



CITY COUNCIL REGULAR AGENDA

Tuesday, March 25, 2025

Notice is hereby given that the City Council of the City of Big Spring, Texas will meet in Regular Session on Tuesday, March 25, 2025, 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 Hearings and Presentation | | Moore |
| 6. Presentation Regarding Vector Fleet Management Annual Review | | Medina |
| 7. PUBLIC HEARING - Consideration and Possible Action Concerning Abatement of Public Nuisance, at 711 ANNA, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: LOT 6 BK 12 SETTLES HEIGHTS BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: MARIA DE LA CRUZ | 5-50 | Hagen |
| 8. PUBLIC HEARING - Consideration and Possible Action Concerning Abatement of Public Nuisance, at 700 E 15TH, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: LOT 1 BLOCK 19 COLE & STRAYHORN BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: DAVID ORTIZ GONZALES JR | 51-124 | Hagen |
| 9. Close Public Hearings and Presentation | | Moore |

City Manager's Report

- | | | |
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| 10. City Manager's report on the following items: | | Darden |
| <ul style="list-style-type: none">• Update - Large Item Pickup, District 3• City Picnic - March 28th | | |

Consent Items

- | | | |
|---|---------|----------|
| 11. Approval of the City Council Minutes of the Regular Meeting of March 11, 2025 | 125-130 | Davis |
| 12. Final Reading of an Ordinance Amending Chapter 36 of the Big Spring City Code Entitled "Nuisances," Article Iv "Abandoned, Inoperative or Junked Motor Vehicles"; to Include Junked Travel/Camper Trailers and Make Additional Amendments; Providing for the Repeal of Conflicting Legislation; Providing for Severability; Finding and Determining that the Meetings at which the Ordinance was Discussed were Open to the Public as Required by Law; and Providing an Effective Date. | 131-145 | Bowles |
| 13. Final Reading of a Resolution to Authorize the | 146- | Williams |

Implementation of a Pilot Program for Lateral Recruitment and Hiring of Police Officers; 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	153	
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Vouchers

14. Vouchers for 03/14/25	\$ 479,386.18		
Vouchers for 03/21/25	\$ 500,241.75		Hughes

Bids

15. Consideration and Possible Action on Awarding a Bid for an Equipment Barn at the Roy Anderson Sports Complex and Authorizing the City Manager or His Designee to Execute any Necessary Documents	154- 155		Medina
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New Business

16. First Reading of a Resolution to Accept a Grant Offered by the Texas Department of Transportation (TxDOT) for the Funding of the Design, Bid Phase and Reconstruction of Runway 06/24 at the McMahon-Wrinkle Airport and Industrial Park; and Providing an Effective Date	156- 158		Feeley
17. First Reading of an Ordinance 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 Appropriating \$145,000 for the Airpark's Cost Share of a \$2,900,000 Grant for the Design, Bid Phase and Reconstruction of Runway 06/24, From the Texas Department of Transportation on a 95/5 Cost Share; Providing for Severability; and Providing an Effective Date	159- 160		Smith
18. First Reading of an Ordinance Amending Chapter 2 of the Big Spring City Code Entitled "Administration," Article VII "Boards and Commissions," Providing for the Repeal of Conflicting Legislation; Providing for Severability; Finding and Determining that the Meetings at Which the Ordinance was Discussed were Open to the Public as Required by Law; and Providing an Effective Date	161- 167		Bowles
19. Consideration and Possible Action to Approve a Lease	168-		Feeley

Agreement with Fortitude Mining, LLC and a Termination of 212
Lease and Release with Foundry Digital LLC both at Building
1B at 1600 First Avenue, Big Spring McMahon-Wrinkle
Airport and Industrial Park, Big Spring, Texas and Authorizing
the City Manager or His Designee to Execute any Necessary
Documents

Council Input

- | | |
|-------------|-------|
| 20. Input | Moore |
| 21. 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, March 21, 2025 at 4:30 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.

711 Anna

Code Enforcement Officer: Ashley Guerrero

Exhibit A-1

STATE OF TEXAS

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COUNTY OF HOWARD

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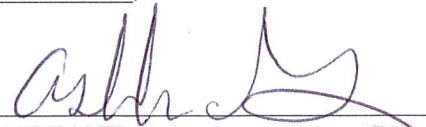
**AFFIDAVIT OF ASHLEY GUERRA
CONCERNING 711 ANNA**

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

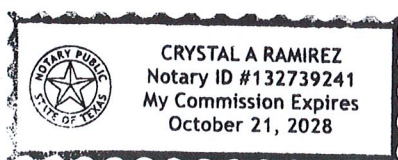
“My name is **Ashley Guerra**. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

“I am a Code Enforcement Officer 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 **711 Anna**, 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 21 day of March, 2025.


AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025 by the above referenced Affiant.



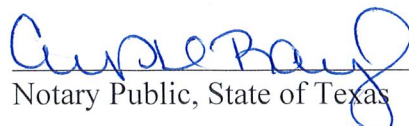

Notary Public, State of Texas

Exhibit A-2

Property Details

Account		
Property ID:	285999	Geographic ID: B5400012500
Type:	R	Zoning:
Property Use:		Condo:
Location		
Situs Address:	711 ANNA,	
Map ID:		Mapsco:
Legal Description:	LT 6 BK 12 SETTLES HEIGHTS 56X140 141 0.18 ACRES ACQ 102313	
Abstract/Subdivision:		
Neighborhood:	(WRGT1) WRIGHTS 1	
Owner ?		
Owner ID:	401424	
Name:	DE LA CRUZ MARIA	
Agent:		
Mailing Address:	, TX 79720	
% Ownership:	100.0%	
Exemptions:	For privacy reasons not all exemptions are shown online.	

Property Values

Improvement Homesite Value:	\$1,275 (+)
Improvement Non-Homesite Value:	\$0 (+)
Land Homesite Value:	\$2,156 (+)
Land Non-Homesite Value:	\$0 (+)
Agricultural Market Valuation:	\$0 (+)
Market Value:	\$3,431 (=)
Agricultural Value Loss:?	\$0 (-)

STATE OF TEXAS

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COUNTY OF HOWARD

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CERTIFICATION
711 ANNA CASE NOTES

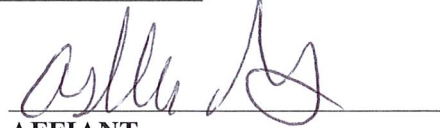
“This record, attached as **Exhibit A-3**, was made at or near the time by – or from information transmitted by a person or persons with the City with knowledge.

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.

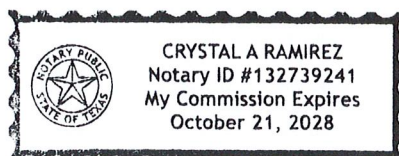
1. The City uses a computer.
2. The computer is reliable.
3. The City has developed procedures for inserting data into the computer.
4. The procedure has built-in safeguards to ensure accuracy and to identify errors.
5. The City keeps the computer in a good state of repair.
6. I had the computer readout 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 21 day of March, 2025.


AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025

by the above referenced Affiant.




Notary Public, State of Texas

Exhibit A-3



CASE NOTES

Page 1 of 1

Report Run On: Tuesday, 15 October
2024 13:45

Case # 23-00000253
Site Address: 711 ANNA
Case Description: burnt structure

Parcel # : 285999

Note Type	Note Code	Text	Created By	Begin Date	End Date
SITE VISIT		reinspected on 10-15-24 no progress has been made going to send to court house to be worked as a substandard class 2 going to close out case until further notice	Ashley Guerra	10/15/24	
SITE VISIT		went back for a reinspect structure is a class 2 substandard inside of structure has good bones . the outside is boarded up .	Ashley Guerra	06/19/24	
GENERAL		sent out notice of violation on 11-2-23	Ashley Guerra	11/02/23	
CORRECTIVE ACTION		on 10-20-23 drove by noticed a substandard structure. Building is unsafe and needs to be brought down or brought up top code Deadline for compliance is seven (7) days from the date of mailing	Ashley Guerra	11/02/23	
GENERAL		took photos 10-20-2023	Malissa Garcia	10/20/23	

STATE OF TEXAS

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COUNTY OF HOWARD

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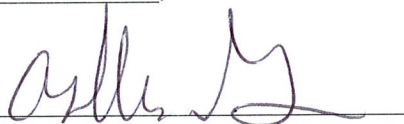
**CERTIFICATION OF
PHOTOGRAPHS BY ASHLEY GUERRA**

“With regard to the photographs in **Exhibits A-4** I am familiar with and recognize the scene depicted in the photographs. On October 20,2023, and February 3,2025 I inspected the property described as:

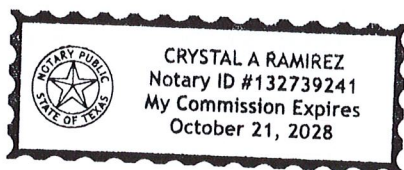
LT 6 BK 12 SETTLES HEIGHTS 56X140 141 0.18 ACRES ACQ 102313 Big Spring, Howard County, Texas, also known as **711 ANNA**, Big Spring, Texas.

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

SIGNED on the 21 day of March, 2025.


AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025
by the above referenced Affiant.



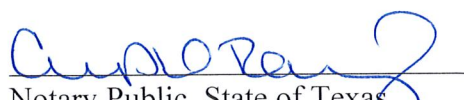

Notary Public, State of Texas

Exhibit A-4



October 20, 2023 10:39 AM



October 20, 2023 10:40 AM



October 20, 2023 10:40 AM



October 20, 2023 10:40 AM



23-00000253



February 03, 2025 11:22 AM

23-00000253



February 03, 2025 11:22 AM

23-00000253



February 03, 2025 11:22 AM

23-00000253



February 03, 2025 11:22 AM



2025-01-24 11:23 AM

23-00000253



February 03, 2025 11:23 AM

23-00000253



February 03, 2025 11:23 AM



February 03, 2025 11:23 AM

STATE OF TEXAS

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COUNTY OF HOWARD

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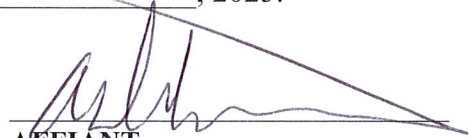
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**CERTIFICATION
NOTICE SENT BY ASHLEY GUERRA**

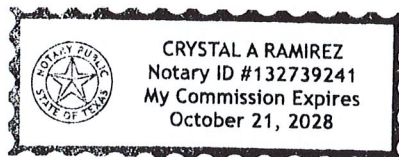
“The document in **Exhibit A-5** presents factual findings from a legally authorized investigation for code compliance. The document is a copy of the official record.”

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

SIGNED on the 21 day of March, 2025.


AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025
by the above referenced Affiant.



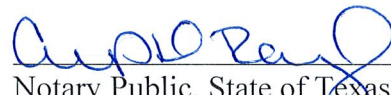

Notary Public, State of Texas

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: 711 ANNA BIG SPRING, TX00000

Legal Description: LT 6 BK 12 SETTLES HEIGHTS 56X140 141 0.18 ACRES ACQ 102313

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.

Corrective Action:

on 10-20-23 drove by noticed a substandard structure.
Building is unsafe and needs to be brought down or brought up top code

Deadline for compliance is seven (7) days from the date of mailing

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

Issued by:

Ashley Guerra

Code Compliance

432-264.2505

Phone

aguerra@mybigspring.com

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,



City of Big Spring Code Compliance

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

NOTICE OF VIOLATION

Re: 711 ANNA BIG SPRING, TX00000

Legal Description: LT 6 BK 12 SETTLES HEIGHTS 56X140 141 0.18 ACRES ACQ 102313

Date 10/15/2024

Case No:23-00000253

DE LA CRUZ MARIA
UNKNOWN
UNKNOWN, TX 79720

Dear DE LA CRUZ MARIA

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:



City of Big Spring Code Compliance

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

NOTICE OF VIOLATION

Re: 711 ANNA BIG SPRING, TX00000

Legal Description: LT 6 BK 12 SETTLES HEIGHTS 56X140 141 0.18 ACRES ACQ 102313

Ashley Guerra - 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

March 14, 2025

Maria De La Cruz
711 Anna St.
Big Spring, Texas 79720

Maria De La Cruz
203 Royalty Ave.
Odessa, Texas 79761

Ramon Calderon
1914 S. Fairfield
Amarillo, Texas 79103

Re: 711 ANNA, BIG SPRING, TEXAS 79720
LEGAL DESCRIPTION: LOT 6, BLOCK 12, SETTLES HEIGHTS
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	The building had fire damage that has not been repaired. The building has extreme weather damage, dilapidation, and decay. The damage to the neglected and unsecured structure presents a danger to children who might play in the building so as to constitute an

clearly unsafe for its use and occupancy. 7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to 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. 8. Any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety. 9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease. 10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health. 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.	attractive nuisance. Hazardous condition.
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.	There is damage to structural components of the building due to fire damage. There are gaps and holes in the exterior walls of the structure. Unsafe condition.

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.	
304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where requires to prevent deterioration.	There are holes and breaks in the exterior walls of the structure and well as damage and decay to the materials.
304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.	The structure is missing some windows and doors.

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

MAIN STRUCTURE.

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

Issued by

Ashley Guerra

Name

Code Compliance Official

Title

+1 (432) 264-2505

Phone

aguerra@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, March 25, 2025** 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.

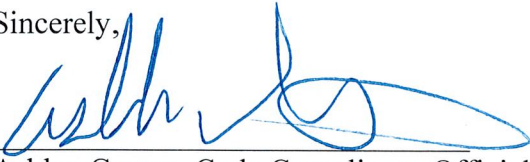
NOTICE TO EMPLOYEE OF OWNER: If you are an individual employed by the owner of the property, or a company that manages the property on behalf of the owner, you may be personally liable for criminal or civil penalties resulting from the violation under Section 250.003, Texas Local Government Code, unless, 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>.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ashley Guerra', with a large, stylized flourish at the end.

Ashley Guerra, Code Compliance Official
City of Big Spring, Texas

9589 0710 5270 1979 884J 86

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 \$	3/14/2025 Postmark Here 711 Anna 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 Ramon Calderon Street and Apt. No., or PO Box No. 1914 S. Fairfield City, State, ZIP+4® Amarillo, TX 79103	

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 1979 884J 79

U.S. Postal Service™
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Certified Mail Fee \$	3/14/2025 Postmark Here 711 Anna 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 Maria De La Cruz Street and Apt. No., or PO Box No. 203 Royalty Ave. City, State, ZIP+4® Odessa, TX 79761	

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 1979 884J 62

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$	3/14/2025 Postmark Here 711 ANNA 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 Maria De La Cruz Street and Apt. No., or PO Box No. 711 Anna St. City, State, ZIP+4® Bia Spring, TX 79720	

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

USPS Tracking®

FAQs >

Tracking Number:

Remove X

9589071052701979884186

Copy

Schedule a Redelivery (<https://tools.usps.com/redelivery.htm>)

Latest Update

Your item arrived at the AMARILLO, TX 79120 post office at 8:11 am on March 18, 2025 and is ready for pickup. Your item may be picked up at AMARILLO, 2301 ROSS ST, AMARILLO, TX 791209996, M-F 0600-1730; SAT 0930-1200.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Available for Pickup

Available for Pickup

AMARILLO
2301 ROSS ST
AMARILLO TX 79120-9996
M-F 0600-1730; SAT 0930-1200
March 18, 2025, 8:11 am

Available for Pickup

AMARILLO
2301 ROSS ST
AMARILLO TX 79120-9996
M-F 0600-1730; SAT 0930-1200
March 17, 2025, 6:47 pm

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



Schedule Redelivery



USPS Tracking Plus®



Product Information



See Less

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Tracking Number:

9589071052701979884179

Remove X

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

March 20, 2025

Available for Pickup

ODESSA
200 N TEXAS AVE
ODESSA TX 79761-9998
M-F 0730-1730
March 17, 2025, 10:44 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 ^

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

USPS Tracking®

FAQs >

Tracking Number:

Remove X

9589071052701979884162

Copy

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

Latest Update

Your item arrived at our USPS facility in EL PASO TX DISTRIBUTION CENTER on March 20, 2025 at 2:39 pm. The item is currently in transit to the destination.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Feedback

Moving Through Network

Arrived at USPS Regional Facility

EL PASO TX DISTRIBUTION CENTER

March 20, 2025, 2:39 pm

Forward Expired

BIG SPRING, TX 79720

March 15, 2025, 1:36 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>)

Text & Email Updates



USPS Tracking Plus®





See Less

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

STATE OF TEXAS

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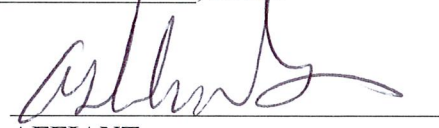
COUNTY OF HOWARD

§

**CERTIFICATION
OF POSTING OF PUBLIC HEARING**

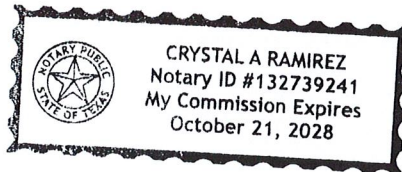
“The Hearing Board of the City of Big Spring, Texas notice of Public Hearing scheduled for March 11, 2025, attached as **Exhibit A-6**, was posted on or near the front door of each dwelling unit listed in the attached notice on February 27, 2025.”

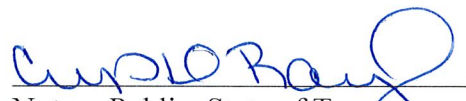
SIGNED on the 21 day of March, 2025.



AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025
by the above referenced Affiant.





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 **MARCH 25TH, 2025, 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:

711 ANNA – LEGAL DESCRIPTION: LOT 6, BLOCK 12, SETTLES HEIGHTS SUBDIVISION –
OWNER: MARIA DE LA CRUZ

700 E 15TH – LEGAL DESCRIPTION: LOT 1, BLOCK 19, COLE & STRAYHORN
SUBDIVISION – OWNER: DAVID ORTIZ GONZALES JR

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.

Nick Reyna
Nick Reyna, Building Official, City of Big Spring



March 14, 2025 10:02 AM



March 14, 2025 10:02 AM

700 E 15TH ST

Code Enforcement Officer: Shannon Fant

Exhibit A-1

STATE OF TEXAS

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COUNTY OF HOWARD

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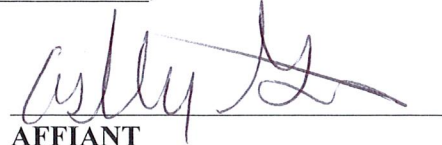
**AFFIDAVIT OF ASHLEY GUERRA
CONCERNING 700 E 15TH ST**

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

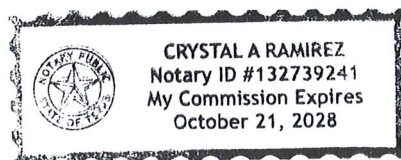
“My name is **Ashley Guerra**. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

“I am a Code Enforcement Officer 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 **700 E 15TH ST**, 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 21 day of March, 2025.


AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025 by the above referenced Affiant.



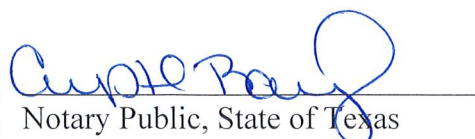

Notary Public, State of Texas

Exhibit A-2

Howard Property Search

Property Details

Account

Property ID: 278991

Geographic ID: B2880018100

Type: R

Zoning:

Property Use:

Condo:

Location

Situs Address: 700 E 15TH

Map ID:

Mapsco:

Legal Description: LT 1 BK 19 COLE & STRAYHORN 50X140 780 ACQ 10202021 BLK/TRACT 19 0.161 ACRES

Abstract/Subdivision:

Neighborhood: (GOLD1) GOLIAD 1

Owner ⓘ

Owner ID: 439497

Name: GONZALES DAVID ORTIZ JR

Agent:

Mailing Address: 700 E 15TH
BIG SPRING, TX 79720

% Ownership: 100.0%

Exemptions: HS -
For privacy reasons not all exemptions are shown online.

Property Values

Improvement Homesite Value: \$56,705 (+)

Improvement Non-Homesite Value: \$0 (+)

Land Homesite Value: \$5,786 (+)

Land Non-Homesite Value: \$0 (+)

Agricultural Market Valuation: \$0 (+)

Market Value: \$62,491 (=)

STATE OF TEXAS

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COUNTY OF HOWARD

CERTIFICATION
700 E 15TH ST CASE NOTES

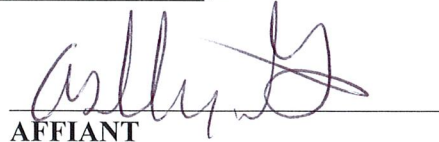
“This record, attached as **Exhibit A-3**, was made at or near the time by – or from information transmitted by a person or persons with the City with knowledge.

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.

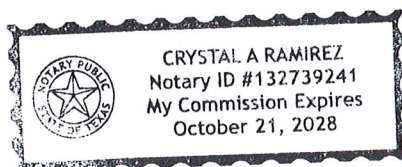
Making this record was a regular practice of that activity.

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 21 day of March, 2025.


AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025
by the above referenced Affiant.



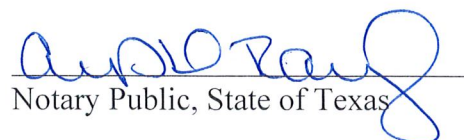

Notary Public, State of Texas

Exhibit A-3



CASE NOTES

Page 1 of 1

Report Run On: Tuesday, 04 March
2025 15:54

Case # 24-00002018

Parcel # : 278991

Site Address: 700 E 15TH

Case Description: HOUSE CAUGHT FIRE HAS OPEN DOORS AND MISSING WINDOWS

Note Type	Note Code	Text	Created By	Begin Date	End Date
STAFF REPORT		THERE HAS BEEN NO CORRESPONDANCE FROM THE PROPERTY OWNER I AM SENDING TO LEGAL	Shannon Fant	03/04/25	
SITE VISIT		REINSPECTED AND NO WORK HAS BEEN MADE TO BRING THE PROPERTY TO COMPLINCE I WILL PROCEED WITH THE CASE DID TAKE MORE PICTURES THIS WILL BE LINKED TO A SS CASE AND ACCUMULATION CASE	Shannon Fant	02/19/25	
STAFF REPORT		received a possible mailing address from a third party i mailed nov to both addresses the address i was advised may be a good one is 100 jonesboro rd	Shannon Fant	01/22/25	
CORRECTIVE ACTION		DEADLINE FOR COMPLIANCE IS SEVEN DAYS FROM THE DATE OF MAILING 1.21.2024	Shannon Fant	01/21/25	
SITE VISIT		INSPECTED THE PROPERTY FOUND IT TO HAVE OPEN DOORS AND MISSING WINDOWS THERE IS A HOUSE FIRE I WILL ATTACH PHOTOS AND FIRE REPORT	Shannon Fant	12/30/24	



INCIDENT

Incident Number

241211-194654-BSFD

Incident Date

12/11/2024

NFIRS Number

0002321

Incident Type

(111) - Building fire

FDID

KW601

Station

Station 3

Shift

A-Shift

District

District 3

Initial Dispatch Code

Alarms

1

Working Fire?

Yes

COVID-19 was a factor

No, COVID-19 was not a factor

Critical Incident

Critical Incident Team

Temporary Resident Involvement

Hazardous Materials Released

Action Taken 1

(11) - Extinguishment by fire service personnel



AID

Aid Given/Received

(N) - None



LOCATION

Location Type

(1) - Street address

Address

700 East 15th Street, Big Spring, Texas, 79720

Cross Street, USNG, or Directions

Latitude

Longitude

Census Tract

Detector Alerted Occupant

(2) - Detector did not alert occupants

Property Use

(419) - 1 or 2 family dwelling

Mixed Use



TIMES

PSAP Received

23:13:00, 12/11/2024

Dispatch Notified Time

23:13:00, 12/11/2024

Alarm Time

23:13:00, 12/11/2024

Arrival Time

23:21:00, 12/11/2024

Water on Fire Time

23:24:00, 12/11/2024

At Patient Time

Loss Stop Time

Controlled Time

23:37:00, 12/11/2024

Last Unit Cleared Time

02:04:00, 12/12/2024

INCIDENT NARRATIVE

E-3, Bat.1, E-4, and E-5 was dispatched to the area of 15th and Benton in reference to a structure fire. UOA, E-3 crew found a vacant single story brick residential structure with fire venting from the windows of the C and D side of the structure. E-3 parked on the D side of the structure on Benton Street and advanced a 150 ft of 1 3/4 attack line and a 200 ft 1 3/4 attack line off of E-3. Coy and Davila took the 200 ft line and proceeded to the C side of the structure where we found a door partially open that led into the kitchen area of the structure and advanced the line and attacked the fire. We attempted to advance further into the structure but we found the floor had holes that exposed the ground. Hickson and Combs advanced the second line to the D-side of the structure under the metal carport and attacked the fire venting from the D-side windows of the structure. Once the fire was partially knocked down, Davila and E-5 Capt. Phelps walked to the A side of the structure to the front door which was locked and we broke out the window and unlocked the door and proceeded into the structure. We walked into the living room area and into where the kitchen is located and took the hose and attacked the remainder of the fire in that location. E-4 and E-5 crew member came in and began overhaul looking for hotspots in the structure. A cabinet that was attached to the inner D wall had heavy charring and was removed from the wall to check the inner walls for fire spread. A fan was placed at the C side door to clear smoke from the structure. Unknown what started the fire but it seemed the fire originated on the sink area underneath the cabinet. All utilities to the structure had been turned off. When we arrived on scene, the neighbors from across the street on Benton stated that they had seen some individuals enter the structure in the past but did not see anything tonight. E-3 used less than 1000 gallons of water extinguishing the fire. 3 joints of LDH was laid to E-3 from E-5. All tools and LDH was reloaded. Fire Marshall Hendrickson was called out to investigate the fire with the assistance of Fire Investigator Rosas. All units cleared the scene and went to station 1 to resupply E-3 and fill air bottles. No injuries were reported. We were not able to find the owner of the structure.

Created By: Davila, Benjamin

Unit Reports

ENGINE 3

Use (1) - Suppression	Responding From City of Big Spring	Priority Emergent
Response Delays None/No Delay		
Dispatch Time 23:13:00, 12/11/2024	Enroute Time 23:15:00, 12/11/2024	Arrival Time 23:21:00, 12/11/2024
At Patient Time	Clear Time 02:04:00, 12/12/2024	In District Time
Actions Taken: Extinguishment by fire service personnel		
Personnel Leighton Coy, Benjamin Davila, Ethan Combs, DOUG HICKSON, STEPHEN ROSAS		

BATTALION 1

Use (0) - Other	Responding From City of Big Spring	Priority Emergent
Response Delays None/No Delay		
Dispatch Time 23:13:00, 12/11/2024	Enroute Time 23:16:00, 12/11/2024	Arrival Time 23:22:00, 12/11/2024
At Patient Time	Clear Time 02:04:00, 12/12/2024	In District Time
Actions Taken:		

 Fire Module

 SITE INFO

Alarms	Acres Burned	Resident Units In Bldg	Buildings Involved
1		1	
Hydrant Identifier	Estimated Water Usage		
	600		

 IGNITION

Area of Origin	
(24) - Cooking area, kitchen	
Heat Source	
(UU) - Undetermined	
Item First Ignited	Fire Confined to Item?
(UU) - Undetermined	
Type of Material First Ignited	
Cause of Ignition	
(U) - Cause undetermined after investigation	
Factors Contributing to Ignition 1	
(10) - Misuse of material or product, other	
Human Factors Contributing to Ignition	
(3) - Unattended or unsupervised person	
Est. Age of Person Involved	Gender of Person Involved

 STRUCTURE

Structure Type

(1) - Enclosed building

Stories Above Grade

1

Stories Below Grade

1

Building Status

(6) - Vacant and unsecured

Length

30 ft

Width

40 ft

Total Square Feet

1200 sq ft

Story of Fire Origin

1

Fire Spread

(2) - Confined to room of origin

Item Contributing Most to Flame Spread

Type of Material

Number of Stories with Damage

Minor Damage

Significant Damage

Heavy Damage

Extreme Damage

Total Stories

1

PROTECTIVE SYSTEMS

Presence of Detector

Detector Type

(N) - None present

STATE OF TEXAS

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COUNTY OF HOWARD

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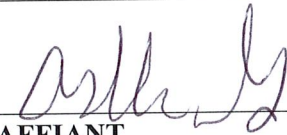
**CERTIFICATION OF
PHOTOGRAPHS BY ASHLEY GUERRA**

“With regard to the photographs in **Exhibits A-4** I am familiar with and recognize the scene depicted in the photographs. On December 30, 2024, and February 18, 2025, Code Officer Shannon Fant inspected the property described as:

LT 1 BK 19 COLE & STRAYHORN 50X140 780 ACQ 10202021 BLK/TRACT
19 0.161 ACRES Big Spring, Howard County, Texas, also known as **700 E 15TH
ST**, Big Spring, Texas.

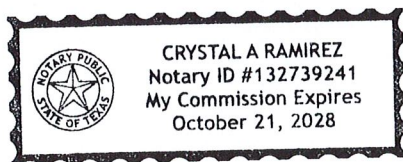
Each of the photographs is a fair and accurate depiction of the scene at the relevant time.”

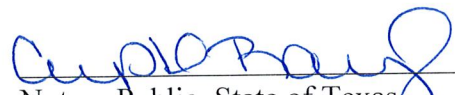
SIGNED on the 21 day of March, 2025.



AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025
by the above referenced Affiant.





Notary Public, State of Texas

Exhibit A-4





Galaxy Tab S8
December 30, 2024 10:51 AM



© 2024 53+
December 30, 2024 10:50 AM



Galaxy Tab S8
December 30, 2024 10:50 AM



Index To S8+
September 30, 2024 10:51



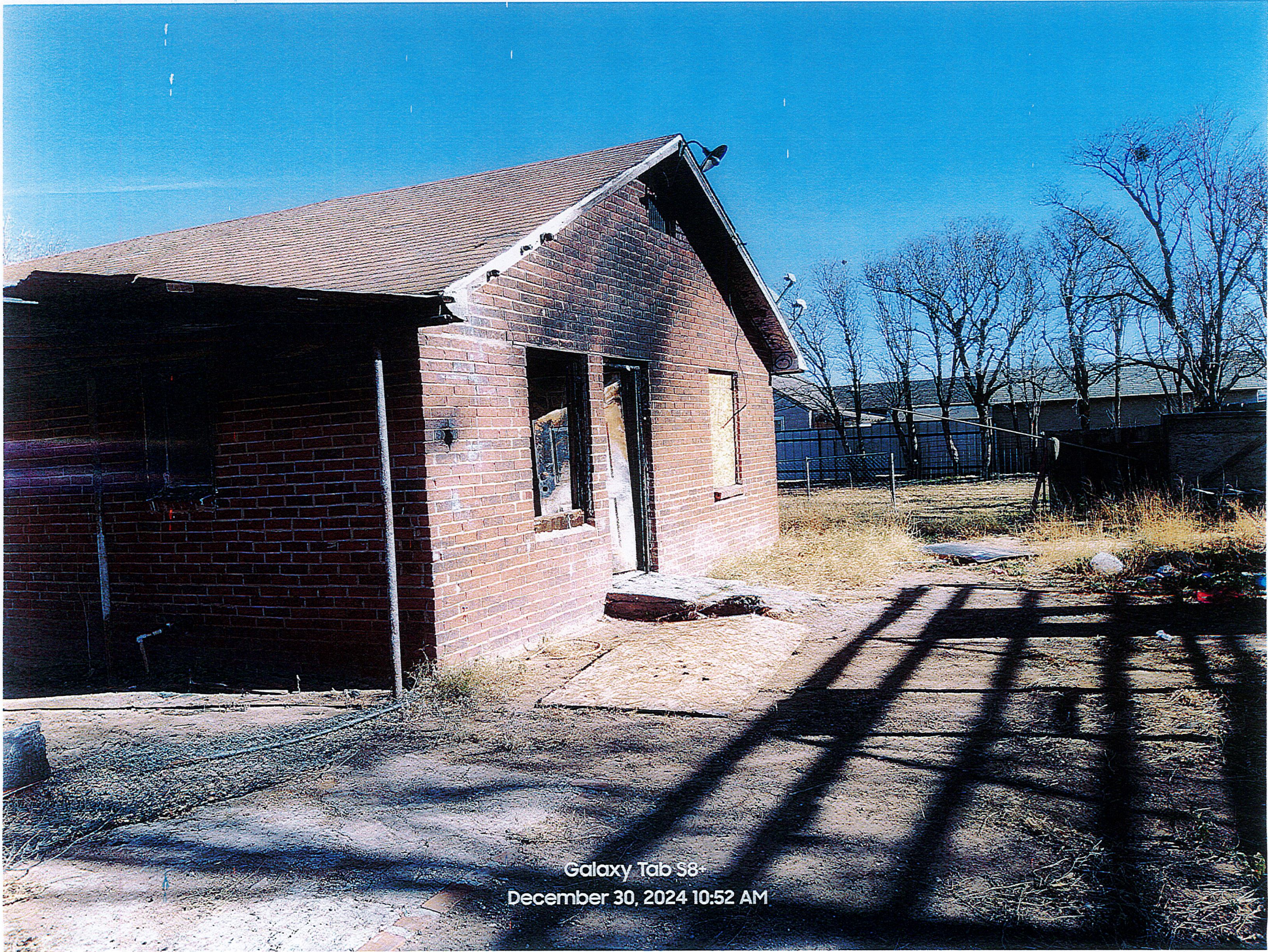
Galaxy Job 58
December 30, 2014 11:00 AM



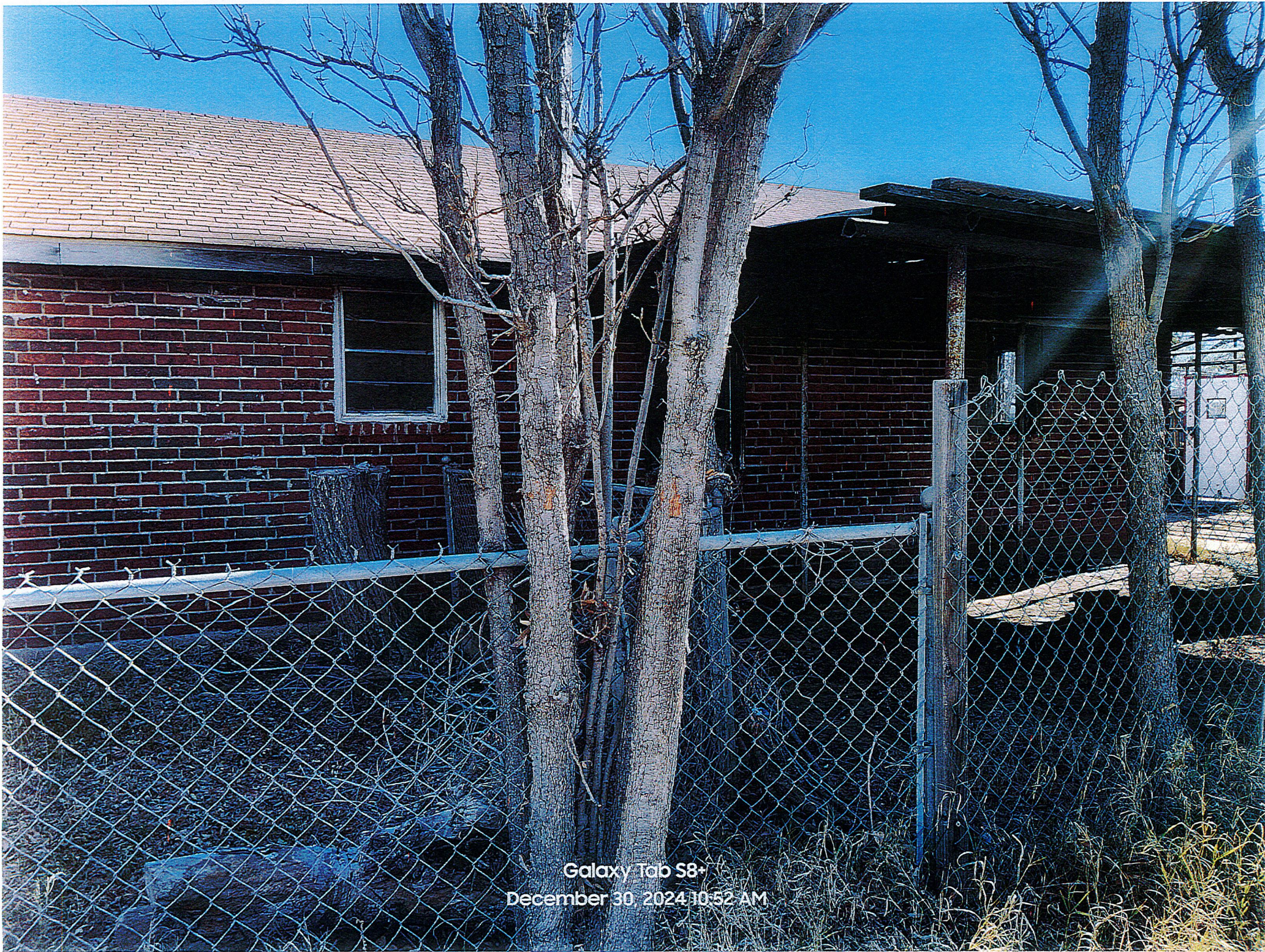
058
December 30, 2027 10:51 AM



Galaxy Tab S8+
December 30, 2024 10:52 AM



Galaxy Tab S8+
December 30, 2024 10:52 AM

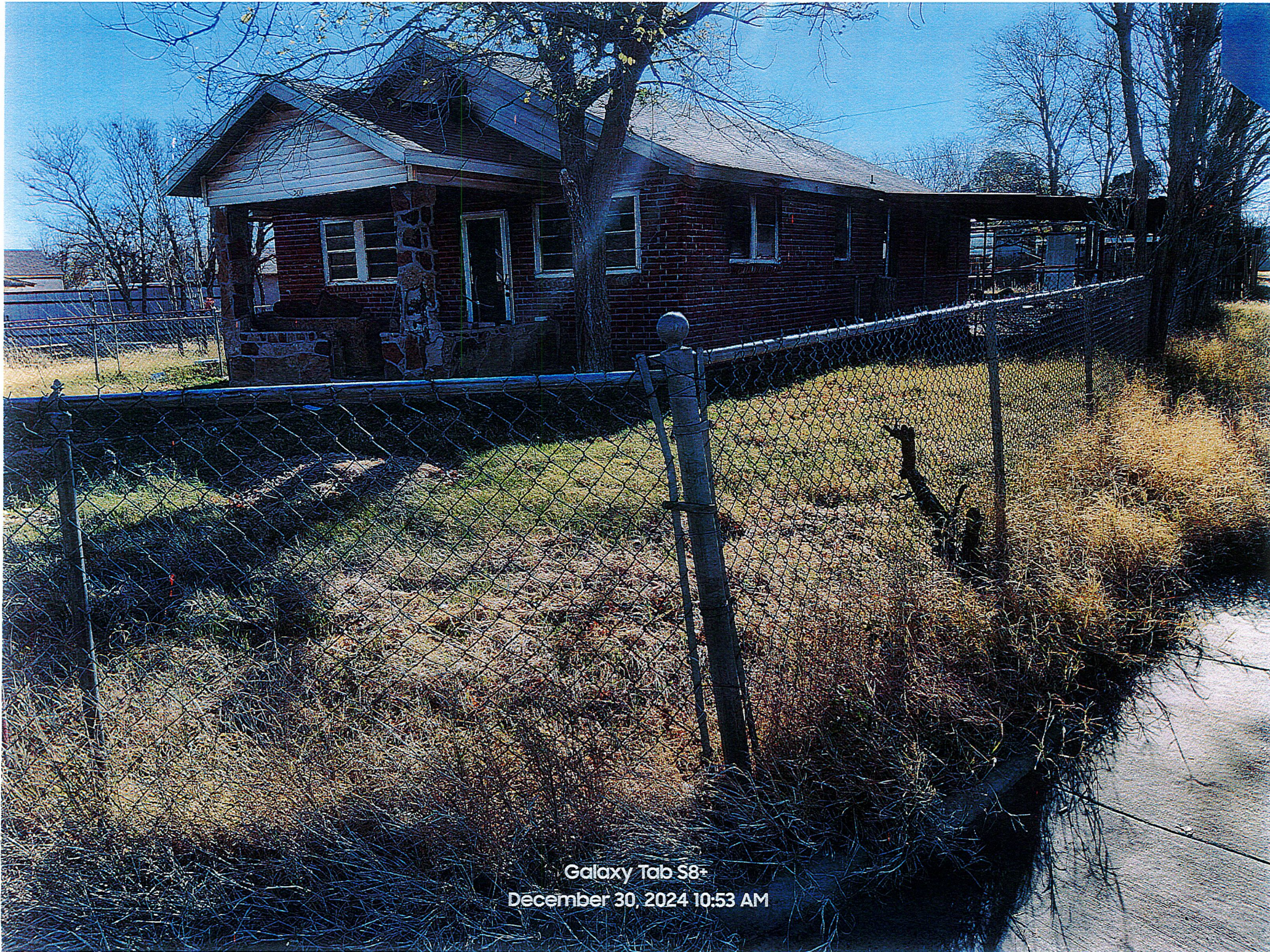


Galaxy Tab S8+
December 30, 2024 10:52 AM



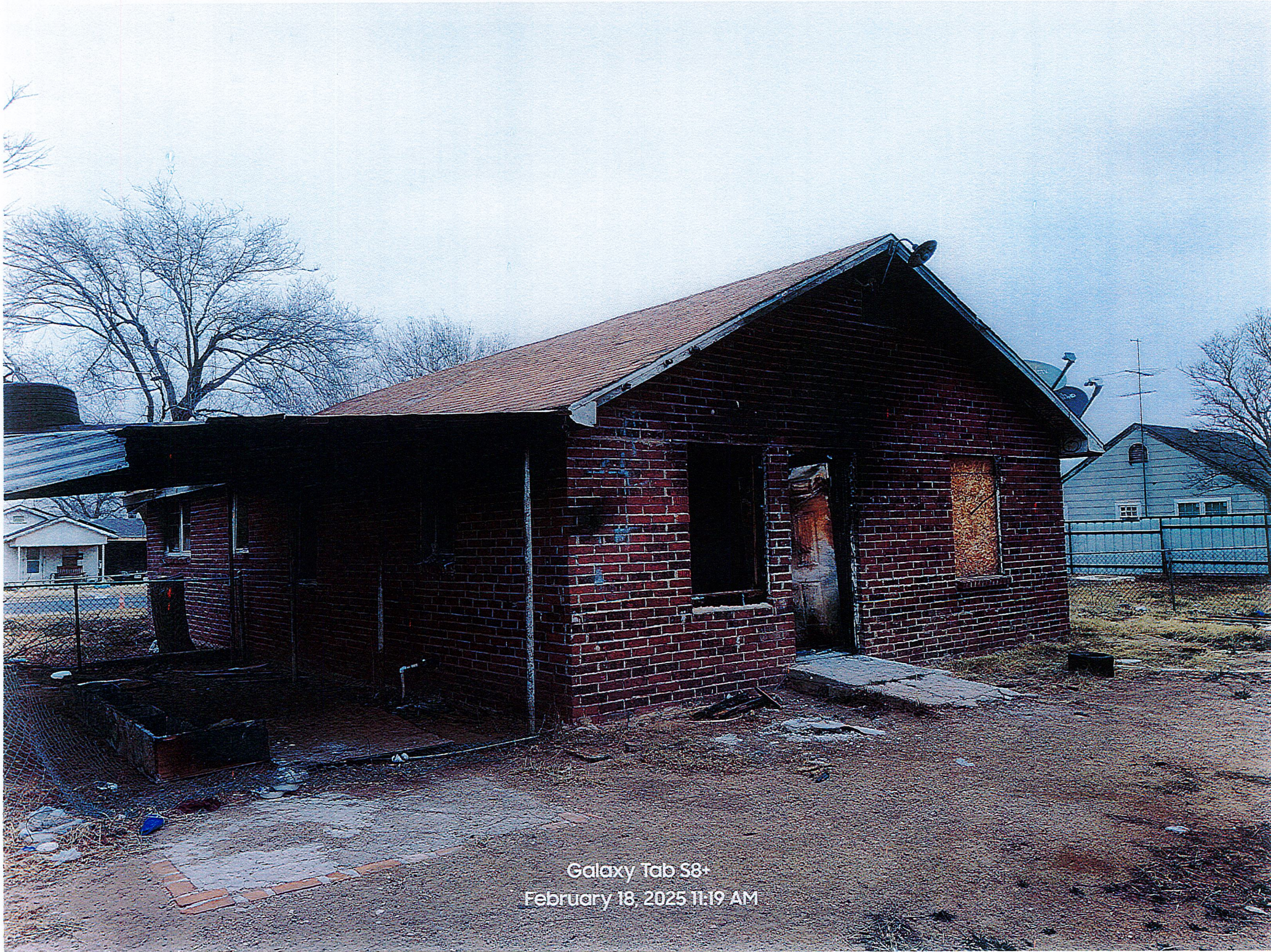
Galaxy Tab S8
December 30, 2024 10:52 AM







Galaxy Tab S8
February 18, 2025 11:19 AM



Galaxy Tab S8+
February 18, 2025 11:19 AM



Galaxy Tab S8
February 18, 2025 11:19 AM



Galaxy Tab S8+
February 18, 2025 11:19 AM



Galaxy Tab S8+
February 18, 2025 11:19 AM



Galaxy Tab S8
February 18, 2025 11:19 AM





Galaxy Tab S8
February 18, 2025 11:19 AM



Galaxy Tab S8
February 18, 2025 11:20 AM



Galaxy Tab S8+
February 18, 2025 11:20 AM



Galaxy Tab S8
February 19, 2025 11:20 AM



Galaxy Tab S8
February 18, 2025 11:20 AM



Galaxy Tab S8+
February 18, 2025 11:26 AM



Galaxy Tab S8+
February 18, 2025 11:20 AM



Galaxy Tab S8+
February 18, 2025 11:20 AM



Galaxy Tab S8+
February 18, 2025 11:20 AM



Galaxy Tab S8
February 18, 2025 11:22 AM



Galaxy Tab S8+
February 18, 2025 11:22 AM



Galaxy Tab S8+
February 18, 2025 11:22 AM



Galaxy Tab S8+
February 18, 2025 11:22 AM



Galaxy Tab S8+
February 18, 2025 11:22 AM



Galaxy Tab S8+
February 18, 2025 11:22 AM



Galaxy Tab S8+
February 18, 2025 11:22 AM



Galaxy Tab S8+
February 18, 2025 11:22 AM



Galaxy Tab S8
February 18, 2025 11:23 AM



Galaxy Tab S8
February 18, 2025 11:23 AM



Galaxy Tab S8+
February 18, 2025 11:23 AM



Galaxy Tab S8+
February 18, 2025 11:23 AM

STATE OF TEXAS

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COUNTY OF HOWARD

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**CERTIFICATION
NOTICE SENT BY ASHLEY GUERRA**

“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.”

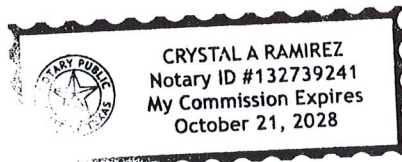
Certified Mail Return for **Exhibit A-5** is also attached.

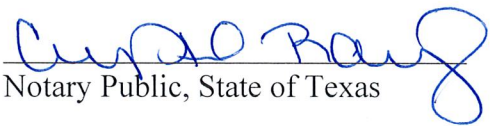
SIGNED on the 21 day of March, 2025.



AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025
by the above referenced Affiant.





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: 700 E 15TH BIG SPRING, TX 79720

Legal Description: LT 1 BK 19 COLE & STRAYHORN 50X140 780 ACQ 10202021 BLK/TRACT 19 0.161 ACRES

Date 02/11/2025

Case No: 24-00002018

GONZALES DAVID ORTIZ JR
700 E 15TH
BIG SPRING, TX 79720

Dear GONZALES DAVID ORTIZ JR

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:



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

March 14, 2025

David Ortiz Gonzales, Jr.
700 E 15th St.
Big Spring, Texas 79720

David Ortiz Gonzales, Jr.
2420 W Birdwell Ln.
Big Spring, Texas 79720

David Ortiz Gonzales, Jr.
100 Jonesboro Rd.
Big Spring, Texas 79720

Re: 700 E 15TH, BIG SPRING, TEXAS 79720
LEGAL DESCRIPTION: LOT 1, BLOCK 19, COLE & STRAYHORN
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	The building had fire damage that has not been repaired. There is evidence of widespread fire damage throughout the interior of the main structure and to parts of the exterior walls. The structural integrity of the building is compromised by fire

clearly unsafe for its use and occupancy. 7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to 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. 8. Any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety. 9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease. 10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health. 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.	damage and extreme weather damage, dilapidation, and decay. The damage to the neglected and unsecured structure presents a danger to children who might play in the building so as to constitute an attractive nuisance. Hazardous condition.
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.	There is damage to structural components of the building due to extreme fire damage. The roof appears to admit rain and has signs of deterioration. Unsafe condition.

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.	
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 water shall not be discharged in a manner that creates a public nuisance.	The roof has defects that admit rain and is not sound and not tight.
304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.	The structure has open doors and is missing some windows.

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

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, March 25, 2025** 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>.

Sincerely,

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

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

9589 0710 5270 1979 8842 16

U.S. Postal Service TM CERTIFIED MAIL [®] RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com .	
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Certified Mail Fee \$ 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 \$	3/14/2025 Postmark Here 700 E 15TH Final Notice
Postage \$ Total Postage and Fees \$	
Sent To <u>David Ortiz Gonzales, Jr.</u> Street and Apt. No., or PO Box No. <u>100 Jonesboro Rd.</u> City, State, ZIP+4 [®] <u>Big Springs, TX 79720</u>	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	

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Postage \$ Total Postage and Fees \$	
Sent To <u>David Ortiz Gonzales, Jr.</u> Street and Apt. No., or PO Box No. <u>2420 W. Birdwell Ln.</u> City, State, ZIP+4 [®] <u>Big Spring, TX 79720</u>	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	

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Postage \$ Total Postage and Fees \$	
Sent To <u>David Ortiz Gonzales, Jr.</u> Street and Apt. No., or PO Box No. <u>700 E 15th St.</u> City, State, ZIP+4 [®] <u>Big Springs, TX 79720</u>	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	

Tracking Number:

Remove X

9589071052701979884216

Copy

Schedule a Redelivery (<https://tools.usps.com/redelivery.htm>)

Latest Update

We attempted to deliver your item at 11:40 am on March 17, 2025 in BIG SPRING, TX 79720 and a notice was left because an authorized recipient was not available. You may arrange redelivery by using the Schedule a Redelivery feature on this page or may pick up the item at the Post Office indicated on the notice beginning March 18, 2025. If this item is unclaimed by April 1, 2025 then it will be returned to sender.

Feedback

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivery Attempt: Action Needed

Notice Left (No Authorized Recipient Available)

BIG SPRING, TX 79720

March 17, 2025, 11:40 am

Arrived at Post Office

BIG SPRING, TX 79720

March 15, 2025, 8:08 am

[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



Schedule Redelivery





Product Information



See Less 

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Tracking Number:

Remove X

9589071052701979884209

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

March 20, 2025

Notice Left (No Authorized Recipient Available)

BIG SPRING, TX 79720

March 15, 2025, 10:30 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 

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Tracking Number:

Remove X

9589071052701979884193

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

March 20, 2025

Notice Left (No Authorized Recipient Available)

BIG SPRING, TX 79720

March 15, 2025, 8:57 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 ^

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

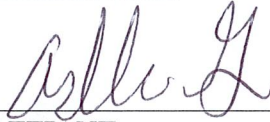
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**CERTIFICATION
OF POSTING OF PUBLIC HEARING**

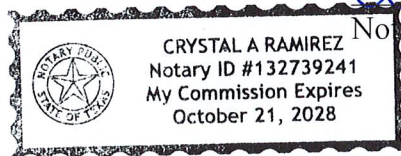
“The Hearing Board of the City of Big Spring, Texas notice of Public Hearing scheduled for March 25, 2025, attached as **Exhibit A-6**, was posted on or near the front door of each dwelling unit listed in the attached notice on March 14, 2025.”

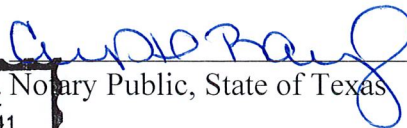
SIGNED on the 21 day of March, 2025.



AFFIANT

SWORN TO AND SUBSCRIBED before me this 21 day of March, 2025
by the above referenced Affiant.





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 **MARCH 25TH, 2025**, 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:

711 ANNA – LEGAL DESCRIPTION: LOT 6, BLOCK 12, SETTLES HEIGHTS SUBDIVISION – OWNER: MARIA DE LA CRUZ

700 E 15TH – LEGAL DESCRIPTION: LOT 1, BLOCK 19, COLE & STRAYHORN SUBDIVISION – OWNER: DAVID ORTIZ GONZALES JR

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.

Nick Reyna

Nick Reyna, Building Official, City of Big Spring



Galaxy Tab S8+
March 14, 2025 9:36 AM

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, March 11, 2025, with the following members present in person:

MAYOR ROBERT MOORE
COUNCIL MEMBER NICK ORNELAS
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
SUSAN HIMES	Community Services Director
TAMI DAVIS	City Secretary
MANDY HAYNES	Municipal Judge

Open Session

Call to Order

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

Invocation

Don Smith 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

Scott Hart with a local Outreach Center thanked the city staff, city council and the police dept for their help and assistance with locating a family of a deceased gentleman that was homeless.

Announcements, Presentations and Public Hearings

Open Public Hearing

MOTION WAS MADE BY Mayor Moore to open the below listed public hearing, seconded by Mayor Pro Tem Tompkins.

YEAS: Mayor Moore, Council Member Ornelas, 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 4208 BIRCH, BIG SPRING, TEXAS 79720 – LEGAL DESCRIPTION: LOT 6, BLOCK 1, MESA SUBDIVISION, BIG SPRING, HOWARD COUNTY, TEXAS – OWNER: ALFRED BEJIL & BERTHA BEJIL

MOTION WAS MADE BY Mayor Moore to abate the above captioned property (4208 Birch), seconded by Council Member Wilkerson.

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

NAYS: None

**0
MOTION PASSED**

Close Public Hearing

MOTION WAS MADE BY Mayor Moore to close the above captioned public hearing, seconded by Mayor Pro Tem Tompkins.

YEAS: Mayor Moore, Council Member Ornelas, 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 2
- Large Item Pickup, District 3 - March 19th
- Update - E-Waste

Todd Darden, City Manager, reported on the above captioned items as follows:

Large item pickup for District 2 picked up 16 tons of items; Large item pickup for District 3 will be on March 19th; The E-waste day collected 14 pallets of electronics; Mr. Darden also recognized Jennifer Cloud and congratulated her for receiving a Professional Airport Lighting Maintenance Certification.

Consent Items

Approval of the City Council Minutes of the Regular Meeting of February 25, 2025 and the Special Meeting of February 28, 2025.

Acknowledge Receipt of the McMahon-Wrinkle Aviation Advisory Board Minutes for the Regular Meeting of January 16, 2025

Final Reading of a Resolution Declaring the Unopposed Candidate in the May 3, 2025 General Election for Mayor of the City of Big Spring as Elected to Office; Canceling the General Election for the Position of Mayor; and Providing an Effective Date

Final Reading of a Resolution Finding that the Statement of Intent of Atmos Energy Corp., West Texas Division to Change Rates Filing Within the City Should be Denied; Finding that the City's Reasonable Rate Case Expenses Shall be Reimbursed by the Company; 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; and Providing an Effective Date.

Final Reading of a Resolution to Authorize the Filing of a Grant Application with the Texas Parks and Wildlife Department for a Habitat and Angler Access Program Grant Authorizing the Community Services Director to Act on Behalf of the City of Big Spring in All Matters Related to the Application; and Pledging that if a Grant is Received the City of Big Spring will Comply with the Grant Requirements of the Texas Parks and Wildlife Department; 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

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

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

NAYS: None

0

MOTION PASSED

Other Business

Final Reading of a Resolution Reviewing and Approving the Investment Policy of the City of Big Spring

Consideration and Possible Action on Amendments to the Investment Policy Resolution

Consideration and Possible Action on the Amended Investment Policy Resolution

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

YEAS: Mayor Moore, Council Member Ornelas, Council Member Wilkerson, 5

Mayor Pro Tem Tompkins, Council Member Moreno

NAYS: None 0

MOTION PASSED

Vouchers

Vouchers for 02/28/25 \$ 256,008.03

Vouchers for 03/07/25 \$ 825,452.20

Council Member Moreno reviewed the above captioned vouchers for 02/28/25 and 03/07/25.

MOTION WAS MADE BY Council Member Moreno to approve the above captioned vouchers, seconded by Mayor Pro Tem Tompkins.

YEAS: Mayor Moore, Council Member Ornelas, Council Member Wilkerson, 5

Mayor Pro Tem Tompkins, Council Member Moreno

NAYS: None 0

MOTION PASSED

Bids

Consideration and Possible Action to Award a Bid for a Kubota Utility Tractor for the Street Department 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 TCT Incorporated in the amount of \$69,371.58, seconded by Council Member Wilkerson.

YEAS: Mayor Moore, Council Member Ornelas, Council Member Wilkerson, 5

Mayor Pro Tem Tompkins, Council Member Moreno

NAYS: None 0

MOTION PASSED

New Business

First Reading of an Ordinance Amending Chapter 36 of the Big Spring City Code Entitled "Nuisances," Article Iv "Abandoned, Inoperative or Junked Motor Vehicles"; Providing for the Repeal of Conflicting Legislation; Providing for Severability; Finding and Determining that the Meetings at which the Ordinance was Discussed were Open to the Public as Required by Law; and Providing an Effective Date.

MOTION WAS MADE BY Mayor Pro Tem Tompkins to approve the above captioned ordinance, seconded by Council Member Moreno.

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

NAYS: None

5
0

MOTION PASSED

First Reading of a Resolution to Authorize the Implementation of a Pilot Program for Lateral Recruitment and Hiring of Police Officers; 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;

MOTION WAS MADE BY Mayor Moore to approve the above captioned resolution, seconded by Council Member Ornelas.

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

NAYS: None

5
0

MOTION PASSED

Consideration and Possible Action to Approve an Amendment of the Lease Agreement for Building 19 at the McMahon-Wrinkle Airport and Industrial Park with Lessee, ABS Wind USA LLC, and to Consent to the Sublease by the Lessee to ZF Services, LLC, and Authorizing the City Manager or His Designee to Execute any Necessary Documents

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

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

NAYS: None

5
0

MOTION PASSED

Consideration and Possible Action to Review and Approve the Current Investment Advisor, Harrison Stenberg

MOTION WAS MADE BY Mayor Pro Tem Tompkins to approve the review of the Current Investment Advisor, Harrison Stenberg, seconded by Council Member Ornelas.

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

NAYS: None

5
0

MOTION

Council Input

Input

There was no council input at this time.

Adjourn

Mayor Moore adjourned the City Council meeting at 6.06 p.m.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AMENDING CHAPTER 36 OF THE BIG SPRING CITY CODE ENTITLED “NUISANCES,” ARTICLE IV “ABANDONED, INOPERATIVE OR JUNKED MOTOR VEHICLES” TO INCLUDE JUNKED TRAVEL/CAMPER TRAILERS AND MAKE ADDITIONAL AMENDMENTS; PROVIDING FOR THE REPEAL OF CONFLICTING LEGISLATION; PROVIDING FOR SEVERABILITY; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE ORDINANCE WAS DISCUSSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, under the Constitution of the United States of America, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws,” Fourteenth Amendment, Section 2; and

WHEREAS, under the Texas Constitution, “No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land,” Article I, Section 19; and

WHEREAS, the Texas Legislature allows municipalities to adopt procedures to abate as public nuisances junked vehicles pursuant to Subchapter E, Chapter 683, Texas Transportation Code; and

WHEREAS, the City of Big Spring is a Texas home-rule municipality; and

WHEREAS, the City Council of Big Spring is the City’s governing body under the Charter of the City of Big Spring, Article IV, Section 1a; and

WHEREAS, the governing body of a municipality may adopt an ordinance that: (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality, Section 51.001, Texas Local Government Code; and

WHEREAS, “A home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants,” Section 54.004, Local Government Code; and

WHEREAS, a Texas home rule municipality may define and prohibit nuisances, Section 217.042(a), Local Government Code; and

WHEREAS, a Texas municipality may enforce all ordinances necessary to prevent, and summarily abate and remove a nuisance, Section 217.042(b), Local Government Code; and

WHEREAS, the City may adopt a more inclusive definition of a junked vehicle, but not a more limited definition than that provided by the Legislature, Section 683.0711, Transportation Code; and

WHEREAS, the City Council of Big Spring originally adopted its junked vehicle ordinance in 1972, and has amended it most recently in 2020; and

WHEREAS, federal regulations define a "recreational vehicle" in Title 24, Code of Federal Regulations, Section 3282.15(b); and

WHEREAS, the National Fire Protection Association defines a "recreational vehicle" in NFPA 1192, Standard on Recreational Vehicles (2021 edition), Section 3.3.52; and

WHEREAS, the City Council of Big Spring finds that junked vehicles located in the City of Big Spring cause detriment to the health, comfort, safety, convenience, and welfare to the inhabitants of Big Spring, constitute public nuisances, and should be abated, and the City of Big Spring shall abate and remove these nuisances but only after affording all interest holders in private property recourse through the due process of law and the due course of law;

WHEREAS, the City Council of Big Spring finds it desirable to expand the definition of a "junked vehicle" subject to regulation under Subchapter E, "Junked Vehicles: Public Nuisance; Abatement," Chapter 683, Texas Transportation Code; and

WHEREAS, adopting this ordinance is in the public interest and is necessary to protect health, life and property, and to preserve the good government, order, and security of the municipality and its inhabitants, and is necessary to summarily abate and remove defined nuisances;

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

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

SECTION 2. The Big Spring City Code, Chapter 36 entitled "Nuisances," Article IV entitled "Abandoned, Inoperative or Junked Motor Vehicles," is hereby amended as follows:

Art. IV. ~~"Abandoned, Inoperative or Junked Motor Vehicles"~~

Sec. 36-115. Definitions.

This Article may be known as the “Junked Vehicle Ordinance,” and adopts procedures pursuant to Section 683.074, Texas Transportation Code on junked vehicles as public nuisances, and their abatement. For the purposes of this Article, the following words shall have the meanings hereinafter given:

Abatement date means the date upon which the abatement and removal may take place.

Aircraft has the meaning assigned by Section 24.001, Texas Transportation Code.

Antique vehicle means a passenger car or truck that is at least 25 years old.

Appeal deadline means the date immediately before the abatement date.

Authorized official means a full-time city employee authorized to administer this Article.

Hearing office means the City Manager.

Junked travel/camper trailer means a travel/camper trailer that:

- (1) Is visible, partially or in full, at any time of the year from a public place or public right of way;
- (2) Is wrecked, dismantled, partially dismantled, dilapidated, has major structural damage, or has extensive water damage; and
- (3) Is Inoperable and has remained inoperable for more than:
 - (i) Seventy-two consecutive hours, if the vehicle is on public property; or
 - (ii) Thirty consecutive days, if the vehicle is on private property;

Junked vehicle means a motor vehicle, or aircraft, or watercraft that:

- (1) Is visible, partially or in full, at any time of the year from a public place or public right-of-way; and
- (2) Is self-propelled; and
- (3) Is:
 - (a) Wrecked, dismantled or partially dismantled, or discarded; or
 - (b) Inoperable and has remained inoperable for more than:

- (i) Seventy-two consecutive hours, if the vehicle is on public property; or
- (ii) Thirty consecutive days, if the vehicle is on private property;

(4) And is:

- (a) A motor vehicle regardless of license plate or registration;
- (b) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or
- (c) A watercraft that:
 - (i) Does not have lawfully on board an unexpired certificate of number; and
 - (ii) Is not a watercraft described by Section 31.055, Parks and Wildlife Code.

(5) The definition of “junked vehicle” includes a part or parts of such a junked vehicle.

(6) The definition of “junked vehicle” is expanded to include the term “junked travel/camper trailer.”

Junked vehicle notice means a notice of the City’s intent to declare a vehicle to be a public nuisance, which must be provided by official method of service and in accordance with Section 36-118.

Motor vehicle means a vehicle that is subject to registration under Chapter 501, Texas Transportation Code.

Motor vehicle collector means a person who:

- (1) Owns one or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Motor vehicle demolisher means a person in the business of:

- (1) Converting motor vehicles into processed scrap or scrap metal; or
- (2) Wrecking or dismantling motor vehicles.

Notice of removal means written notice identifying the junked vehicle or part of the junked vehicle which shall be given to the applicable agency not later than the fifth (5th) day after the date of removal of the junked vehicle.

Official method of service means a written notice by certified mail with a five (5)-day return requested, or delivered by the United States Postal Service with signature confirmation service, or personally delivered, to: the property owner/occupant and the vehicle owner. If the Post Office address of the last known registered vehicle owner of the junked vehicle is unknown, notice to the registered vehicle owner may be placed on the junked vehicle, or if the owner is located, personally delivered. For a junked travel/camper trailer, additionally, a placard containing the information from the notice shall be posted on or near the door of the junked travel/camper trailer, or on a stake on the premises between it and the nearest public street.

Property owner/occupant means the owner or occupant of:

- (1) The real property on which the junked vehicle is located; or
- (2) If the junked vehicle is located on a public right-of-way, the real property adjacent to the public right-of-way.

Removal associate means a person authorized under this Article to perform abatement and removal procedures on a junked vehicle that has been declared a public nuisance.

Request hearing deadline means ten (10) days after the service of notice date.

Requestor means one who requests a hearing under this Article, and is either a property owner/occupant or a vehicle owner.

Service of notice date means the date of the latest postmarked or personally delivered junked vehicle notice.

Special interest vehicle means a motor vehicle of any age which has not been changed from original manufacturer's specifications and, because of its historic interest, in being preserved by hobbyists.

Storage facility includes a garage, parking lot, or establishment for the serving, repairing, or parking of motor vehicles.

Staff advocate means the Public Works Director or his designee, except as otherwise designated by this Article.

Travel/camper trailer means a vehicle or slide-in camper used, manufactured, or constructed to permit its use as a conveyance upon the public streets and highways and designed to permit its use as a place of human habitation by one or more persons; is not self-propelled; and, under Section 1201.003, Texas Occupations Code, is neither a mobile home nor a manufactured home.

Vehicle owner means, collectively and separately, the last known registered owner or owners of the junked vehicle; and/or each lienholder of record of the junked vehicle.

Watercraft means a vessel subject to registration under Chapter 31, Parks and Wildlife Code.

Sec. 36-116. Junked vehicles declared a public nuisance.

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way: is detrimental to the safety and welfare of the public; tends to reduce the value of private property; invites vandalism; creates a fire hazard; is an attractive nuisance creating a hazard to the health and safety of minors; produces urban blight adverse to the maintenance and continuing development of municipalities; and therefore is a public nuisance.

Sec. 36-117. Inapplicability of article.

Procedures adopted under this Article may not apply to a vehicle or vehicle part:

- (a) That is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property; or
- (b) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (1) Maintained in an orderly manner.
 - (2) Not a health hazard; and
 - (3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

Sec. 36-118. Notice, and request for hearing.

- (a) An authorized official may provide a junked vehicle notice to the property owner/occupant and the vehicle owner.
- (b) A junked vehicle notice must state:
 - (1) A reasonable description of the junked vehicle and its location;
 - (2) That the City of Big Spring intends to declare the junked vehicle a public nuisance;
 - (3) That the junked vehicle must be abated and removed no later than the request hearing deadline, unless a request for a hearing is made on or before the request hearing deadline;
 - (4) That if a request for hearing is not made, the hearing office will declare the junked vehicle to be a public nuisance and order it to be abated and removed, terminating ownership of the junked vehicle;

- (5) That relocating a junked vehicle within the City of Big Spring to a location where it continues to be a junked vehicle, such as if it remains in public view, will have no effect on the proceedings;
- (6) That any property owner/occupant or vehicle owner has the right to request a hearing by the request hearing deadline;
- (7) That such request for hearing must be in writing and delivered to the City Secretary, at the stated address thereof, such as by mail or personal delivery on or before the request hearing deadline, and should a hearing be requested, the hearing office will be the City Manager;
- (8) That should the property owner/occupant fail to abate or remove the junked vehicle, and not request a hearing, the City will declare the junked vehicle to be a public nuisance, and abate and remove it, terminating the ownership of the junked vehicle;
- (9) That if the hearing office declares the junked vehicle to be a public nuisance, a person who requested a hearing may appeal the decision within ten (10) days to a court of competent jurisdiction.

Sec. 36-119. Hearing and abatement.

- (a) If a requestor requests a hearing by the request hearing deadline, the hearing office will hold a hearing.
 - (1) If the request for hearing was made by the request hearing deadline, the hearing shall be held by the hearing office no earlier than the eleventh (11th) day after the service of notice date.
 - (2) Upon receiving notice of the request for a hearing, the City Secretary shall notify the City Manager, the City Attorney, and the Public Works Director.
- (b) [Abolished.] (Reserved)
- (c) The relocation of a junked vehicle to another location within the city limits after the proceeding for the abatement and removal of the junked vehicle has commenced has no effect on the proceeding if the vehicle constitutes a junked vehicle at the second location.
- (d) The following persons shall have the right to present evidence and call witnesses:
 - (1) The staff advocate shall argue and conduct the case for the authorized official, present evidence and call witnesses.
 - (2) The City Attorney or the City Attorney's designee shall also have the right to present evidence and call witnesses.

(3) The vehicle owner and property owner/occupant or their representatives shall have the right to present evidence and call witnesses.

(e) The vehicle is presumed to be inoperable unless demonstrated otherwise. If the hearing office finds that a preponderance of the evidence shows that the junked vehicle is a public nuisance, the hearing office shall enter an order declaring that the vehicle is a junked vehicle and thus constitutes a public nuisance. Otherwise, the hearing office may either enter an order that the vehicle is not a public nuisance, or decide to take no action.

Sec. 36-120. Order to remove and abate junked vehicle nuisance.

(a) If a junked vehicle notice was issued and a hearing was not requested by the request hearing deadline, the hearing office shall order the abatement and removal of the junked vehicle.

(b) If, after a junked vehicle notice was issued and a hearing was requested on or before the request hearing deadline, the hearing office declares a junked vehicle to be a public nuisance, the hearing office shall order the abatement and removal of such junked vehicle.

(c) An order of abatement and removal shall:

(1) declare the junked vehicle to be a public nuisance, terminate its ownership, order its abatement and removal, and grant authority to authorized official and removal associate to enter onto the property to abate and remove the public nuisance;

(2) set the abatement date, which shall be no earlier than the eleventh (11th) day following the date the order is entered; provided that, if the junked vehicle notice was returned undelivered, the abatement date may not be a date earlier than the eleventh (11th) day after the date of the return, and an addendum to the order may be entered as to the abatement date and shall supersede any order previously made;

(3) order an authorized official or removal associate to give notice of removal to the Department of Public Safety, the Department of Motor Vehicles, or the Federal Aviation Administration, as applicable, not later than the fifth (5th) day after the date of removal;

(4) state that it is prohibited for the junked vehicle to be reconstructed or made operable after removal, and order that the junked vehicle shall be demolished and disposed of as scrap or salvage;

(5) if the information is available at the location of the public nuisance, include:

- a. For a motor vehicle, the vehicle's:
 - (i) Description;
 - (ii) Vehicle identification number; and
 - (iii) License plate number;
 - b. For an aircraft, the aircraft's:
 - (i) Description; and
 - (ii) Federal Aircraft Identification Number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and
 - c. For a watercraft, the watercraft's:
 - (i) Description; and
 - (ii) Identification number as set forth in the watercraft's certificate of number; and
- (6) state that any owner, lienholder, or owner/occupant who requested a hearing may appeal the determination to any court of competent jurisdiction; provided that such an appeal must be on or before the appeal deadline.

Sec. 36-121. Removed vehicle not to be reconstructed or made operable, prohibition.

After any such junked vehicle has been removed by the City, it shall be unlawful to reconstruct it or make it operable. It shall be demolished and disposed of as scrap or salvage.

Sec. 36-122. Notice of removal.

The removal associate shall give notice of removal as required by the order, including any addendum, unless the City Manager delegates another individual to perform this duty.

Sec. 36-123. Transfer of such junked vehicle.

The removal associate shall remove the junked vehicle or part which is removed from private or public property by authority of this Article to a scrapyard, motor vehicle demolisher, or a suitable site operated by a municipality or county.

Sec. 36-124. City Manager authority to name officials.

(a) Authorized officials are code enforcement officers employed full-time by the City, unless the City Manager files a signed memorandum with the City Secretary that designates authorized officials by name or by title. Only full-time employees of the City may be authorized officials under this subsection.

(c) The removal associate is any towing company under Article VI, Chapter 48, Big Spring City Code that may perform nonconsent tows. The City Manager may, orally or in writing, regardless of a prior delegation, select or replace a removal associate at will for one or more removals.

(d) The City Manager may delegate or modify a prior delegation of the City Manager's authority under this Section by filing a signed memorandum with the City Secretary.

Sec. 36-125. Effect of Article on Other Statutes or Ordinances.

Nothing in this Article shall affect a law that permits immediate removal of a vehicle left on public property that is an obstruction to traffic.

Sec. 36-126. Appeal.

Any owner, lienholder, or owner/occupant who requested a hearing may appeal the determination of the hearing office to any court of competent jurisdiction. Such an appeal must be filed by the appeal deadline. While an appeal is pending, the City shall not abate or remove the public nuisance. A court of competent jurisdiction may issue necessary orders to enforce the procedures under this Article.

Sec. 36-115. Definitions.

~~— This article adopts procedures pursuant to Texas Transportation Code Title 7, Chapter 683, Subchapter E on junked vehicles as public nuisances, and their abatement. For the purposes of this article, the following words shall have the meaning hereinafter given:~~

~~— Aircraft has the meaning assigned by Texas Transportation Code § 24.001.~~

~~— Antique vehicle means a passenger car(s) or truck(s) that is at least 25 years old.~~

~~— Hearing office means the city council or the court of competent jurisdiction conducting a hearing under this article.~~

~~— Junked vehicle means a vehicle that is, and is:~~

~~— (1) Visible at any time of the year from a public place or public right-of-way; and~~

~~— (2) Self-propelled; and~~

~~— (3) Is:~~

~~— (a) Wrecked, dismantled or partially dismantled, or discarded; or~~

~~— (b) Inoperable and has remained inoperable for more than:~~

~~— (i) Seventy-two consecutive hours, if the vehicle is on public property; or~~

~~— (ii) Thirty consecutive days, if the vehicle is on private property;~~

~~— (4) And is:~~

~~— (a) A motor vehicle that displays an expired license plate or does not display a license plate;~~

~~— (b) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or~~

~~— (c) A watercraft that:~~

~~— (i) Does not have lawfully on board an unexpired certificate of number; and~~

~~— (ii) Is not a watercraft described by Parks and Wildlife Code § 31.055.~~

~~— (5) The definition of "junked vehicle" includes a part or parts of such a vehicle.~~

~~— Motor vehicle means a vehicle that is subject to registration under Texas Transportation Code, Title 7, Chapter 501.~~

~~— Motor vehicle collector means a person who:~~

~~— (1) Owns one or more antique or special interest vehicles; and~~

~~— (2) Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.~~

~~— Motor vehicle demolisher means a person in the business of:~~

~~— (1) Converting motor vehicles into processed scrap or scrap metal; or~~

~~— (2) Wrecking or dismantling motor vehicles.~~

~~— Property owner/occupant means the owner or occupant of:~~

~~— (1) The real property on which the vehicle is located; or~~

~~— (2) If the vehicle is located on a public right-of-way, the property adjacent to the right-of-way.~~

~~— Requestor means one who requests a hearing under this article, and is either an owner or lienholder of the vehicle, or a property owner/occupant.~~

~~— Special interest vehicle means a motor vehicle of any age which has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.~~

~~— Storage facility includes a garage, parking lot, or establishment for the serving, repairing, or parking of motor vehicles.~~

~~— Watercraft means a vessel subject to registration under Parks and Wildlife Code Chapter 31.~~

~~Sec. 36-116. Junked vehicles declared a public nuisance.~~

~~— A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way: is detrimental to the safety and welfare of the public; tends to reduce the value of private property; invites vandalism; creates a fire hazard; is an attractive nuisance creating a hazard to the health and safety of minors; produces urban blight adverse to the maintenance and continuing development of municipalities; and therefore is a public nuisance.~~

~~Sec. 36-117. Inapplicability of article.~~

~~— Procedures adopted under this article may not apply to a vehicle or vehicle part:~~

~~— (a) That is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property; or~~

~~— (b) That is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle~~

stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

- (1) Maintained in an orderly manner.
- (2) Not a health hazard; and
- (3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

~~Sec. 36-118. Notice and request for hearing.~~

~~— For junked vehicles on public or private property:~~

~~— (a) A written notice personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:~~

- ~~— (1) The last known registered owner of the junked vehicle;~~
- ~~— (2) Each lienholder of record of the junked vehicle; and~~
- ~~— (3) Every owner/occupant.~~
- ~~— (b) The notice must state:~~
 - ~~— (1) A reasonable description of the junked vehicle;~~
 - ~~— (2) That the City of Big Spring intends to declare the junked vehicle a nuisance;~~
 - ~~— (3) That the junked vehicle must be abated and removed no later than the tenth day after the date on which the notice was personally delivered or mailed;~~
 - ~~— (4) The owner or lienholder of the junked vehicle has the right to request a hearing;~~
 - ~~— (5) Any request for a hearing must be made before that ten-day period expires;~~
 - ~~— (6) Such notice should be delivered to the office of the city secretary, such as by mail or personal delivery;~~
 - ~~— (7) Should the property owner or occupant fail to abate or remove the junked vehicle, and not request a hearing, the City of Big Spring shall declare the junked vehicle to be a nuisance, and abate and remove it, terminating the ownership of the junked vehicle.~~

~~Sec. 36-119. Hearing and abatement.~~

~~— The city council or a court of competent jurisdiction shall conduct a hearing under the procedures adopted under this subsection.~~

~~— (a) The city may not remove a junked vehicle on private property except by these procedures.~~

~~— (1) An owner or lienholder of the vehicle, or property owner/occupant may request a hearing if the request is made within ten days after service of notice to abate the nuisance. The hearing shall be held no earlier than the 11th day after service of notice to abate the nuisance.~~

~~— (2) Upon receiving notice of the request for a hearing, the city secretary shall notify the city manager and the city attorney. The city attorney is granted discretion and authorization to file the action in any court of competent jurisdiction, or to request that the hearing be held by city council.~~

~~— (b) [Abolished.] (Reserved)~~

~~— (c) The relocation of a junked vehicle that is a public nuisance to another location within the city limits after the proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the second location.~~

~~— (d) The city attorney shall argue and conduct the case for the city, present the city's evidence, and call the city's witnesses.~~

- ~~—(e) At the hearing, the city has the burden of proof. The vehicle is presumed to be inoperable unless demonstrated otherwise. If a preponderance of the evidence at the hearing as found by the hearing office shows that the vehicle is a junked vehicle, the hearing office shall make a finding that the vehicle is a junked vehicle and thus constitutes a public nuisance.~~
- ~~—(f) When the hearing office is the city council, a majority vote of a quorum present shall determine based on the evidence and arguments, the findings of the hearing.~~
- ~~—(g) The following have a right to testify at the hearing: any owner or lienholder of the junked vehicle; any property owner/occupant; the requestor; any witness the requestor calls; and any witness called by the city attorney.~~

~~Sec. 36-120. Order to remove and abate junked vehicle nuisance.~~

- ~~—If notice is proper and if a hearing was not requested, the city manager or any person authorized to abate a junked vehicle nuisance may authorize any person to remove the nuisance.~~
- ~~—(a) The hearing office that makes a finding of a junked vehicle shall issue a resolution or order which shall include all of the following:~~
 - ~~—(1) Declare the vehicle or vehicle part to be a junked vehicle and public nuisance, and order its abatement and removal;~~
 - ~~—(2) Designate a person to identify the junked vehicle and transmit the information regarding the junked vehicle and its removal to the Department of Public Safety, the Department of Motor Vehicles, or the Federal Aviation Administration, as applicable, not later than the fifth day after the date of removal; and~~
 - ~~—(3) Prohibit the junked vehicle from being reconstructed or made operable after removal, and order that it shall be demolished and disposed of as scrap or salvage.~~
 - ~~—(4) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance shall include:~~
 - ~~—a. For a motor vehicle, the vehicle's:~~
 - ~~—(i) Description;~~
 - ~~—(ii) Vehicle identification number; and~~
 - ~~—(iii) License plate number;~~
 - ~~—b. For an aircraft, the aircraft's:~~
 - ~~—(i) Description; and~~
 - ~~—(ii) Federal Aircraft Identification Number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and~~
 - ~~—c. For a watercraft, the watercraft's:~~
 - ~~—(i) Description; and~~
 - ~~—(ii) Identification number as set forth in the watercraft's certificate of number.~~
 - ~~—(5) Any owner, lienholder, or owner/occupant may appeal the determination to any court of competent jurisdiction. Such an appeal must be filed within ten days.~~
 - ~~—(b) If a hearing was requested, the vehicle was determined to be a junked vehicle by the hearing office, and the filing deadline for an appeal has passed, the city may abate and remove the nuisance.~~
 - ~~—(c) While an appeal is pending, the city shall not abate or remove the nuisance.~~
 - ~~—(d) A court of the municipality or county may issue necessary orders to enforce these procedures.~~

~~Sec. 36-121. Abolished and reserved.~~

~~Sec. 36-122. Abolished and reserved.~~

~~Sec. 36-123. Transfer of such junked vehicle to a demolisher.~~

~~—A junked vehicle or part which is removed from private or public property by authority of this article, shall be disposed to a motor vehicle demolisher or other person or business that may legally demolish or recycle the junked vehicle or part.~~

~~Sec. 36-124. Administration by authorized employees.~~

~~—All city employees who are authorized to apply for and execute administrative search warrants and who are full-time employees of the city are authorized to abate junked vehicle nuisances under these procedures.~~

NOTE* Language to be deleted is ~~stricken~~.

SECTION 3. All provisions of any ordinance, rule, regulation, or order of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict.

SECTION 4. Should any one or more sections or clauses of this Ordinance be adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance 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 Ordinance was adopted were open to the public and that public notice of the time, place and purpose of said meetings was given as required by law.

SECTION 6. This Ordinance is ordered to be codified.

SECTION 7. This Ordinance 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 _____, _____ 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 _____, _____ with all members of the Council voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

MEMORANDUM

Big Spring Police Department



Date: March 5, 2025
To: Mayor Robert H. Moore and Big Spring City Council
From: Todd Darden, City Manager
John Medina, Assistant City Manager
Chad Williams, Chief of Police
Subject: Lateral Recruitment Incentives Pilot Program

Background

The Big Spring Police Department (Department, BSPD) is currently experiencing critical staffing challenges. This coordinated memorandum provides data about recent staffing in the Department and outlines a 24-month, lateral hiring incentive pilot program (Program). This Program will focus on recruiting experienced candidates into represented police officer positions, which are current critical needs in the Department. This recruitment strategy and respective incentive may be relevant to other public safety departments in the future, and the pilot program would establish and refine the parameters, support systems, and costing methodology for this type of program.

The Department continues to experience regular turnover, both anticipated and unanticipated, with ongoing recruitment efforts to fill sworn officer positions. Due to a current staffing deficit, the Department has temporarily reduced staffing in the Narcotics Task Force (5) and the Criminal Investigations Division (3). Despite these reductions, the patrol services remain understaffed by 11 officers, approximately 2 officers per shift, resulting in inconsistent and increased response times.

The Department recruitment efforts are comprehensive, and include word of mouth, posting videos/fliers to social media platforms, posting advertisements to external websites and locations, direct recruiting at non-recruitment related events/locations, and attending recruitment fairs. In addition, the Department had a dedicated Sergeant who worked with the Human Resources Department on open recruitment to streamline the overall hiring process, but we recently lost our Recruitment Officer to retirement.

The applicant pool for police officers is small and competitive, and agencies across West Texas compete for the same entry-level candidates. A recruitment effort designed to attract lateral officers with higher levels of training and experience will generally yield more qualified – but far fewer – applicants overall and presents further challenges due to competing agency hiring bonuses and higher base salaries. Nevertheless, to remain competitive and address current vacancies within critical areas of the Department, staff believes the City recruitment strategy should prioritize hiring lateral police officers as well as seeking entry-level officers. The Department will actively seek to fill a minimum of five (5) vacant positions with lateral officers over the next two years, with an expected maximum of eight (8) positions participating in this Program.

Staffing, Vacancies and Leaves

The FY 2024-25 BSPD budget included 43 full-time equivalents (FTEs) with fourteen (14) vacant positions and four (4) frozen positions, as of the date of this document. The table below provides the status of these 43 positions.

Table 1: Big Spring Police Department Staffing Overview

Position	FY 2024-25 Budgeted	Vacant	Vacancy Rate
Lieutenant	4	0	0%
Sergeant	8	4	50%
Corporal	20	9	45%
Officer	11	1	9.1%
Total	43	14	32.5%

*We currently have two (2) part-time Police Officers and (1) non-certified Cadet in the Academy.

**In addition to the current vacancies, the four Lieutenants (4) are eligible for retirement.

Hiring trained and experienced officers to prepare for these expected changes is a critical need within the Department.

At present, approximately 40% of staff filling sworn positions have five or less years of service in their roles. Additionally, in the past two years, 62% (5 out of 8) of employees hired to fill sworn positions were hired as entry-level with no past law enforcement experience. The Department defines “build-up time” as the duration from the hire date until the individual completes training and is fully operational in their job duties. The build-up time for an entry-level police officer candidate is a little under 12 months.

Lateral candidates for Police Officer positions require significantly less training time. For a lateral officer, the build-up period is approximately two months. Hiring lateral officers for these critical positions would allow the Department to maintain a high level of service delivery with minimal disruption.

Many agencies use lateral recruitment strategies that include signing and/or retention bonuses, accelerated accumulation of leave accruals based on public safety years of service, and leave banks (vacation, sick, etc.). The three most common incentives implemented by competing cities are providing a leave bank upon hire, allowing accelerated leave accruals, and/or providing a monetary signing bonus. Some agencies have included credit for prior years of service for purposes of longevity pay. As shown in Table 2 below, the BSPD has implemented several recruitment strategies, but the results have been minimal.

Table 2. Big Spring Police Department Incentives

Incentives for Certified Police Officers
Housing Allowance (\$800/mo)
Relocation Bonus (\$4,500)
Academy Expense Reimbursement (up to \$5,000)
5% Night Shift Differential and Additional Assignment Pay
Firearm Allowance (\$800)
Increased range for the Take Home Vehicle Program
Education Pay - Associates (\$100/mo); Bachelors (\$200/mo)

We believe certified candidates elect not to apply with the BSPD because without a Lateral Recruitment Program they do not receive any pay for prior years of service. Thus, for Big Spring to be competitive for potential certified hires, staff recommends the implementation of a Lateral Recruitment Program.

Lateral Incentive Pilot Program

Lateral Police Officer means entry into the Police Department by a new hire already trained and experienced in law enforcement at the Police Officer level. The lateral hire must have successfully completed a Police Basic Training Academy curriculum that meets Texas Penal Code requirements and be licensed by the Texas Commission on Law Enforcement (TCOLE). Candidates must have a minimum of 12 months' full-time service (current employment preferred) as a certified Peace Officer from a comparable size agency with no more than a three-year break in service at the time they make an application with the Big Spring Police Department. Military police, reserve officer or other types of unpaid peace officer experience **does not** count as regular full-time peace officer experience.

The Department, in coordination with Human Resources and Finance, will establish a 24-month Lateral Recruitment Program for represented police officer positions consisting of the following components:

- Provide a starting salary based on his or her whole years of police officer experience. Service time, for determining the starting salary.
- Provide credit for years of service at a public agency in an equivalent qualifying eligible role, for the purposes of vacation accrual in accordance with the established accrual rates.
- Add a one-time, upfront balance of hours deposited into a non-cashable leave bank (i.e., leave that cannot be cashed out in lieu of utilizing the paid time off) in the following tiers:
 - 80 hours – lateral with up to 5 years of full-time service
 - 120 hours – lateral with 5-10 years of full-time service
 - 160 hours – lateral with 10+ years of full-time service

For all three components, a qualifying applicant shall be defined as an officer with comparable job duties to a Big Spring Police Officer as a sworn peace officer, sergeant, or lieutenant. Likewise, “years of full-time service” will include the candidate’s experience in a position with comparable job duties to those positions in Big Spring.

Previous qualified peace officer experience may be applied towards lateral transfer placement between Certified Officer, Corporal and Senior Corporal positions. Previously accumulated tenure or qualified peace officer experience will not be applied toward classification advancements beyond that of Senior Corporal. Officer Career Advancements with the Big Spring Police Department beyond the rank of Senior Corporal may only be achieved by fulfilling the advancement requirements based on tenure with this department.

Years of service worked at prior public agencies will be verified during the pre-employment background investigation process and will be used solely for the purpose of vacation accrual. Years of full-time service for sworn positions shall include service in a sworn peace officer position as defined by the Texas Penal Code.

Lateral officers will have a six-month probationary period.

The Department may begin recruitment efforts with these incentives immediately while the Finance and Human Resource complete the necessary technical design and back-office work. The Program will be deployed and accessible to onboarding candidates in March 2025.

Fiscal Impact

Table 3 provides an illustrative scenario of the pay plan under this Program. The Program would be funded through Year 1 vacancy savings.

Table 3. Lateral Recruitment Pay Plan

Position	Years of Exp.	Salary Schedule Step	Hourly Rate	Annual Rate	Non-Cashable Leave Bank		Incremental ¹ Annual Vacation Accrual (Year 1)		Total
					Hours	\$ Value (Liability)	Hours	\$ Value (Liability)	\$ Value (Liability)
Officer	1	2	\$31.35	\$65,220.48	80	\$2,508.00	120	\$3,762.00	\$6,270.00
Officer	2	3	\$32.14	66,851.20	80	\$2,571.20	120	\$3,856.80	\$6,428.00
Officer	3	4	\$32.94	68,523.52	80	\$2,635.20	120	\$3,952.80	\$6,588.00
Corporal	4	2	\$33.23	69,135.04	80	\$2,658.40	120	\$3,987.60	\$6,646.00
Corporal	5	3	\$34.06	70,863.52	80	\$2,724.80	120	\$4,087.20	\$6,812.00
Corporal	6	4	\$34.92	72,635.68	120	\$4,190.40	120	\$4,190.40	\$8,380.80
Sr. Corporal	7	2	\$35.23	73,280.48	120	\$4,227.60	120	\$4,227.60	\$8,455.20
Sr. Corporal	8	3	\$36.11	75,112.96	120	\$4,333.20	120	\$4,333.20	\$8,666.40
Sr. Corporal	9	4	\$37.02	76,991.20	120	\$4,442.40	120	\$4,442.40	\$8,884.80
Sr. Corporal	10+	5	\$37.94	78,915.20	160	\$6,070.40	136	\$5,159.84	\$11,230.24
Total \$ Value (Liability)						\$36,361.60		\$41,999.84	\$78,361.44

Based on Pay Plan dated October 1, 2024.

¹ Reflects incremental amount over new employee vacation accrual rate of 120 hours

As these incentives will be offered as part of a pilot Program, it may be ended by the City Manager at any time should the City reach its intended objective or for other reasons. The City Manager's Office and the Departments of Police, Human Resources and Finance will evaluate the Program outcome on an annual basis to determine whether it is feasible to continue and/or expand the Program.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY CONCIL OF THE CITY OF BIG SPRING, TEXAS TO AUTHORIZE THE IMPLEMENTATION OF A PILOT PROGRAM FOR LATERAL RECRUITMENT AND HIRING OF POLICE OFFICERS; 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, City Council finds it in the public interest to adopt this resolution;

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 Chief of Police is authorized to implement a lateral hiring incentive known as the Lateral Recruitment Incentive Pilot Program. This program is complementary to City of Big Spring personnel policies, administrative directives, and Big Spring Police Department policies. To the extent that any provision of this program directly conflicts with another policy, this program will take precedence only to narrowest extent necessary to give effect to this program.

Lateral police officers may enter into the Police Department as a new hire already trained and experienced in law enforcement at the police officer level. The lateral hire must have successfully completed a police basic training academy curriculum that meets Texas Penal Code requirements and be licensed by the Texas Commission on Law Enforcement (TCOLE). Candidates must have a minimum of 12 months' full-time service (current employment preferred) as a certified peace officer from a comparable size agency with no more than a three-year break in service at the time they make an application with the Big Spring Police Department. Military police, reserve officer or other types of unpaid peace officer experience does not count as regular full-time peace officer experience. The Chief of Police will make any qualifying agency final determinations.

The Department, in coordination with Human Resources and Finance, will establish a 24-month Lateral Recruitment Program for represented police officer positions consisting of the following components:

- Provide a starting salary based on his or her whole years of police officer experience. Service time, for determining the starting salary.
- Provide credit for years of service at a public agency in an equivalent qualifying eligible role, for the purposes of vacation accrual in accordance with the established accrual rates.
- Add a one-time, upfront balance of hours deposited into a non-cashable leave bank (i.e., leave that cannot be cashed out in lieu of utilizing the paid time off) in the following tiers:

- 80 hours – lateral with up to 5 years of full-time service
- 120 hours – lateral with 5-10 years of full-time service
- 160 hours – lateral with 10+ years of full-time service

For all three components, a qualifying applicant shall be defined as an officer with comparable job duties to a Big Spring police officer as a sworn peace officer, sergeant, or lieutenant. Likewise, “years of full-time service” will include the candidate’s experience in a position with comparable job duties to those positions in Big Spring.

Previous qualified peace officer experience may be applied towards lateral transfer placement between Certified Officer, Corporal and Senior Corporal positions. Previously accumulated tenure or qualified peace officer experience will not be applied toward classification advancements beyond that of Senior Corporal. Officer career advancements with the Big Spring Police Department beyond the rank of Senior Corporal may only be achieved by fulfilling the advancement requirements based on tenure with this Department.

Years of service worked at prior public agencies will be verified during the pre-employment background investigation process and will be used solely for the purpose of vacation accrual. Years of full-time service for sworn positions shall include service in a sworn peace officer position as defined by the Texas Penal Code.

Lateral officers will have a six-month probationary period.

The Department may begin recruitment efforts with these incentives immediately while Finance and Human Resources complete the necessary technical design and back-office work. The Program will be deployed and accessible to onboarding candidates in March 2025.

The Lateral Recruitment Incentive Pilot Program will terminate after March 31, 2027.

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 _____, _____ 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 _____, _____ with all members of the Council voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary



INTEROFFICE MEMORANDUM

Date: October 23, 2024
To: Mayor Robert H. Moore, Big Spring City Council, and Todd Darden, City Manager
From: Albert Belez, Purchasing Agent
Subject: Purchase Approval for an Equipment Barn

Action Requested: Approve purchase and installation of a 40'x30'x12' Equipment Barn.

Background Information: The Sports Complex requires more equipment and additional storage facilities. The proposed location for this structure will be to the north of the current equipment barn. At present, they are utilizing small storage spaces scattered throughout the complex.

Financial Considerations:

Expenditure amount requested:	\$ 46,100
What fund/department account will this amount be drawn from?	General Fund/375 Roy Anderson
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 obtained two formal quotes for the project. RW Fence from Big Spring provided a quote for both materials and installation totaling \$46,100. Metal Solutions offered a quote of \$83,560. Additionally, Mueller, Inc. from San Angelo submitted a bid for materials only, amounting to \$46,004.35. John Martens from Seminole and Leo Barraza from El Paso did not submit formal bids.

Budget: The approved budget allocated \$45,000 for this project; however, the anticipated purchase will exceed the budget by \$1,100. To address this shortfall, staff proposed to use the \$5,600 savings from the mower purchase, which was under budget.

Staff Opinion as to Feasibility and Timeline: City staff would like to recommend making the purchase from RW Fence of Big Spring in the amount of \$46,100.

DETAILED SPECIFICATIONS

Concrete - 40'x30', 4" concrete slab with 12"x12" footers and 2'x2' piers on a 2'x2' rebar mat

Materials - Materials to construct a 40'x30' steel building on a 2:12 pitch. Building colors are saddle tan and burnished slate. Includes one 3x7 man door , 24ga sheet metal

Garage Door -1- 10x10 insulated chain drive garage door, white

Air Conditioning/Heating - 2 electric heaters

Insulation - Vinyl back roll insulation

Electrical - New 100-amp service installation of four 4K LED UFO lights, four 4-110 outlets, two small electric heaters, and one exterior wall pack light



CITY OF
Big Spring

MEMORANDUM

Date: March 25, 2025

To: Mayor Moore, Big Spring City Council Members and Todd Darden, City Manager

From: Mike Feeley A.A.E., Airport Director

Re: Acceptance of a Grant from the Texas Department of Transportation for the Design, Bid Phase and Reconstruction of Runway 06/24 at McMahon-Wrinkle Airport

The Texas Department of Transportation has advised staff that a grant for the design, bid phase services and reconstruction of Runway 06/24, subject to the State Aviation Commission's approval, in this fiscal year. The project is in the preliminary design phase with construction scheduled for next fiscal year. Woolpert, our aviation engineering consultant, has been collaborating with staff to facilitate the recommended design for the proposed repairs and they are currently awaiting the geotechnical results from our Airfield Pavement Study, which is in progress.

The grant will be on a 95/5 cost share with an estimated cost of \$2,900,000 dollars resulting in the city share being \$145,000 and the State/FAA share being \$2,755,000.

Staff are requesting that the City Council authorize the City Manager to execute the grant, when offered, if this request is approved by the City Council the funds for this effort will be appropriated from the Airpark Fund Balance and placed in the Runways and Airfield Lighting Account 410-210-610-6229. Staff recommend approval of this request as it will facilitate necessary improvements to the crosswind runway 06/24 and help to ensure the continued improvements at McMahon-Wrinkle Airport.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS TO ACCEPT A GRANT OFFERED BY THE TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) FOR THE FUNDING OF THE DESIGN, BID PHASE AND RECONSTRUCTION OF RUNWAY 06/24 AT THE McMAHON-WRINKLE AIRPORT AND INDUSTRIAL PARK; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Big Spring intends to make certain improvements to the McMahon-Wrinkle Airport and Industrial Park; and

WHEREAS, the general description of the project is described as: Design, Bid Phase Services and Reconstruction of Runway 06/24; and

WHEREAS, the City of Big Spring intends to request financial assistance from the Texas Department of Transportation (TxDOT) for these improvements; and

WHEREAS, the total design and construction project costs available is \$2,900,000.00 and the City of Big Spring will be responsible for at least 5% of the total project costs of \$145,000.00;

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

SECTION 1. The City of Big Spring hereby directs the City Manager to execute on behalf of the City of Big Spring, at the appropriate time, and with the appropriate authorizations of this governing body, all agreements with the Texas Department of Transportation (TxDOT), and such other parties as shall be necessary and appropriate for the implementation of the improvements to the McMahon-Wrinkle Airport and Industrial Park.

SECTION 2. This Resolution shall become effective immediately upon its passage.

PASSED AND APPROVED on the first reading at a regular meeting of the City Council on the _____ day of _____, **2025**, withal members present voting “aye” for passage of same.

PASSED AND APPROVED on the second and final reading at a regular meeting of the City Council on the _____ day of _____, **2025**, with all members present voting “aye” for passage of the same.

Robert H. Moore, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING ORDINANCE NUMBER 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 APPROPRIATING \$145,000 FOR THE AIRPARK'S SHARE OF A \$2,900,000 GRANT FOR THE DESIGN, BID PHASE AND RECONSTRUCTION OF RUNWAY 06/24, FROM THE TEXAS DEPARTMENT OF TRANSPORTATION ON A 95/5 COST SHARE; PROVIDING FOR SEVERABILITY; 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 \$145,000.00 to account 410-021-610-6229-000, for the purpose of appropriating the Airpark's share of a \$2,900,000 grant for the design, bid phase and reconstruction of Runway 06/24, from the Texas Department of Transportation on a 95/5 cost share. 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. 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 _____, **2025** 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 _____, **2025** 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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED "ADMINISTRATION," ARTICLE VII "BOARDS AND COMMISSIONS," PROVIDING FOR THE REPEAL OF CONFLICTING LEGISLATION; PROVIDING FOR SEVERABILITY; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE ORDINANCE WAS DISCUSSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Big Spring is a Texas home-rule municipality; and

WHEREAS, adopting this ordinance is in the public interest and is necessary to protect health, life and property, and to preserve the good government, order, and security of the municipality and its inhabitants;

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

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

SECTION 2. The Big Spring City Code, Chapter 2 entitled "Administration," Article VII entitled "Boards and Commissions," Division 1 entitled "Generally" Section 2-241, is hereby amended in part as follows:

Sec. 2-241. Appointments to and removals from boards and committees created by acts of city council.

(a) The word "board," "boards," "committee," "committees," "commission" or "commissions," as used in this division, shall be construed to mean any managerial, administrative or quasi-judicial body of persons which has an advisory or deliberative character and whose members are appointed by or serve at the pleasure of the city council.

(b) This division applies to the boards, committees, and commissions ("boards") for which city council adopts it. This section applies to no other board.

(c) The provisions of this division shall govern and control the rules, procedures, and operation of all boards; provided, however, where prevailing law or another city ordinance conflicts or is inconsistent with any provision of this division, this division shall not be applicable.

(d) Each board created by an act of city council shall have seven members.

(e) Each councilmember may nominate one member of the board subject to the confirmation by majority vote of the council.

(f) Each board member shall represent the interests of the City of Big Spring first.

(g) Eligibility requirements. To be eligible to serve on a board, a person shall:

1. Be 18 years or older; and
2. Be a registered voter in Howard County, Texas; and
3. ~~Unless appointed prior to June 1, 2021, r~~ Represent a specific city council district or the city by:

i. Being a registered voter in the district represented by the council member making the nomination, or in the City of Big Spring for a board member nominated by the mayor; or

ii. Owning 50 percent or more of one or more parcels of taxable real property in the district represented by the councilmember making the nomination, or in the City of Big Spring for a board member nominated by the mayor (mineral rights do not meet this requirement); or

iii. Being a holder of water service from the City of Big Spring with a service address in the district represented by the councilmember making the nomination, or in the City of Big Spring for a board member nominated by the mayor, or owning a business which is a water customer when the person owns 50 percent or more of the business.

4. A current city councilmember may not serve on a board to which this section applies; ~~unless appointed prior to June 1, 2021.~~

5. A person may not serve on more than one board at the same time.

6. No person may serve on a board if they are related to a city councilmember of the city council of the City of Big Spring within the third degree of consanguinity or within the second degree of affinity, as defined by V.T.C.A., Government Code, ch. 573; ~~unless appointed prior to June 1, 2021.~~

(h) A board member who ceases to meet the eligibility requirements is considered to have automatically vacated the office.

(i) A vacancy that arises shall be filled by nomination by the city councilmember representing the district that the board seat represents, or by the mayor in the case of the mayor's board seat, subject to confirmation by a majority of city council.

(j) Each board member serves a term ending on September 30, three years, except as otherwise specified, after the councilmember's Charter-specified general election date for the councilmember's current term.

(k) An appointment to a vacancy on a board fills the unexpired term of the board member, if any.

(l) A board member whose seat is not filled by official action of city council 60 days after the end of the term of the board member shall be deemed to be reappointed.

(m) When a vacancy or an opportunity to make an appointment to a full term arises on a board that has any additional requirement for eligibility of members, such as a board that requires certain professions to be represented, any nomination to the board shall first fulfill any said additional requirement.

(n) A voting board member may be removed at any time and for any reason by city council.

~~—(o) The mayor and/or the mayor's designate shall serve ex officio on each board.~~

~~—(p) The city manager and/or the city manager's designate shall serve ex officio on each board.~~

SECTION 3. The Big Spring City Code, Chapter 2 entitled “Administration,” Article VII entitled “Boards and Commissions,” Division 1 entitled “Generally” Section 2-242, is hereby amended in part as follows:

Sec. 2-242. Rules and procedures for boards and committees.

(a) The quorum of a board necessary to meet and deliberate shall be four members.

(b) A majority of a quorum present shall be necessary to transact business.

(c) The following shall apply to a board other than to an advisory board:

(1) The Texas Open Meetings Act;

(2) The Texas Public Information Act; and

(3) Ethical disclosure requirements including under V.T.C.A., Local Government Code ch. 171.

(d) The board shall elect its own chair and vice chair.

(e) The board shall follow the rules contained in the current edition of Robert's Rules of Order Newly Revised when they are applicable and in which they are not inconsistent with prevailing law or this division, and any special rules of order the board may adopt. The following special rules are adopted:

(1) The board shall be a small board under Robert's Rules, except that motions shall require a second.

(2) The mayor, the mayor's designate, the city manager, the city manager's designate, and the city attorney shall have the right to speak at board meetings.

(f) Meetings may adopt a regular schedule or be called by action of the board. Additional meetings may be called by the chair, the vice chair, or the city manager.

(g) The city manager or the city manager's designate shall take minutes or direct a city employee to do so.

(h) The board shall transmit its minutes to city council once per quarter or more often for acknowledgement, except if it has not met in a given quarter.

(i) Once per quarter, the chair or another board member shall present an oral or written report to city council in addition to the board's minutes, except if it has not met in a given quarter.

(j) The board may recommend to city council such policies within the scope of the board as it may deem necessary or advisable.

SECTION 4. The Big Spring City Code, Chapter 2 entitled “Administration,” Article VII entitled “Boards and Commissions,” Division 2 entitled “Aviation Advisory Board” Section 2-261, is hereby amended in part as follows:

DIVISION 2. AVIATION ADVISORY BOARD

Sec. 2-261. Aviation advisory board.

...

(d) The airpark director or ~~his the airpark's~~ designee, ~~and the executive director of the Big Spring Economic Development Corporation or executive director's designee~~ shall be an additional non-voting ex-officio members.

...

SECTION 5. The Big Spring City Code, Chapter 2 entitled “Administration,” Article VII entitled “Boards and Commissions,” Division 5 entitled “Traffic Commission” Section 2-300, is hereby amended in part as follows:

DIVISION 5. TRAFFIC COMMISSION

Sec. 2-300. Traffic commission.

(a) Created; organization; term. There is hereby established in and for the city a traffic commission for the purpose of acting in an advisory capacity to the city council on matters concerning traffic within the corporate limits of the city. In addition to the seven members stated in this subsection, the city manager shall appoint a non-voting, ~~ex-officio~~ member to serve as staff liaison who shall advise and assist the commission in its various functions. The city manager shall also designate a staff person to act as a secretary who will keep the minutes and other official records of the commission.

...

SECTION 6. The Big Spring City Code, Chapter 2 entitled “Administration,” Article VII entitled “Boards and Commissions,” Division 8 entitled “Board of Adjustments and Appeals” Section 2-311, and Section 2-312 are hereby amended in part as follows:

DIVISION 8. BOARD OF ADJUSTMENTS AND APPEALS

Sec. 2-311. Appointments.

There is hereby established a board called the board of adjustments and appeals, which shall consist of seven members, one alternate member and three non-voting ex-officio members, appointed by a majority vote of the city council. The board of adjustments and appeals shall also include the duties of the plumbing, gas, electrical, fire and mechanical board of adjustments and appeals.

Sec. 2-312. Membership and terms.

(a) Members. The board of adjustments and appeals shall consist of seven members, one alternate member and only three ~~non-voting ex-officio~~ members.

...

(b) . . . (7) Three ~~non-voting ex-officio~~ members:

- a. One representative of Atmos Energy.
- b. One representative of TXU Electric.
- c. One city fire official as designated by the fire chief.

SECTION 7. The Big Spring City Code, Chapter 2 entitled “Administration,” Article VII entitled “Boards and Commissions,” Division 9 entitled “Zoning Board of Adjustment” Section 2-311, is hereby amended in part as follows:

DIVISION 9. ZONING BOARD OF ADJUSTMENT

Sec. 2-314. Organization and procedure.

(a) Organization. There is hereby created a zoning board of adjustment consisting of seven members, removable for cause by the appointing authority upon written charges and after public hearing. All cases to be heard by the zoning board of adjustment will always be heard by a minimum of at least ~~three-fourths two-thirds~~ of the members.

(b) Any member of the council shall have the right to speak at meetings.

(c) Section 2-241 shall apply to this board, ~~except that the members of the boards as of June 1, 2021 shall retain their current terms according to their appointments under the prior language of the zoning ordinance 5-2, regardless of section 2-241 eligibility requirements relating to city council district, unless removed earlier by city council. Subsequent appointments to the boards shall be pursuant to section 2-241, except that members shall serve two-year terms.~~

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

(e) An alternate member of the zoning board of adjustment shall only serve in the place of a regular member upon:

(1) The absence of the regular member of the board who was nominated from the same council member seat as was the alternate, and

(2) The request of the mayor or the city manager.

(f) A regular or alternate member of the zoning board of adjustment may only be removed for cause, as found by city council, on a written charge after a public hearing.

~~—(g)—Each member of city council are second alternate members. Second alternates are not subject to appointment, eligibility, or removal rules. Second alternates serve on the zoning board of adjustment when both the appointed board member and the first alternate nominated from that council member's seat are not present.~~

~~—(h)—Any member of city council shall serve as the third alternate member of all appointed members of the board when the appointed board member, the first alternate, and the second alternate are not present and a quorum for a scheduled meeting cannot be met. Third alternates are not subject to appointment, eligibility, or removal rules. If one or more council member from different seats wishes to serve, the council members will take turns based on seniority on council, or if still tied, a coin flip.~~

SECTION 8. The Big Spring City Code, Chapter 2 entitled “Administration,” Article VII entitled “Boards and Commissions,” Division 10 entitled “Convention and Visitors Bureau Board” Section 2-315, is hereby amended in part as follows:

DIVISION 10. CONVENTION AND VISITORS BUREAU BOARD

Sec. 2-315. Convention and visitors bureau board.

...

(b) The community services director and the director of finance of the city shall serve as additional non-voting ex-officio members of the board.

...

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

SECTION 9. All provisions of any ordinance, rule, regulation, or order of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict.

SECTION 10. Should any one or more sections or clauses of this Ordinance be adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

SECTION 11. It is hereby officially found and determined that the meetings at which this Ordinance was adopted were open to the public and that public notice of the time, place and purpose of said meetings was given as required by law.

SECTION 12. This Ordinance is ordered to be codified.

SECTION 13. This Ordinance shall become effective upon its second publication according to law.

SECTION 14. This Ordinance 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 _____, ____ 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 _____, ____ with all members of the Council voting “aye” for the passage of same.

Robert H. Moore III, Mayor

ATTEST:

Tami L. Davis, City Secretary

FORTITUDE MINING - BIG SPRING INDUSTRIAL LEASE AGREEMENT

THIS LEASE ("**Lease**"), is made as of the 12th day of March, 2025, by and between the City of Big Spring, a Texas municipal corporation, having an address at 310 Nolan Street, Big Spring, Texas 79720 ("**Landlord**") and Fortitude Mining, LLC, a Delaware limited liability company, having an address at 45 O Connor Road Fairport, NY 14450 ("**Tenant**"). Landlord and Tenant are also sometimes referred to herein collectively as the "**Parties**" or individually as a "**Party**."

WHEREAS, Fortitude Mining, LLC, a Delaware limited liability company, seeks to become the lessee of the Premises;

In consideration of the mutual covenants, promises and obligations contained herein, the Parties agree as follows:

I. KEY TERMS

The terms defined in this Section 1 shall have the following meanings whenever used in this Lease:

"**Additional Rent**" shall mean all monetary obligations, other than Base Rent, of Tenant to Landlord under the terms of this Lease, whether or not specified as Additional Rent herein.

"**ADA**" shall mean the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 to 12213), as amended by the Americans with Disabilities Act Amendments Act of 2008 (Pub. L. No. 110-325).

"**Airport**" or "**Airpark**" shall have the meaning set forth in Section 2.01(a) hereof.

"**Base Building Condition**" shall have the meaning set forth in Exhibit "D," attached hereto and hereby made a part of this Lease for all purposes.

"**Base Rent**" shall have the meaning set forth in Section 2.03(a) hereof.

"**Building**" shall have the meaning set forth in Section 2.01(a) hereof.

"**Business Day(s)**" shall mean any day other than Saturday, Sunday, a nationally recognized federal holiday pursuant to 5 U.S.C. § 6103, or any day on which commercial banks in the State of Texas are authorized or required by law, executive order, or regulation, to close. Unless the context otherwise requires, all periods terminating on a given day, period of days, or date shall terminate at 5:00 p.m. (Central Time) on such date or dates, and references to "**days**" shall refer to calendar days, except if such references are to Business Days.

"**City**" shall mean the City of Big Spring, Howard County, Texas.

"**City Manager**" shall mean the City Manager of the City of Big Spring.

"**Claim Notice**" shall have mean the meaning set forth in Section 9.02(b).

"**Commencement Date**" shall have the meaning set forth in Section 2.02(a) hereof.

“Director” shall mean the Airpark Director, or other person designated by the City Manager.

"Environmental Laws" shall mean all Laws: (a) relating to the environment, human health, or natural resources; (b) regulating, controlling, or imposing liability or standards of conduct concerning any Hazardous Materials; (c) relating to Remedial Action; and (d) requiring notification or disclosure of releases of Hazardous Materials or of the existence of any environmental conditions on or at the Premises, as any of the foregoing may be amended, supplemented, or supplanted from time to time.

“Event(s) of Default” shall have the meaning set forth in Section 16.02 hereof.

"Expiration Date" shall have the meaning set forth in Section 2.02(a) hereof, as same may be renewed pursuant to Section 2.02(b) hereof, or such earlier date on which the Term shall sooner end pursuant to any of the terms, covenants, or conditions of this Lease or pursuant to Law.

"Hazardous Materials" shall mean any pollutant, contaminant, or hazardous, dangerous, or toxic chemicals, materials, or substances within the meaning of any applicable Environmental Law, relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste substance or material, all as amended or hereafter amended including, without limitation, any material or substance which is: (a) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317) or equivalent State Laws; (b) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (42 U.S.C. § 6903) or equivalent State Laws; (c) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.* (42 U.S.C. § 9601) or equivalent State Laws; (d) petroleum; (e) asbestos or asbestos-containing materials; (f) polychlorinated biphenyls ("PCBs") or substances or compounds containing PCBs; (g) radon; (h) medical waste; and (i) petroleum products.

“HVAC” shall mean heating, ventilation, and air conditioning.

“Improvement(s)” shall include all or any part of (a) a building, structure, erection, alteration, demolition, or excavation on, connected with, or beneath the surface of real property; and (b) the act of clearing, grading, filling, or landscaping real property, including constructing a driveway or roadway or furnishing trees or shrubbery.

“Indemnified Party” shall have the meaning set forth in Section 9.02(a) hereof.

“Indemnifying Party” shall have the meaning set forth in Section 9.02(a) hereof.

“Indemnified Party’s Personnel” shall have the meaning set forth in Section 9.02(a) hereof.

“Initial Base Rent” shall have the meaning set forth in Section 2.03(b) hereof.

“Initial Renewal Notice” shall have the meaning set forth in Section 2.02(b)(i) hereof.

“Landlord” shall mean the City of Big Spring. Only the City Council of Big Spring may grant consent under this Lease on behalf of Landlord, and may do so by order, ordinance, or resolution.

“Landlord’s Rent Payment Address” shall mean 310 Nolan Street, Big Spring, Texas 79720, as may be amended by Landlord in Landlord’s sole discretion.

"Law(s)" shall mean all laws, statutes, and ordinances (including building codes, zoning ordinances, and regulations), rules, orders, directives, and requirements of all federal, state, county, municipal departments, bureaus, boards, agencies, offices, commissions, and other subdivisions thereof, or of any official thereof, or of any governmental, public or quasi-public authority, whether now or hereafter in force, which may be applicable to the the Building or the Premises, or any part thereof, including, without limitation, the ADA, the OSH Act, and any and all Superior Instruments.

“Losses” shall have the meaning set forth in Section 9.02(a) hereof.

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

"OSH Act" shall mean the Occupational Safety and Health Act (29 U.S.C. §§ 651 to 678), as amended from time to time.

"Permitted Use" shall mean operations for digital currency mining and staking industry services, and ancillary office and administrative uses but no other use or purpose.

“Premises” shall have the meaning set forth in Section 2.01(a) hereof.

“Personal Property” shall mean all tangible and intangible personal property now or at any time hereafter located on or at the Premises or used in connection with the Premises, including, without limitation, all trade fixtures, machinery, appliances, furniture, equipment, machinery, shelves, bins, inventory, and digital assets.

"Primary Lease Term" shall mean the initial term of this Lease beginning on the Commencement Date and ending on the Expiration Date as provided in Section 2.02(a).

"Remedial Action" shall mean the investigation, response, clean up, remediation, prevention, mitigation, or removal of any Hazardous Materials necessary to comply with any Environmental Laws.

“Renewal Lease Term” shall have the meaning set forth in Section 2.02(b) hereof.

“Renewal Option” shall have the meaning set forth in Section 2.02(b) hereof.

"Rent" shall mean collectively Base Rent and Additional Rent.

"Rules and Regulations" shall have the meaning set forth in Section 15.01 hereof.

"**Safety Data Sheet (SDS)**" shall have the meaning set forth in, and pursuant to, the Hazard Communication Standard (29 C.F.R. § 1910.1200), as amended or hereafter amended.

"**Security Deposit**" shall have the meaning set forth in Section 3.01 hereof.

"**Subsequent Renewal Lease Term**" shall have the meaning set forth in Section 2.02(b) hereof.

"**Subsequent Renewal Notice**" shall have the meaning set forth in Section 2.02(b)(x) hereof.

"**Subsequent Renewal Option**" shall have the meaning set forth in Section 2.02(b) hereof.

"**Substantial Destruction**" shall have the meaning set forth in Section 14.02 hereof.

"**Superior Instruments**" shall mean any reciprocal easement, covenant, restriction, restriction of easement, indenture, or other agreement of record affecting the Land and/or the Building Complex as of the date of this Lease or subsequent thereto.

"**Term**" shall mean: the Primary Lease Term; the Renewal Lease Term, provided Tenant is entitled to and properly exercises the Renewal Option; and the Subsequent Renewal Lease Term(s), provided Tenant is entitled to properly exercise the Subsequent Renewal Option(s).

II. PREMISES, LEASE, RENT, TERM

2.01. PREMISES AND LEASE

2.01(a) Premises.

Building 1B, comprising approximately 141,440 square feet, ("**Building**"), and a container area comprising approximately 1.3 acres (56,628 square feet) (separate from Building) (collectively, the "**Premises**") located at 1600 First Avenue, Big Spring McMahon-Wrinkle Airport and Industrial Park ("**Airport**" or "**Airpark**"), Big Spring, Texas 79720, as shown in Exhibit "A," (marked "Fortitude") attached hereto and hereby made a part of this Lease for all purposes, and in which "141,440 Sq Ft" shows the location of Building and "1 Acre" shows the location of Premises. Tenant acknowledges that in determining the number of square feet of space in the Premises, all distances have been measured from the exterior face of all exterior walls and the center of all partition walls which separate the Premises from any interior area.

2.01(b). Lease of Premises.

Subject to the terms and conditions of this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for the Primary Lease Term (as such Term may be renewed pursuant to Section 2.02(b) hereof), subject to earlier termination pursuant to any of the terms, covenants, or

conditions of this Lease or pursuant to applicable law. Tenant takes the Premises on the the Commencement Date in the condition as left by the previous Tenant.

2.01(c). Acceptance of Premises

Tenant hereby acknowledges that except as expressly set forth in this Lease: (i) Tenant has had the opportunity to inspect the Premises and accepts the Premises in their "AS IS, WHERE IS" condition; (ii) the Premises is acceptable for Tenant's intended Permitted Use; (iii) neither Landlord, Landlord's Broker, nor any of Landlord's agents, has made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease; and (iv) TENANT EXPRESSLY WAIVES ANY WARRANTY OF CONDITION OR OF HABITABILITY OR SUITABILITY FOR OCCUPANCY, USE, HABITATION, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY, EXPRESS OR IMPLIED, RELATING TO THE PREMISES.

2.02. TERM

2.02(a). Initial Term.

The Primary Lease Term of the Lease shall commence at 12:00 a.m. (Central Time) on April 1, 2025 ("**Commencement Date**"), and expire at 11:59 p.m. (Central Time) on March 31, 2028 ("**Expiration Date**"), unless sooner terminated as provided herein.

2.02(b). Renewals.

Tenant shall have the right to renew the Term of this Lease ("**Renewal Option**") for an additional term of one (1) year ("**Renewal Lease Term**") commencing on the day following the Expiration Date, provided that each of the following occurs:

(i) Landlord receives notice of the exercise of the Renewal Option ("**Initial Renewal Notice**") not more than six (6) months and not less than one (1) month prior to the Expiration Date of the Primary Lease Term.

(ii) No Event of Default exists at the time that Tenant delivers its Initial Renewal Notice.

(iii) The Lease has not been assigned by Tenant prior to the date Tenant delivers its Initial Renewal Notice.

Should Tenant exercise the Renewal Option, Tenant shall have an additional option to renew the Term of this Lease (each, a "**Subsequent Renewal Option**") for three (3) additional terms of one (1) year each (each, a "**Subsequent Renewal Lease Term**") with the first such Subsequent Renewal Lease Term commencing on the day following the expiration of the Renewal Lease Term and every other Subsequent Renewal Lease Term thereafter commencing on the day following the expiration of the immediately preceding Subsequent Renewal Lease Term, provided that each of the following occurs:

(x) Landlord receives notice of the exercise of the Subsequent Renewal Option ("**Subsequent Renewal Notice**") not more than six (6) months and not less than one (1) month prior to the Expiration Date of, if for an exercised of the first Subsequent Renewal Option, the Renewal Lease Term or, if for an exercise of the second or third Subsequent Renewal Option, the immediately preceding Subsequent Renewal Lease Term.

(y) No Event of Default exists at the time that Tenant delivers its Subsequent Renewal Notice.

(z) The Lease has not been assigned by Tenant prior to the date Tenant delivers its Subsequent Renewal Notice.

2.02(c). Holdover.

Any holding over by Tenant after the expiration or termination of this Lease, by lapse of time or otherwise, shall not operate to extend or renew this Lease except by the express mutual written agreement between Landlord and Tenant, and in the absence of such agreement, any holding over by Tenant shall create a month-to-month tenancy. In no event shall Landlord's acceptance of Rent after the Expiration Date be deemed a consent to such holdover nor a renewal or extension of this Lease.

2.03. RENT

2.03(a) Base Rent.

Tenant covenants and agrees to pay base rent ("**Base Rent**") to Landlord throughout the Term as follows: installments of \$28,843.98 monthly (for a total of \$346,127.76 per year).

2.03(b). Inflation Adjustment.

The Base rent will be adjusted as follows. On October 1, 2025 the Base Rent will be adjusted, and will again be adjusted once each year on October 1st to reflect increases in the Consumer Price Index for All Urban Consumers, All Items, US South Region issued by the Bureau of Labor Statistics of the United States Department of Labor. The adjustments in the Base Rent will be determined by multiplying the Base Rent specified in the lease ("**Initial Base Rent**") by a fraction, the numerator of which is the index number for the last month before the adjustment and the denominator of which is the index number for the first month of the first year of the Term. If the product is greater than the Initial Base Rent, Tenant will pay this greater amount as Base Rent until the next rental adjustment.

2.03(c). Payment of Rent and Late Fees.

Tenant shall pay Base Rent to Landlord in equal monthly installments, in advance, commencing on the first day of each month during the Term, without notice or demand.

Tenant shall pay to Landlord all Additional Rent that is payable to Landlord pursuant to the terms and conditions of this Lease within ten (10) Business Days after written demand therefor from Landlord, unless a different time period is specified in this Lease.

2.03(d). Time and Manner of Base Rent and Additional Rent Payments.

All Rent shall be paid, without notice or demand, except as otherwise specifically provided in this Lease:

- (i) By good check drawn on an account at a bank in currency that at the time of payment is legal tender for public and private debts in the United States of America, made payable to Landlord at Landlord's Rent Payment Address or to such other parties and at such other addresses as Landlord shall direct by written notice to Tenant from time to time;
- (ii) upon written mutual agreement by Landlord and Tenant, by wire transfer of immediately available funds to an account at a bank designated by Landlord in writing; or
- (iii) By any other method reasonably requested by Landlord.

2.03(e). Late Payment.

If any payment of Base Rent, Additional Rent, or any other charge or expense payable under this Lease is not received by Landlord within seven (7) days of the applicable due date, Tenant shall pay to Landlord, as Additional Rent, interest on the overdue amount to Landlord at five percent (5%). Such overdue payment shall bear interest from the applicable due date, without regard to any grace period, until the date such payment is received by Landlord. Such payment shall be in addition to, and not in lieu of, any other remedy Landlord may have.

2.03(f). Abatement of Rent.

Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant may not abate Rent for any reason.

2.03(g). Landlord Expenses As Additional Rent

Each of the following expenses related to the Building or Premises incurred by the Landlord will be payable by Tenant to Landlord as Additional Rent.

- (a) any and all federal, state or local taxes or assessments which may lawfully be levied against Tenant due to Tenant's use or occupancy of the Premises or any Improvements or property placed on the Premises by Tenant as a result of its occupancy.
- (b) Any deductible portion of an insured loss.

III. SECURITY DEPOSIT

3.01. SECURITY DEPOSIT AMOUNT.

Tenant shall deposit with Landlord simultaneously with the execution of this Lease the sum of twenty-eight thousand eight hundred forty-three dollars and ninety-eight cents in lawful US currency (\$28,843.98) (the "**Security Deposit**"), for the faithful performance and observance by Tenant of the terms, provisions, and conditions of this Lease. It is agreed that in the event that there is an uncured and continuing Event of Default by Tenant under this Lease after the expiration of any applicable notice and cure periods, Landlord may draw on such security deposit to the extent required for the payment of Rent or any other sum as to which Tenant is in default, or any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants, or conditions of this Lease. In the event that Landlord does draw on the Security Deposit, Tenant shall within ten (10) Business Days of receiving written notice from Landlord, replenish the Security Deposit by the amount Landlord withdrew therefrom and failure to do so within such period shall constitute an Event of Default under this Lease.

3.02. RETURN OF SECURITY DEPOSIT.

If Tenant is not in default at the termination of this Lease, the balance of the Security Deposit remaining after any application of the Security Deposit shall be returned by Landlord to Tenant.

IV. UTILITIES, ENVIRONMENTAL CONDITION

4.01. UTILITIES.

Tenant, at Tenant's sole cost and expense, shall be responsible for the installation and use of all utility services, including but not limited to natural gas, heat, light, power, sewer service, telephone, water, refuse disposal, and other services and utilities supplied to the Premises, to all portions of the Premises and for all other related utility expenses, including, but not limited to, deposits and expenses required for the installation of meters. Tenant further covenants and agrees to pay all costs and expenses for any extension, maintenance or repair of any and all utilities serving the Premises.

4.02. ENVIRONMENTAL REMEDIATION.

To the best of Landlord's knowledge, the Premises comply with all applicable federal, state and local environmental regulations or standards. Tenant agrees that it has inspected the Premises and is fully advised of its own rights without reliance upon any representation made by Landlord concerning the environmental condition of the Premises. ***TENANT, AT ITS SOLE COST AND EXPENSE, AGREES THAT IT SHALL BE FULLY RESPONSIBLE FOR THE***

REMEDICATION OF ANY VIOLATION OF ANY APPLICABLE FEDERAL, STATE OR LOCAL ENVIRONMENTAL REGULATIONS OR STANDARDS THAT IS CAUSED BY TENANT, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS OR INVITEES.

V. MAINTENANCE, REPAIRS, AND ALTERATIONS

5.01. REPAIRS BY TENANT.

(a) Tenant shall at all times during the Term of this Lease keep the Premises (including maintenance of exterior entrances and all glass and show window moldings) and all partitions, doors, doorjambs, door closures, door hardware, fixtures, equipment, and appurtenances thereof (including electrical, lighting, heating, plumbing and plumbing fixtures, and any air-conditioning systems, including leaks around ducts, pipes, vents, or other parts of the air-conditioning, heating, or plumbing systems which protrude through the roof) in good order, condition, and repair including replacements (and reasonable periodic interior painting as determined by Landlord). Tenant shall also repair any damages to the structural portions of the roof and the Building resulting from Tenant's negligent acts or omissions or anyone acting by or through or claiming under Tenant as a result of the failure of Tenant or any one claiming under Tenant and perform or observe the covenants or conditions in this Lease contained or resulting from alterations, additions, or improvements to the Premises made by Tenant or anyone claiming under or acting by or through Tenant.

(b) Tenant agrees to keep and maintain the Premises in a good, clean and sanitary condition at all times, reasonable wear and tear excepted. Tenant, at Tenant's sole cost and expense, will make all repairs or replacements necessary to prevent the deterioration in condition or value of the Premises. Tenant shall, at Tenant's sole cost and expense, throughout the term of this Lease, and at no expense whatsoever to Landlord, maintain the Premises, its surrounding walls, floor, ceiling, roof, exterior entrances, service areas, and all Improvements therein and all appurtenances thereof in good order, condition, and repair, making all needed maintenance, repairs, and replacements, including, without limitation:

- (i) Maintaining lighting, heating, and plumbing fixtures and pipes, heating, ventilating, and air-conditioning equipment and systems, ducts, vents, fire detection systems, fire extinguishers, and the fire protection sprinkler system, in good order, condition, and repair making all needed maintenance, repairs, and replacements;
- (ii) Making repairs and replacements as needed to storefronts, signs, moldings, mullions, frames, doors, hardware, partitions, walls, ceilings, floors, and fixtures;
- (iii) Keeping all glass, including that in windows, doors, door closures, door hardware, fixtures, and skylights, clean and in good condition, and to

replace glass which may be damaged or broken with glass of the same quality;

(iv) Keeping all pipes and drains inside or outside the Premises clean and free of blockage and accumulation of hair, debris, or waste of any kind emanating from the Premises, and removing all such waste with proper traps approved by Landlord so as to prevent such waste from accumulating in any drains or pipes or being discharged through any drains or pipes into any system of pipes or sewers located outside the Premises;

(v) Making all repairs, alterations, additions, or replacements to the Premises required or recommended by Laws or regulation of any public authority or by fire underwriters or underwriters' fire prevention engineers, keeping the Premises equipped with all safety appliances so required;

(vi) Repainting and redecorating the Premises interior and cleaning carpets at reasonable intervals;

(vii) Promptly removing all accumulated snow, ice, and debris from all roadways, sidewalks, and curbs located upon or adjacent to the Premises; and

(viii) Maintaining and repairing all doors, windows and roofs, and all fixtures, equipment, and surrounding pavement on the Premises, to the extent such repairs can be considered routine maintenance and not major structural repairs.

Tenant shall promptly make all repairs to the Premises of every kind and nature, ordinary and extraordinary, foreseen and unforeseen, whether necessitated by wear, tear, obsolescence, or defects, latent or otherwise, necessary to keep the Premises in good order and condition as a first-class industrial building. Tenant shall not permit or suffer any overloading of the floors of the Building.

(c) When used in this Section, the term "repairs" shall include replacements, restorations, and/or renewals when necessary. The necessity for and adequacy of repairs pursuant to this Section shall be measured by a reasonable standard which is adopted by Landlord for the Building. If replacement of equipment, fixtures, units, systems, and appurtenances thereto are necessary, Tenant shall replace the same with equipment, fixtures, units, systems, and appurtenances of the same quality when new, and shall repair all damage resulting in or by such replacement.

(d) Tenant shall give notice to Landlord, promptly after Tenant learns thereof, of: (i) any accident in or about the Premises; (ii) all fire hazards in the Premises; (iii) all fires in the Premises; (iv) all damages to or defects in the Premises, including the fixtures, equipment, and appurtenances thereof; (v) all damage to or defects in any parts or appurtenances of the Building's sanitary, electrical, heating,

ventilating, air-conditioning, elevator, and other systems located in or passing through the Premises or any part thereof; and (vi) any defective condition in the Building or in any building system, located in, servicing, or passing through the Premises.

(e) Tenant shall also repair any damages to the structural portions of the roof and the Building resulting from Tenant's negligent acts or omissions or anyone acting by or through or claiming under Tenant as a result of the failure of Tenant or any one claiming under Tenant and perform or observe the covenants or conditions in this Lease contained or resulting from alterations, additions, or Improvements to the Premises made by Tenant or anyone claiming under or acting by or through Tenant.

(f) Landlord may, at its option, require that Tenant receive Landlord's approval in advance of Tenant or Tenant's contractor performing HVAC system, duct, or vent maintenance or repair.

5.02. MAINTENANCE BY LANDLORD.

If Tenant refuses or neglects to maintain or repair the Premises as required hereunder to the reasonable satisfaction of Landlord as soon as is reasonably practicable within ten (10) business days after written demand from Landlord, Landlord shall have the option, but not the obligation, to make such repairs without liability accruing on Landlord to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures, or property, or to Tenant's business thereof, and upon completion thereof, Tenant shall pay Landlord's cost for making such repairs upon presentation of a bill therefor, as Additional Rent. Landlord shall maintain, repair, and replace the structural components of the roof and the roof membrane, the exterior walls, and the structural portions of the Building and the Building Complex, and shall periodically paint the exterior walls of the Building from time to time as determined to be necessary by Landlord or its designee, and subject to the obligations of Tenant under the provisions of this Lease. Landlord shall repair and replace plumbing, utility, and/or sewer lines and mains which service the Premises.

5.03. ALTERATIONS, ADDITIONS, AND IMPROVEMENTS.

(a) Tenant may, only with the prior, written consent of the City Manager, perform modifications, renovations, Improvements or other construction work on or to the Premises only so long as it first submits all plans, specifications and estimates for the costs of the proposed work in writing and also requests and receives in writing approval from the City Manager or the City Manager's designee, with a copy to the Director. Landlord agrees to respond in writing to Tenant's requests for approval within thirty (30) days of receipt of such requests.

(b) Tenant's plans for Improvements shall conform to the Airpark's architectural standards and must also receive written approval from the City's Department of Public Works and any other applicable department. All plans,

specifications and work shall conform to all federal, state and local laws, ordinances, Rules and Regulations in force at the time that the plans are presented for review. All alterations, additions, and Improvements shall be accomplished in a good and workmanlike manner, in conformity with all applicable Laws, and by a contractor (licensed as necessary by the State or municipality) who is registered, bonded, insured, and approved by Landlord. Upon completion of any such work, Tenant shall provide Landlord with "as-built" plans, copies of all construction contracts, and proof of payment for all labor and materials. Tenant agrees that Tenant shall pay all liens of contractors, subcontractors, mechanics, laborers, materialmen, and other items of like character, and shall indemnify Landlord against all expenses, costs, and charges, including bond premiums for release of liens and attorneys' fees and costs reasonably incurred in and about the defense of any suit in discharging the Premises or any part thereof from any liens, judgments, or encumbrances caused or suffered by Tenant. In the event any such lien shall be made or filed, Tenant shall bond against or discharge the same within five (5) Business Days after the same has been made or filed. It is understood and agreed between the Parties to this Lease that the expenses, costs, and charges above referred to shall be considered as Additional Rent due.

(c) All alterations, additions, constructions, repairs, or Improvements placed on or made to the Premises by Tenant, excluding Personal Property and other movable property not attached to the Building, shall at once become the property of Landlord, and upon termination of this Lease shall be surrendered to Landlord or, at Landlord's option, shall be removed at Tenant's expense. All Personal Property installed by Tenant shall be removed by Tenant prior to the expiration or termination of this Lease and all damage to the Premises or the Building caused by the installation or removal of such items shall be repaired at Tenant's expense, prior to the expiration or termination of this Lease.

5.04. BONDING REQUIREMENTS.

(a) Pursuant to Section 2252.909, Texas Government Code (Acts 2023, 88th Leg., ch. 1008 (H.B. 2518), § 1), for construction, alteration, or repair of an Improvement to the Premises, Tenant must require Tenant's contractor to:

- (i) execute a payment bond that conforms to Subchapter I, Chapter 53, Texas Property Code;
- (ii) execute a performance bond in an amount equal to the amount of the contract for the protection of Landlord and conditioned on the faithful performance of the contractor's work in accordance with the plans, specifications, and contract documents; and
- (iii) provide to Landlord a notice of commencement consistent with this section at least ninety (90) days before the date the construction,

alteration, or repair of any Improvement to the Premises begins. Such notice of commencement must:

- (1) state the full legal name of the contractor and official street address for its headquarters;
- (2) identify the public property where the work will be performed;
- (3) describe the work to be performed;
- (4) state the total cost of the work to be performed;
- (5) include copies of the payment bond required under Section 5.04(a)(i) and the performance bond required under Section 5.04(a)(ii);
- (6) include a written acknowledgement signed by the contractor stating that copies of the required performance and payment bonds will be provided to all subcontractors not later than the fifth (5th) day after the date a subcontract is executed.

(b) On or before the tenth (10th) day after the date Landlord receives a notice of commencement for the construction, alteration, repair, or Improvement to the Premises required under Section 5.04(a)(iii), if Landlord deems that Tenant and/or Tenant's contractor are not in substantial compliance with this Section 5.04, Landlord may notify Tenant that the construction, alteration, repair, or Improvement may not proceed and will provide written justification for such notice.

VI. USE.

6.01 PERMITTED USE.

Tenant shall use the Premises only for the Permitted Use and shall not use the Premises for any other purposes. Tenant shall obtain and pay for all permits, including a certificate of occupancy, required for Tenant's occupancy of the Premises and shall promptly take and pay for all substantial and insubstantial actions necessary to comply with all Laws regulating the use by Tenant of the Premises, including, without limitation, the OSH Act and the ADA.

6.02. USES PROHIBITED.

Tenant shall not do or permit anything to be done in or about the Premises nor bring to or keep anything in or on the Premises that is not within the Permitted Use of the Premises or which will in any way increase the existing rate on or affect any fire or other insurance upon the Building or Premises or any of its contents, or cause a cancellation of any insurance policy or policies covering the

Building or any part thereof or any of its contents. Tenant shall not conduct or permit any auctions or sheriff's sales at the Premises. Tenant shall neither commit nor allow waste. Tenant shall not create a nuisance.

6.03. SIGNS.

Tenant shall not place any signs on the Premises without Director's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Tenant shall have the right to install the following signage: an identification sign on the exterior of the Building. Tenant shall have the right to reasonably approve of any monument sign, including the locations and the size of the panels to be placed thereon.

6.04. LANDLORD'S ACCESS.

(a) Landlord or its agents may enter the Premises only during business hours and upon reasonable prior written notice to Tenant (a minimum of twenty-four (24) hours except in the case of emergency) and at Tenant's option accompanied by a representative of Tenant (provided Tenant makes such representative available), to inspect the Premises or to show the Premises to potential buyers, investors, tenants (for tenants, only during the last six (6) months of the Term or at any time while a continuing and uncured Event of Default occurs after the expiration of applicable notice and cure periods contained in this Lease), or other parties, or for any other purpose Landlord deems necessary. Landlord shall at all times have and retain a key with which to unlock all the standard entrances and exit doors in, upon, and about the Premises. Landlord may place customary "For Sale" or "For Lease" signs on or about the Premises but may not place such signs in or in front of the Premises until thirty (30) days prior to the end of the Term of this Lease (or at any time while a continuing and uncured Event of Default occurs after the expiration of applicable notice and cure periods, or if Tenant vacates the Premises prior to the expiration of the Term of this Lease).

(b) Landlord shall have the right and privilege, through its officers, agents, servants or employees, to inspect the Premises. Except in the event of an emergency, Landlord shall conduct such inspections during Tenant's ordinary business hours and shall use its best efforts to provide Tenant at least twenty-four (24) hours' notice prior to any inspection.

(c) During any inspection, Landlord may perform any obligations that Landlord is authorized or required to perform under the terms of this Lease or pursuant to its governmental duties under federal state or local laws, and the Rules and Regulations.

(d) Tenant will permit the City's Fire Marshal or his or her authorized agents to inspect the Premises.

6.05. SECURITY.

Notwithstanding the foregoing, Landlord is not responsible for the security of persons or property on or about the Premises and Landlord is not and will not be liable in any way whatsoever for any criminal activity or any breach of security on or about the Premises. Tenant shall be responsible for obtaining and maintaining all security with respect to the Premises, whether by the use of devices, security guard personnel, or otherwise. Tenant acknowledges and agrees that Landlord shall have no liability to Tenant or its employees, agents, contractors, or invitees for the implementation or exercise of, or for the failure to implement or exercise, any security measures with respect to the Premises or the Building.

6.06. ADA

Tenant, at its sole cost and expense, agrees to keep and maintain the Premises in full compliance at all times with the ADA. In addition, Tenant agrees that all Improvements it makes at the Airport shall comply with all ADA requirements.

6.07. BUILDING CODES.

In addition, Tenant agrees to be responsible for keeping the Building and Premises in compliance with all Laws, including but not limited to the Fire Code.

VII. COVENANT AGAINST LIENS

Nothing contained in this Lease shall authorize or empower Tenant to do any act which shall in any way encumber Landlord's title to the Building, or the Premises, nor in any way subject Landlord's title to any claims by way of lien or encumbrance whether claimed by operation of Law or by virtue of any expressed or implied contract of Tenant, and any claim to a lien upon the Building, or the Premises arising from any act or omission of Tenant shall attach only against Tenant's interest and shall in all respects be subordinate to Landlord's title to the Building and the Premises. If Tenant has not removed or bonded over any such lien or encumbrance within five (5) Business Days after written notice to Tenant by Landlord, Landlord may, but shall not be obligated to, pay the amount necessary to remove such lien or encumbrance, without being responsible for making any investigation as to the validity or accuracy thereof, and the amount so paid, together with all costs and expenses (including attorneys' fees) incurred by Landlord in connection therewith, shall be deemed Additional Rent reserved under this Lease and due and payable within ten (10) Business Days after Tenant's receipt of notice of such payment by Landlord and supporting documentation.

VIII. HAZARDOUS MATERIALS

8.01 TENANT OPERATIONS.

Tenant shall not cause in, on, or under the Premises, or suffer or permit to occur in, on, or under, the Premises any generation, use, manufacturing, refining, transportation, emission, release, treatment, storage, disposal, presence, or handling of Hazardous Materials. Should a release of any Hazardous Material occur at the Premises or the Building as a result of the acts or omissions of Tenant, or its employees, agents, suppliers, shippers, customers, contractors, or invitees, Tenant shall immediately contain, remove from the Premises and the Building, and/or properly dispose of such Hazardous Materials and any material contaminated by such release, and remedy and mitigate all threats to human health or the environment relating to such release, all in accordance with Environmental Laws.

8.02 PERMITS AND DOCUMENTS.

Tenant, in a timely manner, shall, to the extent required due to Tenant's use of the Premises or arising out of Tenant's actions at the Premises or the Building, obtain and maintain in full force and effect all permits, licenses, and approvals, and shall make and file all notifications and registrations as required by Environmental Laws. Tenant shall at all times comply with the terms and conditions of any such permits, licenses, approvals, notifications, and registrations. Tenant shall provide copies of the following pertaining to the Premises or Tenant's use thereof, promptly after each shall have been submitted, prepared, or received by Tenant: (a) all notifications and associated materials submitted to any governmental agency relating to any Environmental Law; (b) all notifications, registrations, reports, and other documents and supporting information prepared, submitted, or maintained in connection with any Environmental Law or otherwise relating to environmental conditions; (c) all permits, licenses, and approvals, including any modifications thereof, obtained pursuant to any Environmental Law; and (d) any correspondence, notice of violation, summons, order, complaint, or other documents received by Tenant pertaining to compliance with or liability under any Environmental Law.

Additionally, prior to and while causing any Hazardous Materials to be on the premises, Tenant shall provide notice to Landlord of each and every SDS and any other documentation reasonably necessary to enable Landlord to comply with the applicable laws and regulations.

8.03 INSPECTION AND ENVIRONMENTAL REPORTS.

Subject to Section 6.04, upon not less than twenty-four (24) hours' prior written notice (except in the case of an emergency in which event Landlord shall provide written notice as soon as is practicable under the circumstances), Tenant agrees to permit Landlord and its authorized representatives to enter, inspect, and assess the

Premises at reasonable times for the purpose of determining Tenant's compliance with the provisions of this Section 8. Such inspections and assessments may include obtaining samples and performing tests of soil, surface water, ground water, or other media. Landlord may, at Landlord's sole option, now or in the future, obtain a report from an environmental consultant of Landlord's choice as to whether Tenant has been or is currently using any part of the Premises for the improper use, handling, storage, transportation, or disposal of Hazardous Materials. If any such report indicates such improper use, handling, storage, transportation, or disposal of Hazardous Materials on the part of Tenant (or on behalf of Tenant), Tenant agrees to reimburse Landlord within ten (10) Business Days after receipt of an invoice and supporting documentation from Landlord for the cost of obtaining the environmental report, and, in addition, Landlord shall require that all violations of Environmental Law with respect to the Hazardous Materials be corrected and/or that Tenant obtain all necessary environmental permits and approvals. If Tenant fails to cure the foregoing, then upon prior written notice to Tenant, Landlord may declare this Lease in default and/or may cause the Premises and any surrounding areas to be freed from the Hazardous Materials at Tenant's sole cost and expense, which Tenant agrees to pay thirty (30) days after receipt of an invoice and supporting documentation from Landlord as Additional Rent. Notwithstanding the foregoing, Landlord shall only enter, inspect, and assess the Premises when it has a good faith reason to believe that Tenant is not in compliance with Environmental Laws. Landlord or its agents may enter the Premises during business hours and upon reasonable prior written notice to Tenant with a minimum of twenty-four (24) hours' prior written notice except in the case of emergency whereby Landlord shall provide Tenant with written notice as soon as is practicable, and at Tenant's option accompanied by a representative of Tenant provided Tenant makes such representative available. Landlord shall provide Tenant with a copy of the results of any environmental reports or inspections of the Premises or the Building within three (3) Business Days after Landlord's receipt of same. Tenant shall also have the right to have its own environmental expert attend the foregoing inspections, independently test samples, and review any environmental reports or inspection results prepared by Landlord's environmental consultant.

8.04 ENVIRONMENTAL INDEMNIFICATION.

Tenant hereby agrees to indemnify, defend, save, and keep Landlord and Landlord's officers, principals, employees, successors, and assigns, harmless from and against any and all liabilities, obligations, charges, losses, damages, penalties, claims, actions, and expenses, including without limitation, engineers' and professional fees, soil tests, and chemical analysis, court costs, legal fees, and expenses through all trial, appellate, and administrative levels, imposed on, incurred by, or asserted against Landlord, in any way relating to, arising out of, or in connection with the use, handling, storage, transportation, or disposal of

Hazardous Materials by Tenant or its agents, employees, representatives, tenants, or contractors in, on, or about the Premises and/or the Building. The foregoing indemnification shall survive any assignment or termination of this Lease.

IX. INSURANCE AND INDEMNIFICATION

9.01. INSURANCE

Exhibit "B" is attached hereto and hereby made a part of this Lease for all purposes.

9.02. INDEMNIFICATION.

(a) Generally. To the fullest extent permitted by law, and notwithstanding any acts of negligence or willful misconduct by Landlord and or its elected officials, officers, directors, managers partners, employees, agents or assigns, and subject to the terms and conditions set forth in Section 9.02(b), Section 9.02(c), and Section 9.02(d), Tenant (as "**Indemnifying Party**") shall indemnify, hold harmless, and defend Landlord and its lienholders, elected officials, officers, directors, managers, partners, employees, 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:

1. breach or non-fulfillment of any provision of this Lease by Indemnifying Party or Indemnifying Party's customers, officers, directors, managers, partners, employees, subcontractors, sub-subcontractors, affiliates, successors, and permitted assigns ("**Indemnifying Party's Personnel**");
2. any negligent or more culpable act or omission of Indemnifying Party or Indemnifying Party's Personnel (including any reckless or willful misconduct) in connection with the performance of its obligations under this Lease;
3. use of the Premises by Indemnifying Party or Indemnifying Party's Personnel, or from the conduct of any business by Indemnifying Party or Indemnifying Party's Personnel, or from any activity, work, or things done, permitted, or suffered by Indemnifying Party or Indemnifying Party's Personnel in, on, or about the Premises or elsewhere;
4. any bodily injury, death, sickness, or disease of any person, or damage to Personal Property caused by or related to the use of the Premises by Indemnifying Party or Indemnifying Party's Personnel, or from the conduct of any business by Indemnifying Party or Indemnifying Party's Personnel, or from any activity, work, or things done, permitted, or

suffered by Indemnifying Party or Indemnifying Party's Personnel in, on, or about the Premises or elsewhere, including any negligent or more culpable act or omission of Indemnifying Party or Indemnifying Party's Personnel (including any reckless or willful misconduct) in connection with the performance of its obligations under this Lease; or

5. any failure by Indemnifying Party or Indemnifying Party's Personnel to comply with any applicable federal, state, or local laws, regulations, or codes in the performance of its obligations under this Lease.

(b) Indemnified Party shall give notice to Indemnifying Party (a "**Claim Notice**") within ten (10) Business Days after obtaining knowledge of any Losses or discovery of facts on which Indemnified Party intends to base a request for indemnification under Section 9.02(a). Indemnified Party's failure to provide a Claim Notice to Indemnifying Party under this Section 9.02(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 9.02, 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 9(a), and select its own legal counsel to represent its interests, and Indemnifying Party shall:

1. reimburse Indemnified Party for its costs and attorneys' fees immediately upon request as they are incurred; and

2. remain responsible to Indemnified Party for any Losses indemnified under Section 9.02(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 9.02(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 9.02 is independent of Tenant's insurance, and 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.

X. PARKING

Tenant will be responsible for parking.

XI. RIGHTS AND RESERVATIONS OF LANDLORD

11.01. UTILITY EASEMENTS AND RIGHTS-OF-WAY

Tenant's rights hereunder shall be subject to all existing and future utility and drainage easements and rights-of-way granted by Landlord for the installation, maintenance, inspection, repair or removal of facilities owned or operated by electric, gas, water, sewer, communication or other utility companies. Tenant's rights shall additionally be subject to all rights granted by any ordinance or statute which allows utility companies to use publicly-owned property for the provision of utility services.

XII. ASSIGNMENT, SUBLEASING, SUBLETTING

12.01 LANDLORD'S CONSENT REQUIRED.

Tenant shall not, directly or indirectly, voluntarily or by operation of Law, sell, assign, encumber, mortgage, pledge, or otherwise transfer or hypothecate all or any part of the Premises, or Tenant's leasehold estate hereunder, or sublet all or any portion of the Premises or permit the Premises to be occupied by anyone other than Tenant (each such act herein referred to as a "Transfer"), without Landlord's prior written consent in each instance. Any attempted Transfer without Landlord's prior written consent shall be void and shall constitute a non-curable breach of this Lease.

12.02. NO SUBLETTING OR SUBLEASING

Tenant may not sublease to another party or sublet any of the Premises except by amendment pursuant to Section 22.15 of this Lease.

XIII. EMINENT DOMAIN

Should the Premises or the Building be taken, appropriated, or condemned for public purposes, or voluntarily transferred in lieu of condemnation, in whole or in such substantial part as to render the Building or the Premises unsuitable for Tenant's purposes including a material loss of access, the Term of this Lease shall, at the option of Landlord in the first instance and at the option of Tenant in the second instance, terminate when Tenant's right to possession is terminated. If neither Party exercises this option to terminate within thirty (30) days after the date of such taking, or if the portion of the Premises or the Building that is taken,

appropriated, condemned, or voluntarily transferred in lieu of condemnation does not render the Building unsuitable for Landlord's purposes or the Premises unsuitable for Tenant's purposes, then this Lease shall terminate only as to the part taken or conveyed on the date Tenant shall yield possession, and Landlord shall make such repairs and alterations as may be necessary to make the part not taken usable, and the Rent payable hereunder shall be reduced in proportion to the part of the Premises taken. All compensation awarded for such taking of the fee and leasehold shall belong to and be the property of Landlord without any deduction therefrom for any present or future estate of Tenant and Tenant hereby assigns to Landlord all its right, title, and interest to any such award. However, Tenant shall have the right to recover from the condemning authority, but not from Landlord, such compensation as may be awarded to Tenant on account of interruption of Tenant's business, for moving and relocation expenses, and for depreciation to and removal of Tenant's goods and trade fixtures.

XIV. DAMAGE AND DESTRUCTION

14.01. PARTIAL DAMAGE TO PREMISES

Tenant shall notify Landlord in writing immediately upon the occurrence of any damage to the Premises. If the Premises are only partially damaged and if the proceeds received by Landlord from the insurance policies maintained by Landlord are sufficient to pay for the necessary repairs, this Lease shall remain in effect and Landlord shall repair the damage as soon as is reasonably possible. Landlord shall not be required to make repairs or replacements of any damage to Tenant's Improvements or to any other fixtures, equipment, Personal Property, or leasehold improvements of Tenant. If the insurance proceeds received by Landlord are not sufficient to pay the entire cost of repair, or if the cause of the damage is not covered by the insurance policies which Landlord maintains, Landlord may elect either to: (i) repair the damage as soon as is reasonably possible, in which case this Lease shall remain in full force and effect; or (ii) terminate this Lease effective as of the date the damage occurred. Landlord shall notify Tenant within forty-five (45) days after receipt of notice of the occurrence of the damage whether Landlord elects to repair the damage or terminate the Lease. If Landlord elects to repair the damage, Tenant shall pay Landlord the deductible amount (if any) under Landlord's insurance policies, and, if the damage was due to an act or omission of Tenant, the difference between the actual cost of repair and any insurance proceeds received by Landlord. If the damage to the Premises occurs during the last six (6) months of the Primary Lease Term, or if Tenant is entitled to and properly exercises its Renewal Option in accordance with the terms of Section 2.02(b) of this Lease, the last six (6) months of the Renewal Lease Term, Landlord may elect to terminate this Lease effective as of the date the damage occurred, regardless of the sufficiency of any insurance proceeds. In such event, Landlord shall not be obligated to repair or restore the Premises and Tenant shall have no right to continue this Lease. Landlord shall notify Tenant of

its election within forty-five (45) days after receipt of notice of the occurrence of the damage.

14.02. TOTAL OR SUBSTANTIAL DESTRUCTION.

Substantial Destruction of the Premises, by any cause whatsoever, shall terminate this Lease as of the date the Substantial Destruction occurred. The term "**Substantial Destruction**" shall mean minimum ninety percent (90%) destruction of the Building. Notwithstanding the foregoing, Landlord may elect, at its sole option and discretion, to rebuild the Premises, which expense shall be reimbursed to Landlord by Tenant in accordance with the terms of Section 5 of this Lease, in which case this Lease shall remain in full force and effect. Landlord shall notify Tenant of such election within forty-five (45) days after the occurrence of Substantial Destruction.

14.03. TEMPORARY REDUCTION OF RENT.

If the Premises are destroyed or damaged and Landlord repairs or restores the Premises pursuant to the provisions of this Lease, any Base Rent and Additional Rent payable during the period of such damage, repair, and/or restoration shall be reduced according to the degree, if any, to which Tenant's use of the Premises is impaired. However, the reduction shall not exceed the lesser of the sum of one year's payment of Base Rent and Additional Rent or the proceeds received by Landlord from Tenant's loss of income insurance coverage. Except for such possible reduction in Base Rent and Additional Rent, Tenant shall not be entitled to any compensation, reduction, or reimbursement from Landlord as a result of any damage, destruction, repair, or restoration of or to the Premises.

XV. LAWS, RULES, AND REGULATIONS

15.01. RULES AND REGULATIONS

Tenant agrees that in its use of the Premises and the Building, Tenant and its employees, invitees, customers, and contractors shall comply with the rules, regulations, and minimum standards applicable to the City, Landlord, and/or the Airport, as amended from time to time (collectively, the "**Rules and Regulations**"). Landlord reserves the right for the Director from time to time to amend or supplement the Rules and Regulations in writing and to adopt and promulgate additional Rules and Regulations as well as amendments and supplements thereto. Tenant agrees to promptly comply with all such Rules and Regulations.

15.02. UNLAWFUL USE OF PREMISES.

Tenant covenants and agrees that it shall not engage in any unlawful use of the Premises. Tenant further agrees that it shall not permit its officers, agents,

servants, employees, contractors, subcontractors, patrons, licensees or invitees to engage in any unlawful use of the Premises. Tenant shall immediately remove from the Premises any person engaging in such unlawful activities. Unlawful use of the Premises shall constitute an Event of Default.

15.03. COMPLIANCE WITH LAWS.

Tenant agrees to comply with all federal, state and local laws; all ordinances; and all Rules and Regulations, pertaining to the conduct required at airports owned and operated by the City, as such laws, ordinances, and Rules and Regulations exist or may hereafter be amended or adopted. If Landlord notifies Tenant of any violation of such laws, ordinances, or Rules and Regulations, Tenant shall immediately desist from and correct the violation.

15.04. NONDISCRIMINATION, AIRPORT PROTECTION, AND SUBORDINATION

Exhibit "C" is attached hereto and hereby made a part of this Lease for all purposes.

SECTION XVI. DEFAULTS AND REMEDIES.

16.01. COVENANTS AND CONDITIONS.

Tenant's and Landlord's performance of each of their obligations under this Lease is a condition as well as a covenant. Tenant's right to continue in possession of the Premises is conditioned upon such performance. Time is of the essence in the performance of all Tenant's and Landlord's covenants and conditions.

16.02. EVENTS OF DEFAULT.

Tenant shall be in material default under this Lease if any one or more of the following events (herein sometimes referred to individually as an "**Event of Default**" and collectively as "**Events of Default**") shall occur and shall not be timely remedied as herein provided:

- (a) Except as provided in Section 16.02(b), if Tenant fails to make any payment of Rent due under this Lease or any part thereof.
- (b) If Tenant fails to make any payment of any other sum or charge payable under this Lease, other than Rent, or any part thereof when and as the same shall become due and payable and such default continues for a period of ten (10) Business Days after receipt by Tenant of notice from Landlord specifying the default.
- (c) If Tenant fails to observe or perform any of the other covenants, agreements, or conditions of this Lease on the part of Tenant to be kept and performed, including abiding by the Rules and Regulations, and such default continues for a period of seven (7) days after written notice thereof from Landlord to Tenant; provided, however, that with respect to any default (other than a default which

can be cured by the payment of money) that cannot be reasonably cured within said seven (7) day period, Tenant shall immediately notify Landlord in writing and shall have an additional period of thirty (30) days to cure such default (unless a shorter cure period is required by applicable law), provided Tenant commences to cure said default within seven (7) days. If the default cannot be reasonably cured within said additional thirty (30) days, Landlord shall immediately notify Landlord in writing, and Landlord may elect, at its sole discretion, to: (i) provide Tenant additional time as Landlord may deem sufficient to remedy the default; (ii) provide Tenant with a waiver of the requirement in default, provided that no such waiver shall be valid where Tenant knows or ought to have known that such requirement is subject to mandatory applicable law; or (iii) terminate this Lease effective upon written notice to Tenant.

(d) If Tenant files a petition in bankruptcy or is adjudicated as bankrupt, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself under any present or future Law, or makes an assignment for the benefit of creditors, or if any trustee, receiver, or liquidator of Tenant or of all or any substantial part of its properties or of the Premises shall be appointed in any action, suit, or proceeding by or against Tenant and such proceeding or action shall not have been dismissed within ten (10) days after such filing or appointment.

(e) If Tenant vacates, abandons, or fails to use the Premises for the Permitted Use as stated in Section 6.01 for a period in excess of thirty (30) days.

(f) If Landlord interferes with Tenant's quiet enjoyment of the Premises, or fails to make necessary repairs or improvements as required under the Agreement, and Tenant provides Notice to the Landlord and such default continues for a period of seven (7) days after written notice thereof from Tenant to Landlord; provided, however, that with respect to any default (other than a default which can be cured by the payment of money) that cannot be reasonably cured within said seven (7) day period, Landlord shall immediately notify Tenant in writing and shall have an additional period of thirty (30) days to cure such default (unless a shorter cure period is required by applicable law), provided Landlord commences to cure said default within seven (7) days.

16.03 REMEDIES.

In the event of any Event of Default set forth in Section 16.02 hereof, Landlord may, at its option, exercise any and all the remedies listed below. No such remedy herein or otherwise conferred upon or reserved to Landlord shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at Law or in equity, and every power and remedy given by the Lease to Landlord may be exercised from time to time and as often as the occasion may rise or may be deemed expedient.

(a) Landlord may: (i) terminate this Lease without further notice, and Tenant shall then surrender the Premises to Landlord; or (ii) enter and take possession of the Premises, in accordance with any applicable Laws governing such repossession, and remove Tenant, with or without having terminated this Lease. If necessary, Landlord may proceed to recover possession of the Premises under applicable Laws, or by such other legal proceedings, including re-entry and possession. Landlord's exercise of any of its remedies or its receipt of Tenant's keys shall not be considered an acceptance or surrender of the Premises by Tenant. A surrender must be agreed to in writing and signed by both Parties.

(b) If Landlord terminates this Lease or terminates Tenant's right to possess the Premises because of an Event of Default, then everything in this Lease to be done by Landlord shall cease, without prejudice, however, to Tenant's liability for all Rent and other sums due hereunder. In such event, Landlord may hold Tenant liable for: (i) Rent and other indebtedness that otherwise would have been payable by Tenant to Landlord prior to the expiration of the Term, less any amount that Landlord receives from reletting the Premises after all Landlord's costs and expenses incurred in such reletting have been subtracted; (ii) any amounts Landlord incurs in reletting the Premises during the remainder of the Term; (iii) other necessary and reasonable expenses (including without limitation reasonable attorneys' fees) incurred by Landlord in enforcing its remedies; and (iv) notwithstanding the foregoing sentence, at Landlord's election, Tenant shall pay to Landlord, on demand, as liquidated and agreed final damages, a sum equal to the amount by which the Rent for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises, for the same period less the aggregate amount of any sums theretofore collected by Landlord pursuant to the provisions of this Section 16.03(b) for the same period. If, before presentation of proof of such liquidated damages to any court, commission, or tribunal, the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed prima facie evidence that such rental amount is the fair and reasonable rental value for the part or the whole of the Premises relet during the term of the reletting.

(c) Landlord, at Landlord's option, may relet the Premises or any part thereof, alone or together with other premises, for such term(s) (which may extend beyond the date on which the Term would have expired but for Tenant's default) and on such terms and conditions (which may include concessions or free rent and alterations of the Premises) as Landlord, in its sole discretion, may determine, but Landlord shall not be liable for, nor shall Tenant's obligations be diminished by reason of, Landlord's failure to relet the Premises or collect any rent due upon such reletting. If Landlord relets the Premises and collects rent in excess of the Rent, Additional Rent, and other charges payable by Tenant under this Lease,

Landlord shall be entitled to retain any such excess and Tenant shall not be entitled to a credit therefor.

(d) Tenant hereby covenants and agrees, as a consideration for the granting by Landlord of this Lease that, in the event of the termination of this Lease by summary proceedings, or in the event of the entry of a judgment for the recovery of the possession of the Premises in any action of ejectment, or if Landlord enters by process of Law or otherwise, the right of redemption provided or permitted by any statute, Law, or decision now or hereafter in force, and the right to any second and further trial provided or permitted by any statute, Law, or decision now or hereafter in force shall be and hereby is expressly waived by Tenant. Further, Tenant, on its own behalf and for its legal representatives, successors, and assigns, and on behalf of all persons or corporations claiming through or under this Lease, together with creditors of all classes, and all other persons having an interest therein, does hereby waive, surrender, and give up all right or privilege which it may or might have by reason of any present or future Law or decision, to redeem the Premises or have a continuance of this Lease for any part of the term hereof after having been dispossessed or ejected therefrom by process of Law or otherwise.

(e) Landlord's rights and remedies set forth in this Lease are cumulative and in addition to Landlord's other rights and remedies at Law or in equity, including those available as a result of any anticipatory breach of this Lease. Landlord's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. Landlord's delay or failure to exercise or enforce any of Landlord's rights or remedies or Tenant's obligations shall not constitute a waiver of any such rights, remedies, or obligations. Neither Tenant's payment of an amount less than a sum due nor Tenant's endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction. Notwithstanding any request or designation by Tenant, Landlord may apply any payment received from Tenant to any payment then due. Landlord may accept the same without prejudice to Landlord's right to recover the balance of such sum or to pursue other remedies. Re-entry and acceptance of keys shall not be considered an acceptance of a surrender of this Lease.

(f) In the event of any Landlord Event of Default set forth in Section 16.02 hereof, Tenant may, at its option, exercise any and all the remedies listed below. No such remedy herein or otherwise conferred upon or reserved to Tenant shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at Law or in equity, and every power and remedy given by the Lease to Tenant may be exercised from time to time and as often as the occasion may rise or may be deemed expedient.

(g) Self-help: Tenant may, but is not obligated to, cure the default and deduct the reasonable costs incurred from Rent, provided Tenant delivers written notice to Landlord of its intent to do so and provides supporting documentation of expenses.

(h) Abatement of Rent: IF Landlord's default material affects Tenant's use of the Premises, Tenant may proportionally abate Rent until the default is cured.

(i) Termination Right: If Landlord's default materially and adversely affects Tenant's ability to conduct business on the Premises and remains uncured for forty-five (45) days, Tenant may terminate this Lease upon thirty (30) days additional written notice to Landlord.

(j) Legal and equitable remedies: Tenant may seek other remedies available under applicable law, including damages, injunctive relief, or specific performance.

XVII. WAIVER OF CLAIMS

Tenant agrees that, to the extent not expressly prohibited by Law, Landlord and its lenders, officers, agents, servants, and employees shall not be liable for (nor shall Rent abate as a result of) any direct or consequential damage (including damage claimed for actual or constructive eviction) either to person or property sustained by Tenant, its subtenants, assigns, officers, servants, employees, agents, invitees, or guests due to the Building or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident in or about said Building, or due to any act or neglect of any tenant or occupant of said Building or of any other person. This provision shall apply particularly (but not exclusively) to damage caused by water, snow, frost, steam, sewage, gas, electricity, sewer gas or odors, or by the bursting, leaking, or dripping of pipes, faucets, and plumbing fixtures, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the causes specifically enumerated above or to some other cause of an entirely different kind. Tenant further agrees that all Tenant's Improvements, Personal Property in the Premises or the Building shall be at the risk of Tenant only, and that Landlord shall not be liable for any loss or damage thereto or theft thereof. Notwithstanding the foregoing, Landlord shall not hereby be exculpated from any liability arising from Landlord's, Indemnified Party's, and/or Landlord's agents' gross negligence or intentional misconduct.

XVIII. WAIVER OF NOTICE

Tenant hereby expressly waives the service of: (a) any notice of intention to terminate this Lease or to re-enter the Premises; (b) any demand for payment of

Rent or for possession of the Premises; and (c) any other notice or demand prescribed by any Law.

XIX. NOTICES

Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Lease (each, a "Notice") in writing and addressed to the other Party at the addresses set forth on the first page of this Lease (or to such other address that the receiving Party may designate from time to time in accordance with this section). Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees prepaid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Lease, 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.

If to Tenant: Fortitude Mining, LLC
45 O Connor Rd
Fairport, NY 14450legal@fortitudemining.com

If to Landlord: Todd Darden, City Manager
310 Nolan Street
Big Spring, Texas 79720

With a copy to: Director of Airpark
Big Spring McMahon-Wrinkle Airport
3200 Rickabaugh Drive West
Big Spring, Texas 79720

XX. QUIET ENJOYMENT

Landlord agrees that Tenant shall, upon paying the Rent and other payments herein reserved and upon keeping, observing, and performing all the other terms, covenants, conditions, provisions, and agreements contained in this Lease on the part of Tenant to be kept, observed, and performed, during the Term of this Lease/so long as no Event of Default exists that would permit Landlord to terminate this Lease, peaceably and quietly have, hold, and enjoy the Premises subject to the terms, covenants, conditions, provisions, and agreements hereof, free from hindrance by Landlord or any other person claiming by, through, or under Landlord.

XXI. EXPIRATION OR OTHER TERMINATION

21.01. SURRENDER OF THE PREMISES.

Upon the expiration or other termination of this Lease, Tenant shall quit and surrender the Premises to the Base Building Condition (vacant, broom clean, and in good order and condition), ordinary wear and tear and damage by casualty or condemnation excepted, failing which Landlord may restore the Premises, equipment, and fixtures to such condition and Tenant shall pay the cost thereof upon demand as Additional Rent. All Tenant's Personal Property not removed from the Premises when Tenant leaves the Premises upon the expiration or other termination of this Lease shall thereupon be conclusively presumed to have been abandoned by Tenant and immediately become Landlord's property; provided, however, that Landlord may require Tenant to remove such Personal Property or may have such property removed at Tenant's expense. Prior to Tenant's vacating the Premises, Tenant shall pay to Landlord an amount reasonably estimated by Landlord as necessary to put the Premises including, without limitation, all HVAC systems and equipment therein, in good condition and repair. Landlord may credit the Security Deposit against the amount payable by Tenant under this Section.

XXII. MISCELLANEOUS PROVISIONS

22.01. GOVERNING LAW.

This Lease, 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 Lease, or the negotiation, execution, or performance of this Lease (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 Lease or as an inducement to enter into this Lease), 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.

22.02. VENUE SELECTION AND SUBMISSION TO JURISDICTION

Any legal suit, action, or proceeding arising out of or based upon/relating to the Lease or the transactions contemplated hereby shall be exclusively filed and adjudicated in state courts sitting in Howard County, Texas, and appellate courts thereof. 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.

22.03. ENTIRE AGREEMENT

This Lease 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 Lease 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 Lease.

22.04. WAIVER

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 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 this Lease 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. The acceptance of Rent shall not be construed to be a waiver of any breach or condition of this Lease.

22.05. SUCCESSORS

The provisions of this Lease shall be binding upon and inure to the benefit of Landlord and Tenant, respectively, and their respective successors, assigns, heirs, executors, and administrators. Tenant agrees to become the tenant of Landlord's successor in interest under the same terms and conditions of its tenancy hereunder.

22.06. SEVERABILITY

If any clause or provision of this Lease is found to be illegal, invalid, or unenforceable under present or future laws, the remainder of this Lease shall not be affected thereby and there shall be added as part of this Lease a replacement clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and still be legal, valid, and enforceable.

22.07. RELATIONSHIP OF THE PARTIES.

Landlord and Tenant agree that the relationship between them is that of landlord and tenant and that Landlord is leasing space to Tenant. It is not the intention of the Parties, nor shall anything herein be constructed to constitute Landlord as a partner or joint venturer with Tenant, or as a "warehouseman" or a "bailee."

22.08. HEADINGS.

The headings as to the contents of particular paragraphs herein are intended only for convenience and are in no way to be constructed as a part of this Lease or as a limitation of the scope of the particular paragraphs to which they refer.

22.09. SURVIVAL OF OBLIGATIONS.

All obligations of Tenant hereunder not fully performed as of the expiration or earlier termination of the Term of this Lease shall survive the expiration or earlier termination of the Term hereof.

22.10. ADDITIONAL RIGHTS OF LANDLORD.

In addition to other rights conferred by this Lease or by Law, and as long as it does not render the Premises untenable, Landlord reserves the right, to be exercised in Landlord's sole discretion, to: (a) change the name of the Airpark or the Building; or (b) change the street address of the Building.

22.11. LIMITATION OF LIABILITY.

Anything in the Lease to the contrary notwithstanding, any judgment obtained against Landlord in connection with this Lease or the subject matter hereof shall be limited solely to Landlord's interest in the Building and the Premises, and any proceeds from the sale thereof, and shall be absolutely nonrecourse with respect to Landlord personally and all other assets of Landlord. Anything in this Lease to the contrary notwithstanding, the term "Landlord" shall be limited to mean and include only the then owner of the Building or the Premises, or the tenant under any underlying or ground lease of the Building or the Premises, and not any predecessor owner or tenant.

22.12. WAIVER OF JURY TRIAL.

LANDLORD AND TENANT KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVE A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY AGAINST THE OTHER IN ANY MATTER ARISING OUT OF THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, OR ANY CLAIM OF INJURY OR DAMAGE.

22.13. COUNTERPARTS.

This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument.

22.14. PREVAILING PARTY.

If any Party brings an action or proceeding involving the Premises to enforce the terms hereof or to declare rights hereunder, then such initiating Party shall be entitled to reasonable attorneys' fees, if it is the Prevailing Party in any such proceeding, action, or appeal thereon. The term, "Prevailing Party" shall include, without limitation, a Party that substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, the Prevailing Party shall be entitled to attorneys' fees, costs, and expenses incurred in the preparation and service of notices of default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such default.

22.15. AMENDMENT AND MODIFICATION.

This Lease 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.

22.16. NO THIRD-PARTY BENEFICIARIES.

This Lease 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 Lease.

22.17. ADDITIONAL REPRESENTATIONS, WARRANTIES, AND COVENANTS.

(a) Capacity

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

(b) Conflicts of Interest questionnaire

Tenant covenants that it will file a “conflicts of interest questionnaire” (“questionnaire”) (available from Texas Ethics Commission web site) with Landlord if the Tenant has a business relationship with the Landlord and: (1) 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; (2) has given an Officer or an Officer’s family member one or more gifts totaling more than \$100 in the preceding twelve months; or (3) has a family relationship with an Officer.

(c) Tenant Not on Certain Lists

Tenant represents to Landlord that it is not a company on a list prepared and maintained by the Texas Comptroller and that does 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.

(d) Patriot Act

Tenant hereby represents and warrants to Landlord that Tenant: (i) is in compliance with the Office of Foreign Assets Control sanctions and regulations promulgated under the authority granted by the Trading with the Enemy Act, 12 U.S.C. § 95(a) et seq., and the International Emergency Economic Powers Act, 50 U.S.C. § 1701 et seq., as the same apply to it or its activities; (ii) is in compliance with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended from time to time (the "Patriot Act") and all rules and regulations promulgated under the Patriot Act applicable to Tenant; and (iii) (A) is not now, nor has ever been, under investigation by any governmental authority for, nor has been charged with or convicted of a crime under 18 U.S.C. §§ 1956 or 1957 or any predicate offense thereunder; (B) has never been assessed a civil penalty under any anti-money laundering laws or predicate offenses thereunder; (C) has not had any of its funds seized, frozen, or forfeited in any action relating to any anti-money laundering laws or predicate offenses thereunder; (D) has taken such steps and implemented such policies as are reasonably necessary to ensure that it is not promoting, facilitating, or otherwise furthering, intentionally or unintentionally, the transfer, deposit, or withdrawal of criminally derived property, or of money or monetary instruments which are (or which Tenant suspects or has reason to believe are) the proceeds of any illegal activity or which are intended to be used to promote or further any illegal activity; and (E) has taken such steps and implemented such policies as are reasonably necessary to ensure that it is in compliance with all laws and regulations applicable to its business for the prevention of money laundering and with anti-terrorism laws and regulations, with respect both to the source of

funds from its investors and from its operations, and that such steps include the development and implementation of an anti-money laundering compliance program within the meaning of Section 352 of the Patriot Act, to the extent such a party is required to develop such a program under the rules and regulations promulgated pursuant to Section 352 of the Patriot Act. Neither Tenant nor any other person owning a direct or indirect, legal, or beneficial interest in Tenant is in violation of the Executive Order or the Patriot Act. Neither Tenant nor any of its respective constituents, investors (direct or indirect and whether or not holding a legal or beneficial interest) or affiliates, acting or benefiting, directly or indirectly, in any capacity in connection with Landlord and/or the Building or Premises or this Lease or any of the transactions contemplated hereby or thereby, is: (1) listed in the Annex to, or otherwise subject to the provisions of, that certain Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism (the "Executive Order"); (2) named as a "specifically designated national (SDN)" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website (<http://www.treas.gov/ofac/t11sdn.pdf>) or at any replacement website or other replacement official publication of such list or that is named on any other governmental authority list issued post 9/11/01; (3) acting, directly or indirectly for terrorist organizations or narcotics traffickers, including those persons that are included on any relevant lists maintained by the United Nations, North Atlantic Treaty Organization, Financial Action Task Force on Money Laundering, U.S. Office of Foreign Assets Control, U.S. Securities and Exchange Commission, U.S. Federal Bureau of Investigation, U.S. Central Intelligence Agency, U.S. Internal Revenue Service, all as may be amended or superseded from time to time; or (4) owned or controlled by, or acting for or on behalf of, any person described in clauses (1), (2), or (3) above (a "Prohibited Person"). None of the funds or other assets of the Tenant constitute property of, or are beneficially owned, directly or indirectly, by any person, entity, or government subject to trade restrictions under U.S. Law, including but not limited to: (x) the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq.; (y) The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq.; and (z) any Executive Orders or regulations promulgated thereunder, with the result that sale by Tenant or other Persons (whether directly or indirectly), is prohibited by Law (an "Embargoed Person"). No Embargoed Person has any interest of any nature whatsoever in Tenant (whether directly or indirectly); and none of the funds of Tenant have been derived from any unlawful activity with the result that an investment in Tenant (whether directly or indirectly) or sale by Tenant, is prohibited by Law or that execution, delivery, and performance of this Lease or any of the transactions or other documents contemplated hereby or thereby is in violation of Law.

22.18. FORCE MAJEURE

No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Lease, for any failure or delay in fulfilling or performing any term of this Lease (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's reasonable control, including, without limitation: (a) acts of God; (b) flood, fire, earthquake, explosion, or volcanism; or (c) war or invasion. The Party suffering a Force Majeure Event shall give notice within seven (7) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

22.19. 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 Lease 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 Lease 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.

22.20. CONDITION PRECEDENT.

A condition precedent to the formation of this Lease is that Foundry Digital, LLC has executed a lease termination and release agreement with the City of Big Spring.

[The Remainder of this Page Intentionally Left Blank]

[Signature page to follow]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

TENANT

FORTITUDE MINING, LLC, a Delaware
limited liability company

Andrea Childs
CEO

LANDLORD

CITY OF BIG SPRING, a Texas municipal
corporation

Todd Darden
City Manager

APPROVED AS TO FORM ONLY

Andrew W. Hagen
City Attorney

EXHIBIT A--FORTITUDE



EXHIBIT B

Insurance Addendum to Lease

This insurance addendum is part of the lease.

A. Tenant duties:

1. Tenant will maintain the following coverages at its own cost and expense:
 - a. Tenant shall, at Tenant's sole cost and expense, obtain and keep in force during the Term of this Lease a policy of combined single limit, bodily injury and property damage insurance insuring Landlord and Tenant, and any lender[s] whose names have been provided to Tenant in writing (as additional insureds), against any liability arising out of the ownership, use, occupancy, or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be provided through a combined single limit policy in an amount not less than three million and 00/100 Dollars (\$3,000,000.00) per occurrence. The policy shall insure performance by Tenant of the indemnity provision of Section 9.02 of the Lease.
 - b. The limits of said insurance shall not, however, limit the liability of Tenant hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.
 - c. Tenant shall maintain an Umbrella Liability policy. Coverage shall be \$4,000,000 for each occurrence, and \$4,000,000 aggregate.
 - f. Tenant shall maintain workers' compensation insurance as is required by the Laws of the State.
 - g. Tenant or Tenant's Contractor will obtain and maintain (to the extent reasonably procurable) construction liability insurance at all times when demolition, excavation, or construction work is in progress on the premises. The insurance will have limits of not less than \$1,000,000 for property damage and \$3,000,000 for one person and \$1,000,000 for one accident for personal injury and must protect Landlord and Tenant, as well as any other person or persons Tenant may designate, against all liability for injury or damage to any person or property in any way arising out of demolition, excavation, or construction work on the premises.
 - h. Each insurer must be [1] an admitted carrier licensed by the Texas Department of Insurance; [2] rated A or greater in A.M. Best Company, Inc. Financial Strength Rating (FSR); and [3] rated VII or higher in A.M. Best Financial Size Category (FSC).

- i. The City of Big Spring shall be named as an additional insured on all policies.

2. Deliver certificates of insurance that include NAIC number(s), additional insured status and waiver of subrogation to Landlord before entering the Premises and thereafter within ten days of the expiration of the policies.

B. Property Insurance

1. Landlord shall obtain and keep in force during the Term of this Lease a policy or policies of insurance covering loss or damage to the Building, in the amount of the full replacement value thereof, as the same may exist from time to time, but in no event less than the total amount required by lenders having liens on the Premises, against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, flood, windstorm coverage (in the event same is required by a lender having a lien on the Building), and special extended perils ("all risk" as such term is used in the insurance industry). Said insurance shall provide for a payment of loss thereunder to Landlord or to the holder of deeds of trust or mortgages on the Premises.
2. Tenant shall pay for any increase in the premiums of property insurance obtained by Landlord if said increase is caused by Tenant's acts, omissions, use, or occupancy of the Premises.
3. Tenant shall obtain and maintain insurance coverage for full replacement cost on all Tenant's Personal Property, trade fixtures, and Tenant Improvements in, on, or about the Premises. Landlord shall not insure Tenant's Improvements or any of its trade fixtures, equipment, or alterations.

Landlord and Tenant agree that -

1. Waiver of Subrogation. Tenant and Landlord each hereby release and relieve the other and waive their entire right of recovery against the other for loss or damage arising out of or incident to the perils insured against under Section 9 and this Exhibit B, which perils occur in, on, or about the Premises, whether due to the negligence of Landlord, Landlord Parties, Tenant, or any of their agents, employees, contractors, and/or invitees. Tenant and Landlord shall, upon obtaining the policies of insurance required hereunder, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

2. The commercial general liability insurance will be primary to the maintaining party and not contributory to any similar insurance carried by the other party and will contain a severability-of-interest clause.

Exhibit C

Nondiscrimination, Airport Protection, and Subordination

Addendum to Big Spring Wrinkle-McMahon Airpark Property Lease

(a) The Tenant for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (i) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (ii) that in the construction of any improvements on, over or under such land, and the furnishing of services thereon, no person on the grounds of race, color, or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (iii) that the Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

(b) In the event of breach of any of the above nondiscrimination covenants, Landlord shall have the right to terminate the lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

(c) Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Lease, the Tenant, for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination statutes and authorities; including but limited to:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

(ii) 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

(iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

(iv) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

(v) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);

(vi) Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

(vii) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

(viii) Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

(ix) The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

(x) Executive Order 12898 was revoked (90 FR 8633);

(xi) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

(xii) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

2. Airport Protection.

It shall be a condition of this Lease that Landlord reserves unto itself, its successors in interest, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating on the airport.

The Tenant expressly agrees for itself, its successors in interest, and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such a height so as to comply with Federal Aviation Regulations, Part 77 (14 C.F.R. § 77).

The Tenant expressly agrees for itself, its successors in interest, and assigns, to prevent any use of the Premises that would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

3. Subordination.

This Lease and all provisions hereof are subject and subordinate to the terms and conditions of the instruments and documents under which Landlord acquired the subject property from the United States of America and the provisions of any existing or future agreements between Landlord and the United States of America, relative to the operation or maintenance of the airport, including but not limited to, agreements governing the expenditure of federal funds for airport improvements and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the documents for the Premises between the Landlord and the United States of America, and any existing or subsequent amendments thereto, and are subject to any ordinances, rules or regulations which have been, or may hereafter be adopted by Landlord pertaining to the Big Spring McMahon-Wrinkle Airpark.

4. Exclusive Rights.

Notwithstanding anything herein contained to the contrary, it is expressly understood and agreed that the rights granted under this Lease are non-exclusive, and Landlord herein reserves the right to grant similar privileges to another tenant or other tenants of any parts of the airport.

5. Economic Nondiscrimination.

(a) Tenant agrees to furnish services to all users on fair and reasonable terms, without unjust discrimination.

(b) Tenant agrees to charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

Exhibit D

Base Building Condition

The base building condition shall mean good order, broomed clean, and free of debris.

TERMINATION OF LEASE AND RELEASE

THIS TERMINATION AND RELEASE OF LEASE (this "**Termination**"), is made as of the 12th day of March, 2025, by and between City of Big Spring, a Texas municipal corporation, having an address at 310 Nolan Street, Big Spring, Texas 79720 ("**Landlord**") and Foundry Digital LLC, a Delaware limited liability company, having an address at 815 Brazos St Suite 500, Austin, Texas 78701-2509 ("**Tenant**").

RECITALS

WHEREAS, Landlord, as landlord, and Compute North Texas, LLC, a Delaware limited liability company, as tenant, entered into one or more lease agreements, with amendment, demising certain premises near and/or at the Western Container Building, 1600 First Avenue, McMahon-Wrinkle Airpark, Big Spring, Texas 79720 (the "**Premises**"), and as was related to a bankruptcy proceeding involving Compute North Texas, LLC, any interest that continued and concerned the Lease was assigned to and assumed by Tenant, and Tenant and Landlord subsequently entered into a lease agreement for premises dated July 6, 2023, and all real property leasehold interests held at the Premises by Tenant will be referred to herein as "**Lease**;" and

WHEREAS, the Lease has expired and the Tenant has maintained a month-to-month tenancy with the Landlord's consent; and

WHEREAS, the parties wish to terminate the Lease as of March 31, 2025 at 11:59 PM Central Time (the "**Effective Date**").

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:

1. Termination. Landlord and Tenant agree and acknowledge that on the Effective Date, the Lease will terminate in its entirety and in confirmation thereof execute this Termination to terminate the Lease. On the Effective Date, the Lease is of no further force or effect.
2. Release. Tenant hereby expressly waives the service of any notice of intention to terminate the Lease, or to re-enter the Premises.
3. No Further Payments. The Landlord agrees that the Tenant does not owe any outstanding fees or rent under the Lease as of the date of this Termination.
4. Personal Property. The Landlord disclaims all interest in the personal property and trade fixtures Tenant may leave at the Premises.
5. Counterparts. This Termination 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-

Commented [GM1]: This is not necessary if the new Lease contains a condition precedent that this termination be executed.

TENANT
FOUNDRY DIGITAL, LLC, a Delaware
limited liability company

CITY
CITY OF BIG SPRING, a Texas municipal
corporation

Print Name: _____
Print Title: _____

Todd Darden
City Manager

APPROVED AS TO FORM ONLY

Andrew W. Hagen
City Attorney