



CITY COUNCIL REGULAR MEETING

Tuesday, November 12, 2024

Notice is hereby given that the City Council of the City of Big Spring, Texas will meet in Regular Session on Tuesday, November 12, 2024, 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.

Thank you!

Open Session

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

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 | Moore |
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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.

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| 5. Open Public Hearing | | Moore |
| 6. PUBLIC HEARING - Consideration and Possible Action
Concerning Abatement of Public Nuisance, at 308 DONLEY,
BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: LOT
5, BLOCK 9, BOYDSTUN SUBDIVISION, BIG SPRING,
HOWARD COUNTY, TEXAS – OWNER: FIDEL GALVAN | 7-41 | Hagen |
| 7. Close Public Hearing | | Moore |

City Manager's Report

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| 8. City Manager's report on the following items: | | Darden |
| <ul style="list-style-type: none">• Large Item Pickup, District 5 - November 20th• City Holiday - November 28th & 29th - Thanksgiving | | |

Consent Items

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|---|-------|-------------|
| 9. Approval of the City Council Minutes of the Special Meeting of
October 21, 2024 and of the Regular Meeting of October 22,
2024. | 42-50 | Davis |
| 10. Acknowledge Receipt of the Big Spring Economic
Development Corporation Board of Director's Minutes of the
Regular Meeting of September 12, 2024 and of the Special
Meeting of October 18, 2024 | 51-53 | Mark Willis |
| 11. Acknowledge Receipt of the McMahon-Wrinkle Aviation
Advisory Board Minutes of the Regular Meeting of August 15,
2024 | 54-55 | Feeley |

Vouchers

- | | | |
|---------------------------|-----------------|------------|
| 12. Vouchers for 10/25/24 | \$ 1,201,649.31 | Willkerson |
| Vouchers for 10/31/24 | \$ 208,224.16 | |
| 13. Vouchers for 11/08/24 | \$ 805,169.01 | Tompkins |

Bids

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|---|-------|--------|
| 14. Consideration and Possible Action on Awarding a Stop Loss | 56-78 | Medina |
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Agreement with ISU/Companion Life and Authorizing the City Manager or His Designee to Execute any Necessary Documents

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| 15. | Consideration and Possible Action on Awarding a Bid for Administration/Professional Services to Aid in the Grant Writing Process with the Texas Community Development Block Grant Program and Authorizing the City Manager or His Designee to Execute any Necessary Documents | 79-80 | Medina |
| 16. | Consideration and Possible Action on Awarding a Bid for an 18-Foot Tandem Trailer for the Roy Anderson Sports Complex and Authorizing the City Manager or His Designee to Execute any Necessary Documents | 81 | Medina |
| 17. | Consideration and Possible Action on Awarding a Bid for a 15 Foot Wing Mower for the McMahon Wrinkle Airpark and Authorizing the City Manager or His Designee to Execute any Necessary Documents | 82 | Feeley |
| 18. | Consideration and Possible Action on Awarding a Bid for a Kubota Utility Tractor for the McMahon Wrinkle Airpark and Authorizing the City Manager or His Designee to Execute any Necessary Documents | 83 | Feeley |

New Business

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|-----|---|-------|----------|
| 19. | Consideration and Possible Action on Accepting A Donation from the Broughton Foundation to the Police Department. | 84 | Williams |
| 20. | Consideration and Possible Action on Accepting a Donation from Gunsight Mountain Wind Energy to the Fire Department. | 85 | Holt |
| 21. | First Reading of a Resolution Suspending the December 19, 2024 Effective Date of Atmos energy Corp., West Texas Division's Requested Rate Change to Permit the City Time to Study the Request and to Establish Reasonable Rates; Approving Cooperation with the Cities Served by Atmos West Texas and Authorizing Intervention in Atmos West Texas' Requested Rate Change Proceedings Before the Commission; Hiring Lloyd Gosselink Attornes and Consulting Services to Negotiate with the Company and Direct any Necessary Litigation and Appeals; Requiring Reimbursement of Cities' Rate Case Expenses; Finding That the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; Requiring Notice of This Resolution to the Company and Legal Counsel | 86-90 | Medina |

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| 22. | First Reading of a Resolution Designating the Following as a Replacement Nominee for the Position of Director on the Howard Central Appraisal District Board of Directors for the Current Term Ending on December 31, 2025; and Providing for an Effective Date | 91 | Moore |
| 23. | First Reading of a Resolution Authorizing the Submission of a Texas Community Development Block Grant Program Application to the Texas Department of Agriculture for the Community Development Fund; Finding and Determining that the Meetings at Which the Resolution were Discussed were Open to the Public as Required by Law; and Establishing an Effective Date | 92-94 | Medina |
| 24. | First Reading of a Resolution Authorizing Professional Service Provider Selection for a 2025-2026 Texas Community Development Block Grant Program - Community Development Fund Project (CDBG) Through the Texas Department of Agriculture (TDA); Finding and Determining that the Meetings at Which the Resolution were Discussed were Open to the Public as Required by Law; and Establishing an Effective Date | 95-96 | Medina |
| 25. | First Reading of a Resolution of the City Council of the City of Big Spring, Texas Expressing Official Intent to Reimburse Costs of Lead and Copper Service Line Inventory and Replacement Projects; Finding and Determining that the Meetings at Which the Resolution was Discussed was Open to the Public as Required by Law; and Establishing an Effective Date | 97-99 | Smith |
| 26. | First Reading of a Resolution of the City Council of the City of Big Spring, Texas Approving Policy for Preventing Use of TikTok and Other Covered Applications in Compliance with State Law; Providing for the Repeal of Conflicting Legislation; Providing for Severability; and Finding and Determining That the Meetings at Which the Resolution Were Discussed Were Open to the Public as Required by Law; and Establishing an Effective Date. | 100-105 | Hagen |
| 27. | First Reading of an Ordinance of the City Council of the City of Big Spring, Texas, Amending Ordinance Numbr 028-2024 Which Adopted the Annual Budget for the City of Big Spring, Texas for the Fiscal Year Beginning October 1, 2024 and Ending September 30, 2025 by Increasing the Airpark Fund Budget for the Purpose of Purchasing a Tractor and Bat Wing Mower Attachment; Providing for Severability; Providing for | 106-107 | Smith |

Publication; and Providing an Effective Date.

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| 28. Consideration and Possible Action to Approve an EMS/Fire Coordinator & Program Management Contract with Texas Public Safety Training Academy and Authorizing the City Manager or His Designee to Negotiate and Execute Any Necessary Documents. | 108-122 | Holt |
| 29. Consideration and Possible Action Regarding Agreements with Cross-Ell Ranch Corporation Concerning Economic Development, Annexation and a Development Agreement Concerning a Parcel of Approximately 443.607 Acres, More or Less, Property ID 297545, Located within Section 4, Block 33, Howard County, Texas; Provision of Water and Sewer Utility Services to be funded primarily by United States Economic Development Administration grant funds to Certain Parts of the Parcel to be Annexed; Providing a Tax Rebate to the Parcel with Conditions as to Development and Annexation; Accepting a Donation as to Certain Public Utility Easements on the property and primarily in the Vicinity of US Highway 87; and Contingent on approval by the Big Spring Economic Development Corporation Board of Directors Approving an Option to the Big Spring Economic Development Corporation to Purchase, Subject to Certain Conditions, to Purchase a 40 Acre Parcel Abutting US Highway 87 and Frazier Road including the draft of the purchase agreement should such conditions occur and the option be exercised, and approval of the Big Spring Economic Development Corporation to enter as a Party into the Economic Development Agreement and Approval of the Big Spring Economic Development Corporation to enter into the Access Agreement and Authorizing the City Manager or His Designee to Execute any Necessary Documents | 123-246 | Hagen |
| 30. Consideration and Possible Action on a Lease Agreement with Foundry Digital, LLC for Building 1B and a Container Area Comprising Approximately 1.3 Acres Located at 1600 First Avenue, Big Spring McMahon-Wrinkle Airport and Industrial Park and Authorizing the City Manager or His Designee to Negotiate and Execute any Necessary Documents | | Feeley |
| 31. Adjourn | | Moore |

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.

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, November 8, 2024 at 5:00 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

THE MEETING FACILITY IS ACCESSIBLE TO DISABLED PERSONS. ANY DISABLED PERSON NEEDING SPECIAL ACCOMMODATION OR A HEARING IMPAIRED PERSON WISHING TO HAVE AN INTERPRETER SHOULD REQUEST SERVICES AT LEAST 48 HOURS PRIOR TO THE SCHEDULED MEETING BY CONTACTING TAMI DAVIS AT 432-264-2513 OR EMAIL: TDAVIS@MYBIGSPRING.COM.

308 DONLEY

Code Compliance Official: Shannon Fant

Exhibit A-1

STATE OF TEXAS

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COUNTY OF HOWARD

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**AFFIDAVIT OF SHANNON FANT
CONCERNING 308 DONLEY**

BEFORE ME, the undersigned authority, on this day, personally appeared **Shannon Fant**, who, being by me duly sworn, deposed as follows:

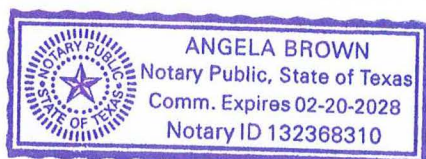
“My name is **Shannon Fant**. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

“I am a Code Compliance Official for the City of Big Spring, Texas. In the course of my duties, I inspect properties for compliance with Texas state law and the ordinances of the City of Big Spring. I am an employee of the City of Big Spring and am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities. Attached are pages of records relating to the Code Compliance Case for **308 DONLEY**, Big Spring, Texas. These are exact duplicates of original records. The records were made at or near the time of each act, event, or finding set forth. The records were made by, or from information transmitted by, persons with knowledge of the matters set forth. The records were kept in the course of regularly conducted business activity. It is the regular practice of the business activity to make the records.”

SIGNED on the 8 day of November, 2024.

Shannon Fant
AFFIANT

SWORN TO AND SUBSCRIBED before me this 8 day of November 2024 by the above referenced Affiant.



Angela Brown
Notary Public, State of Texas

Exhibit A-2

Property Details

Account		
Property ID:	277545	Geographic ID: B2400008600
Type:	R	Zoning:
Property Use:		Condo:
Location		
Situs Address:	308 DONLEY,	
Map ID:		Mapsco:
Legal Description:	LT 5 BK 9 BOYDSTUN 50X140 140 BLK/TRACT 9 0.161 ACRES ACQ 10232019	
Abstract/Subdivision:		
Neighborhood:	(BOYD) BOYDSTUN	
Owner ?		
Owner ID:	400454	
Name:	GALVAN FIDEL	
Agent:		
Mailing Address:	1300 JEFFERY RD BIG SPRING, TX 79720	
% Ownership:	100.0%	
Exemptions:	For privacy reasons not all exemptions are shown online.	

Property Values

Improvement Homesite Value:	\$3,749 (+)
Improvement Non-Homesite Value:	\$0 (+)
Land Homesite Value:	\$3,507 (+)
Land Non-Homesite Value:	\$0 (+)
Agricultural Market Valuation:	\$0 (+)
Market Value:	\$7,256 (=)

Agricultural Value Loss: ⓘ	\$0 (-)
Appraised Value:	\$7,256 (=)
HS Cap Loss: ⓘ	\$0 (-)
Circuit Breaker: ⓘ	\$0 (-)
Assessed Value:	\$7,256
Ag Use Value:	\$0

Information provided for research purposes only. Legal descriptions and acreage amounts are for Appraisal District use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.

STATE OF TEXAS

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COUNTY OF HOWARD

CERTIFICATION
308 DONLEY CASE NOTES

“This record, attached as **Exhibit A-3**, was made at or near the time by – or from information transmitted by a person or persons with the City with knowledge.

This record was kept in the course of a regularly conducted business activity of the Code Compliance Department of the City of Big Spring, Texas.

Making this record was a regular practice of that activity.

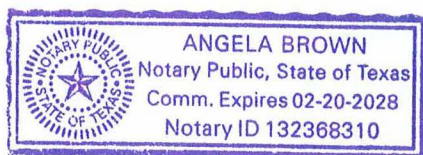
1. The City uses a computer.
2. The computer is reliable.
3. The City has developed procedures for inserting data into the computer.
4. The procedure has built-in safeguards to ensure accuracy and to identify errors.
5. The City keeps the computer in a good state of repair.
6. I had the computer readout certain data.
7. I used the proper procedures to obtain the readout.
8. The computer was in working order at the time I obtained the readout.
9. I recognize the attached **Exhibit A-3** as the readout.”

SIGNED on the 8 day of November, 2024.

Stamt
AFFIANT

SWORN TO AND SUBSCRIBED before me this 8 day of November, 2024

by the above referenced Affiant.



Angela Brown
Notary Public, State of Texas

Exhibit A-3



CASE NOTES

Page 1 of 1

Report Run On: Wednesday, 23
October 2024 15:22

Case # 24-00001613
Site Address: 308 DONLEY
Case Description: SUBSTANDARD

Parcel # : 277545

Note Type	Note Code	Text	Created By	Begin Date	End Date
SITE VISIT		REINSPECTED THE PROPERTY FOUND NO WORK HAS BEEN DONE AND NOCONTACT HAS BEEN MADE BY THE PROPERTY OWNER TOOK PICTURES WILL PROCEED WITH THE CASE TO LEGAL.	Shannon Fant	10/23/24	
CORRECTIVE ACTION		DEADLINE FOR COMPLIANCE IS SEVEN DAYS FROM THE DATE OF MAILING	Shannon Fant	10/02/24	
SITE VISIT		INSPECTED PROPERTY FOUND SUBSTANDARD STRUCTURE WITH THE ROOF CAVED IN AND WEATHER DAMAGE, TOOK PICTURES AND WILL SEND NOV TO THE PROPERTY OWNER	Shannon Fant	10/02/24	

STATE OF TEXAS

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COUNTY OF HOWARD

**CERTIFICATION OF
PHOTOGRAPHS BY SHANNON FANT**

“With regard to the photographs in **Exhibits A-4** I am familiar with and recognize the scene depicted in the photographs. On October 2, 2024 and October 23, 2024, I inspected the property described as:

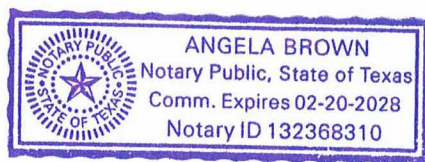
LOT 5, BLOCK 9, BOYDSTUN SUBDIVISION Big Spring, Howard County,
Texas, also known as **308 DONLEY**, Big Spring, Texas.

Each of the photographs is a fair and accurate depiction of the scene at the relevant time.”

SIGNED on the 8 day of November, 2024.

Shannon Fant
AFFIANT

SWORN TO AND SUBSCRIBED before me this 8 day of November, 2024
by the above referenced Affiant.



Angela Brown
Notary Public, State of Texas

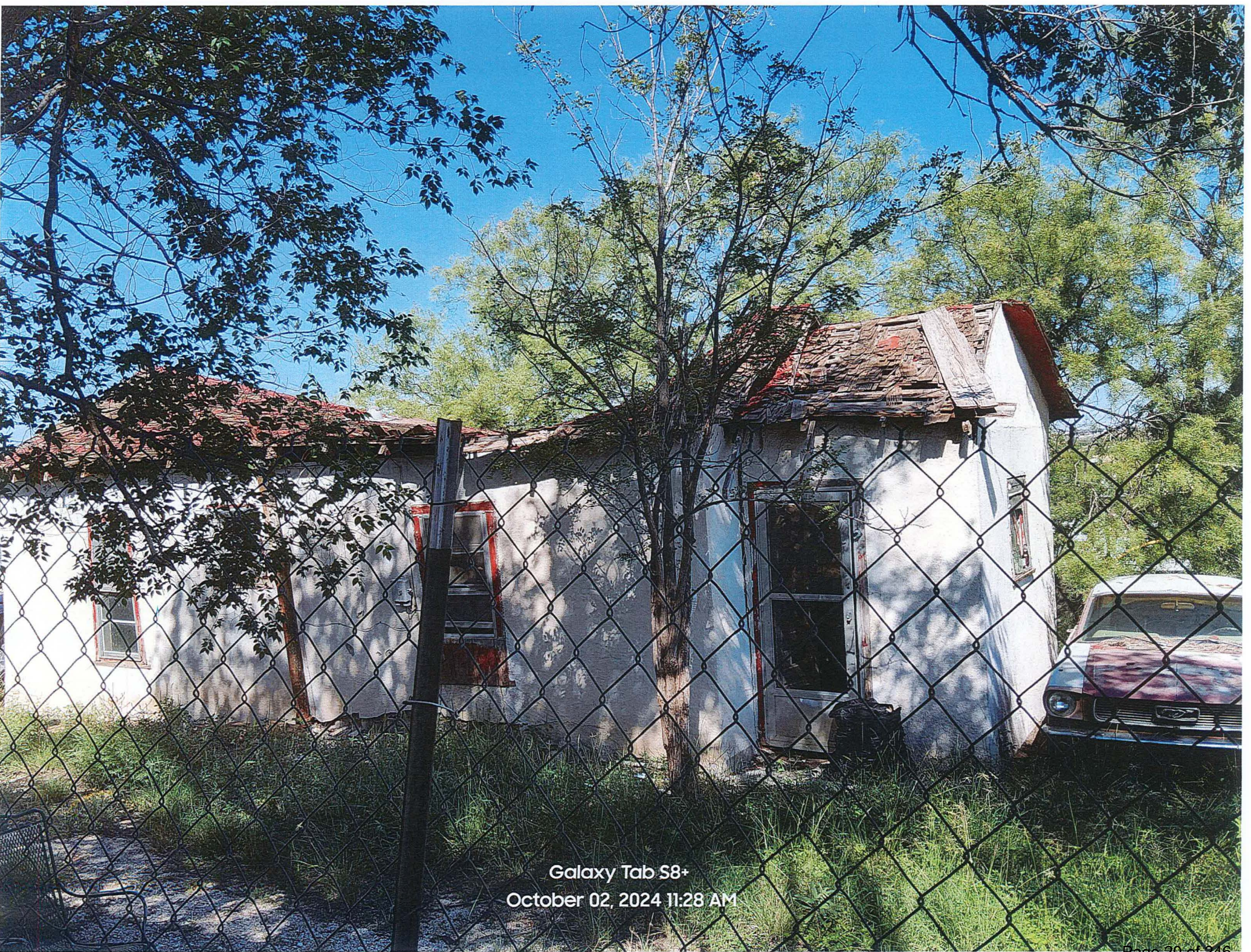
Exhibit A-4



Galaxy Tab S8+
October 02, 2024 11:28 AM



Galaxy Tab S8+
October 02, 2024 11:28 AM



Galaxy Tab S8+
October 02, 2024 11:28 AM



Galaxy Tab S8+
October 02, 2024 11:29 AM



Galaxy Tab S8+
October 23, 2024 2:38 PM



Galaxy Tab S8+
October 23, 2024 2:38 PM



Galaxy Tab S8+
October 23, 2024 2:38 PM

STATE OF TEXAS

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COUNTY OF HOWARD

**CERTIFICATION
NOTICE SENT BY SHANNON FANT**

“The document in **Exhibit A-5** presents factual findings from a legally authorized investigation for code compliance. The document is a copy of the official record.”

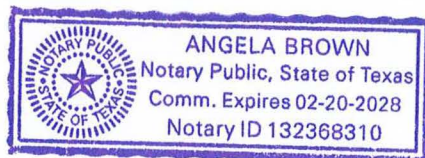
Certified Mail Return for **Exhibit A-5** is also attached.

SIGNED on the 8 day of November, 2024.

Shant

AFFIANT

SWORN TO AND SUBSCRIBED before me this 8 day of November, 2024
by the above referenced Affiant.



Angela Brown
Notary Public, State of Texas

Exhibit A-5



City of Big Spring Code Compliance

217 East 3rd St. Big Spring TX 79720 - Ph: 432-264-2504

NOTICE OF VIOLATION

Re: 308 DONLEY BIG SPRING, TX 79720

Legal Description: LT 5 BK 9 BOYDSTUN 50X140 140 BLK/TRACT 9 0.161 ACRES ACQ 10232019

Date 10/23/2024

Case No: 24-00001613

GALVAN FIDEL
1300 JEFFERY RD
BIG SPRING, TX 79720

Dear GALVAN FIDEL

The City of Big Spring has determined that the following section of the **2021 property Maintenance Code of Big Spring** has been violated, constituting a nuisance:

Violation:

SUBSTANDARD STRUCTURE

Description of Violation:

304.1.1 UNSAFE CONDITIONS. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity. 2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations have deterioration or distress that appears to reduce their load-carrying capacity. 3. Structures or components thereof have deterioration or distress that appears to reduce their load-carrying capacity. 4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or watertight. 5. Reserved. 6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects. 7. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects. 8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and is not capable of supporting all nominal loads and resisting all load effects. 9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects. 10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects. 11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes, and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects. 12. Exterior stairs, decks, porches, balconies, and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects. 13. Chimneys, cooling towers, smokestacks, and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.



City of Big Spring Code Compliance

217 East 3rd St. Big Spring TX 79720 - Ph: 432-264-2504

NOTICE OF VIOLATION

Re: 308 DONLEY BIG SPRING, TX 79720

Legal Description: LT 5 BK 9 BOYDSTUN 50X140 140 BLK/TRACT 9 0.161 ACRES ACQ 10232019

Corrective Action:

DEADLINE FOR COMPLIANCE IS SEVEN DAYS FROM THE DATE OF MAILING

For further information about this notice, please contact the following person:

Issued by:

Shannon Fant

Code Compliance

432.264.2508

sfant@mybigspring.com

Phone

Email Address

If this matter has been taken care of please notify this office at **(432)264-2504**

It is the sincere hope of the City that you will cooperate with us in helping to make Big Spring an attractive, healthful place in which to live.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Fant", is written over a faint, light blue circular stamp.

Shannon Fant - Code Compliance



Code Compliance

217 E 3rd St., Big Spring, Texas 79720 · Ph. 432-264-2505

**NOTICE OF VIOLATION
AND NOTICE OF HEARING**

Sent via: Certified Mail; Return Receipt Requested

November 1, 2024

Fidel Galvan
1300 Jeffery Rd.
Big Spring, Texas 79720

Fidel Galvan
308 Donley
Big Spring, Texas 79720

Re: 308 DONLEY, BIG SPRING, TEXAS 79720

LEGAL DESCRIPTION: LOT 5, BLOCK 9, BOYDSTUN SUBDIVISION, Howard County

Big Spring Code Compliance has determined that at the following structure(s): MAIN STRUCTURE, at the property as stated above, is/are in violation of the following section(s) of the **Property Maintenance Code of Big Spring (PMC)**, constituting a nuisance:

VIOLATION	DESCRIPTION OF VIOLATION
111.1.5 HAZARDOUS STRUCTURE OR PREMISES. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described as follows shall be considered to be hazardous: 3. Any building, structure, or portion thereof that is dangerous. 6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy. 7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to	The structure has severe roof damage and weather damage. The building is neglected, damaged, dilapidated and unsecured so as to constitute an attractive nuisance. The roof appears to be caving in. Hazardous condition.

become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act. 11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.	
304.1.1 UNSAFE CONDITIONS. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings: 1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity. 3. Structures or components thereof have deterioration or distress that appears to reduce their load-carrying capacity. 7. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects. 8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and in capable of supporting all nominal loads and resisting all load effects.	Severe roof damage and weather damage appear to have affected the building's load-carrying capacity and deteriorated the structural members of the building. The roof appears to be caving in. The roof appears to admit rain and has signs of deterioration. Unsafe condition.
304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof	The roof has defects that admit rain and is not sound and not tight. The roof appears to be caving in.

water shall not be discharged in a manner that creates a public nuisance.	
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The following actions are required to correct the violation(s) at the structure(s) as stated above:

Corrective Action Sought by Code Compliance

Secure and vacate the structure(s) until the violation(s) are resolved,
and:

**REPAIR OR DEMOLISH AND REMOVE
of MAIN STRUCTURE.**

For further information about this notice, please contact the following person:

Issued by

Shannon Fant

Name

Code Compliance Official

Title

+1 (432) 264-2508

Phone

sfant@mybigspring.com

E-mail

The City's goal is voluntary compliance.

**FAILURE TO TAKE THE CORRECTIVE ACTION BY THE DEADLINE MAY
RESULT IN FINE.**

Failure to take the corrective action regarding the nuisance(s) by the prescribed deadline(s) may result in a complaint (a criminal charge, Class C Misdemeanor) sworn against you in the Municipal Court of Big Spring alleging the violation. A person found guilty may be convicted by the Court and fined. Each day that a violation continues after due notice has been served is deemed a separate offense. A convicted person may appeal their case to Howard County Court. This punishment is separate from and in addition to any abatement action that the City may perform and cannot result in a lien.

**YOU ARE HEREBY NOTIFIED THAT THE CITY HAS INITIATED PROCEEDINGS
TO ABATE THE ABOVE-DESCRIBED NUISANCES AT YOUR EXPENSE.**

This proceeding is held before a hearing board (either City Council or the Board of Adjustment and Appeals). The hearing board will review the case and rule on the City's request to abate the nuisance. If so ordered by the hearing board, the City will abate the nuisance and send you and/or the owner(s) an invoice for the City's costs plus a civil penalty, typically 25% of the

amount of the costs. In the event you and/or the owner(s) do not pay the invoice promptly, the City of Big Spring will assess a lien against the property to secure payment for services rendered and the civil penalty. You have the right to appeal the costs, lien, and civil penalty to the District Court. The abatement procedure is separate from and in addition to any charge filed in Municipal Court.

The City Council will serve as the Hearing Board for your case. The hearing is scheduled for **5:30 PM, November 12, 2024** at the City Council Chambers located at **307 E 4th St., Big Spring, Texas 79720**. You are encouraged to attend this hearing to demonstrate the scope of work that may be required to comply with the Building Codes and the time it will take to reasonably perform the work.

CONDUCT OF THE HEARING. The Structural Standards Ordinance of the Big Spring City Code provides the following concerning the conduct of the hearing:

SECTION A-1.10. Rights of Parties

- (a) Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- (b) Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State.
- (c) Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.
- (d) Rights of Parties. Each party shall have the following rights, among others:
 - 1. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - 2. To introduce documentary and physical evidence;
 - 3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 - 4. To impeach any witness regardless of which party first called him to testify;
 - 5. To rebut the evidence against him;
 - 6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

Section C-9.02 (c)The City Attorney shall present the case for the City. If the City Attorney is recused or disqualified, the City Manager shall determine who shall present the case for the City.

YOU HAVE A RIGHT TO APPEAL THE DECISION OF THE HEARING BOARD. If the Hearing Board enters an order to abate the violation(s) at the structure(s) at the property, the order is preliminary, allowing you to appeal the order to District Court within thirty (30) days pursuant to Section 8.03 of the Structural Standards Ordinance of the Big Spring City Code. If you fail to appeal the Hearing Board's ruling within that time, such order shall become the final order.

FAILURE TO COMPLY/ATTACHMENT OF LIEN. If the owner of a premises fails to comply with an order of the Board within the time prescribed, and the City conducts abatement or work, either through an available public agency or by contract or arrangement with private persons, and the cost of such abatement work shall be charged against the real estate upon which the nuisance is located and shall be a lien on such real estate.

NOTICE TO OWNER: According to the real property records of Howard County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

NOTICE TO EMPLOYEE OF OWNER: If you are an individual employed by the owner of the property, or a company that manages the property on behalf of the owner, you may be personally liable for criminal or civil penalties resulting from the violation under Section 250.003, Texas Local Government Code, unless, not later than the fifth calendar day after this notice you provide the property owner's name, current street address, and telephone number to the Code Compliance Officer who sent this notice.

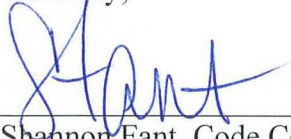
TRANSFER OF OWNERSHIP UNLAWFUL: Please be advised that until this order is complied with, it shall be unlawful (being a Class C Misdemeanor) to transfer ownership of the property— with conditions and exceptions stated in PMC Sec. 111.6.

RIGHTS AND REMEDIES RESERVED. The City of Big Spring expressly reserves any additional rights and remedies that may be available to it, including but not limited to injunctive or equitable relief.

CITY CODE. The City Code is online at <https://codelibrary.amlegal.com/codes/bigspringtx>. See Big Spring City Code, Chapter 36, Property Maintenance Code of Big Spring; and 2021 International Property Maintenance Code, available for public inspection at the Office of the City Secretary at 310 Nolan St., Big Spring, Texas and available online for free at <https://codes.iccsafe.org/codes/i-codes>.

Case number: 24-00001613

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shannon Fant', written over a horizontal line.

Shannon Fant, Code Compliance Official
City of Big Spring, Texas

2022 0410 0000 4883 0458

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$	11/1/2024 Postmark Here 308 DONLEY Final Notice
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy) \$	
☐ Return Receipt (electronic) \$	
☐ Certified Mail Restricted Delivery \$	
☐ Adult Signature Required \$	
☐ Adult Signature Restricted Delivery \$	
Postage \$	
Total Postage and Fees \$	
Sent To Fidel Galvan	
Street and Apt. No., or PO Box No. 1300 Jeffery Rd.	
City, State, ZIP+4® Big Spring, TX 79720	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

2022 0410 0000 4883 0458

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$	11/1/2024 Postmark Here 308 DONLEY Final Notice
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy) \$	
☐ Return Receipt (electronic) \$	
☐ Certified Mail Restricted Delivery \$	
☐ Adult Signature Required \$	
☐ Adult Signature Restricted Delivery \$	
Postage \$	
Total Postage and Fees \$	
Sent To Fidel Galvan	
Street and Apt. No., or PO Box No. 308 Donley	
City, State, ZIP+4® Big Spring, TX 79720	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

Tracking Number:

Remove X

70220410000048830458

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

This is a reminder to arrange for redelivery of your item or your item will be returned to sender.

Get More Out of USPS Tracking:

USPS Tracking Plus[®]

Delivery Attempt

Reminder to Schedule Redelivery of your item

November 7, 2024

Notice Left (No Authorized Recipient Available)

BIG SPRING, TX 79720

November 2, 2024, 8:25 am

See All Tracking History

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates



USPS Tracking Plus[®]



Product Information



See Less ^

Tracking Number:

Remove X

70220410000048830434

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

Your item was returned to the sender at 2:21 pm on November 5, 2024 in BIG SPRING, TX 79720 because the forwarding order for this address is no longer valid.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Alert

Forward Expired

BIG SPRING, TX 79720

November 5, 2024, 2:21 pm

Arrived at USPS Regional Facility

MIDLAND TX DISTRIBUTION CENTER

November 4, 2024, 6:05 pm

See All Tracking History

[What Do USPS Tracking Statuses Mean?](https://faq.usps.com/s/article/Where-is-my-package) (<https://faq.usps.com/s/article/Where-is-my-package>)

See More ∨

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

STATE OF TEXAS

§
§
§

COUNTY OF HOWARD

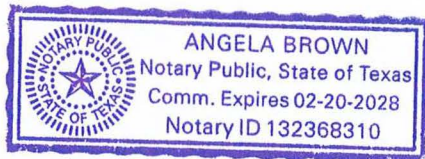
**CERTIFICATION
OF POSTING OF PUBLIC HEARING**

“The Hearing Board of the City of Big Spring, Texas notice of Public Hearing scheduled for November 12, 2024, attached as **Exhibit A-6**, was posted on or near the front door of each dwelling unit listed in the attached notice on November 1, 2024.”

SIGNED on the 8 day of November, 2024.

Stand
AFFIANT

SWORN TO AND SUBSCRIBED before me this 8 day of November, 2024
by the above referenced Affiant.



Angela Brown
Notary Public, State of Texas

Exhibit A-6



Code Enforcement

217 E 3rd St., Big Spring, Texas 79720 · Ph. 432-264-2505

NOTICE OF PUBLIC HEARING CONCERNING PUBLIC NUISANCE

NOTICE IS HEREBY GIVEN THAT THE BIG SPRING HEARING BOARD WILL HOLD A PUBLIC HEARING ON **NOVEMBER 12TH, 2024, AT 5:30 P.M.**, IN THE CITY OF BIG SPRING COUNCIL CHAMBERS AT 307 E 4th ST., BIG SPRING, TEXAS 79720 TO CONSIDER ABATEMENT OF PUBLIC NUISANCES ON PROPERTIES IN THE CITY OF BIG SPRING, HOWARD COUNTY, TEXAS. ALL INTERESTED PERSONS MAY SPEAK, THEN A DETERMINATION WILL BE MADE AND REMEDIAL ACTION ORDERED ON THE FOLLOWING PROPERTIES:

308 DONLEY – LEGAL DESCRIPTION: LOT 5, BLOCK 9, BOYDSTUN SUBDIVISION – OWNER: FIDEL GALVAN

THE CITY OF BIG SPRING HEARING BOARD MEETING IS AVAILABLE TO ALL PERSONS REGARDLESS OF DISABILITY. IF YOU REQUIRE SPECIAL ASSISTANCE, PLEASE CONTACT TAMI DAVIS AT 432-264-2513 OR AT 310 NOLAN, BIG SPRING, TEXAS 79720, AT LEAST FORTY-EIGHT (48) HOURS IN ADVANCE OF THE MEETING.

RECENT ORDERS OF ABATEMENT

PUBLIC HEARINGS ON THE FOLLOWING LISTED PROPERTIES IN BIG SPRING, HOWARD COUNTY, TEXAS, WERE HELD AND ORDERS WERE ISSUED AS FOLLOWS. A COMPLETE COPY OF EACH ORDER IS AVAILABLE AT THE OFFICE OF THE CITY SECRETARY, 310 NOLAN, BIG SPRING, TEXAS 79720.

502 NW 10TH – LEGAL DESCRIPTION: LOT 11, BLOCK 38, BAUER SUBDIVISION – OCTOBER 22ND, 2024; REPAIR OR DEMOLISH AND REMOVE MAIN STRUCTURE; THIRTY (30) DAYS.

706 N GOLIAD – LEGAL DESCRIPTION: SE/4 OF SECTION 42, BLOCK 32, TOWNSHIP 1 NORTH, TRACT 29, WILLIAM B CURRIE SUBDIVISION – OCTOBER 22ND, 2024; REPAIR OR DEMOLISH AND REMOVE REAR STRUCTURE; NINETY (90) DAYS.

708 OHIO – LEGAL DESCRIPTION: LOT 2, BLOCK 3, BANKS SUBDIVISION – OCTOBER 22ND, 2024; REPAIR OR DEMOLISH AND REMOVE CARPORT STRUCTURE; THIRTY (30) DAYS.

Nick Reyna

Nick Reyna, Building Official, City of Big Spring



Galaxy Tab S8+
November 01, 2024 2:21 PM

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

The City Council of the City of Big Spring, Texas, met in a SPECIAL MEETING in the City Council Chambers located at 307 E. 4th St., Big Spring, Texas, at 5:30 PM, October 21, 2024, with the following members present in person:

MAYOR ROBERT MOORE
COUNCIL MEMBER NICK ORNELAS
COUNCIL MEMBER DIANE YANEZ
COUNCIL MEMBER CODY HUGHES
COUNCIL MEMBER HOMER WILKERSON
MAYOR PRO TEM TROY TOMPKINS
COUNCIL MEMBER DANIEL MORENO

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

TODD DARDEN	City Manager
JOHN MEDINA	Assistant City Manager
ANDREW HAGEN	City Attorney
SHANE BOWLES	Public Works Director
CHAD WILLIAMS	Police Chief
MIKE FEELEY	Airpark Director
SANDY SMITH	Finance Director
TAMI DAVIS	City Secretary

Open Session

Call to Order

Mayor Moore called the Special City Council meeting to order at 5:30 p.m.

Public Comment

Public Comment

No public comments were made at this time.

New Business

Consideration and Possible Action Regarding Agreements with Cross-Ell Ranch Corporation Concerning Economic Development, Annexation and a Development Agreement Concerning a Parcel of Approximately 443.607 Acres, More or Less, Property ID 297545, Located within Section 4, Block 33, Howard County, Texas, Provision of Water and Sewer Utility Services to Certain Parts of the Parcel to be

Annexed, Providing a Tax Rebate to Property with Conditions as to Development and Annexation, Accepting a Donation as to Certain Utility Easements in the Vicinity of US Highway 87, Approving an Option to Purchase, Subject to Certain Conditions, a 40 Acre Parcel Abutting US Highway 87 and Frazier Road by the Big Spring Economic Development Corporation including the draft of the purchase agreement should such conditions occur and the option be exercised, and Authorizing the City Manager or His Designee to Execute any Necessary Documents

Mark Willis, Big Spring Economic Development Corporation Executive Director, gave a brief overview of the Cross-ElI Ranch Corporation project and a brief summary of the agreements. After a brief discussion, the Council recommended a few changes to be made to the agreements.

No action was taken at this time.

Council Input

Input

There was no council input at this time.

Adjourn

Mayor Moore adjourned the Special City Council meeting at 6:39 p.m.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

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 PM, October 22, 2024, with the following members present in person:

MAYOR ROBERT MOORE
COUNCIL MEMBER NICK ORNELAS
COUNCIL MEMBER DIANE YANEZ
COUNCIL MEMBER CODY HUGHES
COUNCIL MEMBER HOMER WILKERSON
MAYOR PRO TEM TROY TOMPKINS
COUNCIL MEMBER DANIEL MORENO

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

TODD DARDEN	City Manager
JOHN MEDINA	Assistant City Manager
ANDREW HAGEN	City Attorney
SHANE BOWLES	Public Works Director
CHAD WILLIAMS	Police Chief
JAY HOLT	Fire Chief
MIKE FEELEY	Airpark Director
SANDY SMITH	Finance Director
TAMI DAVIS	City Secretary
MANDY HAYNES	Municipal Judge
SUSAN HIMES	Community Services Director

Open Session

Call to Order

Mayor Moore called the City Council meeting to order at 5:30 p.m.

Invocation

Sandy Smith, Finance Director, gave the invocation.

Pledge of Allegiance to the United States Flag and to the Texas State Flag

Mayor Moore led the Pledge of Allegiance to the United States Flag and to the Texas State Flag.

Public Comment

Public Comment

There were no public comments made at this time.

Announcements, Presentations and Public Hearings

Open Public Hearings

MOTION WAS MADE BY Mayor Moore to open the public hearings listed below, seconded by Council Member Hughes.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None 0

MOTION PASSED

PUBLIC HEARING - Consideration and Possible Action Concerning Abatement of Public Nuisance, at 805 E 18TH, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: TRACT 41X179, BLOCK 2, MANNING ADDITION, BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: JESSE DARIO VARGAS

MOTION WAS MADE BY Mayor Moore to abate the above captioned property (805 E. 18th), seconded by Council Member Ornelas.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None 0

MOTION PASSED

PUBLIC HEARING - Consideration and Possible Action Concerning Abatement of Public Nuisance, at 502 NW 10TH, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: LOT 11, BLOCK 38, BAUER SUBDIVISION, BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: THE ESTATE OF PABLO JARA

MOTION WAS MADE BY Council Member Wilkerson to abate the above captioned property (502 NW 10th), seconded by Council Member Yanez.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None 0

MOTION PASSED

PUBLIC HEARING - Consideration and Possible Action Concerning Abatement of

Public Nuisance, at 706 N GOLIAD, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: SE/4 OF SECTION 42, BLOCK 32, TOWNSHIP 1 NORTH, TRACT 29, WILLIAM B CURRIE SUBDIVISION, BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: CLINTON L. HUNTER & THE ESTATE OF KATHLEEN Y. HUNTER

MOTION WAS MADE BY Council Member Yanez to abate the above captioned property (706 N. Goliad) in 90 days, seconded by Council Member Ornelas.

YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, Council Member Hughes, Mayor Pro Tem Tompkins, Council Member Moreno

6

NAYS: Council Member Wilkerson

1

MOTION PASSED

PUBLIC HEARING - Consideration and Possible Action Concerning Abatement of Public Nuisance, at 508 N SAN ANTONIO, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: LOT 8, BLOCK 7, BAUER SUBDIVISION, BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: CLAW SOLUTIONS TX LLC - 508 NS PROTECTED SERIES

The above captioned property (508 N. San Antonio) was completed by the owner. No action needed.

PUBLIC HEARING - Consideration and Possible Action Concerning Abatement of Public Nuisance, at 708 OHIO, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: LOT 2, BLOCK 3, BANKS SUBDIVISION, BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: FRANKIE SIMMONS AND THE ESTATE OF LAWRENCE SIMMONS

MOTION WAS MADE BY Mayor Moore to abate the above captioned property (708 Ohio), seconded by Council Member Hughes.

YEAS: None

0

NAYS: None

0

MOTION

Andrew Hagen, City Attorney, asked the Council to clarify that the abate was for the carport only as recommended by staff.

MOTION WAS MADE BY Mayor Moore to amend the previous motion to only abate the carport on the above captioned property (708 Ohio), seconded by Council Member Wilkerson.

YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem Tompkins, Council Member Moreno

7

NAYS: None

0

MOTION PASSED

MOTION WAS MADE BY Mayor Moore to approve the amended abatement to

abate the carport only at the above captioned property (708 Ohio), seconded by Council Member Hughes.

YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno

NAYS: None 0

MOTION PASSED

Close Public Hearings

MOTION WAS MADE BY Mayor Moore to close the above captioned public hearings, seconded by Council Member Ornelas.

YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno

NAYS: None 0

MOTION PASSED

City Manager's Report

City Manager's report on the following items:

- Update - Large Item Pickup, District 4
- Month of October is Fire Prevention Month
- New Codification Program with American Legal
- Appraisal District Board Nominee
- City Holiday - November 11th - Veteran's Day
- Reminder - Two City Council Meetings on November 12, 2024

Todd Darden, City Manager, reported on the above captioned items as follows: Large item pickup for District 4 picked up 2 1/2 tons; Month of October is Fire Prevention Month; The new codification Program with American Legal is now available on the City website; The Central Appraisal District Board still needs a nominee and the Mayor suggested John Cline and will be on the next agenda; City offices will be closed on November 11th in observance of Veteran's Day; A reminder that there will be 2 council meetings on November 12th; and welcomed the new Community Services Director, Susan Himes.

Consent Items

Approval of the City Council Minutes of the Regular Meeting of October 8, 2024.

Final Reading of an Ordinance Establishing the Pay Schedule for Classified Positions Within the Police Department Effective October 1, 2024; Providing for Repeal of Ordinances in Conflict Herewith; and Providing for an Effective Date

Final Reading of an Ordinance Establishing the Fire Department Pay Scale Effective October 1, 2024 in Accordance with Chapter 143 of the Texas Local Government Code; Providing for the Repeal of Ordinances in Conflict Herewith; and Providing for an Effective Date

Final Reading of an Ordinance Establishing Compensation and Benefits for the Presiding Judge and Associate Judges of the Municipal Court of Big Spring, Texas

MOTION WAS MADE BY Mayor Pro Tem Tompkins to approve the above captioned minutes and ordinances, seconded by Council Member Ornelas.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem Tompkins, Council Member Moreno**

NAYS: None 0

MOTION PASSED

Vouchers

Vouchers for 10/10/24 \$ 1,029,165.67
Vouchers for 10/18/24 \$ 622,334.25

Council Member Wilkerson reviewed the above captioned vouchers.

MOTION WAS MADE BY Council Member Wilkerson to approve the above captioned vouchers, seconded by Council Member Yanez.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem Tompkins, Council Member Moreno**

NAYS: None 0

MOTION PASSED

Bids

Consideration and Possible Action on Awarding a Bid For Airport Remarking Project at McMahon-Wrinkle Airport and Authorizing the City Manager or His Designee to Execute any Necessary Documents

MOTION WAS MADE BY Mayor Pro Tem Tompkins to award the above captioned bid to Hi-Lite Airfield Services LLC in the amount of \$614,242.50, seconded by Council Member Hughes.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem Tompkins, Council Member Moreno**

NAYS: None

0

MOTION PASSED

Consideration and Possible Action on Awarding a Bid for a 14-Yard Dump Truck for the Street Department and Authorizing the City Manager or His Designee to Execute any Necessary Documents

MOTION WAS MADE BY Council Member Hughes to award the above captioned bid to Rush Truck Center in the amount of \$183,120.19, seconded by Mayor Moore.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None

0

MOTION PASSED

Consideration and Possible Action on Awarding a Bid for a Kubota Mid-Sized Utility Tractor for the Roy Anderson Sports Complex and Authorizing the City Manager or His Designee to Execute any Necessary Documents

MOTION WAS MADE BY Council Member Hughes to award the above captioned bid to Kaige Kubota in the amount of \$36,789.65, seconded by Council Member Yanez.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None

0

MOTION PASSED

Consideration and Possible Action on Awarding a Bid for a Trimax 320 Snake Mower for the Roy Anderson Sports Complex and Authorizing the City Manager or His Designee to Execute any Necessary Documents

MOTION WAS MADE BY Council Member Hughes to award the above captioned bid to Trimax in the amount of \$44,378.81, seconded by Council Member Yanez.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None

0

MOTION PASSED

New Business

Consideration and Possible Action on Accepting a Donation from Oxy Petroleum Corporation to the Fire Department

MOTION WAS MADE BY Council Member Hughes to accept the above captioned

donation in the amount of \$10,000.00 to be used for purchasing equipment,
seconded by Council Member Ornelas.

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None 0

MOTION PASSED

Consideration and Possible Action on Accepting a Donation of a Greens Roller from the
Mens Golf Association for the Golf Course

**MOTION WAS MADE BY Mayor Moore to accept the above captioned donation,
seconded by Council Member Yanez.**

**YEAS: Mayor Moore, Council Member Ornelas, Council Member Yanez, 7
Council Member Hughes, Council Member Wilkerson, Mayor Pro Tem
Tompkins, Council Member Moreno**

NAYS: None 0

MOTION PASSED

Council Input

Input

**All Council Members welcomed the new Community Services Director, Susan
Himes.**

Adjourn

Mayor Moore adjourned the City Council meeting at 6:03 p.m.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

**Minutes of the Board of Director's Regular Meeting
BIG SPRING ECONOMIC DEVELOPMENT CORPORATION
Thursday, September 12, 2024, 12:00 p.m.
Offices of the Big Spring Economic Development Corporation
215 West Third Street, Big Spring, Texas**

The Regular Meeting of the Board of Directors of the Big Spring Economic Development Corporation was called to order at 12:00 p.m. Thursday, September 12, 2024, in the offices of the Big Spring Economic Development Corporation. The following notice was sent on August 16, 2024, to all Directors, the news media, and duly posted on September 6, 2024, by Teresa Morris in compliance with the Open Meeting's Act by posting it on the outside door of the Big Spring Economic Development Corporation and on the outside of City Hall.

"The Board of Directors of the Big Spring Economic Development Corporation will hold a Regular Board Meeting on Thursday, September 12, 2024, at 12:00 p.m. in the offices of the Big Spring Economic Development Corporation, 215 West Third Street, Big Spring, Texas. The purpose of the meeting is; Public Comment, Action on Minutes of the August 20, 2024, Regular Meeting, Action to Approve August Investment and Financials Report, Consideration/Action to Approve Authorized Security Broker/Dealers, Consideration/Action to Approve the 2024-2026 Depository Bid, Directors Report, Executive Session, Action as a Result of Executive Session, Board Comment, and Adjourn".

Directors Present:

Ms. Anna Scott- President
Mr. Cody Williams- Vice President
Mr. Joel De La Garza - Secretary/Treasurer
Mr. Raul Benavides
Mr. Kevin Armstrong
Mr. Brent Strande

Directors Absent:

Staff Present:

Ms. Teresa Morris

Guests that signed in: Judge Randy Johnson

AGENDA ITEM #1 – Call to Order/Invocation and Pledge:

Ms. Scott called the meeting to order at 12:00p.m. and led the invocation and pledge.

ACTION ITEM #2- Public Comment:

Judge Johnson expressed his appreciation for the EDC and the staff and look forward to the continued efforts to bring economic growth to the community.

AGENDA ITEM #3- Action on Minutes of the August 20, 2024, Regular Meeting:

Ms. Scott presented the Minutes. The motion to accept the Minutes was made by Mr. Strande seconded by Mr. Williams. The motion passed 6 to 0 with all members present voting "aye" in favor of the motion.

AGENDA ITEM #4- Action to Approve July Investment & Financial Report:

Will be presented next month.

ACTION ITEM #5- Consideration/Action to Approve the Authorized Security Broker/Dealers:

Ms. Morris presented the Security Broker/Dealers. Motion to approve was made by Mr. Strande, seconded by Mr. Armstrong. The motion passed 5 to 0 with Mr. De La Garza abstaining.

ACTION ITEM 6#- Consideration/Action to Approve the 2024-2026 Depository Bid

Ms. Morris presented the Depository Bids. The motion to award Western Bank the depository was made by Mr. Benavides, seconded by Mr. Williams. The motion passed 5 to 0 with Mr. De La Garza abstaining. "aye" in favor of the motion.

ACTION ITEM #7- Directors Report:

Projects: The final City/EDC edits of the Cross EII contracts have been sent to them and it is hoped signing of the agreements will be completed soon. The request for a 90-day extension to the EDA deadline for commencing construction (September 20, 2024) is expected to be accepted, incorporating the additional 127-acre property and infrastructure into the larger project. The ABS Wind incentive package is ready to execute as soon as a copy of the company's lease with the Airpark is complete. The EDC is preparing a cost-benefit analysis for the city in regards to the value associated with a drainage project and easement agreement with the owners of the 35-acres located behind Star Dodge required to accommodate the construction of a new hotel in the area. EDC staff continues to meet with prospects interested in Crossroads Business Park locations when the infrastructure is in place.

Meetings: The EDC Director: did two monthly radio interviews, participated in 3 City staff meetings, participated in 2 City Council meetings. The EDC Associate Director: attended the Team Texas Site Selectors Summit. The EDC staff is working on several legislative events including Local Legislative Day, the Howard County Summit, and Howard County Day at the Capital. The next Board meeting TBD

ACTION ITEM #8- Adjourn into Executive Session in Accordance with Texas Government Code, Section 551.074 to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

Ms. Scott adjourned the Board into Executive Session @ 12:13 pm., Sept. 12, 2024

Ms. Scott called the Executive Session to order at 12:15 pm.

Ms. Scott adjourned out of executive session at 12:53 pm.

Ms. Scott reconvened into open session at 12:53 pm., Aug. 20, 2024

AGENDA ITEM #10- Action as a Result of Executive Session:

None

AGENDA ITEM #11-Board Comments:

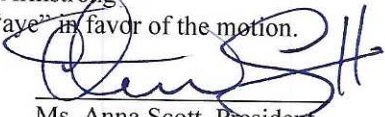
The board thanked the staff for the job they do.

AGENDA ITEM #12- Adjourn:

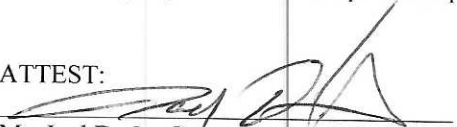
Mr. Benavides made a motion to adjourn, seconded by Mr. Armstrong

The motion passed 6 to 0 with all members present voting "aye" in favor of the motion.

The meeting adjourned at 12:54 pm on Sept 12, 2024.


Ms. Anna Scott, President

ATTEST:


Mr. Joel De La Garza, Secretary/Treasurer

Minutes of the Board of Director's Special Meeting
BIG SPRING ECONOMIC DEVELOPMENT CORPORATION
Friday, October 18, 2024, 12:00p.m.
Offices of the Big Spring Economic Development Corporation
215 West Third Street, Big Spring, Texas

The Regular Meeting of the Board of Directors of the Big Spring Economic Development Corporation was called to order at 12:00 p.m. Friday, October 18, 2024, in the offices of the Big Spring Economic Development Corporation. The following notice was sent on October 14, 2024, to the Board of Directors, the news media, and duly posted on October 14, 2024, by Teresa Morris in compliance with the Open Meeting's Act by posting it on the outside door of the Big Spring Economic Development Corporation and on the outside of City Hall.

"The Board of Directors of the Big Spring Economic Development Corporation will hold a Special Board Meeting on Friday, October 18, 2024, at 12:00 p.m. in the offices of the Big Spring Economic Development Corporation, 215 West Third Street, Big Spring, Texas. The purpose of the meeting is Public Comment, Executive Session, Action as a Result of Executive Session, Directors Report, Board Comment, and Adjourn".

Directors Present:

Ms. Anna Scott- President
Mr. Cody Williams- Vice President
Mr. Joel De La Garza- Secretary/Treasurer
Mr. Kevin Armstrong

Directors Absent:

Mr. Raul Benavides
Mr. Brent Strande

Staff Present:

Mr. Mark Willis,
Ms. Teresa Morris

Guests that signed in:

AGENDA ITEM #1 – Call to Order/Invocation and Pledge:

Ms. Scott called the meeting to order at 12:00 p.m. Ms. Scott led the invocation and pledge.

AGENDA ITEM #2- Public Comment:

None

AGENDA ITEM #3- Adjourn into Executive Session in Accordance with Texas Government Code, Section 551.087 to Discuss or Deliberate Prospect Activity:

Ms. Scott adjourned the Board into Executive Session @ 12:03 pm., October 18, 2024
Ms. Scott called the Executive Session to order at 12:04 pm, October 18, 2024
Ms. Scott adjourned out of executive session at 12:17pm., October 18, 2024
Ms. Scott reconvened into open session at 12:18 pm., October 18, 2024

AGENDA ITEM #4- Action as a Result of Executive Session:

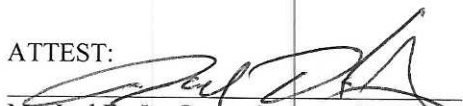
Motion to authorize the President or designee to sign the Development Agreement, the Access Agreement, the Option Agreement, and the Purchase Agreement between the Big Spring EDC and Cross-Ell Ranch Corp. Contingent upon the approval of the Big Spring City Council was made by Mr. De La Garza, seconded by Mr. Williams. The motion passed 4 to 0 with all members present voting "aye" in favor of the motion.

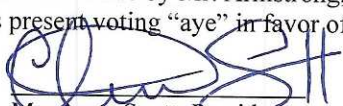
AGENDA ITEM #5-Board Comments: None

AGENDA ITEM #6- Adjourn:

Ms. Scott called for a motion to adjourn. The motion to adjourn was made by Mr. Armstrong, seconded by Mr. De La Garza. The motion passed 4 to 0 with all members present voting "aye" in favor of the motion. The meeting adjourned at 12:20 pm on October 18, 2024.

ATTEST:


Mr. Joel De La Garza, Secretary/Treasurer


Ms. Anna Scott, President



**McMahon-Wrinkle Aviation Advisory Board Meeting Minutes
August 15, 2024**

The McMahon-Wrinkle Aviation Advisory Board met in Regular Session at 5:30 p.m., on Thursday, August 15, 2024 at the Airport Terminal conference room, 3200 Rickabaugh Drive, Big Spring, Texas. Steven Boatenhamer called the meeting to order at 5:30 p.m. with the following members in attendance:

Shane Schaffner Jonathan Ray Bob Miller
Steven Boatenhamer Adriel Saldivar

Also in attendance: Mike Feeley

Absent: Russ Rutledge

Item # 1

Call to Order

Steven Boatenhamer called the meeting to order at 5:30 p.m.

Item # 2

Review and approve minutes from July 18, 2024 meeting.

Motion to approve made by Jonathan Ray seconded by Adriel Saldivar with all members voting “aye” for acceptance of the minutes as written.

Item # 3

Public Comment

There were no public comments at this time.

Item # 4

Airport Director's Report

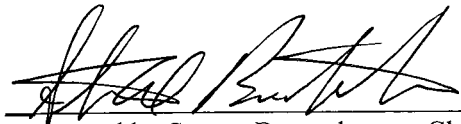
Mike began with an update on the Hangar 25 door project. The project is set to begin on August 26th with an official completion date of December 1st. The project will begin with removing the existing doors. Mike then briefly discussed abatements and demolitions set to take place. The former Ryder Trucking building has begun abatement. The building was initially the fire department for Webb Airforce Base. Shortly after the control tower will be abated as well. After abatements are completed, both will be scheduled to be demolished. Next on the agenda was the striping and marking project that is set to begin on October 10th. Airpark maintenance has begun working on the vegetation on the shoulders. Mike then briefed the board regarding the new entity in the former FBO Hangar – True North Aero. They will not provide fueling but they will provide aircraft maintenance and annual inspections. Lastly, the possibility of moving all future

board meetings to another day was discussed. The topic was brought upon by a member who is unable to make the Thursday meetings. The board agreed that they will vote ata later time when all of the board is present.

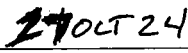
Item # 5

Next Meeting Date is November 21, 2024

Adjournment: 7:00 P.M.



Approved by Steven Boatenhamer, Chairman



Date



INTEROFFICE MEMORANDUM

Date: November 8, 2024
To: Mayor Robert H. Moore and Big Spring City Council
From: John Medina, Assistant City Manager
Subject: Stop Loss Renewal

The City of Big Spring released a Request for Proposal to thirteen Stop Loss carriers for the plan renewal January 1, 2025. All thirteen carriers responded with positions ranging from -11% to 33% above current in respect to current terms.

SunLife, the incumbent option 1, the current stop loss carrier for the City of Big Spring, responded with a firm and binding offer at 12.73% above current resulting in an increase in fixed cost of \$55,542 annually. Attachment point firmed at \$2,143,410 no change to current. Total max cost for incumbent option 1 for fixed cost and attachment point is \$2,635,228 at 2.51% above current. A no new laser and 50% rate cap was put in place last plan year, so no lasers have been placed for the 2025 renewal.

ISU/Companion Life option 7 responded with a firm and binding offer at 7.57% below current resulting in a decrease in fixed cost of \$33,024 annually. Attachment point firmed at \$2,292,067 at 6.94% above current. Total max cost for ISU/Companion Life option 7 for fixed cost and attachment point is \$2,695,430 at 4.48% above current. No lasers are being placed for 2025 and no new laser and 50% rate cap is included. Option 7 includes a 24/12 contract term vs the current 15/12 term. The increase in 24/12 is recommended as it provides City of Big Spring an additional 9 months of incurred claims to be covered under the stop loss, which the current contract only provides for an additional 3 months run in of incurred claims. With the risk of providers billing services incurred by claimants at a delayed response, the City of Big Spring will be in a better risk position with the 24/12 vs the 15/12 term.

SA Benefit Services and TX Health Benefits Pool recommendation to the City of Big Spring is to move to option 7 with ISU/Companion Life at the \$90,000 specific deductible level moving from 15/12 to a 24/12 term contract, no lasers, no new lasers at renewal and 50% rate cap for the January 1, 2025, stop loss plan year for an estimated annual savings on fixed cost and a slight increase to the attachment point while obtaining more run-in coverage than in place today.

Although Sun Life, option 1, overall max cost of 2.51% compared to ISU, option 7, at 4.48% max cost seems more favorable, it's because of the attachment point being lower on option 1. The attachment point (aggregate coverage) is to protect the city from high frequency of claims under the specific deductible. It's when the total claims paid exceed the attachment point does the city get a stop loss aggregate reimbursement. The city has never had an aggregate reimbursement, therefore it is not advised

to decide solely on the attachment point. The fixed cost moving to ISU option 7 is a \$88,566 savings compared to Sun Life option 1. The savings on fixed cost outweigh the savings on the attachment point as the fixed cost is realized savings.



Firm Stop Loss Proposal

City of Big Spring

(Stop Loss Proposal ONLY)



SA
BENEFIT
SERVICES

Prepared By: Mackenzie Anderson
Phone: 323-419-2841
Email: manderson@sabenefitservices.com
www.sabenefitservices.com

Plan Sponsor: City of Big Spring
Effective: 01/01/2025

Stop Loss Terms	Current	Renewal - Option 1	Option 2	Option 3
MGU (If MGU not identified then a direct carrier)				
Stop Loss Carrier	Sun Life	Sun Life	Sun Life	Sun Life
Network	BCBS of TX	BCBS of TX	BCBS of TX	BCBS of TX
Months in Contract	12	12	12	12
Specific Terms				
Specific Deductible	\$90,000	\$90,000	\$100,000	\$120,000
Aggregating Specific Deductible	N/A	N/A	N/A	N/A
Maximum Coverage Limit	Unlimited	Unlimited	Unlimited	Unlimited
Contract	15/12	15/12	15/12	15/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Run-In / Run-Out Limit	N/A	N/A	N/A	N/A
Terminal Liability Provision	No	No	No	No
Renewal Rate Cap (No New Laser)	Yes-50%	Yes-50%	Yes-50%	Yes-50%
Plan Mirroring Coordination approved	Yes	No	No	No
Advance Funding	Yes	Yes	Yes	Yes
Transplants Carved Out	No	No	No	No
Aggregate Terms				
Annual Maximum	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Deductible Corridor	125%	125%	125%	125%
Contract	15/12	15/12	15/12	15/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Aggregate Accomodation Quoted	No	No	No	No
Terminal Liability Provision Quoted	No	No	No	No
Run-In / Run-Out Limit	N/A	N/A	N/A	N/A
Stop Loss Premium (Fixed)				
Specific Composite 213	\$163.36	\$185.09	\$174.63	\$156.29
Annual Specific Premium	\$417,548	\$473,090	\$446,354	\$399,477
Aggregate Premium 213	\$7.37	\$7.37	\$7.37	\$7.37
Annual Aggregate Premium	\$18,838	\$18,838	\$18,838	\$18,838
Total Annual Premium	\$436,386	\$491,928	\$465,192	\$418,315
% Increase		12.73%	6.60%	-4.14%
Annual Fixed Cost	\$ 436,385.88	\$ 491,927.76	\$ 465,192.00	\$ 418,314.96
Aggregate Claim Liability				
Composite 213	\$838.58	\$838.58	\$871.55	\$919.12
Maximum Claim Liability	\$2,143,410	\$2,143,410	\$2,227,682	\$2,349,271
% Increase		0.00%	3.93%	9.60%
Fixed Cost and Maximum Claim Liability	\$2,579,796	\$2,635,338	\$2,692,874	\$2,767,586
% Increase		2.15%	4.38%	7.28%
Laser Contingencies				
Individual - PHI REDACTED	N/A	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.
Individual PHI REDACTED	N/A	N/A	N/A	N/A
Quote Status				
Firm Thru		FIRM November 18, 2024	FIRM November 18, 2024	FIRM November 18, 2024
Service Fee / Broker Commission (included in the rates)				
Service Fee - Paid to SA Benefit Services	5%	5%	5%	5%
Qualifications and Contingencies *Please review actual proposal contingencies regarding each stop loss carrier option.				



Plan Sponsor: City of Big Spring
Effective: 01/01/2025

Stop Loss Terms	Current	Option 4	Option 5	Option 6
MGU (If MGU not identified then a direct carrier)		ISU	ISU	ISU
Stop Loss Carrier	Sun Life	Companion Life	Companion Life	Companion Life
Network	BCBS of TX	BCBS of TX	BCBS of TX	BCBS of TX
Months in Contract	12	12	12	12
Specific Terms				
Specific Deductible	\$90,000	\$90,000	\$100,000	\$120,000
Aggregating Specific Deductible	N/A	N/A	N/A	N/A
Maximum Coverage Limit	Unlimited	Unlimited	Unlimited	Unlimited
Contract	15/12	15/12	15/12	15/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Run-In / Run-Out Limit	N/A	N/A	N/A	N/A
Terminal Liability Provision	No	No	No	No
Renewal Rate Cap (No New Laser)	Yes-50%	Yes-50%	Yes-50%	Yes-50%
Plan Mirroring Coordination approved	Yes	No	No	No
Advance Funding	Yes	Yes	Yes	Yes
Transplants Carved Out	No	No	No	No
Aggregate Terms				
Annual Maximum	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Deductible Corridor	125%	125%	125%	125%
Contract	15/12	15/12	15/12	15/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Aggregate Accommodation Quoted	No	No	No	No
Terminal Liability Provision Quoted	No	No	No	No
Run-In / Run-Out Limit	N/A	N/A	N/A	N/A
Stop Loss Premium (Fixed)				
Specific Composite 213	\$163.36	\$145.91	\$138.51	\$123.77
Annual Specific Premium	\$417,548	\$372,946	\$354,032	\$316,356
Aggregate Premium 213	\$7.37	\$6.20	\$6.77	\$7.81
Annual Aggregate Premium	\$18,838	\$15,847	\$17,304	\$19,962
Total Annual Premium	\$436,386	\$388,793	\$371,336	\$336,318
% Increase		-10.91%	-14.91%	-22.93%
Annual Fixed Cost	\$ 436,385.88	\$ 388,793.16	\$ 371,335.68	\$ 336,318.48
Aggregate Claim Liability				
Composite 213	\$838.58	\$866.25	\$875.99	\$889.87
Maximum Claim Liability	\$2,143,410	\$2,214,135	\$2,239,030	\$2,274,508
% Increase		3.30%	4.46%	6.12%
Fixed Cost and Maximum Claim Liability	\$2,579,796	\$2,602,928	\$2,610,366	\$2,610,826
% Increase		0.90%	1.18%	1.20%
Laser Contingencies				
Individual PHI REDACTED	N/A	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.
Individual PHI REDACTED	N/A	N/A	N/A	N/A
Quote Status				
Firm Thru		FIRM November 18, 2024	FIRM November 18, 2024	FIRM November 18, 2024
Service Fee / Broker Commission (included in the rates)				
Service Fee - Paid to SA Benefit Services	5%	6%	6%	6%
Qualifications and Contingencies *Please review actual proposal contingencies regarding each stop loss carrier option.				



SA
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Plan Sponsor: City of Big Spring
Effective: 01/01/2025

Stop Loss Terms	Current	Option 7	Option 8	Option 9
MGU (If MGU not identified then a direct carrier)		ISU	ISU	ISU
Stop Loss Carrier	Sun Life	Companion Life	Companion Life	Companion Life
Network	BCBS of TX	BCBS of TX	BCBS of TX	BCBS of TX
Months in Contract	12	12	12	12
Specific Terms				
Specific Deductible	\$90,000	\$90,000	\$100,000	\$120,000
Aggregating Specific Deductible	N/A	N/A	N/A	N/A
Maximum Coverage Limit	Unlimited	Unlimited	Unlimited	Unlimited
Contract	15/12	24/12	24/12	24/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Run-In / Run-Out Limit	N/A	N/A	N/A	N/A
Terminal Liability Provision	No	No	No	No
Renewal Rate Cap (No New Laser)	Yes-50%	Yes-50%	Yes-50%	Yes-50%
Plan Mirroring Coordination approved	Yes	No	No	No
Advance Funding	Yes	Yes	Yes	Yes
Transplants Carved Out	No	No	No	No
Aggregate Terms				
Annual Maximum	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Deductible Corridor	125%	125%	125%	125%
Contract	15/12	24/12	24/12	24/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Aggregate Accommodation Quoted	No	No	No	No
Terminal Liability Provision Quoted	No	No	No	No
Run-In / Run-Out Limit	N/A	N/A	N/A	N/A
Stop Loss Premium (Fixed)				
Specific Composite 213	\$163.36	\$151.39	\$143.70	\$128.37
Annual Specific Premium	\$417,548	\$386,953	\$367,297	\$328,114
Aggregate Premium 213	\$7.37	\$6.42	\$7.01	\$8.08
Annual Aggregate Premium	\$18,838	\$16,410	\$17,918	\$20,652
Total Annual Premium	\$436,386	\$403,362	\$385,215	\$348,766
% Increase		-7.57%	-11.73%	-20.08%
Annual Fixed Cost	\$ 436,385.88	\$ 403,362.36	\$ 385,214.76	\$ 348,766.20
Aggregate Claim Liability				
Composite 213	\$838.58	\$896.74	\$906.83	\$921.19
Maximum Claim Liability	\$2,143,410	\$2,292,067	\$2,317,857	\$2,354,562
% Increase		6.94%	8.14%	9.85%
Fixed Cost and Maximum Claim Liability	\$2,579,796	\$2,695,430	\$2,703,072	\$2,703,328
% Increase		4.48%	4.78%	4.79%
Laser Contingencies				
Individual - PHI REDACTED	N/A	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.
Individual - PHI REDACTED	N/A	N/A	N/A	N/A
Quote Status				
Firm Thru		FIRM November 18, 2024	FIRM November 18, 2024	FIRM November 18, 2024
Service Fee / Broker Commission (included in the rates)				
Service Fee - Paid to SA Benefit Services	5%	6%	6%	6%
Qualifications and Contingencies *Please review actual proposal contingencies regarding each stop loss carrier option.				



Prepared By: Mackenzie Anderson
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Plan Sponsor: City of Big Spring
Effective: 01/01/2025

Stop Loss Terms		Current	Option 10	Option 11	Option 12
MGU (If MGU not identified then a direct carrier)			Pace	Pace	Pace
Stop Loss Carrier		Sun Life	Companion Life	Companion Life	Companion Life
Network		BCBS of TX	BCBS of TX	BCBS of TX	BCBS of TX
Months in Contract		12	12	12	12
Specific Terms					
Specific Deductible		\$90,000	\$90,000	\$100,000	\$120,000
Aggregating Specific Deductible		N/A	N/A	N/A	N/A
Maximum Coverage Limit		Unlimited	Unlimited	Unlimited	Unlimited
Contract		15/12	15/12	15/12	15/12
Coverages		Med, Rx	Med, Rx	Med, Rx	Med, Rx
Run-In / Run-Out Limit		N/A	N/A	N/A	N/A
Terminal Liability Provision		No	No	No	No
Renewal Rate Cap (No New Laser)		Yes-50%	Yes-50%	Yes-50%	Yes-50%
Plan Mirroring Coordination approved		Yes	No	No	No
Advance Funding		Yes	Yes	Yes	Yes
Transplants Carved Out		No	No	No	No
Aggregate Terms					
Annual Maximum		\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Deductible Corridor		125%	125%	125%	125%
Contract		15/12	15/12	15/12	15/12
Coverages		Med, Rx	Med, Rx	Med, Rx	Med, Rx
Aggregate Accommodation Quoted		No	No	No	No
Terminal Liability Provision Quoted		No	No	No	No
Run-In / Run-Out Limit		N/A	\$336,212	\$339,673	\$346,566
Stop Loss Premium (Fixed)					
Specific Composite 213		\$163.36	\$146.18	\$138.81	\$122.42
Annual Specific Premium		\$417,548	\$373,636	\$354,798	\$312,906
Aggregate Premium 213		\$7.37	\$7.01	\$7.81	\$9.30
Annual Aggregate Premium		\$18,838	\$17,918	\$19,962	\$23,771
Total Annual Premium		\$436,386	\$391,554	\$374,761	\$336,676
% Increase			-10.27%	-14.12%	-22.85%
Annual Fixed Cost		\$ 436,385.88	\$ 391,553.64	\$ 374,760.72	\$ 336,676.32
Aggregate Claim Liability					
Composite 213		\$838.58	\$856.81	\$865.63	\$883.19
Maximum Claim Liability		\$2,143,410	\$2,190,006	\$2,212,550	\$2,257,434
% Increase			2.17%	3.23%	5.32%
Fixed Cost and Maximum Claim Liability		\$2,579,796	\$2,581,560	\$2,587,311	\$2,594,110
% Increase			0.07%	0.29%	0.55%
Laser Contingencies					
Individual - PHI REDACTED		N/A	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.
Individual - PHI REDACTED		N/A	12/12 if pended claims not paid prior to 1/1/2025	12/12 if pended claims not paid prior to 1/1/2025	12/12 if pended claims not paid prior to 1/1/2025
Quote Status			FIRM	FIRM	FIRM
Firm Thru			November 13, 2024	November 13, 2024	November 13, 2024
Service Fee / Broker Commission (included in the rates)					
Service Fee - Paid to SA Benefit Services		5%	5%	5%	5%
Qualifications and Contingencies *Please review actual proposal contingencies regarding each stop loss carrier option.					



Plan Sponsor: City of Big Spring
Effective: 01/01/2025

Stop Loss Terms	Current	Option 13	Option 14	Option 15
MGU (If MGU not identified then a direct carrier)		Pace	Pace	Pace
Stop Loss Carrier	Sun Life	Companion Life	Companion Life	Companion Life
Network	BCBS of TX	BCBS of TX	BCBS of TX	BCBS of TX
Months in Contract	12	12	12	12
Specific Terms				
Specific Deductible	\$90,000	\$90,000	\$100,000	\$120,000
Aggregating Specific Deductible	N/A	N/A	N/A	N/A
Maximum Coverage Limit	Unlimited	Unlimited	Unlimited	Unlimited
Contract	15/12	24/12	24/12	24/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Run-In / Run-Out Limit	N/A	N/A	N/A	N/A
Terminal Liability Provision	No	No	No	No
Renewal Rate Cap (No New Laser)	Yes-50%	Yes-50%	Yes-50%	Yes-50%
Plan Mirroring Coordination approved	Yes	No	No	No
Advance Funding	Yes	Yes	Yes	Yes
Transplants Carved Out	No	No	No	No
Aggregate Terms				
Annual Maximum	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Deductible Corridor	125%	125%	125%	125%
Contract	15/12	24/12	24/12	24/12
Coverages	Med, Rx	Med, Rx	Med, Rx	Med, Rx
Aggregate Accommodation Quoted	No	No	No	No
Terminal Liability Provision Quoted	No	No	No	No
Run-In / Run-Out Limit	N/A	\$347,002	\$350,464	\$358,070
Stop Loss Premium (Fixed)				
Specific Composite 213	\$163.36	\$153.10	\$145.40	\$128.35
Annual Specific Premium	\$417,548	\$391,324	\$371,642	\$328,063
Aggregate Premium 213	\$7.37	\$7.23	\$8.05	\$9.61
Annual Aggregate Premium	\$18,838	\$18,480	\$20,576	\$24,563
Total Annual Premium	\$436,386	\$409,803	\$392,218	\$352,626
% Increase		-6.09%	-10.12%	-19.19%
Annual Fixed Cost	\$ 436,385.88	\$ 409,803.48	\$ 392,218.20	\$ 352,625.76
Aggregate Claim Liability				
Composite 213	\$838.58	\$884.31	\$893.13	\$912.51
Maximum Claim Liability	\$2,143,410	\$2,260,296	\$2,282,840	\$2,332,376
% Increase		5.45%	6.51%	8.82%
Fixed Cost and Maximum Claim Liability	\$2,579,796	\$2,670,100	\$2,675,058	\$2,685,001
% Increase		3.50%	3.69%	4.08%
Laser Contingencies				
Individual - PHI REDACTED	N/A	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.	Assumed Medicare Primary March 1, 2025.
Individual- PHI REDACTED	N/A	12/12 if pended claims not paid prior to 1/1/2025	12/12 if pended claims not paid prior to 1/1/2025	12/12 if pended claims not paid prior to 1/1/2025
Quote Status		FIRM	FIRM	FIRM
Firm Thru		November 13, 2024	November 13, 2024	November 13, 2024
Service Fee / Broker Commission (included in the rates)				
Service Fee - Paid to SA Benefit Services	5%	5%	5%	5%
Qualifications and Contingencies *Please review actual proposal contingencies regarding each stop loss carrier option.				

**To accept the renewal proposal, please do the following:**

- At the bottom of this page, select a renewal option and sign where indicated.
- Email, fax, or mail this page to me by December 1, 2024, in order to avoid a lapse in coverage.

Policyholder name:	City of Big Spring	Account number:	962991
Policyholder Address:	310 NOLAN ST BIG SPRING, TX 797202657	Renewal status:	Open
Situs State:	TX	TPA Name:	BLUE CROSS/BLUE SHIELD OF TX
Renewal Eff. Date:	January 1, 2025	PPO Name:	BCBS Texas (IL - TX BCBS)

Current and renewal rate summary

Tier	Employees
Composite	208
Total	208

Specific Stop-Loss policy details and renewal options

Plan thresholds	Current	Renewal option 1	Renewal option 2	Renewal option 3
Individual Specific deductible	\$90,000	\$90,000	\$100,000	\$120,000
Aggregating Specific deductible	None	None	None	None
Annual maximum	Unlimited	Unlimited	Unlimited	Unlimited
Lifetime maximum	Unlimited	Unlimited	Unlimited	Unlimited
Claims basis	15/12	15/12	15/12	15/12
Benefits covered	Medical and Rx	Medical and Rx	Medical and Rx	Medical and Rx
Composite	\$163.36	\$185.09	\$174.63	\$156.29
Total monthly premium	\$33,978.88	\$38,498.93	\$36,322.25	\$32,508.78
Renewal rate action as a % increase to current monthly premium		13.3%	6.9%	-4.3%

Aggregate Stop-Loss policy details and renewal options

Aggregate rates	Current	Renewal option 1	Renewal option 2	Renewal option 3
Aggregate Benefit Maximum	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Per employee per month rate	\$7.37	\$7.37	\$7.37	\$7.37
Total monthly premium	\$1,532.96	\$1,532.96	\$1,532.96	\$1,532.96
Renewal rate action as a % increase to current monthly premium		0.0%	0.0%	0.0%

Aggregate thresholds and rates	Current	Renewal option 1	Renewal option 2	Renewal option 3
Claims basis	15/12	15/12	15/12	15/12
Benefits covered	Medical, Rx	Medical, Rx	Medical, Rx	Medical, Rx
Corridor	125%	125%	125%	125%
Minimum Attachment Point %	90%	90%	90%	90%
Composite Aggregate deductible factor	\$838.58	\$838.58	\$871.55	\$919.12
- Medical	\$558.18	\$558.18	\$591.15	\$638.72
- Rx Drug	\$280.40	\$280.40	\$280.40	\$280.40
Minimum Attachment Point	\$156,982.18	\$156,982.18	\$163,154.16	\$172,059.26
Estimated monthly renewal liability	\$174,424.64	\$174,424.64	\$181,282.40	\$191,176.96
Renewal rate action as a % increase to current monthly aggregate deductible factors.		0.0%	3.9%	9.6%

Total estimated annual plan costs

Total costs	Current	Renewal option 1	Renewal option 2	Renewal option 3
Total annual premium	\$426,142.08	\$480,382.66	\$454,262.52	\$408,500.85
Annual Aggregate Attachment Point	2,093,095.68	2,093,095.68	2,175,388.80	2,294,123.52
Total estimated self-funded plan costs	\$2,519,237.76	\$2,573,478.34	\$2,629,651.32	\$2,702,624.37
Renewal rate action as a % increase to total estimated annual plan cost.		2.2%	4.4%	7.3%

Select renewal option

Please indicate the renewal option you have selected by initialing one of the three boxes above. The premium rates agreed upon as part of the renewal will be effective on the Policy Renewal Effective Date. Your signature on the renewal proposal constitutes your acceptance of the terms, conditions, assumptions and contingencies set forth in it.

Please acknowledge your acceptance of the renewal proposal, which includes all pages of the proposal, by signing below and returning the signed page to Emily Rogers.

Policyholder Signature:_____

Date:_____

Printed Name:_____

Printed Title:_____

Policyholder name:	City of Big Spring
Account number:	962991
Renewal status:	Open
Renewal Eff. Date:	January 1, 2025

Specific Stop-Loss coverage

The following options and programs are included in your policy:

- No New Laser Gene Therapy Enhancement:**
With this enhancement, we will not add a new laser, modify or increase the amount of an existing laser that was previously set for another treatment or condition, directly related to the cost of a gene therapy drug. We will continue to employ strategies to mitigate the impact of high-cost gene therapy claims, ensuring renewal stability.
A gene therapy drug is a prescribed treatment that modifies a person's genes to treat or cure disease. Gene therapy drugs must be designated as a gene therapy and FDA approved.
Existing individual Specific Benefit Deductibles applied to a specific Covered Person due to the member's underlying condition or other reasons will apply.
[View our Notice of Enhanced Business Practice here.](#)
- No New Lasers at Renewal option with Renewal Rate Cap of 50%**
This option prevents new lasers from being added to the new policy if it renews. The rate cap applies to Specific Benefit rates and the Aggregating Specific deductible (if applicable), and it assumes there are no material changes to the underlying plan, the Sun Life Stop-Loss policy, or the covered group.
- Advance Funding option**
This option enhances the cash flow of your self-funded plan by advancing the stop-loss funds to you or your administrator up front, before you pay the provider.
- Retiree coverage**
- Rx claims are included and bundled with the administration (no carve-out PBM)**
This proposal assumes that your stop-loss insurance will include coverage for prescription drug claims and that the standard large claimant reporting from your medical administrator will include both medical and prescription drug claims. Based on the information provided, your PBM vendor is Navitus.
- SunEliteSM medical document review service**
SunElite is a medical plan document review service for Sun Life Stop-Loss clients. Your custom SunElite report will analyze the plan's cost-containment, federal law compliance and discretionary authority.
- Sun Life Clinical 360**
Sun Life Clinical 360 is a program utilizing clinical experts who act as a second set of eyes, reviewing claim data to identify cost savings and care optimization opportunities.
This program is automatically included for all Sun Life Stop-Loss clients.

The following are not included in your policy:

- Terminal Liability option**
- Experience Rating Refund**

Producer commissions

Sun Life pays the following commission percent to the Stop-Loss producer: 0.0%.

Specific Benefit Stop-Loss renewal acceptance

Acceptance of your Specific Benefit Stop-Loss renewal by Sun Life is subject to timely receipt of a signed renewal proposal and contingent upon a review of large claims over \$45,000 with diagnosis/prognosis for the period of January 1, 2024, through September 30, 2024, with accompanying required information. For large claims, the required information includes paid claims, pending claims, and notification of known situations. Upon review of your large claims information, we reserve the right to recalculate quoted rates.

Sun Life will not reimburse for claims expenses incurred outside the Policy Year parameters.

Aggregate Benefit Stop-Loss

- Features**
Monthly Aggregate Accommodation is not included.
Terminal Liability option is not included.

Minimum Attachment Points		
Renewal Option 1	Renewal Option 2	Renewal Option 3
\$1,883,786.11	\$1,957,849.92	\$2,064,711.17

- Aggregate Stop-Loss renewal acceptance**
Renewal acceptance of Aggregate Benefit coverage by Sun Life is subject to timely receipt of a signed renewal proposal and contingent upon a review of monthly claims and lives, by line of coverage, for the period of January 1, 2024, through September 30, 2024. Upon review of that information, we reserve the right to recalculate the Aggregate Benefit Attachment Point.

General coverage

- Captive coverage**
Any Stop Loss policy issued to a policyholder that is part of a captive program, is excluded from any and all

Policyholder name:	City of Big Spring
Account number:	962991
Renewal status:	Open
Renewal Eff. Date:	January 1, 2025

Sun Life incentive, bonus or override programs.

- Affordable Care Act accommodations**
This renewal proposal represents Sun Life's efforts to work with you to meet your requirements under the Affordable Care Act (ACA), including, but not limited to, the dependent age provisions of the ACA. It is the self-funded medical plan's responsibility to keep its census data up to date at all times. If the plan inadvertently does not remove a terminated participant, Sun Life may deny any claims from the participant. However, in that situation, the self-funded medical plan is responsible for the claim.

1. Sun Life 2023 book of business data.
2. For complete financial ratings, visit www.sunlife.com/financialratings.
3. Sun Life renewal statistics data from 2021 to 2023.
4. Health Research Institute Medical Trend "Behind The Numbers" report 2023.

Producer licensing

All Sun Life companies require producers using insurance quotes we issue for the purpose of soliciting, selling, or negotiating insurance to be licensed both by the state where the prospective client is located and by any state where the solicitation, sale, or negotiation of insurance occurs, if different. This requirement pertains to all forms of solicitation, sales or negotiation of insurance, including but not limited to solicitation, sale, or negotiation conducted in person, by telephone, by email, by fax, or otherwise.

Producer compensation

We encourage brokers and their clients to discuss what commission or other compensation may be paid in connection with the purchase of products and services from Sun Life companies. All Sun Life companies may pay the selling broker, agency, or third party administrator for the promotion, sale, and renewal of the products and services offered in this proposal. In addition to our standard compensation, we may make additional cash payments or reimbursements to selling brokers in recognition of their marketing and distribution activities, persistency levels, and volume of business.

For New York situs business, we may pay reduced compensation where fewer services are offered and increased compensation where more services are provided. Producers must comply with the specific compensation disclosure requirements of New York Regulation 194.

Plan and rates

This renewal proposal is based on the employee census information that was provided. Acceptance of the group and final rates will be determined by the Sun Life home office in the United States based on actual enrollment and case experience, if required. Terms and conditions of any coverage under the policy will be determined by all necessary final data and by underwriting rules, policy requirements, and policy provisions in effect on the date coverage begins.

Sun Life Companies

The Sun Life group of companies operates under the "Sun Life" name. In the United States and elsewhere, insurance products are offered by members of the Sun Life group of companies that are insurance companies.

Currently, group underwriting companies include Sun Life and Health Insurance Company (U.S.) and Sun Life Assurance Company of Canada. Sun Life Inc., the publicly traded holding company for the Sun Life group of companies, is not an insurance company and does not guarantee the obligations of these insurance companies. Each insurance company relies on its own financial strength and claims-paying ability.

Group stop-loss insurance policies are underwritten by Sun Life Assurance Company of Canada (Wellesley Hills, MA) in all states, except New York, under Policy Form Series 07-SL REV 7-12 and 22-SL. In New York, group stop-loss insurance policies are underwritten by Sun Life and Health Insurance Company (U.S.) (Lansing, MI) under Policy Form Series 07-NYSL REV 7-12 and 22-NYSL. Product offerings may not be available in all states and may vary depending on state laws and regulations.

Stop-Loss information

The following services are not insurance and carry a separate charge included with the price of coverage: Clinical 360, owned by Sun Life; SunEliteSM, owned by Sun Life with services provided by The Phia Group, LLC.

Information

Issuance of a Stop Loss policy is dependent upon meeting underwriting guidelines and participation requirements.

Carrier: Companion Life

Stop Loss Proposal for: City of Big Spring

Policy Period: 01/01/2025 – 12/31/2025

Administrator: Texas Health Benefits Pool



10199 Southside Boulevard, Suite 205
Jacksonville, FL 32256
Telephone: (904) 281-2151
Facsimile: (904) 281-0384

Proposal Number: 5

Underwriter:
Kim Angeletti
kangeletti@isu-inc.net

Marketing Representative:
Lisa H. John M.

SPECIFIC STOP LOSS COVERAGE		Option 1	Option 2	Option 3
Coverages		Medical, Rx Card	Medical, Rx Card	Medical, Rx Card
Specific Deductible per Individual		\$ 90,000	\$ 100,000	\$ 120,000
Contract Basis		15/12	15/12	15/12
Specific Advancement		Included	Included	Included
Specific Rate(s) Per Month	Enrollment			
Composite	213	\$ 145.91	\$ 138.51	\$ 123.77
Estimated Monthly Premium		\$ 31,079	\$ 29,503	\$ 26,363
Estimated Policy Period Premium		\$ 372,946	\$ 354,032	\$ 316,356
Lifetime Reimbursement		Unlimited	Unlimited	Unlimited
Maximum Policy Period Reimbursement		Unlimited	Unlimited	Unlimited
Quoted Rate(s) include Commission of		0.00 %	0.00 %	0.00 %

AGGREGATE STOP LOSS COVERAGE		Option 1	Option 2	Option 3
Coverages		Medical, Rx Card	Medical, Rx Card	Medical, Rx Card
Contract Basis		15/12	15/12	15/12
Loss Limit per Individual		\$ 90,000	\$ 100,000	\$ 120,000
Maximum Policy Period Reimbursement		\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Aggregate Corridor		125 %	125 %	125 %
Rate per Month	Enrollment			
Composite	213	\$ 6.20	\$ 6.77	\$ 7.81
Combined Gross Monthly Rate		\$ 6.20	\$ 6.77	\$ 7.81
Estimated Policy Period Premium		\$ 15,847	\$ 17,304	\$ 19,962
Quoted Rate(s) include Commission of		0.00 %	0.00 %	0.00 %
Monthly Aggregate Claim Factors	Enrollment			
Medical, Rx Card				
Composite	213	\$ 866.25	\$ 875.99	\$ 889.87
Run-In Limited To		N/A	N/A	N/A
Aggregate Deductible		\$ 2,214,135	\$ 2,239,030	\$ 2,274,508
Minimum Aggregate Deductible		\$ 2,214,135	\$ 2,239,030	\$ 2,274,508
Expected Annual Claims		\$ 1,771,308	\$ 1,791,224	\$ 1,819,606

OVERALL COST SUMMARY		Option 1	Option 2	Option 3
Total Fixed Cost		\$ 388,793	\$ 371,336	\$ 336,318
Aggregate Variable		\$ 2,214,135	\$ 2,239,030	\$ 2,274,508
Maximum Policy Period Liability		\$ 2,602,928	\$ 2,610,366	\$ 2,610,826

Carrier: Companion Life

Stop Loss Proposal for: City of Big Spring

Policy Period: 01/01/2025 – 12/31/2025

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Marketing Representative:
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SPECIFIC STOP LOSS COVERAGE		Option 4	Option 5	Option 6
Coverages		Medical, Rx Card	Medical, Rx Card	Medical, Rx Card
Specific Deductible per Individual		\$ 90,000	\$ 100,000	\$ 120,000
Contract Basis		24/12	24/12	24/12
Specific Advancement		Included	Included	Included
Specific Rate(s) Per Month	Enrollment			
Composite	213	\$ 151.39	\$ 143.70	\$ 128.37
Estimated Monthly Premium		\$ 32,246	\$ 30,608	\$ 27,343
Estimated Policy Period Premium		\$ 386,953	\$ 367,297	\$ 328,114
Lifetime Reimbursement		Unlimited	Unlimited	Unlimited
Maximum Policy Period Reimbursement		Unlimited	Unlimited	Unlimited
Quoted Rate(s) include Commission of		0.00 %	0.00 %	0.00 %

AGGREGATE STOP LOSS COVERAGE		Option 4	Option 5	Option 6
Coverages		Medical, Rx Card	Medical, Rx Card	Medical, Rx Card
Contract Basis		24/12	24/12	24/12
Loss Limit per Individual		\$ 90,000	\$ 100,000	\$ 120,000
Maximum Policy Period Reimbursement		\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Aggregate Corridor		125 %	125 %	125 %
Rate per Month	Enrollment			
Composite	213	\$ 6.42	\$ 7.01	\$ 8.08
Combined Gross Monthly Rate		\$ 6.42	\$ 7.01	\$ 8.08
Estimated Policy Period Premium		\$ 16,410	\$ 17,918	\$ 20,652
Quoted Rate(s) include Commission of		0.00 %	0.00 %	0.00 %
Monthly Aggregate Claim Factors	Enrollment			
Medical, Rx Card				
Composite	213	\$ 896.74	\$ 906.83	\$ 921.19
Run-In Limited To		N/A	N/A	N/A
Aggregate Deductible		\$ 2,292,067	\$ 2,317,857	\$ 2,354,562
Minimum Aggregate Deductible		\$ 2,292,067	\$ 2,317,857	\$ 2,354,562
Expected Annual Claims		\$ 1,833,654	\$ 1,854,286	\$ 1,883,650

OVERALL COST SUMMARY		Option 4	Option 5	Option 6
Total Fixed Cost		\$ 403,363	\$ 385,215	\$ 348,766
Aggregate Variable		\$ 2,292,067	\$ 2,317,857	\$ 2,354,562
Maximum Policy Period Liability		\$ 2,695,430	\$ 2,703,072	\$ 2,703,328

Carrier: Companion Life
Stop Loss Proposal for: City of Big Spring
Policy Period: 01/01/2025 – 12/31/2025
Administrator: Texas Health Benefits Pool



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PROPOSAL QUALIFICATIONS AND CONTINGENCIES

Quoted terms and conditions are subject to possible revision based upon the receipt and review of the following Items:

- **Prior to any Carrier Stop Loss Application issuance, the signing Agent of Record must be appointed by the Carrier. For details on the appointment process, please contact your Marketing Representative.**
- The Carrier will be entitled to offset claim reimbursement to the Contract holder against Specific or Aggregate claim overpayments made by the Carrier which have not been repaid by the Contract holder.
- Any unfunded claims balance must be disclosed, otherwise such claims will not be considered eligible under the Stop Loss Policy.
- Claimants noted as termed or no longer covered by the medical plan will be excluded from coverage under the Stop Loss. We will require claimant names at disclosure.
- Our proposal is based on the use of the BCBS PPO network. We reserve the right to change our rates and factors. if the network changes or the initial enrollment varies by 10% or more from the enrollment shown on our proposal.
- We reserve the right to change the rates and factors should the initial enrollment vary by 10% or more from the enrollment shown on our proposal.
- The quote is based on the current participation and contribution levels remaining constant for the proposed policy period. Minimum participation level of 65% of all eligible employees is required.
- COBRA participation is limited to 5% or less.
- Subject to review and acceptance of Plan Document.
- This quote is based on the following Plan Design: Current benefit plan(s) and existing enrollment by plan. We reserve the right to adjust the aggregate factors if enrollment by plan changes by more than 10%.
- Actively-at-Work Provision: Waived for individuals identified and approved by the Carrier and all other individuals covered on the Effective Date except for those individuals with serious claims known by the employer or the administrator, COBRA individuals, terminated individuals pending COBRA status, or Disabled individuals who have not been disclosed to us in writing.
- A signed disclosure statement is not required; however, we will require disclosure information. Disclosure information will be accepted closer to the effective date and no later than 15 days after the effective date. Disclosure information will include pre-cert information, trigger diagnosis information, pended/denied claim information, 50% notice information and case management reports. All plan participants considered disabled (including but not limited to: STD, LT, salary continuance, FMLA, extension of benefits, COBRA, and leave of absence), whether employee or dependent, must also be disclosed along with claimants with prescription drug claims more than 50% of the lowest specific deductible or \$2,000 per script. The quotation may require additional information and adjustments, (including lasers), regarding any claimant with a serious condition(s) that may be expected to exceed the selected retention.
- Retirees are excluded from coverage.
- Quote is subject to receipt and review of the current Administrator's claim reports used to create the monthly claim and enrollment spreadsheets submitted with the request for proposal.

Carrier: Companion Life
Stop Loss Proposal for: City of Big Spring
Policy Period: 01/01/2025 – 12/31/2025
Administrator: Texas Health Benefits Pool



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- **NO NEW LASER:** This quote includes the ""No New Laser at Renewal"" option. Under this option, we will not place any new higher deductibles on any individual at the 01/01/2026 renewal. Rates and aggregating specific deductibles, if included, will not increase more than 50% assuming the specific deductible and contract type remain unchanged. Any lasers and/or contingencies placed as of the 01/01/2025 contract may be continued on any subsequent renewals. The carrier has the option to offer, modify or not offer a continuation of this option with subsequent renewals.
- **FIRM OFFER:** This offer is firm based on the disclosure information through 09/30/2024. The quote must be signed and accepted on or before 11/18/2024. If we do not receive a signed quote by 11/18/2024, we reserve the right to re-evaluate our offer.
- **PHI REDACTED** will be Medicare Primary as of 3/1/25

Initial the selected proposal option (please initial both the selected Specific and Aggregate option):

Option	Specific	Aggregate
1	\$ 90,000 / 15/12	\$ 90,000 / 15/12
2	\$ 100,000 / 15/12	\$ 100,000 / 15/12
3	\$ 120,000 / 15/12	\$ 120,000 / 15/12
4	\$ 90,000 / 24/12	\$ 90,000 / 24/12
5	\$ 100,000 / 24/12	\$ 100,000 / 24/12
6	\$ 120,000 / 24/12	\$ 120,000 / 24/12

The Premium and Aggregate Deductibles are based on the data submitted. Any inaccurate or incomplete data submitted may require changes at final underwriting. We will not be bound by any typographical errors or omissions contained herein.

Date: _____

By: _____
Agent of Record or Administrator

GROUP TERM LIFE INSURANCE SCHEDULE OF BENEFITS

	CLASS DESCRIPTION	LIFE INSURANCE*	ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE (AD&D)
1	Group Class: All Active FT Employee	\$20,000	100% of Life

BASIC LIFE INSURANCE AND AD&D INSURANCE REDUCTION SCHEDULE		
CLASS DESCRIPTION	PERCENT REDUCTION (%)	AT AGE
Group Class: All Active FT	35	65
	50	70

Benefits terminate at retirement unless provided for in the Schedule of Benefits.

SUMMARY OF COST			
	MONTHLY RATE	VOLUME	MONTHLY PREMIUM
Life Insurance . . per \$1,000	\$0.20	n/a	n/a
Accidental Death And Dismemberment Insurance . . per \$1,000	\$0.03	n/a	n/a
Total Monthly Cost:			n/a

EMPLOYER CONTRIBUTION PERCENTAGE	
CLASS	PERCENTAGE (%)
Group Class: All Active FT Employee	100%

RATE GUARANTEE – 2 Year(s)

*This is not a proposal and contains only a brief description of the benefits. It is not the contract. Rates and provisions are subject to change. Actual coverage is subject to the terms and conditions of the contract when it becomes effective, and actual contract language will be reflected in each employee's Certificate of Coverage. **Please request a formal proposal from Companion Life by emailing: Jim Carrah - jcarrah@isu-inc.net or Larry Wood - larry.wood@companionlife.com***

The Carrier reserves the right to decline benefits for any business or industry which does not, in our opinion, represent a sound underwriting risk

Life/AD&D is not available in all States

BENEFITS	
ACCELERATED BENEFIT FOR BASIC LIFE INSURANCE PROGRAM - Terminally ill employees may access up to 75% of their benefit.	
WAIVER OF PREMIUM - for eligible disabled employees. The employee may apply for this benefit after 12 months of total and continuous disability.	
SEAT BELT PROVISION included with Accidental Death & Dismemberment Insurance coverage.	

BENEFITS

GROUP TERM LIFE INSURANCE

BASIC LIFE INSURANCE

Extension of Life Insurance Benefit: A death benefit will be paid if the insured Employee dies while Totally Disabled and no longer insured under the Policy if the Total Disability meets all these requirements:

1. began while the person was both insured under the Policy and under age 60;
2. has been continuous until death; and
3. began within 12 months of the date of death.

Reduction Schedule: Benefits reduce by:

35% at age 65. 50% at age 70. Benefits terminate at retirement.

ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE

If the Employee or an insured Dependent suffer any of the following losses, We will pay the indicated percentage of the benefit amount. The loss must result from an Accidental Injury and independent of all other causes. The Accidental Injury must be caused by an accident that occurs while this benefit is in force as to the Insured. The loss must occur within 180 days of that accident. The benefit amount is shown in the Schedule of Benefits.

Accidental Loss of Life	100% of AD&D Benefit
Accidental Loss of Both Hands or Both Feet	100% of AD&D Benefit
Accidental Loss of Entire Sight of Both Eyes	100% of AD&D Benefit
Accidental Loss of One Hand and One Foot	100% of AD&D Benefit
Accidental Loss of One Hand and the Entire Sight of One Eye	100% of AD&D Benefit
Accidental Loss of One Foot and the Entire Sight of One Eye	100% of AD&D Benefit
Accidental Loss of One Hand or One Foot	50% of AD&D Benefit
Accidental Loss of Entire sight of One Eye	50% of AD&D Benefit
Accidental Loss of One Arm	50% of AD&D Benefit
Accidental Loss of One Leg	50% of AD&D Benefit

"Loss" as used above means:

- 1) arm, which means actual severance at or above the elbow;
- 2) leg, which means actual severance at or above the knee;
- 3) hand, which means: a. actual severance at or above the wrist, but below the elbow; or b. loss of a thumb and index finger on the same hand where the thumb and index finger are permanently severed through or above the third joint from the tip of the index finger and the second joint from the tip of the thumb;
- 4) foot, which means actual severance at or above the ankle but below the knee; and
- 5) sight, which means: a. removal of the eye; or b. the permanent, uncorrectable loss of sight in at least one eye defined as either the corrected visual acuity of less than 20/200 or a visual field restriction of 20° or less which has persisted for 180 days from the date of loss. No benefit will be paid for loss of sight if, in the Physician's opinion, partial or total restoration of sight could occur naturally, or as a result of surgery or a device or implant.

If the Employee or an insured Dependent suffer more than one of the above losses as a result of the same accident, the benefit provided under this provision will be paid only for the greatest loss.

SEAT BELT BENEFIT

An additional \$10,000 will be paid if the Employee and/or the Employee's insured Dependents die or are dismembered as the result of a covered accident. The covered accident must occur while the Employee or one of the Employee's insured Dependents is driving an automobile and/or riding in an automobile; and all of the following apply:

- 1) the automobile must be equipped with seat belts;
- 2) the seat belt must have been in actual use and properly fastened at the time of the accident;
- 3) the position of the seat belt must be certified in the official report of the accident or by the investigating police officer;
- 4) the driver of the automobile must be properly licensed and must not have been driving while impaired, intoxicated or under the influence of drugs, unless prescribed by a licensed Physician, at the time of the accident;
- 5) "Automobile" means a four wheel passenger car, station wagon, jeep, pickup truck and van-type car; and
- 6) "Seat Belt" means the belts that form an occupant restraint system and includes infant and child restraint systems when properly used with a seat belt.

EXCLUSIONS AND LIMITATIONS**ACCIDENTAL DEATH & DISMEMBERMENT INSURANCE EXCLUSIONS AND LIMITATIONS**

This Policy does not provide benefits for any loss caused by or resulting from:

- 1) declared or undeclared war or any act of war;
- 2) service in the armed forces of any country or international authority;
- 3) suicide or intentionally self-inflicted injury whether the Insured was sane or insane at the time of the suicide or injury;
- 4) flying in an aircraft owned, operated, leased or chartered by the Policyholder;
- 5) participation in, or in consequence of having participated in, the commission of any felony;
- 6) sickness or disease, ptomaine or bacterial infection (except infections occurring through an accidental cut or wound);
- 7) loss caused or contributed to by intoxication as defined by the jurisdiction where the accident occurred and intentionally taking a narcotic, drug, barbiturate, hallucinogenic drug, alcohol or any combination of these when not part of a professional medical treatment plan; or
- 8) participation in a riot or insurrection, or commission of, or attempt to commit an assault or felony, or while engaged in an illegal occupation.



Stop Loss Proposal

Group	City of Big Spring	Effective Date	1/1/2025
Carrier	Companion Life Insurance Company	Rep	Cade Allison
Issued To	Afore Insurance Services	Printed	10/30/2024 10:53:25 AM

This proposal is valid through 1/15/2025

Census	Single	Family	Total
All Cvgs	147	71	218

Specific Covers Medical, Rx

Aggregate Covers Medical, Rx

Option	1	2	3	4	5
Specific Deductible	90,000	100,000	120,000	90,000	100,000
Specific Maximum	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Specific Contract	15/12	15/12	15/12	24/12	24/12
Specific Rates					
Single	87.38	84.05	73.49	91.52	88.04
Family	267.92	252.20	223.74	280.60	264.17
Composite	146.18	138.81	122.42	153.10	145.40
Specific TLO	n/a	n/a	n/a	n/a	n/a
Aggregate Contract	15/12	15/12	15/12	24/12	24/12
Aggregate Maximum	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Aggregate Rate	7.01	7.81	9.30	7.23	8.05
Aggregate Accommodation	n/a	n/a	n/a	n/a	n/a
Terminal Liability	n/a	n/a	n/a	n/a	n/a
Aggregate Factors					
Single	521.90	527.27	537.97	538.65	544.02
Family	1550.21	1566.18	1597.96	1599.96	1615.93
Composite	856.81	865.63	883.19	884.31	893.13
Commission	0.00%	0.00%	0.00%	0.00%	0.00%
Contract Length	12	12	12	12	12
Estimated Spec Premium	\$382,406	\$363,139	\$320,263	\$400,512	\$380,375
Estimated Agg Premium	\$18,335	\$20,442	\$24,320	\$18,914	\$21,064
Total Attachment Point	\$2,241,411	\$2,264,490	\$2,310,441	\$2,313,345	\$2,336,424
Minimum Attachment Point	\$2,241,411	\$2,264,490	\$2,310,441	\$2,313,345	\$2,336,424
Run-In Limit	\$336,212	\$339,673	\$346,566	\$347,002	\$350,464
ESTIMATED FIXED PREMIUM	\$400,741.32	\$383,580.84	\$344,582.76	\$419,426.28	\$401,439.48
ESTIMATED TOTAL LIABILITY	\$2,642,151.84	\$2,648,070.48	\$2,655,023.76	\$2,732,770.80	\$2,737,863.12

Additional Specific Deductibles

None



Stop Loss Proposal

Group	City of Big Spring	Effective Date	1/1/2025
Carrier	Companion Life Insurance Company	Rep	Cade Allison
Issued To	Afore Insurance Services	Printed	10/30/2024 10:53:25 AM

This proposal is valid through 1/15/2025

Specific Covers Medical, Rx

Census	Single	Family	Total
All Cvs	147	71	218

Aggregate Covers Medical, Rx

Option	6	
Specific Deductible	120,000	
Specific Maximum	Unlimited	
Specific Contract	24/12	
Specific Rates		
Single	77.04	
Family	234.57	
Composite	128.35	
Specific TLO	n/a	
Aggregate Contract	24/12	
Aggregate Maximum	1,000,000	
Aggregate Rate	9.61	
Aggregate Accommodation	n/a	
Terminal Liability	n/a	
Aggregate Factors		
Single	555.83	
Family	1651.00	
Composite	912.51	
Commission	0.00%	
Contract Length	12	
Estimated Spec Premium	\$335,752	
Estimated Agg Premium	\$25,149	
Total Attachment Point	\$2,387,136	
Minimum Attachment Point	\$2,387,136	
Run-In Limit	\$358,070	
ESTIMATED FIXED PREMIUM	\$360,901.44	
ESTIMATED TOTAL LIABILITY	\$2,748,037.56	

Additional Specific Deductibles

None



Proposal Contingencies

Employer **City of Big Spring**
Eff. Date **1/1/2025**

Quote ID 31278
Proposal ID 34019

The terms of this offer are tentative and subject to change based on receipt, review and approval of the following:

- This proposal assumes that BCBS of TX will be the third party administrator.
- Our proposal is based on the current plan of benefits with the BCBS of TX PPO network.
- This proposal is pending receipt of updated claims and census data through the signing and acceptance of disclosure or 12/31/2024.
- Aggregate run-in claims are limited to 15%.
- Confirm all pending claims paid prior to effective date for Miklos Szabo or Miklos Szabo will be subject to a 12/12 contract.
- This proposal assumes a 125% aggregate corridor.
- This proposal includes a no new laser on renewal provision with a 50% rate increase cap.
- This proposal is subject to completion of a signed disclosure statement. Rates, factors and/or terms may change upon review of the submitted information.
- Our proposal is firm. If we are selected we would need the signed disclosure within 10 business days from today.

Require a signed plan document corresponding to the submitted benefit plan. Any changes to the medical benefit plan from what was originally submitted may result in changes in rates, factors and/or terms quoted.

This proposal is subject to receipt of the final enrollment census. Rates and factors are subject to change based on the group's final demographics.

In the event there is a greater than 10% change in enrollment between the submitted initial enrollment data and the final enrollment data, rates and/or factors may be recalculated.

The terms of our proposal require a minimum participation of 75%.

This proposal includes the Simultaneous Reimbursement feature.



MEMORANDUM

To: Mayor Robert H. Moore, III, and Members of the Big Spring City Council
CC: Todd Darden, City Manager
From: Albert Belez/ Purchasing Agent
Date: Thursday November 7, 2024
Subject: Approve contract for Administration/Professional Services

Action Requested: Approve contract for Administration/Professional Services

Background Information: The city is in search of administrative and professional services to aid in the grant writing process. These services are being requested to support the City of Big Spring in its application and management of a potential contract from the 2025-2026 Texas Community Development Fund, part of the Texas Community Development Block Grant Program administered by the Texas Department of Agriculture (TDA). The City of Big Spring intends to apply for this funding to facilitate eligible activities within the city. The total grant amount is \$750,000, and the City of Big Spring is prepared to contribute \$112,500.00 in matching funds for the activities outlined in the application, with the specific allocation and funding source to be established prior to the awarding of any grant funds.

Financial Considerations:

Expenditure amount requested:	\$112,500
What fund/department account will this amount be drawn from?	Utility Fund/ D&C Department
Revenue generated:	N/A
Would this expenditure be made within the budget for the current fiscal year?	Yes
Does this commit the City to spending funds beyond the current fiscal year? Explain.	No

Vendor Bids/Quotations: City staff sent out 37 requests for proposals and responses were received from the following:

Ricardo Gomez & Associates

Public Management, Inc.

South Plains Association of Governments

Langford Community Management Services

Each submission was scored using the following matrix:

- Experience: 30 points
- Work Performance: 30 points
- Capacity to perform: 20 points
- Proposed Cost: 20 points

The average scores are as follows:

Ricardo Gomez & Associates achieved an average score of 82.72, while Public Management, Inc. attained an average score of 96.2. South Plains Association of Governments received an average score of 92.16, and Langford Community Management Services also scored an average of 82.72.

The evaluation of proposals was conducted by the city manager, the assistant city manager, the public works director, the finance director, and the purchasing agent.

Upon completion of the score tabulation, it was concluded that Public Management, Inc. is the most likely candidate to fulfill the specified requirements.

Staff Assessment Regarding Feasibility and Timeline: Although all firms possess the capability to deliver exceptional service to the City, the primary factor influencing our decision was the total cost involved.

Staff Recommendation: We recommend moving forward with the proposal submitted by Public Management, Inc.



MEMORANDUM

To: Mayor Robert H. Moore, III, and Members of the Big Spring City Council
CC: Todd Darden, City Manager
From: Albert Belez/ Purchasing Agent
Date: Tuesday November 8, 2024
Subject: Approve Purchase of 1- 18 foot Tandem Trailer

Action Requested: Approve purchase of one (1) 18-foot Tandem Trailer

Background Information: This unit will serve as an enhancement to the Roy Anderson sports complex. At present, the Sports Complex lacks a trailer for the transportation of its equipment to and from different locations.

Financial Considerations:

Expenditure amount requested:	\$ 6,141.75
What fund/department account will this amount be drawn from?	General Fund / 375-Sports Complex
Revenue generated:	N/A
Would this expenditure be made within the budget for the current fiscal year?	Yes
Does this commit the City to spending funds beyond the current fiscal year? Explain.	No

Vendor Bids/Quotations: We have obtained a quotation from Triple Reid totaling \$6,495. Additionally, we received a quote from Big Spring Trailer Sales for \$6,141.75, as well as a quotation from Big Tex Trailers amounting to \$6,591.99.

Staff Opinion as to Feasibility and Timeline: The unit referenced by Big Spring Trailer Sales is presently in stock. The supplier has indicated that, with appropriate maintenance and usage, we can anticipate a lifespan of 10 to 15 years.

Staff recommendation: City staff, along with the City's service center, recommends proceeding with the acquisition from Big Spring Trailer Sales for a total of \$6,141.75.



MEMORANDUM

To: Mayor Robert H. Moore, III, and Members of the Big Spring City Council
CC: Todd Darden, City Manager
From: Albert Belez/ Purchasing Agent
Date: Tuesday October 15, 2024
Subject: Approve Purchase of a 15 Foot Flex Wing Mower Attachment

Action Requested: Approve purchase of a 15 Foot Flex Wing Mower Attachment

Background Information: This unit will replace an older model flex wing mower.

Financial Considerations:

Expenditure amount requested:	\$ 31,228.75
What fund/department account will this amount be drawn from?	Airpark Fund / 410
Revenue generated:	N/A
Would this expenditure be made within the budget for the current fiscal year?	Yes
Does this commit the City to spending funds beyond the current fiscal year? Explain.	No

Vendor Bids/Quotations: We received a quote from John Deere in the amount of \$31,350. We also received a quote from South Plains Implement in the amount of \$31,228.75. Both submitted quotes reflect cooperative pricing.

Staff Opinion as to Feasibility and Timeline: Due to the uncertainty of the supply chain, the city staff would like to request that the council accept the quote from South Plains Implement. The unit is currently available and could be delivered within 2 weeks. The vendor also noted that with proper maintenance and proper use, this unit should last between 10 to 15 years.

Staff recommendation: It is the recommendation of City staff to proceed with the purchase of the flex wing mower from South Plains Implement.



MEMORANDUM

To: Mayor Robert H. Moore, III, and Members of the Big Spring City Council
CC: Todd Darden, City Manager
From: Albert Belez/ Purchasing Agent
Date: Thursday October 17, 2024
Subject: Approve Purchase of Kubota Utility Tractor

Action Requested: Approve purchase of M6S-11 Kubota Utility Tractor

Background Information: This unit would replace a unit that is currently being used at the airpark. The current unit has had many repairs and is showing signs of wear.

Financial Considerations:

Expenditure amount requested:	\$ 84,946.22
What fund/department account will this amount be drawn from?	Airpark Fund/ 410
Revenue generated:	N/A
Would this expenditure be made within the budget for the current fiscal year?	No
Does this commit the City to spending funds beyond the current fiscal year? Explain.	No

Vendor Bids/Quotations: We received 2- (two) formal quotes. We received a quote from John Deere in the amount of \$89,480.66 and a second quote from Kubota in the amount of \$84,946.22. Both vendors used co-operative pricing.

Staff Opinion as to Feasibility and Timeline: City staff feel that the Kubota would be a better purchase option. According to the staff at the service center, the Kubota would be better suited for the tasks at the airpark. It is important to note that this unit is currently available and can be delivered immediately upon request.

Staff recommendation: It is our recommendation to proceed with the of the Kubota utility tractor.



Memorandum

To: Honorable Mayor, City Council, and City Manager

From: Chad Williams, Chief of Police

Date: November 12, 2024

Subject: Permission to Accept Donation from Broughton Foundation

This year, the Broughton Foundation is generously allocating \$50,780.00 to the Big Spring Police Department. This significant contribution will be used to acquire four SIRAS Teledyne FLIR drones and their accessories.

With this generous donation, our department will be able to integrate drones into our operations, enhancing our effectiveness and efficiency in several key areas, including scene assessment, search and rescue operations, and evidence collection and documentation.

The members of the Big Spring Police Department extend their heartfelt gratitude to the Broughton Foundation for their unwavering dedication to our team and their invaluable investment in the safety of our community.

The Big Spring Police Department respectfully seeks the City Council's authorization to accept this substantial contribution from the Broughton Foundation. Your thoughtful consideration of this request is greatly appreciated.

Big Spring Fire Department

Memorandum

To: Todd Darden, John Medina, Sandy Smith, Tami Davis

From: Jay Holt, Fire Chief

Date: November 3, 2024

Big Spring Fire Department was presented with a \$1500.00 donation given by Gunsight Mountain Wind Energy. This donation was given to us for the purpose of purchasing equipment. We would like to request that council accept this donation and also thank Gunsight Mountain Wind Energy for their continued generosity and support of Big Spring Fire.



INTEROFFICE MEMORANDUM

Date: October 30, 2024
To: Mayor Robert H. Moore and Big Spring City Council
From: John Medina, Assistant City Manager
Subject: Atmos Energy Rate Increase

Atmos Energy Corp., West Texas Division (“Atmos West Texas” or “Company”) filed an application on October 25, 2024, with cities retaining original jurisdiction seeking to increase system-wide base rates by approximately \$66.1 million. If approved, this will increase the annual revenues received from the incorporated areas by approximately \$26.9 million (an increase of 32.27% excluding gas costs). According to Atmos West Texas, the impact of this approval on an average residential customer would be an increase of about \$16.66 per month (an increase of 10%).

The resolution suspends the December 19, 2024, effective date of the Company’s rate change for the maximum period permitted by law to allow the City, working in conjunction with other Cities served by Atmos West Texas to intervene in the Railroad Commission Case No. 18879 to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request made by a gas utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the City fails to take some action regarding the filing before the effective date, Atmos West Texas’s rate request is deemed approved. *ACTION MUST BE TAKEN TO SUSPEND THE EFFECTIVE DATE BEFORE DECEMBER 19, 2024****

The purpose of the resolution is to extend the effective date of Atmos West Texas’ proposed rate increase to give the City time to review the rate-filing package. The resolution suspends the December 19, 2024, effective date of the Company’s rate increase for the maximum period permitted by law to allow the City, working in conjunction with the other Cities Served by Atmos West Texas, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy to pursue, including settlement and ultimately to approve reasonable rates.

Explanation of “Be It Resolved” or “Be It Ordained” Paragraphs:

Section 1. The City is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension

period as “the maximum period allowed by law” rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the City must take final action on Atmos West Texas’ request to change rates by March 19, 2025

Section 2. This provision authorizes the City to participate in a coalition of Cities Served by Atmos West Texas (“Cities”) in order to more efficiently represent the interests of the City and their citizens and authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. Additionally, it authorizes Cities to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the Railroad Commission of Texas (RRC).

Section 3. This section authorizes the City to intervene in and participate with Cities Served by Atmos West Texas as a party in the Company’s filing, RRC Case No. 18879.

Section 4. The Company will reimburse the cities for their reasonable rate case expenses. Legal counsel and consultants approved by Cities will submit monthly invoices that will be forwarded to Atmos West Texas for reimbursement. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

Section 5. This section provides that both Atmos West Texas’ counsel and counsel for the Cities will be notified of the City’s action by sending a copy of the approved and signed resolution to certain designated individuals.

Recommendation

The City Staff recommends adoption of the resolution suspending the effective date of Atmos West Texas’ proposed rate increase.

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING SUSPENDING THE DECEMBER 19, 2024 EFFECTIVE DATE OF ATMOS ENERGY CORP., WEST TEXAS DIVISION'S REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE CITIES SERVED BY ATMOS WEST TEXAS AND AUTHORIZING INTERVENTION IN ATMOS WEST TEXAS' REQUESTED RATE CHANGE PROCEEDINGS BEFORE THE COMMISSION; HIRING LLOYD GOSSELINK ATTORNEYS AND CONSULTING SERVICES TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL

WHEREAS, on or about October 25, 2024, Atmos Energy Corp., West Texas Division ("Atmos West Texas" or "Company") filed with the City of Big Spring ("City") a Statement of Intent to increase gas utility rates in all municipalities exercising original jurisdiction within its service area, effective December 19, 2024; and

WHEREAS, the City is a member of Cities Served by Atmos West Texas ("Cities"), a coalition of similarly situated cities served by Atmos West Texas that have joined together to efficiently and cost effectively facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos West Texas service area; and

WHEREAS, the Gas Utility Regulatory Act § 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, the City retains its rights as a city with original jurisdiction including the right to suspend the application; and

WHEREAS, the City's consultants and attorneys recommend that the City suspend the application for further review; and

WHEREAS, Atmos West Texas has filed an application with the Railroad Commission that could become the docket into which appeals of city action on the Atmos West Texas filing are consolidated; and

WHEREAS, the Gas Utility Regulatory Act § 103.022 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

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

SECTION 1. That the December 19, 2024, effective date of the rate request submitted by Atmos West Texas on or about October 25, 2024, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION 2. That the City joins other Cities Served by Atmos West Texas in this proceeding and, subject to the right to terminate employment at any time, hereby authorizes the hiring of Thomas Brocato of Lloyd Gosselink Rochelle and Townsend, P.C, and consultants to review the Company's filing, negotiate with the Company, make recommendations regarding reasonable rates and to direct any necessary administrative proceedings or court litigation associated with an appeal of city action.

SECTION 3. That the City shall work with Cities Served by Atmos West Texas in the review and evaluation of whether the proposed rates are appropriate, fair, just, and reasonable; and intervene as a necessary party in the Railroad Commission of Texas' consideration of Atmos West Texas' rate filing in Case No. 00018879 as it affects the customers in the unincorporated areas of Atmos West Texas' service territory.

SECTION 4. That the City's reasonable rate case expenses shall be reimbursed by Atmos West Texas.

SECTION 5. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 6. All provisions of any resolution in conflict with this Resolution are hereby repealed to the extent they are in conflict. Any remaining portions of said resolutions shall remain in full force and effect.

SECTION 7. Should anyone or ore sections or clauses of this Resolution be adjudged unconstitutional or invalid, such judgement shall not affect, impair, or invalidate the remaining provisions of this Resolution, and the remaining provisions of the Resolution shall be interpreted as if he offending section or clause never existed.

SECTION 8. A copy of this Resolution shall be sent to Atmos West Texas, care of Philip Littlejohn, Vice President of Rates and Regulatory Affairs, West Texas Division, 6606 66th Street, Lubbock, Texas 89424 (Philip.littlejohn@atmosenergy.com), and to Thomas Brocato at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701 (tbrocato@lglawfirm.com).

PASSED AND APPROVED on first reading at a regular meeting of the City Council on 12th day of November 2024 with all members of the Council present 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 12th day November 2024 with all members of the Council present voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, DESIGNATING THE FOLLOWING AS A NOMINEE FOR THE POSITION OF DIRECTOR ON THE HOWARD CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS TO FILL A VACANCY FOR THE TERM ENDING ON DECEMBER 31, 2025; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, When a vacancy occurs on the Board of Directors of the Howard Central Appraisal District, it being a tax unit therein, the City of Big Spring may nominate a candidate to fill the vacancy under Section 6.03(l), Texas Tax Code; and

WHEREAS, One board member has resigned, leaving a vacancy that needs to be filled for the unexpired term that ends on December 31, 2025; and

WHEREAS, Nominations must be made by resolution of the governing body and submitted to the Chief Appraiser by a certain day, in this case, November 22, 2024;

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

SECTION 1. The City Council of the City of Big Spring does hereby nominate the following person(s) to serve on the Board of Directors of the Howard Central Appraisal District to fill the vacancy: John Cline.

SECTION 2. This resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND APPROVED on a first reading at a regular meeting of the City Council on the day _____ of _____, **2024** with all members of the Council present voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a second regular meeting of the City Council on the _____ day of _____, **2024** with all members of the Council present voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary



INTEROFFICE MEMORANDUM

Date: November 12, 2024
To: Mayor Robert H. Moore and Big Spring City Council
From: John Medina, Assistant City Manager
Subject: TDA Community Development Block Grant

The Texas Department of Agriculture (TDA) has announced the opening of the 2025/2026 Community Development Block Grant (CDBG) program, with a submission deadline for Phase 1 set for December 9, 2024. A grant administrator will be appointed to assist the City in the preparation and submission of the Phase 1 Application. Should the application be successful, the TDA will extend an invitation to Big Spring to apply for Phase 2 in January 2025. Below are key details regarding the funding:

- The maximum amount that can be requested for the grant is \$750,000.
- Big Spring is required to provide a 15% match, which is contingent upon its population, amounting to an expected match of \$112,500.
- Communities that have received funding within the past six years will incur a penalty of 20 points for each grant awarded; Big Spring will face a deduction of 40 points due to prior funding, although the last cycle for the PBRPC region was undersubscribed.
- The highest priority activities for the PBRPC Council of Governments (COG) include improvements to water and sewer systems.
- The City will only need to conduct a beneficiary survey to qualify specific projects if it is invited to participate in Phase 2 or is awarded a grant.
- Applications must be submitted through the online TDA-Go system, with the Phase 1 deadline being December 9, 2024.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AUTHORIZING THE SUBMISSION OF A TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF AGRICULTURE FOR THE COMMUNITY DEVELOPMENT FUND; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE RESOLUTION WERE DISCUSSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Big Spring desires to develop a viable community, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low-to-moderate income; and

WHEREAS, it is necessary and in the best interests of the City of Big Spring to apply for funding under the Texas Community Development Block Grant Program;

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

SECTION 1. That a Texas Community Development Block Grant Program application for the Community Development Fund is hereby authorized to be filed on behalf of the City with the Texas Department of Agriculture, and to be placed in competition for funding under the Community Development Fund.

SECTION 2. That the City of Big Spring commits to dedicating no less than 51% of grant funds for activities identified by the state planning region as First Priority.

SECTION 3. That all funds will be used in accordance with all applicable federal, state, local and programmatic requirements including but not limited to procurement, environmental review, labor standards, real property acquisition, and civil rights requirements.

SECTION 4. That the City of Big Spring is committing to provide \$112,500.00 in matching funds toward the application's activities, with the specific usage and funding source to be determined prior to any award of grant funding.

SECTION 5. It is hereby officially found and determined that the meetings at which this Resolution was adopted were open to the public and that public notice of the time, place and purpose of said meetings were given as required by law.

SECTION 6. This Resolution shall become effective immediately upon its adoption under law.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the ____ day of _____, 2024 with all members of the Council present voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a second regular meeting of the City Council on the ____ day of _____, 2024 with all members of the Council present voting “aye” for the passage of same.

Robert H. Moore III, Mayor
City of Big Spring, Texas

ATTEST:

Tami L. Davis, City Secretary
City of Big Spring, Texas

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AUTHORIZING PROFESSIONAL SERVICE PROVIDER SELECTION FOR A 2025-2026 TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM – COMMUNITY DEVELOPMENT FUND PROJECT (CDBG) THROUGH THE TEXAS DEPARTMENT OF AGRICULTURE (TDA); FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE RESOLUTION WERE DISCUSSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, participation in the CDBG requires implementation by professionals experienced in the application/administration/project delivery of federally-funded projects;

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Proposals (RFP) process for application and administration services has been completed in accordance with the TDA requirements;

WHEREAS, the proposals received by the due date have been reviewed to determine the most qualified and responsive provider for the professional service giving consideration to ability to perform successfully under the terms and conditions of the proposed procurement, integrity, compliance with public policy, record of past performance, an financial and technical resources;

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

SECTION 1. That _____ is selected to provide application and project-related administration/project delivery services for a 2025-26 Community Development Fund grant for the City of Big Spring.

SECTION 2. That a cost-price analysis has been conducted and determined the proposed fee to be appropriate and reasonable based upon program requirements and rules.

SECTION 3. That any and all project-related services contracts or commitments made with the above-named service provider(s) are dependent on the successful negotiation of a contract with the service provider(s).

SECTION 4. It is hereby officially found and determined that the meetings at which this Resolution was adopted were open to the public and that public notice of the time, place and purpose of said meetings were given as required by law.

SECTION 5. This Resolution shall become effective immediately upon its adoption under law.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the _____ day of _____, **2024** with all members of the Council present voting “aye” for the passage of same.

PASSED AND APPROVED on second reading at a second regular meeting of the City Council on the _____ day of _____, **2024** with all members of the Council present voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY CONCIL OF THE CITY OF BIG SPRING, TEXAS EXPRESSING OFFICIAL INTENT TO REIMBURSE COSTS OF LEAD AND COPPER SERVICE LINE INVENTORY AND REPLACEMENT PROJECTS; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE RESOLUTION WAS DISCUSSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND ESTABLISHING AN EFFECTIVE DATE;

WHEREAS, the City of Big Spring, Texas (the "City") is a home-rule municipality and political subdivision of the State of Texas (the "State"); and

WHEREAS, the City expects to pay, or have paid on its behalf, expenditures in connection with the design, planning, acquisition and construction of the projects described in Exhibit A hereto (the "Projects") prior to the issuance of obligations for which a prior expression of intent to finance or refinance is required by State law (collectively and individually, the "Obligations") to finance the Projects; and

WHEREAS, the City finds, considers and declares that the reimbursement for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention to reimburse itself for such payments at such time as it issues Obligations to finance the Projects;

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

SECTION 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

SECTION 2. The City reasonably expects to incur debt, or have debt incurred on its behalf, in one or more series of Obligations with an aggregate maximum principal amount not to exceed \$1,862,000, for the purpose of paying the costs of the Projects.

SECTION 3. It is hereby officially found and determined that the meetings at which this Resolution was adopted were open to the public and that public notice of the time, place and purpose of said meetings were given as required by law.

SECTION 6. This Resolution shall become effective immediately.

SECTION 7. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and of the United States of America.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the ____ day of _____, **2024** 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 ____ day of _____, **2024** with all members of the Council voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

Exhibit A

To acquire and construct additions and improvements to the City's waterworks and sewer system related to lead and copper inventory and replacement projects, including water lines, service connections, pumps, valves, fittings, related infrastructure improvements and related testing and studies, including engineering and other design costs and professional fees related to such projects.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY CONCIL OF THE CITY OF BIG SPRING, TEXAS APPROVING POLICY FOR PREVENTING USE OF TIKTOK AND OTHER COVERED APPLICATIONS IN COMPLIANCE WITH STATE LAW; PROVIDING FOR THE REPEAL OF CONFLICTING LEGISLATION; PROVIDING FOR SEVERABILITY; AND FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE RESOLUTION WERE DISCUSSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND ESTABLISHING AN EFFECTIVE DATE;

WHEREAS, the 88th Texas Legislature enacted Senate Bill 1893 to create Chapter 620 of the Texas Government Code, requiring Texas municipalities to adopt a policy prohibiting the installation or use of certain applications including TikTok on government-owned devices; and

WHEREAS, to comply with applicable provisions of Chapter 620, Texas Government Code, the City Council for the City of Big Spring has determined that it is necessary and appropriate to adopt the policy set forth herein;

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

SECTION 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

SECTION 2. The City of Big Spring adopts the “Covered Applications and Prohibited Technology Policy” attached hereto.

SECTION 3. All resolutions or parts of resolutions and minute orders in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4. Should any one or more sections or clauses of this Resolution be adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

SECTION 5. It is hereby officially found and determined that the meetings at which this Resolution was adopted were open to the public and that public notice of the time, place and purpose of said meetings were given as required by law.

SECTION 6. This Resolution shall become effective immediately.

SECTION 7. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and of the United States of America.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the __ day of _____, **2024** 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 __ day of _____, **2024** with all members of the Council voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

COVERED APPLICATIONS AND PROHIBITED TECHNOLOGY POLICY

1.0. INTRODUCTION

1.1. Purpose.

The 88th Texas Legislature in Regular Session enacted Senate Bill 1893 to require political subdivisions, including municipalities, to prohibit the use of covered applications on governmental entity-owned and -leased devices.

This policy of the City of Big Spring is intended to conform to the requirements of Texas state law, and shall be so construed.

2.0. COVERED APPLICATIONS POLICY

2.1. Scope and Definitions

This policy applies to all City of Big Spring employees full- and part-time employees, contractors, paid or unpaid interns, and other users of government networks. All City of Big Spring employees are responsible for complying with this policy.

In this policy, the following definitions apply.

The “City” is the City of Big Spring, a Texas home rule municipality.

A “covered application” is:

- The social media service TikTok or any successor application or service developed or provided by ByteDance Limited, or an entity owned by ByteDance Limited.
- A social media application or service specified by proclamation of the Governor under Section 620.005, Texas Government Code.

A “device” includes phones, tablets, desktop computers, laptops, and other electronic devices that could run or install a covered application.

“DIR” is the Texas Department of Information Resources.

“DPS” is the Texas Department of Public Safety.

An “employee” includes full-time, part-time, exempt, and non-exempt employees, officers, independent contractors, paid or unpaid interns, and volunteers of the City of Big Spring.

The “Governor” is the Governor of the State of Texas.

A “sensitive location” is any location, physical or logical (such as video conferencing, or electronic meeting rooms), that is deemed under the terms of this policy to be used to discuss confidential or sensitive information including information technology configurations, criminal justice information, financial data, personally identifiable information, confidential information, or any data protected by federal or state law.

The “State” is the State of Texas.

2.2. Covered Applications on City-owned or -Leased Devices

Except where approved exceptions apply, the use or installation of covered applications is prohibited on all City-owned or -leased devices.

The City will identify, track, and manage all government-owned or -leased devices to:

- a. Prohibit the installation of a covered application.
- b. Prohibit the use of a covered application.
- c. Remove a covered application from a government-owned or -leased device that was on the device prior to the passage of S.B. 1893 (88th Leg, R.S.).
- d. Remove an application from a government-owned or -leased device if the Governor issues a proclamation identifying it as a covered application.

When feasible, the City Manager or his designee may decide to manage any or all government-owned or leased mobile devices by implementing the security measures listed below:

- a. Restrict access to “app stores” or unauthorized software repositories to prevent the installation of unauthorized applications.
- b. Maintain the ability to remotely wipe non-compliant or compromised City-owned or -leased devices.
- c. Maintain the ability to remotely uninstall unauthorized software from City-owned or leased devices.

2.3. Ongoing and Emerging Technology Threats

To provide protection against ongoing and emerging technological threats to the government’s sensitive information and critical infrastructure, DPS and DIR will regularly monitor and evaluate additional social media applications or services that pose a risk to this state. DIR will annually submit to the Governor a list of social media applications and services identified as posing a risk to Texas and post the list to DIR’s web site.

The Governor may issue a proclamation causing items on the list to become covered applications.

2.4. Employee-Owned and -Leased Devices

Installation or operation of covered applications on employee-owned or -leased devices that are used to conduct government business is prohibited.

When feasible, the City Manager or his designee may require technological measures to enforce this policy with measures of the same kind as in Subsection 2.2.

Employee-owned or -leased devices not used to conduct government business are not restricted under this subsection.

2.5 Covered Application Exceptions

The City permits exceptions authorizing the installation and use of a covered application on government-owned or -leased devices consistent with the authority provided by Chapter 620, Government Code to install and use a covered application on an applicable device to the extent necessary for:

- a. Providing for law enforcement; or
- b. Developing or implementing information security measures.

If the City authorizes an exception allowing for the installation and use of a covered application, the City must use reasonable measures to mitigate the risks posed to the City and the State during the application's use.

Approval of the City Manager or his designee is required for this exception to be invoked. The City Manager may condition approval on requirements beyond this policy.

Employees are encouraged to document the measures taken to mitigate the risks posed to the City and State during the use of the covered application.

2.6. Sensitive Locations.

An employee may not bring a device with a covered application installed to a location that the City Manager or a supervisor in the employee's chain of authority has deemed a sensitive location. Visitors of the employee are also prohibited from bringing a device with a covered location installed to a location deemed to be a sensitive location.

2.7. Network Restrictions

When feasible, the City Manager or his designee may require network restrictions on City-owned or -leased networks to restrict covered applications.

2.8. Compliance

The City Manager or his designee may require employees to sign a document acknowledging this policy.

2.9. Condition of Employment

An employee found to have violated this policy may be subject to disciplinary action, including termination of employment. This subsection does not apply to elected officials.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING ORDINANCE NUMBER 028-2024 WHICH ADOPTED THE ANNUAL BUDGET FOR THE CITY OF BIG SPRING, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2024 AND ENDING SEPTEMBER 30, 2025 BY INCREASING THE AIRPARK FUND BUDGET FOR THE PURPOSE OF PURCHASING A TRACTOR AND BAT WING MOWER ATTACHMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City Council adopted the annual 2024-25 budget for the City of Big Spring, Texas on September 24, 2024 (“Budget”); and

WHEREAS the City Manager and the Finance Director recommend that the City Council increase the Airpark Fund budgeted expenditures and amend the Budget previously approved;

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

SECTION 1. The Airpark Fund Budget of the Annual Budget for the City of Big Spring, Texas for the Fiscal Year beginning October 1, 2024 and ending September 30, 2025 is hereby increased by the amount of \$45,000.00 to account 410-021-610-6314-000, for the purpose of purchasing a Kubota Utility Tractor and a Batwing attachment. The net increase will be funded through the fund balance.

SECTION 2. The remaining portions of Ordinance Number 028-2024 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 _____ day of _____, **2024** with all members of the Council present voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a second regular meeting of the City Council on the _____ day of _____, **2024** with all members of the Council present voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

Big Spring Fire Department

Memorandum

To: Mayor Robert Moore and Big Spring City Council

CC: Todd Darden, John Medina, Tami Davis, Sandy Smith

From: Jay Holt, Fire Chief

Date: November 8, 2024

Big Spring Fire Department is requesting approval to enter into an educational contract with Texas Public Safety Training Academy to provide training for EMT, Paramedic and Structural Firefighter courses. We budgeted \$155,000 this year for Fire and EMS training. The contract price is \$57,000 per year for 2 years. By using this service we can host our own Fire and EMS academies in house, as well as have access to numerous other Fire and EMS courses that this company provides all within the price of the contract. The contract also provides for numerous other training, records retention and audit management services that will keep us in compliance with State Agencies. We respectfully request that Council approve this contract.

ADDENDUM TO THE EMS/FIRE COORDINATOR & PROJECT MANAGEMENT CONTRACT

THIS ADDENDUM to the EMS/FIRE Coordinator & Project Management Contract, dated the _____ day of _____, 2024 (the "**Addendum**"), is entered into by Texas Public Safety Training Academy, a Texas nonprofit corporation, whose principal office is located at 298 Industrial Blvd., Bastrop, Texas 78602-5020 ("**Service Provider**"), and City of Big Spring, a Texas municipal corporation, located at 310 Nolan Street, Big Spring, Texas 79720 ("**City**," or "**City of Big Spring**") and together with Service Provider, the "**Parties**," and each, a "**Party**".

WHEREAS, the City of Big Spring may, through the Big Spring Fire Department, provide emergency medical services, rural fire prevention and control services, or other emergency services authorized by the Legislature; and

WHEREAS, Service Provider has the capacity and is licensed to provide training services and courses for firefighters and emergency medical services personnel; and

WHEREAS, the City wishes to have the Big Spring Fire Department receive, and Service Provider is willing and able to provide, certain training support services, namely (a) NREMT/DSHS Emergency Medical Services Training, and (b) SFFMA/TCFP Firefighter Training; and

WHEREAS, Service Provider has proposed that certain EMS/FIRE Coordinator & Program Management Contract (together with its Appendix A, the "**Services Contract**"), which by its terms sets out the terms and conditions for the provision of the services; and

WHEREAS, the Services Contract does not provide legal services; and

WHEREAS, the Parties desire to amend the Services Contract its terms and conditions as set forth herein; and

WHEREAS, City desires to retain Service Provider to provide and Service Provider is willing to perform such services under the terms and conditions set forth in the Services Contract as modified and amended hereunder and subject to the terms and conditions of this Addendum; and

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, including the City's execution and acceptance of the Services Contract, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

A. General.

A.1 Definitions.

In addition to the terms defined above, in this Addendum:

"**Agreement**" means, collectively, the Services Contract and this Addendum.

"Big Spring Fire Department" means, the fire department of the City of Big Spring including its firefighters, emergency medical services personnel, fire marshals, fire chiefs and deputy chiefs, EMS coordinators, lieutenants, and engineers.

"City Council" means the City Council of Big Spring, the governing body of the City of Big Spring.

"City Confidential Information" is defined in Section C.1.

"Fiscal Year" means the City's fiscal year, which begins October 1 each year and ends September 30 the following year.

"Intellectual Property Rights" means any and all rights arising in the US or any other jurisdiction throughout the world in and to (a) patents, patent disclosures, and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, and other similar designations of source or origin, together with the goodwill symbolized by any of the foregoing, (c) copyrights and works of authorship (whether copyrightable or not), including computer programs, and rights in data and databases, (d) trade secrets, know-how, and other confidential or proprietary information, and (e) all other intellectual property, in each case whether registered or unregistered, and including all registrations and applications for such rights and renewals or extensions thereof, and all similar or equivalent rights or forms of protection in any part of the world.

"Key Company Personnel" means owners (of more than 10% of the controlling interest of the company or a parent company), and managers and directors of Service Provider.

"Officer" means each City elected official, city manager, department head, purchasing agent, municipal attorney, and judge.

"PIA" means the Texas Public Information Act ("PIA"), codified under Chapter 552, Texas Government Code, as amended.

"Services" means the services that Service Provider provides to City under the Agreement.

A.2 Attached.

This Addendum is attached and incorporated into the Agreement.

A.3 Conflict.

If any terms contained in this Addendum are inconsistent with the Services Contract, the terms of this Addendum will govern and take precedence over such terms in the Services Contract.

B. Terms

B.1 Term.

The Agreement commences on October 30, 2024 and shall continue thereafter for an initial period of One (1) calendar year, unless and until earlier terminated in accordance with the provisions of the Agreement (the "**Initial Term**").

City may renew the Agreement for Four (4) additional terms of One (1) year each that will run consecutively after the Initial Term (each, a "**Renewal Term**" and together with the Initial Term, the "**Term**") by providing Service Provider Thirty (30) days' advance written notice of its intent to renew (a "**Renewal Notice**"). The terms and conditions of this Agreement during any such Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal. In the absence of a timely Renewal Notice, then, unless otherwise sooner terminated in accordance with its terms, this Agreement shall terminate on the expiration of the then-current Initial Term or Renewal Term, as the case may be.

B.2 Consideration.

The Parties acknowledge and agree that Services were and will be supported by good and valuable consideration during the Term of the Agreement, the sufficiency of which is acknowledged by the Parties.

B.3 Services.

Service Provider warrants that it will provide to City the Services (a) in accordance with the terms and subject to the conditions set forth in the Agreement; (b) using personnel in adequate and sufficient number and of required skill, experience, and qualifications; (c) in a timely, workmanlike, and professional manner; (d) in accordance with the highest generally recognized industry standards in Service Provider's field; and (e) to the reasonable satisfaction of the City.

B.4 Termination for Cause.

Either Party may terminate this Agreement, effective upon written notice to the other Party (the "Defaulting Party"), if the Defaulting Party:

- (a) Materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach.
- (b) Becomes insolvent or admits its inability to pay its debts generally as they become due.
- (c) Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven (7) business days or is not dismissed or vacated within forty-five (45) days after filing.
- (d) Is dissolved or liquidated or takes any corporate action for such purpose.
- (e) Makes a general assignment for the benefit of creditors.

(f) Has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

B.5 Independent Contractor.

It is understood and acknowledged that the Services which Service Provider will provide to City hereunder shall be in the capacity of an independent contractor and not as an employee, agent, partner, or joint venturer of the City. Service Provider shall control the conditions, time, details, and means by which Service Provider performs the Services.

B.6 Conflicts of interest.

Service Provider covenants that it will file a conflicts of interest questionnaire (available from Texas Ethics Commission web site) with City if Service Provider or any of its Key Company Personnel (a) has an employment or other business relationship with an Officer or an Officer's family member that results in the receipt by the Officer or family member of taxable income of more than \$2,500 in the preceding twelve months; (b) has given an Officer or an Officer's family member one or more gifts totaling more than \$100 in the preceding twelve months; or (c) if Key Company Personnel have a family relationship with an Officer.

B.7 Fiscal matters.

The City commits current revenues to the Agreement. City reserves the right to cancel the Agreement at the end of any Fiscal Year without penalty if City Council does not budget sufficient funds to continue it.

B.8 No Infringement.

Service Provider hereby represents and warrants that: (a) none of the Services or the City's use thereof or other exercise of its rights or license under the Agreement, does or will infringe, misappropriate, dilute, or otherwise violate any Intellectual Property Right of any person, and (b) as of the date hereof, there are no pending or, to Service Provider's knowledge, threatened claims, litigation, or other proceedings against Service Provider by any third party based on an alleged violation of such Intellectual Property Rights.

B.9 Authorized Representative.

Service Provider shall appoint a representative to the following position: a primary contact to act as Service Provider's authorized representative to the City with respect to all matters pertaining to the Agreement (the "**Service Manager**"). Service Provider shall notify City promptly of the Service Manager's name and contact information, and updates thereto.

B.10 Remote Access.

As applicable, if Service Provider requires remote access to City information technology systems to provide the Services, Service Provider must receive permission from the IT Manager or another person designated by the City Manager or the Assistant City Manager, and such access may be revoked at any time to protect City systems.

B.11 Additional Representations.

- (a) Service Provider represents to City that it is not on a list prepared and maintained by the Texas Comptroller of companies doing business with Iran, Sudan, or a foreign terrorist organization (these lists are available at <https://comptroller.texas.gov/purchasing/publications/divestment.php>) unless it is a company affirmatively declared by the United States government to be excluded from the applicable federal sanctions regime.
- (b) Service Provider represents that it (1) does not boycott Israel, and (2) will not boycott Israel during the Term.
- (c) Service Provider represents to City that it (1) does not boycott energy companies, and (2) will not boycott energy companies during the Term.
- (d) Service Provider represents to City that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate against a firearm entity or firearm trade association during the Term.
- (e) A “designated country” means one designated as a threat to critical infrastructure by the Governor of Texas. Service Provider represents to Client that Service Provider is (1) neither owned by nor is the majority of its ownership interest held or controlled by citizens of China, Iran, North Korea, Russia, or a designated country; (2) neither owned by a company or other entity, including a governmental entity, that is owned or controlled by citizens of nor is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; and (3) not headquartered in China, Iran, North Korea, Russia, or a designated country.

B.12 Compliance with Laws.

Service Provider warrants that it is in compliance with and covenants that it shall comply with all applicable laws, regulations, and ordinances. Service Provider warrants that it has in effect and covenants that it shall maintain, renew and obtain all of the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under the Agreement.

B.13 Time of the Essence.

Time shall be of the essence in the Agreement.

C. Miscellaneous.

C.1 City Confidential Information.

- (a) Service Provider acknowledges that it and its employees or agents may, in the course of performing their responsibilities under the Agreement, be exposed to or acquire information that is confidential to City. Any and all information of any form obtained by Service Provider or its employees or agents from City in the performance of the Agreement shall be deemed to be confidential information of City ("**City Confidential**

Information"). Any reports or other documents or items (including software) that result from the use of City Confidential Information by Service Provider shall be treated with respect to confidentiality in the same manner as City Confidential Information. City Confidential Information shall be deemed not to include information that (1) is or becomes (other than by disclosure by Service Provider) publicly known or is contained in a publicly available document; (2) is rightfully in Service Provider's possession without the obligation of nondisclosure prior to the time of its disclosure under the Agreement; or (3) is independently developed by employees or agents of Service Provider who can be shown to have had no access to City Confidential Information.

(b) Service Provider agrees to hold City Confidential Information in strict confidence, using at least the same degree of care that Service Provider uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose City Confidential Information to third parties or use City Confidential Information for any purposes whatsoever other than the provision of Services to City hereunder, and to advise each of its employees and agents of their obligations to keep City Confidential Information confidential. Service Provider shall use its best efforts to assist City in identifying and preventing any unauthorized use or disclosure of any City Confidential Information. Without limitation of the foregoing, Service Provider shall advise City immediately in the event Service Provider learns or has reason to believe that any person who has had access to City Confidential Information has violated or intends to violate the terms of the Agreement and Service Provider will at its expense cooperate with City in seeking injunctive or other equitable relief in the name of City or Service Provider against any such person. Service Provider agrees that, except as directed by City, Service Provider will not at any time during or after the Term of the Agreement disclose, directly or indirectly, any City Confidential Information to any person, and that upon termination of the Agreement or at City's request, Service Provider will promptly turn over to City all documents, papers, and other matter in Service Provider's possession which embody City Confidential Information. Service Provider acknowledges that a breach of this Section C.1, including disclosure of any City Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to City that is inadequately compensable in damages. Accordingly, City may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Service Provider acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of City and are reasonable in scope and content.

(c) Service Provider in providing the Services agrees to abide by the provisions of any applicable federal or state data privacy act.

C.2 City Access to Data.

Nothing in the Agreement will be construed to waive the requirements of Section 205.009 of the Texas Local Government Code. Upon termination of the Agreement, the City will be able to retrieve a copy of City data from Service Provider in one or more industry standard formats, at no additional cost to City.

C.3 Public Information Act.

Service Provider expressly acknowledges that City is subject to the PIA, and notwithstanding any provision in the Agreement to the contrary, City will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to City by Service Provider shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the PIA, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

C.4 No Duty of City to Indemnify.

The Parties agree that under the Constitution and laws of the State of Texas, City cannot defend, indemnify, hold harmless, or save harmless another party. All references of any kind in the Agreement to City defending, indemnifying, holding harmless, or saving harmless Service Provider or any other party for any reason are hereby inoperative, void, and deleted.

C.5 Indemnification of City.

(a) Generally. To the fullest extent permitted by law, and subject to the terms and conditions set forth in Section C.5(b), Section C.5(c), and Section C.5(d), Service Provider (as "**Indemnifying Party**") shall indemnify, hold harmless, and defend City and its elected officials, officers, directors, managers, partners, employees, Big Spring Fire Department, agents, affiliates, successors, and permitted assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, demands, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees and litigation expenses, that are incurred by Indemnified Party (collectively, "**Losses**"), arising out of or related to any third-party claim alleging negligence.

(b) Indemnified Party shall give notice to Indemnifying Party (a "**Claim Notice**") within ten (10) days after obtaining knowledge of any Losses or discovery of facts on which Indemnified Party intends to base a request for indemnification under Section C.5(a). Indemnified Party's failure to provide a Claim Notice to Indemnifying Party under this Section C.5(b) does not relieve Indemnifying Party of any liability that Indemnifying Party may have to Indemnified Party, but in no event shall Indemnifying Party be liable for any Losses that result directly from a delay in providing a Claim Notice, which delay prejudices the defense of the related third-party claim. Indemnifying Party's duty to defend applies immediately, regardless of whether Indemnified Party has paid any sums

or incurred any detriment arising out of or relating, directly or indirectly, to any third-party claim.

(c) Indemnified Party Control of Defense. Notwithstanding anything to the contrary in this Section C.5, Indemnified Party may at its sole option and discretion, assume control of the defense, appeal, or settlement of any third-party claim that is reasonably likely to give rise to an indemnification claim under Section C.5(a), and select its own legal counsel to represent its interests, and Indemnifying Party shall:

(i) reimburse Indemnified Party for its costs and attorneys' fees immediately upon request as they are incurred; and

(ii) remain responsible to Indemnified Party for any Losses indemnified under Section C.5(a).

(d) Settlement of Indemnified Claims by Indemnifying Party. Indemnifying Party shall give prompt written notice to Indemnified Party of any proposed settlement of a claim that is indemnifiable under Section C.5(a). Indemnifying Party may not, without Indemnified Party's prior written consent, settle or compromise any claim or consent to the entry of any judgment regarding which indemnification is being sought hereunder.

(e) The Parties expressly agree that the Indemnifying Party's obligations to the Indemnified Party in this Section C.5 shall not be limited in any way whatsoever, or to any extent, by any worker's compensation, disability, or other employee benefits statute, to which its employees, or those of its subcontractors or sub-subcontractors, or any of Indemnifying Party's Personnel, as the case may be, are subject.

C.6 Taxation.

A municipal corporation and body corporate and politic under the laws of the State of Texas, the City of Big Spring claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.

C.7 Non-Waiver of Governmental Immunity.

(a) The City of Big Spring, a Texas municipal corporation, expressly retains all rights and benefits of governmental immunity from liability and suit for damages in accordance with: Title 5, Texas Civil Practice and Remedies Code; Subchapter I, Chapter 271, Texas Local Government Code; and any other law, if applicable.

(b) Nothing in the Agreement shall be deemed as a waiver of governmental immunity or as increasing the City of Big Spring's liability beyond any statutory limitation of liability.

(c) Nothing in the Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the City of Big Spring which would otherwise be barred under the doctrine of governmental immunity or operation of law.

C.8 Survival.

This Addendum, except those sections in part B of this Addendum, shall survive the expiration or termination of the Agreement.

C.9 Authority.

Each Party hereby represents and warrants to the other Party that:

- (a) It has the full right, power, and authority to enter into this Addendum.
- (b) The execution of this Addendum by the individual whose signature is set forth at the end of this Addendum on behalf of such Party, and the delivery of this Addendum by such Party, have been duly authorized by all necessary action on the part of such Party.

C.10 Severability.

If any term, provision, covenant, or restriction of this Addendum becomes invalid, void, unlawful, illegal, or unenforceable, all other terms, provisions, covenants, and restrictions of this Addendum remain in full force and effect.

C.11 Entire Agreement

The Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter.

C.12 Understanding, Fair Construction.

By execution of this Addendum, the Parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one Party, shall be construed fairly and reasonably and not more strictly against the drafting Party than the other Party.

C.13 Modifications of Agreement.

The Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party hereto.

C.14 Waiver of Agreement.

No waiver by any Party of any of the provisions of the Agreement shall be effective unless explicitly set forth in writing and signed by the authorized representative of the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from the Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

C.15 Assignment of Addendum.

This Addendum shall not be assigned by either Party except insofar as the Services Contract may allow itself to be assigned.

C.16 Successors and Assigns.

This Addendum shall be binding upon and shall inure to the benefit of the Parties hereto and their respective permitted successors and permitted assigns.

C.17 No Joint Venture, Partnership or Vicarious Liability.

Nothing herein shall be construed to create a joint venture or partnership between the Parties hereto or an employer/employee or agency relationship or any other relationship of any nature to which vicarious liability may apply. Neither Party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement, or undertaking with any third party.

C.18 No Third-party Beneficiaries.

The Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Addendum.

C.19 Choice of Forum and Submission to Jurisdiction.

Any legal suit, action, or proceeding arising out of or based upon/relating to the Agreement or the transactions contemplated hereby or shall be exclusively filed and adjudicated in state courts sitting in Howard County, Texas. Service of process, summons, notice, or other document by certified mail shall be effective service of process for any suit, action, or other proceeding brought in any such court. The Parties irrevocably and unconditionally waive any objection to venue of any suit, action, or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

C.20 Choice of Law.

The Agreement, and all claims or causes of action (whether in contract, implied contract, tort, equity or statute) that may be based upon, arise out of or relate to the Agreement, or the negotiation, execution, or performance of the Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with the Agreement or as an inducement to enter into the Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of Texas, including its statutes of limitations, without giving effect to the conflict of law's provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas.

C.21 Limitations set by law.

The Parties agree that for the purposes of the Agreement, any contractual statute of limitations is void. Any statute of limitations is set by law.

C.22 Notice.

Each Party shall deliver all notices, requests, consents, claims, demands, waivers, Renewal Notices, and other communications under this Agreement (each, a "**Notice**") in writing and addressed to the other Party at its address set out below (or to any other address that the receiving Party may designate from time to time). Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only: (a) upon receipt by the receiving party and (b) if the party giving the Notice has complied with the requirements of this Section.

To Service Provider: Nicholas Teague, EMS Program Director & Fire Chief
Texas Public Safety Training Academy
298 Industrial Blvd.
Bastrop, Texas 78602-5020

To City: ATTN: Jay Holt, Fire Chief
Big Spring Fire Department
1401 Apron Drive
Big Spring, Texas 79720

with a copy to: ATTN: Andrew Hagen, City Attorney
City of Big Spring
310 Nolan Street
Big Spring, Texas 79720

C.23 Counterparts.

This Addendum may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

[The Remainder of this Page Intentionally Left Blank]

[Signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Addendum as of the date first written above.

SERVICE PROVIDER

**TEXAS PUBLIC SAFETY TRAINING
ACADEMY**, a Texas nonprofit corporation

CITY

CITY OF BIG SPRING, a Texas Municipal Corporation

Name:

Title:

Todd Darden

City Manager

APPROVED AS TO FORM ONLY

Andrew W. Hagen
City Attorney



Texas Public Service Training Academy
Office of the EMS Program Director & Fire Chief
10/17/2024



EMS/FIRE Coordinator &
Program Management Contract

Parties: Big Spring Fire Department and Texas Public Safety Training Academy

Big Spring Fire Department has indicated a need for training support for their staff in the following areas:

- NREMT/DSHS Emergency Medical Services Training
- SFFMA/TCFP Firefighter Training

TPSTA and Big Spring Fire Department staff have agreed to execute a Tier 1 Service Agreement which includes all services outlined herein and shown in the attached proposal (Appendix A). For the purposes of this agreement, TPSTA shall provide technology, record and information management for the above courses using the proprietary software, coursework, examinations as well as using FISDAP technology applications. Furthermore, TSPTA Staff has agreed to aid in producing course schedules, resolving instructor/student issues, internship management, and ensuring compliance with DSHS, NREMT, SFFMA, and TCFP mandates. TPSTA shall provide Medical Director oversight, management of all state regulatory audits for your organization's training program, use of CE licenses for in-house CE programs, and a dedicated training officer to oversee your department program.

The services identified in this agreement will be provided for a fee. Fees shall be based upon monthly services, which shall not be prorated our hourly instruction or skills examinations provided by TPSTA staff as requested by Big Spring Fire Department. The fees are outlined in the fee schedule below.

- \$4750 each month of the contract period for Tier 1 Service
- \$30/hr. for each TPSTA Staff member present for skills/instruction as requested

This agreement shall go into effect on 10/17/2024. This contract shall be in place for 2 years calendar years with an end date of 10/17/2025. This contract may be extended by 2 years up to 2 times following the scheduled end date of this contract by the parties. The extension will go into effect unless notice of non-renewal is provided by an authorized Big Spring Fire Department official prior to the 10/18/2025. This contract may be terminated earlier that 8/12/2025 in writing by either party with 30 days written notice only for violation of state regulatory requirements and only after students in active status have completed course requirements or have been dis-enrolled from active courses.

Big Spring Fire Department and their executive staff/board members each agree to not solicit, engage in, or otherwise seek contractual education services from any TCFP, DSHS or SFFMA Training Provider providing competing or similar services until such time as this contract has been canceled or non-renewed. Parties agree to indemnify and hold harmless one another for any injuries and/or damages which occur from any services provided or executed under this agreement.

Agreement executed and authorized by,

A blue ink signature of Nicholas Teague.

Nicholas Teague
EMS Program Director & Fire Chief
Texas Public Safety Training Academy

Jay Holt
Fire Chief
Big Spring Fire Department

TPSTA LMS Partnership Proposal



Organization: Big Spring Fire Department

Requestor: Chief Jay Holt

Tier Choice: Tier 1

Date: 10/16/2024

Highlights

- ☐ Customizable platform interface
- ☐ In-house Academy Options for any Organization size
- ☐ Scalable to fit the size of the student base
- ☐ Compatible with external links
- ☐ Remote access and monitoring for administrators to track student progress

Below are the package options that TPSTA offers through our Learning Management System (LMS) partnership. Please review the options and select which package you wish by completing the above section of the form as a proposal for services desired.

Special	Custom packages that can be built for Government Agencies and Certain Non-Profit Organizations
Tier 3	Most economical for small organizations. Pay per user.
Tier 2	The perfect blend of managing an in-house program but with expert access needed to optimize learner outcomes
Tier 1	Maximum access with license use and dedicated administrative support to manage a turnkey program.

Tier Package Options	Tier 3 (Basic)	Tier 2 (Elite)	Tier 1 (Premium)
24/7 LMS Platform Access	X	X	X
Virtual Instructor	X	X	X
FISDAP Scheduler Access	X	X	X
Student Document Templates & Assistance	X	X	X
Technology Support	X	X	X
Grade Monitoring	X	X	X
Unlimited Number of Students		X	X
Dedicated Program Manager		X	X
Clinical Internship Scheduling & Management		X	X
Fire Instructor III/Coordinator		X	X
DSHS/NREMT Coordinator		X	X
Medical Director			X
5 Year Record Retention and Audit Management			X
EMS/Fire/Security Training License Use Agreement			X
ALL Access to Continuing Education & CE Licenses			X

Special Requests:

CROSS-ELL RANCH-BIG SPRING DEVELOPMENT AGREEMENT

This **CROSS-ELL RANCH-BIG SPRING DEVELOPMENT AGREEMENT** (hereinafter referred to as the “Agreement”) is made and entered into by and between the **CITY OF BIG SPRING, TEXAS**, a Texas home-rule municipality (hereinafter referred to as “City” or “the City”), the **BIG SPRING ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation (hereinafter referred to as “EDC” or “the EDC”), and **CROSS-ELL RANCH CORPORATION**, a Texas corporation (hereinafter referred to as the “Developer” or “the Developer”):

WHEREAS, the City of Big Spring is a home-rule municipal corporation of the State of Texas; and

WHEREAS, the City anticipates receiving funding in the form of an Economic Development Administration (EDA) Grant (“EDA Grant”), a rapidly funded federal grant managed by the U.S. Economic Development Administration through the American Rescue Plan Act of 2021 which aims to incentivize growth through economic development in communities; and,

WHEREAS, the Developer desires to develop a tract of land described as approximately 443.607 acres located in Howard County, Texas, the entirety of which is located within the extraterritorial jurisdiction of the City of Big Spring, Texas, and identified as Property ID # 297545 by the Howard Central Appraisal District, which property is depicted in ***Exhibit “A”*** of this Agreement, which is attached hereto and incorporated herein for all purposes (hereinafter referred to as the “Property”); and

WHEREAS, the Developer will petition the annexation of the Property into the City of Big Spring, Texas as stated hereinbelow, and with respect to such annexation, this Agreement is a development agreement authorized by Chapter 212 of the Texas Local Government Code; and

WHEREAS, the Developer desires to authorize the EDC to market the Property for development, and if the Property is not sold as a whole within a certain time, to convey, under certain conditions, to the EDC an approximately forty (40) acre tract within the Property for warehouse, manufacturing, or other appropriate uses (further defined herein as the “Option Parcel”) pursuant to the terms of an Option Agreement of even date herewith (the “Option Agreement”); and

WHEREAS, the EDC and Developer have obtained an appraisal of the Option Parcel; and

WHEREAS, except as provided herein, the Developer shall grant, at no cost to the City, all necessary easements to the City for roads, water and sewer lines to be installed to service the Property as Public Infrastructure, as stated herein; and

WHEREAS, the City will cause to have constructed and installed on the Property water and sewer lines to service the Property; and

WHEREAS, the EDC is a Type A economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code, as amended, and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 504.105 of the Texas Local Government Code authorizes the EDC to spend Type A Sales and Use Tax Revenue (as defined herein) for promotional purposes; and

WHEREAS, the EDC's Board of Directors have determined that this Agreement is authorized by Section 504.105 of the Texas Local Government Code; and

WHEREAS, as authorized by Chapter 311 of the Texas Tax Code, the City has agreed to create a Tax Increment Reinvestment Zone ("TIRZ") encompassing the Property to create funds for further reinvestment into the Project if feasible; and

WHEREAS, the Project includes significant public infrastructure improvements, such as the construction of public roads and other traffic improvements, the construction of water, sewer and other utility infrastructure, and the construction of drainage improvements; and

WHEREAS, in accordance with Section 212.172(a)(5) of the Texas Local Government Code, the City is authorized to construct the Public Infrastructure (defined herein) within its extraterritorial jurisdiction, and in accordance with Section 311.03 of the Texas Tax Code, the City is authorized to establish a TIRZ within its extraterritorial jurisdiction;

WHEREAS, in accordance with Article III, Section 52-a of the Texas Constitution, and Section 380.001 of the Texas Local Government Code ("Section 380"), the City may establish and provide for the administration of a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City; provided the program created or loan or grant made is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City; and

WHEREAS, the City, EDC, and Developer agree that the provisions of this Agreement substantially advance a legitimate interest of the City by providing public infrastructure, expanding the tax base of the City, increasing employment, and promoting economic development.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, the EDC, and the Developer agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This Agreement shall be enforceable as of the Effective Date, as defined herein, and shall continue thereafter until the expiration or termination of the 380 Agreement unless terminated sooner under the provisions hereof.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

380 Agreement. The "380 Economic Development And Performance Agreement" agreed to by Developer and City.

Agreement. The word "Agreement" means this Development Agreement and Performance Agreement, authorized by Chapters 212, 501 and 504 of the Texas Local Government Code, together with all exhibits and schedules attached to this Agreement from time to time, if any, and any amendments to this Agreement and/or exhibits and schedules.

City. The word "City" means the City of Big Spring, Howard County, Texas, a Texas home-rule municipality. For the purposes of this Agreement, City's address is 310 Nolan Street, Big Spring, Texas 79720.

Days shall mean calendar days, whether capitalized or not, unless stated otherwise.

Developer. The word "Developer" means Cross-Ell Ranch Corporation, a Texas corporation, its successors and assigns. For the purposes of this Agreement, Developer's address is 975 Rio Hondo Rd, Tarpley, TX 78883-4413.

EDC. The term "EDC" means the Big Spring Economic Development Corporation, a Type A economic development corporation, and a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 215 W. Third Street, Big Spring, Texas 79721.

Effective Date shall mean the date in which the Agreement is effective, which is the date the Agreement is executed by and on behalf of the parties.

Event of Default. The words "Event of Default" mean and include any of the Events of Default set forth below in the section entitled "Events of Default."

Infrastructure Improvements shall have the same meaning as "Public Infrastructure" herein.

Maximum Listing Price. The words "Maximum Listing Price" shall mean the value of the Property according to its most recent appraisal unless the EDC Board of Directors give prior approval of a higher amount, which approval shall not be unreasonably withheld, conditioned, or delayed. The Maximum Listing Price may be separately adjusted under the terms of Subsection 4(b)(3). Notwithstanding the foregoing, Developer shall be obligated to accept an offer for purchase of the Option Parcel by reason of the exercise by the EDC of its option to purchase the Option Parcel. **If the Developer does not perform the 2024 Appraisal (as defined in Section 4(b)(3)) within 60 days after the Effective Date under Section 4(b)(3), the Maximum Listing Price is \$30 million until Developer performs a Subsequent Appraisal (as defined in Section 4(b)(3)).**

Option Parcel. The words "Option Parcel" means the forty (40) acre tract of land located within the Property, and within Howard County, Texas, and which is described and depicted in *Exhibit "B"* of this Agreement, which is attached hereto and incorporated herein for all purposes.

Project shall mean the development of the Property and associated Public Infrastructure within the Property or adjacent to the Property. The Project shall consist of the Project, as well as other ancillary facilities, including, but not limited to, areas developed for roads, parking, drainage, landscaping, and open space.

Property. The word "Property" means the approximately 443.607-acre tract of land located in Howard County, Texas, which property is described and depicted in *Exhibit "A"* of this Agreement, which is attached hereto and incorporated herein for all purposes.

Public Infrastructure shall mean the improvements constructed by the City including, but not limited to, utility infrastructure, drainage facilities, and other infrastructure as may be illustrated in *Exhibit "C"* which is attached hereto and incorporated herein for all purposes. The term "Public Infrastructure" shall be limited to the investments stated in Section 5(c) of this Agreement, and exclude the additional Airport-investments as stated in the illustration attached to Exhibit C.

Term. The word "Term" means the term of this Agreement as specified in Section 2 of this Agreement.

Tax Year shall mean January 1st of any given calendar year through December 31st of the same calendar year.

SECTION 4. OBLIGATIONS OF THE DEVELOPER.

The Developer covenants and agrees while this Agreement is in effect it shall comply with the following terms and conditions:

(a) **Request Annexation of the Property.** Developer covenants that it is the owner of the

Property which is adjacent to the city limits of the City of Big Spring, Texas. The Written Disclosures in Exhibit X attached hereto are hereby incorporated into this Agreement for all intents and purposes. Developer covenants and agrees that within thirty (30) days of the award and execution by the City of the contract for construction of the Public Infrastructure, Developer will execute an annexation petition to the City, using a form substantially similar to the Annexation Request Form in Exhibit "D," which is attached hereto and incorporated herein for all purposes, and execute a Service Plan substantially similar to the Service Plan in Exhibit "S," which is attached hereto and incorporated herein for all purposes, and deliver the executed documents to the City, requesting and consenting that the Property be annexed into the City of Big Spring, Texas.

(a-1) In the event that Howard County calls for an election which may result in sales tax assessed in the unincorporated areas of Howard County, Cross-ELL agrees to immediately request annexation and complete annexation prior to the election taking place. The City represents to Developer that it has no knowledge that Howard County currently has such a plan.

(b) Reasonable Access to Option Parcel, and Appraisal and Sale of Property.

1. Developer covenants and agrees to provide to the EDC or EDC's agents reasonable access to the Option Parcel in order for the EDC to conduct an evaluation of the Option Parcel, pursuant to the terms of the Access Agreement attached hereto as ***Exhibit "E"*** which is attached hereto and incorporated herein for all purposes.
2. In addition, Developer covenants and agrees and does hereby authorize the EDC and the City to market or cause to be marketed for sale the Property for commercial redevelopment for no more than the Maximum Listing Price. Sale of the entire Property by Developer does not need the approval of the City Council of the City of Big Spring, Texas, or the EDC Board of Directors if the other conditions of this Agreement are met.
 - i. It is understood and agreed that in any sale of all or any portion of the Property, Developer or Developer's assignee will retain and not convey the minerals and groundwater owned by Developer. The term "minerals" shall mean all oil, gas, and other minerals in or under and that may be produced from the Property, any royalty under any existing or future mineral lease covering any part of the Property, executive rights (including the right to sign a mineral lease covering any part of the Property), implied rights of ingress and egress, exploration and development rights, production and drilling rights, mineral lease payments, and all related benefits. If the Property is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it. The minerals do NOT include sand, gravel, limestone, building stone, caliche, surface shale, near-surface lignite, and iron. Seller will also retain the right to continue the use of the existing well sites on the surface of the Property. Apart from the existing well sites, Seller will agree to waive all other surface rights relating to the minerals, including the right to access,

explore, drill, mine, or otherwise utilize or disturb any other part of the Property in any way. Notwithstanding the foregoing, nothing herein contained shall ever be construed to prevent Seller from developing or producing oil, gas and other minerals that may be produced from the Property by pooling or by directional or horizontal drilling under the Property from well sites located or mines that open on lands other than the Property, or from the existing well sites on the Property as of the date of this Agreement.

3. **Notwithstanding the foregoing statement of the Maximum Listing Price, Developer may, within Sixty (60) days after the Effective Date (“2024 Appraisal”) and once in every Three (3) year period following the Effective Date (“Subsequent Appraisal(s)”), at Developer’s sole cost and expense, engage an independent, certified general appraiser, licensed by the Texas Appraiser Licensing & Certification Board (the “Licensed Appraiser”) to appraise the Property. In the event Developer elects to engage a Licensed Appraiser, Developer shall notify the EDC of its election and shall provide the EDC and City with a sworn statement executed by the Licensed Appraiser providing the licensing information for, and certifying to the independence of, such Licensed Appraiser all in a form and substance reasonably acceptable to the EDC. Upon completion of the appraisal the Licensed Appraiser shall deliver a copy of the “Appraisal” to the Developer, EDC, and City. If the Appraisal shows that the Property value is greater or lower than the Maximum Listing Price, then the Maximum Listing Price shall be adjusted to reflect such increase or decrease, without need of additional approval or consent by the EDC.**
4. Developer covenants and agrees that it will not partition the Property effective upon the Effective Date of this Agreement and continuing up to and until the expiration of the term of the Option Agreement except with the written prior approval of the EDC Board of Directors, which approval shall not be unreasonably withheld, conditioned, or delayed. If the Developer subdivides the Property during the term of the Option Agreement, it may not sell the Option Parcel except to the EDC pursuant to the terms of the Option Agreement. This subsection 4(b)(4) does not apply to any conveyance pursuant to the Option Agreement for Option Parcel Between Developer and EDC. Any subdivision of the Property, save and except for any conveyance pursuant to the Option Agreement for Option Parcel Between Cross-Ell Ranch Corporation and Big Spring Economic Development Corporation, shall be subject to prior mutual agreement by the Developer and EDC of the Maximum Listing Price and any change thereto. This subsection 4(b)(4) expires two years after the Developer conveys the Option Parcel to the EDC, if applicable.
5. After the expiration of the Option Agreement, Developer may sell the Option Parcel without encumbrance or need for additional consent or approval.

In no event will EDC be construed to be a successor or assign of Developer under this Agreement.

- (c) **Option Agreement.** Developer will enter into the Option Agreement for Option Parcel between Developer and Big Spring Economic Development Corporation as material consideration for the EDC's and the City's execution of this Agreement.
- (d) **Assistance with Infrastructure Improvements.** Developer covenants and agrees to donate to the City all necessary easements or rights-of-way for the installation of roads, water, and sanitary sewer lines to the Property pursuant to Section 5(c) of this Agreement (collectively, the "Rights of Way"). In addition, Developer covenants and agrees that, upon the City's agreement to deliver utilities to the portion of the Property west of the Highway 87 Reliever Route, and to fund the delivery of said utilities at the City's expense, Developer will execute any and all documents necessary to donate or convey to the City the existing sleeves, bores, casings, and conduit (the "Existing Utility Improvements"), including any existing or necessary easements or rights of way thereto located under Highway 87 Reliever Route and adjacent to the Property for the water and sanitary sewer lines to be installed on the Property pursuant to Section 5(c) of this Agreement. In exchange for Developer's donation of the Rights of Way and the Existing Utility Improvements, the City will cooperate with Developer in the execution of a donation agreement or other similar instrument acknowledging the value of the donation at an amount equal to the value of the Rights of Way and the value added to the Property by the Existing Utility Improvements, or other such instrument requested by Developer in order to allow Developer to receive credit for the donation for tax reporting purposes. This donation is incidental to this Agreement. Collectively, the easements, rights-of-way, drainage facilities, and other improvements will be conveyed to and accepted by the City on an as is, where is basis. The added value of the Existing Utility Improvements shall be based upon the average of three quotes from contractors which commonly bore conduit under highways.
- (e) Consistent with the Subdivision Ordinances of the City and a mutually agreeable plan for the location and construction of the Infrastructure Improvements (defined below), Developer shall dedicate all required easements, rights of way, and drainage facilities necessary for the development of the property, at the time required under the Subdivision Ordinance.
- (f) The grants of easements and dedication of rights-of-way shall be in a form mutually acceptable to Developer and the City.
- (g) **Performance.** The Developer agrees to perform and comply with all terms, conditions and provisions set forth in this Agreement, and the Option Agreement for Option Parcel between Developer and Big Spring Economic Development Corporation
- (h) Notwithstanding any other provision of this Agreement, if the City does not receive the funds from the EDA Grant, the City may at City Council's option cancel this Agreement, continue this Agreement, or alter the Agreement by removing the City's duty to build the

Infrastructure Improvements.

- (i) Developer represents to City that the Property is not subject to an agricultural, wildlife management, or timber ad valorem tax exemption.

SECTION 5. OBLIGATIONS OF THE CITY.

The City covenants and agrees while this Agreement is in effect the City shall comply with the following terms and conditions:

- (a) **Annexation of the Property.** City covenants and agrees that upon receipt of an annexation petition from the Developer pursuant to Section 4(a) of this Agreement, the City shall commence the process for annexation of the Property into the city limits of the City of Big Spring, Texas, consistent with Chapter 43 and Section 212.172 of the Texas Local Government Code, as amended.
- (b) **Zoning of the Property.** City covenants and agrees that upon annexation of the Property into the City or simultaneously with the annexation, the City shall zone the Property consistent with the City's Comprehensive Zoning Plan and Zoning Ordinance, and prepare a master site development plan for the Property (including the Option Parcel) reasonably acceptable to Developer, contemplated to designate portions of the Property for light industrial, light industrial, retail, and office/warehouse uses, and ensuring that all of the Property is served with utilities, roads, drainage, cross-access easements to and from all public rights-of-way adjacent to the existing boundaries of the Property, and which maximizes the development potential of the Property. The Property shall not be put to any residential uses whatsoever. The parties to this Agreement agree that the City is not contracting for, or promising to, approve the zoning change and that the City retains its complete lawful discretion to approve or deny the zoning change based on the level of discretion provided to the City by law for the particular decision under consideration. Nothing in this Agreement is or should be considered or construed as contract zoning or the bargaining away of the City's governmental discretion. City agrees to permit any pre-existing oil well and/or drilling activities on the Property to

continue to operate notwithstanding any zoning and/or permit restrictions resulting from the Property's annexation into the municipal city limits of the City of Big Spring, provided that (1) such activities were legally permissible and enforceable prior to the Effective Date, and (2) upon the expiration of the earlier of (i) Ten (10) years from the Effective Date, or (ii) the expiration of any existing oil and gas lease already in force prior to the Effective Date, the City may enforce its land use, zoning, permitting, and development regulations in the same manner that the regulations are enforced within the City's boundaries.

- (c) **Infrastructure Improvements to the Property.** City covenants and agrees within 36 months after the Effective Date, the City shall have installed or cause to be installed on the Property or for the benefit of the Property water, sanitary sewer, and one lift station and infrastructure appropriate for the Property, and as depicted in *Exhibit "C,"* which is attached hereto and is incorporated herein for all purposes (the "Infrastructure Improvements"). The City shall be responsible for **three Million, seven hundred thousand and No/100 Dollars (\$3,700,000.00) of the total cost of the Infrastructure Improvements.** The EDC shall not be responsible for any combined amount in excess of **four hundred thousand and No/100 Dollars (\$400,000.00).** **The City's statement that Infrastructure Improvements are complete shall be presumptive proof that they are complete, subject to rebuttal by Developer.**
- (d) **Waiver of Fees.** The City agrees to waive all plat application fees, impact fees, dedication fees, parkland fees, and other applicable development fees associated with the platting and subdivision of the Property. This waiver does not apply to building permit fees and utility connection fees.
- (e) **Performance.** The City agrees to perform and comply with all terms, conditions and provisions set forth in this Agreement, and any other agreements by and between the City, EDC, and Developer.
- (f) **Disannexation.** If the City does not complete its obligations under Section 5(c) of this Agreement, the City agrees that upon a petition by Developer, City will disannex the Property.

SECTION 6. OBLIGATIONS OF EDC.

The EDC covenants and agrees while this Agreement is in effect the EDC shall comply with the following terms and conditions:

- (a) **Advertising the Property.** Upon annexation of the Property into the city limits of the City of Big Spring, Texas, consistent with Section 5(a) of this Agreement, EDC covenants and agrees to use best efforts to market or cause to be marketed for sale the Property for commercial redevelopment in a manner consistent with the marketing of similarly situated industrial tracts for economic development purposes. The EDC shall indemnify, defend, and hold harmless Developer, its shareholders, directors, officers, employees, agents, attorneys and representatives from and against any and all claims of any nature whatsoever arising from or relating to the EDC's marketing of and activities on the Property, including without limitation, advertising liability.
- (b) **Performance.** The EDC agrees to perform and comply with all terms, conditions and provisions set forth in this Agreement, and any other agreements by and between the City, EDC, and Developer.

SECTION 7. EVENT OF DEFAULT.

- (a) **General Event of Default.** Failure of Developer, EDC, or City to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer, EDC, or City to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between the Developer, EDC and City is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to the City or EDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished, is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.
- (d) **Dispute Resolution**
 - 1. **Mediation.** If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties in dispute shall first in good faith seek to resolve the dispute

through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties in dispute agree to try in good faith to settle the dispute by mediation under the Mediation Rules of the American Arbitration Association before resorting to litigation, or some other dispute resolution procedure; provided that a Party may not invoke mediation unless it has provided the other Party in dispute with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation. The Parties in dispute shall notify the Party not in dispute of any scheduled mediation at least fourteen (14) days prior to the mediation. Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of the Agreement, or otherwise. All costs of negotiation and mediation, collectively known as alternate dispute resolution (“ADR”) shall be assessed equally between the City and the Party in dispute with each party bearing their own costs for attorneys’ fees, experts, and other costs of ADR and any ensuing litigation. Any Party not directly in dispute shall receive notice at least thirty days prior of any scheduled meditations.

2. During the Term of this Agreement, if Developer files and / or pursues an adversarial proceeding against the City regarding this Agreement then, at the City’s option, all access to the Grants to that Developer provided for hereunder may be deposited with a mutually acceptable escrow agent that will deposit such funds in an interest-bearing account until the resolution of such adversarial proceeding.

SECTION 8. EFFECT OF AN EVENT OF DEFAULT.

Failure of the Developer, City, or EDC to comply with or perform any term, obligation or condition of this Agreement shall constitute an Event of Default. The non-defaulting party shall give written notice to the other parties of any default, and the defaulting party shall have thirty (30) days to begin to cure said default. Should said default remain uncured, the non-defaulting party or parties shall have the right to terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default. If specific performance is awarded against a party, that party shall pay the other party’s attorney’s fees and court costs in bringing the action.

In the event the City defaults on its obligations under a 380 Economic Development and Performance Agreement of even date herewith and executed by and between the City and Developer, or in the event the EDC defaults on its obligations under the Option Agreement, and such default(s) remain uncured after any applicable notice and cure period, Developer may elect, in its sole discretion, to terminate this Agreement by providing written notice to the City and EDC.

SECTION 9. INDEMNIFICATION.

TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE,

DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto. The Parties may, by mutual written agreement, amend this agreement. Such amendments shall be incorporated into and made a part of this agreement.
- (b) **Applicable Law and Venue.**
 - 1. This Agreement, and all claims or causes of action (whether in contract, implied contract, tort, equity or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution, or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of Texas, including its statutes of limitations, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas.
 - 2. Any legal suit, action, or proceeding arising out of or based upon/relating to this Agreement or the transactions contemplated hereby or shall be exclusively filed and adjudicated in state courts sitting in Howard County, Texas. Service of process, summons, notice, or other document by certified mail shall be effective service of process for any suit, action, or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to venue of any suit, action, or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

- (c) **Assignment.** Except as stated within this subsection, Developer shall have the right to assign all of its rights, duties, and obligations under this Agreement for all or any part of the Property to an entity owned or controlled by Developer, or owned and controlled by principals of Developer, or to a duly qualified third party, with prior written notice to the EDC. An assignee shall assume all of the obligations and responsibilities, as well as receive the benefits, of the Developer assigning its portion of the Agreement with respect to the portion of the Property to which the assignment relates. The assignor shall be relieved of all obligations and responsibilities relating to its respective portion of the Agreement with respect to which the assignment is made, provided the assignor delivers to the EDC an agreement between itself and the assignee documenting the assignment and assignee's agreement to perform such responsibilities and obligations. Assignments beyond the scope specified above are conditioned on the pre-approval by the EDC.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. The EDC warrants and represents that the individual executing this Agreement on behalf of the EDC has full authority to execute this Agreement and bind the EDC to the same. The Developer warrants and represents that the individual executing this Agreement on the Developer's behalf has full authority to execute this Agreement and bind the Developer to the same.
- (e) **Interpretation.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement. Whenever the singular is used in this Agreement, the same shall include the plural, and whenever the plural is used herein, the same shall include the singular, where appropriate.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Entire Agreement.** This Agreement together with any and all related Exhibits incorporated by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and therein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. The Parties have not relied on any statement, representation, warranty, or agreement of the other Party or of any other person on such Party's behalf, including any representations, warranties, or agreements arising from statute or otherwise in law, except for the representations, warranties, or agreements expressly contained in this Agreement.
- (h) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil

commotion, acts of God, , the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed. Force Majeure: shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government, or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions, floods, strikes, slowdowns, or work stoppages.

- (i) **Notices.** Any notice, submittal, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City: City of Big Spring, Texas
 310 Nolan Street
 Big Spring, Texas 79720
 Attn: Todd Darden, City Manager

With a copy to: City of Big Spring, Texas
 Legal Department / 150
 310 Nolan Street
 Big Spring, Texas 79720
 Attn: Andrew W. Hagen, City Attorney

To the EDC: Big Spring Economic Development Corporation
 215 W. Third Street
 Big Spring, Texas 79721
 Attn: Mark Willis, Executive Director

To the Developer: Cross-Ell Ranch Corporation
 975 Rio Hondo Rd
 Tarpley, TX 78883-4413
 Attn: Mack Frazier

With a copy to: Baird, Crews, Schiller & Whitaker, P.C.
 15 North Main Street
 Temple, Texas 76501
 Attn: Sam Fulcher

Any party may change its address or addresses for delivery of notice by delivering written

notice of such change of address to the other party.

- (j) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.
- (k) **Form 1295 Certificate.** Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.
- (l) **Undocumented Workers Provision.** Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement to Developer plus six percent (6.0%), not later than the 120th day after the date the City or EDC notifies Developer of the violation.
- (m) **Non-Boycott of Israel Provision.** In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Developer is not subject to Chapter 2270 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Developer verifies that Developer does not boycott Israel and will not boycott Israel during the Term of this Agreement.
- (n) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.
- (o) **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex.

Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.

- (p) **Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

- (q) **Non-Waiver of Governmental Immunity.**

(a) Except as specified herein and as permitted by applicable law, the City of Big Spring expressly retains all rights and benefits of governmental immunity from liability and suit for damages in accordance with: Title 5, Texas Civil Practice and Remedies Code; Subchapter I, Chapter 271, Texas Local Government Code; and any other law, if applicable.

(b) Except specified herein and as provided by applicable law, nothing in this Agreement shall be deemed as a waiver of governmental immunity or as increasing the City of Big Spring's liability beyond any statutory limitation of liability.

(c) Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the City of Big Spring which would otherwise be barred under the doctrine of governmental immunity or operation of law.

(d) Except as specified herein, the EDC expressly retains all rights and benefits of governmental immunity from liability and suit for damages in accordance with: Title 5, Texas Civil Practice and Remedies Code; Section 504.107, Texas Local Government Code; and any other law, if applicable.

(e) Except as specified herein, nothing in this Agreement shall be deemed as a waiver of governmental immunity or as increasing the EDC's liability beyond any statutory limitation of liability.

(f) Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the EDC which would otherwise be barred

under the doctrine of governmental immunity or operation of law.

(g) No employee of City or EDC, or any councilmember or agent of City, or board member or agent of EDC, shall be personally responsible for any liability arising under or growing out of this Agreement.

(r) **Miscellaneous Representations and Warranties**

(1) Each Party to this Agreement represents that it has the power and authority to enter into this Agreement and that all documents executed and delivered pursuant to this Agreement are valid, binding, and enforceable upon such Party. Each Party further represents that there are no outstanding parties nor any additional signatories required for the execution of this Agreement.

(2) Developer represents that it is authorized to do business and is in good standing in the State of Texas and warrants that it shall remain in good standing in the State of Texas during the Term of this Agreement.

(s) **Independent contractors.**

It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Developer at no time will be acting as agents of the City and that all consultants or contractors engaged by Developer respectively will be independent contractors of the Developer; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that City will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by each Developer respectively under this Agreement, unless any such claims are due to the fault of the City.

(t) **Further Assurances.**

Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

[The Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

CITY:

CITY OF BIG SPRING, TEXAS,
A Texas home-rule municipality

By: _____
Todd Darden, City Manager

Date: _____

ATTEST:

Tami L. Davis, City Secretary

STATE OF TEXAS

§

§

COUNTY OF HOWARD

§

This instrument was acknowledged before me on the ____ day of _____, 2024, by Russell T. Darden, City Manager of the City of Big Spring, Texas, a Texas home-rule municipality, on behalf of said municipality.

Notary Public, State of Texas

EDC:

**BIG SPRING ECONOMIC DEVELOPMENT
CORPORATION,**

A Texas non-profit corporation

By: _____
Anna Scott, President

Date: _____

ATTEST:

Joel De La Garza, Secretary

STATE OF TEXAS

§

§

COUNTY OF HOWARD

§

This instrument was acknowledged before me on the ____ day of _____, 2024, by Anna Scott, President of the Big Spring Economic Development Corporation, a Texas non-profit corporation, on behalf of said Texas non-profit corporation.

Notary Public, State of Texas

DEVELOPER:

CROSS ELL RANCH CORPORATION,
a Texas corporation,

By: _____

Name: _____

Title: _____

Date: _____

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on the ____ day of _____
_____, 2024, by _____, _____ of the Cross Ell
Ranch Corporation, a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

Exhibit A
Property

The Property is 443.607 acres, more or less, in Section 4, Block 33, Howard County, Texas, conveyed to Cross-Ell Ranch Corporation by Special Warranty Deed dated October 30, 1986, and recorded in volume 610, pages 591-592 of the real property records of Howard County, Texas, as follows:

The West 532 acres of Section 4, Block 33, TWP 1 South, T&P Railroad Company Survey, Howard County, Texas;

Save for and Except each of the following:

Those three tracts together containing 17 acres, more or less, and described in a Warranty Deed recorded in volume 610, pages 593-595 in the real property records of Howard County, Texas;

Those three tracts, of 2.02 acres, the second of 10.0 acres, and the third of 0.21 acres, more or less, and described in a Warranty Deed dated November 15, 1988, recorded in volume 624, page 42 of the real property records of Howard County, Texas;

That tract of 9.214 acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1356, pages 680-686 of the real property records of Howard County, Texas; and

That tract of 40.089 Acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1360, pages 164-173 of the real property records of Howard County, Texas; and

Those two tracts, one of 5.37 acres and the other of 3.51 acres, more or less, described in a Warranty Deed dated July 26, 2017, recorded in volume 1644, pages 582-585 of the real property records of Howard County, Texas.

Exhibit B
Option Parcel

That 40.0 acre tract of land, with four sides of 0.25 mile in length each, located within the "Property," where the term "Property" is defined in the EDA, and at the northeast corner of Frazier Road and US Highway 87, in Howard County, Texas, including all rights appurtenant with respect to any strips and gores abutting the tract, and any land lying in the bed of any street, road, or avenue in front of, or adjoining the tract, to the center line thereof.

Exhibit C

Public Infrastructure Improvements

See attached "City of Big Spring Business Park/Airpark Water and Sewer Improvements American Rescue Plan – EDA Grant Project Map August 2023

Exhibit D

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF THE CITY OF BIG SPRING, TEXAS:

The undersigned owners of the hereinafter described tract of land petition your honorable Body to extend the present city limits so as to include as part of the City of Big Spring, Texas, the following described territory, to wit:

The Property is 443.607 acres, more or less, in Section 4, Block 33, Howard County, Texas, conveyed to Cross-Ell Ranch Corporation by Special Warranty Deed dated October 30, 1986, and recorded in volume 610, pages 591-592 of the real property records of Howard County, Texas, as follows:

The West 532 acres of Section 4, Block 33, TWP 1 South, T&P Railroad Company Survey, Howard County, Texas;

Save for and Except each of the following:

Those three tracts together containing 17 acres, more or less, and described in a Warranty Deed recorded in volume 610, page 593 in the real property records of Howard County, Texas;

Those three tracts, of 2.02 acres, the second of 10.0 acres, and the third of 0.21 acres, more or less, and described in a Warranty Deed dated November 15, 1988, recorded in volume 624, page 42 of the real property records of Howard County, Texas;

That tract of 9.214 acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1356, pages 680 of the real property records of Howard County, Texas; and

That tract of 40.089 Acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1360, pages 164-173 of the real property records of Howard County, Texas; and

Those two tracts, one of 5.37 acres and the other of 3.51 acres, more or less, described in a Warranty Deed dated July 26, 2017, recorded in volume 1644, pages 582-585 of the real property records of Howard County, Texas.

We certify that the above described tract of land is contiguous and adjacent to the City of Big Spring, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

CROSS ELL RANCH CORPORATION,
a Texas corporation

By: _____

Name: _____

Title: _____

Date: _____

THE STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared _____, _____, of CROSS ELL RANCH CORPORATION, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and consideration therein expressed, on behalf of said corporation.

Given under my hand and seal of office, this _____ day of _____, 20____.

Notary Public in and for
_____ County, Texas.

Exhibit E

Access Agreement on
Following Pages

Exhibit S

See attached Municipal Services Agreement Between the
City of Big Spring, Texas and Owner Cross Ell Ranch
Corporation

**MUNICIPAL SERVICES AGREEMENT
BETWEEN THE CITY OF BIG SPRING, TEXAS
AND OWNER CROSS ELL RANCH
CORPORATION.**

This Municipal Services Agreement ("Agreement" or "Service Plan") is entered into on this _____ day of _____, _____ by and between the City of Big Spring, Texas, a home-rule municipality of the State of Texas, ("City") and Cross Ell Ranch Corporation. ("Owner").

RECITALS

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

WHEREAS, Owner has filed a written request with the City for full-purpose annexation of the Property;

WHEREAS, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owner that sets forth the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Owner owns a certain parcel of land situated in Howard County, Texas, which consists of approximately 443.607 acres, more or less, of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in the Exhibit attached and incorporated herein by reference ("Property");

WHEREAS, City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Texas Local Government Code § 43.0672 requires a written agreement for the provision of services in the area first be entered into between the City and Landowner of the Subject Property prior to annexation;

WHEREAS, the annexation and execution of this Agreement are subject to approval by the Big Spring City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. **PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the annexation.
2. **INTENT.** It is the intent of the City that this Agreement provide for the delivery of available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. MUNICIPAL SERVICES.

- a. Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, “providing services” includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property Owner’ participation in accordance with applicable city ordinances, rules, regulations, and policies.
 - i. Fire – The City’s Fire Department will provide emergency and fire protection services. Schedule: immediate.
 - ii. Police – The City’s Police Department will provide protection and law enforcement services. Schedule: immediate.
 - iii. Emergency Medical Services - The City through its Fire Department or a contractor will provide emergency medical services. Schedule: immediate.
 - iv. Planning, Zoning, and Building – The City will provide comprehensive planning, land development, land use, and building review and inspection services in accordance with all applicable laws, rules, and regulations. Schedule: immediate.
 - v. Publicly Owned Parks, Facilities, and Buildings
 1. Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including, community service facilities, the aquatic center, etc.), and buildings throughout the City and as owned by the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided, however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City and appropriations therefor.
 2. In the event the City acquires any other parks, facilities, or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.
 3. Schedule: immediate.
 - vi. Streets – The City will maintain the public streets and streetlights over which the City has jurisdiction. The City will provide regulatory signage services in accordance with the City policies and procedures and applicable laws. Schedule: immediate.
 - vii. Water and Wastewater
 1. Owner is responsible for connecting to the City water system and wastewater system (sewer) according to City specifications, rules and guidelines. Once connected to the City’s water mains and wastewater system, the City water system and wastewater system will be provided by the City at rates established by City ordinances for such service.
 2. New structures will be required to connect to the City’s water and sewer system at the Owner’ expense.
 3. This does not place additional requirements on City beyond that in the “Infrastructure Improvements” in the “Cross-Ell Ranch-Big Spring Development Agreement” on the schedule present therein.
 4. Solid Waste Services – The City will provide solid waste collection services in accordance with existing City ordinances and policies, except where prohibited by law. Schedule: immediate.

- viii. Code Compliance – The City’s Code Compliance Department will provide education, enforcement, and abatement relating to code violations within the Property. Schedule: immediate.
 - b. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement.
 - c. Owner understands and acknowledges that the City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.
- 4. **CONSENT TO ANNEX.** Owner requests that the City of Big Spring, Texas annex the Property.
- 5. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of the annexation is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.
- 6. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
- 8. **INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.
- 9. **GOVERNING LAW AND VENUE.** Venue shall be in the state district courts located in Howard County, Texas.
- 10. **NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party’s right to insist upon appropriate performance or to assert any such right on any future occasion.
- 11. **GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

12. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
13. **CAPTIONS.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
14. **AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.
15. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

Executed as of the day and year first above written to be effective on the effective date of annexation of the Property.

OWNER:

CROSS ELL RANCH CORPORATION,
a Texas corporation,

By: _____
Name: _____
Title: _____
Date: _____

CITY:

CITY OF BIG SPRING, TEXAS,
A Texas home-rule municipality

By: _____
Todd Darden, City Manager
Date: _____

State of Texas §
County of Tarrant §

This instrument was acknowledged before me on the _day of _____, 20_,
by Todd Darden, City Manager of the City of Big Spring, a Texas municipal corporation, on
behalf of said corporation.

By: _____

Notary Public, State of Texas

State of Texas §
County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20_,
by _____, _____ of [Name of individual signing, title (if
any)] on behalf of said _____ [insert name of company or individual
where applicable].

By: _____

Notary Public, State of Texas

After Recording Return to:
City Secretary
City of Big Spring
200 Texas Street
Big Spring, Texas 76102

EXHIBIT

The Property is 443.607 acres, more or less, in Section 4, Block 33, Howard County, Texas, conveyed to Cross-Ell Ranch Corporation by Special Warranty Deed dated October 30, 1986, and recorded in volume 610, pages 591-592 of the real property records of Howard County, Texas, as follows:

The West 532 acres of Section 4, Block 33, TWP 1 South, T&P Railroad Company Survey, Howard County, Texas;

Save for and Except each of the following:

Those three tracts together containing 17 acres, more or less, and described in a Warranty Deed recorded in volume 610, pages 593-595 in the real property records of Howard County, Texas;

Those three tracts, of 2.02 acres, the second of 10.0 acres, and the third of 0.21 acres, more or less, and described in a Warranty Deed dated November 15, 1988, recorded in volume 624, page 42 of the real property records of Howard County, Texas;

That tract of 9.214 acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1356, pages 680-686 of the real property records of Howard County, Texas; and

That tract of 40.089 Acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1360, pages 164-173 of the real property records of Howard County, Texas; and

Those two tracts, one of 5.37 acres and the other of 3.51 acres, more or less, described in a Warranty Deed dated July 26, 2017, recorded in volume 1644, pages 582-585 of the real property records of Howard County, Texas.

Exhibit X

WRITTEN DISCLOSURES

Pursuant to Section 212.172(b-1) of the Texas Local Government Code, the City of Big Spring (the “City” herein) hereby makes, and Cross-Ell Ranch Corporation (the “Developer” herein) hereby warrants and covenants that it has received, acknowledged, and agreed to, the written disclosures so stated hereunder in this Exhibit X to the CROSS-ELL RANCH-BIG SPRING DEVELOPMENT AGREEMENT (the “Agreement”). The term “Owner” includes all owners of the Property.

In accordance with Section 212.172(b)(7) and Section 212.172(b-1)(1) of the Texas Local Government Code, the Developer hereby warrants and agrees that it has entered into the Agreement voluntarily and has consented, pursuant to the provisions of Chapter 43 and Section 212.172(b-1)(4) of the Texas Local Government Code, to the annexation of the Property as a whole in accordance with and by the terms of the Agreement.

As required under Section 212.172, Texas Local Government Code, the parties hereto hereby acknowledge that, upon petition of the Developer by the terms of the Agreement and in accordance with Subchapter C-3 of Chapter 43, Texas Local Government Code, the City shall be authorized to annex the Property pursuant to Section 43.0671 of the Texas Local Government Code and in accordance with the Agreement.

Developer hereby waives any requirement in Chapter 43 related to procedures or service provision and hereby consents to the procedures and Service Plan provided hereunder. Developer further waives any and all vested rights and claims that they may have under Section 43.002(a)(2) and Chapter 245 of the Texas Local Government Code except as stated in the Agreement that would otherwise exist by virtue of any actions taken by Developer in violation of this Agreement.

Except as specified herein and as permitted by applicable law, the City of Big Spring expressly retains all rights and benefits of governmental immunity from liability and suit for damages in accordance with: Title 5, Texas Civil Practice and Remedies Code; Subchapter I, Chapter 271, Texas Local Government Code; and any other law, if applicable.

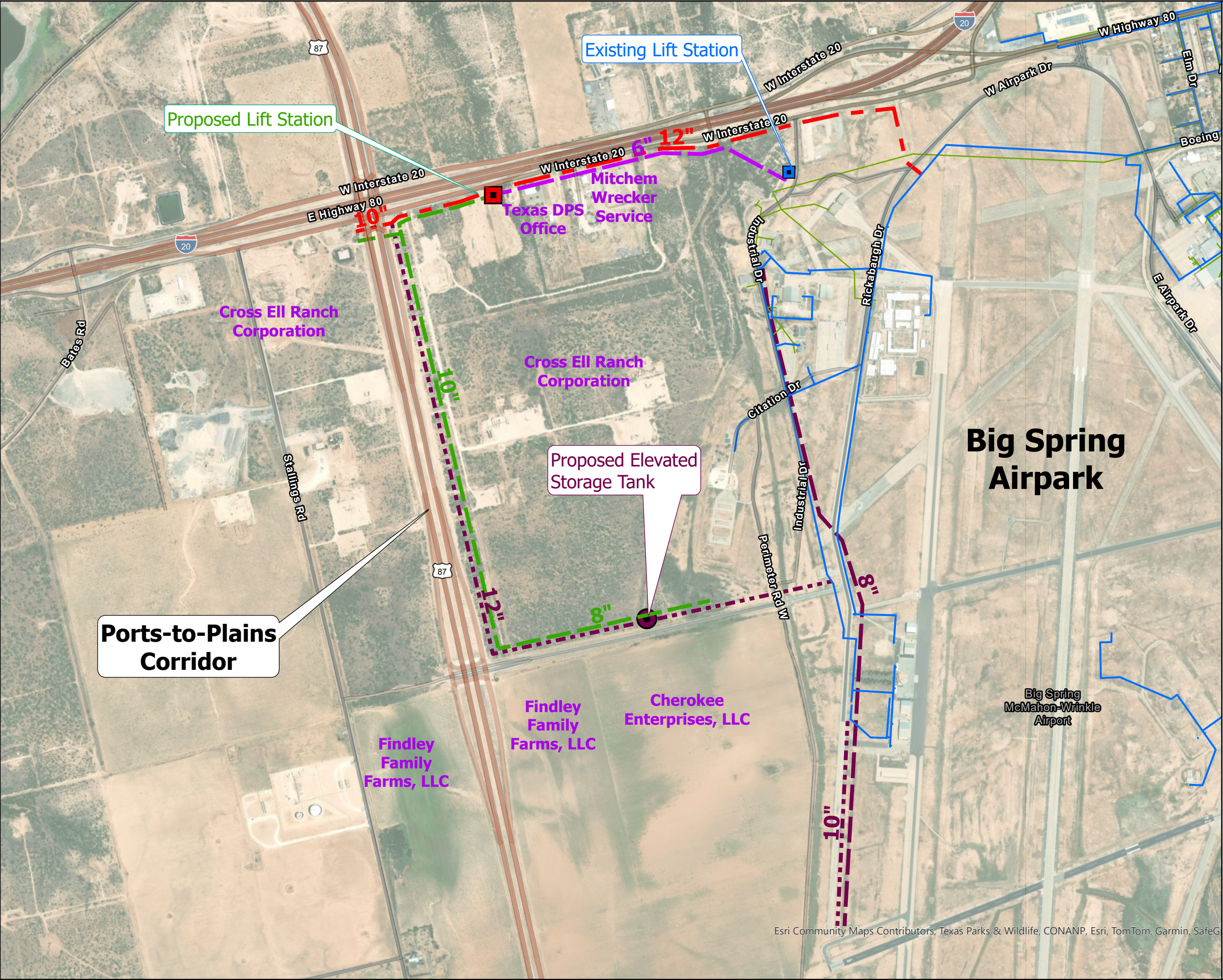
Except as specifically required by law, the City does not waive immunity from suit and nothing in this Agreement shall be deemed as a waiver of governmental immunity or as increasing the City of Big Spring's liability beyond any statutory limitation of liability.

The Agreement shall run with the Property and be recorded in the real property records of Howard County, Texas.

DEVELOPER

CROSS ELL RANCH CORPORATION,
a Texas corporation,

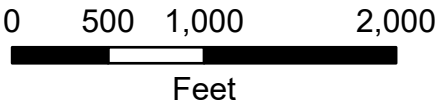
By: _____
Name: _____
Title: _____
Date: _____



City of Big Spring
Business Park / Airpark
Water and Sewer Improvements
American Rescue Plan - EDA Grant
Project Map
August 2023

Legend

- Existing Water Lines
- Existing Sewer Lines
- Existing Lift Station
- EDA Proposed Lift Station
- EDA Proposed Water Lines
- EDA Proposed Sewer Lines
- EDA Proposed Force Main
- Airpark Proposed EST
- Airpark Proposed Water Line
- Airpark Proposed Sewer lines



Esri Community Maps Contributors, Texas Parks & Wildlife, CONANP, Esri, TomTom, Garmin, SafeG

ACCESS AGREEMENT

THIS ACCESS AGREEMENT (the "Agreement") is made between **CROSS-ELL RANCH CORPORATION, a Texas corporation** ("Owner"), and whose address for purposes of notice under this Agreement is 975 Rio Hondo Road, Tarpley, Texas 78883 (Attn: Mack Frazier) and **BIG SPRING ECONOMIC DEVELOPMENT CORPORATION, a Texas nonprofit corporation**, hereafter called "BSEDC," whose address for purposes of notice under this Agreement is 215 West Third Street, Big Spring, Texas 79721 (Attn: Mark Willis).

RECITALS

WHEREAS, Owner owns the real property described on Exhibit A, attached hereto and incorporated herein, for all purposes (the "Property");

WHEREAS, BSEDC desires to assess the suitability of the forty-acre parcel (the "Option Parcel") out of the Property generally depicted on Exhibit B, and located at the northeast corner of Frazier Road and US Highway 87, for acquisition and development for certain business purposes;

WHEREAS, BSEDC desires to access the Option Parcel to examine, inspect, and perform tests on the Option Parcel to evaluate the physical and environmental condition of the Option Parcel; to perform other tests and inspections; to conduct surveys and other measurements; and to facilitate BSEDC's marketing of the Property to third-parties;

WHEREAS, Owner will agree to grant BSEDC access to the Property and the Option Parcel for the above stated purposes, subject to the terms of this Agreement; and

WHEREAS, the access granted pursuant to this Agreement specifically excludes all well sites located on the Property;

NOW, THEREFORE, Owner and BSEDC for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party, agree as follows:

1. Commencing on October 1, 2024, BSEDC and its agents, contractors, and representatives (the "Inspecting Parties") shall have a right of access to the Option Parcel for the purpose of examining, inspecting, and performing tests on the Option Parcel to evaluate the physical and environmental condition of the Option Parcel and to perform other tests and inspections on the Option Parcel; to conduct surveys and other measurements of the Option Parcel and the Property, including, without limitation, an ALTA/NSPS Land Title Survey and a phase 1 environmental site assessment; and to access the Property for the purpose of marketing the Property for sale to third parties (with the exception that BSEDC will not have the right to access the well sites located on the Property). As to the Option Parcel, BSEDC's right of access shall continue until the occurrence of the earliest of any one of the following:

- a. BSEDC provides Owner with written notice that this Agreement is terminated;
- b. BSEDC provides Owner with written notice of BSEDC's election to exercise the option granted to BSEDC pursuant to the terms of an Option Agreement contemplated to be executed by and between Owner and BSEDC, providing BSEDC with an option to purchase the forty-acre parcel out of the Property generally depicted on Exhibit B and located at the northeast corner of Frazier Road and US Highway 87; and
- c. The expiration or termination of the Option Agreement, as provided therein.

As to the Property, BSEDC's right of access shall continue until the occurrence of the earliest of any one of the following:

- a. BSEDC provides Owner with written notice that this Agreement is terminated;
- b. The execution of a Purchase and Sale Agreement concerning Owner's sale of all or any part of the Property;
- c. December 31, 2027;
- d. The expiration or termination of the Option Agreement, as provided therein.

It is contemplated that Owner and BSEDC will enter into a development agreement ("EDA") by which Owner and BSEDC agree to perform certain obligations to attract development to the Property. Notwithstanding any other provision in this Agreement, if such an EDA is not fully executed by Owner and BSEDC within sixty (60) days after the date of this Agreement, or if BSEDC or the City of Big Spring default on their respective obligations under the EDA, this Agreement shall terminate. In the event BSEDC defaults on its obligations under this Agreement, Owner may, at its option, elect to terminate this Agreement with immediate effect upon delivery of written notice to BSEDC.

2. Upon the expiration of this Agreement or in the event an occurrence results in the cessation of the right of access provided by this Agreement, BSEDC shall provide Owner with complete copies of all studies and reports generated by BSEDC and remove all of the business personal property of the Inspecting Parties located on the Property or Option Parcel within ten (10) business days of the expiration or termination of this Agreement. For the purposes of this Agreement, "business personal property" shall include any and all furniture, fixtures, equipment, and any other tangible personal property of the Inspecting Parties located at the Property or Option Parcel. The foregoing obligations will survive the termination of this Agreement.

3. BSEDC shall be responsible for the payment of electric, water, sanitary and garbage collections services, internet, cable, telephone, communication and other utility services, if any, associated with their access to and activities on the Property and Option Parcel.

4. BSEDC must provide Owner with at least 24-hours advance written notice of BSEDC accessing the Option Parcel and Property, together with a schedule of studies to be performed during such access.

5. BSEDC will conspicuously mark any measuring stations installed on the Property or Option Parcel, in such a manner that a person operating a vehicle, tractor, or other equipment is made aware of the presence of the measuring station(s).

6. BSEDC's activities on the Property and Option Parcel must not unreasonably interfere with the use and enjoyment of the Property by Owner and Owner's officers, directors, employees, tenants, contractors, licensees, and representatives.

7. BSEDC will not create or allow the creation of a nuisance, or allow any waste, injury, or destruction to the Property or Option Parcel. BSEDC shall keep the Property and Option Parcel clean and promptly remove all litter, trash, debris, and other materials from the Property and shall not allow such material to accumulate on the Property.

8. BSEDC will restore the Property and Option Parcel to its condition as of the date hereof, reasonable wear and tear excepted. This obligation will survive the termination of this Agreement.

9. In the event an occurrence results in the cessation of BSEDC's right of access, BSEDC shall remove any of its or its agents' or contractors' business personal property located on the Property or Option Parcel within ten (10) business days of BSEDC's actual receipt of written notice from Owner that such an event has occurred. For the purposes of this Agreement, "business personal property" shall include any and all furniture, fixtures and equipment of BSEDC or its agents or contractors located at the Property or Option Parcel.

10. BSEDC acknowledges and accepts the condition of the Property and Option Parcel for the purposes of its access on an "AS-IS," "WHERE-IS" basis, with all faults, latent or patent. To the best of Owner's actual and current knowledge, with no duty of inquiry or investigation, there exists no dangerous or hazardous condition at the Property or Option Parcel that would not be obvious.

11. BSEDC agrees to maintain at all times during the term of this Agreement, at BSEDC's cost, a commercial general liability insurance policy protecting Owner against all claims or demands that may arise or be claimed on account of any negligence on the part of BSEDC in connection with BSEDC's access to the Property and Option Parcel, in an amount of \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate, and said policy shall include (A) coverage for bodily injury and death, property damage and products liability coverage; (B) contractual

liability coverage insuring the obligations of BSEDC under this Agreement; and deleting the contractual claim exclusion for personal injury and advertising injury. Prior to exercising the right of access granted by this Agreement BSEDC shall deliver to Owner, upon actual receipt of Owner's written request, a certificate demonstrating that insurance is paid up and in force.

12. BSEDC agrees to indemnify and hold harmless Owner from all costs, losses, damages, liabilities, expenses, penalties, and fines whatsoever that may arise from or be claimed by third parties against Owner by any person or persons for injury to person or property to the extent caused by BSEDC and its shareholders, directors, employees, officers, agents, contractors, clients, invitees, and representatives (collectively, the "BSEDC Parties") negligent acts or omissions in accessing to or use of the Property and Option Parcel by the BSEDC Parties except to the extent that such claims are attributable to the negligence or misconduct of Owner.

13. Owner, BSEDC, and all parties claiming by or through them, mutually release and discharge each other from all claims and liability arising from or caused by any casualty or hazard covered or required herein to be covered, in whole or in part, by insurance on the Property or Option Parcel or in connection with property on or activities conducted in the Property or Option Parcel, and waive any right of subrogation which might otherwise exist in or accrue to any person on account hereof, subject to approval by Owner's and BSEDC's respective insurance carriers.

14. Notices to the parties shall be mailed or delivered to the addresses set forth on the first page of this Agreement, unless a party advises the other party differently in writing. All notices to either party shall be sent by certified or registered mail, return receipt requested.

15. **Reserved.**

16. This Agreement will be governed by the laws of the State of Texas, as to both interpretations and performance. Venue for any dispute between Owner and BSEDC shall exclusively reside in the state district courts located in Howard County, Texas. The undersigned hereby consent to the personal jurisdiction of said courts and waive any and all objections to venue, including inconvenient forum.

17. BSEDC shall not assign this Agreement to any third party without the prior written consent of Owner, and the terms hereof are not intended to and shall not be construed to constitute a partnership or joint venture between the parties. In the event of any assignment to which Owner consents, BSEDC shall remain jointly and severally liable with such assignee under the terms of this Agreement.

18. This Agreement sets forth all the promises, agreements, conditions, and understandings between Owner and BSEDC relative to BSEDC's right of access to the Property and Option Parcel. There are no other promises, agreements, conditions, or understandings, either oral or written, between them. No subsequent alteration, amendment, change, or addition to this Agreement will be binding on Owner or BSEDC unless in writing and signed by them and made a part of this Agreement by direct reference. This Agreement may be amended only by an

instrument in writing signed by the parties.

19. If this Agreement is executed in multiple counterparts, all counterparts taken together will constitute this Agreement.

20. No waiver of default by any party to this Agreement may be implied from failure to act by any other party to the Agreement, regardless of whether the default continues or is repeated. No express waiver of a default will affect any other default or cover any other period not specified in the express waiver. A waiver of any default in the performance of any provision contained in this Agreement will not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other provision contained in this Agreement.

21. If a provision in this Agreement is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Agreement, and this Agreement is to be construed as if the unenforceable provision is not a part of the Agreement.

22. This Agreement, this transaction, and all information learned in the course of this transaction will be kept confidential, except to the extent disclosure is required by law or court order or to enable third parties to advise or assist BSEDG to investigate the Property and Option Parcel or either party to close this transaction or if disclosure to a third party is expressly agreed by the parties. Remedies for violations of this provision are limited to injunctions, and no damages or rescission may be sought or recovered as a result of any such violations.

23. THE UNDERSIGNED EACH IRREVOCABLY AND EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, COUNTERCLAIM OR PROCEEDING (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR RELATING THERETO OR ARISING FROM THIS AGREEMENT AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

EXECUTED to be effective on _____, 2024.

CROSS ELL RANCH CORPORATION,
a Texas corporation

By: _____

Printed Name: _____

Title: _____

**BIG SPRING ECONOMIC DEVELOPMENT
CORPORATION,**
a Texas nonprofit corporation

By: _____

Printed Name: _____

Title: _____

Exhibit A
Property

The Property is 443.607 acres, more or less, in Section 4, Block 33, Howard County, Texas, conveyed to Cross-Ell Ranch Corporation by Special Warranty Deed dated October 30, 1986, and recorded in volume 610, pages 591-592 of the real property records of Howard County, Texas, as follows:

The West 532 acres of Section 4, Block 33, TWP 1 South, T&P Railroad Company Survey, Howard County, Texas;

Save for and Except each of the following:

Those three tracts together containing 17 acres, more or less, and described in a Warranty Deed recorded in volume 610, pages 593-595 in the real property records of Howard County, Texas;

Those three tracts, of 2.02 acres, the second of 10.0 acres, and the third of 0.21 acres, more or less, and described in a Warranty Deed dated November 15, 1988, recorded in volume 624, page 42 of the real property records of Howard County, Texas;

That tract of 9.214 acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1356, pages 680-686 of the real property records of Howard County, Texas; and

That tract of 40.089 Acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1360, pages 164-173 of the real property records of Howard County, Texas; and

Those two tracts, one of 5.37 acres and the other of 3.51 acres, more or less, described in a Warranty Deed dated July 26, 2017, recorded in volume 1644, pages 582-585 of the real property records of Howard County, Texas.

Exhibit B
Option Parcel

That 40.0 acre tract of land, with four sides of 0.25 mile in length each, located within the Property, and at the northeast corner of Frazier Road and US Highway 87, in Howard County, Texas.



Zoning District Summary: Light Industrial (LI)

This zone is designed to accommodate industrial development in accordance with performance standards designed to ensure that such uses will have little or no impact on the surrounding area.

Allowed Structures/Uses

- Accessory buildings
- Airport landing field or heliport
- Amusements (commercial indoor or outdoor)
- Animal clinic or hospital (without outside runs or pens)
- Animal pound (public or private)
- Antique shop
- Art gallery or museum
- Auto Repair (minor)
- Auto Painting and Body Repair
- Auto Parts Sales (New or used, indoor or outdoor)
- Auto Sales (with or without repair)
- Bakery (retail or wholesale)
- Barbershop or beauty salon
- Boarding or rooming house
- Building material sales
- Bus station or terminal
- Business office, professional or administrative
- Cafeteria
- Cabinet or Upholstery Shop
- Carwash
- Cemetery or mausoleum
- Cleaning/dyeing plant
- Cleaning plant - rag or carpet (special equipment)
- Clothing manufacturer or light compounding or fabrication
- Contractors shop or storage
- College or university
- Community Center (public or private)
- Custom Personal Service
- Dance hall or nightclub
- Detached private garage/utility room
- Dry cleaning
- Electric generating plant
- Engine and motor repair
- Extraction and storage of sand, caliche, stone or gravel
- Fairground or exhibit area
- Farm or ranch
- Feed store
- Flea market (outdoor)
- Florist
- Fraternal Organization
- Gasoline/service center
- Greenhouse or plant nursery
- Group care or group medical care home
- Golf Course (public)
- Handicraft shop
- Hauling or storage company
- Heavy machinery sales and storage
- Home or treatment center for care of alcoholic, narcotic, or psychiatric patients
- Hospital
- Hotel or motel
- Household appliance sales, service and repair
- Laundry or cleaning self-service
- Laundry plant (commercial)
- Library (public)
- Light Fabrication
- Lodge or civic club
- Milk, dairy or ice cream plant
- Mini-storage warehouse
- Mortuary or funeral parlor
- Motor freight terminal
- Multi-family dwelling
- Newspaper printing
- Nursing home
- Office supply sales
- Paint shop
- Parks
- Parking lot (commercial-autos only)
- Parking lot (commercial-autos and trucks)
- Pawn shop
- Petroleum products storage
- Pharmacy
- Philanthropies
- Places of entertainment or eating serving alcoholic beverages
- Playgrounds
- Plumbing shop
- Print shop
- Private Country Club
- Private utility shop or storage
- Public/Governmental Agencies
- Public Utility lines and structures, electrical substation and water treatment plant
- Radio and television tower (monopole only)
- Railroad freight terminal
- Railroad passenger station
- Railroad tracks and rights-of-way
- Railroad team track
- Real estate office (two-year limit)
- Religious Worship Facilities
- Restaurant with or without drive-in service

- Retail sale of alcoholic beverages for off-premise consumption
- Retail stores and shops (other)
- Rodeo ground
- Roller or ice skating rink
- Schools (Public, private, or denominational with full curriculum accredited by the state)
- Scientific or research lab
- Secondhand goods store including used furniture and clothing
- Shop or yard for local, state or federal government
- Shooting Range
- Storage and sale of furniture or appliances (outdoor)
- Storage transfer and baggage terminal
- Storage warehouse
- Studio for photographer, musician, artist or health service
- Swim or tennis club
- Temporary buildings for construction use
- Theater (indoor or outdoor)
- Tire retreading or capping
- Tool or trailer sales and rental
- Towing or wrecked vehicle storage
- Transfer
- Utility shop or storage (private)
- Water treatment plant
- Welding or machine shop
- Wholesale office and sample room

Lot Requirements

	Multi-Family Dwelling	Non Residential Use
Maximum Height	None*	None*
Minimum Lot Area	7,500 ft ²	-
Minimum Lot Width	60'	-
Min Property Line Width	40'	40'
Min Lot Depth	120'	100'
Max Lot Coverage	45%	2:1 floor area ratio
Minimum sq ft/unit	1,200 ft ²	-
Minimum Front Yard	0'	0'
Minimum Side Yard	0'	0'
Minimum Rear Yard	10'	0'

* to any legal height not otherwise prohibited

Specific Use Permits

A specific use permit **without term** may be issued in the Light Industrial District (LI) through final approval by the Planning and Zoning Commission subject to, but not limited to specified restrictions as follows:

Accessory building for living or sleeping quarters not including rental as a separate dwelling · Asphalt or concrete batching plant · Bingo hall · Dump or sanitary fill area · Explosives interchange lot involving temporary storage of explosive materials · Grain processing and storage · Mining or storage of mining waste · Pet shop · Petroleum or gas · Petroleum collecting or storage · Recycling facility · Slaughter house or meat packing plant · Wastewater treatment plant

A specific use permit **with term** may be issued in the Light Industrial District (LI) through final approval by the Planning and Zoning Commission subject to, but not limited to specified restrictions as follows:

Group secure care home for persons for which supervision or security is required to ensure that they do not leave the facility, or because the residents are considered dangerous to themselves or others, except for prisons or correctional facilities · Mobile or manufactured home for use as a caretakers, manager's or guard's residence, provided that such mobile or manufactured home shall be located not less than 30 feet from any other structure or from any lot line of an adjacent lot of parcel of land · Sexually oriented commercial establishments

**CITY OF BIG SPRING, TEXAS
AND
CROSS-ELL RANCH CORPORATION
380 ECONOMIC DEVELOPMENT AND PERFORMANCE
AGREEMENT**

This **380 ECONOMIC DEVELOPMENT AND PERFORMANCE AGREEMENT** (hereinafter referred to as the “**Agreement**”) is made and entered into by and between the **CITY OF BIG SPRING, TEXAS**, a Texas home-rule municipality (hereinafter referred to as “City” or “the City”), and **CROSS-ELL RANCH CORPORATION**, a Texas corporation (hereinafter referred to as the “Developer” or “the Developer”):

WHEREAS, the Texas Legislature is authorized under the Texas Constitution to provide for the programs for grants, including for public money, to develop and diversify the economy of the state, reducing unemployment and underemployment, and developing and expanding transportation and commerce in the State, Tex. Const. Art. III, § 52-a; and

WHEREAS, the Texas Legislature has authorized the governing body of a municipality to establish programs for the grants of money to promote state and local economic development, stimulating business and commercial activity in the municipality, Tex. Local Gov’t Code § 380.001; and

WHEREAS, the City of Big Spring is a home-rule municipal corporation of the State of Texas; and

WHEREAS, the City Council of Big Spring is the governing body of the City of Big Spring; and

WHEREAS, the City anticipates receiving funding in the form of an Economic Development Administration (EDA) Grant (“Federal Grant”), a rapidly funded federal grant managed by the U.S. Economic Development Administration through the American Rescue Plan Act of 2021 which aims to incentivize growth through economic development in communities; and,

WHEREAS, the City Council of Big Spring wishes to authorize this Agreement; and

WHEREAS, the Developer, the City, and the **BIG SPRING ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation (hereinafter referred to as “EDC” or “the EDC”), have executed that certain Cross-Ell Ranch-Big Spring Development Agreement of even date herewith (the “EDA”); and

WHEREAS, the Developer desires to develop a tract of land described as approximately 443.607 acres located in Howard County, Texas, identified as Property ID # 297545, which property is generally depicted in ***Exhibit “A”*** of this 380 Agreement, which is attached hereto and incorporated herein for all purposes (hereinafter referred to as the “Property”); and

WHEREAS, the Developer will petition to have the Property annexed by the City of Big Spring in pursuit of the development project, provided that the City and EDC perform their respective obligations set out in this Agreement and the EDA; and

WHEREAS, the City will annex the Property pursuant to the terms of the EDA; and

WHEREAS, the City will cause to have constructed and installed on the Property water and sewer lines to service the Property; and

WHEREAS, the Property is located entirely within the extraterritorial jurisdiction (the “ETJ”) of the City;

WHEREAS, as authorized by Chapter 311 of the Texas Tax Code, the City has agreed to create a Tax Increment Reinvestment Zone (“TIRZ”) encompassing the Property to create funds for further reinvestment into the Project if feasible, and Section 311.03 of the Texas Tax Code specifically authorizes the creation of a TIRZ in the ETJ of the City; and

WHEREAS, the Project includes significant public infrastructure improvements as detailed on Exhibit C and including, without limitation, the construction of public roads and other traffic improvements, the construction of water, sewer and other utility infrastructure, and the construction of drainage improvements, the completion of which represents material consideration for Developer’s consent to enter in this Agreement; and

WHEREAS, Section 380.001 of the Texas Local Government Code includes a city’s ETJ with the definition of “municipality,” and thus, the Property is eligible to participate in the economic development programs authorized by said statute; and

WHEREAS, the EDA, as material consideration for the City’s and the EDC’s agreements to perform their respective obligations thereunder, requires the Developer to submit a petition to annex the Property into the corporate limits of the City, is a development agreement authorized by Chapter 212 of the Texas Local Government Code, and Section 212.172(a)(5) thereof authorizes the construction of the Public Infrastructure (defined below) on real property located in the ETJ, and

WHEREAS, in accordance with Article III, Section 52-a of the Texas Constitution, and Section 380.001 of the Texas Local Government Code ("Section 380"), the City may establish and provide for the administration of a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City, including its ETJ; provided the program created or loan or grant made is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City; and

WHEREAS, the City and Developer agree that the provisions of this Agreement substantially advance a legitimate interest of the City by providing public infrastructure, expanding the tax base of the City, increasing employment, and promoting economic

development.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This Agreement shall be enforceable as of the Effective Date, as defined herein, and shall continue thereafter for the life of the Tax Increment Reinvestment Zone hereinafter provided up to and until such Tax Increment Reinvestment Zone is terminated or otherwise ceases to exist, but in any event no longer than Twenty-Five (25) years after the Effective Date, unless terminated sooner under the provisions hereof.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

Agreement. The word “Agreement” means this 380 Development Agreement and Performance Agreement, authorized by Section 380, together with all exhibits and schedules attached to this Agreement from time to time, if any, and any amendments to this Agreement and/or exhibits and schedules.

Annual Grant Payment. 100% of the City Ad Valorem Tax for the Undeveloped portions of the Property.

City. The word “City” means the City of Big Spring, Howard County, Texas, a Texas home-rule municipality. For the purposes of this Agreement, City’s address is 310 Nolan Street, Big Spring, Texas 79720.

City Ad Valorem Tax. means the City’s ad valorem tax rate, which is \$0.673163 per \$100 of assessed property value in the City of Big Spring for tax year 2022, as authorized by Section 6.01 of the Texas Tax Code. For purposes of this Agreement, the City Ad Valorem Tax rate shall automatically be updated to reflect any changes to the City’s ad valorem tax rate.

Days shall mean calendar days, whether capitalized or not, unless stated otherwise.

Developer. The word “Developer” means Cross-Ell Ranch Corporation, a Texas corporation, its successors and assigns. For the purposes of this Agreement, Developer’s address is 975 Rio Hondo Rd, Tarpley, TX 78883-4413.

Effective Date shall mean the date in which the Agreement is effective, which is the date the

Property is annexed to the City of Big Spring.

Event of Default. The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”

Federal Grant. The term is defined in this Agreement in the preface.

First Grant Period shall mean the period beginning on January 1 and ending on December 31 for the year in which this Agreement is executed.

Grant(s) shall collectively mean the Ad Valorem Tax Reimbursement Grants to be paid to a Developer as set forth herein; subject, however, at all times, to the Maximum Grant Amount (as defined below).

Grant Period shall mean each successive one (1) calendar year period, starting with the First Grant Period.

Maximum Grant Amount shall mean the amount in a given year Developer pays to City in ad valorem tax for Property while this Agreement is in effect.

Payment Request shall mean a written request from Developer(s) to the City for payment of the applicable Grant for the applicable Grant Period.

Project shall mean the development of the Property and associated Public Infrastructure within the Property or adjacent to the Property. The Project shall consist of the Project, as well as other ancillary facilities, including, but not limited to, areas developed for roads, parking, drainage, landscaping, and open space.

Property. The word “Property” means the approximately 443.607-acre tract of land located in Howard County, Texas, which property is described and depicted in *Exhibit “A”* of this Agreement, which is attached hereto and incorporated herein for all purposes.

Public Infrastructure shall mean the improvements constructed by the City including, but not limited to, utility infrastructure, drainage facilities, and other infrastructure as may be illustrated in *Exhibit “C”* which is attached hereto and incorporated herein for all purposes. The term “Public Infrastructure” shall be limited to the investments stated in Section 5(c) of this Agreement, and exclude the additional Airport-investments as stated in the illustration attached to Exhibit C.

Term. The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

TIRZ shall mean Tax Increment Reinvestment Zone as provided under Section 5(b) of this Agreement.

Tax Year shall mean January 1st of any given calendar year through December 31st of the

same calendar year.

Undeveloped shall mean any portion, parcel, or subdivision of the Property that is within none of the categories stated below:

- where a Certificate of Occupancy was issued;
- where there are grounds of a structure with a Certificate of Occupancy.;
- where there is a parking lot or a parking structure associated with any development on the Property;
- where there is an outdoor storage area, excepting storage for construction equipment or construction materials used for construction within the Property;
- where there is an outdoor storage area, excepting storage for construction equipment or construction materials used for construction of US Highway 87 or US Interstate Highway 27, provided that such outdoor storage area is not so used for greater than six months continuously.

SECTION 4. OBLIGATIONS OF THE DEVELOPER.

The Developer covenants and agrees while this Agreement is in effect it shall comply with the following terms and conditions:

- (a) **Development Agreement.** Developer will enter into the “Cross-Ell Ranch-Big Spring Development Agreement” with the City of Big Spring, Texas and the Big Spring Economic Development Corporation as a condition precedent of this Agreement.
- (b) **Intentionally Omitted.**
- (c) **Performance.** The Developer agrees to perform and comply with all terms, conditions and provisions set forth in this Agreement, the Cross-Ell Big Spring Development Agreement, and the Option Agreement for Option Parcel between Developer and Big Spring Economic Development Corporation (the “Option Agreement”).
- (d) Developer agrees to provide to City with copies of Developers receipts for paid property taxes on the Property.

SECTION 5. OBLIGATIONS OF THE CITY.

The City covenants and agrees while this 380 Agreement is in effect the City shall comply with the following terms and conditions:

- (a) **Ad Valorem Taxes on the Property.** For the tax year starting after the Effective Date and for a maximum period of ten (10) consecutive years, the City shall have the duty of paying to the Developer the Annual Grant Payment for the Undeveloped portions of the Property, except that if the Property is separated into multiple parcels, each parcel is subject to a separate Annual Grant Payment. The City’s duty to pay any amount of the Annual Grant Payment has as a condition precedent Developer’s payment of City Ad Valorem Tax according to state and municipal law. The payment by the City shall be

due no earlier than March 31 of the year, and no later than 30 days after Developer submits information and documents to the City as required. The duty of the City under this subsection expires for each parcel subdivided from the Property by plat or by deed when a certificate of occupancy is issued for a structure located on such subdivided parcel. The duty of the City under this subsection expires upon the payment of the Annual Grant Payment made for the tax year ten years after the Effective Date. In the event that a parcel of the Property is merged with another parcel that was outside of the Property, the duty of the City under this subsection would be determined on a proportionate and equitable basis. For each parcel of the Property upon which a Certificate of Occupancy has been issued, such parcel shall not be subject to the Annual Grant Payment and shall be subject to the TIRZ according to this Agreement.

- (b) **Tax Increment Reinvestment Zone for the Property.** Contingent upon the Property satisfying the requirements for the creation of a TIRZ contained in Section 311.005 of the Texas Tax Code, and Article VIII, § 1-g of the Texas Constitution, and within 120 days of the Effective Date of the annexation of the Property, the City covenants and agrees to commence a city-initiated TIRZ for the Property consistent with Chapter 311 of the Texas Tax Code. Further, the City covenants and agrees to use its best efforts to request Howard County, Texas, to participate in a TIRZ for the Property. City Council retains the authority to decide the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone, and the term length of the TIRZ. This Agreement does not constitute an order or an ordinance creating a TIRZ.
- (c) **Performance.** The City agrees to perform and comply with all terms, conditions and provisions set forth in this Agreement, and the Cross-Ell Big Spring Development Agreement.
- (d) Notwithstanding any other provision of this Agreement, if the City does not receive the funds from the Federal Grant, the City may at City Council's option cancel this Agreement, continue this Agreement, or alter the Agreement by removing the City's duty to build the Infrastructure Improvements.
- (e) **Interpretation.** This Section 5 shall be interpreted cumulatively.

SECTION 6. RESERVED.

SECTION 7. EVENT OF DEFAULT.

- (a) **General Event of Default.** Failure of Developer or City to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or City to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between the Developer and City is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to the

City by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished, is an Event of Default.

- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.

(d) **Dispute Resolution**

1. **Mediation.** If a dispute arises out of or relates to this Agreement or the breach thereof, the Parties in dispute shall first in good faith seek to resolve the dispute through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties in dispute agree to try in good faith to settle the dispute by mediation under the Mediation Rules of the American Arbitration Association before resorting to litigation, or some other dispute resolution procedure; provided that a Party may not invoke mediation unless it has provided the other Party in dispute with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation. The Parties in dispute shall notify the Party not in dispute of any scheduled mediation at least fourteen (14) days prior to the mediation. Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of the Agreement, or otherwise. All costs of negotiation and mediation, collectively known as alternate dispute resolution ("ADR") shall be assessed equally between the City and the Party in dispute with each party bearing their own costs for attorneys' fees, experts, and other costs of ADR and any ensuing litigation. Any Party not directly in dispute shall receive notice at least thirty days prior of any scheduled meditations.
2. During the Term of this Agreement, if Developer files and / or pursues an adversarial proceeding against the City regarding this Agreement then, at the City's option, all access to the Grants to that Developer provided for hereunder may be deposited with a mutually acceptable escrow agent that will deposit such funds in an interest-bearing account until the resolution of such adversarial proceeding.

SECTION 8. EFFECT OF AN EVENT OF DEFAULT.

Failure of the Developer or City to comply with or perform any term, obligation or condition of this Agreement shall constitute an Event of Default. The non-defaulting party shall give written notice to the other parties of any default, and the defaulting party shall have thirty

(30) days to begin to cure said default. Should said default remain uncured, the non-defaulting party or parties shall have the right to terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default.

If the City defaults on its obligations hereunder, or if the City or EDC default on their respective obligations under the EDA, including without limitation, the failure to create the TIRZ, provide the grants to reimburse Developer for its ad valorem taxes, and the failure to deliver utilities to the Property, within three (3) years of the date of this Agreement, Developer may elect to terminate this Agreement by providing written notice to the City. Additionally, if, for any reason, the EDA or the Option Agreement is terminated due to a default by the City or the EDC with respect to the EDA or Option Agreement, Developer may, in its sole discretion, elect to terminate this Agreement by providing written notice to the City and EDC of such election.

SECTION 9. INDEMNIFICATION.

TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto. The Parties may, by mutual written agreement, amend this Agreement. Such amendments shall be incorporated into and made a part of this Agreement.
- (b) **Applicable Law and Venue.**
 - 1. This Agreement, and all claims or causes of action (whether in contract, implied contract, tort, equity or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution, or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of Texas, including its statutes of

limitations, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas.

2. Any legal suit, action, or proceeding arising out of or based upon/relating to this Agreement or the transactions contemplated hereby or shall be exclusively filed and adjudicated in state district courts sitting in Howard County, Texas. Service of process, summons, notice, or other document by certified mail shall be effective service of process for any suit, action, or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to venue of any suit, action, or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
- (c) **Assignment.** Except as stated within this subsection, Developer shall have the right to assign all of its rights, duties, and obligations under this Agreement for all or some of the Property to an entity owned or controlled by Developer or by principals of Developer, or to a duly qualified third party, with prior written notice to the City. An assignee shall assume all of the obligations and responsibilities, as well as receive the benefits, of the Developer assigning its portion of the Agreement with respect to the portion of the Property to which the assignment relates. An assigning Developer shall be relieved of all obligations and responsibilities relating to its respective portion of the Agreement with respect to which the assignment is made, provided the assigning Developer delivers to the City an agreement between itself and the assignee documenting the assignment and assignee's agreement to perform such responsibilities and obligations. In addition, a Developer may assign its rights to receive payment under this Agreement to a lender, and upon receipt of such assignment in writing by the City, and the City's further receipt of a written notice from such lender to pay such lender directly, the City will deliver amounts owing to such Developer hereunder to such lender (payable to such lender) until such time such lender authorizes otherwise in writing, and City shall be entitled to rely on any such assignment, notice and/or authorization without investigation. Assignments beyond the scope specified above are conditioned on the pre-approval by the City Council of Big Spring.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. The Developer warrants and represents that the individual executing this Agreement on the Developer's behalf has full authority to execute this Agreement and bind the Developer to the same.
- (e) **Interpretation.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement. Whenever

the singular is used in this Agreement, the same shall include the plural, and whenever the plural is used herein, the same shall include the singular, where appropriate.

- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Entire Agreement.** This Agreement together with any and all related Exhibits incorporated by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and therein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. The Parties have not relied on any statement, representation, warranty, or agreement of the other Party or of any other person on such Party's behalf, including any representations, warranties, or agreements arising from statute or otherwise in law, except for the representations, warranties, or agreements expressly contained in this Agreement.
- (h) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, , the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed. Force Majeure: shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government, or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions, floods, strikes, slowdowns, or work stoppages.
- (i) **Notices.** Any notice, submittal, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City: City of Big Spring,
Texas 310 Nolan
Street
Big Spring, Texas 79720
Attn: Todd Darden, City Manager

With copies to: City of Big Spring, Texas
Legal Department / 150
310 Nolan Street
Big Spring, Texas 79720
Attn: Andrew W. Hagen, City Attorney

Big Spring Economic Development Corporation

215 W 3rd Street
Big Spring, Texas 79720
Attn: Mark Willis, Executive Director

To the Developer: Cross-Ell Ranch Corporation
975 Rio Hondo Rd
Tarpley, TX 78883-
4413
Attn: Mack Frazier

With a copy to: Baird, Crews, Schiller & Whitaker, P.C.
15 North Main Street
Temple, Texas 76501
Attn: Sam Fulcher

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

- (j) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.
- (k) **Form 1295 Certificate.** Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.
- (l) **Undocumented Workers Provision.** Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement to Developer plus six percent (6.0%), not later than the 120th day after the date the City notifies Developer of the violation.
- (m) **Non-Boycott of Israel Provision.** In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a

company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Developer is not subject to Chapter 2270 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Developer verifies that Developer does not boycott Israel and will not boycott Israel during the Term of this Agreement.

- (n) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.
- (o) **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.
- (p) **Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.
- (q) **Non-Waiver of Governmental Immunity.**
 - (a) The City of Big Spring expressly retains all rights and benefits of governmental immunity from liability and suit for damages in accordance with: Title 5, Texas Civil Practice and Remedies Code; Subchapter I, Chapter 271, Texas Local Government Code; and any other law, if applicable.
 - (b) Nothing in this Agreement shall be deemed as a waiver of governmental immunity or as increasing the City of Big Spring's liability beyond any statutory limitation of liability.
 - (c) Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the City of Big Spring which would otherwise be barred under the doctrine of governmental immunity or operation of law.

(d) No employee of City, or any councilmember or agent of City, shall be personally responsible for any liability arising under or growing out of this Agreement.

(r) **Miscellaneous Representations and Warranties**

(1) Each Party to this Agreement represents that it has the power and authority to enter into this Agreement and that all documents executed and delivered pursuant to this Agreement are valid, binding, and enforceable upon such Party. Each Party further represents that there are no outstanding parties nor any additional signatories required for the execution of this Agreement.

(2) Developer represents that it is authorized to do business and is in good standing in the State of Texas and warrants that it shall remain in good standing in the State of Texas during the Term of this Agreement.

(s) **Independent contractors.**

It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Developer at no time will be acting as agents of the City and that all consultants or contractors engaged by Developer respectively will be independent contractors of the Developer; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that City will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by each Developer respectively under this Agreement, unless any such claims are due to the fault of the City.

(t) **Further Assurances.**

Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

[The Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

CITY:

CITY OF BIG SPRING, TEXAS,
A Texas home-rule municipality

By: _____
Todd Darden, City Manager

Date: _____

ATTEST:

Tami L. Davis, City Secretary

DEVELOPER:

CROSS ELL RANCH CORPORATION,
a Texas corporation

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A

The Property is 443.607 acres, more or less, in Section 4, Block 33, Howard County, Texas, conveyed to Cross-Ell Ranch Corporation by Special Warranty Deed dated October 30, 1986, and recorded in volume 610, pages 591-592 of the real property records of Howard County, Texas, as follows:

The West 532 acres of Section 4, Block 33, TWP 1 South, T&P Railroad Company Survey,
Howard County, Texas;

Save for and Except each of the following:

Those three tracts together containing 17 acres, more or less, and described in a Warranty Deed recorded in volume 610, pages 593-595 in the real property records of Howard County, Texas;

Those three tracts, of 2.02 acres, the second of 10.0 acres, and the third of 0.21 acres, more or less, and described in a Warranty Deed dated November 15, 1988, recorded in volume 624, page 42 of the real property records of Howard County, Texas;

That tract of 9.214 acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1356, pages 680-686 of the real property records of Howard County, Texas; and

That tract of 40.089 Acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1360, pages 164-173 of the real property records of Howard County, Texas; and

Those two tracts, one of 5.37 acres and the other of 3.51 acres, more or less, described in a Warranty Deed dated July 26, 2017, recorded in volume 1644, pages 582-585 of the real property records of Howard County, Texas.

Exhibit C

Public Infrastructure Improvements

See attached "City of Big Spring Business Park/Airpark Water and Sewer
Improvements American Rescue Plan – EDA Grant Project Map August 2023

**CROSS ELL RANCH CORPORATION-BIG SPRING
DONATION AGREEMENT**

This Cross Ell Ranch-Big Spring Donation Agreement (the "Donation Agreement") dated _____, 2024 between the **CITY OF BIG SPRING, TEXAS**, a Texas home-rule municipality ("Donee"), and **CROSS-ELL RANCH CORPORATION**, a Texas corporation ("Donor") for a certain easement or easements described hereinafter and is effective upon the first date stated above (the "Effective Date").

Whereas, the City of Big Spring is a "political subdivision," 26 U.S.C. § 170, of the State of Texas; and

Now therefore the Donor and Donee mutually agree as follows.

A. At the time of Donee's choosing, the Donor hereby shall grant as a charitable contribution to Donee that certain sewer lift station located off of Industrial Drive and one or more easements, all of which are described as follows, and which may hereinafter referred to as the "Donated Easements."

Easements and rights of way located under Highway 87 Reliever Route and adjacent to the Donor's property, and including that one sewer lift station located off of Industrial Drive, for provision of utility services for the public and the municipality as the City requires to perform the Infrastructure Improvements under the "Cross-Ell Ranch Big Spring Development Agreement" and as indicated in Annex 1.

B. The Donor and Donee agree that Donee may cause at Donee's expense one or more surveys of the Donated Easements to be performed by registered land surveyors duly licensed by the State of Texas.

C. Annex 1 is hereby incorporated and attached to this Donation Agreement.

D. Upon completion of the survey or surveys, Donee will provide full and complete access for the purpose of conducting the survey or surveys to Donor and Donor's agents. Upon the sooner of Donor granting consent to the survey or surveys, which shall not be unreasonably withheld, or the passage of ten (10) business days, by mutual agreement the said survey or surveys will be attached and incorporated into this Donation Agreement as Exhibit A to Annex 1. Upon such, the term "Donated Easements" in this Donation Agreement shall refer to Exhibit A to Annex 1.

E. Within thirty (30) days of Exhibit A being attached to this Donation Agreement under the terms stated above, or upon the Donee's Request, Donor will execute a deed in substantially the form as included in this Annex 1, which shall include Exhibit A to Annex 1, conveying the Donated Easements to Donee.

F. Donee is given a full and complete opportunity to conduct its own investigation as to any matter, fact or issue that might influence Donee's decision to accept the Donated Easements from Donor. Accordingly, Donee is willing to accept the Donated Easements from Donor without any representations or warranties whatsoever regarding the Donated Easements and on an "as is, where is" and "with all faults" basis.

G. The Donor hereby promises within thirty (30) days of the Effective Date, with extensions that may be granted upon the discretion of the City Manager of Donee, to execute a deed in the form substantially the same as stated in Annex 1, and the Donee shall accept and be the successor to all such rights and interests in, the Donated Easements identified and described herein. For clarification, the deed of the Donated Easements shall only convey the easement estate pertaining to the Donated Easements, with the following exceptions to warranty: the rights of the owners of the mineral estate in the Donated Easements; all easements, rights-of-way and prescriptive rights; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, agreements and maintenance charges, and other instruments, other than liens and conveyances, that affect the Donated Easements; any discrepancies, conflicts or shortages in area or boundary lines; any encroachments or overlapping of improvements; all rights, obligations and other matters emanating from and existing by reason of the creation, establishment, maintenance and operation of any County Water Improvement District, Municipal Utility District or similar governmental or quasi-governmental agency; all laws, ordinances, rules, and regulations applicable to the Donated Easements; and existing building and zoning ordinances and environmental regulations. This provision is not intended to, and does not, validate or reinstate a terminated or otherwise invalid instrument or right.

H. Donor and Donee agree that the title company will be selected by Donor. If the title company selected by Donor fails to perform reasonably and promptly, however, Donee may send notice to Donor that Donee is substituting its own title company for closing.

I. Donee will receive title insurance.

J. Closing costs and the costs of title insurance will be paid by Donee.

K. Eminent Domain. In the event that the Donor's interest in the Donated Easements, or any part thereof, shall have been taken by eminent domain, or shall be in the process of being taken on or before the Closing Date, either Party may terminate the Donation Agreement and neither Party shall have any further rights or liabilities hereunder.

L. Donee shall choose the closing date, which shall be reasonable. The closing date must be no later than one year after the Effective Agreement. After closing is complete and the deed is recorded, this Donation Agreement terminates. Notwithstanding the foregoing, as a condition precedent to closing on the donation of the Donated Easements to Donee, Donor, Donee and, when applicable, BIG SPRING ECONOMIC DEVELOPMENT CORPORATION, must have executed, in final form, the following documents:

- i. Cross-Ell Ranch – Big Spring Development Agreement,
- ii. City of Big Spring, Texas and Cross-Ell Ranch Corporation 380 Economic Development and Performance Agreement,
- iii. Option Agreement for Option Parcel between Cross-Ell Ranch Corporation and Big Spring Economic Development Corporation,

M. Entire Donation Agreement. This Donation Agreement contains the entire Donation Agreement between the parties concerning the Donation and sale of the Donated Easements, and supersedes all prior written or oral Donation Agreements between the parties to this Donation Agreement. No addition to or modification of any term or provision shall be effective unless in writing, signed by both Donor and Donee.

N. This Donation shall be governed by the laws of the State of Texas.

O. Successors and Assigns. This Donation Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

P. Partial Invalidity. If any portion of this Donation Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed from this Donation Agreement and the remaining parts shall remain in full force as fully as though the invalid, illegal or unenforceable portion had never been part of this Donation Agreement.

Q. Termination. Prior to the Closing Date, this Donation Agreement may be terminated by Donor at any time for any or no reason by written notice to Donee.

R. Any legal suit, action, or proceeding arising out of or based upon/relating to this Agreement or the transactions contemplated hereby or shall be exclusively filed and adjudicated in state courts sitting in Howard County, Texas. Service of process, summons, notice, or other document by certified mail shall be effective service of process for any suit, action, or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to venue of any suit, action, or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

S. No Third Parties Benefits. No person other than Donor and Donee, and their permitted successors and assigns, shall have any right of action under this Donation Agreement.

T. Waivers. No waiver by either party of any provision shall be deemed a waiver of any other provision or of any subsequent breach by either Party of the same or any other provision.

U. Assignment. No assignment of the duties or rights of this Donation Agreement will be valid unless mutually agreed by the Parties in writing.

V. Counterparts. To facilitate execution, this Donation Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this instrument to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing

the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

W. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. Grantor warrants and represents that the individual executing this Agreement on the Grantor's behalf has full authority to execute this Agreement and bind the Grantor to the same.

X. Notice. Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "**Notice**") in writing and addressed to the other Party at its address set out below (or to any other address that the receiving Party may designate from time to time). Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only: (a) upon receipt by the receiving party and (b) if the party giving the Notice has complied with the requirements of this Section.

To Grantor: Cross-Ell Ranch Corporation
975 Rio Hondo Rd
Tarpley, TX 78883-4413
Attn: Mack Frazier

With a copy to: Baird, Crews, Schiller & Whitaker, P.C.
15 North Main Street
Temple, Texas 76501
Attn: Sam Fulcher

To Grantee: Todd Darden, City Manager
310 Nolan Street
Big Spring, Texas 79720

with a copy to: Andrew Hagen, City Attorney
310 Nolan Street
Big Spring, Texas 79720

Y. Non-Waiver of Governmental Immunity.

(a) The City of Big Spring, a Texas municipal corporation, expressly retains all rights and benefits of governmental immunity from liability and suit for damages in accordance with: Title 5, Texas Civil Practice and Remedies Code; Subchapter I, Chapter 271, Texas Local Government Code; and any other law, if applicable.

(b) Nothing in this Donation Agreement shall be deemed as a waiver of governmental immunity or as increasing the City of Big Spring's liability beyond any statutory limitation of liability.

(c) Nothing in this Donation Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the City of Big Spring which would otherwise be barred under the doctrine of governmental immunity or operation of law.

Z. Further Assurances. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

AA. This Agreement, and all claims or causes of action (whether in contract, implied contract, tort, equity or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution, or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of Texas, including its statutes of limitations, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas.

BB. Severability. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

<signature page follows>

DEVELOPER

CROSS ELL RANCH CORPORATION, a
Texas corporation

CITY

CITY OF BIG SPRING, a Texas Municipal
Corporation

R. Mack Frazier
President

Todd Darden
City Manager

APPROVED AS TO FORM ONLY

Andrew W. Hagen
City Attorney

ANNEX 1

See attached document.

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.

Easement Agreement

This **EASEMENT AGREEMENT** (this "**Agreement**"), dated as of this _____ day of _____, _____ (the "**Effective Date**"), is hereby made by and between **CROSS -ELL RANCH CORPORATION**, a Texas corporation , having an address at 975 Rio Hondo Road, Tarpley, Texas 78883 (hereinafter, the "**Grantor**") and **CITY OF BIG SPRING** a Texas municipal corporation, having an address at 310 Nolan Street, Big Spring, Texas 79720 (hereinafter, the "**Grantee**"). Grantor's intention is to make a gift as a charitable contribution under applicable income tax laws and regulations. Grantor hereby grants to, Grantee and its heirs, successors, and assigns, the perpetual right and easement as described in Section 1 below (the "**Easement**") for public purposes in, under, through, over, across, and upon the Grantor's land, as described in Section 2 below (the "**Grantor's Land**").

1. Description of the Easement. The easement granted by the Grantor to the Grantee consists of a perpetual easement and right-of-way (the "**Easement**"), with the right, privilege, and authority to:

(a) Construct, reconstruct, relocate, extend, repair, replace, maintain, operate, inspect, patrol, and, at its pleasure, abandon or remove water, wastewater, and communication (including fiber optic) lines(collectively, the "**Facilities**"), which the Grantee shall require now and from time to time, for the water distribution system, wastewater collection system, and communication lines including fiber optic lines, by any means, whether now existing or hereafter devised, for public or private use, in, upon, under, and across that portion of the Grantor's Land described in Section 3 below (the "**Easement Area**"), and to renew, replace, add to, and otherwise change the Facilities and each and every part thereof and the location thereof within the Easement Area, and utilize the Facilities within the Easement Area for the purpose of providing water services, wastewater services, and communication services to the Grantor and others (the foregoing, hereinafter, the "**Easement**").

(b) From time to time, without further payment therefor, clear and keep cleared, by physical, chemical, or other means, the Easement Area of any and all trees, vegetation, roots, aboveground or belowground structures, improvements, or other obstructions and trim and/or remove other trees, roots and vegetation adjacent to the Easement Area that, in the opinion of Grantee, may interfere with the construction, operation, and maintenance of the Facilities. The first clearing may be for less than the full width and may be widened from time to time to the full width.

(c) Excavate or change the grade of the Grantor's Land as is reasonable, necessary, and proper for any and all purposes described in this Section 1; provided,

however, that the Grantee will, upon completion of their work, backfill and restore any excavated areas to reasonably the same condition as existed prior to such excavation.

(d) Pass and repass along the Easement Area to and from the adjoining lands and pass and repass over, across, and upon the Grantor's Land to and from the Easement Area, and construct, reconstruct, relocate, use, and maintain such footbridges, causeways, and ways of access, if any, thereon, as is reasonable and necessary in order to exercise to the fullest extent the Easement.

(e) Temporary Construction Easement. It is agreed that the Grantee shall have the temporary use of 10 (ten) feet of land along and parallel to each boundary of the above-described easement (20 feet total) during the time that the above described utility improvements are being completed, after which time the right to the use of the land shall cease.

2. Description of Grantor's Land. Grantor is the fee owner of certain land located in the County of Howard, the State of Texas, designated and particularly described as follows.

SEE ATTACHED METES & BOUNDS DESCRIPTION IN TWO PAGES EACH LABELED EXHIBIT "A" MADE A PART HEREOF FOR ALL PURPOSES.

3. Location of the Easement Area. The Easement Area shall consist of a portion of the Grantor's Land as shown on the attached Exhibit B made a part hereof for all purposes and recorded herewith, copies of which are in the possession of the Grantor and the Grantee.

4. Facilities Ownership. It is agreed that the Facilities shall remain the property of the Grantee, its successors and assigns.

5. General Provisions. The Grantor, for itself, its heirs, legal representatives, successors, and assigns, hereby covenants and agrees with the Grantee that no act will be permitted within the Easement Area which is inconsistent with the Easement hereby granted; no buildings or structures, or replacement thereof or additions thereto, swimming pools, or obstructions will be erected or constructed above or below grade within the Easement Area; no trees shall be grown, cultivated, or harvested, and no excavating, mining, or blasting shall be undertaken within the Easement Area without the prior written consent of the Grantee, not to be unreasonably withheld, conditioned or delayed, it being the intent that the Easement herein conveyed is intended to prohibit the longitudinal or parallel use or occupancy of said Easement Area by surface or subsurface activities or structures which might damage or interfere with the Facilities; the Easement shall not be modified nor the Easement Area relocated by the Grantor without the Grantee's prior written consent; the present grade or ground level of the Easement Area will not be changed by excavation or filling.

6. Reserved Rights. Grantor reserves the right to cross and recross said easement and right of way provided that such use of said ground shall not interfere with, obstruct, or endanger any rights granted as aforesaid and shall not disturb the grade of said ground as it now exists.

7. Representations and Warranties. Grantor hereby represents and warrants to Grantee that: (a) it has the full right, power, title, and interest to grant the Easement to Grantee; (b) such grant of the Easement and any rights granted under this Agreement may be fully and thoroughly enjoyed and utilized by Grantee pursuant to the covenants, terms, and conditions hereof; and (c) Grantee's Easement rights hereunder shall not be defeased, impaired, or adversely affected by superior title.

8. Warranty of Title. The Grantor hereby warrants the title to the rights above granted and that the same are free and clear of all liens and encumbrances, except as may be herein expressly shown in Exhibit A attached hereto and made a part hereof, and that the Grantor will execute or procure any further necessary assurance of the title to said premises as may be required by the Grantee/The Grantor does not warrant title to the rights above granted or that the same are free and clear of all liens and encumbrances. Grantee hereby takes title to the easement solely at its own risk.

9. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without regard to conflicts of laws principles. In the event that any provision hereof is determined to be invalid, such invalid provision shall not invalidate the remaining provisions, which shall continue to be in full force and effect. Grantor and Grantee consent to personal jurisdiction and venue in the state courts sitting in Howard County, Texas, which courts shall have exclusive jurisdiction over any action arising out of this Agreement.

10. Partial Invalidity. Any Provision of this Agreement that is invalid or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of the invalidity or unenforceability without rendering invalid or unenforceable the remaining Provisions of this Agreement or affecting the validity or enforceability of any of the Provisions of this Agreement in any other jurisdiction. If any Provision of this Agreement is so broad as to be unenforceable, the Provision will be interpreted to be only so broad as is enforceable.

11. Time of the Essence. Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed.

12. Recording the Agreement. The parties agree that this Agreement may be recorded in the recorder's office for the County of Howard, Texas.

13. Notice. Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "**Notice**") in writing and addressed to the other Party at its address set out below (or to any other address that the receiving Party may designate from time to time). Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only: (a) upon receipt by the receiving party and (b) if the party giving the Notice has complied with the requirements of this Section.

To Grantor:

Cross-Ell Ranch Corporation
975 Rio Hondo Rd

Tarpley, TX 78883-4413
Attn: Mack Frazier

With a copy to: Baird, Crews, Schiller & Whitaker, P.C.
15 North Main Street
Temple, Texas 76501
Attn: Sam Fulcher

To Grantee: Todd Darden, City Manager
310 Nolan Street
Big Spring, Texas 79720

with a copy to: Andrew Hagen, City Attorney
310 Nolan Street
Big Spring, Texas 79720

14. Counterparts; Amendments. This Agreement may be executed in counterparts and, when executed and delivered by all parties in person, by US Mail, or nationally-recognized overnight courier shall become one (1) integrated agreement enforceable on its covenants, terms, and conditions. This Agreement supersedes all prior agreements between the parties with respect to the subject hereof and all discussions, understandings, offers, and negotiations with respect thereto, whether oral or written. This Agreement shall not be amended or modified, except in a writing signed by each party hereto or their respective heirs, successors, or assigns. If amended or modified as permitted by this Section, the term "Agreement" shall thereafter be read to include all said amendments and modifications. All exhibits that are referenced in this Agreement or attached to it are incorporated herein and made a part hereof as if fully set forth in the body of the document.

15. Authority. Both parties represent and warrant that they have the authority to execute this Agreement and each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

16. Non-waiver of Governmental Immunity.

(a) The City of Big Spring expressly retains all rights and benefits of governmental immunity from liability and suit for damages in accordance with: Title 5, Texas Civil Practice and Remedies Code; Subchapter I, Chapter 271, Texas Local Government Code; and any other law, if applicable.

(b) Nothing in this Agreement shall be deemed as a waiver of governmental immunity or as increasing the City of Big Spring's liability beyond any statutory limitation of liability.

[SEAL]

Notary Public's Signature

EXHIBIT A

Legal Description of Grantor's Land

Sketch for the Installation on Lands of GRANTOR

Liens and Encumbrances

[ATTACHMENT TEXT, SKETCH].

EXHIBIT B

Grantor's Land

The Grantor's Land is 443.607 acres, more or less, in Section 4, Block 33, Howard County, Texas, conveyed to Cross-Ell Ranch Corporation by Special Warranty Deed dated October 30, 1986, and recorded in volume 610, pages 591-592 of the real property records of Howard County, Texas, as follows:

The West 532 acres of Section 4, Block 33, TWP 1 South, T&P Railroad Company Survey, Howard County, Texas;

Save for and Except each of the following:

Those three tracts together containing 17 acres, more or less, and described in a Warranty Deed recorded in volume 610, page 593 in the real property records of Howard County, Texas;

Those three tracts, of 2.02 acres, the second of 10.0 acres, and the third of 0.21 acres, more or less, and described in a Warranty Deed dated November 15, 1988, recorded in volume 624, page 42 of the real property records of Howard County, Texas;

That tract of 9.214 acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1356, pages 680 of the real property records of Howard County, Texas; and

That tract of 40.089 Acres, more or less, described in a Deed dated August 20, 2013, recorded in volume 1360, pages 164-173 of the real property records of Howard County, Texas; and

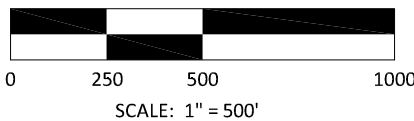
Those two tracts, one of 5.37 acres and the other of 3.51 acres, more or less, described in a Warranty Deed dated July 26, 2017, recorded in volume 1644, pages 582-585 of the real property records of Howard County, Texas.



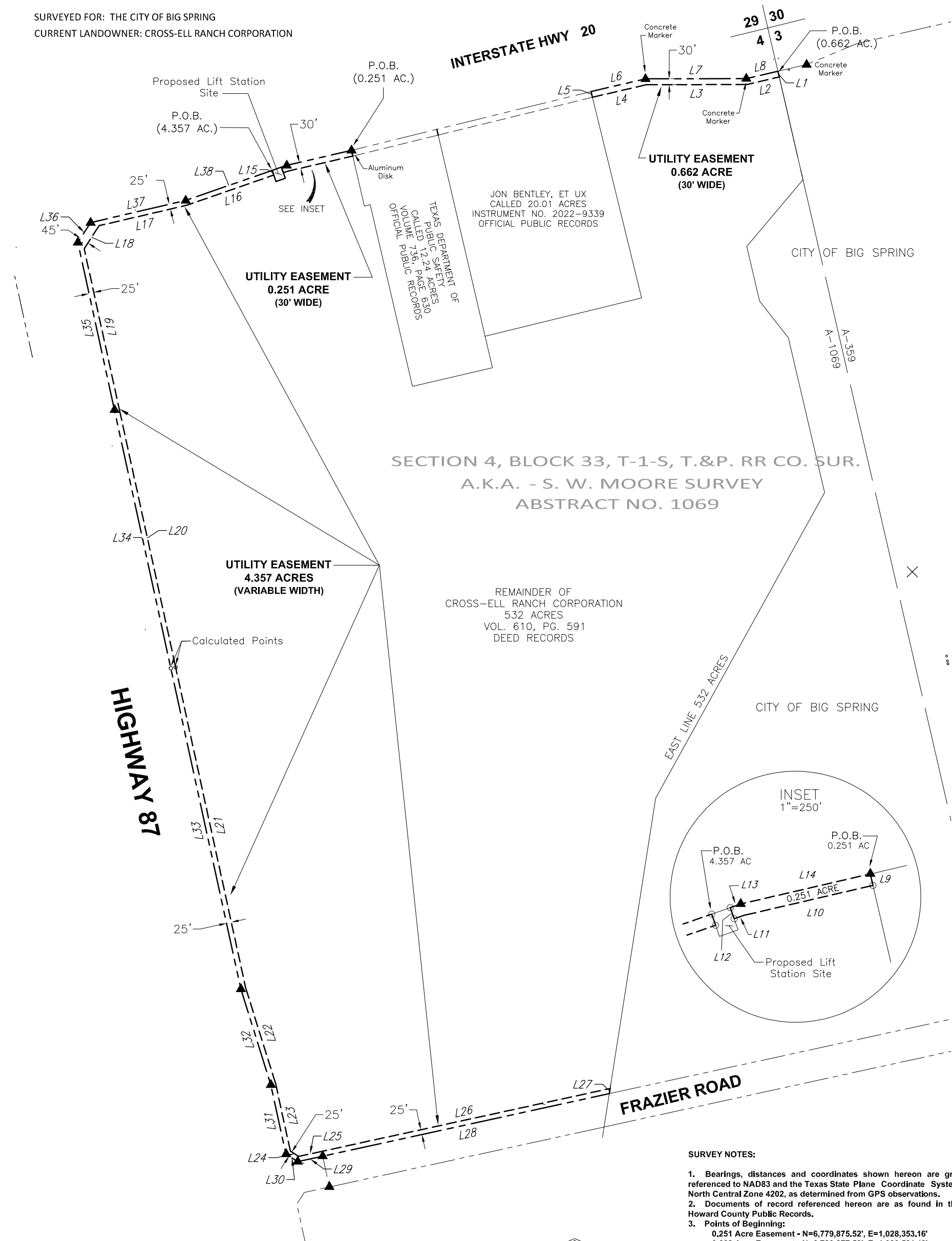
3465 CURRY LANE
ABILENE, TX 79606
325-695-1070
1925 FORT WORTH HWY.
WEATHERFORD, TX 76086
817-594-9880
4920 S. LOOP 289, STE 106
LUBBOCK, TX 79414
806-368-6375

EXHIBIT A
PAGE 1 OF 2

- ▲ FND TXDOT MARKER (BRONZE DISK UNLESS SHOWN OTHERWISE)
○ SET 1/2" REBAR ROD WITH J&M CAP
--- EASEMENT BOUNDARY (BOLD)
--- TXDOT RIGHT-OF-WAY



SURVEYED FOR: THE CITY OF BIG SPRING
CURRENT LANDOWNER: CROSS-ELL RANCH CORPORATION



SURVEY NOTES:

- Bearings, distances and coordinates shown hereon are grid referenced to NAD83 and the Texas State Plane Coordinate System North Central Zone 4202, as determined from GPS observations.
- Documents of record referenced hereon are as found in the Howard County Public Records.
- Points of Beginning:
0.251 Acre Easement - N=6,779,875.52', E=1,028,353.16'
0.662 Acre Easement - N=6,780,277.58', E=1,030,521.42'
4.357 Acres Easement - N=6,779,773.37', E=1,027,949.96'

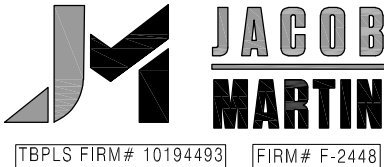
**SURVEY DRAWING OF
UTILITY EASEMENTS CONTAINING 0.251 ACRE, 0.662
ACRE AND 4.357 ACRES
OUT OF SECTION 4, BLOCK 33,
TOWNSHIP 1 SOUTH, T. & P. RAILWAY CO. SURVEY
A.K.A S. W. MOORE SURVEY
ABSTRACT NO. 1069
CITY OF BIG SPRING
HOWARD COUNTY, TEXAS**



The easements depicted hereon were surveyed on the ground under my direct supervision in May 2023 and May 2024.

Mark J. Brown

Mark T. Brown, RPLS #4247
Drawing completed May 16, 2024



3465 CURRY LANE
ABILENE, TX 79606
325-695-1070

1925 FORT WORTH HWY.
WEATHERFORD, TX 76086
817-594-9880

4920 S. LOOP 289, STE 106
LUBBOCK, TX 79414
806-368-6375

EXHIBIT A
PAGE 2 OF 2

METES AND BOUNDS DESCRIPTION OF A 4.357-ACRE EASEMENT:

BEING a **Utility Easement** containing 4.357 acres of land out of Section 4, Block 33, Township 1 South, T. & P. Railway Co. Survey (A.K.A. the S. W. Moore Survey), Abstract No. 1069, City of Big Spring, Howard County, Texas and being out of the remainder of 532 acres conveyed to Cross-Ell Ranch Corporation in a deed recorded in Volume 610, Page 591 of said Deed Records, Howard County, Texas. This 4.357 acres easement is described more particularly in metes and bounds as follows:

COMMENCING at a 5/8 inch rebar rod with a TXDOT aluminum cap found in the southerly right-of-way line of Interstate Highway 20 (I-20) and at the northeasterly corner of the remainder of said 532 acres tract, same being the northwesterly corner of a called 12.24 acres tract conveyed in a Special Warranty Deed to the Texas Department Of Public Safety recorded in Volume 736, Page 630, Official Public Records, Howard County, Texas, and said point of commencing called to be 145.09 feet right of Highway Centerline Station 539+60.19, and from said point of commencing the northeast corner of said Section 4 is calculated from deed calls to bear N13°46'58"W 100.00 feet and N76°13'02"E 2204.43 feet; THENCE S76°55'03"W 338.29 feet along said right-of-way line to a found bronze disk monument (TXDOT); THENCE S70°51'27"W 78.00 feet along said right-of-way line to the **POINT OF BEGINNING** of this described tract, same being a set 1/2-inch rebar rod with cap stamped "J&M BOUNDARY" which also marks the most northerly northeast corner of this described utility easement, same being the northwesterly corner of a 3000 square feet lift station site surveyed this same date;

THENCE S19°08'33"E 25.00 feet along the westerly line of said lift station site to a set 1/2-inch rebar rod with cap stamped "J&M EASEMENT" marking the northerly southeast corner of this utility easement;

THENCE over and across said 532-acre tract, parallel to and 25 feet in a southerly direction from said southerly right-of-way line the following calls:

- S70°51'27"W 467.38 feet to a point for corner;
- S76°52'34"W 458.29 feet to a point for corner;

THENCE S32°58'09"W 139.77 feet parallel to and 45 feet southeasterly from the clip corner at the intersection of said southerly right-of-way line of I-20 and the easterly right-of-way line of Highway 87;

THENCE over and across said 532-acre tract, parallel to and 25 feet in an easterly direction from said easterly right-of-way line of Highway 87 the following calls:

- S12°20'01"E 832.71 feet to a point for corner;
- S12°19'21"E 1345.18 feet to a point for corner;
- S12°19'21"E 1668.37 feet to a point for corner;
- S17°22'10"E 510.09 feet to a point for corner;
- S12°19'45"E 351.35 feet to a point for corner;
- S57°17'24"E 49.89 feet parallel and 25 feet northeasterly of a clip corner at the intersection of said east right-of-way line of Highway 87 and the north right-of-way line of Frazier Road;

THENCE N77°41'07"E 119.63 feet parallel and 25 feet in a northerly direction from said north right-of-way line to a point for corner;

THENCE N77°41'55"E 1501.62 feet to a SET REBAR in the easterly line of said remainder 532-acre tract, same being the westerly line of a tract which is shown by Howard County Central Appraisal District to be owned by said City of Big Spring for the southerly northeast corner of this utility easement;

THENCE S08°56'03"W 26.80 feet along said common tract line to a set 1/2-inch rebar rod with cap stamped "J&M BOUNDARY" in the north right-of-way line of said Frazier Road for the common southeast corner of said remainder of 532-acre tract and of this utility easement and the southwestery corner of said City of Big Spring tract;

THENCE along said north right-of-way line of Frazier Road, same being the south line of said remainder of 532-acre tract the following calls:

- S77°41'52"W 1491.91 feet to a found bronze disk right-of-way marker (TXDOT) marking a northeast corner of TXDOT right-of-way;
- S77°41'07"W 129.99 feet to a found bronze disk right-of-way marker (TXDOT) marking the southeast end of said clip corner at the intersection of said north right-of-way line and said easterly right-of-way line of Highway 87;

THENCE N57°17'24"W 70.60 feet along said clip corner to a found bronze disk right-of-way marker (TXDOT) marking the northwest end of said clip corner;

THENCE along said easterly right-of-way line of Highway 87, same being the westerly line of said 532-acre tract the following calls:

- N12°19'45"W 360.60 feet to a found bronze disk right-of-way marker (TXDOT);
- N17°22'10"W 510.09 feet to a found bronze disk right-of-way marker (TXDOT);
- N12°19'21"W 1669.47 feet to a point for corner;
- N12°19'21"W 1345.18 feet to a bronze disk right-of-way marker (TXDOT) for corner;
- N12°20'01"W 871.27 feet to a bronze disk right-of-way marker (TXDOT) marking the southwest end of said clip corner at the intersection of said easterly right-of-way line of Highway 87 and said southeasterly right-of-way line of I-20;

THENCE N32°58'09"E 119.71 feet along said right-of-way line and clip corner to a found bronze disk right-of-way marker (TXDOT) marking the northeast corner of said clip corner;

THENCE along said southeasterly right-of-way line of I-20, same being the northwesterly line of said remainder 532-acre tract the following calls:

- N76°52'34"E 495.89 feet to a found bronze disk right-of-way marker (TXDOT) marking a bend in said right-of-way line;
- N70°51'27"E 466.07 feet to said POINT OF BEGINNING and containing 4.357 acres of land.

LINE TABLE		
LINE NO.	LENGTH	BEARING
L1	30.00'	S13°00'57"E
L2	167.97'	S76°52'36"W
L3	512.34'	S89°51'25"W
L4	280.97'	S76°53'48"W
L5	30.00'	N13°46'58"W
L6	284.73'	N76°53'48"E
L7	512.33'	N89°51'25"E
L8	164.61'	N76°52'36"E
L9	30.00'	S13°04'07"E
L10	336.70'	S76°55'03"W
L11	26.41'	S70°51'27"W
L12	30.00'	N19°08'33"W
L13	28.00'	N70°51'27"E
L14	338.29'	N76°55'03"E
L15	25.00'	S19°08'33"E
L16	467.38'	S70°51'27"W
L17	458.29'	S76°52'34"W
L18	139.77'	S32°58'09"W
L19	832.71'	S12°20'01"E
L20	1345.18'	S12°19'21"E

LINE TABLE		
LINE NO.	LENGTH	BEARING
L21	1668.37'	S12°19'21"E
L22	510.09'	S17°22'10"E
L23	351.35'	S12°19'45"E
L24	49.89'	S57°17'24"E
L25	119.63'	N77°41'07"E
L26	1501.62'	N77°41'55"E
L27	26.80'	S8°56'03"W
L28	1491.91'	S77°41'52"W
L29	129.99'	S77°41'07"W
L30	70.60'	N57°17'24"W
L31	360.60'	N12°19'45"W
L32	510.09'	N17°22'10"W
L33	1669.47'	N12°19'21"W
L34	1345.18'	N12°19'21"W
L35	871.27'	N12°20'01"W
L36	119.71'	N32°58'09"E
L37	495.89'	N76°52'34"E
L38	466.07'	N70°51'27"E

METES AND BOUNDS DESCRIPTION OF A 0.251-ACRE EASEMENT:

BEING a 30-foot wide **Utility Easement** containing 0.251-acre of land out of Section 4, Block 33, Township 1 South, T. & P. Railway Co. Survey (A.K.A. the S. W. Moore Survey), Abstract No. 1069, City of Big Spring, Howard County, Texas and being out of the remainder of a 532 acres tract conveyed to Cross-Ell Ranch Corporation in a deed recorded in Volume 610, Page 591 of said Deed Records, Howard County, Texas. This 0.251-acre easement is described more particularly in metes and bounds as follows:

BEGINNING at a 5/8 inch rebar rod with a TXDOT aluminum cap found in the southerly right-of-way line of Interstate Highway 20 (I-20) and at a northeasterly corner of the remainder of said 532 acres tract, same being the northwesterly corner of a called 12.24 acres tract conveyed in a Special Warranty Deed to the Texas Department Of Public Safety recorded in Volume 736, Page 630, Official Public Records, Howard County, Texas, and said point of beginning called to be 145.09 feet right of Highway Centerline Station 539+60.19, and from which the northeast corner of said Section 4 is calculated from deed calls to bear N13°46'58"W 100.00 feet and N76°13'02"E 2204.43 feet;

THENCE S13°04'07"E 30.00 feet along the easterly line of said remainder of 532-acre tract, and the westerly line of said 12.24 acres tract to a set 1/2-inch rebar rod with cap stamped "J&M EASEMENT" (henceforth a SET REBAR) marking the southeast corner of this utility easement;

THENCE over and across said 532-acre tract the following calls:

- S76°55'03"W 336.70 feet to a SET REBAR for corner;
- S70°51'27"W 26.41 feet to a SET REBAR in the easterly line of a 3000 square feet proposed lift station site surveyed this same date;

THENCE N19°08'33"W 30.00 feet along said easterly line of said proposed lift station site to a set 1/2-inch rebar rod with cap stamped "J&M BOUNDARY" in said southeasterly right-of-way line, marking the northeasterly corner of said proposed lift station site and the northwesterly corner of this utility easement;

THENCE N70°51'27"E 28.00 feet along said right-of-way line, same being the northerly line of said 532-acre tract, to a found bronze disk right-of-way marker (Txdot) marking a bend in said right-of-way line;

THENCE N76°55'03"E 338.29 feet, continuing along said right-of-way line to said POINT OF BEGINNING and containing 0.251 acre of land.

METES AND BOUNDS DESCRIPTION OF A 0.662-ACRE EASEMENT:

BEING a 30-foot wide **Utility Easement** containing 0.662-acre of land out of Section 4, Block 33, Township 1 South, T. & P. Railway Co. Survey (A.K.A. the S. W. Moore Survey), Abstract No. 1069, City of Big Spring, Howard County, Texas and being out of the remainder of a 532 acres tract conveyed to Cross-Ell Ranch Corporation in a deed recorded in Volume 610, Page 591 of said Deed Records, Howard County, Texas. This 0.662-acre easement is described more particularly in metes and bounds as follows:

BEGINNING at a set 1/2-inch rebar rod with cap stamped "J&M BOUNDARY" marking the intersection of the southerly right-of-way line of Interstate Highway 20 (I-20) and the easterly line of said Section 4, from which a concrete right-of-way marker (TXDOT) called to be 245 feet right of Highway Centerline Station 563+15 bears N76°52'36"E 150.3 feet, another concrete right-of-way marker (TXDOT) called to be 245 feet right of Highway Centerline Station 560+00 bears S76°52'36"W 164.6 feet and from said point of beginning the approximate northeast corner of said Section 4 is calculated from deed calls to bear N13°00'57"W 226 feet, and further, said point of beginning is the northeasterly corner of said remainder of 532-acre tract and the northwesterly corner of a tract which is shown by Howard County Central Appraisal District Records to belong to said City of Big Spring;

THENCE S13°00'57"E 30.00 feet along the easterly line of said remainder of said 532-acre tract and the westerly line of said City of Big Spring tract to a set 1/2-inch rebar rod with cap stamped "J&M EASEMENT" for the southeast corner of this easement;

THENCE over and across said remainder of 532-acre tract the following calls:

- S76°52'36"W 167.97 feet to a point for corner;
- S89°51'25"W 512.34 feet to a point for corner;
- S76°53'48"W 280.97 feet to a point in the easterly line of called 20.01-acre tract described in a deed to Jon Bentley et ux recorded in Instrument No. 2022-9339 of said Official Public Records;

THENCE N13°46'58"W 30.00 feet along said easterly line of said 20.01-acre tract to a found 3/4-inch rebar rod in said southerly right-of-way line and marking the northeasterly corner of said 20.01- acre tract and the northwest corner of this utility easement;

THENCE along said southerly right-of-way line the following calls:

- N76°53'48"E 284.73 feet to a found concrete right-of-way marker (TXDOT) for corner;
- N89°51'25"E 512.33 feet to a concrete right-of-way marker (TXDOT) for corner;
- N76°52'36"E 164.61 feet to the POINT OF BEGINNING and containing 0.662 acre of land.

**SURVEY DRAWING OF
UTILITY EASEMENTS CONTAINING 0.251 ACRE,
0.662 ACRE AND 4.357 ACRES
OUT OF SECTION 4, BLOCK 33,
TOWNSHIP 1 SOUTH, T. & P. RAILWAY CO. SURVEY
A.K.A S. W. MOORE SURVEY
ABSTRACT NO. 1069
CITY OF BIG SPRING
HOWARD COUNTY, TEXAS
Drawing completed May 16, 2024**



3465 CURRY LANE
ABILENE, TX 79606
325-695-1070
1925 FORT WORTH HWY.
WEATHERFORD, TX 76086
817-594-9880
4920 SOUTH LOOP 289, STE 106
LUBBOCK, TX 79414
806-368-6375

SURVEYED FOR: THE CITY OF BIG SPRING
CURRENT LANDOWNER: CROSS-ELL RANCH CORPORATION

METES AND BOUNDS DESCRIPTION OF CENTERLINE:

BEING a Lift Station Site containing 0.069-acre of land (3000 square feet) out of Section 4, Block 33, Township 1 South, T. & P. Railway Survey, A.K.A. the S. W. Moore Survey, Abstract No. 1069, Big Spring, Howard County, Texas and being out of a 532 acres tract conveyed to Cross-Ell Ranch Corporation in a deed recorded in Volume 610, Page 591 of said Deed Records, Howard County, Texas. This 0.069-acre tract is described more particularly in metes and bounds as follows:

COMMENCING at a 5/8 inch rebar rod with a TXDOT aluminum cap found in the southerly right-of-way line of Interstate Highway 20 and at the northeasterly corner of the remainder of said 532 acres tract, same being the northwesterly corner of a called 12.24 acres tract conveyed in a Special Warranty Deed to the Texas Department Of Public Safety recorded in Volume 736, Page 630, Official Public Records, Howard County, Texas, and said point of commencing called to be 145.09 feet right of Highway Centerline Station 539+60.19, and from said point of commencing the northeast corner of said Section 4 is calculated from deed calls to bear N13°46'58"W 100.00 feet and N76°13'02"E 2204.43 feet; THENCE S76°55'03"W 338.29 feet along said right-of-way line to a found brass disk monument (Txdot); THENCE S70°51'27"W 28.00 feet along said right-of-way line to the **POINT OF BEGINNING** of this described tract marked by a set 1/2-inch rebar rod with cap stamped "J&M BOUNDARY" (SET REBAR) and from which a found brass disk monument (Txdot) bears S70°51'27"W 516.07 feet;

THENCE over and across said 532-acre tract the following calls:

- S19°08'33"E 60.00 feet to a SET REBAR marking the southeasterly corner hereof;
- S70°51'27"W 50.00 feet to a SET REBAR marking the southwesterly corner hereof;
- N19°08'33"W 60.00 feet to a SET REBAR in said right-of-way line marking the northwesterly corner hereof;

THENCE N70°51'27"E 50.00 feet along said right-of-way line to said POINT OF BEGINNING and containing 0.069 acre or 3000 square feet.

The 0.069-acre tract depicted hereon was surveyed on the ground under my direct supervision in May 2023 and May 2024.

Mark T. Brown
Mark T. Brown, RPLS #4247

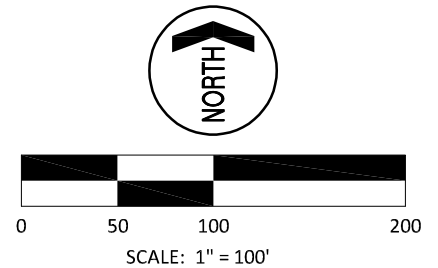
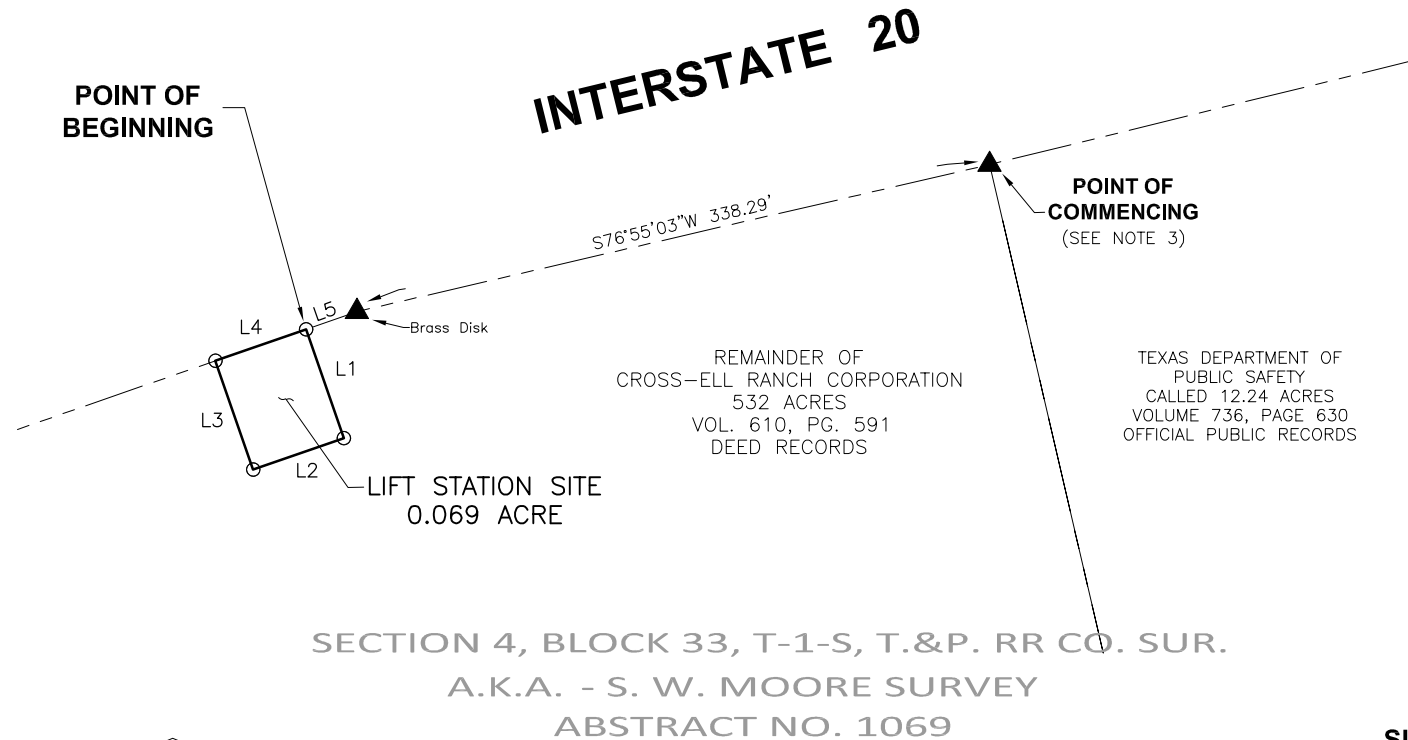
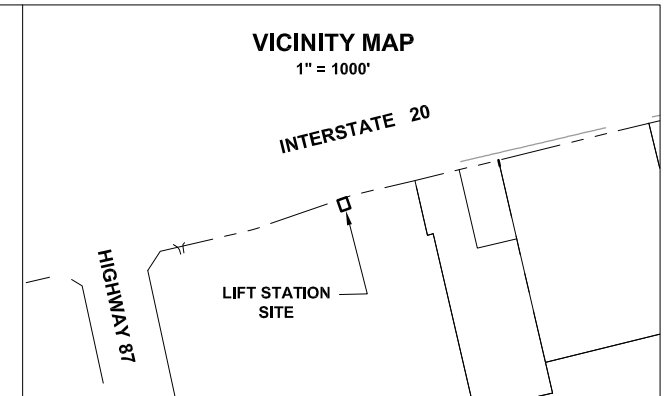


EXHIBIT A

SURVEY NOTES:

- Bearings, distances and coordinates shown hereon are grid referenced to NAD83 and the Texas State Plane Coordinate System North Central Zone 4202, as determined from GPS observations.
- Documents of record referenced hereon are as found in the Howard County Public Records.
- Point of Commencing: N=6,779,875.52', E=1,028,353.16'. A found 5/8 inch rebar rod with a TXDOT aluminum cap called to be at 145.09 feet right of Centerline Station 539+60.19 of Interstate Highway 20.
- Point of Beginning: N=6,779,789.76', E=1,027,997.19'

- ▲ FND TXDOT MARKER AS SHOWN
- SET 1/2" REBAR ROD WITH J&M CAP
- LIFT STATION BOUNDARY (BOLD)
- - - TXDOT RIGHT-OF-WAY



LINE TABLE		
LINE	BEARING	LENGTH
L1	S19°08'33"E	60.00'
L2	S70°51'27"W	50.00'
L3	N19°08'33"W	60.00'
L4	N70°51'27"E	50.00'
L5	S70°51'27"W	28.00'

**SURVEY DRAWING OF
A LIFT STATION SITE CONTAINING 0.069 ACRE
OUT OF SECTION 4, BLOCK 33,
TOWNSHIP 1 SOUTH, T. & P. RR CO. SURVEY
A.K.A S. W. MOORE SURVEY
ABSTRACT NO. 1069
CITY OF BIG SPRING
HOWARD COUNTY, TEXAS**

DRAWN: MAY 9, 2024

13OPTION AGREEMENT FOR OPTION PARCEL
between
CROSS-ELL RANCH CORPORATION
and
**BIG SPRING ECONOMIC DEVELOPMENT
CORPORATION**

This OPTION AGREEMENT FOR OPTION PARCEL (this "**Agreement**"), dated as of the ____ day of _____, 2024 (the "**Effective Date**"), is entered into between Cross-Ell Ranch Corporation, a Texas corporation having an address at 975 Rio Hondo Rd, Tarpley, Texas 78883-4413 ("**Optionor**"), and Big Spring Economic Development Corporation, a Texas non-profit corporation having an address at 215 West Third Street, Big Spring, Texas 79720 ("**Optionee**" or "**EDC**").

WHEREAS, Optionor is the owner of that certain real property located at the northeast corner of Frazier Road and US Highway, which is particularly described in the Exhibit A attached hereto (the "**Option Parcel**"); and

WHEREAS, Optionor wishes to grant to Optionee, and Optionee wishes to obtain from Optionor, an irrevocable and exclusive option to purchase the Option Parcel, subject to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the Option Consideration (defined below) and the other mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Option.** Subject to Optionee's timely payment of the Option consideration, Optionor hereby grants to Optionee an exclusive and irrevocable option to purchase the Option Parcel.
2. **Option Term.** The term of the Option (the "**Option Term**") shall commence only upon the following conditions precedent: (i) in the event one or more third-party has not purchased or entered into a contract to purchase the entire "Property," as defined in the Cross-Ell Big Spring Development Agreement, on or before October 1, 2026, and (ii) the completion of the Obligations of the City (as defined in the EDA, defined below). If and when the Option Term begins, Optionor covenants and agrees to convey the Option Parcel to the EDC by special warranty deed for a purchase price calculated as follows: upon Optionee notifying Optionor of its election to exercise the option granted pursuant to this Agreement (the "**Exercise Notice**"), Optionor shall within sixty (60) days engage an independent, certified general appraiser, licensed by the Texas Appraiser Licensing & Certification Board (the "**Licensed Appraiser**") to appraise the value of the Option Parcel (i) prior to the completion of the Infrastructure Improvements of the City and the EDC (as defined in an Cross-Ell Ranch-Big Spring Development Agreement of even date herewith (the "**EDA**")), collectively, the "**Obligations**"), and (ii) after the completion of the Obligations. Optionor agrees to share the full appraiser's report with EDC. The purchase price will be the appraised value of the Option Parcel after the completion of the Obligations. The purchase price will be payable as follows:

the difference between the value of the Option Parcel before and after completion of the Obligations will be credited toward the purchase price as a donation from Optionor to Optionee. The remaining balance of the purchase price, being equal to the appraised value of the Option Parcel prior to the completion of the Obligations (the “**Cash Price**”) shall be payable to Optionor by EDC in cash at closing. The parties agree to add the purchase price to Section 3.01 of the Purchase Agreement prior to executing the Purchase Agreement. The Option Parcel shall be conveyed to Optionee at closing free and clear of all liens and encumbrances. If the condition of the Option Term occurs but the EDC does not exercise the option and purchase the Option Parcel, the Option Term will automatically expire at 5:00 p.m. (CST) on December 31, 2027 (the “**Option Termination Date**”). After expiration of the Term, if Optionee has not exercised its option granted hereunder, Optionor may sell the Option Parcel to any third party without encumbrance and without need for any additional writing. If Optionor does not obtain an appraisal within sixty (60) days after receipt of the Exercise Notice, the Cash Price will be \$15,000 per acre.

3. **Optionee Survey.**

Should EDC at its own cost cause a survey of the Option Parcel to be performed by a surveyor licensed in the State of Texas, addressed to EDC and Optionor. The survey shall describe a tract of land in conformance to Exhibit A herein, and upon completion of such survey, the survey will supersede and replace the description provided on Exhibit A.

4. **Option Consideration.**

(a) The Option is granted in consideration of the Big Spring Economic Development Corporation having entered into the Cross-Ell Big Spring Development Agreement.

(b) Optionee acknowledges and agrees that the Option Consideration constitutes consideration to Optionor for Optionor's agreement to: (i) enter into this Agreement with Optionee; (ii) not sell the Option Parcel to another purchaser during the Option Term; and (iii) sell the Option Parcel to Optionee on the terms and conditions and for the Purchase Price in the Purchase Agreement (defined below), provided that Optionee has exercised the Option in the manner provided in Section 5 below. The Option Consideration shall be non-refundable to Optionee.

5. **Exercise of Option.** At any time during the Option Term, after full and final completion of the Obligations of the City and the Obligations of EDC (as defined in the EDA and the 380 Agreement, the completion of which is a condition precedent to Optionee's exercise of the Option), and provided there exists no uncured default by the City or EDC with respect to the EDA and 380 Agreement, Optionee may exercise the Option by timely sending Optionor the Exercise Notice in the manner prescribed in Section 8, accompanied by three (3) executed copies of the Purchase and Sale Agreement in the form attached hereto as Exhibit C (the “**Purchase Agreement**”). Optionor shall, not later than 45 days after receipt of the Exercise Notice, execute the Purchase Agreement and return two (2) fully executed originals to Optionee. If

Optionee does not timely exercise the Option in the manner described herein on or before the Option Termination Date, the option will automatically terminate and Optionor shall be entitled to retain the Option Consideration. Thereafter, neither party shall have any further obligations hereunder, except for those that expressly survive termination of this Agreement.

6. **Obligation to Maintain.** Throughout the Option Term, Optionor will maintain the Option Parcel in its existing condition and will not make any major removals, alterations, or changes thereto, except as may be required by law, or as agreed in writing between Optionor and Optionee.

7. **Default by Optionor.** If Optionor fails to perform any of its obligations, or is otherwise in default hereunder, Optionee shall have the right to terminate this Option Agreement, seek specific performance, and/or seek such other relief Optionee may have at law or in equity, including, without limitation, seeking injunctive relief to prevent a sale of the Option Parcel to a party other than Optionee.

8. **Termination of EDA or 380 Agreement.** In the event the EDA or the 380 Agreement is terminated due to a default of the City or Optionee, and such default remains uncured after any applicable notice and cure periods, Optionor may elect, in its sole discretion, to terminate this Agreement by providing written notice to Optionee, and such termination shall be effective without need of any additional writing. In such event, Optionor may execute an instrument without the joinder of the City or Optionee declaring that this Agreement has been terminated and record the instrument in the real property records of Howard County, Texas.

9. **Memorandum of Option Agreement.** This Agreement will not be recorded. Concurrently with the execution and delivery of this Agreement, Optionor and Optionee shall each execute and acknowledge a Memorandum of Option Agreement in the form attached as Exhibit B, which Optionee, at its sole cost and expense, may record in the Recorder's Office of Howard County, Texas.

10. **Notices.** Any notice, submittal, payment or instrument required or permitted by this Agreement to be given or delivered as follows:

To Optionor: Cross-Ell Ranch Corporation
975 Rio Hondo Rd
Tarpley, TX 78883-
4413
Attn: Mack Frazier

With a copy to:
Baird, Crews, Schiller & Whitaker, P.C.
15 North Main Street
Temple, Texas 76501
Attn: Sam Fulcher

To Optionee: Big Spring Economic Development
Corporation
215 W. Third Street
Big Spring, Texas 79721
Attn: Mark Willis, Executive Director

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

11. Any notice to either party related to or arising out of this Agreement must be given by one the following methods: (a) overnight delivery by a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier; or (b) registered or certified mail, postage prepaid, return receipt requested, whereby delivery is deemed to have occurred on the fifth business day following deposit with the United States Postal Service.

12. **Representations and Warranties of Optionor.** Optionor makes the following representations and warranties to Optionee as of the Effective Date:

(a) **Validity.** Optionor is a corporation duly organized and existing, and qualified to do business in the State of Texas, and it has full right, power and authority to carry on its business and to execute, deliver and perform, comply with and consummate the terms of this Agreement and the documents referenced herein to which Optionor is or shall be a party (the “**Optionor Closing Documents**”).

(b) **Due Authority.** The execution and delivery of this Agreement has been duly authorized, and prior to the Closing, Optionor Closing Documents and the performance of Optionor’s obligations hereunder and thereunder shall have been duly authorized.

(c) **No Litigation.** There is no actual, pending or threatened violation, action or proceeding by any organization, person, individual or governmental agency against Optionor with respect to the Property or against the Property (or any portion thereof), or which would affect the Property or Optionor’s ability to perform its obligations hereunder.

(d) **No Notice of Violation of Law.** Optionor has received no written or oral notice from any governmental or quasi-governmental entity that the Property is in violation of any Laws.

(e) **No Bankruptcy.** Optionor is not party to any voluntary or involuntary proceedings in bankruptcy, reorganization or similar proceedings under the Federal bankruptcy laws or under any state laws relating to the protection of debtors, or subject to any general assignment for the benefit of the creditors, and no such action has been threatened.

(f) Non-Foreign Status; Withholding. Optionor is not a “foreign person” as that term is defined in the Internal Revenue Code of 1986, as amended and the Regulations promulgated pursuant thereto. Optionor’s sale of the Property is not subject to any federal, state or local withholding obligation of Optionee under the tax laws applicable to Optionor or the Property.

13. **Representations and Warranties of Optionee.** Optionee makes the following representations and warranties to Optionor as of the Effective Date:

(a) Validity. Optionee is a nonprofit corporation duly organized and existing under the laws of its jurisdiction and qualified (or will be qualified prior to Closing) to do business in the State of Texas, and it has full right, power and authority to carry on its business and to execute, deliver and perform, comply with and consummate the terms of this Agreement and the documents referenced herein to which it is or shall be a party (the “Optionee Closing Documents”).

(b) Due Authority. The execution and delivery of this Agreement has been duly authorized, and prior to the Closing, Optionee Closing Documents and the performance of Optionee’s obligations hereunder and thereunder shall have been duly authorized.

14. **Miscellaneous.**

(a) Successors and Assigns. This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties. Any assignment by Optionee of Optionee’s rights or obligations under this Agreement may only be made with Optionor’s prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. No transfer or other assignment of rights or obligations under this Agreement shall release Optionee from any of its obligations or liabilities under this Agreement.

(b) Legal Costs. In the event any action is instituted by a party to enforce this Agreement or any documents executed pursuant hereto, the prevailing party in such action shall be entitled to such reasonable attorneys’ fees, arbitrator’s fees, costs and expenses as may be fixed by the decision maker.

(c) Further Instruments. Each party will, whenever and as often as it shall be requested so to do by any other, cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in the reasonable opinion of the requesting party, in order to carry out the intent and purpose of this Agreement.

(d) Entire Agreement and Incorporation of Exhibits. All exhibits and schedules attached and referred to in this Agreement are hereby incorporated herein as though fully set forth herein (and shall be deemed to be a part of this Agreement). This

Agreement, together with the exhibits and schedules attached hereto, contain the entire agreement among the parties respecting the matters set forth herein, and supersede all prior agreements among the parties hereto respecting such matters.

(e) Business Days. Whenever an action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) which ends (or occurs) on a day other than a Business Day, then such period (or date) shall be extended until the immediately following Business Day. A “**Business Day**” is any day other than a Saturday, Sunday, a federal holiday, or a Texas holiday.

(f) Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(g) Interpretation. The captions and headings of the sections of this Agreement are for convenience of reference only, and shall not be deemed to define or limit the provisions thereof. Each party acknowledges and agrees that this Agreement (1) has been reviewed by it and its counsel, (2) is the product of negotiations between the parties, and (3) shall not be deemed prepared or drafted by any one party. In the event of any dispute between the parties concerning this Agreement, the parties agree that any ambiguity in the language is not to be resolved against any party, but shall be given a reasonable interpretation in accordance with the plain meaning of the language and the intent of the parties as manifested hereby. All exhibits are hereby incorporated into the body of this Agreement.

(h) Third-Party Beneficiaries. The parties do not intend by any provision herein to confer any right, remedy or benefit upon any third party (express or implied), and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

(i) No Special Relationship. The parties’ relationship is an ordinary commercial relationship, and the parties do not intend to create the relationship of principal and agent, partners, joint venturers, or any other special relationship.

(j) Brokers. With respect to the transaction contemplated by this Agreement, Optionor and Optionee each represents to the other that, no brokerage commission, finder’s fee or other compensation of any kind is due or owing to any person or entity. Each party hereby agrees that if any person or entity makes a claim for brokerage commissions or finder’s fees related to the Option or sale of the Property by Optionor to Optionee, and such claim is made by, through or on account of any acts or alleged acts of said party or its representatives, then said party will protect, indemnify, defend and hold the other party free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys’ fees) in connection

therewith.

(k) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

15. **Time of Essence**. Optionor and Optionee hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision hereof and that failure to timely perform any of the terms, conditions, obligations, or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

16. **Governing Law and Venue**. This Agreement shall be governed and construed in accordance with the laws of the State of Texas. Exclusive venue for any dispute arising hereunder shall reside in the state district courts located in Howard County, Texas. The undersigned irrevocably consent to the personal jurisdiction of said courts and waive any and all objections to venue, including inconvenient forum.

17. **Waiver of Jury Trial**. Optionor and Optionee, each after consultation with an attorney of its own selection (which counsel was not directly or indirectly identified, suggested, or selected by the other party), both voluntarily waive a trial by jury of any issue arising in an action or proceeding between the parties or their successors, under or connected with this contract or its provisions.

18. **Further Assurances**. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, Optionor and Optionee have executed this Agreement as of the Effective Date.

OPTIONOR:

CROSS-ELL RANCH CORPORATION,
a Texas corporation

By: _____

Name:

Title:

Optionor Acknowledgment

STATE OF TEXAS §

COUNTY OF _____ §

Before me on this day personally appeared _____, the _____ of CROSS-ELL RANCH CORPORATION, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that such person executed the same for the purposes and consideration therein expressed, on behalf of said corporation.

Given under my hand and seal of office, this _____ day of _____, 2024.

Notary Public in and for the State of Texas

(Seal)

OPTIONEE:

BIG SPRING ECONOMIC
DEVELOPMENT CORPORATION, a
Texas nonprofit corporation

By: _____

Name:

Title:

Optionee Acknowledgment

STATE OF TEXAS §

COUNTY OF HOWARD §

Before me _____, on this day personally appeared _____, the
_____ of BIG SPRING ECONOMIC DEVELOPMENT CORPORATION, a Texas
nonprofit corporation, known to me to be the person whose name is subscribed to the
foregoing instrument and acknowledged to me that such person executed the same for the
purposes and consideration therein expressed, on behalf of said corporation.

Given under my hand and seal of office, this _____ day of _____, 2024.

Notary Public in and for the State of
Texas

(Seal)

My commission expires on [DATE].]

EXHIBIT A

OPTION PARCEL DESCRIPTION

That 40.0 acre tract of land, owned by Cross Ell Ranch Corporation, square in shape, located in Howard County, Texas, within the "Property," where the term "Property" is defined in the EDA, and at the northeast corner of Frazier Road and US Highway 87, in Howard County, Texas, abutting the north side of Frazier Road, abutting the east side of US Highway 87, in Howard County, Texas, including all rights appurtenant with respect to any strips and gores abutting the tract, and any land lying in the bed of any street, road, or avenue in front of, or adjoining the tract, to the center line thereof, and as seen in the attached illustration "Frazier Project Option Parcel" as the "Option Parcel."

EXHIBIT B

MEMORANDUM OF OPTION AGREEMENT

THIS MEMORANDUM OF OPTION AGREEMENT ("**Memorandum**") dated as of the _____ day of _____, _____ (the "**Effective Date**"), by and between Cross-Ell Ranch Corporation, a Texas corporation having an address at 975 Rio Hondo Rd, Tarpley, Texas 78883-4413 ("**Optionor**"), and Big Spring Economic Development Corporation, a Texas non-profit corporation having an address at 215 West Third Street, Big Spring, Texas 79720 ("**Optionee**" or "**EDC**"). Optionor and Optionee are also sometimes referred to herein collectively as the "**Parties**" or individually as a "**Party**."

Optionor and Optionee hereby acknowledge the following:

1. **Grant.** For valuable consideration described in that certain **OPTION AGREEMENT FOR OPTION PARCEL between CROSS-ELL RANCH CORPORATION and BIG SPRING ECONOMIC DEVELOPMENT CORPORATION**, dated _____ (the "**Option Agreement**"), Optionor has granted to Optionee the exclusive and irrevocable option to purchase all that certain real property being the approximately forty (40) acre tract of land located in within the Property and within Howard County, Texas, which is at the northeast corner of Frazier Road and US Highway 87, near the City of Big Spring, Howard County, Texas, and being described on Memo Exhibit (the "**Option Parcel**") under the terms and conditions set out in said Option Agreement.

2. **Term.** The term of the Option shall commence only upon the following condition precedent: in the event one or more third-party has not purchased or entered into a contract to purchase the entire "Property," as defined in the Cross-Ell Big Spring Development Agreement, on or before October 1, 2026, provided that if the condition of the Term occurs but the EDC does not exercise the option and purchase the Option Parcel, the Term will automatically expire at 5:00 p.m. (CST) on December 31, 2027 (the "**Term**").

3. **Business Days.** Whenever an action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) which ends (or occurs) on a day other than a Business Day, then such period (or date) shall be extended until the immediately following Business Day. A "Business Day" is any day other than a Saturday, Sunday, a federal holiday, or a Texas holiday.

4. **Notices.** Notices shall be given hereunder in writing by any method provided for in the Option Agreement, including by overnight delivery, or registered or certified mail. Notices from third parties shall be sent to the Parties at the addresses set forth in the Preamble hereto.

5. **Conflicts.** This Memorandum is intended only for recording purposes to provide notice of certain terms and conditions contained in the Option Agreement and is not to be construed as a complete summary of the terms and conditions thereof. This Memorandum is subject to the Option Agreement and any amendments, modifications, alterations, renewals, and extensions of the Option Agreement. The terms and provisions of the Option Agreement are incorporated in this Memorandum by reference. If there is any conflict between this Memorandum and the Option Agreement, the provisions of the Option Agreement shall supersede and control.

6. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Optionor and Optionee have executed this Agreement as of the Effective Date.

OPTIONOR:

CROSS-ELL RANCH CORPORATION,
a Texas corporation

By: _____

Name:

Title:

Optionor Acknowledgment

STATE OF TEXAS §

COUNTY OF _____ §

Before me on this day personally appeared _____, the _____ of CROSS-ELL RANCH CORPORATION, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that such person executed the same for the purposes and consideration therein expressed, on behalf of said corporation.

Given under my hand and seal of office, this _____ day of _____, 2024.

Notary Public in and for the State of Texas

(Seal)

BIG SPRING ECONOMIC
DEVELOPMENT CORPORATION, a
Texas non-profit corporation

Title:

STATE OF TEXAS §
COUNTY OF HOWARD §

Given under my hand and seal of office, this day of , 2024.

Mark Willis
Big Spring EDC
215 West Third Street
Big Spring, Texas 79720

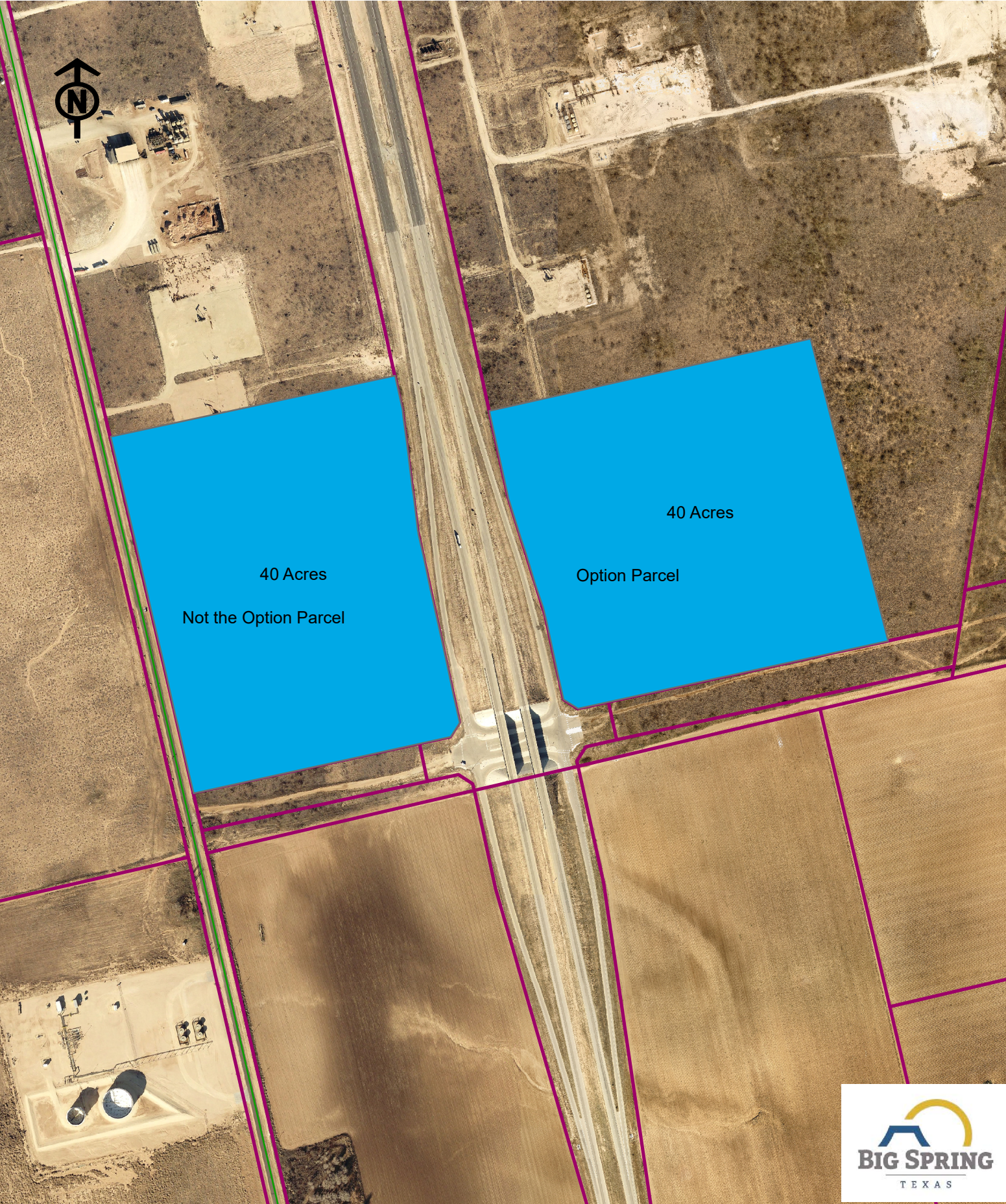
MEMO EXHIBIT

That 40.0 acre tract of land, owned by Cross Ell Ranch Corporation, square in shape, located in Howard County, Texas, within the "Property," where the term "Property" is defined in the EDA, and at the northeast corner of Frazier Road and US Highway 87, in Howard County, Texas, abutting the north side of Frazier Road, abutting the east side of US Highway 87, in Howard County, Texas, including all rights appurtenant with respect to any strips and gores abutting the tract, and any land lying in the bed of any street, road, or avenue in front of, or adjoining the tract, to the center line thereof.

EXHIBIT C

PURCHASE AND SALE AGREEMENT

See attached Purchase and Sale Agreement for Option Parcel, incorporated herein for all purposes



PURCHASE AND SALE AGREEMENT FOR OPTION PARCEL

This OPTION PARCEL PURCHASE AND SALE AGREEMENT (this "**Agreement**"), dated as of the ____ day of _____, ____ (the "**Effective Date**"), is entered into between Cross-Ell Ranch Corporation, a Texas corporation ("**Seller**"), having an address at 975 Rio Hondo Rd, Tarpley, Texas 78883-4413, and Big Spring Economic Development Corporation, a Texas non-profit corporation, ("**Purchaser**"), having an address at 215 West Third Street, Big Spring, Texas 79720.

RECITALS

WHEREAS, Seller is the owner of the Option Parcel, hereinafter defined;

WHEREAS, Seller and Purchaser are parties to that certain Option Agreement for Option Parcel dated _____, 2024 (the "Option Agreement"), by which Purchaser was granted an option to purchase the Option Parcel after October 1, 2026, and on or before December 31, 2027 (the "Option Term") and

WHEREAS, subject to the terms and conditions hereof, Seller desires to sell to Purchaser the Option Parcel and Purchaser desires to purchase the Option Parcel from Seller.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

"**380 Agreement**" means the 380 Economic Development and Performance Agreement executed by and between the City of Big Spring, Texas, and Seller, dated _____, 2024.

"**Agreement**" has the meaning set forth in the preamble.

"**Bring Down Certificate**" has the meaning set forth in Section 5.02(e).

"**Business Day**" has the meaning set forth in Section 15.04.

"**City**" means the City of Big Spring, Texas.

"**Closing**" has the meaning set forth in Section 5.01.

"**Closing Date**" has the meaning set forth in Section 5.01.

"**Code**" has the meaning set forth in Section 5.02(b).

"**Cure Period**" has the meaning set forth in Section 6.03(b)

"**Deed**" has the meaning set forth in Section 5.02(a).

"**Deposit**" has the meaning set forth in Section 3.01(a).

"**Due Diligence Period**" has the meaning set forth in Section 4.02.

"**Due Diligence Materials**" has the meaning set forth in Section 4.01.

"**EDA**" means the Economic Development Agreement executed by and between Seller, Purchaser, and the City of Big Spring, dated to be effective _____, 2024.

"**Effective Date**" has the meaning set forth in the preamble.

"**Excluded Personal Property**" has the meaning set forth in Section 2.02.

"**Improvements**" has the meaning set forth in Section 2.01(b).

"**Inspections**" has the meaning set forth in Section 4.02.

"**Land**" has the meaning set forth in Section 2.01(a).

"**Notices**" has the meaning set forth in Section 10.01.

"**OFAC**" has the meaning set forth in **Error! Reference source not found..**

"**Option Parcel**" has the meaning set forth in Section 2.01.

"**Permitted Exceptions**" has the meaning set forth in Section 6.02.

"**Pre-Existing Condition**" has the meaning set forth in Section 4.04.

"**Purchase Price**" has the meaning set forth in Section 3.01.

"**Purchaser**" has the meaning set forth in the preamble.

"**Purchaser Default**" has the meaning set forth in Section 11.01(b)

"**Purchaser's Representatives**" has the meaning set forth in Section 4.03.

"**Purchaser's Survey**" has the meaning set forth in Section 6.03(a).

"**Seller**" has the meaning set forth in the preamble.

"**Seller's Default**" has the meaning set forth in Section 11.01(a).

"**Seller's Knowledge**" means the actual and current knowledge of the President of Seller on the Effective Date, with no duty of inquiry or investigation.

"**Service Contracts**" has the meaning set forth in Section 7.01(g).

"**Title Commitment**" has the meaning set forth in Section 6.03(a).

"**Title Company**" shall mean Republic Title of Texas, Inc., located at 2626 Howell Street, 10th Floor, Dallas, Texas 75204, (214) 855-8888, Attn: Clay Arnold, carnold@republictitle.com.

"**Title Insurance Policy**" has the meaning set forth in Section 6.01(b).

"**Title Objection**" has the meaning set forth in Section 6.03(b).

"**Title Objection Deadline**" has the meaning set forth in Section 6.03(b).

"**Title Objection Notice**" has the meaning set forth in Section 6.03(b).

ARTICLE II CONVEYANCE OF THE OPTION PARCEL

Section 2.01 Subject of Conveyance. Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, all right, title, and interest of Seller in and to the following (collectively referred to herein as the "**Option Parcel**"):

(a) All that certain lot, piece, or parcel of land located at the northeast corner of US Highway 87 and Frazier Road in the County of Howard, and State of Texas, as more particularly bounded and described in Exhibit B attached hereto and hereby made a part hereof (the "**Land**");

(b) All buildings and improvements located on the Land and all Seller's right, title, and interest in and to any and all fixtures attached thereto (collectively, the "**Improvements**");

(c) All rights appurtenant with respect to any strips and gores abutting the Land, and any land lying in the bed of any street, road, or avenue in front of, or adjoining the Land, to the center line thereof; and

(d) Except as specified herein, all other rights, privileges, easements, licenses, appurtenances, and hereditaments relating to the Option Parcel;

Notwithstanding anything herein to the contrary, "**Option Parcel**" does not include any tenant fixtures or other property belonging to the tenants at the Option Parcel, or any item leased from third parties.

Seller shall retain and not convey to Purchaser all minerals and groundwater owned by Seller. The term "minerals" shall mean all oil, gas, and other minerals in or under and that may be produced from the Option Parcel, any royalty under any existing or future mineral lease covering any part of the Option Parcel, executive rights (including the right to sign a mineral lease covering any part of the Option Parcel), implied rights of ingress and egress, exploration and development rights, production and drilling rights, mineral lease payments, and all related benefits. If the Option Parcel is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it. The minerals do NOT include sand, gravel,

limestone, building stone, caliche, surface shale, near-surface lignite, and iron. Seller will waive all surface rights relating to the minerals, including the right to access, explore, drill, mine, or otherwise utilize or disturb any part of the Option Parcel in any way. Notwithstanding the foregoing, nothing herein contained shall ever be construed to prevent Seller from developing or producing oil, gas and other minerals that may be produced from the Option Parcel by pooling or by directional or horizontal drilling under the Option Parcel from well sites located or mines that open on lands other than the Option Parcel.

Section 2.02 Excluded Personal Property. Notwithstanding the foregoing, the sale of the Option Parcel contemplated by this Agreement shall not include the personal property listed in Exhibit P attached hereto and made a part hereof (the "**Excluded Personal Property**"), which Excluded Personal Property is expressly excluded from such conveyance.

Section 2.03 As Is, Where Is. PURCHASER AGREES THAT THIS CONTRACT HAS BEEN NEGOTIATED WITH THE UNDERSTANDING THAT, EXCEPT AS SPECIFIED HEREIN, THE OPTION PARCEL IS BEING SOLD "AS IS" AND "WHERE IS" AND WITH ALL FAULTS. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS NO RECOURSE AGAINST SELLER IN THE EVENT OF DISCOVERY OF ANY DEFECTS OF ANY KIND, LATENT OR PATENT. PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SPECIFICALLY SET FORTH HEREIN, SELLER HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESSED OR IMPLIED, OR ANY WARRANTIES ARISING BY OPERATION OF LAW, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF HABITABILITY, SUITABILITY, MERCHANTABILITY, DESIGN OR FITNESS FOR ANY SPECIFIC OR PARTICULAR PURPOSE, OR OF GOOD AND WORKMANLIKE CONSTRUCTION. PURCHASER ASSUMES AND AGREES TO INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS REGARDING ANY AND ALL RISKS WITH RESPECT TO THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE OPTION PARCEL, INCLUDING WITHOUT LIMITATION ANY LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT ("CERCLA"), THE RESOURCE CONSERVATION AND RECOVERY ACT ("RCRA"), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE, AND THE INCOME AND EXPENSES ATTRIBUTABLE TO SUCH RISKS. THE DEED WILL CONTAIN A PROVISION STATING THE TERMS OF THIS PARAGRAPH, ALL OF WHICH SHALL SURVIVE CLOSING.

ARTICLE III PURCHASE PRICE

Section 3.01 Purchase Price and Deposit. The purchase price to be paid by Purchaser to Seller for the Option Parcel is \$_____ (the "**Purchase Price**"). The Purchase Price shall be payable as follows:

- (a) Within ten (10) business days of the Effective Date, Purchaser will deposit earnest money in good funds in the amount of \$100,000.00 (the "**Deposit**"), along with this fully executed Agreement with the Title Company, as escrow agent, which sum will be applied according to the terms of this Agreement. The Title Company will acknowledge

receipt of the Earnest Money by signing Title Company's "Receipt for Earnest Money Deposit" at the end of this Agreement and send a copy thereof to Seller and Buyer;

(b) If the sale of the Option Parcel is consummated as contemplated by this Agreement, then the Deposit will be applied to the Purchase Price at Closing. If this contract is terminated prior to the consummation of the sale of the Option Parcel in accordance with this Agreement, then the Deposit will be applied in accordance with Section 4.02 and Article XI herein.

(c) the Cash Price (as defined in the Option Agreement) paid by Purchaser to Seller in cash at Closing, and the balance as a donation granted by Seller to Purchaser.

ARTICLE IV DUE DILIGENCE INVESTIGATION

Section 4.01 Due Diligence Materials. On or before the date that is thirty (30) days after the Effective Date (the "**Due Diligence Delivery Date**"), Seller shall, if not already made available to Purchaser, deliver, cause to be delivered, or make available, copies of the following which exist as of the date of this Agreement and are in Seller's actual possession: any environmental/hazardous material reports, soils reports, governmental permits/approvals, tax information, utility letters, the Leases and all amendments, other similar materials relating to the physical and environmental condition of the Option Parcel, and any other documents relating to the Option Parcel reasonably requested by Purchaser (collectively, the "**Due Diligence Materials**"). The Due Diligence Delivery Date shall be extended by one day for each day the Seller delays in making the Due Diligence Materials available to Purchaser. Seller agrees to provide the Due Diligence Materials as an accommodation to Purchaser. Seller makes no representation or warranty whatsoever as to the completeness or accuracy of the Due Diligence Materials, and furthermore, Seller does not assign to Purchaser any warranty, guarantee, or any other right or remedy by contract, at law, or in equity, which Seller may have with respect to any third party involved in the creation or preparation of the Due Diligence Materials. Purchaser will rely exclusively upon the results of Inspections (defined below) obtained by Purchaser in Purchaser's sole discretion.

Section 4.02 Due Diligence Period. Purchaser shall have a period, commencing on the Effective Date through the date which is sixty (60) days after the Due Diligence Delivery Date (the "**Due Diligence Period**"), to conduct or cause to be conducted any and all tests, studies, surveys, inspections, reviews, assessments, or evaluations of the Option Parcel, including without limitation engineering, topographic, soils, zoning, wetlands, and environmental inspections (including Phase I and/or Phase II environmental site assessments to be performed by an environmental consultant selected by Purchaser) (the "**Inspections**"), as Purchaser deems necessary, desirable, or appropriate in its sole and absolute discretion, and analysis of the Due Diligence Materials. Purchaser shall provide Seller with copies of all Inspections promptly upon Purchaser's receipt of the same. Purchaser shall have the unconditional right, for any reason or no reason whatsoever, to terminate this Agreement upon written notice to Seller delivered at any time prior to 5:00 p.m. Central Time on the last day of the Due Diligence Period and receive a refund of the Deposit. If Purchaser does not timely notify Seller of its election to terminate this Agreement prior to 5:00 p.m. Central Time on the last day of the Due Diligence Period, Purchaser shall be deemed to have elected to proceed to Closing, subject to the terms and conditions of this

Agreement/terminate this Agreement, and the Deposit will become nonrefundable, but applicable to the Purchase Price at Closing. If Purchaser elects to terminate this Agreement as provided in this Section 4.02, this Agreement shall terminate, the Deposit will be refunded to Purchaser, and the parties shall have no further liability hereunder (except with respect to those obligations hereunder which expressly survive the termination of this Agreement). If the conveyance contemplated by this Contract fails to close for any reason, Purchaser shall restore the Option Parcel to near its original condition as reasonably possible; this obligation shall survive closing. Notwithstanding anything to the contrary contained in this Agreement, amendments to this Agreement to extend the Due Diligence Period may be agreed upon in writing or by email by each party or each party's respective attorney and notices to terminate this Agreement prior to the expiration of the Due Diligence Period may be given, by Purchaser as provided in this Agreement or by Purchaser or Purchaser's attorney by fax or by email to Seller and/or Seller's attorney.

Section 4.03 Purchaser's Access. Commencing on the Effective Date and continuing until the earlier to occur of the termination of this Agreement or the Closing, Purchaser and engineers, architects, employees, agents and representatives (collectively, "**Purchaser's Representatives**") shall have the right to enter upon the Option Parcel for the purpose of making inspections and studies, and conducting such tests as it deems advisable, including but not limited to geotechnical studies, seismic studies, soil tests, environmental and ecological studies, wetlands assessment and feasibility studies to develop plans and budgets for development of the Option Parcel (collectively, the "Inspections"). Prior to entering upon the Option Parcel to conduct any inspection or investigation pursuant to this Agreement, Purchaser shall obtain commercial general liability insurance policy in an amount of at least \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate, and said policy shall include (A) coverage for bodily injury and death, property damage and products liability coverage; (B) contractual liability coverage insuring the obligations of Purchaser under this Agreement; and (C) fire and legal liability coverage with respect to the Option Parcel in an amount of at least \$250,000.00. Purchaser will cause the insurance policies to name Seller as an additional insured. The insurance shall be written by a company or companies acceptable to Seller, authorized to engage in the business of general liability insurance in the State of Texas. Prior to exercising the right of access provided under this Section, Purchaser shall deliver to Seller a certificate of insurance.

Section 4.04 Indemnity. Purchaser shall protect, defend, indemnify and hold harmless Seller from any and all claims, liabilities, damages and expenses, including reasonable attorneys' fees, from any actual damage to persons or property or any violation of law arising from or directly related to Purchaser's and Purchaser's Representatives' entry upon the Option Parcel to conduct any tests pursuant to Section 4.03 prior to Closing; provided, however, that Purchaser's indemnity hereunder shall not include any claims resulting from (A) the gross negligence or willful misconduct of Seller or any party acting on behalf of Seller or (B) the discovery of any condition of the Option Parcel that existed prior to Purchaser's entry thereon (a "**Pre-Existing Condition**"), except to the extent, and only to the extent, such Pre-Existing Condition is directly and materially worsened by Purchaser's actions on the Option Parcel, or alternatively, to the extent such Pre-Existing Conditions were caused or materially worsened by a contractor, agent, or invitee of Seller engaged by Seller to conduct studies, surveys, inspections, or tests for Purchaser's benefit and on Purchaser's request. In the event Purchaser does not purchase the Option Parcel, Purchaser shall restore the Option Parcel to substantially the condition in which it existed prior to such entry or testing. This covenant shall survive termination of this Agreement.

ARTICLE V CLOSING

Section 5.01 Closing Date. The closing of the transaction contemplated by this Agreement (the "**Closing**") shall occur within fifteen (15) days after the expiration of the Due Diligence Period (the "**Closing Date**") through an escrow closing with the Title Company in accordance with the terms and conditions of this Agreement. The Seller shall deliver Seller's Closing Deliverables (as defined in Section 5.02 below) and Purchaser shall deliver Purchaser's Closing Deliverables (as defined in Section 5.03 below) to the Title Company on the Business Day prior to the Closing Date pursuant to Seller's and Purchaser's respective closing instructions to the Title Company, which must be consistent with the terms of this Agreement. Seller agrees to deliver possession of the Option Parcel to Purchaser on the Closing Date subject to the rights of existing tenants.

Section 5.02 Seller's Closing Deliverables. At Closing, Seller shall deliver or cause to be delivered to the Title Company, the following executed, certified, and acknowledged by Seller, as appropriate:

- (a) One (1) original special warranty deed (the "**Deed**") in a form approved by Purchaser, duly executed with the appropriate acknowledgment form and otherwise in proper form for recording so as to convey title to the Option Parcel to Purchaser as required by this Agreement.
- (b) A certification that Seller is not a "foreign person" as such term is defined in Section 1445 of the Internal Revenue Code, as amended and the regulations thereunder (collectively, the "**Code**"), which certification shall be signed under penalty of perjury.
- (c) An original seller's affidavit in a form reasonably acceptable to the Title Company.
- (d) A resolution of the board of directors or shareholders of Seller authorizing the transaction contemplated hereby and the execution and delivery of the documents required to be executed and delivered hereunder.
- (e) A written certificate stating that all representations and warranties contained in Section 7.01 remain, as of the Closing Date, true, correct, and complete in all material respects as when first made hereunder (the "**Bring Down Certificate**").
- (f) A Seller's closing statement prepared by the Title Company reflecting the appropriate credits, prorations, adjustments, and disbursements for the consummation of the transaction contemplated by this Agreement, including the payment of the balance of the Purchase Price due Seller.
- (g) Originals or, if originals are not in the possession or control of the Seller, copies of Plans and Surveys, to the extent same are in Seller's possession or under Seller's control.

(h) All other documents reasonably necessary or otherwise required by Title Company to consummate the transaction contemplated by this Agreement.

Section 5.03 Purchaser's Closing Deliverables. On the Closing Date, Purchaser shall deliver or cause to be delivered to the Title Company, the following, executed, certified, and acknowledged by Purchaser, as appropriate:

(a) The balance of the Purchase Price to be paid in Cash as set forth in Section 3.01(b).

(b) A Purchaser's closing statement prepared by the Title Company reflecting the appropriate credits, prorations, adjustments, and disbursements for the consummation of the transaction contemplated by this Agreement.

(c) Purchaser shall, where applicable, join with Seller in the execution and delivery of the closing documents and instruments required under Section 5.03 of this Agreement.

(d) A resolution of the board of directors of Purchaser and a resolution of the City Council of Big Spring authorizing the transaction contemplated hereby and the execution and delivery of the documents required to be executed and delivered hereunder.

(e) All other documents reasonably necessary or otherwise required by the Title Company to consummate the transactions contemplated by this Agreement.

Section 5.04 Closing Costs.

(a) Seller and Purchaser shall each pay the fees and expenses of its own counsel in connection with the preparation and negotiation of this Agreement. The deed and other agreements and instruments related to the transaction contemplated by this Agreement and such legal costs shall not be part of the closing costs; provided, however, that if any legal action is instituted under this Agreement, the prevailing party in such action shall be entitled to recover from the other party costs related to such legal action, including reasonable attorneys' fees and costs in all trial, appellate, post-judgment, and bankruptcy proceedings.

(b) Seller shall pay:

(i) The cost of the Owner's Title Insurance, which includes the cost of the commitment; however, Seller shall not be required to pay for any of the other endorsements to the Title Insurance Policy;

(ii) All recording fees for the release of any liens on the Option Parcel, as required pursuant to the terms of this Agreement; and

(iii) Any and all costs incurred by Seller in connection with the preparation, review, and negotiation of this Agreement and the transactions and the

Closing contemplated by this Agreement, including any attorneys' or consultancy fees.

(c) Purchaser shall pay:

(i) The costs charged by Purchaser's Title Company, including, without limitation, costs related to Purchaser's lender's title insurance policy and Purchaser's title policy endorsements;

(ii) The costs related to Purchaser's Survey and any other survey or survey update;

(iii) Any other fees or costs related to Purchaser's due diligence reviews; and

(iv) All costs related to the recording fees payable in connection with the recording of the deed and Purchaser's lender's security instruments, if any.

ARTICLE VI TITLE MATTERS AND REVIEW

Section 6.01 Acceptable Title. Seller shall convey, and Purchaser shall accept, such title to the Option Parcel that the Title Company would be willing to insure, in accordance with the terms and conditions of this Agreement, and subject only to:

(a) The Permitted Exceptions; and

(b) Such other matters as the Title Company shall be willing to omit as exceptions to coverage, without additional endorsement premiums paid by Seller (which such endorsement premiums may be paid by Purchaser), or to except with insurance against collection out of or enforcement against the Option Parcel. As a condition to Purchaser's obligation to close, the Title Company shall issue to Purchaser, and Purchaser shall accept, without payment of an extraordinary premium, a Form T-1 owner's policy of title insurance with extended coverage in an amount not less than the Purchase Price, insuring that the entire fee simple title to the Option Parcel is vested in Purchaser, subject only to the Permitted Exceptions (the "**Title Insurance Policy**"), and underwritten by First American Title Insurance Company.

Section 6.02 Permitted Exceptions. The term "**Permitted Exceptions**" as used herein shall mean and refer to:

(a) Any and all zoning, building, environmental, and other laws, statutes, ordinances, codes, rules, regulations, requirements, or executive mandates of all governmental authorities having jurisdiction with respect to the Option Parcel, including, without limitation, landmark designations and all zoning variances and special exceptions, if any, in effect as of the Closing Date, and any and all future zoning, building, environmental, and other laws, statutes, ordinances, codes, rules, regulations,

requirements, or executive mandates of all governmental authorities having jurisdiction with respect to the Option Parcel, including, without limitation, landmark designations and all zoning variances and special exceptions.

(b) Possible encroachments and/or projections of stoop areas, roof cornices, window trims, vent pipes, cellar doors, steps, columns and column bases, flue pipes, signs, piers, lintels, window sills, fire escapes, satellite dishes, protective netting; sidewalk sheds, ledges, fences, coping walls (including retaining walls and yard walls), air-conditioners, and the like, if any, on, under, or above any street or highway, the Option Parcel, or any adjoining property.

(c) Any state of facts that an accurate survey of the Option Parcel would disclose or has disclosed.

(d) All presently existing and future liens for unpaid real estate taxes, assessments, and water and sewer charges that are not due and payable as of the Closing Date, subject to any apportionments as provided for in this Agreement.

(e) All covenants, restrictions and rights, and all easements and agreements for the erection and/or maintenance of water, gas, steam, electric, telephone, sewer, or other utility pipelines, poles, wires, conduits, or other like facilities, and appurtenances thereto, over, across, and under the Option Parcel; provided, however, that the same are not violated by the Improvements and do not impose any monetary obligation on the owner of the Option Parcel.

(f) Variations between tax lot lines and lines of record title.

(g) Any lien or encumbrance (including, without limitation, any mechanic's lien and materialmen's lien) the removal of which is the obligation of a tenant.

(h) Any lien or encumbrance arising out of the acts or omissions of Purchaser.

(i) Consents by Seller or any former owner for the erection and maintenance of any structures on, under, or above any streets or roads on which the Option Parcel may abut, provided same do not negatively affect the insurability of title.

(j) Any financing statements filed on a date more than five (5) years prior to the Closing Date and not renewed, and any financing statements, chattel mortgages, encumbrances, or mechanics' or other liens filed against the property or equipment which is not part of the Option Parcel or is owned by tenants.

(k) Any exceptions disclosed on Schedule B of the Title Commitment which are the responsibility of any tenant under the Leases to cure, correct, and remove of record.

(l) The standard conditions and exceptions to title contained in the form of title policy or updated Title Commitment issued to Purchaser by the Title Company.

(m) Any other matter that is deemed a Permitted Exception under this Agreement.

Section 6.03 Title.

(a) Purchaser shall promptly order, at its sole cost and expense: (i) a title commitment from the Title Company for the issuance of a Title Insurance Policy, together with true, legible (to the extent available), and complete copies of any tax search, departmental or municipal searches, and all instruments giving rise to any defects or exceptions to title to the Option Parcel (collectively, the "**Title Commitment**"), which Title Commitment shall be delivered to counsel for both Purchaser and Seller concurrently; and (ii) a new survey of the Option Parcel, prepared by a surveyor licensed in the State of Texas ("**Purchaser's Survey**"). Purchaser's Survey shall be addressed to Purchaser, Seller, the Title Company, and any Lender selected by Purchaser, and shall be delivered to counsel for both Purchaser and Seller concurrently.

(b) Purchaser or Purchaser's attorney shall deliver to Seller, and Seller's attorney, in writing a notice (the "**Title Objection Notice**"), which specifies any objections to the exceptions to title set forth in the Title Commitment or Purchaser's Survey, other than the Permitted Exceptions (each a "Title Objection," and collectively, hereinafter the "**Title Objections**"), within fifteen (15) business days after Purchaser's receipt of the Title Commitment and Survey (or any subsequent update thereof) (the "**Title Objection Deadline**"). Purchaser will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Purchaser has made no Title Objection by the Title Objection Deadline. The matters that Purchaser either approves or is deemed to have approved are "Permitted Exceptions." If Purchaser notifies Seller of any Title Objections, Seller shall have thirty (30) days to cure the Title Objections (the "**Cure Period**"). Seller shall not be required to incur any expense or institute suit to cure the Title Objections. If Seller does not cure all the Title Objections before the end of the Cure Period, Purchaser may notify Seller within fifteen (15) business days after the end of the Cure Period that either (i) this Contract is terminated or (ii) Purchaser waives the Title Objections, which will then be deemed Permitted Exceptions, and Purchaser will proceed to close. If Purchaser does not timely notify Seller of Purchaser's election to terminate this contract or to waive the Title Objections, Purchaser will be deemed to have waived the Title Objections, which will then be deemed Permitted Exceptions, and Purchaser will proceed to close.

ARTICLE VII REPRESENTATIONS AND WARRANTIES

Section 7.01 Seller's Representations and Warranties. To the best of Seller's Knowledge, Seller represents and warrants to Purchaser on and as of the date of this Agreement and on and as of the Closing Date, as follows:

(a) Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas, is qualified to conduct business in the State of Texas

and has the requisite power and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby.

(b) The execution, delivery, and performance of this Agreement by Seller and all agreements, instruments, and documents herein provided to be executed by Seller on the Closing Date: (i) do not violate the articles of incorporation of Seller, or any contract, agreement, commitment, lease, order, judgment, or decree to which Seller is a party; and (ii) have been duly authorized by the resolution of the directors of Seller and the appropriate and necessary action has been taken by such directors on the part of Seller. The individual executing this Agreement and the instruments referenced herein on behalf of Seller have the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof. This Agreement is valid and binding upon Seller, subject to bankruptcy, reorganization, and other similar laws affecting the enforcement of creditors' rights generally.

(c) Neither the execution, delivery, or performance of this Agreement, nor the consummation of the transactions contemplated hereby is prohibited by, or requires Seller to obtain any consent, authorization, approval, or registration under any law, statute, rule, regulation, judgment, order, writ, injunction, or decree which is binding upon Seller which has not been previously obtained.

(d) Seller is not a "foreign person" within the meaning of Section 1445 of the Code.

(e) A list of all Leases affecting the Option Parcel on the date of this Agreement is attached to this Agreement as Exhibit L, true, correct, and complete copies of which have been delivered to Purchaser.

(f) To the best of Seller's Knowledge, there is no litigation, arbitration, or other legal or administrative suit, action, proceeding, or investigation pending or threatened against or involving Seller or the ownership or operation of the Option Parcel, including, but not limited to, any condemnation action relating to the Option Parcel.

(g) Seller has not entered into any service, maintenance, supply, leasing, brokerage, listing, and/or other contracts relating to the Option Parcel (along with all amendments and modifications thereof, the "**Service Contracts**") which shall be binding upon Purchaser after the Closing, other than the Leases Each of the Service Contracts can and, at Purchaser's option, shall be terminated by Seller on or before the Closing Date. Seller has performed all its obligations under each of the Service Contracts and no fact or circumstance has occurred which, by itself or with the passage of time or the giving of notice or both, would constitute a default by any party under any of the Service Contracts. Seller has delivered to Purchaser true, correct, and complete copies of all Service Contracts.

(h) Except as otherwise disclosed in writing by Seller to Purchaser, Seller has not received notice and, to the best of Seller's Knowledge, is not aware of any material violation of any law or municipal ordinance, order, or requirement noted or issued against

the Option Parcel by any governmental authority having jurisdiction over the Option Parcel, that has not been cured, corrected, or waived as of the Effective Date.

(i) Seller has delivered or made available or shall deliver or make available to Purchaser complete copies of all the Due Diligence Materials to the extent in Seller's possession or under Seller's control with regard to the Option Parcel, and to the best of Seller's Knowledge, there are no other documents or information included within the definition of Due Diligence Materials that have not been provided to the Purchaser. To the best of Seller's Knowledge, none of such Due Diligence Materials contains any untrue statement of a material fact or omit to state a fact necessary to make the statement of fact contained therein not misleading in any material respects.

(j) At Closing, Seller warrants that, to the best of Seller's Knowledge, no material adverse event which would render incorrect any of the foregoing representations and warranties has occurred since the effective date of this Agreement.

Section 7.02 Purchaser's Representations and Warranties. Purchaser represents and warrants that:

(a) Purchaser is a nonprofit corporation duly organized, validly existing, and in good standing under the laws of the State of Texas, is qualified to conduct business in the State of Texas, and has the requisite power and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby.

(b) The execution, delivery, and performance of this Agreement by Purchaser and all agreements, instruments, and documents herein provided to be executed by Purchaser on the Closing Date: (i) do not violate the bylaws of Purchaser, or any contract, agreement, commitment, lease, order, judgment, or decree to which Purchaser is a party; and (ii) have been duly authorized by the consent of the directors of Purchaser and the appropriate and necessary action has been taken by such directors on the part of Purchaser. The individual executing this Agreement and the instruments referenced herein on behalf of Purchaser have the legal power, right, and actual authority to bind Purchaser to the terms and conditions hereof and thereof. This Agreement is valid and binding upon Purchaser, subject to bankruptcy, reorganization, and other similar laws affecting the enforcement of creditors' rights generally.

(c) Neither the execution, delivery, or performance of this Agreement, nor the consummation of the transactions contemplated hereby is prohibited by, or requires Purchaser to obtain any consent, authorization, approval, or registration under any law, statute, rule, regulation, judgment, order, writ, injunction, or decree which is binding upon Purchaser which has not been previously obtained.

(d) Purchaser is not a person or entity with whom United States persons or entities are restricted or prohibited from doing business under OFAC regulations (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order

Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not engaged in and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities.

(e) To the best of Purchaser's knowledge, there are no judgments, orders, or decrees of any kind against Purchaser unpaid or unsatisfied of record, nor any actions, suits, or other legal or administrative proceedings pending or, to the best of Purchaser's actual knowledge, threatened against Purchaser, which would have any material adverse effect on the business or assets or the condition, financial or otherwise, of Purchaser or the ability of Purchaser to consummate the transactions contemplated by this Agreement.

(f) The representations and warranties set forth in this Section 7.02 shall be continuing and shall be true and correct in all material respects as of the Closing Date with the same force and effect as if made at that time. The representations and warranties set forth in this Section 7.02 shall survive the Closing and will not be affected by any investigation, verification, or approval by any party or anyone on behalf of any party to this Agreement.

Section 7.03 Bring Down Certificate. Seller shall deliver a bring down certificate reaffirming the accuracy and truthfulness of each of Seller's representations and warranties in Section 7.01 (or, if any has ceased to be true, so indicating), and providing that such representations and warranties shall survive the Closing and the delivery of the deed at Closing in accordance with the terms and conditions of this Agreement.

ARTICLE VIII SELLER'S COVENANTS

Section 8.01 Leases. During the period from the Effective Date until the Closing Date, Seller shall not:

(a) Enter into any new Lease, submit or consider any proposal for a new Lease, or terminate, amend, or modify any Lease without Purchaser's prior written consent (except any Leases which are extended pursuant to the exercise by the Tenant of an option in such Lease and such option is exercised between the date hereof and the Closing Date).

(b) Enter into any new agreements with any brokers in connection with any prospective tenants for new leases from the date of this Agreement through the Closing Date, or earlier termination of this Agreement, without Purchaser's written consent and Purchaser shall assume at the Closing all obligations under such agreements. There shall be no apportionment between Seller and Purchaser of any commission payments arising under such agreements and originating from prospective tenants who after the Closing Date become tenants of the Option Parcel.

Section 8.02 Maintenance and Repairs. During the period from the Effective Date until the Closing Date, Seller shall cause the Option Parcel, and the Improvements, to be maintained in substantially the same manner as prior to the date of this Agreement pursuant to Seller's normal

course of business. Seller shall not cause or make any new improvements, alterations, or demolition to the Option Parcel.

Section 8.03 Service Contracts. Following the Effective Date, Seller shall not enter into any new Service Contract which is not terminable on thirty (30) days' prior notice without Purchaser's prior written consent, which may be withheld in Purchaser's sole discretion. On or before the Closing, Seller shall, at its sole cost and expense, terminate all Service Contracts.

ARTICLE IX RISK OF LOSS

Section 9.01 Risk of Loss. If prior to the Closing Date any portion of the Option Parcel shall be taken by condemnation or eminent domain or damaged or destroyed by fire or other casualty, Purchaser shall have the right to cancel this Agreement.

ARTICLE X NOTICES

Section 10.01 Delivery of Notices. Unless specifically stated otherwise in this Agreement, all notices, demands, consents, approvals, waivers, or other communications (for purposes of this Section 10.01 collectively referred to as "**Notices**") shall be in writing and delivered to Purchaser or Seller, at the addresses set forth in Section 10.02, by one of the following methods:

- (a) Personal delivery, whereby delivery is deemed to have occurred at the time of delivery;
- (b) Overnight delivery by a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the Business Day following deposit with the courier;
- (c) Registered or certified mail, postage-prepaid, return receipt requested, whereby delivery is deemed to have occurred on the third Business Day following deposit with the United States Postal Service; or
- (d) Electronic transmission (facsimile or email) provided that the transmission is completed no later than 5:00 p.m. Central Time on a Business Day and the original also is sent by personal delivery, overnight delivery or by mail in the manner previously described, whereby delivery is deemed to have occurred at the end of the Business Day on which electronic transmission is completed.

Section 10.02 Parties Addresses.

- (a) Unless changed in accordance with Section 10.02(b) of this Agreement, the addresses for all communications and notices shall be as follows:

If to Seller:

Name: Cross Ell Ranch Corporation
Address: 975 Rio Hondo Road, Tarpley, TX 78883
Attention: Roger M. Frazier
Email: crossellranchcorp@gmail.com

With a copy to:

Name: Baird, Crews, Schiller & Whitaker, P.C.
Address: 15 North Main Street, Temple, TX 76501
Attention: Sam Fulcher
Email: samfulcher@bcswlaw.com

If to Purchaser:

Name: Big Spring Economic Development Corporation
Address: 215 West Third Street, Big Spring, Texas 79720
Attention: Mark Willis

With a copy to:

Name: Brown & Hofmeister, L.L.P.
Address: 740 East Campbell Road, Suite 800,
Richardson, Texas 75081
Attention: Jeffrey L. Moore, Partner
Email: jmoore@bhlaw.net
Facsimile:

(b) Any party may, by notice given in accordance with this Article X, designate a different address or person for receipt of all communications or notices.

(c) Any notice under this Agreement may be given by the attorneys of the respective parties who are hereby authorized to do so on their behalf.

ARTICLE XI REMEDIES

Section 11.01 Remedies.

(a) *Seller's Default; Remedies.* If Seller shall default in the performance of any of Seller's obligations to be performed under this Agreement and the Closing does not occur as a result thereof (a "**Seller's Default**"), Purchaser's sole and exclusive remedy shall be to either: (i) terminate this Agreement by delivery of written notice to Seller whereupon this Agreement shall terminate, the Deposit shall be refunded to Purchaser, and neither party shall have any further rights or obligations with respect to each other or this Agreement, except those that are expressly provided in this Agreement to survive the termination hereof; or (ii) continue this Agreement and seek specific performance of Seller's obligations hereunder, provided that any such action for specific performance must be commenced within sixty (60) days after such default, and if Purchaser prevails thereunder, Seller shall reimburse Purchaser for all reasonable legal fees, court costs, and all other reasonable costs of such action.

(b) *Purchaser's Default; Remedies.* If Purchaser fails to perform any of its obligations under this Contract (a "**Purchaser Default**"), Seller may terminate this Contract by giving notice to Purchaser on or before Closing and have the Deposit released to Seller; provided, however, Seller shall not exercise its remedies hereunder (except in the event that Buyer fails to timely perform its Closing obligations) unless and until 15 days have expired after Seller delivered notice of such default to Buyer and Buyer fails to cure such default. Notwithstanding the foregoing, the above-referenced notice requirement and cure period shall not function to extend the Due Diligence Period or Closing Date.

(c) *Termination of EDA or 380 Agreement Due to Default of City or Purchaser.* In the event the EDA or the 380 Agreement is terminated due to a default of the City or Purchaser, and such default remains uncured after any applicable notice and cure periods, Seller may elect, in its sole discretion, to terminate this Agreement by providing written notice to Purchaser and Title Company. Such termination shall be effective without need of any additional writing, and Title Company will release the Deposit to Seller without need of any additional writing. In such event, Seller may execute an instrument without the joinder of the City or Purchaser declaring that this Agreement and the Option Agreement have been terminated and record the instrument in the real property records of Howard County, Texas.

(d) Upon the release of the Deposit, and any interest accrued thereon, to either Purchaser or Seller, as the case may be, and reimbursement of Purchaser's Costs (if applicable), this Agreement shall be deemed null and void and no party hereto shall have any obligations to, or rights against, the other hereunder, except as expressly provided herein.

(e) If either party retains an attorney to enforce this Contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

**ARTICLE XII
RESERVED**

**ARTICLE XIII
RESERVED**

**ARTICLE XIV
BROKERS**

Section 14.01 Brokers. Purchaser and Seller each represent and warrant to each other that they dealt with no broker in connection with, nor has any broker had any part in bringing about, this transaction.

**ARTICLE XV
MISCELLANEOUS**

Section 15.01 Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Texas, as to both interpretations and performance. Venue for any dispute between Seller and Purchaser shall exclusively reside in the state district courts located in Howard County, Texas. The undersigned hereby consent to the personal jurisdiction of said courts and waive any and all objections to venue, including inconvenient forum.

Commented [SA1]: Added venue.

Section 15.02 Merger; No Representations. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. This Agreement is entered into after full investigation, no party is relying upon any statement or representation, not set forth in this Agreement, made by any other party.

Section 15.03 No Survival. Except as otherwise provided in this Agreement, no representations, warranties, covenants, or other obligations of Seller or Purchaser set forth in this Agreement shall survive the Closing and no action based thereon shall be commenced after the Closing.

Section 15.04 Business Days. Whenever any action must be taken (including the giving of notices) under this Agreement during a certain time period (or by a particular date) that ends or occurs on a non-Business Day, then such period (or date) shall be extended until the next succeeding Business Day. As used herein, the term "**Business Day**" shall mean any day other than a Saturday, a Sunday, or a legal holiday on which national banks are not open for general business in the State of Texas.

Section 15.05 Modifications and Amendments. This Agreement cannot under any circumstance be modified or amended orally and no agreement shall be effective to waive, change, modify, terminate, or discharge this Agreement, in whole or in part, unless such agreement is in writing and is signed by both Seller and Purchaser.

Section 15.06 Successors and Assigns; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns. Purchaser shall have the right to assign, transfer, or convey its rights and obligations under this Agreement or in the Option Parcel without the prior written consent of Seller, provided that any assignee shall assume all Purchaser's obligations hereunder and succeed to all Purchaser's rights and remedies hereunder and written notice to Seller of the assignment and assumption must be delivered to Seller prior to the Closing. If an assignee assumes all Purchaser's obligations under this Agreement in writing, then upon the effective date of the assignment of this Agreement to such assignee, Purchaser shall be released from all obligations under this Agreement.

Section 15.07 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect, invalidate, or render unenforceable any other term or provision of this Agreement. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement be consummated as originally contemplated to the greatest extent possible.

Section 15.08 Further Assurances. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby, provided such documents are customarily delivered in real estate transactions in the State of Texas and do not impose any material obligations upon any party hereunder except as set forth in this Agreement.

Section 15.09 Counterparts. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument.

Section 15.10 Headings. The captions or paragraph titles contained in this Agreement are for convenience and reference only and shall not be deemed a part of the text of this Agreement.

Section 15.11 No Waivers. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party providing the waiver. No waiver by either party of any failure or refusal to comply with any obligations under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

Section 15.12 No Offer. This Agreement shall not be deemed an offer or binding upon Seller or Purchaser until this Agreement is fully executed and delivered by Seller and Purchaser.

Section 15.13 Waiver of Jury Trial. SELLER AND PURCHASER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY SUCH PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

Section 15.14 Time of the Essence. The parties hereto acknowledge and agree that, except as otherwise expressly provided in this Agreement, TIME IS OF THE ESSENCE for the performance of all actions (including, without limitation, the giving of Notices, the delivery of documents, and the funding of money) required or permitted to be taken under this Agreement. Whenever action must be taken (including, without limitation, the giving of Notice, the delivery of documents, or the funding of money) under this Agreement, prior to the expiration of, by no later than, or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m. Central Time on such date. However, notwithstanding anything to the contrary herein, whenever action must be taken (including, without limitation, the giving of Notice, the delivery of documents, or the funding of money) under this Agreement prior to the expiration of, by no later than, or on a particular date that is not a Business Day, then such date shall be extended until the immediately following Business Day.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

PURCHASER:

Big Spring Economic Development
Corporation, a Texas non-profit corporation

By _____
Name:
Title:

SELLER:

Cross-Ell Ranch Corporation, a Texas
corporation

By _____
Name:
Title:

SCHEDULES AND EXHIBITS

EXHIBITS

<u>Exhibit B</u>	Option Parcel
<u>Exhibit H</u>	Hazardous Substances
<u>Exhibit L</u>	Leases
<u>Exhibit P</u>	Excluded Personal Property

Exhibit B

That 40.0 acre tract of land, owned by Cross Ell Ranch Corporation, square in shape, located in Howard County, Texas, within the "Property," where the term "Property" is defined in the EDA, and at the northeast corner of Frazier Road and US Highway 87, in Howard County, Texas, abutting the north side of Frazier Road, abutting the east side of US Highway 87, in Howard County, Texas, including all rights appurtenant with respect to any strips and gores abutting the tract, and any land lying in the bed of any street, road, or avenue in front of, or adjoining the tract, to the center line thereof, and as seen in the attached illustration "Frazier Project Option Parcel" as the "Option Parcel."

Exhibit L
Leases

None.

Exhibit P
Personal Property

None.



Staff Report

To: The Honorable Mayor and City Council

From: The City Manager

Date: November 12, 2024

Subject: Adjourn

RECOMMENDATION:

BACKGROUND:

FISCAL IMPACT:

ATTACHMENTS:

None

REPORT PREPARED BY:

Name1, Title

E-mail address

Phone #

APPROVED BY:

Department Head (optional)

Todd Darden, City Manager