FM 407 shall be three hundred (300) square feet.
- B. Monument Signage shall be permitted within the landscape buffer along FM 407.
- C. Signage shall be permitted separately.

From: [John Delin](#)
To: [Matthew Cyr](#)
Subject: May 23 Council Mtg
Date: Thursday, May 11, 2023 9:04:14 AM

Good morning.

Per our call this morning, I would like to Table our zoning variance scheduled to go on the 23rd please.

Thank you.

John Delin

817.252.4281 **D**
817.919.8111 **C**
john@integritygroups.com

IntegrityGroups.com | LaderaTexas.com
361 W Byron Nelson Blvd Ste. 104, Roanoke, TX 76262
Main Office (817) 430-3318



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ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY OF JUSTIN, TEXAS, APPROVING AN AMENDMENT TO THE PLANNED DEVELOPMENT FOR LADERA FARMS AND MILESTONE CHURCH HAVING THE LEGAL DESCRIPTION AS OLD DCAD TR 2 AND A0439A M. GARNETT, TR 3D GENERALLY LOCATED NORTHEAST FROM THE INTERSECTION OF STRADER LANE AND FM 407, DENTON COUNTY, TEXAS; PROVIDING AN INCORPORATION OF PREMISES; PROVIDING A CUMULATIVE/REPEALER CLAUSE, PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the landowners authorized the applicant of property legally described as OLD DCAD TR 2 and A0439A M. GARNETT, TR 3D generally located northeast from the intersection of Strader Lane and FM 407, Justin, Denton County, TX, for a Planned Development amendment to allow asphalt as an option for roads; and

WHEREAS, the Planning and Zoning Commission of the City of Justin (the "Commission"), in compliance with the laws of the State of Texas, gave the requisite notices by publication and otherwise, and held public hearings and afforded full and fair hearings to all property owners generally and to all persons interested in this regard; and

WHEREAS, having reviewed the request the Commission determined that the proposed Planned Development was compatible with surrounding uses and the City's Future Land Use Plan and recommended approval of this Ordinance; and

WHEREAS, the City Council of the City of Justin, in compliance with the laws of the State of Texas, having given the requisite notices by publication and otherwise, having held public hearings and afforded full and fair hearings to all property owners generally and to all persons interested in this regard, and having considered the recommendation of the Planning and Zoning Commission, has determined that the proposed Planned Development is approved and made a part of this ordinance.

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

Section 1. Incorporation of Premises. That all of the above recitals are found to be true and correct and are incorporated into the body of this ordinance as if fully set forth herein.

Section 2. That the Zoning Ordinance of Justin, Texas, regulating property legally described as OLD DCAD TR 2 and A0439A M. GARNETT, TR 3D generally located northeast from the intersection of Strader Lane and FM 407, Justin, Denton County, Texas, is amended to establish a Planned Development as further described in the attached documents.

Section 3. Applicable Regulations/Zoning Ordinance and Zoning Map Amended. Development and use of the property shall follow this ordinance, including all Exhibits thereto as

amended hereby, the Code of Ordinances of the City of Justin, Texas, and all applicable state and federal law.

Section 4. Cumulative/Repealer Clause. This ordinance shall be cumulative of all provisions of state or federal law and all ordinances of the City of Justin, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such other ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 5. Severability Clause. If any word, section, article, phrase, paragraph, sentence, clause or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect for any reason, the validity of the remaining portions of this ordinance, or the Comprehensive Zoning Ordinance, Chapter 52 of the City of Justin Code of Ordinances, and the remaining portions shall remain in full force and effect.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

James Clark. Mayor

ATTEST:

Brittany Andrews, City Secretary

Approved as to form:

City Attorney

From: [John Delin](#)
To: [Matthew Cyr](#)
Subject: Ladera Council Agenda
Date: Wednesday, June 14, 2023 3:20:26 PM

Matt,

Per our call this morning, I cannot be at the June 27 CC mtg, due to scheduled in another city. Please move me to July 11th meeting.

Thank you.

John Delin

817.252.4281 **D**
817.919.8111 **C**
john@integritygroups.com

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361 W Byron Nelson Blvd Ste. 104, Roanoke, TX 76262
Main Office (817) 430-3318



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City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 8

Title: *(first reading)* Consider and take appropriate action approving Ordinance 754-23 regarding FM 407 speed limits within the City of Justin.

Department: Administration

Contact: Director of Planning and Development, Matt Cyr

Recommendation: Staff recommends consideration based upon the request. The TXDOT recommendation is to lower the speed limit by 10 mph as FM 407 enters City Limits. Staff does not see any reason to deviate from TXDOT's recommendation.

Background:

At the end of 2022, the City Council initiated discussions regarding the possibility of reducing speed limits on residential streets as well as throughout the entire City. In response, the City Staff contacted TXDOT to conduct a speed study specifically for FM 407, with the aim of assessing the feasibility of reducing the speed limit. The results of the study were received on April 19, 2023, and subsequently reviewed by Staff.

Based on the study conducted, TXDOT has recommended a reduction of the speed limit by 5-10 mph in certain areas along FM 407 within City limits. After review, Staff did not find any inconsistencies or concerns with the speed study.

City Attorney Review: N/A

Attachments:

1. Speed Study
2. Speed Exhibit
3. Proposed Ordinance

ORDINANCE NUMBER _____

AN ORDINANCE ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF TRANSPORTATION CODE, SECTION 545.356 UPON FM 407 OR PARTS THEREOF, WITHIN THE INCORPORATE LIMITS OF THE CITY OF JUSTIN AS SET OUT IN THIS ORDINANCE; AND PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$200.00 FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, Section 545.356 of the Texas Transportation Code, provides that whenever the governing body of the City shall determine upon the basis of an engineering and traffic investigation that any prima facie speed therein set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a street or highway within the City, taking into consideration the width and condition of the pavement and other circumstances on such portion of said street or highway, as well as the usual traffic thereon, said governing body may determine and declare a reasonable and safe prima facie speed limit thereat or thereon by the passage of an ordinance, which shall be effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street or highway; NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF Justin, TEXAS:

SECTION 1.

Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Transportation Code, Section 545.356, the following prima facie speed limits hereafter indicated for vehicles on the attached Exhibit "A" (strip map) are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

A. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JUSTIN
TEXAS:

1. That from and after the date of the passage of this speed zone ordinance, no motor vehicle shall be operated along and upon FM 407 within the corporate limits of the City of Justin in excess of speeds now set forth in Exhibit "A".

SECTION 2:

The Mayor or City Manager of Justin is hereby authorized to cause to be erected, appropriate signs indicating such speed zones.

SECTION 3:

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed Two Hundred Dollars (\$200.00).

James Clark, Mayor

ATTEST:

Brittany Andrews, City Secretary

Approved as to form:

City Attorney



4777 EAST US HIGHWAY 80, MESQUITE, TEXAS 75150-6643 | 214-320-6100 | WWW.TXDOT.GOV

April 19, 2023

Control: 1568-02
Highway: FM 407
County: Denton

Josh Little
Public Works Director
415 N. College Avenue
Justin, TX 76247

Subject: Speed Zones

Dear Mr. Little:

Attached for your information and handling is a computer printout of the speed zone study on FM 407 in the City of Justin. The speed zone study was done after the request from the City of Justin, Denton County to re-evaluate the speed for the section of FM 407 within the city limits of Justin. The printout shows that the recommended speeds correspond to the speeds at which the normal and prudent driver is driving under the existing conditions.

To proceed with the changing of the speed limits, TxDOT requires a signed city ordinance matching the zones on the speed study. To assist the city in the preparation of the ordinance, a sample speed zone ordinance has been attached to serve as a guide. Please forward the signed ordinance to our office by May 31, 2023, for further processing. Upon receipt of the ordinance from the City of Justin, TxDOT will furnish and install the necessary signs at the proper locations.

If we may be of further assistance, please feel free to contact Bahman Afsheen, P.E. at the above address or by telephone at 214-320-6229.

Sincerely,

DocuSigned by:

Bahman Afsheen

4A1EA37ACB9C4BD...

Bahman Afsheen, P.E.
Traffic Engineering Supervisor

Attachments

cc: Traffic – Speed Zone Folder
Miller, Area Engineer
B. Bush/Afsheen
J. Bush
TF

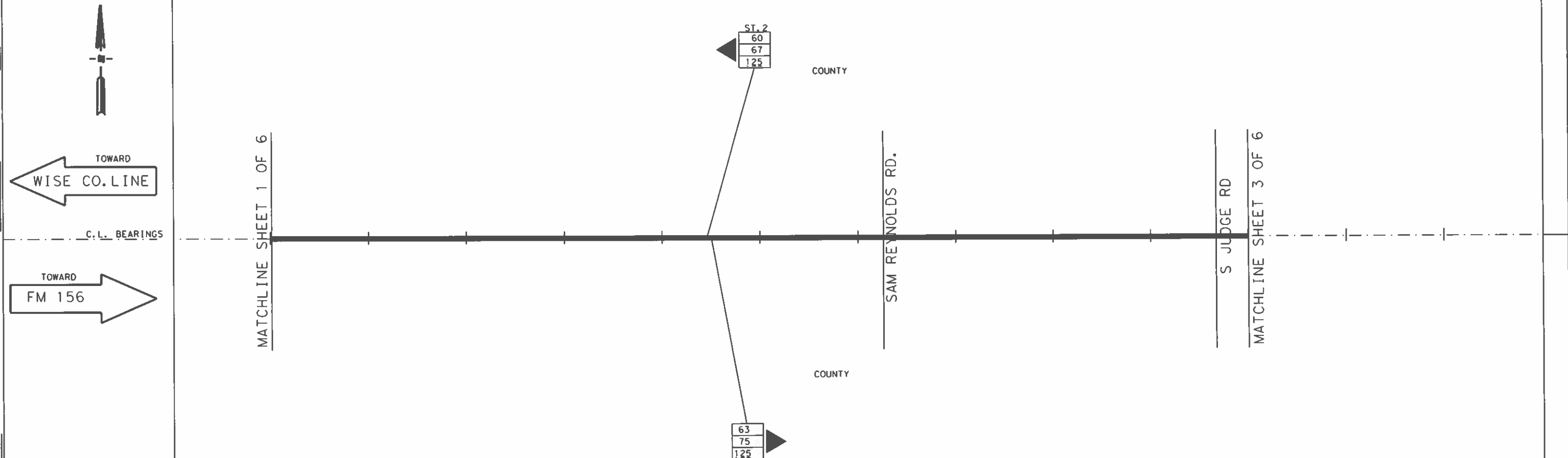
OUR VALUES: People • Accountability • Trust • Honesty

OUR MISSION: Connecting You With Texas

An Equal Opportunity Employer

FM 407

DEVELOPMENT	OPEN
RES. SIGHT DISTANCE	
BALL BANK OR ADVISORY SPEED	
CURVES OVER 2°	
GRADES OVER 3%	
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER
R.O.W. AND RDBD. WIDTH	
ACCIDENTS	
ZONE LENGTHS (MILES)	2.370
ZONE SPEEDS (M.P.H.)	55 MPH



EXISTING SPEED	55 MPH
ZONE SPEEDS (M.P.H.)	55 MPH
ZONE LENGTHS (MILES)	2.370
ACCIDENTS	
R.O.W. AND RDBD. WIDTH	
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER
GRADES OVER 3%	
CURVES OVER 2°	
BALL BANK OR ADVISORY SPEED	
RES. SIGHT DISTANCE	
DEVELOPMENT	OPEN

DISTRICT: DALLAS	COUNTY: DENTON	MINUTE NO. :	DATE / /
HIGHWAY: FM 407	CITY: JUSTIN/NEW FAIRVIEW	REPLACES :	DATE / /
DATE OF STUDY 01-13-23	SCALE 1" = 0.1 MILES	REPLACED BY :	DATE / /
		CANCELLED BY :	DATE / /

LIMITS OF ZONE			
SECTION ONE		SECTION TWO	
LENGTH 1.561 MILES		LENGTH 0.863 MILES	
BEGINS	STA. OR M.P.	CONT. AND SECT.	PROJECT
	0 + 00	-	()
	MP 3.180		
ENDS	STA. OR M.P.	CONT. AND SECT.	PROJECT
	0 + 00	-	()
	MP 4.741		

LEGEND

- 42 85 PERCENTILE SPEED
- 62 TOP SPEED MEASURED
- 125 NUMBER OF CARS CHECKED
- FATAL ACCIDENT
- PERSONAL INJURY ACCIDENT
- PROPERTY DAMAGE ACCIDENT
- INDICATES SECTION ZONED BY COMMISSION MINUTE
- SIGNALIZED INTERSECTION
- TRIAL RUN

SPEED ZONE
CONT. 1568 SEC. 02
LIMITS: WISE COUNTY LINE TO FM 156

SHEET 2 OF 6

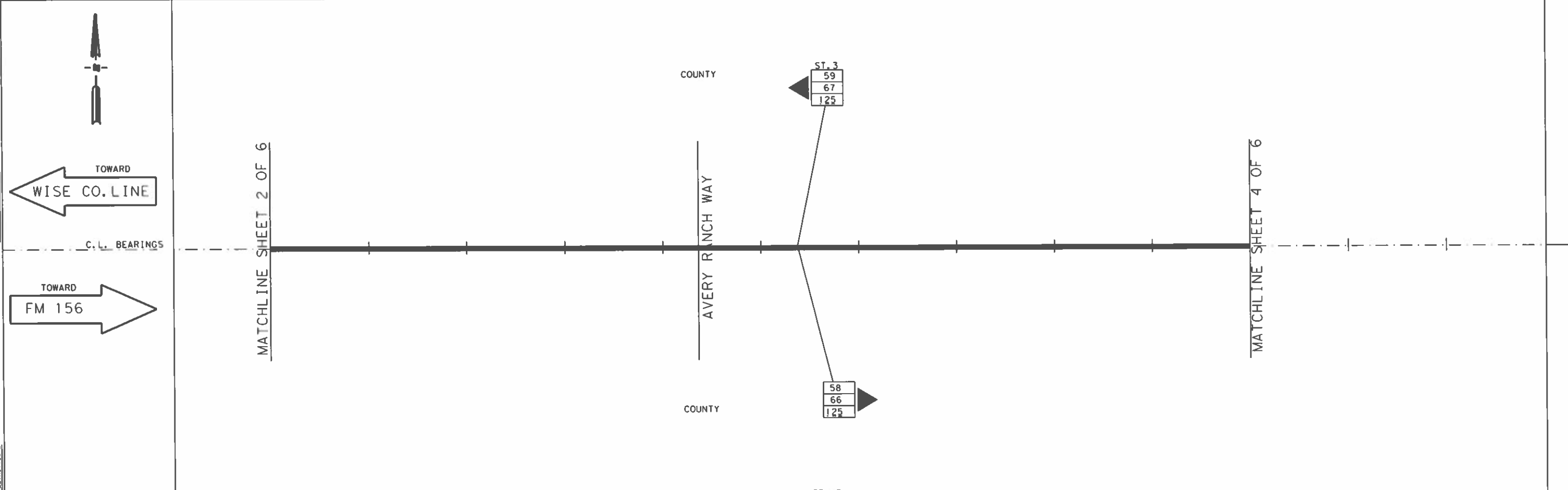
Texas Department of Transportation

SPEED STUDY
DENTON COUNTY
FM 407

DESIGN TEAM	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.	SHEET NO.
	STATE	STATE DIST. NO.	COUNTY
CHECKED	CONTROL NO.	SECTION NO.	JOB NO.
			HIGHWAY NO.

FM 407

DEVELOPMENT	OPEN
RES. SIGHT DISTANCE	
BALL BANK OR ADVISORY SPEED	
CURVES OVER 2°	
GRADES OVER 3%	
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER
R.O.W. AND RDBD. WIDTH	
ACCIDENTS	
ZONE LENGTHS (MILES)	2.370
ZONE SPEEDS (M.P.H.)	55 MPH



EXISTING SPEED	55 MPH
ZONE SPEEDS (M.P.H.)	55 MPH
ZONE LENGTHS (MILES)	2.370
ACCIDENTS	
R.O.W. AND RDBD. WIDTH	
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER
GRADES OVER 3%	
CURVES OVER 2°	
BALL BANK OR ADVISORY SPEED	
RES. SIGHT DISTANCE	
DEVELOPMENT	OPEN

DISTRICT: DALLAS	COUNTY: DENTON	MINUTE NO. :	DATE / /
HIGHWAY: FM 407	CITY: JUSTIN/NEW FAIRVIEW	REPLACES :	DATE / /
DATE OF STUDY 01-13-23	SCALE 1" = 0.1 MILES	REPLACED BY :	DATE / /
		CANCELLED BY :	DATE / /

LIMITS OF ZONE			
SECTION ONE		SECTION TWO	
BEGINS	ENDS	BEGINS	ENDS
STA. OR M.P.	CONT. AND SECT.	STA. OR M.P.	CONT. AND SECT.
MP	MP	MP	MP

LEGEND

- 42 85 PERCENTILE SPEED
- 62 TOP SPEED MEASURED
- 125 NUMBER OF CARS CHECKED
- FATAL ACCIDENT
- PERSONAL INJURY ACCIDENT
- PROPERTY DAMAGE ACCIDENT
- INDICATES SECTION ZONED BY COMMISSION MINUTE
- SIGNALIZED INTERSECTION
- TRIAL RUN

SPEED ZONE
CONT. 1568 SEC. 02
LIMITS: WISE COUNTY LINE TO FM 156

SHEET 3 OF 6

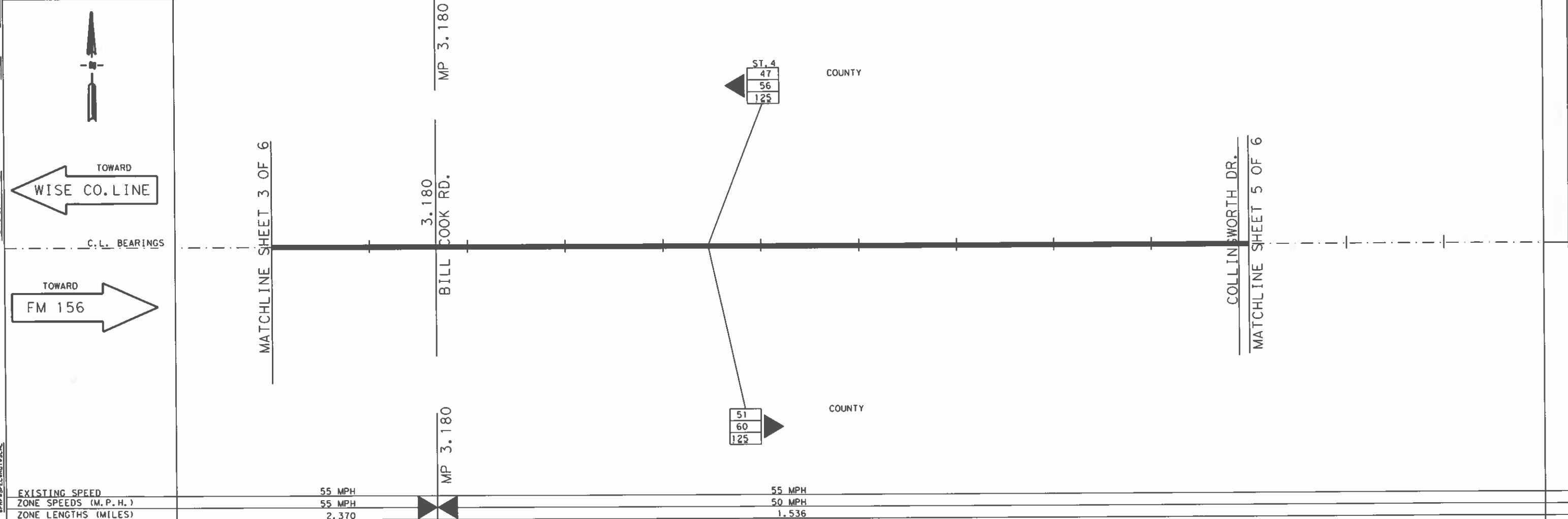
Texas Department of Transportation

SPEED STUDY
DENTON COUNTY
FM 407

DESIGN TEAM	FED. NO. DIV. NO.	FEDERAL AID PROJECT NO.	SHEET NO.
CHECKED	STATE	STATE DIST. NO.	COUNTY
	CONTROL NO.	SECTION NO.	JOB NO.
			HIGHWAY NO.

FM 407

DEVELOPMENT	OPEN	
RES. SIGHT DISTANCE		
BALL BANK OR ADVISORY SPEED		
CURVES OVER 2"		
GRADES OVER 3%		
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER	
R.O.W. AND RDBD. WIDTH		
ACCIDENTS		
ZONE LENGTHS (MILES)	2.370	1.536
ZONE SPEEDS (M.P.H.)	55 MPH	50 MPH



EXISTING SPEED	55 MPH	55 MPH
ZONE SPEEDS (M.P.H.)	55 MPH	50 MPH
ZONE LENGTHS (MILES)	2.370	1.536
ACCIDENTS		
R.O.W. AND RDBD. WIDTH		
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER	
GRADES OVER 3%		
CURVES OVER 2"		
BALL BANK OR ADVISORY SPEED		
RES. SIGHT DISTANCE		
DEVELOPMENT	OPEN	

DISTRICT: DALLAS	COUNTY: DENTON	MINUTE NO. :	DATE / /
HIGHWAY: FM 407	CITY: JUSTIN/NEW FAIRVIEW	REPLACES :	DATE / /
DATE OF STUDY 01-13-23	SCALE 1" = 0.1 MILES	REPLACED BY :	DATE / /
		CANCELLED BY :	DATE / /

LIMITS OF ZONE			
SECTION ONE		SECTION TWO	
LENGTH	MILES	LENGTH	MILES
BEGINS	STA. OR M.P.	BEGINS	STA. OR M.P.
	0 + 00		0 + 00
ENDS	STA. OR M.P.	ENDS	STA. OR M.P.
	0 + 00		0 + 00

LEGEND

- 42 85 PERCENTILE SPEED
- 62 TOP SPEED MEASURED
- 125 NUMBER OF CARS CHECKED
- FATAL ACCIDENT
- PERSONAL INJURY ACCIDENT
- PROPERTY DAMAGE ACCIDENT
- INDICATES SECTION ZONED BY COMMISSION MINUTE
- SIGNALIZED INTERSECTION
- TRIAL RUN

SPEED ZONE
CONT. 1568 SEC. 02
LIMITS: WISE COUNTY LINE TO FM 156

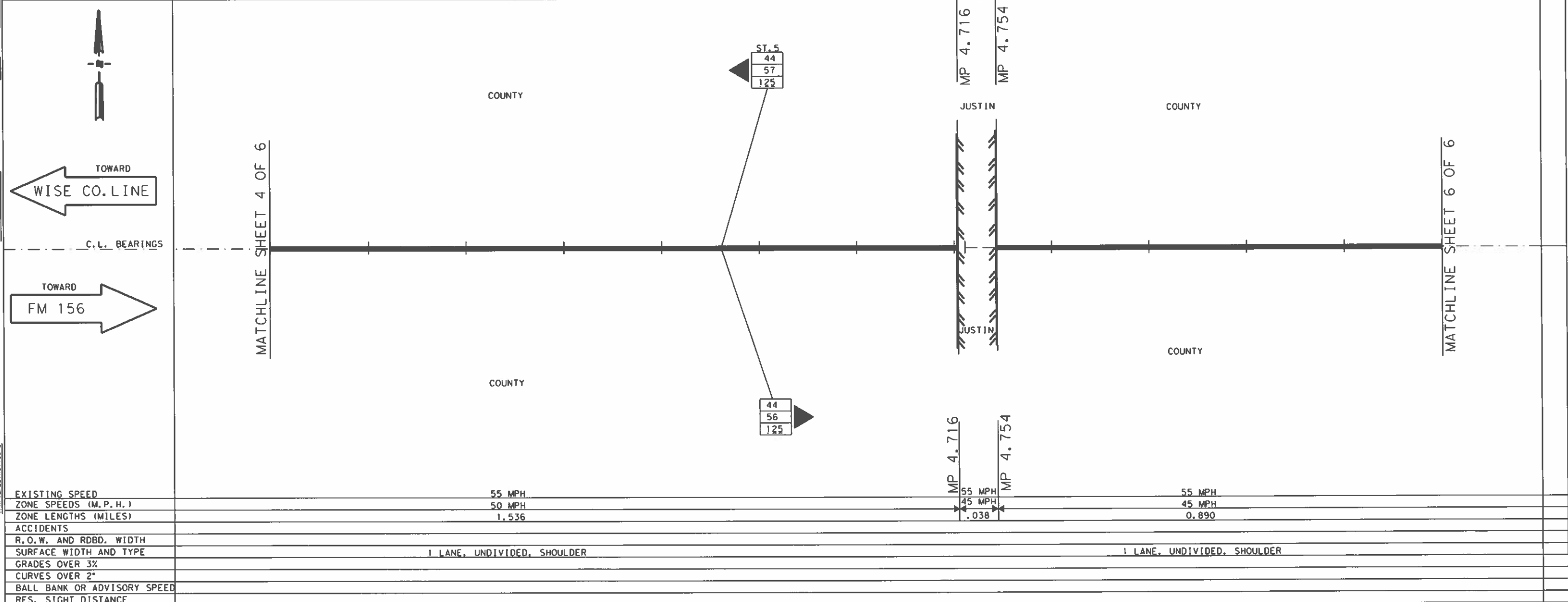
SHEET 4 OF 6

Texas Department of Transportation

SPEED STUDY
DENTON COUNTY
FM 407

DESIGN TEAM	FED. DIV. NO.	FEDERAL AID PROJECT NO.	SHEET NO.
	STATE	STATE DIST. NO.	COUNTY
CHECKED	CONTROL NO.	SECTION NO.	JOB NO.
			HIGHWAY NO.

DEVELOPMENT	OPEN	OPEN
RES. SIGHT DISTANCE		
BALL BANK OR ADVISORY SPEED		
CURVES OVER 2°		
GRADES OVER 3%		
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER	1 LANE, UNDIVIDED, SHOULDER
R.O.W. AND RDBD. WIDTH		
ACCIDENTS		
ZONE LENGTHS (MILES)	1.536	0.890
ZONE SPEEDS (M.P.H.)	50 MPH	45 MPH



DISTRICT: DALLAS	COUNTY: DENTON	MINUTE NO. :	DATE / /
HIGHWAY: FM 407	CITY: JUSTIN/NEW FAIRVIEW	REPLACES :	DATE / /
DATE OF STUDY 01-13-23	SCALE 1" = 0.1 MILES	REPLACED BY :	DATE / /
		CANCELLED BY :	DATE / /
LIMITS OF ZONE			
SECTION ONE	LENGTH MILES	SECTION TWO	LENGTH MILES
BEGINS	STA. OR M.P. CONT. AND SECT. PROJECT	BEGINS	STA. OR M.P. CONT. AND SECT. PROJECT
ENDS	STA. OR M.P. CONT. AND SECT. PROJECT	ENDS	STA. OR M.P. CONT. AND SECT. PROJECT

LEGEND

- 42 85 PERCENTILE SPEED
- 62 TOP SPEED MEASURED
- 125 NUMBER OF CARS CHECKED
- FATAL ACCIDENT
- PERSONAL INJURY ACCIDENT
- PROPERTY DAMAGE ACCIDENT
- INDICATES SECTION ZONED BY COMMISSION MINUTE
- SIGNALIZED INTERSECTION
- TRIAL RUN

SPEED ZONE
CONT. 1568 SEC. 02
LIMITS: WISE COUNTY LINE TO FM 156

SHEET 5 OF 6

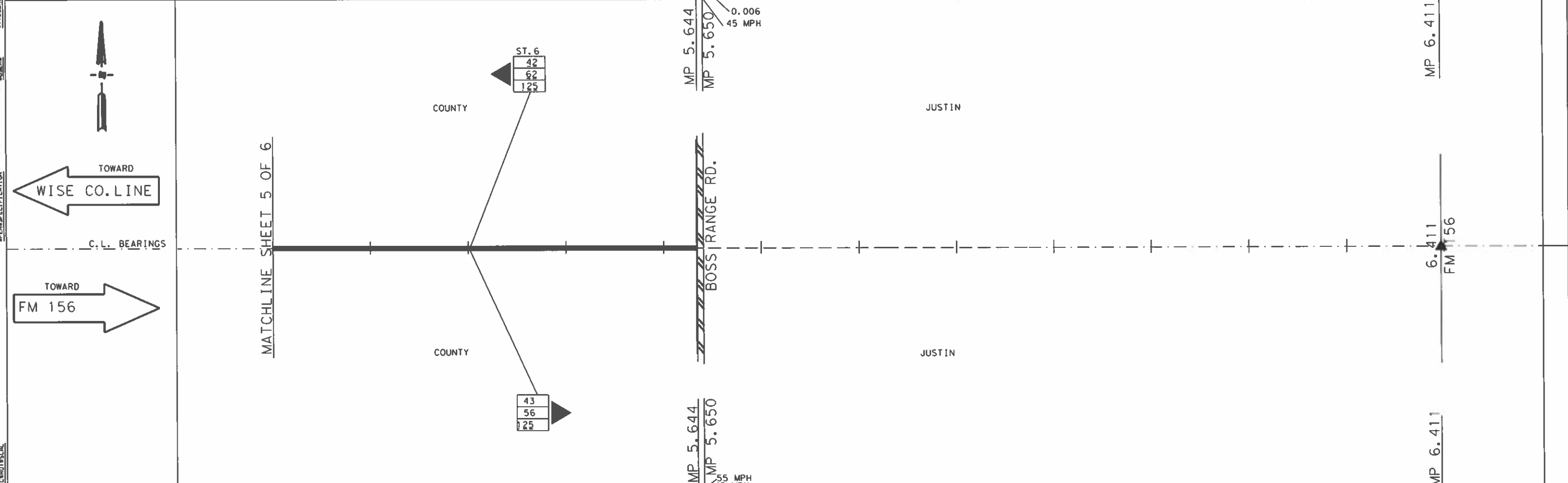
Texas Department of Transportation

SPEED STUDY
DENTON COUNTY
FM 407

DESIGN TEAM	FED. PROJ. NO.	FEDERAL AID PROJECT NO.	SHEET NO.
	DIV. NO.		
	STATE	STATE DIST. NO.	COUNTY
CHECKED	CONTROL NO.	SECTION NO.	JOB NO. HIGHWAY NO.

FM 407

DEVELOPMENT	OPEN	OPEN/RESI.	828'	COMM.
RES. SIGHT DISTANCE				
BALL BANK OR ADVISORY SPEED			OTHER TIMES	
CURVES OVER 2"			35 MPH ALL	
GRADES OVER 3%			BOTH DIRECTIONS	
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER	1 LANE, UNDIVIDED, SHOULDER	SCHOOL ZONE	
R.O.W. AND RDBD. WIDTH			SO SIGNED FOR	1 LANE, UNDIVIDED, SHOULDER
ACCIDENTS			20 MPH WHEN	
ZONE LENGTHS (MILES)	0.890	0.761		0.761
ZONE SPEEDS (M.P.H.)	45 MPH	**35 MPH		**35 MPH



EXISTING SPEED	55 MPH	45 MPH	35 MPH	30 MPH
ZONE SPEEDS (M.P.H.)	45 MPH	**35 MPH	**35 MPH	
ZONE LENGTHS (MILES)	0.890	0.761	0.761	
ACCIDENTS				
R.O.W. AND RDBD. WIDTH				
SURFACE WIDTH AND TYPE	1 LANE, UNDIVIDED, SHOULDER	1 LANE, UNDIVIDED, SHOULDER	SEE ABOVE	1 LANE, UNDIVIDED, SHOULDER
GRADES OVER 3%				
CURVES OVER 2"				
BALL BANK OR ADVISORY SPEED				
RES. SIGHT DISTANCE				
DEVELOPMENT	OPEN	OPEN/RESI.	OPEN/RESI.	

DISTRICT: DALLAS	COUNTY: DENTON	MINUTE NO. :	DATE / /
HIGHWAY: FM 407	CITY: JUSTIN/NEW FAIRVIEW	REPLACES :	DATE / /
DATE OF STUDY 01-13-23	SCALE 1" = 0.1 MILES	REPLACED BY :	DATE / /
		CANCELLED BY :	DATE / /
LIMITS OF ZONE			
SECTION ONE	LENGTH	MILES	SECTION TWO
BEGINS	STA. OR M.P.	CONT. AND SECT.	PROJECT
	MP		
ENDS	STA. OR M.P.	CONT. AND SECT.	PROJECT
	MP		

42

62

125

85 PERCENTILE SPEED

TOP SPEED MEASURED

NUMBER OF CARS CHECKED

● FATAL ACCIDENT

○ PERSONAL INJURY ACCIDENT

○ PROPERTY DAMAGE ACCIDENT

— INDICATES SECTION ZONED BY COMMISSION MINUTE

▲ SIGNALIZED INTERSECTION

○ TRIAL RUN

SPEED ZONE
 CONT. 1568 SEC. 02
 LIMITS: WISE COUNTY LINE TO FM 156
 **SPEED LIMIT REDUCED BY 5 MPH
 BELOW THE 85TH PERCENTILE SPEED
 DUE TO THE FOLLOWING FACTOR:
 HIGH DRIVEWAY DENSITY

DESIGN TEAM

FED. AID PROJECT NO.

SHEET NO.

STATE

STATE DIST. NO.

COUNTY

CHECKED

CONTROL NO.

SECTION NO.

JOB NO.

HIGHWAY NO.

TEXAS

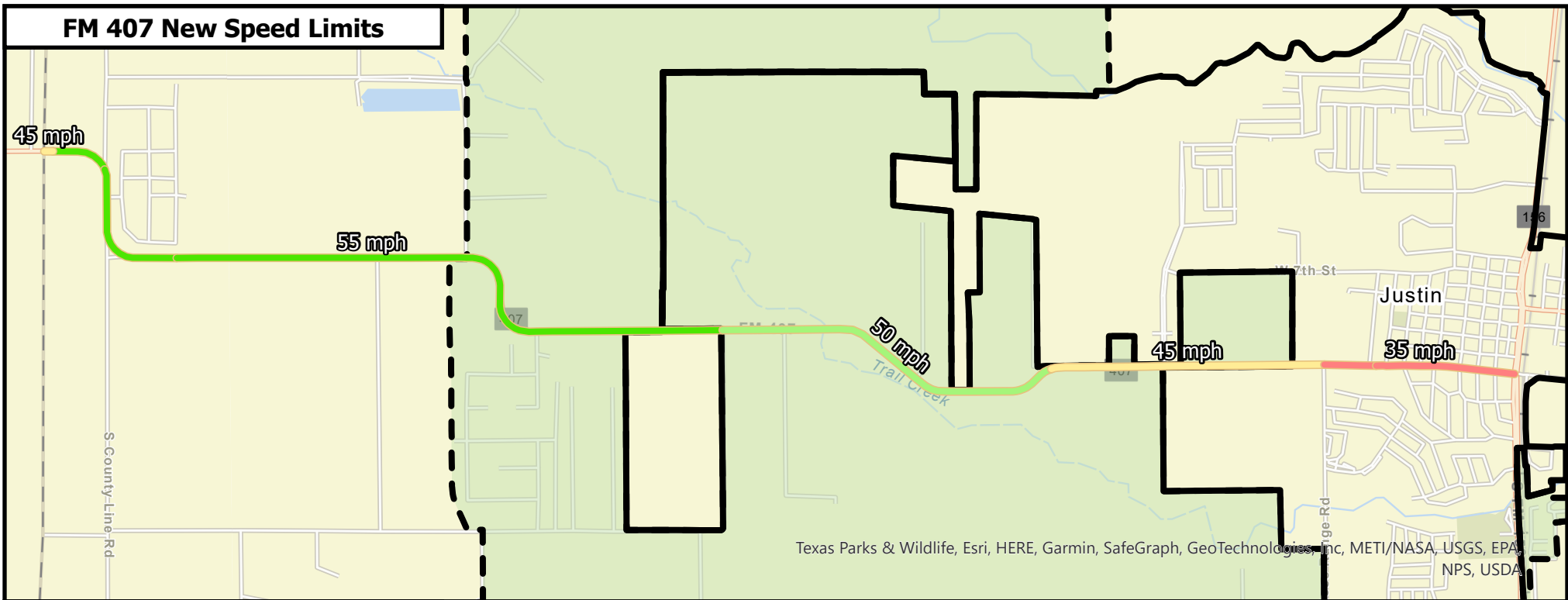
DEPARTMENT OF TRANSPORTATION

SPEED STUDY

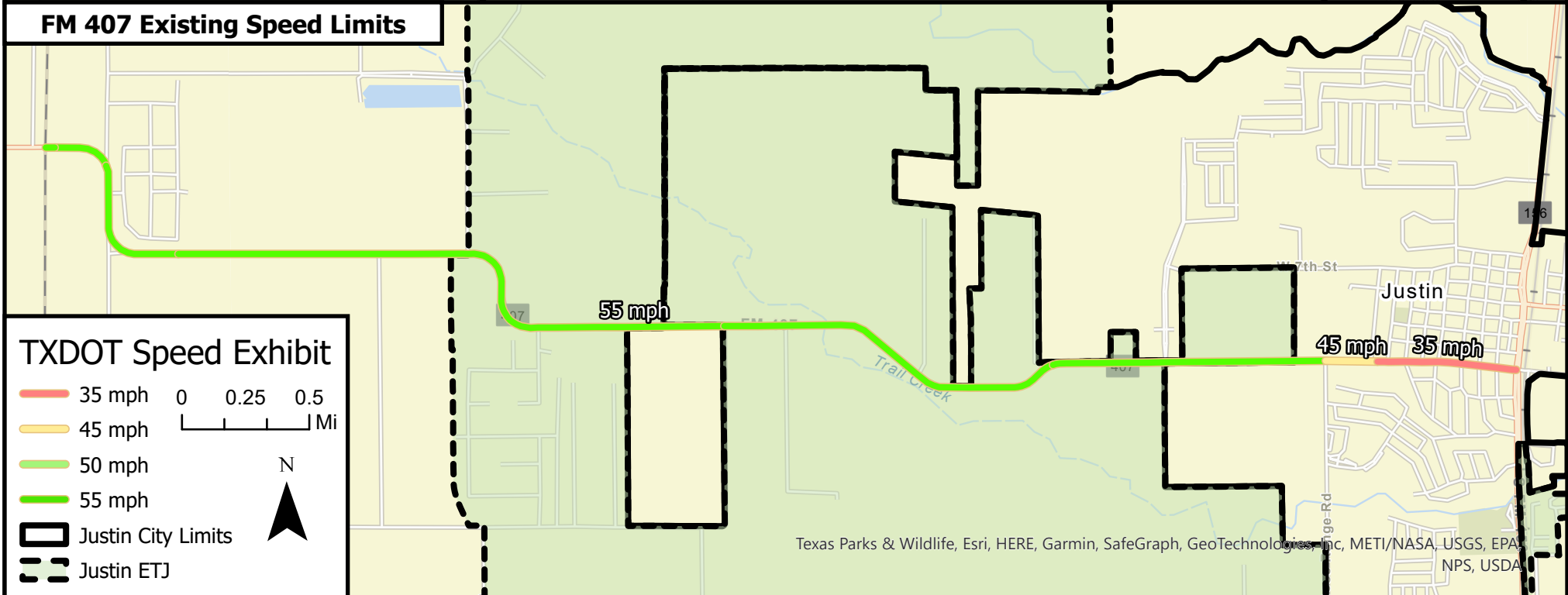
DENTON COUNTY

FM 407

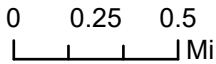
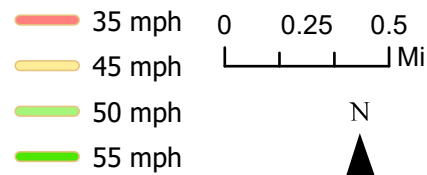
FM 407 New Speed Limits



FM 407 Existing Speed Limits



TXDOT Speed Exhibit



- Justin City Limits
- Justin ETJ

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 9

Title: *(first reading)* Consider and take appropriate action regarding Ordinance 755-23 amending Chapter 10 related to fence regulations.

Department: Administration

Contact: Director of Planning and Development, Matt Cyr

Recommendation: Staff recommends consideration based upon the request

Background:

On June 13, 2023, City Council directed Staff to revise the fee schedule related to several items. One of these items was regarding a Fence Replacement Application and Fee. However, the City of Justin currently does not have a definition or provisions on fence replacements. The goal of this ordinance is to make it clear what a fence replacement is categorized so Staff can carry out this policy effectively.

A fence replacement is being categorized “The act of removing an existing fence and installing a new one in its exact location, using the same materials and maintaining the same height. Replacement of these materials shall be 51 percent or more of the total length of the fence to be considered a replacement. The purpose of a replacement fence is to restore or upgrade the existing fence while preserving its original characteristics without altering its position, materials, or height specifications.”

City Attorney Review: N/A

Attachments:

1. Fence Amendment Document
2. Proposed Ordinance

Sec. 10-246. Fences—Generally; definitions.

For the purposes of this article, the following words and phrases will have the meanings respectively ascribed to them by this section:

City means the City of Justin, Texas.

Column means a vertical fence support structure or pillar constructed of masonry (brick or stone).

Easement means a real property right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another, dedicated by plat, deed or implied by right. It is for the benefit of appurtenant land including but not limited to the right to use or cross the land of another, ingress or egress, such as a public utility easement or joint access easement. An easement may or may not have descriptive bounds.

Fence means an artificially constructed barrier enclosing, separating, or screening areas of land, serving as a boundary, a means of visually modifying the view, and/or for confinement. A fence is any part of a fence including the base, footings, supporting columns, post, braces, structural members, or any other of its appendages.

Game court means a structure having a playing surface, paved, or unpaved, with or without enclosing fences, designed to be used for playing or practicing tennis, badminton, volleyball, paddle tennis handball, baseball batting, handball, racquet ball, squash, basketball, or similar uses.

Large lot residential means a residential lot at least one acre in size.

Lot, key means a corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

Opacity means the degree of openness of a fence by which light or views are not blocked, measured perpendicular to the fence for each fence section between supports.

Post means a vertical fence support constructed of wood or metal which is non-decorative.

Public right-of-way means a strip of land which is used as a roadbed for a street, alley, or highway intended for use by the public at large, or land set aside as an easement or in fee, either by agreement or condemnation.

Repair means maintenance to a fence where replacement of materials does not exceed 50 percent of the total length of the fence and does not change the scope, location, or dimensions of the fence. Repairs shall be made using the same material, or material with comparable composition, size, shape, color and quality of the original fence to which the repair is being made.

Replacement means the act of removing an existing fence and installing a new one in its exact location, using the same materials and maintaining the same height. Replacement of these materials shall be 51 percent or more of the total length of the fence to be considered a replacement. The purpose of a replacement fence is to restore or upgrade the existing fence while preserving its original characteristics without altering its position, materials, or height specifications.

Residential district means a district where the primary purpose is residential use and is defined in the comprehensive zoning ordinance excluding multifamily.

Retaining wall means a wall not laterally supported at the top that resists lateral soil loads and other imposed loads.

Screening fence means a fence or wall constructed to visually obscure the view of the adjoining property.

Street means any dedicated public thoroughfare that affords the principal means of access to abutting property.

Temporary fence means a non-permanent fence constructed for a limited period.

Vision or visibility triangle is determined at the intersection of two streets which intersect at or near right angles by measuring along the two rights-of-way/property lines from their point of intersection a distance equivalent to the required setback for the abutting yard as required for the zoning district in which the property is situated and 45 feet for streets of collector size or larger, and then connecting these two points with an imaginary line to form the corner visibility triangle.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, front means a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, rear means the area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side means the area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

(Ord. No. 624-17, § 1, 7-31-2017)

Sec. 10-249. Fences in residential areas.

- (a) *Fences and gates in front yards.* All fences, walls, gates, or other enclosures constructed in the front yard of a residential property shall:
 - (1) Not exceed 48 inches in height.
 - (2) Allow a minimum of 50 percent opacity.
 - (3) Not encroach into a vision or visibility triangle.
- (b) *Fences and gates in side yard.* It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any side yard or along any side yard lot line which fence exceeds eight feet in height. On key lots, where side yards are required adjacent to the street to conform to minimum front yard setback of lots fronting upon such street, within the same block and upon the same side, no fence shall be constructed or maintained within such required side yard.
- (c) *Fences and gates in rear yards.* It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence or gate in any rear yard or along any rear lot line which fence exceeds eight feet in height.
- (d) *Decorative gate embellishments.* Ornate gates may exceed the maximum height of a fence by up to two feet.
- (e) *Electrically charged fences in residential districts.* It is unlawful for any person to erect, maintain, or permit a fence that is electrically charged in any manner, except single-strand wires designed to conduct electricity through a low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.
- (f) **Replacement fences are classified as a "Replacement Fence" if the following conditions are met:**
 - 1. Installation in the same location.**
 - 2. Utilizing the same materials.**

3. Maintaining the same height.

Should these conditions not be fulfilled, the fence application will be classified as a “New Fence Application”. All replacement fences are permitted if these conditions are satisfied.

(Ord. No. 624-17, § 1, 7-31-2017)

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 10

Title: Consider and take appropriate action regarding City Council process for appointment.

Department: Administration

Contact: City Manager, Jarrod Greenwood

Recommendation:

Background:

This item is for Council to decide on a process for appointing to fill a vacancy.

City Attorney Review: N/A

Attachments:

1. Draft policy for appointment process

A. Council Member Vacancy

1. Selection and Appointment

- a. Applicants must use the form provided as Attachment A to apply for a vacant City Council position.
- b. Appointees shall be qualified by City staff prior to being appointed by the City Council.
- c. Qualified applications will be provided to the City Council for further review.
- d. It is the policy of the City Council to evaluate applicants on an objective basis, utilizing the following criteria:

1. Residency – Residency in the City Limits is required.
2. Sectional Composition – Normally, consideration should be given toward maintaining an equitable balance of community representation on all boards and commissions.

The City Council will not appoint a member of any Council Member's immediate family or household to a Board or Commission, to avoid the appearance of favor and to increase community representation.

3. Knowledge of Municipal Processes – When ranking equally qualified applicants, the Council will consider background experience and knowledge of the municipal process as appropriate to the position, in reaching its decisions.
 4. Contributive Potential – The Council will evaluate the potential contribution that each applicant may make if appointed to a board or commission. Criteria to guide the Council in its evaluation may include:
 - i. Ability to communicate
 - ii. Desire to perform public service
 - iii. Ability to express ideas, concepts, or philosophies
 - iv. Desire to participate in decision-making process.
 5. Leadership Potential – Since each appointee may be called upon to serve as a Chair, the Council will evaluate leadership abilities such as:
 - i. Past or present leadership experience (current employment, special interests, etc.)
 - ii. Past or present participation in community services
 - iii. Expressed interest in a leadership role
 6. Time Available to Serve – City Council will need to be assured that the candidate will be available to serve at the scheduled meetings.
 7. Charter- Applicants must meet all requirements of the City of Justin home-rule Charter, including passing the required background check.
- e. A majority of the City Council Members must approve any appointment.
 - f. Appointed Council Members will be notified in writing of their appointment and term dates.
 - g. Applicants not selected for appointment may be kept on file for consideration of future vacancies.

First Name* _____ **Last Name*** _____

Address* _____

City* _____ **State*** _____ **Zip Code*** _____

Mailing Address (If different) _____

City _____ **State** _____ **Zip Code** _____

Phone Number* _____ **Email Address*** _____

Are you over the age of 18? *

Yes No

Are you a registered voter? *

Yes No

Are you a Justin resident, property, business owner, or City Staff? *

Yes No

Current Occupation/Employer: _____

Education, Licenses, or Certifications: _____

Are you a current or past member of a Council-appointed Board, Commission, or Corporation? *

Yes No

If yes, please specify.

What work experience, educational experience, community involvement, and/or other skills do you have that would qualify you for a Council-appointed Board, Commission, or Committee? *

List any additional information which you believe would be of value for the City Council to know about you. *

Do you or any member of your immediate family residing in your household, hold a position (paid or unpaid) with any person or organization, or have a contract with or any obligation to any person or entity which might constitute a conflict of interest? *

Yes No

If yes, please explain.

Have you ever been convicted of a felony, violation of law, or misdemeanor involving moral turpitude (any offense involving lying, stealing, or cheating?) *

Yes No

Are there any criminal charges or proceedings pending against you? *

Yes No

By signing below, you acknowledge that the information provided is correct to the best of your ability. *

Applicant Signature _____ **Date of Submission** _____

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 11

Title: Consider and take appropriate action approving Resolution 612-23 to hold a public hearing for the appointment of City Council member, Place 4 for the remainder of the term.

Department: Administration

Contact: City Manager, Jarrod Greenwood

Recommendation: Approve Resolution 612-23 to consider an appointment of *(name of candidate)* to fill the vacancy of City Council member, Place 4.

Background:

Per City Charter, if there is a vacancy Council must hold a public hearing and make the appointment at that time by majority vote.

City Attorney Review:

Attachments:

1. Draft Resolution

RESOLUTION 2023-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JUSTIN, TEXAS
APPOINTING _____ TO THE TOWN COUNCIL TO
COMPLETE THE CURRENT TERM OF COUNCILMEMBER PLACE FOUR**

WHEREAS, a vacancy exists on the City of Justin City Council in Place Four following the resignation of Councilman Jim Tate; and

WHEREAS, in accordance with Section 12.012 of the Local Government Code, the City Council accepted the resignation; and

WHEREAS, the City Council wishes to appoint a replacement to the Council to complete the current term of Councilmember Place 4; and

WHEREAS, a public hearing was held in accordance with Section 3.06(5) of the City's Home Rule Charter; and

WHEREAS, the City of Justin City Council declares it in the best interests of the health, safety, and welfare of the public to adopt this resolution; and

WHEREAS, all prerequisites for the adoption of this resolution have been met, including but not limited to the Open Meetings Act.

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

Sec. 1. That all matters stated hereinabove

Sec. 2. That _____ is hereby appointed to the City Council to complete the current term of Councilmember Place 4.

Sec. 3. That this Resolution shall take effect immediately upon passage.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF _____ AYES, _____ NAYS AND _____
ABSTENTIONS ON THIS THE _____ DAY OF _____, 2023.

ATTEST:

CITY OF JUSTIN

Brittany Andrews
City Secretary

James Clark
Mayor

City Council Meeting

June 27, 2023

Justin City Hall, 415 North College Street

City Council Cover Sheet

Agenda Item: 12

Title: Discuss, consider and take appropriate action regarding City Council meeting days and times.

Department: Administration

Contact: City Manager, Jarrod Greenwood

Recommendation:

Background:

During the June 13, 2023 Regular Council Meeting, a request was made to place an item on the June 27, 2023 Regular Council Meeting Agenda to discuss Council Meeting dates and times.

As you know the City recently adopted the City Charter. Included in the Charter is language regarding Council Meetings:

Sec. 3.09. - Meetings of the city council.

(1)The city council shall hold at least one regular meeting each month, and as many additional meetings as it deems necessary to transact the business of the city. The city council may set the date and time of the meetings by ordinance.(2)Special meetings of the city council shall be held at the call of the mayor or three councilmembers upon provision of public notice in accordance with state law.(3)Except as provided by state law, all city council meetings shall be open to the public and shall be held and notice given in accordance with state law.

Staff has provided the attached 2023 and 2024 Meeting Calendars for Council's review in determination of the appropriate meeting dates and times.

The DRAFT Ordinance sets forth the regular City Council Meetings, Elections, Council Development and Orientation Retreat, Budget Workshops and Public Hearings for the remainder of 2023 and 2024. Meetings will be held in the Council Chambers and would begin at 5:30 p.m.

City Attorney Review:

Attachments:

1. Draft Ordinance
2. 2023 Meeting Schedules
3. 2024 Meeting Schedules

ORDINANCE NO. 7XX-23

AN ORDINANCE OF THE CITY OF JUSTIN, TEXAS ("CITY"), ESTABLISHING REGULAR MEETING DATES; SETTING THE 2023 MEETING DATES OF THE CITY COUNCIL; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AUTHORIZING PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 3.09 Meetings of the Adopted City Charter prescribes that Council will meet at least once per month and that Council may set the meeting date and time by ordinance; and

WHEREAS, the City Council finds that it is in the best interest of the Council and the City's residents that the Council shall establish regular meetings at a convenient date, time, and place; and

WHEREAS, the 2023 available regular meeting dates are hereby established in accordance with attached Exhibit "A"; and

WHEREAS, the City Council finds that the passage of this Ordinance is in the best interest of the citizens of Justin.

WHEREAS, the City is authorized by law to adopt the provisions contained herein, and has complied with all the prerequisites necessary for the passage of this ordinance; and

WHEREAS, all statutory and constitutional requirements for the passage of this ordinance have been adhered to, including, but not limited to the Open Meetings Act; and

WHEREAS, the purpose of this ordinance is to promote the public health, safety, and general welfare of the citizens of the City of Justin.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JUSTIN, TEXAS;

SECTION 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. The City Council of the City of Justin, Texas, shall conduct regularly scheduled meetings on dates and times as established by the City Council. All Mondays shall be established as a day available for regular meetings as needed. Special meetings shall be called in accordance with the Texas Local Government Code. Meetings shall be held at the City Hall offices located at 415 North College Avenue, Justin, Texas, or a meeting room close by, or another location designated by the City in the meeting notice. The exact time of each meeting will be determined prior to the notice of said meeting.

SECTION 3. The City Council hereby sets the 2023 regular meeting schedule as shown in the attached Exhibit "A".

SECTION 4. That all provisions of this ordinance shall remain in full force and effect.

SECTION 5. That this Ordinance shall be cumulative of all other City Ordinances and all other provisions of other Ordinances adopted by the City which are inconsistent with the terms or provisions of this Ordinance are hereby repealed.

SECTION 6. It is hereby declared to be the intention of the City Council of the City of Justin, Texas, that sections, paragraphs, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared legally invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such legal invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council of the City of Justin without the incorporation in this Ordinance of any such legally invalid or unconstitutional, phrase, sentence, paragraph or section..

SECTION 7. The City Secretary, with the concurrence of the City Council, is hereby authorized to publish in accordance with the provisions of the Code and the City Charter.

SECTION 8. That, this ordinance shall take effect immediately from and after its passage, as the law in such cases provide.

PASSED ON THE FIRST READING BY THE CITY COUNCIL ON THE ____ DAY OF _____, 2023.

PASSED ON SECOND READING BY THE CITY COUNCIL ON THE _____ DAY OF _____, 2023.

APPROVED:

Mayor, James Clark

ATTEST:

City Secretary, Brittany Andrews

APPROVED AS TO FORM:

City Attorney, Matthew Boyle

City of Justin

2023 Meeting Schedule - Monday Meetings

January 2023						
S	M	T	W	Th	F	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2023						
S	M	T	W	Th	F	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2023						
S	M	T	W	Th	F	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April 2023						
S	M	T	W	Th	F	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

May 2023						
S	M	T	W	Th	F	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June 2023						
S	M	T	W	Th	F	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

July 2023						
S	M	T	W	Th	F	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August 2023						
S	M	T	W	Th	F	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September 2023						
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17	18	19	20	21	22	23
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October 2023						
S	M	T	W	Th	F	Sa
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22	23	24	25	26	27	28
29	30	31				

November 2023						
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December 2023						
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17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

■	Council Meetings
■	Planning & Zoning Meetings
■	Council Orientation
■	City Holiday

■	Municipal Court
■	Parks Board
■	EDC/CDC
■	Election Day

■	Budget / Meeting Retreats (TBD)
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1/02 -16: Call the election
 5/06: Election Day
 5/15-18: Canvass Election
 7/6-7: Council Orientation

TBD: Council Budget Retreat - All Day
 8/14: Budget & Meeting to approve tax rate/ set PH
 9/11: Public Hearing and vote on Tax Rate
 9/11 Adopt Budget

POTENTIAL COUNCIL MEETING CONFLICTS

July 4 - Independence Day (Parks Board)
September 4 - Labor Day (Municipal Court)
October 3 - National Night out (Parks Board)
December 25 - Christmas Day (City Council)

City of Justin

2023 Meeting Schedule - Tuesday Meetings

January 2023						
S	M	T	W	Th	F	Sa

February 2023						
S	M	T	W	Th	F	Sa

March 2023						
S	M	T	W	Th	F	Sa

April 2023						
S	M	T	W	Th	F	Sa

May 2023						
S	M	T	W	Th	F	Sa

June 2023						
S	M	T	W	Th	F	Sa

July 2023						
S	M	T	W	Th	F	Sa
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August 2023						
S	M	T	W	Th	F	Sa
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6	7	8	9	10	11	12
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20	21	22	23	24	25	26
27	28	29	30	31		

September 2023						
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17	18	19	20	21	22	23
24	25	26	27	28	29	30

October 2023						
S	M	T	W	Th	F	Sa
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November 2023						
S	M	T	W	Th	F	Sa
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26	27	28	29	30		

December 2023						
S	M	T	W	Th	F	Sa
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

■ Council Meetings
■ Planning & Zoning Meetings
■ Council Orientation
■ City Holiday

■ Municipal Court
■ Parks Board
■ EDC/CDC
■ Election Day

■ Budget / Meeting Retreats (TBD)

1/02 -16: Call the election

TBD: Council Budget Retreat - All Day

City of Justin

2024 Meeting Schedule - Monday Meetings

January 2024

S	M	T	W	Th	F	Sa
	1	2	3	4		6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February 2024

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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

March 2024

S	M	T	W	Th	F	Sa
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17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

April 2024

S	M	T	W	Th	F	Sa
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May 2024

S	M	T	W	Th	F	Sa
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19	20	21	22	23	24	25
26	27	28	29	30	31	

June 2024

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23	24	25	26	27	28	29
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July 2024

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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August 2024

S	M	T	W	Th	F	Sa
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September 2024

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October 2024










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November 2024

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December 2024

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22	23	24	25	26	27	28
29	30	31				

	Council Meetings		Municipal Court		Budget / Meeting Retreats (TBD)
	Planning & Zoning Meetings		Parks Board		
	Council Orientation		EDC/CDC		
	City Holiday		Election Day		

POTENTIAL COUNCIL MEETING CONFLICTS

January 1 - New Years Day (Municipal Court)
May 27 - Memorial Day (Council day)
June 19 - Juneteenth (proposed/unapproved holiday as of 6/19/23)
September 2 - Labor Day (Municipal Court)
November 11 - Veterans Day (Council day)

City of Justin

2024 Meeting Schedule - Tuesday Meetings

January 2024

S	M	T	W	Th	F	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
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February 2024

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25	26	27	28	29		

March 2024

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April 2024

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28	29	30				

May 2024

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June 2024

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July 2024

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21	22	23	24	25	26	27
28	29	30	31			

August 2024

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September 2024

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22	23	24	25	26	27	28
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October 2024

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27	28	29	30	31		

November 2024

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17	18	19	20	21	22	23
24	25	26	27	28	29	30

December 2024

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

- Council Meetings
- Planning & Zoning Meetings
- Council Orientation
- Town Holiday

- Municipal Court
- Parks Board
- EDC/CDC
- Election Day

- Budget / Meeting Retreats (TBD)

1/02 -16: Call the election

TBD: Council Budget Retreat - All Day