



NOTICE OF A PUBLIC MEETING

AN AGENDA OF A REGULAR MEETING OF THE CITY COUNCIL CITY OF WHITE SETTLEMENT, TEXAS

6:30 P.M. – Tuesday, July 6, 2021

City Hall – Council Chambers

214 Meadow Park Drive, White Settlement, TX 76108

The White Settlement City Hall is accessible to persons with disabilities. Specially marked parking spaces are available at both Meadow Park and Hanon Drive. Accessible entry is available at the main entrance which is located on the north side of the building. If additional assistance is needed to observe or comment, please notify the City Secretary at 817-246-4971 x203 at least 24 hours prior to the meeting.

City Council meetings are available for public requests for copies beginning on the Thursday after each meeting.

*As a courtesy to those in attendance, please place your cell phone on "Silent" or "Vibrate".
Food and drink are not allowed in council chambers.
Thank You!*

CALL TO ORDER

INVOCATION / PLEDGE OF ALLEGIANCE

CITIZEN PARTICIPATION

The purpose of this item is to allow citizens an opportunity to address the City Council on items that are not listed on the agenda, as well as any consent agenda, executive session, or workshop items. Any person desiring to make a public comment must first fill out a speaker request form, and be recognized by the presiding officer. Individual citizen comments are limited to three minutes. The City Council has no obligation to respond in any manner to comments or questions from the public. Any response from a member of the City Council to comments on items not listed on the agenda is limited to a statement of specific factual information, a recitation of existing policy, or direction to staff to place the subject on the agenda for a future City Council meeting.

PRESENTATIONS

STAFF PRESENTATIONS

1. Presentation of a Certificate of Recognition for Budget Preparation under the Distinguished Budget Presentation Award program as received from the Government Finance Officers Association (GFOA).
2. City Manager report on Items of Community Interest.

EXECUTIVE SESSION

Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the City Council may convene into Executive Session to deliberate regarding the following matters:

3. Sec. 551.071 Consultation with Attorney: The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to seek legal advice from the City Attorney about any matters listed on the agenda

4. Sec. 551.074 Deliberation Regarding Personnel Matters: to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee:
 - a. City Manager
 - b. City Secretary
5. Sec. 551.072 Deliberation Regarding Real Property: The City Council may deliberate the purchase, exchange, lease or value of real property, including consideration of offers made on such properties, including 730 S. Cherry Lane.

RECONVENE IN OPEN SESSION

6. Take action, if any, on items discussed in Executive Session.

CONSENT AGENDA

All items on the Consent Agenda are routine or previously discussed items and will be approved with one motion; however, should a member of the City Council wish to discuss any item, said item may be removed from the Consent Agenda and considered under Deliberation Agenda.

7. Approval of City Council meeting minutes:
 - a. June 1, 2021
 - b. June 9, 2021
 - c. June 15, 2021
 - d. June 16, 2021
8. Approval of a resolution amending Resolution 2018-001 to update the Personnel Policy and Procedure Manual, Chapter 6, Section 6.3 "Paid Leave - General Holidays" to include June 19th, known as Juneteenth National Independence Day, as a city designated holiday.
9. Acknowledge receipt of Monthly Financial Statements for FY 20-21 as of May 31, 2021.

DELIBERATION AGENDA

FINANCIAL:

10. Discuss and consider approving Tyler Technologies, Inc. agreement for the City to transition from Incode 9 to Incode 9 Cloud financial software.
11. Discuss and consider calling an additional budget workshop. This item is for council members to discuss whether or not to schedule an additional (sixth) budget workshop, setting a date and time for the workshop, and taking a record vote.

ADMINISTRATIVE:

12. Discuss and consider options for renaming the convention center located at the Splash Dayz Water Park site to be more easily identified as a choice event center separate from a park facility.

13. Discuss and consider an ordinance amending Sections 2-60 and 2-62 of Article III “Boards, Commissions and Agencies” of Chapter 2 “Administration” of the code of ordinances, by removing the prohibition of serving simultaneously on multiple boards or commissions.
14. Discuss and consider an ordinance amending Article II “Board of Adjustment and Appeals” of Chapter 101 “General and Administrative Provisions” of Subpart B “Land Development Ordinances” of the code of ordinances, by providing for five members and two alternate members to the Board of Adjustment and Appeals; providing for the appointment process to the Board of Adjustment and Appeals; providing that four members constitutes a quorum; providing that zoning related cases must be heard by at least four members; and providing for procedures for zoning appeals.
15. Discuss and consider appointment to open / expired positions on the Board of Adjustments and Appeals.

COMMUNITY SERVICES:

16. Discuss and consider a Professional Services Agreement for engineering services with James DeOtte Engineering for the National Guard Drainage Project in an amount not to exceed \$146,250.00.

ADJOURNMENT

Notice posted on the 1st day of July, 2021, on the City Hall bulletin board at 214 Meadow Park Drive, White Settlement, Texas by 5:00 p.m.

Amy Arnold, TRMC, CMC

City Secretary



**The Government Finance Officers Association
of the United States and Canada**

presents this

CERTIFICATE OF RECOGNITION FOR BUDGET PREPARATION

to

**Finance Department
City of White Settlement, Texas**



The Certificate of Recognition for Budget Preparation is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Distinguished Budget Presentation Award. The Distinguished Budget Presentation Award, which is the highest award in governmental budgeting, is presented to those government units whose budgets are judged to adhere to program standards

Executive Director

Christopher P. Morill

Date: **June 09, 2021**



To: City Council
From: Amy Arnold, City Secretary
Date: July 6, 2021
Subject: 2021-1271

At this time City Manager Jeffrey J. James will provide a report on Items of Community Interest as defined by Section 551.0415 of the Open Meetings Act. No action is to be taken on these items.



**MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL
CITY OF WHITE SETTLEMENT, TEXAS
6:30 P.M. – Tuesday, June 1, 2021
City Hall – Council Chambers
214 Meadow Park Drive, White Settlement, TX 76108**

CALL TO ORDER

Mayor White called the open meeting to order at 6:39 p.m. announcing a quorum of council members present as follows:

Council Member Paul Moore,
Mayor Pro Tem Evelyn Spurlock,
Council Member Amber Munoz,
Council Member Christina Grudzinski; and
Council Member Gregg Geesa.

Executive Staff present included City Manager Jeffrey J. James, City Secretary Amy Arnold, and City Attorney Drew Larkin. Other staff present included Executive Administrative Assistant Ann Elias, Community Services Director Rich Tharp, Finance Director Krystal Crump (Foght), Building Official Robert Nunley, Police Chief J. Bevering, Fire Chief Brandon Logan, City Marshal Randy Rogers, Public Works Director Jeff Ray, and Communications Manager Aaron Hall.

INVOCATION / PLEDGE OF ALLEGIANCE

Mayor White offered the invocation and led the Pledge of Allegiance

CITIZEN PARTICIPATION

Prior to acknowledging speakers, Mayor White made the following statement:

The purpose of this item is to allow citizens an opportunity to address the City Council on items that are not listed on the agenda, as well as any consent agenda, executive session, or workshop items. Any person desiring to make a public comment must first fill out a speaker request form, and be recognized by the presiding officer. Individual citizen comments are limited to three minutes. The City Council has no obligation to respond in any manner to comments or questions from the public. Any response from a member of the City Council to comments on items not listed on the agenda is limited to a statement of specific factual information, a recitation of existing policy, or direction to staff to place the subject on the agenda for a future City Council meeting.

Sue Miller of 605 Dale Lane addressed the City Council with concerns of and disappointment in the current solid waste pickup service. Mrs. Miller gave examples of lack of trash pickup and voiced her frustration.

Mayor Pro Tem Evelyn Spurlock responded to Mrs. Miller stating staff and council are aware of the issues, mentioning staff preparations to review and address the current contract.

PRESENTATIONS

STAFF PRESENTATION

1. City Manager Jeff James will update City Council on current infrastructure and municipal projects which included the following:

- Swift water rescue over the weekend by White Settlement Fire Department, assisting locally and other municipalities. Mr. James thanked Chief Logan and his department;
- Water park opening including mentioning the successful reorganization of staff, introducing Chris Chapin who will be the water park manager. Mr. Chapin spoke to members providing his experience and enthusiasm as the new manager.
- Street conditions and water concerns related to infrastructure repairs and recent flooding in particular areas;
- Special needs park fence, explaining reason for delay in constructing the fence; and
- Bomber Rd. apartment complex, introduced Mr. John Palmer who gave an overview of his previous presentation and answered questions from council members.

CONSENT AGENDA

Mayor Pro Tem Spurlock made a motion to approve the Consent Agenda. Council Member Grudzinski seconded the motion which carried unanimously. Approval of the Consent Agenda included the following:

2. Approval of City Council meeting minutes:
 - a. May 4, 2021
3. Acknowledge receipt of Monthly Financial Statements for FY 20-21 as of April 30, 2021.
4. Approval of a proposal for promotional services for the 2021 Splash Dayz Water Park Season to H Two Marketing.

Before Executive Session Mayor White asked to move the Executive Session to after the Deliberation Agenda. A motion and second were heard. Prior to voting City Secretary Amy Arnold informed members the Executive Session is for consultation with the Attorney on an item listed in deliberation. The motion was rescinded.

Mayor Pro Tem Spurlock made a motion to switch the order of items 5 and 6 on the agenda. Council Member Munoz seconded the motion which carried unanimously.

EXECUTIVE SESSION

Mayor White announced City Council would convene in Executive Session at 8:00 p.m. after first reading the following statement:

Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the City Council may convene into Executive Session to deliberate regarding the following matters:

5. *Sec. 551.071 Consultation with Attorney: The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to seek legal advice from the city attorney about any matters listed on the agenda and the following:*
 - a. *Commercial Electricity Service Agreement between the City and GEXA Energy, LP, regarding notice of Ancillary Services and Nodal Basis Adjustment (Storm Recovery Amount) due.*

RECONVENE IN OPEN SESSION

Take action, if any, on items discussed in Executive Session.

Mayor White announced City Council is reconvened from Executive Session at 8:16 p.m. to take action on items discussed in Executive Session. No action was taken.

DELIBERATION AGENDA

PLANNING AND DEVELOPMENT:

6. Hold a Public Hearing and consider a special use permit (SUP) for Sunset Gardens Addition, Block 12 Lot 13C, more commonly known as 109 Russell Street, White Settlement, TX 76108.

Building Official Robert Nunley presented the item explaining the applicant is the current tenant at the location doing work as allowed by the current zoning and has received a temporary CO. Mr. Nunley mentioned the previous business at the location and stated the applicant has moved to the location due to business growth and need for space.

Members discussed zoning of location at time of previous tenant, zoning, location, parking and noise concerns. Mr. Nunley explained the location is listed as commercial corridor on the 2006 zoning map and staff is unaware of any zone amendments prior to this date.

Mayor White opened the public hearing at 7:25 p.m.

Arnold Layton of 112 Russell Street, Brinda Rhodes of 123 Russell Street, Carla Potter of 119 Russell Street and Sue Miller of 605 Dale Lane each addressed the City Council in opposition to the item. Speakers voiced concerns of wreckers dropping off vehicles during nighttime hours, noise produced by tools, blocked driveways, safety concerns mentioning children play in the street, concerns of smells, and concerns of ruining the quiet neighborhood. Mr. Layton also mentioned the current situation in reference to the comp plan and desire to upgrade.

Hearing no other speakers, Mayor White closed the Public Hearing at 7:31 p.m.

Members discussed the option to issue a temporary SUP to which City Attorney Drew Larkin advised against stating members should be considering the use and permanent time frame. Members also discussed permitted uses, tenant abiding by permitted uses according to current zone, and the ability to enforce a noise ordinance for specific time frames. City Attorney Drew Larkin noted the ordinance presented grants the SUP without special conditions listed, however, members have the ability to impose special conditions to help mitigate negative effects of the SUP.

Council Member Geesa made a motion to postpone the item. The motion died for a lack of second.

Mayor Pro Tem Spurlock made a motion to grant the SUP as recommended by Planning and Zoning Commission. Council Member Moore seconded the motion followed by Mayor Pro Tem Spurlock withdrawing her motion. No vote was taken on this motion.

Mayor Pro Tem Spurlock made a motion to approve the ordinance with amendments to include no business be conducted after 10 p.m. and no wreckers between 10 p.m. and 8 a.m. Mayor Pro Tem Spurlock withdrew her second motion to allow for the owner to speak.

The owner of the business spoke in response to residence concerns explaining the operations of the business and standard procedures for receiving vehicles and storage of vehicles.

Mayor Pro Tem Spurlock made a motion to approve an ordinance (ORD 2021-06-009) granting a special use permit (SUP) for Sunset Gardens Addition, Block 12 Lot 13C, more commonly known as 109 Russell Street, with special conditions to include no wreckers between 10 p.m. and 7 a.m. and no working past 10 p.m. on normal business days. Council Member Moore seconded the motion which carried as follows: Mayor Pro Tem Spurlock and Council Members Moore, Munoz, and Grudzinski voting in favor and Council Member Geesa abstaining.

7. Hold a Public Hearing, and consider an ordinance to amend section 111-215 " Fences" of the zoning ordinance by amending section 111-215 (J) "fence material".

Building Official Robert Nunley presented the item explaining staff review of the current fence ordinance and recommendation to amend depth of post hole to two feet from three feet. Mr. Nunley explained the current requirement causes material waste and confirmed the metal post is sufficient to maintain an upright fence with a two foot post hole.

Mayor White opened the public hearing at 8:18 p.m. Hearing no speakers, Mayor White closed the Public Hearing at 8:18 p.m.

Council Member Moore made a motion to approve an ordinance (ORD 2021-06-010) to amend section 111-215 " Fences" of the zoning ordinance by amending section 111-215 (J) "fence material". Mayor Pro Tem Spurlock seconded the motion which carried unanimously.

8. Hold a Public Hearing and consider a re-plat for Lot 29 and 30, Block 7 Meadow Park Addition more commonly known as 8510 Wyatt Drive.

Building Official Robert Nunley explained the request stating the lots have the same owner who built a new home on one lot and demoed the home on the other. Mr. Nunley explained the lots need to be platted as one lot to meet requirements for fences and accessory buildings.

Mayor White opened the public hearing at 8:21 p.m. Hearing no speakers, Mayor White closed the Public Hearing at 8:21 p.m.

Council Member Munoz made a motion to approve the re-plat for Lot 29 and 30, Block 7 Meadow Park Addition more commonly known as 8510 Wyatt Drive as presented. Council Member Grudzinski seconded the motion which carried unanimously.

9. Hold a Public Hearing and consider a re-plat for Lot 1 Block 1, Blackwell Estates situated in the W.M Robinson Survey Abstract, more commonly known as 1112 Dell Street, White Settlement, Texas.

Building Official Robert Nunley explained the item stating the property is currently an abstract and must be platted land in order to be developed.

Mayor White opened the public hearing at 8:22 p.m. Hearing no speakers, Mayor White closed the Public Hearing at 8:23 p.m.

Mayor Pro Tem Spurlock made a motion to approve the re-plat for Lot 1 Block 1, Blackwell Estates situated in the W.M Robinson Survey Abstract, more commonly known as 1112 Dell Street. Council Member Munoz seconded the motion which carried unanimously.

ADMINISTRATIVE:

10. Discuss and consider fund amounts for General Fund (01) City Council (501) budget line items 20.231 "Council Sponsored Events", 20.232 "Marketing and Promotional", 20.233 "Travel and Training", 20.234 "In Sympathy / Memorials", and 20.237 "Plaques, Awards, Recognition" to be submitted to finance for inclusion in the FY 21-22 proposed budget. This is not for final approval of these line item fund amounts.

Finance Director Krystal Crump (Foght) presented the item stating staff would like council guidance on the items listed due to the previous fiscal years events. Mrs. Crump (Foght) explained "Council Sponsored Events" have been moved to another fund (fund 5) to better categorize the items, with 25000 in the fund.

Members, along with staff, discussed the funds and noted the following be included in the proposed budget presentation:

- Marketing and promotional
 - Training for boards - \$2500
 - Banquet for board appreciation - \$2000
- Travel and Training
 - TML training - \$5000
- Council Sponsored events to include
 - Chili cook off - \$1800
- In Sympathy / Memorials to remain \$600
- Plaques, Awards & Recognitions to remain 1 business and 1 citizen recognition at \$350.

No action was needed on this item.

11. Discuss and consider payment for Ancillary Services and Nodal Basis Adjustment (Storm Recovery Amount) to GEXA Energy, LP. in the amount of \$74,345.32 to be paid through a monthly surcharge; and making a selection of a payment option.

Finance Director Krystal Crump (Foght) stated based on Executive Session staff asks for City Council approval of option one (1).

Council Member Moore made a motion to approve selection of option one (1). Mayor Pro Tem Spurlock seconded the motion which carried unanimously.

FINANCIAL:

12. Discuss and consider a Software Service Agreement between the City and Open Gov, to be for a term of five years, to provide for transparency, budgeting, and stories platforms using ARPA funds.

City Manager Jeff James and Finance Director Krystal Crump (Foght) presented the information explaining benefits of the software including transparency and accessibility. Staff reviewed implementation costs, annual costs, and compliance with transparency requirements. Mrs. Crump (Foght) mentioned the agreement was reviewed by and adjustments made by the city attorney prior to being presented to city council.

Council Member Geesa questioned the 5% inflation cost to which staff responded is the standard percentage and is unable to be amended.

Mayor Pro Tem Spurlock made a motion to approve a software Service Agreement between the City and Open Gov, to be for a term of five years, using ARPA funds. Council Member Grudzinski seconded the motion which carried unanimously.

13. Discuss and consider an ordinance amending Ordinance 2020-09-019 to provide for revisions to the City of White Settlement, Texas operating budget for the fiscal year beginning October 1, 2020 and ending September 30, 2021.

Finance Director Krystal Crump (Foght) explained the requested amendments which included:

- Water & Sewer fund will have \$348,115 taken out of fund balance for staff and meter supplies for meter and transmitter replacement
- Stormwater fund will have \$40,000 taken out of fund balance for capital costs for Clyde Stormwater engineering costs
- Street improvements fund will have \$155,000 take out of fund balance for capital costs for curb and gutter

Council Member Geesa made a motion to approve an ordinance (ORD 2021-06-011) amending Ordinance 2020-09-019 to provide for revisions to the City of White Settlement, Texas operating budget for the fiscal year beginning October 1, 2020 and ending September 30, 2021. Mayor Pro Tem Spurlock seconded the motion which carried unanimously.

PUBLIC WORKS:

- 14.** Discuss and Consider awarding the curb and gutter improvements on East Wilbur Street to Reliable Paving.

Community Services Director Rich Tharp presented the item explaining it is in conjunction with the Tarrant County Overlay project and provided information on the improvements to be done including a description of the area.

Council Member Munoz made a motion to award the curb and gutter improvements on E. Wilbur Street to Reliable Paving. Council member Grudzinski seconded the motion which carried unanimously.

BOARD APPOINTMENTS:

- 15.** Discuss and consider reappointments to the Economic Development Corporation Board of Directors
- a. Place 3, currently held by Ann Smith, for a new term to expire June 2023;
 - b. Place 5, currently held by Pat Wirsing, for a new term to expire June 2023; and
 - c. Place 7, currently held by Richard Huff, for a new term to expire June 2023.

Mayor Pro Tem Spurlock made a motion to reappointed as presented. Council Member Munoz seconded the motion which carried unanimously.

ADDENDUM

- 16.** Consider an ordinance vacating and abandoning a portion of a utility easement located on Lot 3AR-1, Block 4, Westgate Addition; declaring that such easement is unnecessary for use by the public; and authorizing the city manager to execute a quitclaim deed releasing public ownership, interest, and control.

Building Official Robert Nunley provided information explaining the removal of an older, unused water main at the location and the need for the easement for a relocated water main.

Mayor Pro Tem Spurlock made a motion to approve an ordinance (ORD 2021-06-012) vacating and abandoning a portion of a utility easement located on Lot 3AR-1, Block 4, Westgate Addition; declaring that such easement is unnecessary for use by the public; and authorizing the city manager to execute a quitclaim deed releasing public ownership, interest, and control. Council Member Munoz seconded the motion which carried unanimously.

ADJOURNMENT

With there being no further discussion, Mayor White adjourned the meeting at 9:10 p.m.

Approved this 6th day of July, 2021.

Ronald A. White, Mayor

ATTEST:

Amy Arnold, City Secretary



**MINUTES OF A BUDGET WORKSHOP OF THE
CITY COUNCIL
CITY OF WHITE SETTLEMENT, TEXAS
6:30 P.M. – Wednesday, June 9, 2021
City Hall – Council Chambers
214 Meadow Park Drive, White Settlement, TX 76108**

CALL TO ORDER

Mayor White called the Budget Workshop to order at 6:30 p.m. stating a quorum of members are present with Council Member Grudzinski participating via videoconference (zoom). All other members were present in person, as follows:

Council Member Paul Moore, Mayor Pro Tem Evelyn Spurlock, Council Member Amber Munoz, and Council Member Gregg Geesa.

CITIZEN PARTICIPATION

Daniel Bennet addressed members regarding Tarrant County Commissioners Court, Tarrant Appraisal District and HB2403.

WORKSHOP

1. Hold a workshop for presentation, review, and discussion of the Draft Annual Operating Budget for Fiscal Year 2021-2022.

Finance Director Krystal Crump (Foght) presented the General Fund proposed budget to members noting

- proposed changes and overview of revenue and expenditures
- General Fund Expenditures
 - By function
 - GG – General Government
 - PS – Public Safety
 - PW – Streets Department
 - CS – Community Services
 - By category
 - Personnel
 - Materials and supplies
 - Contractual services
 - Capital outlay
 - Reserves
 - Transfers
 - By department
 - Council
 - City Manager
 - City Secretary
 - Human resources
 - MIS
 - City Marshal

- Finance
 - Court
 - Purchasing
 - Media
 - Code
 - Municipal Facilities
 - Streets
 - Planning / Development
- Needs of Public Safety Departments
- ARPAA funds
 - Temporary
 - Ability to use for positions currently vacant due to covid
- Senior Center Opening
- Non-departmental items
 - Cloud based finance products
 - Server security
 - Data storage
 - Splash Dayz transfer to an Internal Service Fund
- Police
 - Animal Control
 - Fire
 - Library
 - Senior Services
 - Recreation
 - Parks

Council Members questioned trash pickup in Veterans park noting recent abundance of trash as well as a need for a stable operating air conditioning unit at city hall.

City Manager Jeff James addressed the city council stating the budget being presented is a proposed budget explaining comments, questions and ideas from council members are welcome.

ADJOURNMENT

With there being no further discussion, Mayor White adjourned the meeting at 7:48 p.m.

Approved this 6th day of July, 2021.

Ronald A. White, Mayor

ATTEST:

Amy Arnold, City Secretary



**MINUTES OF A BUDGET WORKSHOP OF THE
CITY COUNCIL
CITY OF WHITE SETTLEMENT, TEXAS
6:30 P.M. – Tuesday, June 15, 2021
City Hall – Council Chambers
214 Meadow Park Drive, White Settlement, TX 76108**

CALL TO ORDER

Mayor White called the Budget Workshop to order at 6:30 p.m. stating a quorum of members are present with Council Member Grudzinski participating via videoconference (zoom). All other members were present in person, as follows:

Council Member Paul Moore, Mayor Pro Tem Evelyn Spurlock, Council Member Amber Munoz, and Council Member Gregg Geesa.

CITIZEN PARTICIPATION

There were none.

DELIBERATION AGENDA

1. Discuss and consider granting right-of-entry access to VRX, Inc. (VRX) for the Schematic and Environmental Contract for the N. Las Vegas Trail project from IH 820 to Quebec St., White Settlement and Fort Worth, Tarrant County, Texas; authorizing city manager to execute the agreement.

City Manager Jeff James presented the item explaining the request is in relation to the TxDOT Project on North Las Vegas Trail in which the city, along with Fort Worth and TxDOT, are participants.

Mayor Pro Tem Spurlock made a motion to approve the contract as presented. Council Member Munoz seconded the motion which carried unanimously.

WORKSHOP

2. Hold a workshop for presentation, review, and discussion of the Draft Annual Operating Budget for Fiscal Year 2021-2022.

During the workshop, Mayor White called for a break at 7:50 p.m. and reconvened at 8:05 p.m.

Prior to City Manager Jeff James and Finance Director Krystal Crump (Foght) presenting the evening's budget discussion items, staff noted no questions were received from the previous general fund discussions and provided the option to hold an additional budget workshop if so desired.

Budget workshop information provided included:

- Proposed changes and overview of each fund discussed which included

- Water and Sewer Fund
 - No credit card fees in an effort to encourage online, kiosk, and pay by phone services
 - Meter Services
 - Additional staff as allowed for by FY20-21 budget amendment in June.
 - Projects and timelines to complete
 - Water Distribution
 - Fort Worth anticipated 15% water and 17% sewer increase
 - Valve locate program
 - Fire hydrant repair and maintenance program
 - Sewer
 - Risk and resiliency and emergency management costs
 - Explanation of rain affecting sewer
 - Replacement of manholes to address I&I issues
 - Reorganization
 - Creation of Environmental section
 - Staff specific to this function
 - TCEQ, EPA, Testing, Flushing, etc.
- Non-Departmental
 - Functions and expenditures
 - Stormwater
 - Revenues and expenditures
 - Commercial rate increase per study
 - Major functions / expenditures
 - Splash Dayz
 - Revenues – early in season - estimated amount
 - Transfers to pay deficit from other departments
 - Needed repairs
 - Convention Center
 - Revenues / Expenditures
- Debt Service Fund
 - Revenues / Expenditures
 - Five outstanding bonds
 - Debt issuance bill information
- Hotel/Motel Tax
 - Revenue / Expenditures
 - Major functions
 - Convention center funding
 - Chamber and museum –tourism and promotion of events
- Pride Commission Fund
 - Funded by General fund
 - Has built up a fund balance

- EDC Budget
 - Will go before EDC in July for board approval
- CCPD Budget
 - Will go before in June for board approval
 - Functions and expenditures
 - Exclusion from Chic-Fil-A 360 agreement

Member comments included:

- Mayor White comments included
 - Noting questions to bring to staff for a future meeting
 - Keeping questions and comments related to the budget
 - Confirmed with staff the responsibility to pay the water park debt whether the park remains open or not
- Mayor Pro Tem Spurlock's comments included
 - Clarification of the Environmental section as being created to prevent late reports, etc
 - Comments on needs of the water park
- Council Member Geesa comments included
 - TCEQ training programs
 - Stating budget meetings are an outline to prepare for a line item budget meeting
- Council member Grudzinski comments included:
 - Staff turnover, education and pay structure
 - Splash Dayz budget related to the event center, personnel, needs of the park

ADJOURNMENT

With there being no further discussion, Mayor White adjourned the meeting at 8:30 p.m.

Approved this 6th day of July, 2021.

Ronald A. White, Mayor

ATTEST:

Amy Arnold, City Secretary



**MINUTES OF A BUDGET WORKSHOP OF THE
CITY COUNCIL
CITY OF WHITE SETTLEMENT, TEXAS
6:30 P.M. – Wednesday, June 16, 2021
City Hall – Council Chambers
214 Meadow Park Drive, White Settlement, TX 76108**

CALL TO ORDER

Mayor White called the Budget Workshop to order at 6:30 p.m. stating a quorum of members are present with Council Member Grudzinski participating via videoconference (zoom). All other members were present in person, as follows:

Council Member Paul Moore, Mayor Pro Tem Evelyn Spurlock, Council Member Amber Munoz, and Council Member Gregg Geesa

After calling the workshop to order, Mayor White mentioned the duty of the city manager and the duties of council members in relation to the budget. Mayor White requested all speakers wait to be recognized to avoid speaking over each other. Council Member Grudzinski questioned if she was able to discuss employees, Mayor White stated only items related to the budget could be discussed.

CITIZEN PARTICIPATION

Patricia England of 852 McCully St addressed the council in reference to her disappointment of the budget workshop on June 15, 2021. Ms. England stated she did not feel all members were allowed to speak during the workshop and would like to hear comments from all members.

WORKSHOP

1. Hold a workshop for presentation, review, and discussion of the Draft Annual Operating Budget for Fiscal Year 2021-2022.

Finance Director Krystal Crump (Foght) continued the proposed budget workshop beginning with a presentation of her CPM program paper. The paper related to the implementation of Capital Improvement Project. Mayor Pro Tem Spurlock congratulated her on her recent graduation from the CPM Program.

Further budget information provided by staff included revenue, expenditures and essential functions of the following:

- Street Improvement Fund
- Internal Service Fund
 - Splash Dayz
- Water Sewer Capital Bond Fund
 - Created to increase transparency of funding for bond projects
 - Detailed information on bond projects including Clyde St
 - Shared benefits

- Engineer review
- ARPA funds (America Rescue Plan Act)
 - Reinstate positions frozen due to Covid
 - Project costs and remaining funds
 - Mental Health Officer

Member comments included:

- Mayor Pro Tem Spurlock asked if staff could compile numbers related to projects listed to that would include repair & patch 2 year cost, manpower and number of residents affected.
- Council Member Grudzinski commented on her support of the mental health officer seeing it as a useful tool and a way to increase safety. Council Member Grudzinski questioned personnel and new positions requesting staff to provide specific information.
- Council Member Geesa questioned Clyde Street Project funding, rerouting of area related to city streets.

ADJOURNMENT

With there being no further discussion, Mayor White adjourned the meeting at 7:36 p.m.

Approved this 6th day of July, 2021.

Ronald A. White, Mayor

ATTEST:

Amy Arnold, City Secretary



To: City Council
From: Amy Arnold, City Secretary
Date: July 6, 2021
Subject: 2021-1252

On June 17, 2021 President Biden signed into law S.475 known as the *Juneteenth National Independence Day Act*, which became Public Law No. 117-17. The bill established June 19th as a legal public holiday.

This resolution updates the employee manual to include June 19th as an employee holiday.



To: City Council
From: Krystal Crump, Finance Director
Date: July 6, 2021
Subject: 2021-759

In keeping in line with the Finance Department's goal of presenting year-to-date budget versus actual financial statements to the City Council each month for funds with heavy activity, and periodically presenting financial statements for funds with less activity, City Staff is providing the following funds' financial statements as of May 31, 2021 for your review:

- Ø General Fund;
- Ø Water & Sewer Fund;
- Ø Crime Control and Prevention District (CCPD) Fund;
- Ø Splash Dayz Fund; and
- Ø Stormwater Utility Fund.

	CITY OF WHITE SETTLEMENT MONTHLY FINANCIALS AS OF MAY 31, 2021						
01 -GENERAL FUND FINANCIAL SUMMARY					% OF YEAR COMPLETED : 66.67		
	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBERED	BUDGET BALANCE	% YTD BUDGET	PRIOR YEAR YTD BALANCE
REVENUE SUMMARY							
PROPERTY TAXES	6,183,062.00	62,471.81	6,179,419.98	-	3,642.30	99.94	5,693,049.16
SALES AND USE TAXES	2,003,400.00	272,955.28	1,169,498.57	(34,000.00)	867,901.43	56.68	1,080,774.65
FRANCHISE FEES	925,000.00	48,696.51	496,522.74	20,000.00	408,477.26	55.84	519,876.82
FINES & FORFEITURES	237,050.00	21,938.60	185,309.21	-	51,740.83	78.17	219,404.28
LICENSES & PERMITS	251,295.00	30,929.52	214,734.84	-	36,560.44	85.45	190,804.44
CHARGES FOR SERVICES	195,074.00	24,568.62	145,638.56	-	49,435.52	74.66	96,840.57
INTEREST INCOME	130,000.00	10,452.29	94,372.02	-	35,628.06	72.59	169,392.41
OTHER REVENUE	367,485.00	2,946.24	386,829.84	55.00	(19,399.72)	105.28	135,711.77
TRANSFERS	1,372,716.00	118,965.99	924,351.21	-	448,364.67	67.34	1,027,891.66
TOTAL REVENUES	11,665,083.00	593,924.86	9,796,676.97	(13,945.00)	1,882,350.79	83.86	9,133,745.76
EXPENDITURE SUMMARY							
CITY COUNCIL							
PERSONNEL	7,927.00	-	31.36	-	7,895.34	0.40	415.46
MATERIALS & SUPPLIES	856.00	123.00	287.30	-	568.70	33.56	2,045.42
CONTRACTUAL SERVICES	292,786.00	518.25	102,504.25	184,697.71	5,583.58	98.09	183,164.13
TOTAL CITY COUNCIL	301,568.00	641.25	102,822.91	184,697.71	14,047.62	95.34	185,625.01
CITY MANAGER'S OFFICE							
PERSONNEL	229,007.00	16,974.35	145,491.01	-	83,516.05	63.53	220,294.56
MATERIALS & SUPPLIES	1,350.00	-	229.02	-	1,120.98	16.96	205.23
CONTRACTUAL SERVICES	11,600.00	838.67	3,413.08	-	8,186.92	29.42	8,777.26
RESERVES	11,916.00	-	-	-	11,916.46	-	-
TOTAL CITY MANAGER'S OFFICE	253,874.00	17,813.02	149,133.11	-	104,740.41	58.74	229,277.05

CITY SECRETARY							
PERSONNEL	111,604.00	8,009.91	68,948.83	-	42,655.39	61.78	71,804.14
MATERIALS & SUPPLIES	786.00	2.04	51.83	-	734.17	6.59	406.48
CONTRACTUAL SERVICES	30,712.00	367.48	19,522.83	1,231.00	9,958.17	67.58	9,420.80
TOTAL CITY SECRETARY	143,102.00	8,379.43	88,523.49	1,231.00	53,347.73	62.72	81,631.42
HUMAN RESOURCES							
PERSONNEL	92,128.00	7,060.02	61,210.38	-	30,917.97	66.44	59,599.49
MATERIALS & SUPPLIES	2,400.00	98.09	823.59	-	1,576.41	34.32	467.80
CONTRACTUAL SERVICES	78,196.00	3,842.79	34,551.20	24,450.00	19,194.80	75.45	43,547.44
TOTAL HUMAN RESOURCES	172,724.00	11,000.90	96,585.17	24,450.00	51,689.18	70.07	103,614.73
MIS							
PERSONNEL	172,557.00	11,077.74	97,231.27	-	75,325.89	56.35	95,456.24
MATERIALS & SUPPLIES	1,100.00	88.31	500.11	-	599.89	45.46	623.78
CONTRACTUAL SERVICES	127,318.00	13,332.54	68,436.81	13,478.00	45,403.19	64.34	49,718.38
CAPITAL OUTLAY	16,451.00	-	16,450.74	-	-	100.00	-
TOTAL MIS	317,426.00	24,498.59	182,618.93	13,478.00	121,328.97	61.78	145,798.40
CITY MARSHAL							
PERSONNEL	133,944.00	6,130.88	68,719.62	-	65,224.39	51.30	76,437.50
MATERIALS & SUPPLIES	10,390.00	459.25	3,248.31	1,200.00	5,941.67	42.81	3,088.93
CONTRACTUAL SERVICES	33,162.00	2,124.03	22,846.23	2,078.20	8,237.50	75.16	40,082.12
TOTAL CITY MARSHAL	177,496.00	8,714.16	94,814.16	3,278.20	79,403.56	55.26	119,608.55
FINANCE							
PERSONNEL	453,339.00	38,521.06	288,137.95	-	165,200.72	63.56	267,188.72
MATERIALS & SUPPLIES	6,293.00	522.22	3,118.14	-	3,174.48	49.55	3,414.06
CONTRACTUAL SERVICES	35,918.00	11,721.98	25,046.72	3,912.00	6,959.66	80.62	26,992.69
TOTAL FINANCE	495,550.00	50,765.26	316,302.81	3,912.00	175,334.86	64.62	297,595.47
MUNICIPAL COURT							
PERSONNEL	99,541.00	9,095.13	52,693.43	-	46,847.99	52.94	48,561.50
MATERIALS & SUPPLIES	7,384.00	237.24	3,976.95	-	3,407.09	53.86	2,258.98
CONTRACTUAL SERVICES	69,087.00	6,235.28	43,029.17	18,254.00	7,803.83	88.70	39,630.51
TOTAL MUNICIPAL COURT	176,012.00	15,567.65	99,699.55	18,254.00	58,058.91	67.01	90,450.99
PURCHASING							
PERSONNEL	63,297.00	4,691.56	44,959.28	-	18,337.61	71.03	46,393.05
MATERIALS & SUPPLIES	600.00	4.40	40.03	-	559.97	6.67	91.47
CONTRACTUAL SERVICES	6,916.00	45.99	4,394.89	-	2,521.11	63.55	5,624.95
TOTAL PURCHASING	70,813.00	4,741.95	49,394.20	-	21,418.69	69.75	52,109.47

MEDIA							
PERSONNEL	62,366.00	4,574.64	39,615.72	-	22,750.58	63.52	38,317.16
MATERIALS & SUPPLIES	2,100.00	-	-	-	2,100.00	-	258.98
CONTRACTUAL SERVICES	66,671.00	4,159.95	46,330.32	14,000.00	6,340.68	90.49	16,755.91
TOTAL MEDIA	131,137.00	8,734.59	85,946.04	14,000.00	31,191.26	76.21	55,332.05
CODE COMPLIANCE							
PERSONNEL	27,550.00	3,810.26	7,619.49	-	19,930.51	27.66	51,463.14
MATERIALS & SUPPLIES	3,885.00	438.26	1,560.97	11.00	2,313.03	40.46	2,970.22
CONTRACTUAL SERVICES	53,468.00	3,862.89	11,085.45	80.95	42,301.43	20.88	17,579.27
TOTAL CODE COMPLIANCE	84,903.00	8,111.41	20,265.91	91.95	64,544.97	23.98	72,012.63
MUNICIPAL FACILITIES							
PERSONNEL	60,990.00	8,103.05	42,406.89	-	18,583.43	69.53	40,286.49
MATERIALS & SUPPLIES	5,575.00	242.06	2,430.54	170.00	2,974.38	46.65	2,940.80
CONTRACTUAL SERVICES	24,335.00	1,823.06	18,438.51	80.95	5,815.50	76.10	26,005.07
CAPITAL OUTLAY	35,000.00	-	-	-	35,000.00	-	-
TOTAL MUNICIPAL FACILITIES	125,900.00	10,168.17	63,275.94	250.95	62,373.31	50.46	69,232.36
STREETS							
PERSONNEL	328,859.00	16,095.20	111,152.92	-	217,706.44	33.80	142,196.40
MATERIALS & SUPPLIES	107,163.00	12,799.90	81,539.38	4,220.00	21,403.62	80.03	29,032.99
CONTRACTUAL SERVICES	175,850.00	11,104.83	101,170.53	38,573.80	36,105.57	79.47	89,751.34
TOTAL STREETS	611,872.00	39,999.93	293,862.83	42,793.80	275,215.63	55.02	260,980.73
PLANNING & DEVELOPMENT							
PERSONNEL	185,466.00	10,024.89	116,133.00	-	69,332.88	62.62	123,678.21
MATERIALS & SUPPLIES	5,496.00	142.64	1,461.89	469.00	3,565.07	35.13	1,310.68
CONTRACTUAL SERVICES	80,260.00	5,419.70	54,995.59	13,437.61	11,826.44	85.26	66,362.45
TOTAL PLANNING & DEVELOPMENT	271,221.00	15,587.23	172,590.48	13,906.61	84,724.39	68.76	191,351.34
POLICE ADMINISTRATION							
PERSONNEL	760,275.00	48,560.86	421,706.36	-	338,568.63	55.47	410,705.49
MATERIALS & SUPPLIES	97,795.00	8,650.43	51,949.15	17,400.00	28,445.87	70.91	34,729.72
CONTRACTUAL SERVICES	203,649.00	12,153.75	125,553.90	29,856.00	48,238.77	76.31	118,904.49
CAPITAL OUTLAY	66,200.00	-	-	-	66,200.00	-	-
TOTAL POLICE ADMINISTRATION	1,127,919.00	69,365.04	599,209.41	47,256.00	481,453.27	57.31	564,339.70
POLICE PATROL							
PERSONNEL	3,050,087.00	272,272.38	1,939,092.32	-	1,110,994.45	63.57	2,339,569.85
TOTAL POLICE PATROL	3,050,087.00	272,272.38	1,939,092.32	-	1,110,994.45	63.57	2,339,569.85

ANIMAL CONTROL							
PERSONNEL	124,350.00	8,745.26	75,807.67	-	48,542.77	60.96	71,061.07
MATERIALS & SUPPLIES	17,392.00	796.65	7,776.83	200.00	9,415.17	45.86	10,921.76
CONTRACTUAL SERVICES	49,380.00	2,690.34	24,499.64	7,577.90	17,302.94	64.96	50,673.54
TOTAL ANIMAL CONTROL	191,123.00	12,232.25	108,084.14	7,777.90	75,260.88	60.62	132,656.37
FIRE DEPT							
PERSONNEL	1,440,115.00	108,120.61	932,762.73	-	507,352.33	64.77	942,350.45
MATERIALS & SUPPLIES	113,799.00	6,238.26	53,460.51	27,137.65	33,201.14	70.82	32,175.38
CONTRACTUAL SERVICES	205,164.00	7,369.84	122,215.00	6,182.14	76,767.11	62.58	132,206.60
CAPITAL OUTLAY	14,500.00	-	-	-	14,500.00	-	41,939.00
TOTAL FIRE DEPT	1,773,579.00	121,728.71	1,108,438.24	33,319.79	631,820.58	64.38	1,148,671.43
LIBRARY							
PERSONNEL	156,773.00	11,981.72	100,849.51	-	55,923.43	64.33	200,349.98
MATERIALS & SUPPLIES	13,020.00	1,506.09	5,890.00	-	7,130.00	45.24	14,200.73
CONTRACTUAL SERVICES	57,138.00	3,249.88	41,003.49	9,115.00	7,019.41	87.71	50,220.89
CAPITAL OUTLAY	42,425.00	2,710.00	7,425.00	-	35,000.00	17.50	-
TOTAL LIBRARY	269,356.00	19,447.69	155,168.00	9,115.00	105,072.84	60.99	264,771.60
SENIOR SERVICES							
PERSONNEL	109,488.00	7,416.46	59,606.92	-	49,881.07	54.44	94,524.87
MATERIALS & SUPPLIES	5,645.00	240.48	693.68	1,503.00	3,448.40	38.91	2,547.54
CONTRACTUAL SERVICES	43,087.00	6,984.68	23,356.69	7,406.50	12,323.81	71.40	30,907.30
CAPITAL OUTLAY	14,057.00	-	14,057.00	-	-	100.00	-
TOTAL SENIOR SERVICES	172,277.00	14,641.62	97,714.29	8,909.50	65,653.28	61.89	127,979.71
RECREATION							
PERSONNEL	97,654.00	9,321.91	64,714.36	-	32,940.11	66.27	110,531.30
MATERIALS & SUPPLIES	6,075.00	1,449.64	3,982.25	-	2,092.75	65.55	16,741.19
CONTRACTUAL SERVICES	48,432.00	3,584.86	29,881.60	11,448.00	7,102.31	85.34	33,607.32
CAPITAL OUTLAY	9,600.00	-	-	4,550.00	5,050.00	47.40	114,225.08
TOTAL RECREATION	161,761.00	14,356.41	98,578.21	15,998.00	47,185.17	70.83	275,104.89
PARKS MAINTENANCE							
PERSONNEL	296,644.00	14,605.96	157,673.08	-	138,971.16	53.15	180,199.73
MATERIALS & SUPPLIES	55,679.00	5,258.75	45,109.85	8,913.11	1,656.04	97.03	41,548.13
CONTRACTUAL SERVICES	248,962.00	20,084.25	161,261.53	74,120.90	13,579.62	94.55	164,095.14
CAPITAL OUTLAY	10,000.00	-	10,000.00	-	-	100.00	-
TOTAL PARKS MAINTENANCE	611,285.00	39,948.96	374,044.46	83,034.01	154,206.82	74.77	385,843.00

NON-DEPARTMENTAL							
MATERIALS & SUPPLIES	10,981.00	1,144.13	7,529.18	884.98	2,566.88	76.62	6,776.16
CONTRACTUAL SERVICES	316,694.00	16,519.06	145,151.69	41,577.49	129,965.01	58.96	166,961.86
CAPITAL OUTLAY	332,842.00	-	308,939.08	-	23,902.74	92.82	-
TRANSFERS	373,971.00	96,236.36	155,863.40	-	218,107.60	41.68	-
TOTAL NON-DEPARTMENTAL	1,034,488.00	113,899.55	617,483.35	42,462.47	374,542.23	63.79	173,738.02
TOTAL EXPENDITURES	11,725,474.00	902,616.15	6,913,647.95	568,216.89	4,243,609.01	63.81	7,367,294.77
REVENUE OVER/(UNDER) EXPENDITURES	(60,391.00)	(308,691.29)	2,883,029.02	(582,161.89)	(2,361,258.22)	(3,809.94)	1,766,450.99
					FUND BALANCE AVAILABLE:		16,272,236.93

02 - WATER & SEWER FUND FINANCIAL SUMMARY							
					% OF YEAR COMPLETED	: 66.67	
	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBERED	BUDGET BALANCE	% YTD BUDGET	PRIOR YEAR YTD BALANCE
REVENUE SUMMARY							
WATER & SEWER REVENUES	9,519,399.00	696,986.33	6,037,294.69	120.00	3,481,984.19	63.42	5,904,514.55
INTEREST INCOME	100,000.00	10,166.37	96,794.09	-	3,205.87	96.79	171,004.16
OTHER REVENUE	5,000.00	464.53	15,559.21	(24.00)	(10,535.29)	310.71	604,611.78
TRANSFERS	-	-	-	-	-	-	101,015.00
TOTAL REVENUES	9,624,399.00	707,617.23	6,149,647.99	96.00	3,474,654.77	63.90	6,781,145.49
EXPENDITURE SUMMARY							
UTILITY BILLING							
PERSONNEL	207,186.00	14,027.96	119,216.13	-	87,969.69	57.54	147,242.41
MATERIALS & SUPPLIES	38,350.00	2,594.07	23,172.83	12,000.00	3,177.17	91.72	18,568.11
CONTRACTUAL SERVICES	202,445.00	11,776.14	118,745.20	67,864.38	15,835.63	92.18	82,271.18
CAPITAL OUTLAY	185,571.00	-	185,493.89	-	77.51	99.96	-
TOTAL UTILITY BILLING	633,552.00	28,398.17	446,628.05	79,864.38	107,060.00	83.10	248,081.70
METER TECHNICIAN							
PERSONNEL	313,143.00	19,964.68	159,742.42	-	153,401.04	51.01	113,573.51
MATERIALS & SUPPLIES	776,718.00	969.41	213,707.38	2,200.00	560,810.60	27.80	287,146.69
CONTRACTUAL SERVICES	22,241.00	1,638.34	16,204.61	323.80	5,712.12	74.32	18,142.24
CAPITAL OUTLAY	27,606.00	-	11,913.25	15,693.24	-	100.00	-
TOTAL METER TECHNICIAN	1,139,708.00	22,572.43	401,567.66	18,217.04	719,923.76	36.83	418,862.44
WATER DISTRIBUTION							
PERSONNEL	388,868.00	23,051.27	239,287.52	-	149,580.82	61.53	192,807.90
MATERIALS & SUPPLIES	97,487.00	8,777.01	57,479.96	5,165.00	34,841.78	64.26	38,418.77
CONTRACTUAL SERVICES	2,051,073.00	123,862.36	1,012,936.21	846,545.56	191,591.38	90.66	962,817.53
CAPITAL OUTLAY	164,025.00	14,173.00	155,826.60	8,198.50	(0.31)	100.00	370,674.67
TOTAL WATER DISTRIBUTION	2,701,453.00	169,863.64	1,465,530.29	859,909.06	376,013.67	86.08	1,564,718.87

WASTEWATER COLLECTION							
PERSONNEL	246,705.00	13,777.08	130,705.85	-	115,998.67	52.98	153,435.05
MATERIALS & SUPPLIES	68,176.00	1,213.95	32,185.38	2,000.00	33,990.50	50.14	37,090.39
CONTRACTUAL SERVICES	1,996,168.00	94,989.23	613,581.09	992,906.93	389,680.22	80.48	1,061,552.43
CAPITAL OUTLAY	300,127.00	60,906.13	258,126.83	42,000.00	-	100.00	56,768.75
TOTAL WASTEWATER COLLECTION	2,611,175.00	170,886.39	1,034,599.15	1,036,906.93	539,669.39	79.33	1,308,846.62
SANITATION							
CONTRACTUAL SERVICES	766,000.00	128,117.03	504,514.17	252,000.00	9,485.83	98.76	444,476.79
TOTAL SANITATION	766,000.00	128,117.03	504,514.17	252,000.00	9,485.83	98.76	444,476.79
WATER & SEWER DEBT SVC							
CONTRACTUAL SERVICES	5,000.00	1,400.00	3,923.65	-	1,076.35	78.47	4,302.75
DEBT SERVICE	700,375.00	-	49,537.50	-	650,837.50	7.07	54,393.75
TOTAL WATER & SEWER DEBT SVC	705,375.00	1,400.00	53,461.15	-	651,913.85	7.58	58,696.50
NON-DEPARTMENTAL							
PERSONNEL	380,913.00	25,920.80	257,030.46	-	123,882.96	67.48	226,358.30
MATERIALS & SUPPLIES	125,028.00	4,439.08	52,190.01	10,940.00	61,898.34	50.49	52,987.83
CONTRACTUAL SERVICES	634,254.00	45,172.74	409,693.91	39,579.27	184,981.17	70.83	487,970.76
CAPITAL OUTLAY	58,012.00	-	58,011.86	-	-	100.00	-
TRANSFERS	217,042.00	-	217,042.00	-	-	100.00	-
TOTAL NON-DEPARTMENTAL	1,415,250.00	75,532.62	993,968.24	50,519.27	370,762.47	73.80	767,316.89
TOTAL EXPENDITURES	9,972,514.00	596,770.28	4,900,268.71	2,297,416.68	2,774,828.97	72.18	4,810,999.81
REVENUE OVER/(UNDER) EXPENDITURES	(348,116.00)	110,846.95	1,249,379.28	(2,297,320.68)	699,825.80	301.03	1,970,145.68
					FUND BALANCE AVAILABLE:		15,295,617.56

07 -SPLASH DAYZ							
FINANCIAL SUMMARY					% OF YEAR COMPLETED	: 66.67	
	CURRENT	CURRENT	YEAR TO DATE	TOTAL	BUDGET	% YTD	PRIOR YEAR
	BUDGET	PERIOD	ACTUAL	ENCUMBERED	BALANCE	BUDGET	YTD BALANCE
REVENUE SUMMARY							
WATER PARK ADMISSIONS	592,000.00	12,681.80	30,460.61	-	561,539.39	5.15	6,753.55
WATER PARK RENTALS	43,000.00	-	-	-	43,000.00	-	-
EVENT CENTER	23,800.00	10.00	9,910.00	-	13,889.96	41.64	11,708.25
CONCESSIONS	130,000.00	572.75	772.75	-	129,227.25	0.59	-
MISCELLANEOUS	14,750.00	3,685.00	4,161.50	-	10,588.50	28.21	7.50
OTHER REVENUE	-	9.01	211.12	81.00	(292.12)	-	8,412,435.44
TRANSFERS	568,871.00	96,236.36	355,863.40	-	213,007.60	62.56	200,000.00
TOTAL REVENUES	1,372,421.00	113,194.92	401,379.38	81.00	970,960.58	29.25	8,630,904.74
EXPENDITURE SUMMARY							
SPLASH DAYZ							
PERSONNEL	102,796.00	12,669.17	63,710.46	-	39,085.32	61.98	58,922.65
MATERIALS & SUPPLIES	8,150.00	1,905.44	3,515.07	-	4,634.93	43.13	2,313.52
CONTRACTUAL SERVICES	289,451.00	44,643.88	108,016.44	64,895.00	116,539.52	59.74	63,333.28
TOTAL SPLASH DAYZ	400,397.00	59,218.49	175,241.97	64,895.00	160,259.77	59.97	124,569.45
CONVENTION CENTER							
PERSONNEL	70,331.00	5,381.75	48,489.63	-	21,841.35	68.94	45,049.79
MATERIALS & SUPPLIES	17,400.00	179.04	1,142.76	-	16,257.24	6.57	2,950.00
CONTRACTUAL SERVICES	62,696.00	2,206.55	18,565.66	15,446.00	28,684.30	54.25	26,174.78
TOTAL CONVENTION CENTER	150,427.00	7,767.34	68,198.05	15,446.00	66,782.89	55.60	74,174.57
FACILITY SERVICES							
PERSONNEL	98,023.00	6,291.74	45,783.67	-	52,239.44	46.71	49,599.83
MATERIALS & SUPPLIES	119,274.00	46,620.85	56,332.24	7,898.60	55,043.40	53.85	22,380.75
CONTRACTUAL SERVICES	136,800.00	31,714.66	139,739.22	32,711.24	(35,650.50)	126.06	63,887.61
CAPITAL OUTLAY	-	-	-	-	-	-	30,380.52
TOTAL FACILITY SERVICES	354,097.00	84,627.25	241,855.13	40,609.84	71,632.34	79.77	166,248.71

FOOD & BEVERAGE							
PERSONNEL	51,898.00	2,698.74	3,784.41	-	48,113.92	7.29	1,388.86
MATERIALS & SUPPLIES	60,250.00	41.61	3,108.30	-	57,141.70	5.16	3,965.02
TOTAL FOOD & BEVERAGE	112,148.00	2,740.35	6,892.71	-	105,255.62	6.15	5,353.88
LIFEGUARDS							
PERSONNEL	271,185.00	9,277.31	14,559.12	-	256,625.51	5.37	5,264.42
MATERIALS & SUPPLIES	-	-	1,186.50	-	(1,186.50)	-	-
CONTRACTUAL SERVICES	7,100.00	423.40	3,303.40	-	3,796.60	46.53	940.00
TOTAL LIFEGUARDS	278,285.00	9,700.71	19,049.02	-	259,235.61	6.85	6,204.42
FRONT GATE							
PERSONNEL	48,783.00	2,256.64	2,413.26	-	46,369.54	4.95	478.75
MATERIALS & SUPPLIES	7,300.00	1,390.16	1,390.16	-	5,909.84	19.04	1,491.94
CONTRACTUAL SERVICES	1,500.00	-	-	-	1,500.00	-	-
TOTAL FRONT GATE	57,583.00	3,646.80	3,803.42	-	53,779.38	6.61	1,970.69
CASH CONTROL							
PERSONNEL	16,285.00	649.38	1,002.77	-	15,282.66	6.16	383.31
MATERIALS & SUPPLIES	500.00	-	-	-	500.00	-	-
TOTAL CASH CONTROL	16,785.00	649.38	1,002.77	-	15,782.66	5.97	383.31
EMT							
MATERIALS & SUPPLIES	2,700.00	-	290.11	-	2,409.89	10.74	1,200.04
TOTAL EMT	2,700.00	-	290.11	-	2,409.89	10.74	1,200.04
TOTAL EXPENDITURES	1,372,422.00	168,350.32	516,333.18	120,950.84	735,138.16	46.43	380,105.07
REVENUE OVER/(UNDER) EXPENDITURES	(1.00)	(55,155.40)	(114,953.80)	(120,869.84)	235,822.42	9,806.56	8,250,799.67
					FUND BALANCE AVAILABLE:		(151,391.76)

08 - CRIME DIST SPECIAL REV FINANCIAL SUMMARY							
					% OF YEAR COMPLETED	: 66.67	
	CURRENT BUDGET	CURRENT PERIOD	YEAR TO DATE ACTUAL	TOTAL ENCUMBERED	BUDGET BALANCE	% YTD BUDGET	PRIOR YEAR YTD BALANCE
REVENUE SUMMARY							
SALES AND USE TAXES	1,025,000.00	126,324.27	566,766.40	-	458,233.64	55.29	520,731.20
INTEREST INCOME	5,000.00	505.97	4,663.68	-	336.24	93.28	9,115.65
OTHER REVENUE	-	-	159,580.45	-	(159,580.45)	-	85,857.61
TOTAL REVENUES	1,030,000.00	126,830.24	731,010.53	-	298,989.43	70.97	615,704.46
EXPENDITURE SUMMARY							
CRIME DISTRICT							
MATERIALS & SUPPLIES	42,690.00	2,624.72	12,669.80	6,849.07	23,171.13	45.72	17,758.95
CONTRACTUAL SERVICES	456,739.00	26,519.31	335,822.85	-	120,916.15	73.53	353,102.05
TRANSFERS	765,371.00	63,780.92	510,247.36	-	255,123.68	66.67	510,247.36
TOTAL CRIME DISTRICT	1,264,800.00	92,924.95	858,740.01	6,849.07	399,210.96	68.44	881,108.36
TOTAL EXPENDITURES	1,264,800.00	92,924.95	858,740.01	6,849.07	399,210.96	68.44	881,108.36
REVENUE OVER/(UNDER) EXPENDITURES	(234,800.00)	33,905.29	(127,729.48)	(6,849.07)	(100,221.53)	57.32	(265,403.90)
					FUND BALANCE AVAILABLE:		762,340.99

08 -CRIME DIST SPECIAL REV							
					% OF YEAR COMPLETED	: 66.67	
	CURRENT	CURRENT	YEAR TO DATE	TOTAL	BUDGET	% YTD	PRIOR YEAR
REVENUES	BUDGET	PERIOD	ACTUAL	ENCUMBERED	BALANCE	BUDGET	YTD BALANCE
SALES AND USE TAXES							
400-02-005 .5% CRIME DISTRICT SALES TAX	1,025,000.00	126,324.27	566,766.40	-	458,233.64	55.29	(520,731.20)
TOTAL SALES AND USE TAXES	1,025,000.00	126,324.27	566,766.40	-	458,233.64	55.29	520,731.20
INTEREST INCOME							
400-60-601 INTEREST INCOME	5,000.00	505.97	4,663.68	-	336.24	93.28	(9,115.65)
TOTAL INTEREST INCOME	5,000.00	505.97	4,663.68	-	336.24	93.28	9,115.65
OTHER REVENUE							
400-70-701 MISCELLANEOUS REVENUE	-	-	150,090.00	-	(150,090.00)	-	(1,239.23)
400-70-724 SALE OF ENTERPRISE ASSET	-	-	9,490.45	-	(9,490.45)	-	(84,618.38)
TOTAL OTHER REVENUE	-	-	159,580.45	-	(159,580.45)	-	85,857.61
TOTAL REVENUE	1,030,000.00	126,830.24	731,010.53	-	298,989.43	70.97	615,704.46
	CURRENT	CURRENT	YEAR TO DATE	TOTAL	BUDGET	% YTD	PRIOR YEAR
DEPARTMENTAL EXPENDITURES	BUDGET	PERIOD	ACTUAL	ENCUMBERED	BALANCE	BUDGET	YTD BALANCE
MATERIALS & SUPPLIES							
551-10-111 AMMUNITION	7,495.00	1,586.00	1,586.00	6,849.07	(940.07)	112.54	9,902.48
551-10-113 UNIFORMS	27,305.00	1,006.77	3,690.60	-	23,614.40	13.52	6,196.73
551-10-118 TOOLS & EQUIPMENT < \$5,000	7,890.00	31.95	7,393.20	-	496.80	93.70	1,659.74
TOTAL MATERIALS & SUPPLIES	42,690.00	2,624.72	12,669.80	6,849.07	23,171.13	45.72	17,758.95

CONTRACTUAL SERVICES							
551-20-214 OTHER PROFESSIONAL SERVICES	49,425.00	3,810.00	24,000.90	-	25,424.10	48.56	40,692.94
551-20-219 CELL PHONES/AIR CARDS	5,475.00	646.55	4,352.79	-	1,122.21	79.50	3,347.91
551-20-221 ANNUAL COMPUTER MAINTENANCE	49,145.00	1,927.50	44,322.50	-	4,822.50	90.19	37,074.50
551-20-222 ENTERPRISE VEHICLE MAINTENANC	1,152.00	99.00	852.00	-	300.00	73.96	948.40
551-20-223 VEHICLE MAINTENANCE/REPAIRS	52,300.00	4,412.32	19,967.87	-	32,332.13	38.18	22,306.49
551-20-224 EQUIPMENT MAINTENANCE/REPAIRS	57,800.00	-	53,410.03	-	4,389.97	92.40	16,687.14
551-20-228 INSURANCE	140.00	-	-	-	140.00	-	-
551-20-233 TRAVEL & TRAINING	22,100.00	1,685.98	16,015.80	-	6,084.20	72.47	10,661.97
551-20-242 CONTRIBUTE TO OTHER AGENCIES	9,600.00	-	9,600.00	-	-	100.00	11,500.00
551-20-245 ADMIN COST TO GENERAL FUND	51,250.00	6,316.22	37,840.90	-	13,409.10	73.84	35,178.54
551-20-246 PAYMENT PLAN - TASERS	9,504.00	-	9,504.00	-	-	100.00	9,504.00
551-20-247 PAYMENT PLAN - RADIOS	54,033.00	-	54,929.98	-	(896.98)	101.66	59,032.89
551-20-253 COMPUTER RELATED EQUIP < \$5K	3,605.00	-	52.16	-	3,552.84	1.45	11,340.78
551-20-254 ENTERPRISE LEASE COSTS	91,210.00	7,621.74	60,973.92	-	30,236.08	66.85	94,826.49
TOTAL CONTRACTUAL SERVICES	456,739.00	26,519.31	335,822.85	-	120,916.15	73.53	353,102.05
TRANSFERS							
551-70-701 TRANSFER TO GENERAL FUND	765,371.00	63,780.92	510,247.36	-	255,123.68	66.67	510,247.36
TOTAL TRANSFERS	765,371.00	63,780.92	510,247.36	-	255,123.68	66.67	510,247.36
TOTAL CRIME DISTRICT	1,264,800.00	92,924.95	858,740.01	6,849.07	399,210.96	68.44	881,108.36
TOTAL EXPENDITURES	1,264,800.00	92,924.95	858,740.01	6,849.07	399,210.96	68.44	881,108.36
REVENUE OVER/(UNDER) EXPENDITURES	(234,800.00)	33,905.29	(127,729.48)	(6,849.07)	(100,221.53)	57.32	(265,403.90)

23 -STORM WATER UTILITY FUND							
FINANCIAL SUMMARY					% OF YEAR COMPLETED	: 66.67	
	CURRENT	CURRENT	YEAR TO DATE	TOTAL	BUDGET	% YTD	PRIOR YEAR
	BUDGET	PERIOD	ACTUAL	ENCUMBERED	BALANCE	BUDGET	YTD BALANCE
REVENUE SUMMARY							
WATER & SEWER REVENUES	578,100.00	49,055.06	369,297.44	-	208,802.56	63.88	368,867.48
INTEREST INCOME	35,000.00	1,813.67	17,997.78	-	17,002.26	51.42	36,223.92
OTHER REVENUE	-	-	17,396.92	-	(17,396.92)	-	3,737,979.56
TOTAL REVENUES	613,100.00	50,868.73	404,692.14	-	208,407.90	66.01	4,143,070.96
EXPENDITURE SUMMARY							
STORM WATER UTILITY							
PERSONNEL	299,943.00	19,756.39	162,178.70	-	137,764.08	54.07	183,288.98
MATERIALS & SUPPLIES	20,505.00	1,068.49	5,390.47	1,670.00	13,444.45	34.43	8,665.68
CONTRACTUAL SERVICES	261,993.00	24,417.42	95,366.51	132,681.16	33,945.09	87.04	123,363.25
CAPITAL OUTLAY	632,336.00	-	357,209.72	236,265.28	38,861.00	93.85	221,735.20
TRANSFERS	85,798.00	7,149.83	57,198.68	-	28,599.28	66.67	47,794.72
TOTAL STORM WATER UTILITY	1,300,574.00	52,392.13	677,344.08	370,616.44	252,613.90	80.58	584,847.83
TOTAL EXPENDITURES	1,300,574.00	52,392.13	677,344.08	370,616.44	252,613.90	80.58	584,847.83
REVENUE OVER/(UNDER) EXPENDITURES	(687,474.00)	(1,523.40)	(272,651.94)	(370,616.44)	(44,206.00)	93.57	3,558,223.13
					FUND BALANCE AVAILABLE:		2,441,134.72



To: City Council
From: Krystal Crump, Finance Director
Date: July 6, 2021
Subject: 2021-1245

The City currently hosts our financial software. A new platform is available from Tyler Technologies that would be cloud based with other updates over the next 3 years. This is about a \$13K increase over our annual costs currently and the City would not incur the standard 5% increase in our contract until the implementation is complete in 2023.

Staff recommends approval.



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **"Agreement"** means this Software as a Services Agreement.
- **"Business Travel Policy"** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **"Client"** means the City of White Settlement, Texas.
- **"Data"** means your data necessary to utilize the Tyler Software.
- **"Data Storage Capacity"** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **"Defect"** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **"Defined Users"** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary. If Exhibit A contains EnerGov labeled software, defined users mean the maximum number of named users that are authorized to use the EnerGov labeled modules as indicated in the Investment Summary.
- **"Developer"** means a third party who owns the intellectual property rights to Third Party Software.
- **"Documentation"** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **"Effective Date"** means the date by which both your and our authorized representatives have signed the Agreement.
- **"Force Majeure"** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **"Investment Summary"** means the agreed upon cost proposal for the products and services attached as Exhibit A.

- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Order Form”** means an ordering document that includes a quote or investment summary and specifying the items to be provided by Tyler to Client, including any addenda and supplements thereto.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.
- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Products or other parties’ products or services, as applicable.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SAAS SERVICES

1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.

2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.
 - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
 - 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
 - 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.
6. SaaS Services.
 - 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data center.

- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective (“RPO”) of 24 hours and a Recovery Time Objective (“RTO”) of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
- 6.4 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.5 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.6 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.7 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.8 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 6.9 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official

Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

SECTION C – PROFESSIONAL SERVICES

1. Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. If travel is required, we will make all reasonable efforts to schedule travel for our personnel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.
7. Background Checks. For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
8. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project

deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

9. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:

9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);

9.2 provide support during our established support hours;

9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;

9.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and

9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

SECTION D – THIRD PARTY PRODUCTS

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION F – TERM AND TERMINATION

1. Term. The initial term of this Agreement equal to the number of years indicated for SaaS Services in Exhibit A, commencing on the first day of the first month following the Effective Date, unless earlier terminated as set forth below. If no duration is indicated in Exhibit A, the initial term is one (1) year. Upon expiration of the initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then-current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. Termination. This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
 - 2.2 For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
 - 2.3 Force Majeure. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
 - 2.4 Lack of Appropriations. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.
 - 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.
2. General Indemnification.
- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.
3. **DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
4. **LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH**

IN SECTION F(1), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).

5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

SECTION H – GENERAL TERMS AND CONDITIONS

1. **Additional Products and Services.** You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. **Optional Items.** Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. **Dispute Resolution.** You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.

12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
- (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
 - (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.
18. Quarantining of Client Data. Some services provided by Tyler require us to be in possession of your Data. In the event we detect malware or other conditions associated with your Data that are

reasonably suspected of putting Tyler resources or other Tyler clients' data at risk, we reserve the absolute right to move your Data from its location within a multi-tenancy Tyler hosted environment to an isolated "quarantined" environment without advance notice. Your Data will remain in such quarantine for a period of at least six (6) months during which time we will review the Data, and all traffic associated with the Data, for signs of malware or other similar issues. If no issues are detected through such reviews during the six (6) month period of quarantine, we will coordinate with you the restoration of your Data to a non-quarantined environment. In the event your Data must remain in quarantine beyond this six (6) month period through no fault of Tyler's, we reserve the right to require payment of additional fees for the extended duration of quarantine. We will provide an estimate of what those costs will be upon your request.

19. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
20. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.
21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.
22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
23. Contract Documents. This Agreement includes the following exhibits:

Exhibit A	Investment Summary
Exhibit B	Invoicing and Payment Policy Schedule 1: Business Travel Policy
Exhibit C	Service Level Agreement Schedule 1: Support Call Process

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of White Settlement

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

City of White Settlement
214 Meadow Park Drive
White Settlement, TX 76108
Attention: Krystal Crump



Exhibit A

Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

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Quoted By: DK Robertson
 Quote Expiration: 10/26/2021
 Quote Name: City of White Settlement-LGD-SaaS Flip
 Quote Number: 2021-127432
 Quote Description: Incode 9 Cloud

Sales Quotation For

City of White Settlement
 214 Meadow Park Dr
 White Settlement, TX 76108-2498
 Phone: +1 (817) 246-4971

Tyler Software and Related Services - SaaS

Tyler Software and Related Services - SaaS		One Time Fees		
Description	Impl. Hours	Impl. Cost	#Yrs	Net Annual Fee
Financial Management Suite				
Core Financials	0	\$0		\$7,953
Payroll/Personnel	0	\$0		\$4,329
Misc Accounts Receivable	0	\$0		\$1,675
Fixed Assets	0	\$0		\$917
Purchase Orders	0	\$0		\$2,747
System Software Non SQL	0	\$0		\$2,259
Inventory	0	\$0		\$1,679
Tyler Output Processor	0	\$0		\$1,637
Forms Overlay	0	\$0		\$791
Customer Relationship Management Suite				
ICD Licensing	0	\$0		\$1,488
Utility CIS System	0	\$0		\$5,038
Mobile Permits Inspections	0	\$0		\$2,550
Building Projects	0	\$0		\$2,245
Central Cash Collections	0	\$0		\$2,747
Utility Handheld Meter Interface	0	\$0		\$785
Utility Payment Import Interface	0	\$0		\$1,063
Utility Handheld Meter Interface	0	\$0		\$1,221
Call Center	0	\$0		\$2,566
Special Calc Flag to Multiply UB Address Comments	0	\$0		\$316
Tyler Content Manager Standard Edition TCM SE	0	\$0		\$3,742
Incode Court Suite				
Criminal Court Case Management	0	\$0		\$3,664
Collection Agency Export Interface	0	\$0		\$455
Court Payment Import	0	\$0		\$1,060
Sub-Total:		\$0		\$52,927

TOTAL:0\$03\$52,927

Other Services

Description	Quantity	Unit Price	Extended Price	Maintenance
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Summary	One Time Fees	Recurring Fees
Total Tyler SaaS	\$0	\$52,927
Total Tyler Services	\$0	\$0
Total Third Party Hardware, Software and Services	\$0	\$0
Summary Total	\$0	\$52,927
Contract Total	\$52,927	

Comments

- All services quoted herein are assumed to be delivered remote unless otherwise indicated.



Exhibit B

Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates.
2. **Other Tyler Software and Services.**
 - 2.1 *VPN Device:* The fee for the VPN device will be invoiced upon installation of the VPN.
 - 2.2 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
 - 2.3 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Best Practice Recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.4 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
 - 2.5 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.

2.6 *Other Fixed Price Services*: Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document.

2.7 *Annual Services*: Unless otherwise indicated in this Exhibit B, fees for annual services are due annually, in advance, commencing on the availability of the service. Your annual fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.

3. Third Party Products.

3.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.

3.2 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.

3.3 *Third Party Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.

3.4 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary.

4. Transaction Fees. Unless paid directly by an end user at the time of transaction, per transaction (call, message, etc.) fees are invoiced on a quarterly basis. Fees are indicated in Schedule A and may be increased by Tyler upon notice of no less than thirty (30) days.

5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

6. Credit for Prepaid Maintenance and Support Fees for Tyler Software. Client will receive a credit for the maintenance and support fees prepaid for the Tyler Software for the time period commencing on the first day of the SaaS Term.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting AR@tylertech.com.



**Exhibit B
Schedule 1
Business Travel Policy**

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a "mid-size" or "intermediate" car. "Full" size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler's TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

"No shows" or cancellation fees are not reimbursable if the employee does not comply with the hotel's cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C

Service Level Agreement

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. All other support services are documented in the Support Call Process.

II. Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Actual Attainment: The percentage of time the Tyler Software is available during a calendar quarter, calculated as follows: $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

Emergency Maintenance: (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

Planned Downtime: Downtime that occurs during a Standard or Emergency Maintenance window.

Service Availability: The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, denial of service attacks and Force Majeure.

Standard Maintenance: Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

III. **Service Availability**

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

b. Our Responsibilities

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned



Downtime, a Client Error Incident, Denial of Service attack or Force Majeure). We will also work with you to resume normal operations.

c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS fees paid for the calendar quarter.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable quarter. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Client Relief Schedule	
Actual Attainment	Client Relief
99.99% - 98.00%	Remedial action will be taken
97.99% - 95.00%	4%
Below 95.00%	5%

IV. Maintenance Notifications

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable that the Tyler Software will be unavailable during the maintenance window.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support*:

- (1) Tyler Community – an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) – for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email – for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone – for urgent or complex questions, users receive toll-free, unlimited telephone software support.

* Channel availability may be limited for certain applications.

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools and other information including support contact information.
- (2) Tyler Community – available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase – A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates – where development activity is made available for client consumption.

Support Availability

Standard Support

Tyler Technologies standard support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Additionally, some clients may obtain support for certain Tyler solutions outside of standard times as further detailed below. Availability and cost of support of support outside of standard times is at Tyler’s discretion. Tyler’s holiday schedule is outlined below. There will be no standard support coverage on these days.



New Year's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	

Support Outside of Standard Times

For clients who obtain 24 x 7 support, we will provide you with procedures for contacting support staff outside standard support times for reporting Priority Level 1 Defects only. Upon receipt of such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

For some Tyler solutions, we will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

Issue Handling

Incident Tracking

Every support incident is logged into Tyler's Customer Relationship Management System and given a unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler's website or by calling software support directly.

Incident Priority

Each incident is assigned a priority number, which corresponds to the client's needs and deadlines. The client is responsible for reasonably setting the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain "characteristics" may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the client towards clearly understanding and communicating the importance of the issue and to describe generally expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client's remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Incident Escalation

Tyler Technology's software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client's needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone – for immediate response, call toll-free to either escalate an incident's priority or to escalate an issue through management channels as described above.

- (2) Email – clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal – clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

Remote Support Tool

Some support calls require further analysis of the client's database, process, or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client's desktop and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



To: City Council
From: Krystal Crump, Finance Director
Amy Arnold, City Secretary
Date: July 6, 2021
Subject: 2021-1247

As requested at one of the June budget workshops, this item is on the agenda for council action.

Since March 2021 we have scheduled five budget workshops, held four and canceled one due to lack of quorum. Public hearings will be held in August on the budget and tax rate, allowing for citizen comments.

Staff spoke with members and have learned that no weekend between now and budget adoption is available in which a quorum of members can attend. The meeting, if called, would need to be held on a weekday/weeknight.



To: City Council
From: Amy Arnold, City Secretary
Date: July 6, 2021
Subject: 2021-1258

Staff request this change to allow board members the opportunity to serve in various positions.

Currently, we have a shortage of applicants willing to serve on our boards. Appointed members are unable to apply due to the current limit. This hinders city business therefore staff recommends approval.

This item does not change the section regarding the inability of a citizen to serve simultaneously on P&Z and BAA; that will remain in effect.

ORDINANCE NO. 2021-07-013

AN ORDINANCE AMENDING SECTIONS 2-60 AND 2-62 of ARTICLE III “BOARDS, COMMISSIONS AND AGENCIES” OF CHAPTER 2 “ADMINISTRATION” OF THE CODE OF ORDINANCES, CITY OF WHITE SETTLEMENT, TEXAS, BY REMOVING THE PROHIBITION OF SERVING SIMULTANEOUSLY ON MULTIPLE BOARDS OR COMMISSIONS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of White Settlement (City) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the Code of Ordinances currently provides that a resident of the city may serve simultaneously on no more than two boards or commissions of the city; and

WHEREAS, the City Council now desires to remove the prohibition of serving simultaneously on more than two boards or commissions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITE SETTLEMENT, TEXAS, THAT:

SECTION 1.

Subsections (a) and (b) of Section 2-60 “Appointments” of Article III “Boards, Commissions and Agencies” of Chapter 2 “Administration” of the Code of Ordinances, City of White Settlement, Texas, is hereby amended to read as follows:

- “(a) A citizen may not simultaneously serve on the board of adjustment and appeals and the planning and zoning commission. Should council appoint a citizen to serve simultaneously on both the planning and zoning commission and the board of adjustment and appeals, both appointments shall be void and of no force and the citizen shall be deemed to have automatically resigned from both the board of adjustment and appeals and the planning and zoning commission.
- (b) No member of the city council, including the mayor, shall be appointed to serve as a member of any board or commission except for those boards or commissions where the appointment and service of a councilmember is required by law, such as, but not limited to, the board of directors of the economic development corporation.”

SECTION 2.

Subsections (c) of Section 2-62 “Categories” of Article III “Boards, Commissions and Agencies” of Chapter 2 “Administration” of the Code of Ordinances, City of White Settlement, Texas, is hereby amended to read as follows:

“(c) The city council hereby sets the following rules:

- (1) Except as may be established by existing city ordinances/resolutions the process for selecting members shall be open to all city citizens, who must apply for appointment, to include those applying for reappointment. Reappointment shall not be deemed automatic.
- (2) Council shall seek to appoint the most qualified or best persons available, while also respecting the need for diverse community opinions.
- (3) No appointed body shall deviate from its charge, deliberate items not on its agendas, or speak for the council or the city without authorization.”

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances, City of White Settlement, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid or unconstitutional by the valid judgment of decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid or unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 5.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED and APPROVED this ____ day of _____, 2021.

Ronald White, Mayor

ATTEST:

Amy Arnold, TRMC, CMC
City Secretary

APPROVED AS TO FORM AND LEGALITY:

Drew Larkin, City Attorney

DIVISION 1. - GENERALLY

Sec. 2-60. - Appointments.

- (a) ~~A resident of the city may serve simultaneously on no more than two boards or commissions of the city established by ordinance or state law; except as described in this section.~~ A citizen may not simultaneously serve on the board of adjustment and appeals and the planning and zoning commission. Should council appoint a citizen to serve simultaneously on both the planning and zoning commission and the board of adjustment and appeals, both appointments shall be void and of no force and the citizen shall be deemed to have automatically resigned from both the board of adjustment and appeals and the planning and zoning commission.
- (b) No member of the city council, including the mayor, shall be appointed to serve as a member of any board or commission except for those boards or commissions where the appointment and service of a councilmember is required by law, such as, but not limited to, the board of directors of the economic development ~~commission~~ corporation.
- (c) If a citizen who is serving on a board or commission is elected or appointed to the city council, he shall be deemed to have automatically resigned from such board or commission upon taking the oath of office of the council and a vacancy shall immediately exist on the board on which the citizen was serving.
- (d) This section does not affect and does not apply to members of the city council or citizens being appointed to or serving on boards, commissions or advisory groups that are not created specifically for the city, such as, but not limited to, North Central Texas Council of Government Boards, utility advisory groups, etc.

(Code 2004, § 1.1501; Code 2008, § 2-41; Ord. No. 2231-03, §§ 1, 2, 7-22-2003; Ord. No. [2014-2473](#), § I, 6-10-2014; altered in 2019 recodification)

Sec. 2-61. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board, commission and committee.

- (1) The terms "board," "commission," and "committee" shall be descriptor words for all advisory and quasi-judicial boards, as specified in subsection 2-62(a) or other such bodies designated as advisory or quasi-judicial from time to time by the city council.
- (2) Committees are those bodies described in subsection 2-62(a) or designated from time to time by city council or other appropriate city authority. By their very nature, committees shall have limited and special focuses, and/or be limited in their life span.

(Code 2008, § 2-42; Ord. No. [2017-2549](#), § II, 7-31-2017)

Sec. 2-62. - Categories.

- (a) There shall be three categories of boards, commissions, and committees grouped as follows:
 - (1) *Quasi-judicial.*
 - a. Board of adjustments and appeals.
 - b. Civil service commission.
 - (2) *Advisory.*

- a. Crime control and prevention district board of directors.
 - b. Economic development corporation board of directors.
 - c. Library board.
 - d. Park and recreation.
 - e. Planning and zoning commission.
 - f. Pride commission.
- (3) *Special purpose.*
 - a. Ad hoc committees.
 - b. Animal control advisory board.
- (b) Appointed bodies serve and will be created by the city council which:
 - (1) Are relevant to effective governance; relate to and assist the council's job of governing; perform "useful," unique duties; and have a clearly defined charge.
 - (2) Have established rules of behavior for its members.
 - (3) Avoid coming between the council and city manager, those appointed as staff support by the city manager, and the staff in general.
- (c) The city council hereby sets the following rules:
 - (1) Except as may be established by existing city ordinances/resolutions the process for selecting members shall be open to all city citizens, who must apply for appointment, to include those applying for reappointment. Reappointment shall not be deemed automatic.
 - (2) Council shall seek to appoint the most qualified or best persons available, while also respecting the need for diverse community opinions.
 - ~~(3) No member of any appointed body shall serve on more than one quasi-judicial or advisory board or commission except as provided for in section 2-60.~~
 - (4) No appointed body shall deviate from its charge, deliberate items not on its agendas, or speak for the council or the city without authorization.

(Code 2008, § 2-43; Ord. No. [2017-2549](#), § II, 7-31-2017)

Sec. 2-63. - Method of selection; number of members; terms.

- (a) The mayor and city councilmembers shall nominate individuals to serve on boards and commissions. Each nomination shall then be confirmed by a simple majority of the entire city council.
- (b) Except as provided herein, there shall be seven members appointed to each board or commission corresponding with the members or places of the city council with an alternate member nominated at-large. Each city councilmember, except as provided herein, shall nominate a qualified person to serve in a place on an appointed body corresponding to their place on the council. The mayor's position shall be designated as place six, for the purpose of this section. Nominations shall be made to fill vacant positions and/or positions whose terms have expired within 90 days of the event, such as a resignation or an election. Should any city councilmember fail to name an appointee to one of his corresponding places on any body within the above-described 90 days, another councilmember shall then have the privilege to nominate a person to fill that same position, as described in subsection (a) of this section. However, once that position becomes vacant again for any reason, the appointment shall revert to the place corresponding with the original city council seat/place number for nominations.
- (c) Terms of service on appointed bodies shall be the same three-year terms as the councilmember who nominates a person to serve, unless provisions are in place upon the approval of this article

designating a two-year term. However, a person may be appointed to complete the unexpired term of a vacant position due to a resignation, for example.

- (d) When a person has completed a term, of service and will be vacating a place, that person may continue to serve until a replacement is nominated and confirmed by the city council.
- (e) Exceptions to the above regulations shall be all volunteer/special purpose/ad hoc committees appointed from time to time by the city council and the board of adjustment and appeals, whose members shall serve two-year terms in accordance with Texas Local Government Code § 211.008. All other provisions of this section which do not conflict with the chapters, ordinances, resolutions, or state laws establishing these bodies shall be applicable.

(Code 2008, § 2-44; Ord. No. [2017-2549](#), § II, 7-31-2017; altered in 2019 recodification)

Sec. 2-64. - Review of appointed bodies by city council.

The city council shall be responsible to ensure and review the effectiveness of each appointed body. To accomplish this:

- (1) Annually each body, categorized in section 2-62(a) shall present a written summary report of the previous year's activity. The council will review and discuss at its discretion all or any body's procedures and performance. Such a review will be conducted to monitor the body's charge and its effectiveness. It shall not be the duty of the city manager, or staff, to prepare such reports nor be responsible for their submittal.
- (2) For the purpose of tracking attendance, each body will include in its annual report to council an attendance report summarizing absences of its members. Throughout the year, each member shall explain his absences as they occur to their respective body, whose remaining members shall then vote in open session as to whether the absences are excused or unexcused.
- (3) Annually, each body shall establish and/or review its rules/procedures and shall update or modify those rules as applicable, and officers such as chairperson, vice-chairperson and secretary shall be elected.
- (4) For each meeting, and with the assistance of the city secretary, each body shall provide at least a 72-hour public notice and an agenda for the meeting. Every meeting shall have minutes taken and submitted upon approval to the city secretary. If such approved minutes are more than two weeks late to the city secretary after the next scheduled meeting, the chairperson shall submit a written notice to the city council stating the expected date of submittal.
- (5) Any appointed body or its individual members shall not and is hereby strictly prohibited from directing city staff, or obligating city funds or resources of any nature.
- (6) Any member whose vote on a matter would create a conflict of interest or give an appearance of impropriety shall abstain from the vote, after stating publicly the reasons he believes voting would be improper. In cases of a personal interest, a written affidavit shall also be filed with the chairperson by the member stating the conflict of interest. The member shall announce at the commencement of consideration of the matter that a conflict exists, and then shall not enter into discussion or debate on any such matter.

(Code 2008, § 2-45; Ord. No. [2017-2549](#), § II, 7-31-2017)

Sec. 2-65. - Removal and resignation of members.

- (a) All board, commission and committee members serve at the pleasure of the city council and may be removed from office with or without cause at the discretion of the city council.

- (b) Board, commission and committee members may resign from office at any time by filing a written resignation, dated and signed by the member, with the city secretary. Such resignation shall take effect upon receipt by the city secretary without further action by the city council. If the city council appoints a new member to replace the resigned member, the new member shall be appointed to serve out the remainder of the resigned member's term.

(Code 2008, § 2-46; Ord. No. [2017-2549](#), § II, 7-31-2017)

Sec. 2-66. - Exceptions.

Exceptions to these policies shall apply only to those boards, commissions and committees which have membership composition, terms or other rules of procedure mandated by state statute, national code adopted by the city and not otherwise amended, or the city Charter, and then only to the extent of conflicting provisions with these policies.

(Code 2008, § 2-47; Ord. No. [2017-2549](#), § II, 7-31-2017)

Sec. 2-67. - Policies of special purpose or ad hoc committees.

Special purpose or ad hoc committees shall not have formal policies to follow other than those set forth from time to time by the council. However, all meetings of these committees shall be posted with a 72-hour public notice, and shall be open to the public. Also, these committees and their members shall not commit or expend city funds, direct city staff, or speak for the council or the city without prior council authorization.

(Code 2008, § 2-48; Ord. No. [2017-2549](#), § II, 7-31-2017)

Secs. 2-68—2-112. - Reserved.



To: City Council
From: Amy Arnold, City Secretary
Date: July 6, 2021
Subject: 2021-1272

Currently the BAA consists of seven members and one alternate. After conversations with the city attorney, staff recommends amending the membership as mentioned in the ordinance, as prepared by legal staff.

ARTICLE II. - BOARD OF ADJUSTMENT AND APPEALS

Sec. 101-21. - Establishment.

There is hereby created a board of adjustment and appeals pursuant to the Texas Local Government Code, the building and related codes enumerated herein below, and the applicable provisions of the city's animal control ordinance.

(Code 2008, § 2-71; [Ord. No. 2015-2487](#), § 1, 2-10-2015)

Sec. 101-22. - Organization and procedures.

- (a) *Membership.* The board of adjustment and appeals shall consist of ~~seven~~five regular members and ~~one~~two alternate members ~~who shall be qualified electors of the city~~. It is a declared policy that the city council will appoint to the board of adjustment and appeals only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, understanding of zoning and planning, building and animal control codes, and availability to prepare for and attend meetings. Each city councilmember shall nominate a qualified person to serve in a place on the board corresponding to their place on the council. Each nomination shall then be confirmed by a simple majority of the entire city council. Nominations shall be made to fill vacant positions and/or positions whose terms have expired within 90 days of the event, such as a resignation or an election. Should any city councilmember fail to name an appointee to one of his corresponding places on the board within the above-described 90 days, another councilmember shall then have the privilege to nominate a person to fill that same position. However, once that position becomes vacant again for any reason, the appointment shall revert to the place corresponding with the original city council seat/place number for nominations. Alternate members shall be nominated at-large and shall then be confirmed by a simple majority of the entire city council.
- (b) *Terms of office.*
 - (1) The members of the board shall serve for two-year terms and shall continue in the place system with the places identified as Place 1 through Place ~~57~~and alternate. The odd-numbered places shall expire in odd-numbered years and the even-numbered places shall expire in even-numbered years. The alternate members of the board shall be categorized and designated as alternates. The alternates shall serve ~~a two-year term~~s until February of an even-numbered year, two years hence. Board members and alternates may be appointed to succeed themselves.
 - (2) Vacancies shall be filled for unexpired terms, but no members or alternates shall be appointed for a term in excess of two years. Any member of the board, including alternates, may be removed for cause by the city council upon written charge and after a public hearing.
- (c) *Organization.*
 - (1) The board shall hold an organizational meeting in March of each even-numbered year and shall elect a chairperson and vice-chairperson from among its members before proceeding to any other matters of business.
 - (2) The city manager or his designee shall be the secretary of the board. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine.
 - (3) Such chairperson, or in his absence the acting chairperson, may administer oaths and, when considering zoning-related matters hereunder, compel the attendance of witnesses.
 - (4) The board may adopt from time to time such rules of procedure and regulations as it may deem necessary to carry into effect the provisions of this section, all of which rules and regulations shall operate uniformly.
 - (5) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its

examinations and other official actions, all of which shall be filed immediately in the board's office and kept as public records.

(6) Duly appointed members shall be installed at the first regular meeting after their appointment.

(d) *Meetings and quorum.*

(1) Three-quarters of voting membership of the board, ~~five~~ four members, shall constitute a quorum for the conduct of business. The members of the board shall regularly attend meetings and public hearings of the board, and shall serve without compensation, except for payment or reimbursement of expenses pre-authorized by the city manager, attendant to the performance of their duties. All meetings of the board shall be held in compliance with the Texas Open Meetings Act.

(2) In all matters before the board, the alternate members s shall not be ~~a~~-voting members s, except in the absence of a quorum of voting members, at which time the alternate members s will cast votes as a voting member.

(e) *Attendance reports.* Should any member of the board be absent for three consecutive regular meetings or four meetings during any 12-month period, such 12-month period to begin with the first meeting missed, then, in such instance, it shall be the responsibility of the chairperson, or in his absence the vice-chairperson, of the board to notify the city council, through the city manager, with a record of said absences and of any and all extenuating circumstances related to the absences.

(Code 2008, § 2-72; [Ord. No. 2015-2487](#), § 1, 2-10-2015; altered in 2019 recodification)

Sec. 101-23. - Powers and duties.

The board of adjustment and appeals is hereby charged and vested with the following respective duties and authorities:

(1) With regard to zoning, the board may:

- a. Hear and decide an appeal that alleges an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the city's zoning ordinance, as set forth in chapter 111;
- b. Hear and decide special exceptions to the terms of the city's zoning ordinance, as set forth in chapter 111, upon which the board is required to rule under the ordinance. In reaching its decision, the board shall determine that the requested exception will establish only those uses permitted under the ordinance; that the location of proposed activities and improvements are clearly defined on the site plan filed by the applicant; that the exception will be wholly compatible with the use and permitted development of adjacent properties either as filed or subject to such requirements as the board finds to be necessary to protect and maintain the stability of adjacent properties; and
- c. Authorize, upon appeal in specific cases, a variance from the terms of the city's zoning ordinance, as set forth in chapter 111, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of chapter 111 would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice done. Any variance granted under these powers of the board shall terminate automatically:
 1. When the period of use specified in the board's order has expired; or
 2. When the use ceases to be in full compliance with any condition imposed by the board.

Each zoning-related case before the board must be heard by at least ~~five~~ four members.

(2) With regard to the city's building code, electrical code, fire code, mechanical code, and plumbing code, as adopted and amended from time to time, the board:

- a. May inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the state and the city; and
 - b. Shall hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of the technical provisions of the aforementioned codes, with all decisions and findings being made in writing with a duplicate copy to the building official.
- (3) With regard to the city's minimum building standards code, as adopted and amended from time to time, the board shall enforce the applicable provisions of the code and carry out the functions set forth in the code to abate substandard buildings and structures.
 - (4) With regard to the city's animal control ordinance, as set forth in chapter 8, as adopted and amended from time to time, the board shall hear and decide upon applications for potbelly pig variance permits as provided for under that chapter.
 - (5) To hear appeals under section 103-308.
 - (6) The board shall have no authority relative to either interpretation of the administrative provisions or waiver of the requirements of the codes identified under this section.

(Code 2008, § 2-73; [Ord. No. 2015-2487](#), § 1, 2-10-2015; altered in 2019 recodification)

Sec. 101-24. - Zoning appeals.

(a) Authority of board. In exercising its powers, the board of adjustment may, in conformity with the provisions of the state statutes, as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and make such order, requirement, decision or determination, in the board's opinion, as ought to be made and shall have all the powers of the officer from whom the appeal is taken.

(b) Application for appeal.

(1) Appeals to the board of adjustment of a decision made by an administrative official that is not related to a specific application, address or project can be taken by any person aggrieved by the decision or by any officer, department, board or bureau of the municipality affected by the decision.

(2) Appeals to the board of adjustment of a decision made by an administrative official that is related to a specific application, address or project can be taken by:

a. A person who:

i. Filed the application that is the subject of the decision;

ii. Is the owner or representative of the owner of the property that is the subject of the decision; or

iii. Is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or

b. Any officer, department, board or bureau of the municipality affected by the decision.

Such appeal shall be filed not later than the 20th day after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

(c) Stay of proceedings. An appeal shall stay all proceedings of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent

peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order that may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown.

- (d) *Hearing and notice.* The board of adjustment shall schedule the appeal at the next meeting for which notice can be provided, and shall render a decision on the appeal following the hearing and not later than the 60th day after the date the appeal is filed. Notices shall be mailed to all owners of real property located within 200 feet of the property on which the appeal is made, and notice of the hearing shall also be published in a newspaper of general circulation in the city. Both the mailed and published notice shall be given at least ten days prior to the date set for the hearing. At the hearing any party may appear in person or by attorney or agent.
- (e) *Appeals to court.* Any persons, jointly or severally, aggrieved by any decision of the board, or any taxpayer or any officer, department or board of the municipality may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board of adjustment and not thereafter. The board's decision shall be deemed filed in the office of the board of adjustment on the first business day following the date on which action was taken by the board.

~~(a) *Procedure and fees.*~~

- ~~(1) Appeals for zoning matters herein may be taken to and before the board of adjustment and appeals by any person aggrieved, or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeals shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer with whom the appeal is taken for the board of adjustment and appeals, a notice of appeal specifying the grounds thereof and the filing of a fee in the amount as set forth in section 101-25.~~
- ~~(2) The officer from whom the zoning-related appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.~~
- ~~(b) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment and appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment and appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.~~
- ~~(c) *Notice of hearing on appeal.* The board of adjustment and appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney. The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.~~
- ~~(d) *Three-quarters vote requirement.*~~
 - ~~(1) The concurring vote of five members of the board of adjustment and appeals is necessary to:~~
 - ~~a. Reverse an order, requirement, decision, or determination of an administrative official;~~
 - ~~b. Decide in favor of an applicant on a matter on which the board is required to pass under the city's zoning ordinance, set forth in chapter 111; or~~
 - ~~c. Authorize a variation from the terms of the city's zoning ordinance, set forth in chapter 111.~~

~~(2) —The alternate member shall not be a voting member, except in the absence of a quorum of voting members, at which time the alternate member will cast votes as a voting member.~~

(Code 2008, § 2-74; [Ord. No. 2015-2487](#), § 1, 2-10-2015)

Sec. 101-25. - Fees.

Unless established herein, fees for appeals and applications shall be those set forth in the code or ordinance under which the appeal or application is made.

(Code 2008, § 2-75; [Ord. No. 2015-2487](#), § 1, 2-10-2015)

ORDINANCE NO. 2021.07.014

AN ORDINANCE AMENDING ARTICLE II “BOARD OF ADJUSTMENT AND APPEALS” OF CHAPTER 101 “GENERAL AND ADMINISTRATIVE PROVISIONS” OF SUBPART B “LAND DEVELOPMENT ORDINANCES” OF THE CODE OF ORDINANCES, CITY OF WHITE SETTLEMENT, TEXAS, BY PROVIDING FOR FIVE MEMBERS AND TWO ALTERNATE MEMBERS TO THE BOARD OF ADJUSTMENT AND APPEALS; PROVIDING FOR THE APPOINTMENT PROCESS TO THE BOARD OF ADJUSTMENT AND APPEALS; PROVIDING THAT FOUR MEMBERS CONSTITUTES A QUORUM; PROVIDING THAT ZONING-RELATED CASES MUST BE HEARD BY AT LEAST FOUR MEMBERS; PROVIDING FOR PROCEDURES FOR ZONING APPEALS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of White Settlement (City) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the Code of Ordinances currently establishes the membership and meeting requirements for the Board of Adjustment and Appeals and currently provides for the Board to be comprised of seven regular members and one alternate member and that a quorum consists of five members; and

WHEREAS, the Code of Ordinances currently provides that zoning related cases must be heard by at least five members of the Board of Adjustment and Appeals; and

WHEREAS, the Code of Ordinances currently provides for a procedures for zoning appeals; and

WHEREAS, the City Council now desires to revise the membership of the Board to five members and two alternates, provide that a quorum consists of four members, provide that zoning related cases be heard by at least four members, and revise the procedures for zoning appeals.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITE SETTLEMENT, TEXAS, THAT:

SECTION 1.

Subsections 101-22(a), 101-22(b)(1), and 101-22(d) of Section 101-22 of Article II “Board of Adjustment and Appeals” of Chapter 101 “General and Administrative Provisions” of Subpart B “Land Development Ordinances” of the Code of Ordinances, City of White Settlement, Texas, is hereby amended to read as follows:

“Sec. 101-22. - Organization and procedures.

(a) *Membership.* The board of adjustment and appeals shall consist of five regular members and two alternate members. It is a declared policy that the city council will appoint to the board of adjustment and appeals only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, understanding of zoning and planning, building and animal control codes, and availability to prepare for and attend meetings. Each city councilmember shall nominate a qualified person to serve in a place on the board corresponding to their place on the council. Each nomination shall then be confirmed by a simple majority of the entire city council. Nominations shall be made to fill vacant positions and/or positions whose terms have expired within 90 days of the event, such as a resignation or an election. Should any city councilmember fail to name an appointee to one of his corresponding places on the board within the above-described 90 days, another councilmember shall then have the privilege to nominate a person to fill that same position. However, once that position becomes vacant again for any reason, the appointment shall revert to the place corresponding with the original city council seat/place number for nominations. Alternate members shall be nominated at-large and shall then be confirmed by a simple majority of the entire city council.

(b) *Terms of office.*

(1) The members of the board shall serve for two-year terms and shall continue in the place system with the places identified as Place 1 through Place 5. The odd-numbered places shall expire in odd-numbered years and the even-numbered places shall expire in even-numbered years. The alternate members of the board shall be categorized and designated as alternates. The alternates shall serve two-year terms until February of an even-numbered year, two years hence. Board members and alternates may be appointed to succeed themselves.

* * *

(d) *Meetings and quorum.*

(1) Three-quarters of voting membership of the board, four members, shall constitute a quorum for the conduct of business. The members of the board shall regularly attend meetings and public hearings of the board, and shall serve without compensation, except for payment or reimbursement of expenses pre-authorized by the city manager, attendant to the performance of their duties. All meetings of the board shall be held in compliance with the Texas Open Meetings Act.

- (2) In all matters before the board, the alternate members shall not be voting members, except in the absence of a quorum of voting members, at which time the alternate members will cast votes as a voting member.

* * *

SECTION 2.

Subsection (1) of Section 101-23 “Powers and Duties” of Article II “Board of Adjustment and Appeals” of Chapter 101 “General and Administrative Provisions” of Subpart B “Land Development Ordinances” of the Code of Ordinances, City of White Settlement, Texas, is hereby amended to read as follows:

“(1) With regard to zoning, the board may:

- a. Hear and decide an appeal that alleges an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the city's zoning ordinance, as set forth in chapter 111;
- b. Hear and decide special exceptions to the terms of the city's zoning ordinance, as set forth in chapter 111, upon which the board is required to rule under the ordinance. In reaching its decision, the board shall determine that the requested exception will establish only those uses permitted under the ordinance; that the location of proposed activities and improvements are clearly defined on the site plan filed by the applicant; that the exception will be wholly compatible with the use and permitted development of adjacent properties either as filed or subject to such requirements as the board finds to be necessary to protect and maintain the stability of adjacent properties; and
- c. Authorize, upon appeal in specific cases, a variance from the terms of the city's zoning ordinance, as set forth in chapter 111, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of chapter 111 would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice done. Any variance granted under these powers of the board shall terminate automatically:
 1. When the period of use specified in the board's order has expired; or
 2. When the use ceases to be in full compliance with any condition imposed by the board.

Each zoning-related case before the board must be heard by at least four members.”

SECTION 3.

Section 101-24 “Zoning Appeals” of Article II “Board of Adjustment and Appeals” of Chapter 101 “General and Administrative Provisions” of Subpart B “Land Development Ordinances” of the Code of Ordinances, City of White Settlement, Texas, is hereby amended to read as follows:

“Sec. 101-24. - Zoning appeals.

- (a) *Authority of board.* In exercising its powers, the board of adjustment may, in conformity with the provisions of the state statutes, as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and make such order, requirement, decision or determination, in the board's opinion, as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
- (b) *Application for appeal.*
 - (1) Appeals to the board of adjustment of a decision made by an administrative official that is not related to a specific application, address or project can be taken by any person aggrieved by the decision or by any officer, department, board or bureau of the municipality affected by the decision.
 - (2) Appeals to the board of adjustment of a decision made by an administrative official that is related to a specific application, address or project can be taken by:
 - a. A person who:
 - i. Filed the application that is the subject of the decision;
 - ii. Is the owner or representative of the owner of the property that is the subject of the decision; or
 - iii. Is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or
 - b. Any officer, department, board or bureau of the municipality affected by the decision.

Such appeal shall be filed not later than the 20th day after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds. The officer from whom the appeal is taken

shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

- (c) *Stay of proceedings.* An appeal shall stay all proceedings of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order that may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown.
- (d) *Hearing and notice.* The board of adjustment shall schedule the appeal at the next meeting for which notice can be provided, and shall render a decision on the appeal following the hearing and not later than the 60th day after the date the appeal is filed. Notices shall be mailed to all owners of real property located within 200 feet of the property on which the appeal is made, and notice of the hearing shall also be published in a newspaper of general circulation in the city. Both the mailed and published notice shall be given at least ten days prior to the date set for the hearing. At the hearing any party may appear in person or by attorney or agent.
- (e) *Appeals to court.* Any persons, jointly or severally, aggrieved by any decision of the board, or any taxpayer or any officer, department or board of the municipality may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board of adjustment and not thereafter. The board's decision shall be deemed filed in the office of the board of adjustment on the first business day following the date on which action was taken by the board.”

SECTION 4.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances, City of White Settlement, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid or unconstitutional by the valid judgment of decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without

the incorporation in this Ordinance of any such invalid or unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 6.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED and APPROVED this ____ day of _____, 2021.

Ronald White, Mayor

ATTEST:

Amy Arnold, TRMC, CMC
City Secretary

APPROVED AS TO FORM AND LEGALITY:

Drew Larkin, City Attorney



To: City Council
From: Amy Arnold, City Secretary
Date: July 6, 2021
Subject: 2021-1281

This item is to make appointments to BAA. Any applications or communications with interested persons will be provided to City Council at the meeting.



To: City Council
From: Richard Tharp, Community Services Director
Date: July 6, 2021
Subject: 2021-1273

Staff brings this item to the City Council to consider approval of the professional engineering services agreement proposal for the National Guard Drainage project from James DeOtte Engineering INC. in an amount not to exceed \$146,250.00.

The comprehensive scope of the agreement includes the survey, design, bid and construction phases of the project designated from Clyde Street east to north Farmers Branch Creek basin WF-11.

The design and bid phases of the project will be conducted this budget year and actual construction will begin after October 1st of 2021.

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF TARRANT §

This Agreement is entered into by City of White Settlement, Texas hereinafter called "Owner" and James DeOtte Engineering, Inc., hereinafter called "JDEI." In consideration of the Agreements herein, the parties agree as follows:

- I. **EMPLOYMENT OF JDEI:** In accordance with the terms of this Agreement: Owner agrees to employ JDEI; JDEI agrees to perform professional services in connection with the Project; Owner agrees to pay to JDEI compensation. The Project is described as follows: National Guard Drainage Project.
- II. **SCOPE OF SERVICES:** JDEI shall render professional services in connection with Project as set forth in the Proposal Letter which is attached to and made a part of this Agreement.
- III. **COMPENSATION:** Owner agrees to pay JDEI for all professional services rendered under this Agreement. JDEI shall perform professional services as outlined in the "Scope of Work" for a lump sum fee of \$146,250.00.

If JDEI's services are delayed or suspended by Owner, or if JDEI's services are extended for more than 60 days through no fault of JDEI, JDEI shall be entitled to equitable adjustment of rates and amounts of compensation to reflect reasonable costs incurred by JDEI in connection with such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.
- IV. **TERMS AND CONDITIONS:** The Terms and Conditions as set forth and are attached to and made a part of this Agreement shall govern the relationship between the Owner and JDEI.

Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Owner and JDEI, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and JDEI and not for the benefit of any other party.

This Agreement constitutes the entire Agreement between Owner and JDEI and supersedes all prior written or oral understandings.

This contract is executed in two counterparts.

IN TESTIMONY HEREOF, they have executed this Agreement, the ____ day of May, 2021.

City of White Settlement, Texas
(Owner)

By:  _____

Jeff James, City Manager
Print Name and Title

James DeOtte Engineering, Inc.
(JDEI)

By:  _____

Brian Darby, Vice President
Print Name and Title

April 19, 2021

Mr. Rich Tharp
Assistant City Manager
City of White Settlement
White Settlement, TX 76108

Ref: Proposal for Professional Civil Engineering Services
National Guard Drainage Project

Dear Mr. Tharp:

James DeOtte Engineering, Inc. (JDEI) is pleased to submit for your consideration this proposal for professional civil engineering services for the referenced project. We believe the following scope of services will meet your needs for this assignment.

PROJECT UNDERSTANDING

The City of White Settlement wishes to create a drainage improvement at the north edge of the City for the existing residential blocks of Clyde Street, Roland Street, Renfro Drive, McCulley Street, and Bourland Drive. This area has a history of localized flooding and also is currently experiencing redevelopment.

This project would create a drainage swale within a proposed drainage easement at the south edge of the National Guard site located in the City of Fort Worth that would be accessible and maintained by White Settlement.

SCOPE OF WORK

Approvals (\$57,500):

1. Agency Coordination

Due to the use and location, the project will require coordination with the following agencies for approval of the proposed drainage improvements.

1.1 Texas Military Department (TMD). Based on their February 17, 2021 request letter the following will be needed for TMD approval:

- Drainage Study of National Guard property
- Bridge crossing design
- On or facility relocations
- Additional parking lot
- Temporary Right of Entry

1.2 City of Fort Worth:

- Floodplain Development Permit
- Grading Permit
- Drainage easement
- Land lease amendment

1.3 United States Corps of Engineers:

- Environmental Assessment
- CLOMR/LOMR
- Please note these were mentioned during discussions with the TMD only as a potential need. For that reason, we have not included these within this proposal. If this requested, an amendment will be prepared to address the associated effort.

Design (\$89,250):

2. Survey

2.1 Topographic Survey – A field survey will be performed to provide the location of existing features at the project site, including:

- Existing ground elevations, drainage features, trees, and other above-ground features within the design corridor.
- Existing above-ground utilities

3. Design Services

3.1 Construction plans and specifications will be prepared for the proposed improvements.

- Drainage Swale
- Bridge Crossing
- Parking Lot

3.2 QTO and OPCC – A estimate of construction quantities (quantity take-off or QTO) and develop an Opinion of Probable Construction Cost (OPCC) of the proposed improvements.

3.3 A Concept Design will be prepared to define the construction limits and intent in an exhibit format.

3.4 A Preliminary Design will be prepared that addresses the City's Concept Design Review comments and provide the aforementioned plans, specifications, QTO, & OPCC.

3.5 A Final Design will be prepared that addresses the City's Concept Design Review comments to make an Advertisement Bid Package.

- 3.6 Submittals – Provide City one set of plans, specifications, and OPCC for their approval.

4. Bid Phase Services

- 4.1 Advertisement – Assist the County with the advertisement to bidders.
- 4.2 Contractor Clarifications – Answer design intent questions from contractors during the bid phase.
- 4.3 Bid Tabulation – Prepare tabulation of all bidders and assist the City with award of construction contract.

5. Construction Phase Services

- 5.1 Final contract – Assist the County in the preparation of final executed and conformed copies of the construction contract.
- 5.2 Pre-construction conference – Attend the pre-construction conference with City staff and Contractor.
- 5.3 Pay Request Reviews – Back check City approved partial pay request from Contractor.
- 5.4 Site Visits – Perform periodic site visits to review construction progress and general conformance to design.
- 5.5 Final Inspection – Attend the final walk through with City staff.

JDEI anticipates the fees listed above for the various elements of the project to be a not to exceed amount of \$146,750.00. All costs, associated with the identified scope of work, will be lump sum for the scope provided and will be billed as a percentage of completed work as determined by JDEI.

This scope of work assumes any services not specifically listed as part of this contract will be treated as an additional service. The owner will be notified before any additional services are performed.

TERMS AND CONDITIONS

1. AUTHORIZATION TO PROCEED

Signing this form shall be construed as authorization by the City of White Settlement, Texas ("CLIENT") for JDE, Inc. (sometimes referred to as "Engineer") to proceed with the work, unless otherwise provided for in the authorization.

2. LABOR COSTS

JDE, Inc.'s Labor Costs shall be the amount of salaries paid to JDE, Inc.'s employees for work performed on CLIENT'S Project plus a stipulated percentage of such salaries to cover all payroll-related taxes, payments premiums, and benefits. Labor Costs are included in and not in addition to the lump sum fee.

3. DIRECT EXPENSES

JDE, Inc.'s Direct Expenses shall be those costs incurred on or directly for CLIENT's Project, including but not limited to necessary transportation costs including mileage at JDE, Inc.'s current rate when its automobiles are used, meals and lodging, laboratory tests and analyses, computer services, word processing services, telephone, printing and binding charges. Reimbursement for these Direct Expenses shall be on the basis of actual charges when furnished by commercial sources and on the basis of usual commercial charges when furnished by JDE, Inc. Direct Expenses are included in and not in addition to the lump sum fee.

4. OUTSIDE SERVICES

When technical or professional services are furnished by an outside source, when approved in advance by CLIENT, an additional amount shall be added to the cost of these services for JDE, Inc.'s administrative costs, at rates to be mutually agreed to by the parties.

5. COST ESTIMATES

Any cost estimates provided by JDE, Inc. will be on a basis of experience and judgment, but since it has no control over market conditions or bidding procedures JDE, Inc. cannot warrant that bids or ultimate construction costs will not vary from these cost estimates.

6. PROFESSIONAL STANDARDS

JDE, Inc. shall be responsible, to the level of competency presently maintained by other practicing professional engineers in the same type of work in CLIENT's community, for the professional and technical soundness, accuracy, and adequacy of all design, drawings, specifications, and other work and materials furnished under this Authorization. JDE, Inc. makes no other warranty, expressed or implied.

7. TERMINATION

This Agreement may be terminated in whole or in part in writing by either party, with or without cause upon fifteen (15) days prior written notice.

If either party terminates this Agreement, JDE, Inc. will immediately discontinue all services in connection with the performance of this Agreement. Within thirty (30) days after receipt of notice of termination, JDE, Inc. will submit a statement showing the services performed up to the date of termination and the amount due and owing for same. CLIENT's liability shall be limited to such amount. Copies of all plans, field surveys, and other data related to the project shall become the property of CLIENT upon termination of the Agreement.

Should CLIENT subsequently contract with a new engineer for continuation of services on the project, JDE, Inc. will cooperate in providing information. JDE, Inc. will be compensated for such extra services and expenses as provided for by mutual agreement of CLIENT and JDE, Inc.

8. LEGAL EXPENSES

In the event legal action is brought by CLIENT or JDE, Inc. against the other to enforce or interpret any of the terms or obligations of this Agreement, the prevailing party in such action shall be entitled to recover from the non-prevailing party, in addition to the prevailing party's actual damages, reasonable attorneys' fees and court costs.

9. PAYMENT TO JDE, INC.

Monthly invoices will be issued by JDE, Inc. for all work performed under the terms of this agreement. Invoices are due and payable on receipt. Interest at the rate of 1½% per month will be charged on all past-due amounts, unless not permitted by law, in which case, interest will be charged at the highest amount permitted by law.

10. ADDITIONAL SERVICES

Services in addition to those specified in Scope of Services will be provided by JDE, Inc. if previously authorized in writing by CLIENT. Additional services will be paid for by CLIENT as indicated in attached Basis of Compensation or as negotiated between the parties.

11. SALES TAX

In accordance with the State Sales Tax Codes, certain surveying services are taxable. Applicable sales tax is not included in the above proposed fee. Sales tax at an applicable rate will be indicated on invoice statements.

12. SURVEYING SERVICES

In accordance with the Professional Land Surveying Practices Act of 1989, CLIENT is informed that any complaints about surveying services may be forwarded to the Texas Board of Professional Land Surveying, 7701 N. Lamar, Suite 400, Austin, Texas 78752, (512) 452-9427. In case any one or more of the provisions contained in this Agreement shall be held illegal, the enforceability of the remaining provisions contained herein shall not be impaired thereby.

13. INDEMNITY

JDE, Inc. agrees to and shall hold harmless and indemnify CLIENT, its officers, agents, officials, and employees, in both their individual and official capacities, from and against any and all claims, losses, damages, causes of action, suits, fines, penalties, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for any injury to or death of any person, or for damage to any property, arising out of, in connection with, or resulting from the performance of this Agreement. This provision of the Agreement shall survive the termination of this Agreement.

14. GOVERNING LAW & JURISDICTION

This Agreement will be governed by, and construed in accordance with, the laws of the State of Texas without reference to principles of conflicts of laws thereof. Each party hereby irrevocably

and unconditionally consents, accepts, and agrees to submit to the exclusive jurisdiction of any state or federal court in Tarrant County, Texas in respect to any dispute, action, suit or proceeding arising out of, based upon, or relating to this Agreement.

15. REVISIONS TO SCOPE OF WORK

After a definite Scope of Services has been approved by CLIENT, if a decision is subsequently made by CLIENT which, for its proper execution, involves extra services and expenses for changes in, or additions to, the drawings, specifications, or other documents, or if JDE, Inc. is put to labor or expense by delays imposed on it from causes not within its control, such as by the re-advertisement for bids or by the delinquency or insolvency of contractors, JDE, Inc. will be compensated for such extra services and expenses as provided for by mutual agreement of CLIENT and JDE, Inc. Such mutual agreement will be amended to and incorporated into this Agreement.

16. OWNERSHIP OF DOCUMENTS

All drawings, specifications, and other documents or instruments prepared or assembled by Engineer under this Agreement shall become the sole property of CLIENT and shall be delivered to CLIENT without restriction on future use. Engineer shall retain in its files all original drawings, specifications, documents or instruments and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings and other documents by CLIENT or other consultants subsequent to the completion of the Agreement. CLIENT shall require that any such change be sealed, dated, and signed by Engineer making said change and shall be appropriately marked to reflect what was changed or modified.

17. INDEPENDENT CONTRACTOR

JDE, Inc. shall perform services hereunder as an independent contractor, and not as an officer, agent, servant or employee of CLIENT and JDE, Inc. shall have the exclusive right to control services performed hereunder by JDE, Inc., and all persons performing same, and shall be responsible for the negligent acts and omissions of its officers, agents, employees and sub-consultants. Nothing herein shall be construed as creating a partnership or joint venture between CLIENT and JDE, Inc., its officers, agents, employees and sub-consultants; and the doctrine of respondent superior has no application as between CLIENT and JDE, Inc.

18. SUCCESSORS AND ASSIGNS

CLIENT and JDE, Inc. each bind themselves, their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this agreement; except as above, neither party will assign, sublet, or transfer its interest in this Agreement without prior written consent of the other party.

19. SEVERABILITY

In the event any provision of this Agreement is ruled illegal, invalid, or unenforceable by any court of proper jurisdiction, under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

20. THIRD-PARTY BENEFICIARIES

This Agreement shall inure to the benefit of and may only be enforced by the parties to this Agreement and their permitted successors and assigns. Except as may be specifically stated and identified in this Agreement, there are no third-party beneficiaries of this Agreement.

21. INSURANCE

A. Engineer shall, at its own expense, purchase, maintain and keep in force during the term of this Agreement such insurance as set forth below. Engineer shall not commence work under this Agreement until Engineer has obtained all the insurance required under this Agreement and such insurance has been approved by CLIENT, nor shall Engineer allow any subcontractor to commence work under this Agreement until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Agreement shall be written on an "occurrence" basis through companies duly approved to transact that class of insurance in the State of Texas. The insurance requirements shall remain in effect throughout the term of this Agreement.

- (1) Workers' Compensation and Employers' Liability Insurance, as required by law; not less than \$100,000 for each accident, \$100,000 disease-each employee, \$500,000 disease-policy limit.
- (2) Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering, but not limited to the indemnification provisions of this Agreement, fully insuring Engineer's liability for injury to or death of employees of CLIENT and third parties, extended to include personal injury liability coverage and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence.
- (3) Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with bodily injury and property damage limits of \$1,000,000 per occurrence.
- (4) Professional Liability Insurance, coverage in an amount of at least \$1,000,000 per claim and aggregate covering the services provided under this Agreement, including contractual liability. This insurance shall be maintained throughout the Agreement and for one year after completion of construction of the project.

B. Each insurance policy to be furnished by Engineer shall include the following conditions by endorsement to the policy:

- (1) CLIENT shall be named as an additional insured as to all applicable coverage(s) except Workers' Compensation and Professional Liability.
- (2) Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to CLIENT by certified mail to:

City of White Settlement
Attn: City Manager
214 Meadow Park Drive
White Settlement, TX 76108

With a copy to:

City of White Settlement
Attn: Assistant City Manager
214 Meadow Park Drive
White Settlement, TX 76108

- (3) The term "CLIENT" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of CLIENT and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of CLIENT.
- (4) The policy phrase "other insurance" shall not apply to CLIENT where CLIENT is an additional insured on the policy.
- (5) All provisions of the Agreement concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Engineer agrees to the following:

- (1) Except for professional liability, Engineer hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against CLIENT, it being the intention that the insurance policies shall protect all parties to the Agreement and be primary coverage for all losses covered by the policies.
- (2) Companies issuing the insurance policies and Engineer shall have no recourse against CLIENT for payment of any premiums or assessments for any deductible, as all such premiums are the sole responsibility and risk of Engineer.
- (3) Approval, disapproval, or failure to act by CLIENT regarding any insurance supplied by Engineer (or any subcontractors) shall not relieve Engineer of full responsibility or liability for damages and accidents as set forth in the Agreement documents or contract documents for the Project. Neither shall the insolvency or denial of liability by the insurance company exonerate Engineer from liability.

- (4) No special payments shall be made for any insurance that Engineer and subcontractors, if any, are required to carry; all are included in the Agreement price and the Agreement unit prices.

22. NOTICE

All notices, communications, and reports required or permitted to be delivered under this Agreement shall be personally delivered or mailed by certified mail, return receipt requested, to the respective parties by depositing the same in the United States Postal Service at the address shown below, unless and until either party is otherwise notified in writing by the other party at the following addresses. Notices mailed in accordance with this paragraph shall be deemed delivered after three (3) calendar days of the date mailed. Notices personally delivered shall be deemed delivered on the day received.

If to Owner:

City of White Settlement
Attn: City Manager
214 Meadow Park Drive
White Settlement, TX 76108

If to JDE, inc.:

James DeOtte Engineering, Inc.
Attn: Brian Darby, P.E., Vice President
2201 Dottie Lynn Parkway, Suite 119
Fort Worth, Texas 76120

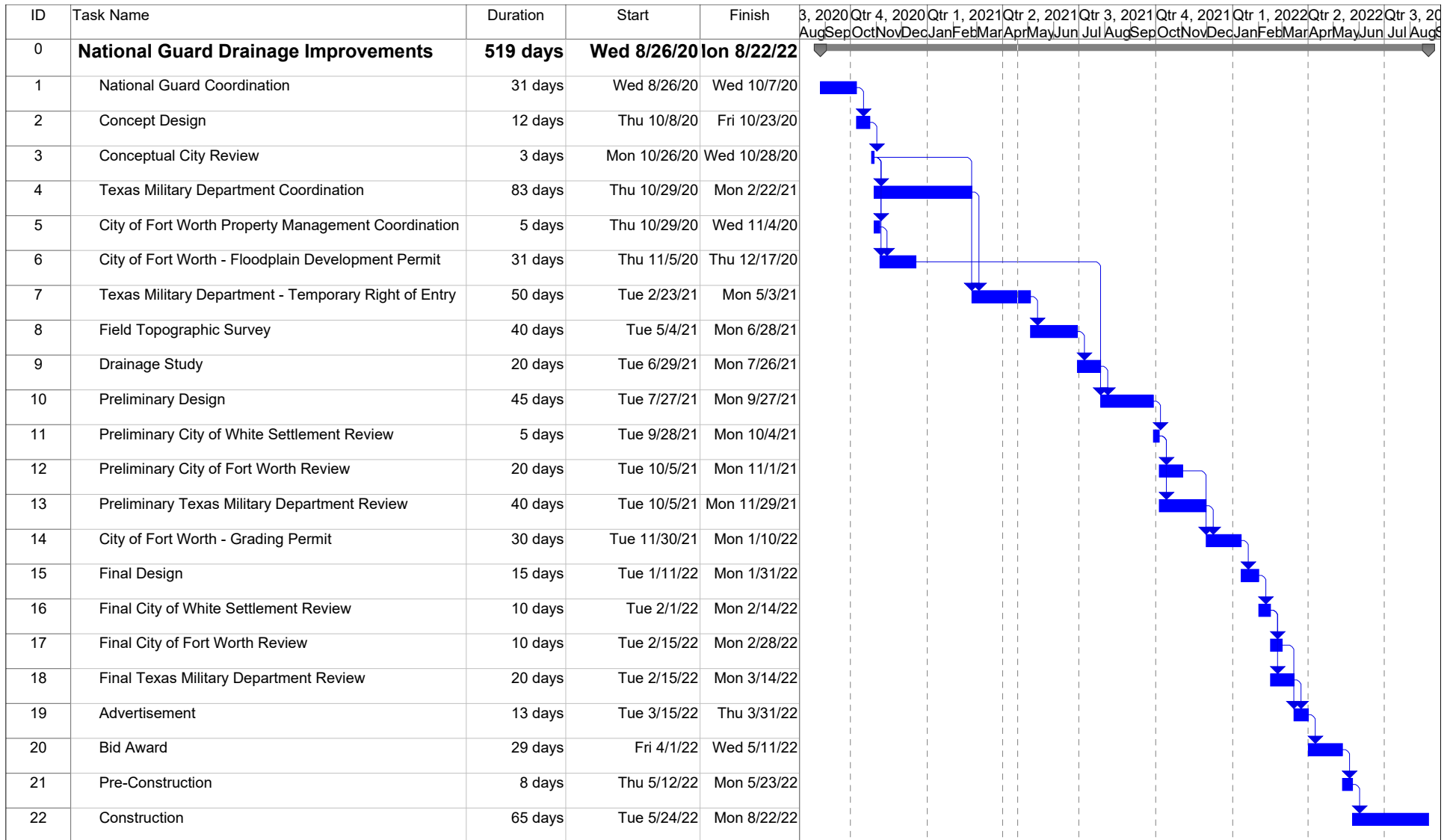
With copy to:

City of White Settlement
Attn: Assistant City Manager
214 Meadow Park Drive
White Settlement, TX 76108

City of White Settlement
National Guard Drainage Project
Opinion of Probable Construction Cost



				Totals	
Pay Item	Item Description	Unit of Measure	Unit Price	Total Quantity	Total Price
				Option 1	
1	Drainage Easement	SF	\$ 0.50	68,000	\$ 34,000.00
2	Earthwork	CY	\$ 45.00	1,300	\$ 58,500.00
3	Chain Link Fence with Security Top	LF	\$ 30.00	2,000	\$ 60,000.00
4	Concrete Flume	SY	\$ 150.00	750	\$ 112,500.00
5	Bridge Crossing	LS	\$ 40,000.00	1	\$ 40,000.00
6	Parking Lot	SY	\$ 90.00	1,900	\$ 171,000.00
		Construction Subtotal			\$ 476,000.00
		25% Contingency			\$ 119,000.00
		Construction Total			\$ 595,000.00



Project: National Guard Drainage Impr
Date: Mon 4/19/21

Task

Split

Milestone

Summary

Project Summary

External Tasks

External Milestone

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

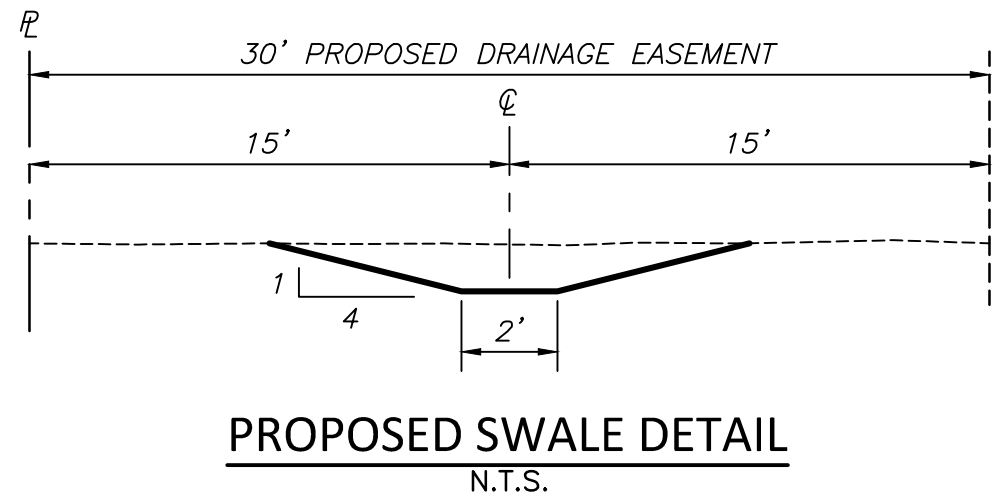
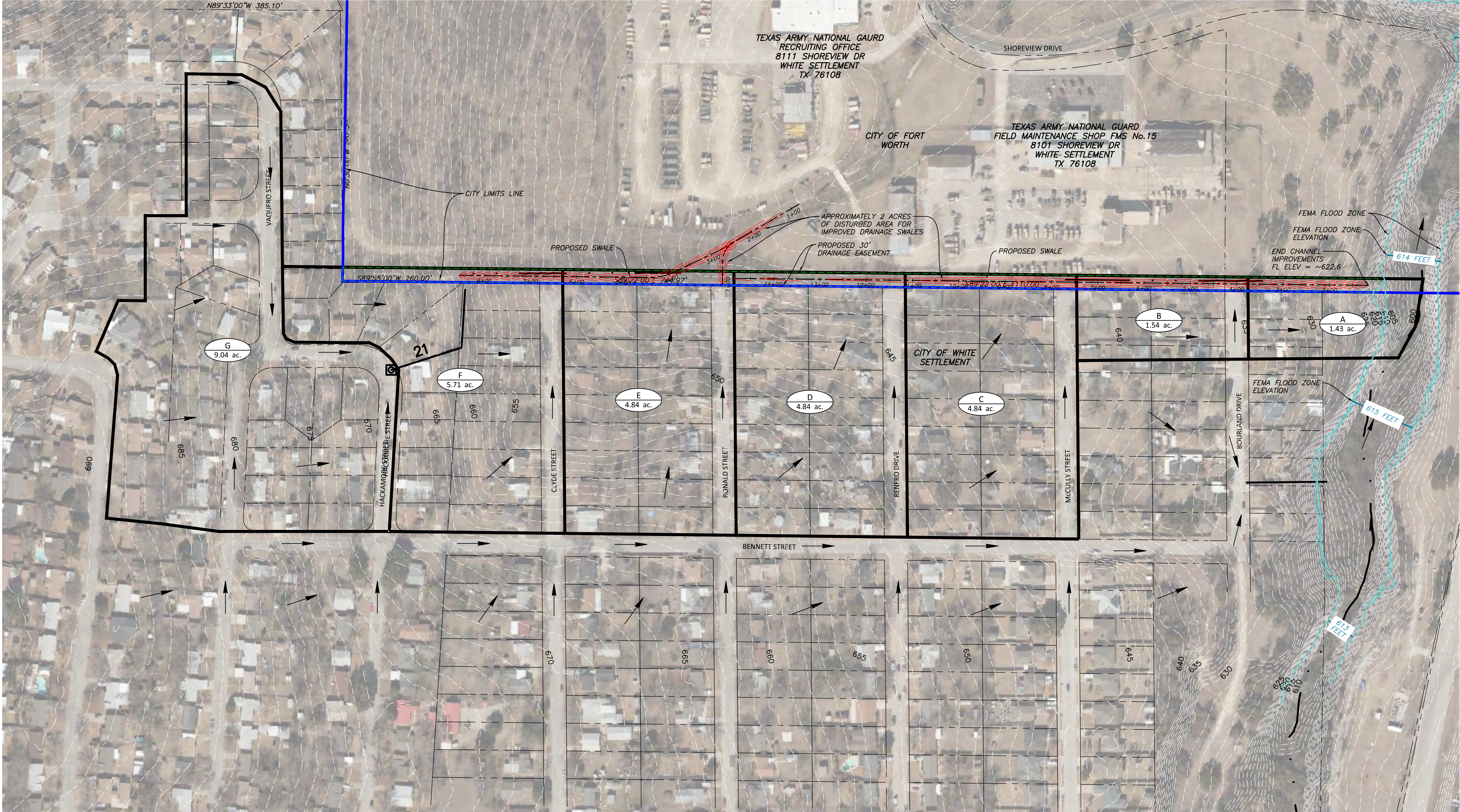
Finish-only

External Tasks

External Milestone

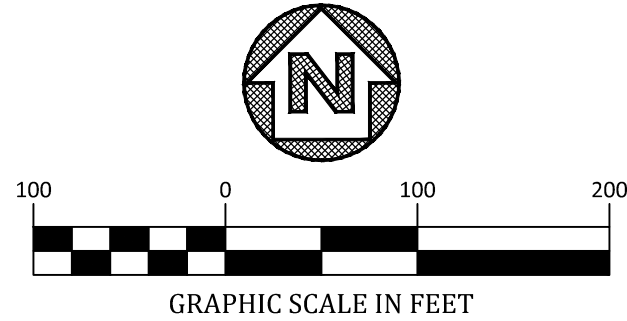
Progress

Deadline



PRELIMINARY — FOR REVIEW ONLY
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION
OR BIDDING PURPOSES.

BY: Brian S. Darby P.E.
Reg. No.: 82623
Date: 1/15/2021



2201 Dottie Lynn Parkway, Suite 119
Fort Worth, Texas 76120
TBPE Firm Reg. No. 8917
TBLS Firm Reg. No. 101014-00

DRAINAGE PLAN