



CITY COUNCIL REGULAR AGENDA

Tuesday, February 8, 2022

Notice is hereby given that the City Council of the City of Big Spring, Texas will meet in Regular Session on Tuesday, February 8, 2022, at 5:30 pm at the City Council Chambers Located at 307 East 4th Street, Big Spring, Texas. **We welcome the public to attend the meeting via telecommunication. Citizens will be able to view the City Council Meeting on Our Local Channel 17 through Suddenlink or on Our Website <http://mybigspring.com/224/Channel-17-Live>.**

CITY COUNCIL MEETING ETIQUETTE

Gentlemen are requested to remove their hats inside the City Council Chambers. As a courtesy to those in attendance, please place your cell phone on “Silent” or “Vibrate.” Please, no Talking during the meetings. Take all conversations outside so that others can hear.

Open Session

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| 1. | Call to Order | Thomason |
| 2. | Invocation | Thomason |
| 3. | Pledge of Allegiance to the United States Flag and to the Texas State Flag | Thomason |

Public Comment

Public Comment – Members of the public are entitled to speak on any topic. Additionally, members of the public may comment on any action item before or during its consideration. Speakers are Requested to Stand at the Podium and State Their Name and Address. Speakers Should Fill out the Form at the Podium and Turn it into the City Secretary. Please Do Not Exceed Five (5) Minutes.

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| 4. | Public Comment – If you have public comments, please call 432-264-2411. | Thomason |
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Announcements, Presentations and Public Hearings

Public Hearings – The Council will take Input on Items Requiring Public Hearing Items Prior to any Action.

- 5. Presentation Regarding the YMCA Dathan Jones

City Manager’s Report

- 6. Update on Large Item Pickup for District 2 – February 16, 2022 Darden
- 7. City Holiday – February 21, 2022 – President’s Day Darden
- 8. Bond Refunding Update Darden
- 9. Vector Profit Sharing Update Darden

Consent Items

- 10. Approval of the City Council Minutes of the Regular Meeting of January 25, 2022 6-11 Davis
- 11. Final Reading of an Ordinance Amending Chapter 2 of the Big Spring City Code Entitled “Administration,” Section 2-196 “Payment Card Fees and Service Charges” by Adding a New Subsection (c-2) Establishing that Card Reimbursement Fees Shall be Enacted by Official Action of the City Council; Providing for Severability; and Providing an Effective Date 12-13 Thomason
- 12. Final Reading of an Ordinance Amending Chapter 32 of the Big Spring City Code Entitled “Licenses, Taxation, and Miscellaneous Business Regulations,” Article 5, Section 32-356 by Adding a New Subsection (e) to Authorize the City Manager to Waive Fees for Productions that Advance a Public Purpose; Amending Section 32-258 to Clarify Application Requirements; and by Adding a New Section 32-263 Entitled “Limitation of Permit” to Prohibit the Issuance of Permits Otherwise Illegal Under State or Federal Law, Including Federal Aviation Regulations on Drone Operations; Providing for Severability; and Providing an Effective Date 14-16 Darden
- 13. Final Reading of a Resolution Calling for a General Election to be Held on May 7, 2022 for the Purpose of Electing One Person to Serve as Mayor of the City of Big Spring and One Person to Serve as City Council Member for District Five; Providing for the Conduct of the Election; Designating Several Polling Places within the City; 17-18 Davis

Authorizing the Mayor to Execute Notice and Have the Notice Posted for the Purpose of Notifying the Public of Said Election; and Providing for Severability

Vouchers

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| 14. | Vouchers for 01/27 /2022 | \$ 764,108.63 | Ornelas |
| 15. | Vouchers for 02/04/2022 | \$ 389,968.68 | Yanez |

Bids

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| 16. | Consideration and Possible Action to Accept a Bid Award for 30 Yard Trash Containers and Authorizing the City Manager or His Designee to Execute any Necessary Documents | 19 | Medina |
| 17. | Consideration and Possible Action to Reject all Bids for Lease Purchase Financing For Capital Item Purchases | 20 | S. Smith |

New Business

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| 18. | Emergency Reading of a Resolution Consenting to the City Attorney Acting as an Intermediary Between the City of Big Spring and the Big Spring Housing Authority for the Sole Purposes of Negotiating a Lease of Real Property from the City of Big Spring to the Big Spring Housing Authority for an Office for the Big Spring Housing Authority, Advising the City and the Housing Authority as to Said Lease, and Negotiating One or More Agreements Between the City of Big Spring and the Housing Authority of Big Spring, and Providing an Effective Date | 21-23 | Hagen |
| 19. | First Reading of an Ordinance Amending Ordinance Number 039-2021 Which Adopted the Annual Budget for the City of Big Spring, Texas for the Fiscal Year Beginning October 1, 2021 and Ending September 30, 2022 by Increasing the General Fund Budget by Accepting a Donation to the Used for Additional Equipment for the Fire Department; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Publication; and Providing an Effective Date | 24-25 | Ferguson |
| 20. | First Reading of an Ordinance Amending Ordinance Number 039-2021 Which Adopted the Annual Budget for the City of Big Spring, Texas for the Fiscal Year Beginning October 1, 2021 and Ending September 30, 2022; Transferring Funds Within the Sanitation Department; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Publication; and Providing an Effective Date | 26-27 | Bowles |

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| 21. | First Reading of an Ordinance Amending Chapter 2 of the Big Spring City Code Entitled "Administration," Article VII "Boards and Commissions," Division "Zoning Board of Adjustment," Section 2-314 "Organization and Procedure" to Create Seven Alternate Board Positions for the Zoning Board of Adjustment; Requiring that Each Member Possess the Same Qualifications as Regular Board Members; and Establishing Requirements Under Which Alternate Members Shall Serve in Place of a Regular Board Member; Providing for Removal of Alternate Members for Just Cause After a Public Hearing; Providing for Severability; and Providing an Effective Date | 28-30 | Darden |
| 22. | First Reading of an Ordinance Amending Chapter 40 of the Big Spring City Code Entitled "Parks, Recreation, and Cultural Affairs," Article II, "Parks and Recreational Facilities," Division 2, "Pavilion Areas," by Adding a New Section 40-54 Entitled "Stewart Pavilion" to Rename "Buffalo Pavilion," also Known as "2 nd Pavilion," to Stewart Pavilion" in Honor of Howard and Vicki Stewart; Amending Section 40-58 "Use of Facilities; Unusual Noise, Etc." for Consistency; Providing for Severability; and Providing an Effective Date | 31-32 | Herrera |
| 23. | Consideration and Possible Action of a Public Water Line Easement Located at 1409 Harding Street | 33-38 | Bowles |
| 24. | Consideration and Possible Action of an Interlocal Agreement with South Plains Association of Governments (SPAG) for the Big Spring Downtown Revitalization Program Grant Award and Authorizing the Mayor to Execute any Necessary Documents | 39-47 | Medina |

Council Input

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| 25. | Input | Thomason |
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Executive Session

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| 26. | Adjourn into Executive Session in Accordance with the Purposes Permitted by the Open Meetings Act, Section 551.071(1)-(2), Texas Government Code, "Consultation with Attorney; Closed Meeting," and the Texas Disciplinary Rules of Professional Conduct to Provide Legal Advice and Counsel with Respect to (1) Pending or Contemplated Litigation; and (2) the City's Rights, Duties, Privileges, and Options; All Arising Out of the Existing Leases, Operations Agreements, and Other Matters Governing the City of Big Spring's Agreements with GEO Group Regarding the Big Spring Correctional Center | Thomason |
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27. **Adjourn** into Executive Session in Accordance with the Purposes Permitted by the Open Meetings Act, Section 551.071, Texas Government Code, "Consultation with Attorney; Closed Meeting," and the Texas Disciplinary Rules of Professional Conduct to Discuss Litigation and Anticipated Litigation;
 • City of Big Spring v. Jake Tiner Construction, LLC, No. 54929 (118th District Court)
 • Short-Term Rentals and Internet Booking Agents Such as AirBnB and VRBO Thomason
28. **Reconvene** into Open Session and Take Any Necessary Action on Executive Session Items. Thomason
29. **Adjourn** Thomason

The City Council reserves the right to meet in executive session on any agenda item should the need arise pursuant to Chapter 551, Subchapter D of the Texas Government Code, or the Texas Disciplinary Rules of Professional Conduct.

Sec. 551.144. CLOSED MEETING; OFFENSE; PENALTY.

(a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

- (1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;
- (2) closes or aids in closing the meeting to the public, if it is a regular meeting; or
- (3) participates in the closed meeting, whether it is a regular, special, or called meeting.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

- (1) a fine of not less than \$100 or more than \$500;
- (2) confinement in the county jail for not less than one month or more than six months; or
- (3) both the fine and confinement.

I hereby certify that this agenda was posted on the official bulletin board at the City of Big Spring, City Hall Building, located outside 310 Nolan Street. Given by order of the City Council and Posted on Friday, February 4, 2022 at 4:45 p.m. in accordance with Title 5, Texas Government Code and Chapter 551.

In addition, this agenda and supporting documents are posted on the City of Big Spring's Website, www.mybigspring.com, in accordance with legal requirements.



Tami L. Davis, City Secretary

PERSONS WISHING TO HAVE AN INTERPRETER SHOULD CONTACT TAMI DAVIS AT 264-2513 or tdavis@mybigspring.com. REQUESTS FOR AN INTERPRETER SHOULD BE MADE AT LEAST 72 HOURS IN ADVANCE OF THE MEETING TIME.

STATE OF TEXAS :
COUNTY OF HOWARD :
CITY OF BIG SPRING :

The City Council of the City of Big Spring, Texas, met in a regular meeting in the City Council Chambers located at 307 E. 4th St., Big Spring, Texas, at 5:30 p.m., January 25, 2022, with the following members present in person:

SHANNON THOMASON	Mayor
NICK ORNELAS	Mayor Pro Tem
CODY HUGHES	Councilmember
GLORIA MCDONALD	Councilmember
TROY TOMPKINS	Councilmember
MAURY SMITH	Councilmember

(Councilmember Yanez was not present at this meeting.)

Same and constituting a quorum, for which four Councilmembers must be present; and the following staff in person;

TODD DARDEN	City Manager
JOHN MEDINA	Assistant City Manager
ANDREW HAGEN	City Attorney
CRAIG FERGUSON	Fire Chief
SHANE BOWLES	Public Works Director
MIKE FEELEY	Airpark Director
SANDY SMITH	Finance Director
HAYLEY HERRERA	Community Services Director
TAMI DAVIS	City Secretary
TIM GREEN	Municipal Judge

INVOCATION & PLEDGE OF ALLEGIANCE

Councilmember Smith gave the invocation and Mayor Thomason led the Pledge of Allegiance to the American and Texas Flags.

PUBLIC COMMENT

No comments were made at this time.

ANNOUNCEMENTS, PRESENTATIONS AND PUBLIC HEARINGS

PUBLIC HEARING – SECOND PUBLIC HEARING REGARDING REDISTRICTING PLANS

Motion was made by Mayor Pro Tem Ornelas to open the above captioned public hearing, seconded by Councilmember McDonald, with all members of the Council present voting “aye.” Bob Bass with Allison, Bass & Associates, LLP explained three different plans of redistricting within the city limits. Motion was made by Councilmember Hughes to close the above captioned public hearing, seconded by Mayor Pro Tem Ornelas, with all members of the Council present voting “aye.”

CITY MANAGER’S REPORT

John Medina, Assistant City Manager, gave an update on the following:

- Welcome new Airpark Director, Mike Feeley
- Update on Large Item Pickup for District 1
- Dr. Ahmed reported on the latest COVID activity

CONSENT ITEMS

APPROVAL OF THE CITY COUNCIL MINUTES OF THE REGULAR MEETING OF JANUARY 11, 2022

FINAL READING OF A RESOLUTION TO SET THE ROTATION PERIOD OF MEMBERS OF CITY COUNCIL TO VERIFY AND AUDIT PAYMENT VOUCHERS TO A MONTHLY BASIS; AND PROVIDING AN EFFECTIVE DATE

FINAL READING OF A RESOLUTION AMENDING THE BIG SPRING ECONOMIC DEVELOPMENT CORPORATION BY AMENDING THE NUMBER OF DIRECTORS AND THE MANNER OF APPOINTMENT OF DIRECTORS; AND PROVIDING FOR RULES OF PROCEDURES; AND PROVIDING AN EFFECTIVE DATE

FINAL READING OF AN ORDINANCE ADOPTING THE 2021 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES WITHIN THE CITY LIMITS; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE, AND THE DEMOLITION OF SUCH EXISTING STRUCTURES IN THE CITY OF BIG SPRING; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING CHAPTER 36, “NUISANCES,” ARTICLE II, “UNSANITARY, UNSIGHTLY, AND PUBLIC NUISANCE CONDITIONS OF PROPERTY IN ITS ENTIRETY; AMENDING CHAPTER 44, “SOLID WASTE,” ARTICLE I, “IN GENERAL,” SECTION 1, “DEFINITIONS,” SECTION 44-1 AND ARTICLE III, “ILLEGAL DUMPING AND LITTER CONTROL,” SECTION 101, “DEFINITIONS TO AMEND THE DEFINITIONS OF “GARBAGE”; AND AMENDING THE STRUCTURAL STANDARDS ORDINANCE, ARTICLE I, SECTION 1.05 “DEFINITIONS,” SUBSECTION (c) “BUILDING CODES” TO INCLUDE CHAPTER 36, ARTICLES I AND III IN THE BUILDING CODES;

PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

FINAL READING OF AN ORDINANCE AMENDING ORDINANCE NUMBER 039-2021 WHICH ADOPTED THE ANNUAL BUDGET FOR THE CITY OF BIG SPRING, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022 BY INCREASING THE SPECIAL REVENUE FUND, SENIOR CENTER, BUDGET FOR THE PURPOSE OF PURCHASING A NEW VEHICLE FOR THE SENIOR CENTER; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Councilmember Hughes to approve the above captioned minutes, resolutions and ordinances, seconded by Councilmember Tompkins, with all members of the Council present voting “aye.”

OTHER BUSINESS

FINAL READING OF A RESOLUTION APPROVING AND ADOPTING NEW DISTRICT BOUNDARIES FOR THE ELECTION OF CITY COUNCIL MEMBERS; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Councilmember Tompkins to approve the above captioned resolution and adopt Plan C of the redistricting options, seconded by Councilmember Hughes, with all members of the Council present voting “aye.”

VOUCHERS

Mayor Pro Tem Ornelas reviewed the following vouchers:

VOUCHERS FOR 01/13/2022 \$ 2,434,523.84
VOUCHERS FOR 01/20/2022 \$ 360,835.62

Motion was made by Mayor Pro Tem Ornelas to approve the above captioned vouchers, seconded by Mayor Thomason, with all members of the Council present voting “aye.”

NEW BUSINESS

ACKNOWLEDGE RECEIPT OF THE BIG SPRING ECONOMIC DEVELOPMENT BOARD OF DIRECTORS MINUTES OF THE REGULAR MEETING OF DECEMBER 21, 2021

Councilmembers acknowledge receipt of the above captioned minutes.

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED “ADMINISTRATION,” SECTION 2-196 “PAYMENT CARD FEES AND SERVICE CHARGES” BY ADDING A NEW SUBSECTION (C-2) ESTABLISHING THAT CARD REIMBURSEMENT FEES SHALL BE ENACTED BY OFFICIAL ACTION OF

THE CITY COUNCIL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Mayor Thomason to approve the above captioned ordinance, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 32 OF THE BIG SPRING CITY CODE ENTITLED “LICENSES, TAXATION, AND MISCELLANEOUS BUSINESS REGULATIONS,” ARTICLE 5, SECTION 32-356 BY ADDING A NEW SUBSECTION (E) TO AUTHORIZE THE CITY MANAGER TO WAIVE FEES FOR PRODUCTIONS THAT ADVANCE A PUBLIC PURPOSE; AMENDING SECTION 32-258 TO CLARIFY APPLICATION REQUIREMENTS; AND BY ADDING A NEW SECTION 32-263 ENTITLED “LIMITATION OF PERMIT” TO PROHIBIT THE ISSUANCE OF PERMITS OTHERWISE ILLEGAL UNDER STATE OR FEDERAL LAW, INCLUDING FEDERAL AVIATION REGULATIONS ON DRONE OPERATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Councilmember Tompkins to approve the above captioned contract, seconded by Mayor Pro Tem Ornelas, with all members of the council present voting “aye.”

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED “ADMINISTRATION,” ARTICLE VII “BOARDS AND COMMISSIONS,” SECTION 2-241 “APPOINTMENTS AND REMOVALS FROM BOARDS AND COMMITTEES CREATED BY ACTS OF CITY COUNCIL” TO CREATE SEVEN ALTERNATE BOARD POSITIONS FOR EACH BOARD CREATED BY AN ACT OF COUNCIL; REQUIRING THAT EACH MEMBER POSSESS THE SAME QUALIFICATIONS AS REGULAR BOARD MEMBERS; AND ESTABLISHING REQUIREMENTS UNDER WHICH ALTERNATE MEMBERS SHALL SERVE IN PLACE OF A REGULAR BOARD MEMBER; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

No action taken on the above captioned ordinance.

EMERGENCY READING OF A RESOLUTION AUTHORIZING THE SUBMISSION OF AN ECONOMIC DEVELOPMENT ADMINISTRATION APPLICATION TO THE ECONOMIC DEVELOPMENT ADMINISTRATION; AND AUTHORIZING THE MAYOR TO ACT AS THE CITY’S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY’S PARTICIPATION IN THE ECONOMIC DEVELOPMENT ADMINISTRATION GRANT PROGRAM; PROVIDING FOR AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY

Motion was made by Councilmember McDonald to approve the above captioned resolution, seconded by Councilmember Smith, with all members of the Council present voting “aye.”

FIRST READING OF A RESOLUTION CALLING FOR A GENERAL ELECTION TO BE HELD ON MAY 7, 2022 FOR THE PURPOSE OF ELECTING ONE PERSON TO SERVE AS

MAYOR OF THE CITY OF BIG SPRING AND ONE PERSON TO SERVE AS CITY COUNCILMEMBER FOR DISTRICT FIVE; PROVIDING FOR THE CONDUCT OF THE ELECTION; DESIGNATING SEVERAL POLLING PLACES WITHIN THE CITY; AUTHORIZING THE MAYOR TO EXECUTE NOTICE AND HAVE THE NOTICE POSTED FOR THE PURPOSE OF NOTIFYING THE PUBLIC OF SAID ELECTION; AND PROVIDING FOR SEVERABILITY

Motion was made by Mayor Pro Tem Ornelas to approve the above captioned ordinance, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION OF A JOINT ELECTION AGREEMENT WITH BIG SPRING INDEPENDENT SCHOOL DISTRICT AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Smith to approve the above captioned agreement, seconded by Mayor Pro Tem Ornelas, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION OF A SERVICES AGREEMENT WITH ADCOMP SYSTEMS, INC. AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Tompkins to approve the above captioned agreement, seconded by Councilmember Smith. After a brief discussion, Mayor Thomason made a motion to amend the above captioned agreement by authorizing the City Manager or his designee to negotiate and/or execute any necessary documents, seconded by Mayor Pro Tem Ornelas, with all members of the Council present voting “aye.” Motion was made by Councilmember Tompkins to approve the amendment, seconded by Councilmember Smith, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION OF A TxCDBG (TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT) ENGINEERING SERVICES AGREEMENT WITH FREESE AND NICHOLS, INC. AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Tompkins to approve the above captioned agreement, seconded by Mayor Pro Tem Ornelas, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON THE INVESTMENT REPORT FOR THE QUARTER ENDING DECEMBER 31, 2021

Motion was made by Mayor Thomason to approve the above captioned report, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

COUNCIL INPUT

Councilmembers Hughes and McDonald thanked staff.

Councilmember Tompkins asked to revisit the City Master Plan at some point and expressed concerns regarding loose dogs and recommends that the Animal Control Department be separated from the Police Department.

Mayor Thomason gave a COVID update and strongly recommends that everyone keep taking precautions such as social distancing, wash hands, etc. Mayor Thomason also addressed the animal control issue and has a plan to renovate the old animal shelter to house more animals. Mayor Thomason closed by reminded everyone to help control the pet population by having their pets spayed or neutered.

ADJOURN

Mayor Thomason adjourned the meeting at 7:08 p.m.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED “ADMINISTRATION,” SECTION 2-196 “PAYMENT CARD FEES AND SERVICE CHARGES” BY ADDING A NEW SUBSECTION (c-2) ESTABLISHING THAT CARD REIMBURSEMENT FEES SHALL BE ENACTED BY OFFICIAL ACTION OF THE CITY COUNCIL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, City Council previously passed Ordinances 013-2020 and 001-2022 concerning payment card fees; and

WHEREAS, payment cards, as detailed in Ordinance 013-2020 and 001-2022, also include prepaid cards; and

WHEREAS, State law provides: “The governing body of a municipality shall set the reimbursement fee in an amount that is reasonably related to the expense incurred by the municipal official in processing the payment by credit card. However, the governing body may not set the fee authorized by this subsection in an amount that exceeds five percent of the amount of the fee, fine, court cost, or other charge being paid,” Section 132.003(b), Texas Local Government Code; and

WHEREAS, City Council finds it advisable to adopt the ordinance as provided below;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, THAT:

SECTION 1. Chapter 2, entitled “Administration,” Article V, “Finance,” Division 4, “Miscellaneous,” Section 2-196 “Payment card fees and service charges,” is hereby amended by adding a new subsection “c-2” to read as follows:

Sec. 2-196. Payment card fees and service charges.

...

(c) Amount of card reimbursement fee. Officials collecting payments for charges from members of the public shall ~~not~~ charge a card reimbursement fee if authorized by official action of City Council. ~~A card reimbursement fee shall not be charged to any customer that pays a charge via the Internet, online IVR (Interactive Voice Response) or a kiosk location.~~

(c-1) Subsection (c) shall not apply to fines, fees, and charges assessed by the Municipal Court. Officials of the Municipal Court shall charge a card reimbursement fee in an amount and under conditions as specified by the City Manager or by official action of City Council. This subsection will expire January 31, 2023 at 5:00 p.m.

...

NOTE* Language to be added appears underlined and language to be deleted is ~~stricken~~.

SECTION 2. Should any section, paragraph, sentence, clause, phrase, or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4. The City Secretary is hereby ordered and directed to cause the descriptive caption as well as the penalties for violation of this ordinance to be published as required by law.

SECTION 5. This ordinance shall take effect immediately after its publication in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **25th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the **8th** day of **February, 2022** with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING CHAPTER 32 OF THE BIG SPRING CITY CODE ENTITLED “LICENSES, TAXATION, AND MISCELLANEOUS BUSINESS REGULATIONS,” ARTICLE 5, SECTION 32-256 BY ADDING A NEW SUBSECTION (e) TO AUTHORIZE THE CITY MANAGER TO WAIVE FEES FOR PRODUCTIONS THAT ADVANCE A PUBLIC PURPOSE; AMENDING SECTION 32-258 TO CLARIFY APPLICATION REQUIREMENTS; AND BY ADDING A NEW SECTION 32-263 ENTITLED “LIMITATION OF PERMIT” TO PROHIBIT THE ISSUANCE OF PERMITS OTHERWISE ILLEGAL UNDER STATE OR FEDERAL LAW, INCLUDING FEDERAL AVIATION REGULATIONS ON DRONE OPERATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on occasion, the City of Big Spring and Big Spring Economic Development Corporation may coordinate with a commercial filming company to produce material for a public purpose; and

WHEREAS, the City Council finds it in the public interest to authorize the City Manager to waive permit fees associated with production of material that advances a public purpose;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, THAT:

SECTION 1. Big Spring City Code Chapter 32 entitled “Licenses, Taxation, and Miscellaneous Business Regulations,” Article VI “Commercial Filming Regulations,” Section 32-256 “City manager and staff authority” is hereby amended to add a new subsection “e” to read in its entirety as follows:

Sec. 32-256. – City manager and staff authority.

...

(e) The City Manager shall have the authority to waive a permit fee and/or insurance requirements under this Article for a filming project conducted for a public purpose. Such a waiver shall be issued on a signed document placed on file with the City Secretary.

SECTION 2. Big Spring City Code Chapter 32 entitled “Licenses, Taxation, and Miscellaneous Business Regulations,” Article VI “Commercial Filming Regulations,” Section 32-258 “Application fees and additional requirements,” subsection (a) is hereby amended to read as follows:

Sec. 32-258. - Application fees and additional requirements.

(a) Application for filming. Any commercial producer who desires to undertake a commercial production in Big Spring must complete and return the Application for Filming to the City of Big Spring Convention and Visitor's Bureau ~~within the time frames below:~~ ten (10) business days prior to the commencement of filming or any substantial activity related to the project.

~~(1) Commercials or episodic television: a minimum of ten business days prior to the commencement of filming or any substantial activity related to the project.~~

~~(2) Feature films: a minimum of ten business days prior to the commencement of filming or any substantial activity related to the project~~

...

SECTION 3. Big Spring City Code Chapter 32 entitled “Licenses, Taxation, and Miscellaneous Business Regulations,” Article VI “Commercial Filming Regulations,” to add a new Section 32-263 entitled “Limitation of permit,” to read in its entirety as follows:

Section 32-263. - Limitation of permit

The City shall not issue a permit under this Article that authorizes any action disallowed under state or federal law, including but not limited to federal regulation 14 CFR Part 107 - Small Unmanned Aircraft Systems, as amended, especially how it may relate to operations in close proximity to McMahan-Wrinkle Airport and Industrial Park.

NOTE* Language to be added appears underlined and language to be deleted is ~~stricken~~.

SECTION 4. Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 6. This Ordinance shall take effect immediately after passage in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 25th day of January, 2022 with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the **8th** day of **February, 2022** with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

RESOLUTION NO. _____

AN RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, CALLING FOR A GENERAL ELECTION TO BE HELD ON MAY 7, 2022 FOR THE PURPOSE OF ELECTING ONE PERSON TO SERVE AS MAYOR OF THE CITY OF BIG SPRING AND ONE PERSON TO SERVE AS CITY COUNCIL MEMBER FOR DISTRICT FIVE; PROVIDING FOR THE CONDUCT OF THE ELECTION; DESIGNATING SEVERAL POLLING PLACES WITHIN THE CITY; AUTHORIZING THE MAYOR TO EXECUTE NOTICE AND HAVE THE NOTICE POSTED FOR THE PURPOSE OF NOTIFYING THE PUBLIC OF SAID ELECTION; AND PROVIDING FOR SEVERABILITY.

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

SECTION 1. A General Election shall be held on the 7th day of May, 2022 for the purpose of electing of electing one person to serve as Mayor of the City of Big Spring and one person to serve as City Council Member for District Five in accordance with the constitution and laws of the State of Texas and the Charter of the City of Big Spring, Texas, and the manner of holding said election shall be governed by the laws of the State regulating general elections, the City Charter, and this Resolution.

SECTION 2. Each candidate shall make application in writing to the City Secretary for the candidate's name to appear on the official ballot no later than 5:00 p.m. of the sixty-second (62nd) before election day but no earlier than the thirtieth (30th) day before the date of the filing deadline, as required by sections 1.007 and 143.007 of the Texas Election Code. The application shall clearly designate the residence address of the candidate. Each candidate must reside in the city limits of the City of Big Spring. A candidate for Mayor may reside anywhere within the city limits of the City of Big Spring and shall have been a resident citizen of the City of Big Spring for a period of one (1) year immediately preceding the date of the election at required by Art. IV, Sec. 5 of the City Charter. A candidate for City Council District 5 must reside within District 5 and shall have been a resident citizen of the City of Big Spring (District 5) for a period of one (1) year immediately preceding the date of the election as required by Art. IV, Sec. 5 of the City Charter.

SECTION 3. Only qualified electors under the general laws of the state who reside in the City of Big Spring city limits shall be qualified to vote for the office of Mayor; and only qualified electors under the general laws of the state who reside in the City District Five (5) shall be qualified to vote for the office of District Five (5).

SECTION 4. Voting by personal appearance during early voting and on election day shall be by a ballot scanning system, DRE (Direct Recording Electronic) System for curbside voting and by official paper ballot for early voting by mail and for provisional ballots. Early voting by personal appearance will be conducted at Howard County Courthouse located at 300 S. Main.

Early voting will be held on weekdays beginning April 25, 2022 and ending May 3, 2022. The early voting polling place shall be open to the public from 7:00 a.m. to 7:00 p.m. on Monday, May 2, 2022 and Tuesday, May 3, 2022 and from 8:00 a.m. to 5:00 p.m. on all other days.

SECTION 5. The polling places on election day will be at the following vote center locations:

Dorothy Garrett Coliseum
1001 Birdwell Lane

Ryan Hall
605 North Main

First Baptist Church
705 W. FM 700

Coahoma Community Center
306 North Ave.
Coahoma, TX

The polling places shall be open to the public from 7:00 a.m. to 7:00 p.m.

SECTION 6. Mayor Shannon D. Thomason is hereby authorized to execute and have posted notice of said election in accordance with the law.

SECTION 7. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Resolution are severable and if any phrase, clause, sentence, paragraph or section be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, said unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Resolution.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **25th** day of **January, 2022**, with all members present voting “aye” for passage of same.

PASSED AND APPROVED on second and final reading at a special meeting of the City Council on the **8th** day of **February, 2022**, with all members present voting “aye” for passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary



Purchasing and Material Control Memorandum

To: City Council, City Manager and Assistant City Manager

From: Albert Belez, Purchasing Agent

Date: January 26, 2022

On January 24, 2022, at the request of City of Big Spring's Sanitation Department, the City's Purchasing department requested bids on 10 (ten) 30-yard trash containers. The Purchasing Department received bids from 3 (three) vendors. The lowest quote is in the amount of \$71,256 and was submitted by Roll-Offs USA of Durant, OK.

NOTE: Roll-Off USA's quote is \$ 21,714 lower than the highest submitted bid and \$ 8,930 lower than the second lowest submitted bid.

A bid tabulation is included in this memo for your review.

10- 30 YARD CONTAINERS BID TABULATION

COMPANY NAME	LOCATION	QUOTED PRICE/ EA	SHIPPING COST	OVERALL TOTAL
ROLL-OFFS USA	DURANT, OK	\$ 6,900	\$ 2,256	\$ 71,256
WASTEQUIP	BEEVILLE, TX	\$ 7,655	\$ 3,636	\$ 80,186
BOX GANG MANUFACTURING	HOUSTON, TX	\$ 8,652	\$ 6,450	\$ 92,970



Memorandum

To: Honorable Mayor, City Council, City Manager

From: Sandy Smith, Finance Director

Date: February 4, 2022

Subject: Notice of Change in Lease Purchase Financing for Capital Items

On Tuesday, January 11, 2022, the City Council passed a resolution approving the Lease Purchase Financing through US Bank for a total of \$603,000. Included in the \$603,000 was a sanitation truck in the amount of \$350,000. We found out that because of supply chain issues, orders for the truck chassis from Rush Manufacturing have been pushed to July 2023, and we have not been able to get a time for the building of the unit body from SEC. The finance companies could not extend the leasing for that long, and they were not interested in financing the remaining package unless the interest rate was increased.

The staff recommendation is to reject all bids and bring budget amendments and purchase recommendations to the Council at the next scheduled meeting.

The table below shows the budgeted purchases originally intended for the Lease Financing:

Description	Qty.	Estimated Cost
Batwing Mower (Streets)	1	40,000
Zero Turn Mower (Parks)	1	15,000
Toro 3300 Greens master Greens Mower (Golf Course)	1	44,000
Utility Gator (Wastewater)	1	14,000
Trailer 6" Diesel Pump (Wastewater)	1	65,000
Netting around Landfill (Landfill)	1	75,000
Sanitation Truck Multi Pack (Sanitation)	1	350,000

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF BIG SPRING CONSENTING TO THE CITY ATTORNEY ACTING AS AN INTERMEDIARY BETWEEN THE CITY OF BIG SPRING AND THE BIG SPRING HOUSING AUTHORITY FOR THE SOLE PURPOSES OF NEGOTIATING A LEASE OF REAL PROPERTY FROM THE CITY OF BIG SPRING TO THE BIG SPRING HOUSING AUTHORITY FOR AN OFFICE FOR THE BIG SPRING HOUSING AUTHORITY, ADVISING THE CITY AND THE HOUSING AUTHORITY AS TO SAID LEASE, AND NEGOTIATING ONE OR MORE AGREEMENTS BETWEEN THE CITY OF BIG SPRING AND THE HOUSING AUTHORITY OF BIG SPRING, AND PROVIDING AN EFFECTIVE DATE, AND DECLARING AN EMERGENCY

WHEREAS, The City Attorney is the attorney for the City of Big Spring and the client of the City Attorney is the City of Big Spring; and

WHEREAS, Under state law, the Big Spring Housing Authority “may request legal services from the municipal attorney, or it may employ its own counsel and staff,” Section 392.040, Texas Local Government Code, and therefore the City Attorney may have as a client the Big Spring Housing Authority; and

WHEREAS, The Big Spring Housing Authority has requested legal services from the City Attorney; and

WHEREAS, Under the rules governing Texas lawyers, a lawyer may act as an intermediary between clients only under certain conditions, including that the client consent be in writing, Rule 1.07, Texas Disciplinary Rules of Professional Conduct; and

WHEREAS, The Big Spring Housing Authority and the City of Big Spring may wish to contemplate a lease of real property from the City to the Housing Authority for the purposes of establishing an office for the Housing Authority; and

WHEREAS, The City of Big Spring and the Big Spring Housing Authority may wish to negotiate or renegotiate their Cooperation Agreement as stated in City Council Resolution 20-1998; and

WHEREAS, The Big Spring Housing Authority has been told to vacate its current premises on or before February 23, 2022, therefore it desires to move into a new office and be operational by that date, and therefore time is of the essence and City Council hereby considers this as an emergency measure, so as to not require two readings before the resolution is adopted; and

WHEREAS, The City Attorney has advised the City Council and City Council acknowledges the receipt of this advice that the implications of this Resolution would allow the

City Attorney and the Big Spring Housing Authority to be represented by the City Attorney at the same time for the said purposes, and the City Attorney's normal role of partisanship for the City of Big Spring would not be in effect for the said purposes—and that if the City and/or the Housing Authority believe at any time that the interests of one is adverse to the other, or if City must keep information regarding the said purposes confidential from the Housing Authority, or if litigation arises between the City and the Housing Authority, and/or if City Council wishes to withdraw its consent under this Resolution, City Council may do so by an official motion or resolution;

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

SECTION 1: City Council consents to the City Attorney to act as intermediary between the City of Big Spring and the Big Spring Housing Authority for the sole purposes of (1) negotiating a lease of real property for an office from the City of Big Spring to the Big Spring Housing Authority, (2) advising the City of Big Spring and the Housing Authority as to said lease, and (3) negotiating one or more agreements between the City of Big Spring and the Big Spring Housing Authority, so long as each of the following conditions are met.

(a) The City Attorney shall consult with each client concerning the implications of the common representation, including the advantages and risks involved, and the effect on the attorney-client privileges, and obtain each client's written consent to the common representation, and this Resolution constitutes the City of Big Spring's consent.

(b) The City Attorney reasonably believes that the matter can be resolved without the necessity of contested litigation on terms compatible with the client's best interests, that each client will be able to make adequately informed decisions in the matter and that there is little risk of material prejudice to the interests of any of the clients if the contemplated resolution is unsuccessful.

(c) The City Attorney reasonably believes that the common representation can be undertaken impartially and without improper effect on other responsibilities the City Attorney has to any of the clients.

(d) While acting as intermediary, the City Attorney shall consult with each client concerning the decision to be made and the considerations relevant in making them, so that each client can make adequately informed decisions.

(e) The City Attorney shall withdraw as intermediary if either of the clients so officially requests, or if any of the conditions stated in paragraph (a) is no longer satisfied. Upon withdrawal, the City Attorney shall not continue to represent any of the clients in the matter that was the subject of the intermediation, but may otherwise continue to represent the clients.

SECTION 2. Should City Council wish to withdraw its consent under this Resolution, it may do so by an official motion or resolution.

SECTION 3. This Resolution shall become effective immediately upon its passage.

SECTION 4. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 5. The City Council finds that the passage of this resolution constitutes an emergency and an imperative public necessity that the Charter Rule requiring that City resolutions must be read at two separate meetings of the City Council be suspended and said rule is hereby suspended, and this resolution shall be effective upon its publication as required by law.

PASSED AND APPROVED on emergency reading at a regular meeting of the City Council on the **8th** day of **February, 2022,** with all members present voting “aye” for passage of the same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING ORDINANCE NUMBER 039-2021 WHICH ADOPTED THE ANNUAL BUDGET FOR THE CITY OF BIG SPRING, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022 BY INCREASING THE GENERAL FUND BUDGET BY ACCEPTING A DONATION TO BE USED FOR ADDITIONAL EQUIPMENT FOR THE FIRE DEPARTMENT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City Council adopted the annual 2021-22 budget for the City of Big Spring, Texas on September 28, 2021 (“Budget”); and

WHEREAS a donation has been received from Oxy Petroleum Corporation to be used for additional equipment which was not included in such Budget; and

WHEREAS the City Manager and Fire Chief recommend that the City Council accept this donation and amend the Budget previously approved; and

WHEREAS the City Council desires to accept the donation from Oxy Petroleum Corporation and to designate the funds for the purchase of additional equipment for the Fire Department.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AS FOLLOWS:

SECTION 1. The General Fund Budget of the Annual Budget for the City of Big Spring, Texas for the Fiscal Year beginning October 1, 2021 and ending September 30, 2022 is hereby increased by the amount of \$10,000.00 from the revenue account number 002-4925 and to the expense account number 002-012-210-5117 for the purpose of purchasing additional equipment within the Fire Department.

SECTION 2. The remaining portions of Ordinance Number 039-2021 shall remain in full force and effect.

SECTION 3. Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 5. The City Secretary is hereby authorized and directed to cause the publication of this ordinance in accordance with law.

SECTION 6. This ordinance shall be in full force and effective from and after its publication as required by law.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 8th day of February, 2022 with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second reading at a regular meeting of the City Council on the 22nd day of February, 2022 with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING ORDINANCE NUMBER 039-2021 WHICH ADOPTED THE ANNUAL BUDGET FOR THE CITY OF BIG SPRING, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022; TRANSFERRING FUNDS WITHIN THE SANITATION DEPARTMENT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City Council adopted the annual 2021-22 budget for the City of Big Spring, Texas on September 28, 2021 (“Budget”); and

WHEREAS the increased price of each container will classify it as a capital expense and was not included in such Budget; and

WHEREAS the City Manager and Finance Director recommend that the City Council transfer the amount from an expense account to a capital account and amend the Budget previously approved; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AS FOLLOWS:

SECTION 1. The General Fund Budget of the Annual Budget for the City of Big Spring, Texas for the Fiscal Year beginning October 1, 2021 and ending September 30, 2022 is hereby increasing the amount of \$80,000.00 to the capital account number 445-025-330-6312 and decreasing the same amount in the expense account number 445-025-330-5123.

SECTION 2. The remaining portions of Ordinance Number 039-2021 shall remain in full force and effect.

SECTION 3. Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose, the reminder of this ordinance shall not be affected thereby.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 5. The City Secretary is hereby authorized and directed to cause the publication of this ordinance in accordance with law.

SECTION 6. This ordinance shall be in full force and effective from and after its publication as required by law.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 8th day of February, 2022 with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second reading at a regular meeting of the City Council on the 22nd day of February, 2022 with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED “ADMINISTRATION,” ARTICLE VII “BOARDS AND COMMISSIONS,” DIVISION “ZONING BOARD OF ADJUSTMENT,” SECTION 2-314 “ORGANIZATION AND PROCEDURE” TO CREATE SEVEN ALTERNATE BOARD POSITIONS FOR THE ZONING BOARD OF ADJUSTMENT; REQUIRING THAT EACH MEMBER POSSESS THE SAME QUALIFICATIONS AS REGULAR BOARD MEMBERS; AND ESTABLISHING REQUIREMENTS UNDER WHICH ALTERNATE MEMBERS SHALL SERVE IN PLACE OF A REGULAR BOARD MEMBER; PROVIDING FOR REMOVAL OF ALTERNATE MEMBERS FOR JUST CAUSE AFTER A PUBLIC HEARING; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, City Council, being the governing body of the City of Big Spring, has delegated to the Zoning Board of Adjustment the duty of hearing and deciding zoning adjustments and appeals for the City under Section 2-314, Big Spring City Code and Section 5-2, Zoning Ordinance; and

WHEREAS, By state law, a member of the body that hears and decides zoning adjustments and appeals may only be removed for cause, Section 211.008(b), Texas Local Government Code; and

WHEREAS, The Texas Legislature has enacted a statute allowing for the appointment of alternate members to the board that hears and decides zoning adjustments and appeals as follows, “The governing body, by charter or ordinance, may provide for the appointment of alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members,” Section 211.008(c), Texas Local Government Code; and

WHEREAS, City Council finds that a need exists to appoint alternate members of the Zoning Board of Adjustment to facilitate the Board’s ability to meet regularly while honoring the representation of the Board membership by City Council District and the at-large Member nominated by the Mayor;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, THAT:

SECTION 1. Big Spring City Code, Chapter 2 entitled “Administration,” Article VII entitled “Boards and Commissions,” Division 9, “Zoning Board of Adjustment,” Section 2-314 entitled “Organization and Procedure” is hereby amended to add new subsections (d), (e), and (f) to read in their entirety as follows:

Section 2-314.

...

(d) There shall be seven alternate members for the Zoning Board of Adjustment. Each alternate member shall be nominated and appointed in the same manner as a regular member. An alternate member is subject to the same eligibility requirements as a regular member. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

(e) An alternate member of the Zoning Board of Adjustment shall only serve in the place of a regular member upon:

(1) the absence of the regular member of the Board who was nominated from the same Council Member seat as was the alternate, and

(2) the request of the Mayor or the City Manager.

(f) A regular or alternate member of the Zoning Board of Adjustment may only be removed for cause, as found by City Council, on a written charge after a public hearing.

NOTE* Language to be added appears underlined and language to be deleted is ~~stricken~~.

SECTION 2. Should any section, paragraph, sentence, clause, phrase, or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4. This Ordinance shall take effect immediately after passage in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **8th** day of **February, 2022** with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 22nd day of February, 2022 with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING AMENDING CHAPTER 40 OF THE BIG SPRING CITY CODE ENTITLED "PARKS, RECREATION, AND CULTURAL AFFAIRS," ARTICLE II, "PARKS AND RECREATION FACILITIES," DIVISION 2, "PAVILION AREAS," BY ADDING A NEW SECTION 40-54 ENTITLED "STEWART PAVILION" TO RENAME "BUFFALO PAVILION," ALSO KNOWN AS "2ND PAVILION," TO "STEWART PAVILION" IN HONOR OF HOWARD AND VICKI STEWART; AMENDING SECTION 40-58 "USE OF FACILITIES; UNUSUAL NOISE, ETC." FOR CONSISTENCY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds it to be in the best interest of the citizens of the city to provide for the proper designation of the Comanche Trail Park facilities; and

WHEREAS, Howard and Vicki Stewart dedicated themselves to putting community first which is exemplified by their years of volunteering to multiple organizations including the Trail of Lights program within Comanche Trail Park; and

WHEREAS, Howard and Vicki Stewart put many volunteer hours into multiple worthy programs to help others but dedicated most of their spare time from October through January to the Trail of Lights; and

WHEREAS, Howard Stewart was Golf Course Superintendent for the City of Big Spring for his last two years at the Comanche Trail Golf Course during the day and gave his free time in the evenings and on weekends to the Trail of Lights; and

WHEREAS, Howard Stewart served the City of Big Spring as a Member of City Council from 2017 to 2019; and

WHEREAS, the City of Big Spring, City Council, City Administration, City Staff, and citizens of the community stand and recognize the community service of Howard and Vicky Stewart in their lifetime and posthumously recognize the community support that Howard and Vicki Stewart performed in their lifetime and show their appreciation through renaming 2nd Pavilion/Buffalo Pavilion to the Stewart Pavilion in honor of Howard and Vicki Stewart;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AS FOLLOWS, THAT:

SECTION 1. Chapter 40 of the Big Spring City Code entitled "Parks and Recreation Facilities," Division II "Pavilion Areas," is hereby amended to add a new Section 40-54 entitled "Stewart Pavilion" to read in its entirety as follows:

Sec. 40-54. - Stewart Pavilion.

The Comanche Trail Park Pavilion known as “Buffalo Pavilion” or “2nd Pavilion” is hereby renamed to “Stewart Pavilion” in memoriam of Harold and Vicki Stewart.

SECTION 2. Chapter 40 of the Big Spring City Code entitled “Parks and Recreation Facilities,” Article II, Division 2, Section 40-58 “Use of Facilities” is hereby amended to read as follows:

Sec. 40-58. - Use of facilities; unusual noise, etc.

It shall be unlawful for any occupant of any rented city pavilion to fail to yield and vacate said pavilion, its immediate environs and appurtenant facilities, upon request of a person or group having a bona fide reservation provided for in this division. No person may interfere with the peaceable enjoyment of the pavilion facilities by the person or group having reserved the same. Furthermore, persons using first come, first served city pavilions such as Cactus Pavilion and ~~Buffalo~~ Stewart Pavilion shall be subject to the same rules and terms of use as reservable city pavilions.

NOTE* Language to be added appears underlined and language to be deleted is ~~stricken~~.

SECTION 3. Should any section, paragraph, sentence, clause, phrase, or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 5. This Ordinance shall take effect immediately after passage in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 8th day of February, 2022 with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 22nd day of February, 2022 with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

NOTICE OF CONFIDENTIALITY RIGHTS: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

PUBLIC WATER LINES EASEMENT

Date: January 11th, 20 22

Grantor: Enrique Guerra

Grantor's Address: 1409 Harding St.
Big Spring, Texas, Howard County, 79720

City: **CITY OF BIG SPRING, TEXAS**, a Texas home-rule municipality situated in Howard County

City's Address: 310 Nolan Street
Big Spring, TX 79720

Easement Tract: All that parcel of land situated in Howard County, Texas, described in the attached **Exhibit A**

Easement Duration: Perpetual

Easement Purpose: To access, install, construct, operate, use, maintain, repair, modify, upgrade, monitor, inspect, replace, make connections with, remove, and decommission the Facilities

Facilities: Raw, reclaimed, and potable water lines with all associated appurtenances

Permitted Encumbrances: Any easements, liens, encumbrances, and other matters not subordinated to the Easement Tract and of record in the Real Property Records of the Texas county in which the Easement Tract is located that are valid, existing, and affect the Easement Tract as of the Date

Non-Permitted Activity: Installation, construction, operation, use, maintenance, repair, modification, upgrade, and replacement of any structure, building, retaining wall, detention or water quality control, rainwater harvesting system, tree, or other similar improvement in the Easement Tract

Repairable Improvements: Irrigation systems which are installed perpendicular to the Facilities, asphalt or concrete walkways, driveways, parking areas, and access roads at grade level, and barbed-wire, chain-link, or wooden fences which are installed parallel to the Facilities that do not interfere in any material way or are not inconsistent with the rights granted the City under this Easement for the Easement Purpose as determined by the City in its reasonable discretion

Grantor, **GRANTS AND CONVEYS** to the City a non-exclusive easement in, over, under, on, and across the Easement Tract for the Easement Purpose as may be necessary or desirable subject to the Permitted Encumbrances, together with (i) the right of ingress and egress at all times over, on, and across the Easement Tract for use of the Easement Tract for the Easement Purpose, (ii) the right to eliminate any encroachments in the Easement Tract that interfere in any material way or are inconsistent with the rights granted the City under this instrument for the Easement Purpose as determined by the City in its reasonable discretion, and (iii) any and all rights and appurtenances pertaining to use of the Easement Tract (collectively, the "**Easement**").

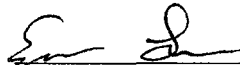
TO HAVE AND TO HOLD the Easement to the City and City's successors and assigns for the Easement Duration and Easement Purpose; provided, however, Grantor reserves the right to enter upon and use any portion of the Easement Tract, but in no event shall Grantor enter upon or use any portion of the Easement Tract for any Non-Permitted Activity or in any other manner that interferes in any material way or is inconsistent with the rights granted the City under this Easement for the Easement Purpose as determined by City in its reasonable discretion. City shall be obligated to restore or replace to a good and functioning condition as determined by the City in its reasonable discretion only the Repairable Improvements which have been removed, relocated, altered, damaged, or destroyed as a result of City's use of the Easement Tract.

Grantor binds Grantor and Grantor's heirs, successors, and assigns to **WARRANT AND FOREVER DEFEND** the title to the Easement, subject to the Permitted Encumbrances, to the City against every person whomsoever lawfully claiming or to claim the Easement Tract or any part of the Easement Tract when the claim is by, through, or under Grantor, but not otherwise.

Except where the context otherwise requires, *Grantor* includes *Grantor's heirs, successors, and assigns* and *City* includes *City's employees, agents, consultants, contractors, successors, and assigns*; and where the context requires, singular nouns and pronouns include the plural.

Executed effective the Date first above stated.

GRANTOR:

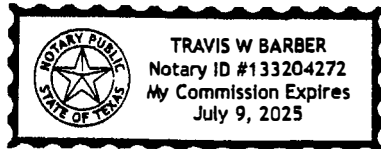
By: 
Name: Enrique Guerra

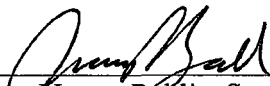
STATE OF TEXAS §
 §
COUNTY OF HOWARD §

Before me, the undersigned notary, on this day personally appeared ENRIQUE GUERRA, known to me through valid identification to be the person whose name is subscribed to the preceding instrument and acknowledged to me that the person executed the instrument in the person's official capacity for the purposes and consideration expressed in the instrument.

Given under my hand and seal of office on JANUARY 11TH 2022.

[Seal]



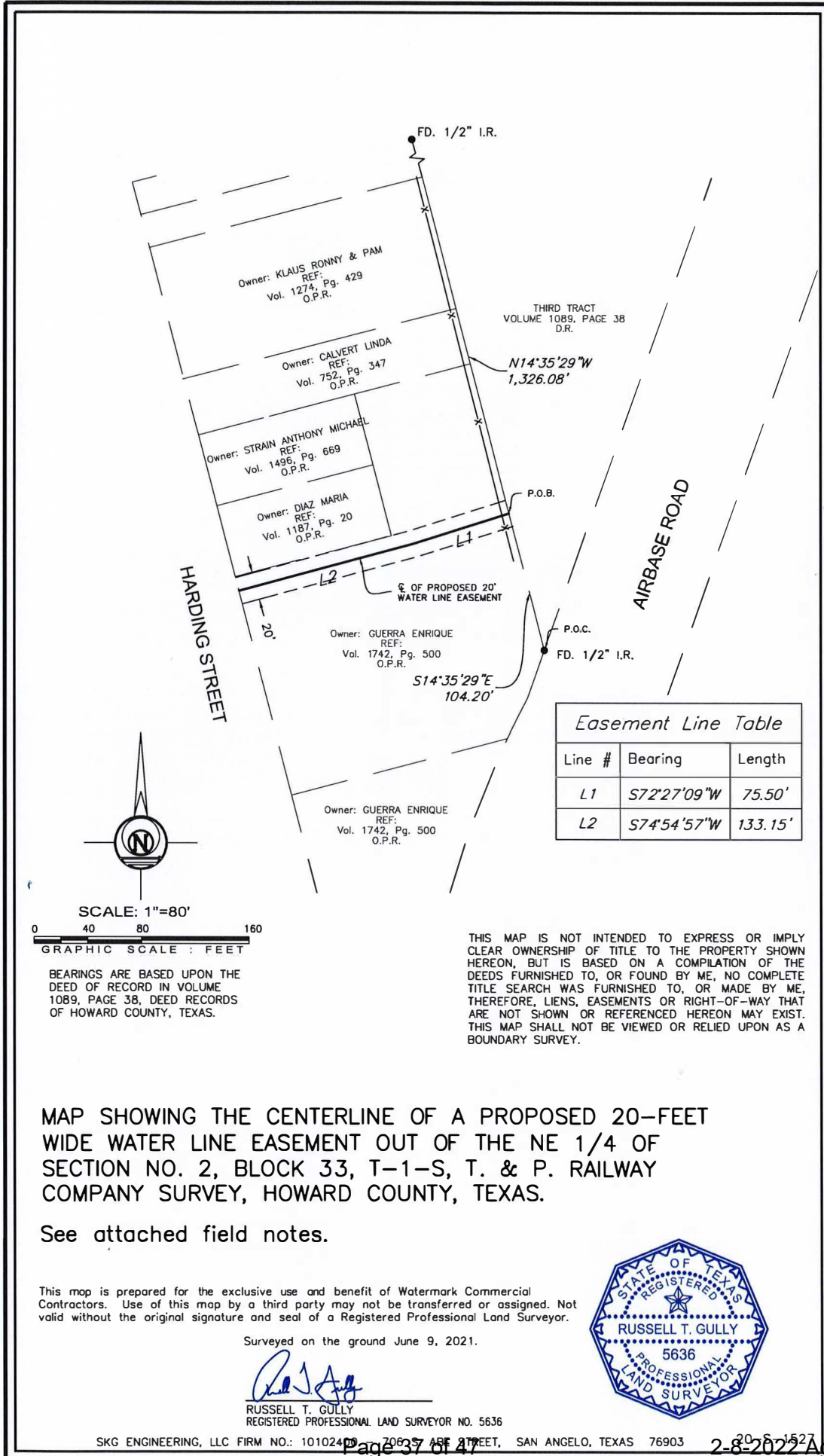

Notary Public, State of TEXAS

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**APPROVED AS TO FORM:
CITY OF BIG SPRING, TEXAS**

By: _____
Name: _____
Title: _____

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FIELD NOTES

20' Water Line Easement

December 6, 2021
20-S-1527_EASerev

Being a 20 feet wide water line easement out of the northeast quarter of Section No. 2, Block 33, T-1-S, T. & P. Railway Company Survey, Howard County, Texas and the center line of said water line easement being more particularly described by metes and bounds as follows:

Commencing at a ½” iron rod found for the south corner of that certain 'Third Tract' described and recorded in Volume 1089, Page 38, Deed Records of Howard County, Texas and also being the east corner of that certain Enrique Guerra tract of land described and recorded in Volume 1742, Page 500, Official Public Records of Howard County, Texas, and being in the west line of Airbase Road;

Thence with the west line of said “Third Tract” and the east line of said Guerra tract, N. 14° 35' 29" E. 104.20 feet to the Point of Beginning for this easement from which a ½” iron rod found for the northwest corner of said same 'Third Tract' bears N. 14° 35' 29" W. 1,326.08 feet;

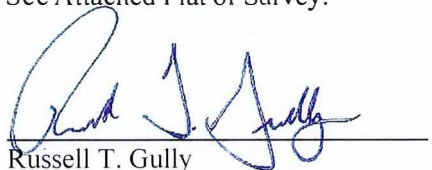
Thence with the centerline of this easement across said Guerra tract as follows:

S. 72° 27 ' 09" W. 75.50 feet to a point;

S. 74° 54' 57" W. 133.15 feet to a point in the west line of said Guerra tract and the east line of Harding Street for the end of this easement in all a total distance of 208.65 feet.

Bearings recited heron are based on Texas Coordinate System NAD83 – Texas North Central Zone by GPS observation.

See Attached Plat of Survey.



Russell T. Gully
Registered Professional Land Surveyor No. 5636
SKG Engineering, LLC
Firm No. 10102400



**INTERLOCAL GOVERNMENTAL COOPERATION CONTRACT
FOR ADMINISTRATIVE SERVICES**

**STATE OF TEXAS
COUNTY OF LUBBOCK**

AGREEMENT:

This Agreement is made and entered into this ___ day of ___, 2022 by and between the City of Big Spring, Texas, hereinafter referred to as "City", and the South Plains Association of Governments, hereinafter referred to as "SPAG", a political subdivision under Chapter 391 of the Texas Local Government Code, acting by and through its duly authorized executive officer.

WHEREAS, both "City" and "SPAG" are local governments as defined by Chapter 791 of the Texas Government Code, and this contract is made and executed under provisions of said chapter, which is commonly known as the Interlocal Cooperation Act; and,

WHEREAS, SPAG has professional administrative services expertise useful to Big Spring and desires to make such services available under the following terms and conditions;

NOW, in consideration of the mutual covenants and promises herein contained, the parties agree as follows:

SPAG agrees to provide certain administrative services, as described in Sections 1, 2, 3, 4, 5, 6, and 7 of this agreement, for the City of Big Spring, pursuant to the receipt by the City of a Texas Capital Fund Downtown Revitalization Program contract from the Texas Department of Agriculture (TDA). In consideration for administrative services described herein, the City agrees to pay SPAG as described in Section 8 of this agreement.

SCOPE OF WORK:

SECTION 1. PROGRAM SET-UP

- 1.01 Provide general advice with respect to the implementation of the project and regulatory matters.
- 1.02 Furnish necessary forms and procedures for implementation of the project.
- 1.03 Provide technical assistance for the routine tasks to City personnel who will be directly involved in the program.
- 1.04 Assist the City in developing a record keeping system consistent with program guidelines, including the establishment and maintenance of program files.
- 1.05 Serve as liaison for the City during any monitoring visits by staff representatives of either the Texas Department of Agriculture (TDA) or the U. S. Department of Housing and Urban Development (HUD).
- 1.06 Assist the City in meeting all special condition requirements.
- 1.07 Prepare and submit to TDA all required periodic progress reports and compliance reports.

- 1.08 Assist the City in meeting citizen participation requirements, fair housing, civil rights and personnel requirements which may be qualifying factors for participation in the Downtown Revitalization Program (DRP).

SECTION 2. FINANCIAL MANAGEMENT

- 2.01 Assist the City in documenting its ability to manage grant funds as required by the state.
- 2.02 Assist the City in establishing and maintaining separate bank accounts, journals, and ledgers as necessary for this project.
- 2.03 Assist the City in submitting the required depository and signature forms to TDA.
- 2.04 Assist the City in preparation and submission of requests for payment of funds by TDA.
- 2.05 Assist the City in establishing procedures to handle the use of any DRP program income.

SECTION 3. ENVIRONMENTAL REVIEW

- 3.01 Prepare an environmental assessment of the project.
- 3.02 Coordinate environmental clearance procedures with state and local officials and other interested parties.
- 3.03 Document environmental comments.
- 3.04 Prepare any required environmental reassessment.
- 3.05 Prepare request for release of funds and certifications.

SECTION 4. ACQUISITION

- 4.01 Prepare required acquisition report(s), if any, on behalf of the City.
- 4.02 Assist the City in determining the necessary documentation of ownership of City-owned real estate, rights-of-way, easements, or other real property rights, if any, which may be required by the state.
- 4.03 Assist the City with acquisition of real property or the rights of use to real property.
- 4.04 Maintain separate files for each parcel of real property acquired.

SECTION 5. LABOR STANDARDS

- 5.01 Assist the City in determining how much, if any, of the TDA contract activities will be carried out, in whole or part, by force account labor.
- 5.02 Assist the City in determining the necessity for hiring any temporary employees to carry out DRP contract activities.

- 5.03 Assist the City in maintaining adequate documentation of personnel, equipment, and materials used in the project and of related costs.
- 5.04 Assist the City in documenting compliance with federal and state requirements for equal employment opportunity.
- 5.05 Assist the City in documenting compliance with minimum wage and overtime requirements.
- 5.06 Act as local labor standards officer, when needed.
- 5.07 Request wage rates from state, when necessary.
- 5.08 Obtain state verifications of construction contractor eligibility.
- 5.09 Submit Notice of Start of Construction, Notice to Proceed, Final Wage Compliance Report and other applicable labor standards reports.
- 5.10 Attend pre-construction conference and prepare minutes (as needed).
- 5.11 Review weekly contractor payrolls and conduct compliance activities.
- 5.12 Conduct construction employee interviews.
- 5.13 Maintain monthly employee utilization reports as required.

SECTION 6. EQUAL OPPORTUNITY

- 6.01 Assist the City in developing, implementing and documenting fair housing activities.
- 6.02 Maintain documentation of project beneficiaries as required.
- 6.03 Prepare work write-ups and cost estimates, when appropriate.
- 6.04 Conduct inspections and process final contract documents as required.

SECTION 7. PROJECT AUDIT/CLOSE-OUT

- 7.01 Prepare Project Completion Report, Minority Business Enterprise Report, Monthly Employee Utilization Report, documentation of fair housing activities, and Certificate of Expenditures and other applicable closeout paperwork.
- 7.02 Assist the City in responding to any monitoring findings in connection with inspections and project reviews by the state.
- 7.03 Assist the City in resolving any third-party claims.
- 7.04 Provide the City's auditor with DRP audit guidelines when needed.
- 7.05 SPAG shall not be financially responsible for any audit findings or for payment for an audit.

PAYMENT SCHEDULE:

SECTION 8. PAYMENT SCHEDULE

8.01 Big Spring agrees to pay SPAG \$30,000 under the following schedule:

1)	Establishment of Record Keeping System	22.5%
2)	Completion of Environmental Review	22.5%
3)	Completion of Bid/Contract Award Process	22.5%
4)	Labor Standards Compliance/Completion of Construction	22.5%
5)	Filing of all Required Closeout Information	<u>10%</u>
	TOTAL	100%

8.02 Big Spring shall receive funds from the Texas Department of Agriculture pertaining to this project and shall be responsible for the deposit, disbursement, and management of such funds.

8.03 Funds awarded to SPAG by Big Spring under the terms of this agreement are authorized under the provisions of the State of Texas Professional Services Procurement Act, Texas Government Code, Chapter 2254, Subchapter A, "Professional Services".

TERMS AND CONDITIONS:

SECTION 9. ADDITIONAL SPAG OBLIGATIONS

9.01 During the performance of this agreement, SPAG agrees as follows:

- A. SPAG will not discriminate against any employee or applicant for employment because of national origin, religion, race, creed, sex, familial status, or gender. SPAG will take affirmative action to ensure that applicants are employed and during the course of employment, are treated without regard to national origin, race, religion, creed, sex, familial status or gender. The actions will include, but are not necessarily limited to, employment up-grading, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- B. When soliciting or advertising for employees, SPAG will clearly state that all qualified applicants will receive consideration for employment without regard to race, religion, creed, sex, or national origin.
- C. SPAG will furnish all information and reports of Executive Order 11246 of September 24, 1965, and by the rules, regulations, and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, accounts, and records by Big Spring and the Secretary of Labor for the purposes of investigation to ascertain with such rules, regulations and orders.

- D. If the Secretary of Labor determines that SPAG does not comply with rules, regulations, or orders issued by the Secretary, this agreement may be cancelled, terminated or suspended, in whole or in part, and SPAG may be declared ineligible for further participation in government contracts under provisions of Executive Order #11246 of September 24, 1965, or by rules otherwise provided by law.

SECTION 10. CIVIL RIGHTS ACT OF 1964.

10.01 During the performance of this Agreement, SPAG agrees to the following:

- A. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of national origin, race, religion, creed, sex, familial status, or gender, be excluded from participation in, be denied benefits of, or be subjected to, discrimination under any program or activity receiving federal financial assistance.

SECTION 11. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

11.01 During the performance of this Agreement, SPAG agrees as follows:

- A. No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under: *“Section 3” Compliance in the Provision of Training, Employment and Business Opportunity.*
- B. The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development Act of 1968, as amended, [12 U.S.C., 1701u.] Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.
- C. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD issued prior to execution of this contract. The parties to this Agreement certify and agree that they are under no contractual or other disability which prevents them from complying with these requirements.
- D. The Contractor will send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other contract of understanding, if any, a notice advising the labor organization or workers’ representative of contractor’s commitments under the Section 3 clause, and shall furnish Big Spring copies of the notice in places available to employees and applicants for employment or training.
- E. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or

recipient of, federal financial assistance, take appropriate action pursuant to the subcontract upon finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR, Part 135. The Contractor will not subcontract with any person or business when the contractor has notice or knowledge that the subcontractor has been found in violation of regulations under 24 CFR Part 135.

- F. Compliance with the provisions of Section 3 and the regulations set forth in 24 CFR Part 135, and applicable rules and orders of HUD issued prior to execution of the contract shall be on the condition of the federal financial assistance provided to the project and shall be binding on the applicant or recipient for such assistance, its successors and assignees. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors or assignees, to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

SECTION 12. PERIOD OF AGREEMENT, AGREEMENT TERMINATION, CONTRACT REPRESENTATIVE, AND PROCEDURE FOR AMENDING

- 12.01 Both parties agree that it is intended that all performances under this agreement are to be accomplished within two years of the date of its execution unless amended by mutual agreement of the parties. In any event, it is agreed and understood that SPAG shall be paid for performance rendered under this agreement.
- 12.02 This agreement may be terminated by either party upon thirty (30) days' notice in writing by one party to the other. Upon such termination, if any, SPAG shall be paid any outstanding sums due SPAG within thirty (30) days of termination.
- 12.03 It is further understood and agreed by the parties that SPAG is not responsible or liable to third parties for performance or non-performance by Big Spring under terms of this agreement as allowed by the laws and constitution of the State of Texas.
- 12.04 SPAG designates as its Contract Representative with Big Spring, its Executive Director. All communications relating to this Agreement should be addressed and directed to the Executive Director, or to a designee expressly named by the Executive Director.
- 12.05 It is understood and agreed by the parties, that each is contracting independently; and that nothing contained herein shall be construed as giving rise to or creating partnership, joint venture, or employer/employee relationship.
- 12.06 It is further understood and agreed, by all parties, that should either party breach the terms of this Agreement, the only remedy shall be termination of the Agreement in accordance with provisions of Section 12 of this Agreement.
- 12.07 Either party may, from time to time, request changes in the scope of the services to be performed. Such changes, including any increase or decrease in the amount of compensation to SPAG, shall be mutually agreed upon by both

parties and shall be incorporated herein by a written amendment to this Contract.

SECTION 13. INTEREST OF THE PARTIES

- 13.01 No member of the governing body of Big Spring and no other officer, employee, agent, or public official, who exercises any function or responsibility in connection with the planning or completion of the Downtown Revitalization project has or shall have any personal financial interest, direct or indirect, in this contract or the work performed thereunder.
- 13.02 SPAG covenants that neither it nor any of its officers, directors, employees or agents has any financial interest in the project. SPAG further covenants that neither it nor any of its officers, directors, employees or agents shall acquire any interest, either direct or indirect, in the study area or any parcel therein, or any other interest which would conflict in any manner or degree with the performance of its services hereunder. SPAG further covenants that no person having any conflicting interest shall be employed for performance of its services under terms of this Agreement.
- 13.03 No person who is an employee, agent, officer, or official of SPAG who exercises or have exercised any functions or responsibilities with respect to the activities assisted under this contract who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, have an interest in or benefit from the activity or have any interest in any contract, subcontract or agreement with respect to the activities or the proceeds either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter.
- 13.04 Local Program Liaison: The City of Big Spring has designated the City Manager and Assitant City Manager to be the primary contact for SPAG in all matters concerning this grant and interlocal agreement.

SECTION 14. MISCELLANEOUS

- 14.01 SPAG shall give the United States Department of Housing and Urban Development (HUD), the Inspector General of the U.S., the Comptroller of the Currency, the Comptroller General of the United States, the Auditor of the State of Texas, the Office or Rural Community Affairs (TDA), or the General Accounting Office or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things, or property belonging to or in use by SPAG pertaining to this contract and the resulting project. Such rights to access shall continue as long as the records are retained by SPAG. SPAG agrees to maintain such records in an accessible location and to provide reasonable access to such records consistent with the Texas Public Information Act.
- 14.02 The party's signatory on behalf of SPAG and on behalf of Big Spring, respectively, do individually hereby certify that each is authorized to execute this agreement on behalf of each respective organization.

- 14.03 This agreement constitutes the entire agreement between the parties relating to the rights granted and the responsibilities assumed.
- 14.04 Should any deviation occur from any of the requirements of this Agreement or the Texas Community Block Development Grant contract, known to SPAG, or which becomes known to SPAG, then SPAG shall immediately inform Big Spring in writing.
- 14.05 SPAG shall maintain fiscal records and supporting documentation for all expenditures of contract funds pursuant to OMB Circular A-87. SPAG shall retain these records and supporting documentation for the greater of three years from completion of this project.
- 14.6 SPAG and the City of Big Spring will work along with TDA and other parties to the grant (Example: Engineer, contractor, material supplier, regulatory agency, etc). to ensure that compliance is achieved in all areas of this grant. Should issues of non-compliance arise, the City and SPAG will work towards reasonable solutions.
- 14.7 Percentage Share of Negligence. To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damage caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of the City, SPAG, and all other negligent entities and individuals.
- 14.8 Mutual Waiver. To the fullest extent permitted by law, City and SPAG waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

EXECUTION

Executed in triplicate this __ day of ____, 2022.

BY: _____
Shannon Thomason, MAYOR
City of Big Spring

Approved and accepted on behalf of South Plains Association of Governments (SPAG)

BY: _____
Tim C. Pierce, EXECUTIVE DIRECTOR

REVIEWED: _____
Tim Schwartz, DIRECTOR OF FINANCE