

PUBLIC NOTICE

City Council Meeting Agenda

In accordance with the Open Meetings Act, Chapter 551 of the Government Code of Texas, notice is hereby given to all interested persons that the City Council of the City of Odessa will meet on **Tuesday, July 14, 2026 at 6:00 p.m.** in the Council Chambers, fifth floor, City Hall, 411 W. 8th St., Odessa, Texas for the following purposes:

See Attached Agenda

This notice is being posted on the south door of City Hall and on the bulletin board of the first floor of City Hall, Odessa, Texas, this the 8th day of July, 2026 at 5:30 P.m., said time being at least three business days prior to the time at which the subject meeting will be convened and called to order. The public notice is also posted on the City of Odessa's website www.odessa-tx.gov

City Council Meetings are available to all persons regardless of disability. Individuals with disabilities who require special assistance should contact the City Secretary's Office at 432/335-3276, or 411 West 8th Street, First Floor, Odessa, Texas, during normal business hours at least twenty-four hours (24) in advance of the meeting.


Norma Aguilar, TRMC, CMC
City Secretary

City of Odessa, Texas

City Council Meeting

July 14, 2026

6:00 pm

Cal Hendrick, Mayor
Craig Stoker, At-Large
Eddie Mitchell, District 1
Steven P. Thompson, District 2
Gilbert Vasquez, District 3
Greg Connell, District 4
Chris Hanie, District 5



Aaron Smith, City Manager
James D. Parker, City Attorney
Norma Aguilar, City Secretary

City Council Chambers, City Hall, 411 W. 8th Street, 5th Floor, Odessa, Texas, 79761

1 Call to Order

Presenter: Mayor Hendrick

1.1 Roll Call

Presenter: Norma Aguilar

1.2 Invocation

Presenter: Pastor Jon Hendricks, Mackey Chapel United Methodist Church

1.3 Pledge of Allegiance and Texas Pledge

Honor the Texas Flag; I pledge allegiance to thee,
Texas, one state under God, one and indivisible.

2 Citizen Comments

Any citizen wishing to address the City Council on an agenda item below must complete a speaker card, available inside the Council Chambers, and deliver to the City Secretary before the meeting begins. Speakers will be heard when their item is called and are limited to three (3) minutes, subject to adjustment based on the number of speakers. Please state your name for the record. Disruptions or interruptions will not be tolerated.

3 Regular

3.1 Presenter: Council

Consider and take action regarding the resignation submitted by Council Member Gilbert Vasquez, Council member, District 3 resigning from the office of City Council member.

3.2 Presenter: Council

Consider and take action to fill a vacancy in the office of City Council member, District 3 by taking action to appoint a qualified person to fill the vacancy and to serve for the remainder of the unexpired term for the following office: City Council member, District 3.

4 Consent Agenda

These items are considered routine or have been previously discussed and may be approved in a single motion without separate discussion. Any Council Member may request that an item be removed from the Consent Agenda for individual consideration.

4.1 Minutes

- 4.1.1** Presenter: Norma Aguilar, City Secretary
Consider approval of City Council minutes, June 23, 2026.

4.2 Ordinance 2nd and Final Reading

- 4.2.1** Presenter: Elizabeth Shaughnessy, Director of Development
Consider a request for a rezone from Single Family-Estate-Drill Reservation (SF-E-DR) to Single Family-One (SF-1) District being a 1.51-acre tract Drill Site in the Richland Manor Subdivision, City of Odessa, Ector County, Texas. (Generally located on the east side of Country Club Drive, approximately 400 feet north of Richwood Road) (Ordinance second reading and final approval)

5 Regular

5.1 Resolution

- 5.1.1** Presenter: James D. Parker, City Attorney
Consider approving a performance agreement between the Odessa Development Corporation and ABE Medical, PLLC. (Resolution)
- 5.1.2** Presenter: Lura D. Cotton, Director of Equipment Services
Consider a resolution to approve the transfer of budgeted funds in the amount of \$45,000 from the Billing and Collections Department Fund to Equipment Services for the lease of a new vehicle.
- 5.1.3** Presenter: Lura D. Cotton, Director of Equipment Services
Consider a resolution authorizing a lease agreement with Sewell Fleet Management for the lease of a new vehicle for the Billing and Collection Department.
- 5.1.4** Presenter: Marisa Rodriguez, Director of Purchasing
Consider a resolution approving an interlocal agreement with Ector County Independent School district (ECISD) for crossing guard services to jointly fund, administer, and operate a School Crossing Guard Program. (Resolution)
- 5.1.5** Presenter: Marisa Rodriguez, Director of Purchasing
Consider a resolution awarding the proposal to and approve a contract with All City Management Services Inc. in the amount of \$574,287.00 for School Crossing Guard Services. (Resolution)

- 5.1.6** Presenter: Marisa Rodriguez, Director of Purchasing
Consider a resolution approving a professional services agreement with Martinez Architects LP for the Design-Bid-Build of Odessa Fire Station No. 10 (RFQ) 25-52210-27

5.2 Miscellaneous

- 5.2.1** Presenter: Norma Aguilar, City Secretary
Discuss and consider all City of Odessa commissions and board members including appointment, re-appointment, removing, or modification including the following:

Amy Bell Sports Foundation

- Vacant - Council member Thompson appointment – Term Expires July 31, 2027

Animal Shelter Advisory Committee – Council Appointment

- Another veterinarian can be appointed – Term expires March 31, 2028

6 Adjourn

MEETING ASSISTANCE INFORMATION: If you require special assistance or translation services to participate in this meeting, please contact the City Secretary's Office at (432) 335-3276. Providing at least 48 hours' notice prior to the meeting will allow the City to make reasonable arrangements to ensure accessibility.

Si necesita asistencia especial o servicios de traducción para participar en esta reunión, comuníquese con la Oficina de la Secretaria Municipal al (432) 335-3276. Proporcionar un aviso con al menos 48 horas de anticipación permitirá a la Ciudad realizar los arreglos razonables para garantizar la accesibilidad a esta reunión.



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 3.1
Strategic Plan: N/A
From: Council
Subject: Consider and take action regarding the resignation submitted by Council Member Gilbert Vasquez, Council member, District 3 resigning from the office of City Council member.

Summary

Gilbert Vasquez has served as the District 3 Council member since 2022. Mr. Vasquez has submitted his resignation from the District 3 Council seat effective June 30, 2026 and requests that the City Council formally accept his resignation.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Accept Council Member Vasquez' resignation.



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 3.2
Strategic Plan: N/A
From: Council
Subject: Consider and take action to fill a vacancy in the office of City Council member, District 3 by taking action to appoint a qualified person to fill the vacancy and to serve for the remainder of the unexpired term for the following office: City Council member, District 3.

Summary

Appoint a qualified person to serve the remainder of the unexpired term of office, until November 2026 for the following office: City Council member, District 3.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Appoint a qualified citizens to fill the Council member District 3 vacancy



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 4.1.1
Strategic Plan: N/A
From: Norma Aguilar, City Secretary
Subject: Consider approval of City Council minutes, June 23, 2026.

Summary

City Council minutes, June 23, 2026

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Approve of the June 23, 2026 City Council minutes.



**CITY COUNCIL MINUTES
CITY OF ODESSA, TEXAS**

June 23, 2026

On June 23, 2026, a regular meeting of the Odessa City Council was held at 6:00 p.m. in the Council Chambers, 5th Floor, City Hall, 411 W. 8th St., Odessa, Texas.

City Council present: Mayor Benard C. Hendrick; Council members: Raymon Stoker, At-Large; Eddie Mitchell, District One; Steven P. Thompson, District Two; Gilbert Vsquez, District Three; Greg Connell, District Four; and Chris Hanie, District Five.

Staff present: Aaron Smith, City Manager; Norma Aguilar, City Secretary; James Parker, City Attorney; and other members of City staff.

A quorum being present, Mayor Hendrick called the meeting to order, and the following proceedings were held:

Roll call. Ms. Aguilar conducted the roll call for the City Council.

Invocation. A moment of silence was held for Lt. Isai Huerta. The invocation was given by Pastor Nick Carraway, Belmont Baptist Church, followed by the Pledge of Allegiance and Texas Flag. Council member Mitchell asked for prayers for all the firefighters for their loss.

Proclamations. Mayor Hendrick presented a proclamation for a Hometown Hero Nathan Lloyd Day.

Citizens' comments on non-agenda items. Betsy Rhodes stated that the city was blessed to have the elected Mayor and Council. She was proud of Odessa. Justin Malcom dated that the data centers don't create many jobs, use five million gallons of water a day, AI puts jobs at risk and degrades thinking. Mr. Smith stated that there were no data centers inside the city limits of Odessa. Carsten Currens was concerned with data centers being built as it surrenders critical thinking skills of students and public money should not be given to data centers. Jacky Perez stated that data centers impacted on utilities and infrastructure and it was a strain on resources. The data center company does not show transparency and asked for it to be stopped. Dale Feldman stated that 48 data centers have failed across the U.S. and had a 70% negative discourse as it was always running. He cautioned against data centers.

Consent Agenda

1. City Council work session minutes, June 9, 2026;
2. City Council minutes, June 9, 2026;
3. **Ordinance No. 2026-16 - Request by George T. Garrett II, amending the Code of Ordinances Chapter 14 Zoning Article 14-1 General Provisions Section 14-1-4 Zoning District Map by changing the zoning classification from GR, General Residence to NS, Neighborhood Service on a 0.414-acre tract of land located in Lots 26-28, Block 19, Patterson Addition, 6th Filing, City of Odessa,**

- Ector County, Texas (Located on the west part of Bunch Avenue approximately 80 feet north of Myrtle Street);**
4. **Ordinance No. 2026-17 - Collection of a fine by the City of Odessa Municipal Courts not to exceed the amount as authorized by state law for the offense of failure to appear and the offense of violate promise to appear;**
 5. **Resolution No. 2026R-66 - Professional services agreement with Carollo Engineers Inc., for the design and bid phase of the Bob Derrington Wastewater Reclamation Plant in the amount \$39,977,000;**
 6. **Resolution No. 2026R-67 - Appropriate funds in the amount of \$3,000,000 for the construction of Tres Hermanas Boulevard Project;**
 7. **Resolution No. 2026R-68 - Correct the list of on-call engineers which was approved on October 14, 2025, by Resolution No. 2025R-111.**

Motion was made by Council member Hanie and seconded by Council member Connell to pull item 6 from the agenda. Council member Stoker questioned the procedure of having \$3 million appropriated before the bid or contract for the project. He asked why the funds were set aside before knowing the cost. Mr. Smith stated that the funds would be held for the project and expended at a later date. The amount was based on the engineer's estimate. He stated that the appropriated funds provided transparency. The motion failed.

Motion was made by Council member Stoker seconded by Council member Hanie to approve the consent agenda. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Regular

Mental health and what the City has done in the past to partner with Samaritan Counseling and discuss any future partnership. Risse' Rogers, Samaritan Counseling, provided the history of working with the City in providing employee services. She stated that healthy employees were more productive and happier. Samaritan has worked extensively with first responders. Currently, the employees have a co-pay to utilize the services. She reviewed the services provided. Mr. Smith would explore the options for employees with the partnership of Samaritan Counseling. Council member Thompson stated that the insurance program was overhauled. The program could be molded to the needs of the employees and could be changed. Council member Vasquez recommended to review the program. Mayor Hendrick stated that there was a lot of trauma and mental health was a crisis. He recommended exploring the options. Council member Stoker stated that a co-pay could be a barrier.

Review and approve the City Financial Report from October 2025 through March 2026. Kala Hedges, Interim Chief Financial Officer, stated that the report would be posted monthly. She reviewed the report for the General Fund and Utilities Fund. Council member Stoker asked for clarification on services from the department report. Mr. Smith stated a snapshot of types of services could be provided for transparency. Mrs. Hedges would provide a report for the Capital projects. Mayor Hendrick would like to see a comparison from the past year or two. He stated a budget message should show where the funds were being spent.

Mr. Smith stated that the survey results would be provided. Council member Thompson asked for the sales tax to be reported as a separate line item.

Motion was made by Council member Vasquez seconded by Council member Hanie to approve the consent agenda. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Review and consider approving the second quarter investment report. Mrs. Hedges reviewed the investment report.

Motion was made by Council member Connell seconded by Council member Hanie to approve the consent agenda. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Presentation and discuss the Water and Wastewater job order contract Bonham valve replacement project. Alex Rowlett, Director of Utilities, reviewed the next valve replacement that would start July 6. He reviewed the contractors that would make the installation and the cost estimate.

Public Hearing

Open a public hearing to consider a request for a rezone from Single Family-Estate-Drill Reservation (SF-E-DR) to Single Family-One (SF-1) district on a 1.51 acre tract Drill Site in the Richland Manor Subdivision, City of Odessa, Ector County, Texas. (Generally located on the east side of Country Club Drive, approximately 400 feet north of Richwood Road). Elizabeth Shaughnessy, Director of Development Services, stated that the drill site was released. The rezone would be for a single family-one. The Planning and Zoning Commission recommended for approval. No one came forward and the public hearing was closed. There would be three lots.

Motion was made by Council member Vasquez seconded by Council member Thompson to approve the ordinance on first approval. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Ordinance

Ordinance No. 2026-18 - Request by LCA on behalf of Ronnie Lewis, property owner, for the annexation of a 0.244-acre tract of land and thereby adopting an ordinance annexing a 0.244 acre tract of land into the city limits of the City of Odessa, with an original zoning of LI, Light Industrial in Section 21, Block 41, T-2-S, T&P RY Co Survey, Ector County, Texas (Located NE of the U.S. Highway 80 and Club Drive Intersection, approximately 975 feet of Marco Avenue). Mrs. Shaughnessy stated that the annexation would allow for a billboard on the site. The Planning and Zoning Commission recommended for approval.

Motion was made by Council member Stoker seconded by Council member Vasquez to approve the ordinance on second and final approval. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Resolution

Resolution No. 2026R-69 - Agreement for specialized professional ambulance billing services with Emergicon, LLC for EMS billing, collection, and fire fee services. Marisa Rodriguez, Director of Purchasing, reviewed the evaluation and recommendation. She recommended Emergicon to provide EMS billing, collection, and fire fee services. She reviewed the percentage fees.

Motion was made by Council member Thompson seconded by Council member Stoker to approve the resolution. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Resolution No. 2026R-70 - Bid award and approve a contract with Permian Paving Inc., in the amount \$345,000 for the demolition and reconstruction of the parking lot at McKinney Park. Mrs. Rodriguez reviewed the bid for reconstruction services for the parking lot at McKinney Park. Permian Paving was recommended for the bid for \$345,500. It would take 120 calendar days to complete. The project was part of a larger scope of the project.

Motion was made by Council member Mitchell seconded by Council member Thompson to approve the resolution. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Resolution No 2026R-71 - Financial participation and authorizing the filing of an application with the Texas Water Development Board seeking financial assistance to provide for the costs of repairs and improvements to the City's water supply infrastructure. Mr. Rowlett requested to file an application with the Texas Water Development Board to apply for \$21 million funding for water supply. He reviewed the projects.

Motion was made by Council member Stoker seconded by Council member Mitchell to approve the resolution. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Resolution No. 2026R-72 - City of Odessa Strategic Plan. Mr. Smith stated that the plan was to work towards the next three years. The focus areas included governance, economic development, infrastructure, quality of life and financial. The plan would be actionable and measurable. Mayor Hendrick stated it would provide measurable results and provide positive improvement.

Motion was made by Council member Thompson seconded by Council member Hanie to approve the resolution. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Miscellaneous

Discuss and consider all City of Odessa commissions and board members including appointment, re-appointed, removing or modification including the following, Amy Bell Sports Foundation, Animal Shelter Advisory Committee, Historic Preservation Commission, Housing Authority of Odessa, and PermiaCare Board of Trustees.

Motion was made by Council member Vasquez and seconded by Council member Connell to reappoint David Vincent to the Historic Preservation Commission. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Motion was made by Mayor Hendrick and seconded by Council member Vasquez to appoint Albert Valencia to the Housing Authority of Odessa. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Chris Barnhill stated that John Landgraf was a great oversight board member and held staff accountable. He recommended reappointing him to the PermiaCare Board of Trustees.

Motion was made by Council member Mitchell and seconded by Council member Hanie to reappoint John Landraf to the PermiaCare Board of Trustees. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

Motion was made by Council member Vasquez and seconded by Council member Thompson to adjourn the meeting. The motion was approved by the following vote:

Aye: Hendrick, Stoker, Mitchell, Thompson, Vasquez, Connell, and Hanie
Nay: None

The meeting adjourned at 7:36 p.m.

ATTEST:

APPROVED:

Norma Aguilar, TRMC, CMC
City Secretary

Benard Calvin Hendrick VII
Mayor

DRAFT



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 4.2.1
Strategic Plan: Q-2: Build recreational infrastructure that serves all residents.
From: Elizabeth Shaughnessy, Director of Development
Subject: Consider a request for a rezone from Single Family-Estate-Drill Reservation (SF-E-DR) to Single Family-One (SF-1) District being a 1.51-acre tract Drill Site in the Richland Manor Subdivision, City of Odessa, Ector County, Texas. (Generally located on the east side of Country Club Drive, approximately 400 feet north of Richwood Road) (Ordinance second reading and final approval)

Summary

The applicant is Newton Engineering, PC, and Lacey and Absher Properties, LLC. The purpose of the rezone request of Single Family-One (SF-1) District zoning is to create residential development in the area. The property is immediately surrounded by residential areas zoned Single Family-Estate (SF-E), and the intended single-family detached use aligns with existing land uses in the vicinity. The requested Single-Family-One (SF-1) zoning is appropriate for the area and would allow for the creation of lots of a similar size and character to the neighborhood.

Previous Action:

1. The Planning & Zoning Commission approved this request with a 6-0 vote on June 04, 2026.
2. The City Council approved this request with a 7-0 vote on June 23, 2026.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Approve the rezone request to Single-Family One District (SF-1)

Fiscal Impact

None

Attachments

1. R Z-049 Richland Manor Drill Site (2025-25- Z) 2nd reading [4.2.1.1 - 7 pages]
2. 2025-25- Z Memo Akp Obd 10 DEO Qrx Zse 1 te 3 Q [4.2.1.2 - 3 pages]
3. PZ 07.14.26 pp [4.2.1.3 - 6 pages]

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, AMENDING THE CODE OF ORDINANCES CHAPTER 14 "ZONING" ARTICLE 14-1 "GENERAL PROVISIONS" SECTION 14-1-4 "ZONING DISTRICT MAP" BY CHANGING THE ZONING CLASSIFICATION FROM SINGLE FAMILY-ESTATE-DRILL RESERVATION (SF-E-DR) TO SINGLE FAMILY-ONE (SF-1) DISTRICT ON A 1.51-ACRE TRACT DRILL SITE IN THE RICHLAND MANOR SUBDIVISION, CITY OF ODESSA, ECTOR COUNTY, TEXAS. (GENERALLY LOCATED ON THE EAST SIDE OF COUNTRY CLUB DRIVE, APPROXIMATELY 400 FEET NORTH OF RICHWOOD ROAD); FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE AND DECLARING AN EFFECTIVE DATE

WHEREAS, all legal requirements, including public notice, hearing and recommendation by the Planning and Zoning Commission prerequisite to the amendment contained herein have been complied with and fulfilled; and

WHEREAS, the City Council considers the herein contained amendment to the Code of Ordinances, City of Odessa, Texas, Chapter 14 "Zoning" Article 14-1 "General Provisions" Section 14-1-4 "Zoning District Map" to be in harmony with the general plan of development in the City of Odessa and consistent with the health, safety, and welfare of the inhabitants of the City of Odessa;

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

Section 1. That the Code of Ordinances, City of Odessa, Texas, Chapter 14 "Zoning" Article 14-1 "General Provisions" Section 14-1-4 "Zoning District Map" is hereby amended by changing the original zoning classification from Single Family-Estate-Drill Reservation (SF-E-DR) to Single Family-One (SF-1) District on a 1.51-acre tract Drill Site in the RICHLAND MANOR SUBDIVISION, City of Odessa, Ector County, Texas, as shown on the attached Exhibit "A." This land generally located on the east side of Country Club Drive, approximately 400 feet north of Richwood Road. This change shall be shown on the official zoning district map of the City of Odessa and elsewhere as provided by ordinance.

Section 2. That the use of this property shall conform to the regulation of Single Family-One (SF-1) District attached hereto as Exhibit "B".

Section 3. That should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the city as a whole or any part thereof, other than the part so declared to be invalid.

Section 4. That the Council recognizes that scrivener's errors may occasionally occur in ordinances and resolutions and has therefore authorized the Mayor to correct any scrivener's errors in this ordinance without the need for re-adoption, provided that such correction does not alter the substantive meaning or intent of the Ordinance. For purposes of this section, a scrivener's error includes, but is not limited to, misspellings, grammatical errors, numbering errors, and incorrect cross-references.

Section 5. That any person violating the provisions of this ordinance shall be deemed guilty of a Class C misdemeanor and shall be punished by a fine not to exceed two thousand dollars (\$2,000.00) as provided by City Code Section 1-1-9 "General Penalty".

Section 6. That the caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the city of Odessa, as provided by City Charter Section 65.

Section 7. That this ordinance shall go into effect five (5) days after its publication following adoption on second approval as provided by City Charter Sections 61 and 65.

The foregoing ordinance was first approved on the 23rd day of June, A.D., 2026, by the following vote:

Eddie Mitchell	AYE
Steven P. Thompson	AYE
Gilbert Vasquez	AYE
Greg Connell	AYE
Chris Hanie	AYE
Raymon C. Stoker IV	AYE
Benard Calvin Hendrick VII	AYE

The foregoing ordinance was adopted on second and final approval on the 14th day of July, A.D., 2026, by the following vote:

Eddie Mitchell	_____
Steven P. Thompson	_____
Gilbert Vasquez	_____
Greg Connell	_____
Chris Hanie	_____
Raymon C. Stoker IV	_____
Benard Calvin Hendrick VII	_____

Approved this the 14th day of July, A.D., 2026.

Benard Calvin Hendrick VII, Mayor

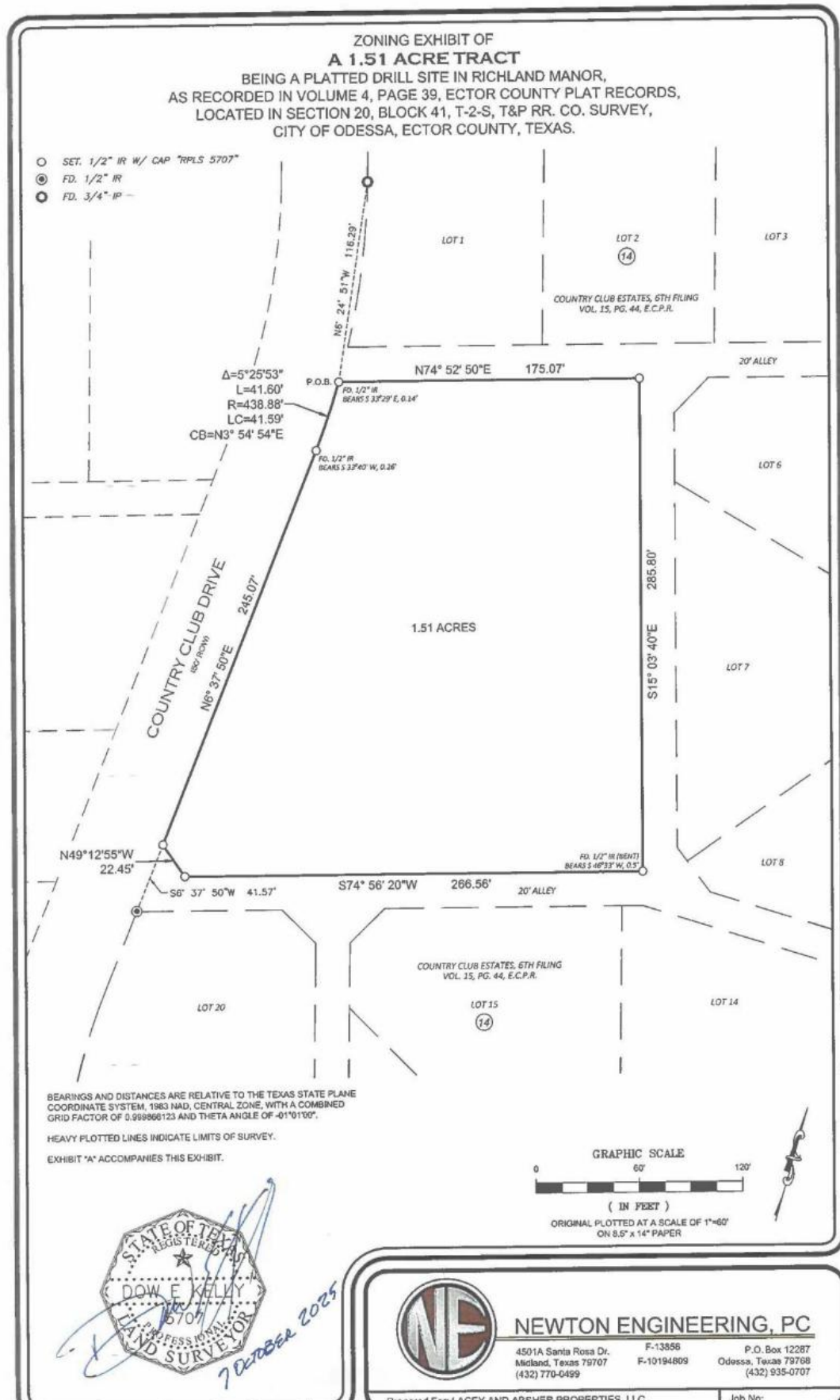
ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James D. Parker, City Attorney

ORDINANCE NO. 2026-
EXHIBIT "A" MAP
PAGE 1 OF 2



ORDINANCE NO. 2026-____
EXHIBIT "A" MAP
PAGE 2 OF 2



ORDINANCE NO. 2026-____
EXHIBIT "B" USES
PAGE 1 OF 2

SINGLE FAMILY RESIDENCE-1

The following uses are allowed in the Single Family Residence-One (SF-1) District:

PRIMARY RESIDENTIAL USES (14-2-2.1)

Single Family Dwelling Detached

ACCESSORY AND INCIDENTAL USES (14-2-2.2)

Accessory Building or Use (Residential)
Beauty Shop - One Chair Accessory Use (by Specific Use Permit)
Garage or Estate Sale Accessory Use
Home Occupation
Off-Street Parking Required for Primary Use
Stable, Private (by Specific Use Permit)
Swimming Pool (Private)
Temporary Field Office, Construction Yard or Office (Subject to temporary permit issued by Building Official)

UTILITY AND SERVICE USES (14-2-2.3)

Electrical Substation (High Voltage Bulk Power) (by Specific Use Permit)
Electrical Transmission Line (High Voltage) (by Specific Use Permit)
Fire Station or Similar Public Safety Building
Gas Line and/or Regulating Station
Library, Public (by Specific Use Permit)
Local Utility Line
Municipal Office Building or City Hall (by Specific Use Permit)
Sewage Pumping Station
Storm Water Retention Basin or Pumping Station
Telephone Exchange--Switching, Relay or Transmitting Station Only
Water Reservoir, Water Well or Pumping Station
Water Stand Pipe and Elevated Storage Tank

RECREATIONAL AND ENTERTAINMENT USES (14-2-2.4)

Country Club (Private) (by Specific Use Permit)
Golf Course (Commercial) (by Specific Use Permit)
Park or Playground (Public)
Park or Playground (Other Than Public) (by Specific Use Permit)
Playfield or Stadium (Public) (by Specific Use Permit)
Swim or Tennis Club (by Specific Use Permit)
Zoo (Public) (by Specific Use Permit)



City Council

MEETING DATE: July 14, 2026

TO: CITY COUNCIL

FROM: Elizabeth Shaughnessy, Director of Development

CASE FILE #: 2025-25-Z

SUBJECT: Open a public hearing to consider a request for a rezone from Single Family-Estate-Drill Reservation (SF-E-DR) to Single Family-One (SF-1) District being a 1.51-acre tract Drill Site in the Richland Manor Subdivision, City of Odessa, Ector County, Texas. (Generally located on the east side of Country Club Drive, approximately 400 feet north of Richwood Rd. – Council District 2)(2nd Approval and Consent)

Recommended City Council Action:

☒ X ☐ Approved ☐ Deny ☐ Directional/Informational

Detail of the Request:

The applicant, Newton Engineering, PC, and Lacey and Absher Properties, LLC, owner is requesting a zone change from SF-E-DR (Single Family-Estate-Drill Reservation District) to SF-1 (Single Family-One District) for a 1.51-acre tract being a Drill Site in Richland Manor, located in Section 20, Block 41, T-2-S, T&P RWY. CO. Survey, City of Odessa, Ector County, Texas.

Current Zoning:

SF-E-DR, Single Family-Estate-Drill Reservation District

Surrounding Land Use:

North: SF-E, Single Family-Estate District
East: SF-E, Single Family-Estate District
South: SF-E, Single Family-Estate District.
West: SF-E, Single Family-Estate District

Analysis:

The property involved in this request is located on the east side of Country Club Drive, approximately 400 feet north of Richwood Rd. The site is within the City of Odessa and an SF-E-DR, Single Family-Estate-Drill Reservation District zoning and is currently vacant and undeveloped. Surrounding land uses include residential development to the north, east, west, and south.

The applicant is Newton Engineering, PC, and Lacey and Absher Properties, LLC, and the purpose of the rezone request of SF-1, Single Family-One District zoning is to create residential development in the area.

Using the City's identified priorities contained in the City of Odessa's Comprehensive Plan to evaluate zoning amendments the following comments are offered:

Comprehensiveness:

The proposed zoning change is consistent with the Comprehensive Plan. The property is situated near residential areas zoned SF-E, Single Family-Estate, and the intended use aligns with existing land uses in the vicinity.

Livability:

The proposed zoning would not have a negative impact on this site or surrounding properties. The proposed retail development is not out of line with development in the area.

Reasonableness:

The zone change represents a logical and reasonable transition between similar-intensity land uses. It will not disrupt the character of the area and is compatible with adjacent zoning and land use patterns.

PLANNING:

- Shall comply with all SF-1, Single Family-One District standards and regulations.

The Planning & Zoning Commission approved this request with a 6-0 vote on June 04, 2026.

The City Council approved this request with a 7-0 vote on June 23, 2026.

Based on the analysis above, Staff recommends approval of the zone change request, subject to the following conditions:

Conditions:

- A. The property shall comply with all applicable SF-1, Single Family-One District standards and regulations as outlined in the City of Odessa Zoning Ordinance.**

Attachments:

Area zoning/notification map

List of uses allowed in SF-1, Single Family-One Zoning District



City Council

MEETING DATE: July 14, 2026

TO: CITY COUNCIL

FROM: Elizabeth Shaughnessy, Director of Development

CASE FILE #: 2025-25-Z

SUBJECT: Open a public hearing to consider a request for a rezone from Single Family-Estate-Drill Reservation (SF-E-DR) to Single Family-One (SF-1) District being a 1.51-acre tract Drill Site in the Richland Manor Subdivision, City of Odessa, Ector County, Texas. (Generally located on the east side of Country Club Drive, approximately 400 feet north of Richwood Rd. – Council District 2)(2nd Approval and Consent)

Recommended City Council Action:

☒ X ☐ Approved ☐ Deny ☐ Directional/Informational

Detail of the Request:

The applicant, Newton Engineering, PC, and Lacey and Absher Properties, LLC, owner is requesting a zone change from SF-E-DR (Single Family-Estate-Drill Reservation District) to SF-1 (Single Family-One District) for a 1.51-acre tract being a Drill Site in Richland Manor, located in Section 20, Block 41, T-2-S, T&P RWY. CO. Survey, City of Odessa, Ector County, Texas.

Current Zoning:

SF-E-DR, Single Family-Estate-Drill Reservation District

Surrounding Land Use:

North: SF-E, Single Family-Estate District
East: SF-E, Single Family-Estate District
South: SF-E, Single Family-Estate District.
West: SF-E, Single Family-Estate District

Analysis:

The property involved in this request is located on the east side of Country Club Drive, approximately 400 feet north of Richwood Rd. The site is within the City of Odessa and an SF-E-DR, Single Family-Estate-Drill Reservation District zoning and is currently vacant and undeveloped. Surrounding land uses include residential development to the north, east, west, and south.

The applicant is Newton Engineering, PC, and Lacey and Absher Properties, LLC, and the purpose of the rezone request of SF-1, Single Family-One District zoning is to create residential development in the area.

Using the City's identified priorities contained in the City of Odessa's Comprehensive Plan to evaluate zoning amendments the following comments are offered:

Comprehensiveness:

The proposed zoning change is consistent with the Comprehensive Plan. The property is situated near residential areas zoned SF-E, Single Family-Estate, and the intended use aligns with existing land uses in the vicinity.

Livability:

The proposed zoning would not have a negative impact on this site or surrounding properties. The proposed retail development is not out of line with development in the area.

Reasonableness:

The zone change represents a logical and reasonable transition between similar-intensity land uses. It will not disrupt the character of the area and is compatible with adjacent zoning and land use patterns.

PLANNING:

- Shall comply with all SF-1, Single Family-One District standards and regulations.

The Planning & Zoning Commission approved this request with a 6-0 vote on June 04, 2026.

The City Council approved this request with a 7-0 vote on June 23, 2026.

Based on the analysis above, Staff recommends approval of the zone change request, subject to the following conditions:

Conditions:

- A. The property shall comply with all applicable SF-1, Single Family-One District standards and regulations as outlined in the City of Odessa Zoning Ordinance.**

Attachments:

Area zoning/notification map

List of uses allowed in SF-1, Single Family-One Zoning District

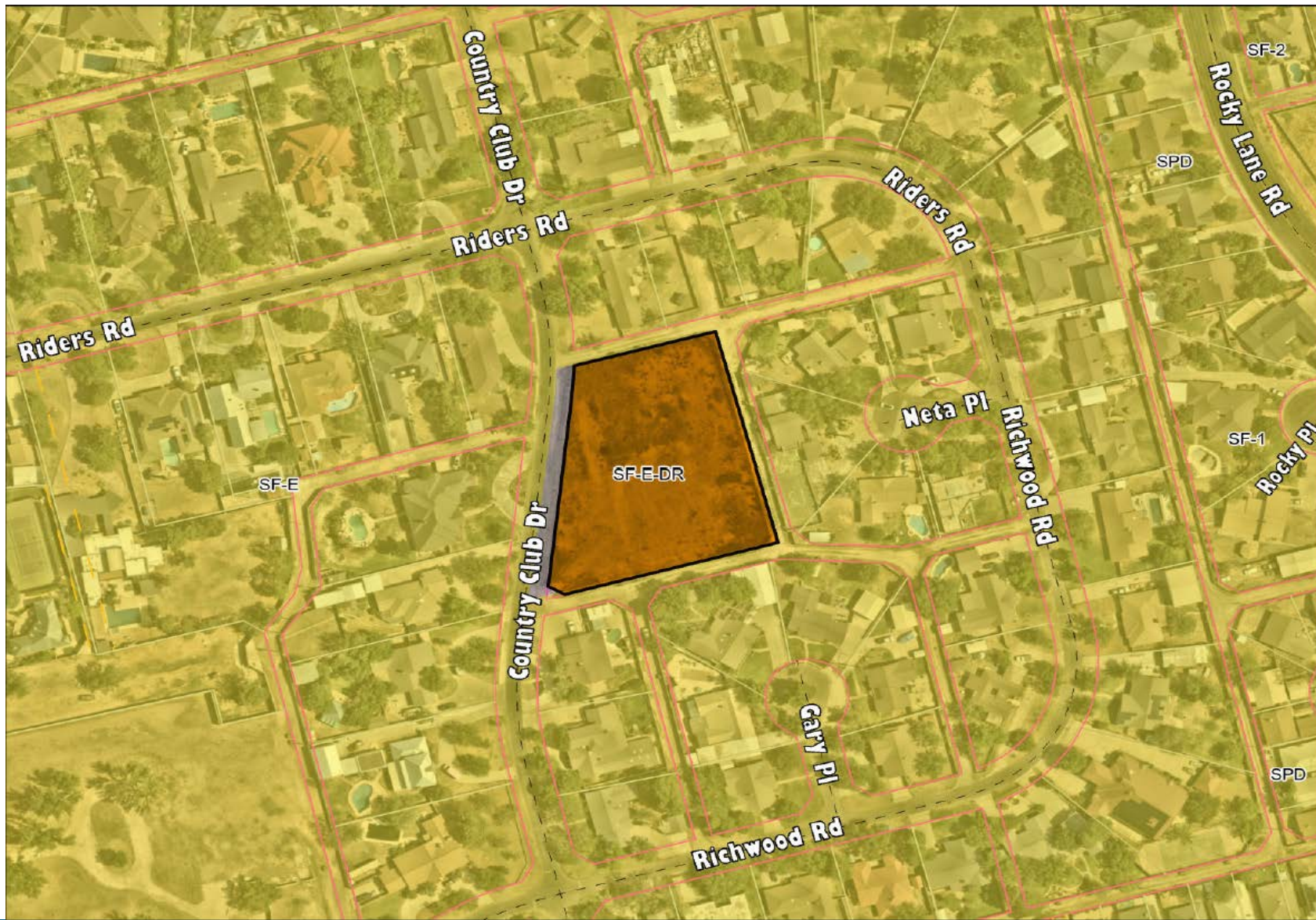


2025-25-Z Request for Rezone



Visit Our Website:
ODESSA-TX.GOV













CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 5.1.1
Strategic Plan: E-2: Revitalize downtown and attract investment.
E-3: Support small business and workforce development.
From: Thomas Blackstone
Subject: Consider approving a performance agreement between the Odessa Development Corporation and ABE Medical, PLLC. (Resolution)

Summary

The Odessa Building Improvement District Infrastructure and Façade Grants Program (the “Program”) was created to beautify and revitalize the infrastructure and façade of buildings located within the downtown Odessa boundaries and S. Grant Street and is designed to encourage businesses to promote or develop new or expanded business enterprises in the Odessa Downtown and South Grant Corridor areas pursuant to 501.103 of the Texas Local Government Code to better attract other businesses to the area and to demonstrate the economic vitality of the area for economic development purposes.

ABE Medical, PLLC proposes to make façade improvements in a minimum amount of \$6,663.73 to a building located at 523 N. Alleghany Avenue, Odessa, Texas, 79761 and based on its proposed building façade improvement plans, on April 9, 2026, the ODC Board approved a building façade grant of up to \$3,998.24 to be paid upon completion of the project.

Section 501.073(a) of the Texas Local Government Code requires the City Council of the City of Odessa, Texas, to approve all programs and expenditures of the Odessa Development Corporation, and accordingly the performance agreement is not effective until City Council has approved this project.

The ODC approved this agreement at their June 9, 2026, meeting.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Approve the Resolution approving a performance agreement between the ODC and ABE Medical, PLLC.

Fiscal Impact

Enter Fiscal Impact Statement

Available Funds	Budget	Est/Actual Cost	Difference
This Agenda Item: 288,107.10	425,000.00	3,998.24	284,108.86

Attachments

1. 5 r-313 ODC Performance Agreement- ABE Medical [**5.1.1.1** - 2 pages]
2. Signed ABE Medical Performance Agreement [**5.1.1.2** - 15 pages]

RESOLUTION NO. 2026R-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, APPROVING A PERFORMANCE AGREEMENT BY AND BETWEEN THE ODESSA DEVELOPMENT CORPORATION AND ABE MEDICAL, PLLC IN THE AMOUNT OF \$3,998.24 FOR FAÇADE IMPROVEMENTS TO A BUILDING LOCATED AT 523 N. ALLEGHANY AVENUE; AUTHORIZING THE CITY MANAGER TO SIGN ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW AND DECLARING AN EFFECTIVE DATE

WHEREAS, the Odessa Building Improvement District Infrastructure and Façade Grants Program (the “Program”) was created to beautify and revitalize the infrastructure and façade of buildings located within the downtown Odessa boundaries and S. Grant Street; and

WHEREAS, the Program is designed to encourage businesses to promote or develop new or expanded business enterprises in the Odessa Downtown and South Grant Corridor areas pursuant to 501.103 of the Texas Local Government Code to better attract other businesses to the area and to demonstrate the economic vitality of the area for economic development purposes; and

WHEREAS, ABE Medical, PLLC proposes to make façade improvements in a minimum amount of \$6,663.73 to a building located at 523 N. Alleghany Avenue, Odessa, Texas, 79761 which satisfies the requirements of Sec. 501.103 Texas Local Government Code; and

WHEREAS, based on its proposed building façade improvement plans, on April 9, 2026, the ODC Board approved a building façade grant of up to \$3,998.24 to be paid upon completion of the project; and

WHEREAS, Section 501.073(a) of the Texas Local Government Code requires the City Council of the City of Odessa, Texas, to approve all programs and expenditures of the Odessa Development Corporation, and accordingly the performance agreement is not effective until City Council has approved this project; and

WHEREAS, the ODC Board approved this performance agreement at their June 11, 2026, meeting.

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

Section 1. That the statements of fact in the preamble are found to be true and correct and are approved as the City Council’s legislative findings of fact.

Section 2. That the City Council hereby approves a performance agreement by and between the Odessa Development Corporation and ABE Medical, PLLC in an amount up to \$3,998.24 for the purpose of making building façade improvements at 523 N. Alleghany Avenue, Odessa, Texas, 79761.

Section 3. That the City Manager or his designee is hereby authorized to execute any documents necessary to implement this resolution.

Section 4. That this resolution shall be effective at the time of its adoption.

The foregoing resolution was approved and adopted on the 14th day of July, A.D., 2026, by the following vote:

Eddie Mitchell	_____
Steven P. Thompson	_____
Gilbert Vasquez	_____
Greg Connell	_____
Chris Hanie	_____
Raymon C. Stoker IV	_____
Benard Calvin Hendrick VII	_____

Approved the 14th day of July, A.D., 2026.

Benard Calvin Hendrick VII, Mayor

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James D. Parker, City Attorney

ODESSA DEVELOPMENT CORPORATION

PERFORMANCE AGREEMENT

This Performance Agreement (the "Agreement") is by and between the Odessa Development Corporation, a Texas non-profit corporation (hereinafter referred to as the "ODC"); and ABE Medical, PLLC, a Texas professional limited liability company (hereinafter referred to in this Agreement as "Developer"), which is made and executed on the following recitals, terms, and conditions.

WHEREAS, ODC is an economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code, as amended (also referred to as the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

WHEREAS, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean "land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: (A) manufacturing and industrial facilities; (B) research and development facilities; (C) military facilities, including closed or realigned military bases; . . . (F) recycling facilities; . . . (I) distribution centers; (J) small warehouse facilities capable of serving as decentralized storage and distribution centers; (K) primary job training facilities for use by institutions of higher education; or (L) regional or national corporate headquarters facilities"; and

WHEREAS, Section 501.103 of the Texas Local Government Code, in pertinent part, further and in addition defines the term "project" to mean "expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . ."; and

WHEREAS, Section 501.158 of the Texas Local Government Code prohibits the provision of a direct incentive to or to make an expenditure on behalf of Developer unless ODC enters into this Performance Agreement with Developer providing at a minimum a schedule of additional payroll or jobs to be created or retained by ODC's investment; a schedule of capital investments to be made as consideration for any direct incentives provided by ODC to Developer; and a provision specifying the terms and conditions upon which repayment must be made should Developer fail to meet the agreed to performance requirements specified in this Agreement; and

WHEREAS, Developer has applied to ODC for financial assistance for purpose of making Qualified Expenditures, as defined herein, consisting of renovations and repairs to certain real property located at 523 N. Alleghany Avenue, Odessa, Texas; and

WHEREAS, in accordance with the Façade Grant Application submitted by Developer, Developer plans to make renovations and repairs to its existing medical services—primary care and preventative health services facility including installation of new exterior signage as more particularly described in Attachment "A" on the Property at an estimated cost of **Six Thousand Six Hundred Sixty-Three and 73/100 Dollars (\$6,663.73) by May 31, 2027**; and

WHEREAS, Developer has been approved for financial assistance from ODC in an amount up to **Three Thousand Nine Hundred Ninety-Eight and 24/100 Dollars (\$3,998.24)** on a reimbursement basis as provided in this Agreement for Qualified Expenditures to be made; and

WHEREAS, ODC's Board of Directors have found and have determined by and through the consideration and adoption of Resolution No. ODC-2026R-07, that the financial assistance to be provided to Developer pursuant to this Agreement for the Qualified Expenditures to be made to the Property is consistent with and meets the definition of "project" as that term is defined in Sections 501.101 and 501.103 of the Texas Local Government Code; and the definition of "cost" as that term is defined by Section 501.152 of the Texas Local Government Code; and

WHEREAS, Developer agrees and understands that Section 501.073(a) of the Texas Local Government Code requires the City Council of the City of Odessa, Texas, to approve all programs and expenditures of ODC, and accordingly this Agreement is not effective until City Council has approved the project, as described or defined in this Agreement, at a City Council meeting.

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

SECTION 1. FINDINGS INCORPORATED.

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

SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter until **May 30, 2027**, unless terminated sooner under the provisions hereof.

SECTION 3. DEFINITIONS.

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

- (a) **Act.** The word "Act" means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word "Agreement" means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **City.** The word "City" means the City of Odessa, Texas, a Texas home-rule municipality, who is a third-party and not a direct party to this Agreement. The City's approval of this Agreement is required by the Act.
- (d) **Developer.** The word "Developer" means ABE Medical, PLLC, its successors and assigns, whose address for the purposes of this Agreement is 523 N. Alleghany Avenue, Odessa, Texas, 79761.
- (e) **Effective Date.** The words "Effective Date" mean the date of the latter to execute this Agreement by and between Developer and ODC.

(f) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”

(g) **ODC.** The term “ODC” means the Odessa Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 411 West 8th Street, P.O. Box 4398, Odessa, Texas 79760.

(h) **ODC Compliance Committee.** The term “ODC Compliance Committee” means the committee appointed by ODC’s board of directors to review agreements and ensure compliance with said agreements.

(i) **Party or Parties.** ODC and Developer are each a “Party” and are collectively referred to as the “Parties.”

(j) **Property.** The word “Property” means 523 N. Alleghany Avenue, Odessa, Ector County, Texas.

(k) **Qualified Expenditures.** The words “Qualified Expenditures” mean those expenditures consisting of the construction and installation of the items specifically described in Attachment “A” and those expenses which otherwise meet the definition of “project” as that term is defined by Section 501.101 and 501.103 of the Act, and the definition of “cost” as that term is defined by Section 501.152 of the Act.

SECTION 4. AFFIRMATIVE COVENANTS OF DEVELOPER.

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

(a) **Qualified Expenditures.** Developer covenants and agrees to submit to ODC paid invoices, paid receipts, or other paid documentation in a form acceptable to ODC for the Qualified Expenditures made to the Property in a minimum amount of **Six Thousand Six Hundred Sixty-Three and 73/100 Dollars (\$6,663.73)** by **May 31, 2027**.

(b) **Job Creation and Retention.** As this is an Infrastructure Improvement Project, as defined by Section 501.103 of the Act, there is no requirement as to the creation or retention of primary jobs, however, the Infrastructure Improvement Project will generally support and benefit the creation and retention of primary jobs in and within the City and will promote or develop new or expanded enterprises in accordance and in compliance Section 501.103 of the Act.

(c) **Performance.** Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Developer and ODC.

SECTION 5. AFFIRMATIVE COVENANTS OF ODC.

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

(a) **Reimbursement for Qualified Expenditures.** ODC covenants and agrees to submit reimbursement for Qualified Expenditures made by Developer pursuant to Sections 3(k) and 4(a) of this Agreement, in an amount up to **Three Thousand Nine Hundred Ninety-Eight and 24/100 Dollars (\$3,998.24)**. Consistent with Sections 4(a), and 5(b) of this Agreement, once ODC’s board of directors has verified compliance with the Agreement, total payment not to exceed **Three**

Thousand Nine Hundred Ninety-Eight and 24/100 Dollars (\$3,998.24) shall be made to Developer in accordance with the terms and conditions of this Agreement.

(b) **Payments.** Developer acknowledges that ODC must complete its compliance monitoring procedures prior to making a payment to Developer.

(1) Developer agrees that ODC shall only be required to pay funds from monies currently collected and budgeted by means of the economic development sales tax; and in the event that there are not sufficient funds for purposes of this Agreement, then the funding for this Agreement will not be offset or charged against any other funds of ODC or the City.

(2) Upon completion of the project, Developer shall submit a written request for payment with all of the required documentation set forth in the Checklist attached hereto as Attachment "B". The payment request and documentation should be directed to the ODC Treasurer, 411 W. 8th Street - 2nd Floor, PO Box 4398, Odessa, Texas 79760, or emailed to fimanagement@odessa-tx.gov with a copy being sent to the Economic Development Department of the Odessa Chamber of Commerce at 700 N Grant Ave # 200, Odessa, Texas 79761 or emailed to info@odessaacodev.com.

(3) Developer understands that any delay in submitting the required reporting documents could result in a delay in the evaluation of Developer's compliance documents and/or issuance of payment.

(4) ODC shall make payment within thirty (30) days of completing verification of compliance under this Agreement and otherwise consistent with Section 5(a) of this Agreement.

(c) **Performance.** ODC agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Developer and ODC.

SECTION 6. CESSATION OF ADVANCES.

If ODC has made any commitment to make any financial assistance to Developer, whether under this Agreement or under any other agreement, ODC shall have no obligation to advance or disburse financial assistance if at any time during the Term of this Agreement Company's actions constitute an Event of Default as herein described.

SECTION 7. DEFAULT.

(a) **Events of Default.** Each of the following shall constitute an Event of Default under this Agreement:

(1) **General Event of Default.** Failure of Developer or ODC to comply with or to perform any term, obligation, covenant or condition contained in this Agreement is an Event of Default.

(2) **False Statements.** Any warranty, representation, or statement made or furnished to ODC by or on behalf of Developer under this Agreement that is knowingly false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.

(3) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.

(4) **Ad Valorem Taxes.** Developer allows its ad valorem taxes owed to the City of Odessa, Texas, to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from ODC and/or Ector Central Appraisal District is an Event of Default.

(b) **Effect of an Event of Default.** Upon the occurrence of any Event of Default due to a party's failure to comply with any term or provision of this Agreement, the non-defaulting party shall give written notice to the other party of the specific Event of Default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement. In addition to terminating this Agreement, the non-defaulting party may enforce specific performance of this Agreement as appropriate, and may maintain a cause of action for damages caused by the event(s) of default, and may further pursue any other relief available under Texas law, to the extent such relief has not been expressly waived by the party under this Agreement.

SECTION 8. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

(a) **Assignment.** Developer shall not, either directly or indirectly, assign all or any part of this Contract or any interest, right or privilege herein, without the prior written consent of ODC. The issue of whether or not to grant such consent shall be in the sole and absolute discretion of ODC.

(b) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. ODC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.

(c) **Compliance With Disclosure Requirements.** Developer agrees that it shall comply with Texas Government Code Section 2252.908, et seq., as amended and Texas Local Government Code Section 176.006, et seq., as amended.

(d) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

(e) **COVENANT NOT TO SUE. DEVELOPER HEREBY KNOWINGLY, VOLUNTARILY, AND FOREVER COVENANTS AND AGREES NOT TO BRING SUIT IN LAW OR EQUITY ARISING OUT OF OR IN ANY WAY RELATED TO THE EXECUTION, PERFORMANCE, INTERPRETATION, OR BREACH OF THIS AGREEMENT. DEVELOPER AGREES THAT THE PLAIN LANGUAGE OF THIS COVENANT DOES BAR FUTURE SUITS AND CLAIMS. THIS LANGUAGE IS BROAD**

ENOUGH TO COVER ALL FUTURE DIRECT DAMAGES AND CONSEQUENTIAL DAMAGES.

(f) **Entire Agreement; Amendments.** This Agreement constitutes the entire understanding and agreement of the Parties as to the matters set forth in this Agreement. No amendment, modification, or alteration of this Agreement shall be binding unless such is evidenced in writing, dated subsequent to the date of this Agreement, and duly executed by the Parties.

(g) **Force Majeure.** Neither Party shall be liable for failure of or delay in performing obligations set forth in this Agreement, and neither shall be deemed in breach of its obligations, if such failure or delay is due to natural disasters or any causes beyond the reasonable control of either Party. In the event of such force majeure, the Party affected thereby shall use reasonable efforts to cure or overcome the same and resume performance of its obligations hereunder.

(h) **Governing Law and Venue.** The laws of the State of Texas shall govern, construe and enforce all rights and duties of the Parties, including, but not limited to, tort claims and any contractual claims or disputes arising from or relating in any way to the subject matter of this Agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Ector County, Texas. The obligations and undertakings of each of the Parties shall be deemed to have occurred in Ector County, Texas. The State Courts of Texas shall have sole and exclusive jurisdiction over all controversies with respect to the execution, interpretation, or performance of this Agreement, and the Parties waive any other venue to which they may be entitled by virtue of domicile or otherwise. City and Developer are hereby contractually agreeing to waive their right to remove a case from state to federal court. Sole and exclusive venue for any claim, suit, or other action arising from or connected in any way to this Agreement shall be in the State of Texas Courts in Ector County, Texas.

(i) **Governmental Immunity.** City is a political subdivision of the State of Texas. The Parties acknowledge and agree that nothing in this Agreement shall be construed as a waiver by the City of any rights or defenses of governmental immunity, which it may have had, now has, or will have with respect to all matters arising out of this Agreement.

(j) **Headings and Titles.** The article and section headings and titles provide context and can help describe and inform the meaning of the sections they label, and courts should construe contractual provisions in a manner that is consistent with the labels the Parties have given them.

(k) **INDEMNITY. DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS ODC AND THE CITY, AND ALL OF ODC AND THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH DEVELOPER OR DEVELOPER'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, AND DEVELOPER WILL BE REQUIRED**

TO PAY ANY JUDGEMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

(l) **Independent Contractor.** The relationship between ODC and Developer is as an independent contractor and not as an officer, agent, servant, or employee of ODC or City. Developer shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors. The Parties acknowledge and agree that the doctrine of respondeat superior shall not apply as between ODC, City, and Developer, its officers, agents, employees, contractors, and subcontractors. Nothing in this Agreement shall be construed as creating a partnership or joint enterprise between ODC, City, and Developer. Developer shall not be considered an officer, agent, servant, or employee of ODC or City. Further, it is specifically understood and agreed that nothing in this Agreement is intended nor shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability.

(m) **Insurance.** Developer shall at all times during the term of this Agreement maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

-Personal Injury:	\$1,000,000.00 per person
	\$1,000,000.00 per occurrence

<u>Business Automobile Liability:</u>	\$1,000,000.00 combined single limit - Personal Injury and Property Damage
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The Commercial General Liability policy shall be on a per project aggregate, including completed operations, and shall be on a claims-occurred basis. This policy shall name City as an additional insured and waive subrogation in favor of City. **All insurance must be approved by the City Attorney.**

The Business Automobile Liability policy shall cover any vehicle for bodily injury and property damage, including owned vehicles, hired and non-city vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this Agreement. This policy shall name City as an additional insured and waive subrogation in favor of City.

All insurance policies required by this Agreement shall (i) provide for a waiver of subrogation in favor of City, and (ii) name City as an additional insured on a claims-occurred basis (except for the Workers' Compensation policy). Prior to any reduction or termination of the insurance policies referenced herein, Developer shall ensure that its insurance provider submits written notice to City no later than thirty (30) days prior to the reduction or termination of such coverage.

Prior to the execution of this Agreement, Developer shall provide one or more certificates of insurance specifically stating that the requirements of this section have been met, which shall be subject to the approval of City. City shall not be required to provide any insurance whatsoever pursuant to this Agreement.

By executing this Agreement, Developer certifies that the certificate of insurance provided pursuant to this section complies with the requirements of Texas Insurance Code Chapter 1811. Developer shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law and this Agreement is the sole and exclusive responsibility of Developer.

(n) **Interpretation.** By executing this Agreement, the Parties acknowledge and agree that this Agreement shall not be interpreted or construed against any Party solely because such Party or its legal counsel drafted this Agreement. The Parties have read, understood, and approve of the language and terms set forth herein.

(o) **Iran, Sudan and Foreign Organizations.** To the extent this Agreement constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, for purposes of complying with Subchapter F of Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Developer represents that Developer is not an entity listed by the Texas Comptroller of Public Accounts under 2252.153 and Chapter 2270 of the Texas Government Code.

(p) **No Third-Party Beneficiary.** Except as otherwise provided for herein, this Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third-party beneficiary or other rights hereunder.

(q) **Nondiscrimination.** Developer agrees that as to all of the programs and activities arising out of this Agreement, it shall comply fully with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, sex, age, religion, or by reason of being disabled.

(r) **Notice of Alleged Breach; Statutory Prerequisites.** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Developer or its legal representative, shall give the City Manager, or any other reasonable official of City, written notice (consisting of one (1) original and seven (7) copies of such notice attached to a copy of this Agreement) of such duly-verified damages, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where, and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Developer will settle, the physical and mailing addresses of Developer at the time and date the claim was presented, the physical and mailing addresses of Developer for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Developer relies to establish its claim. Developer's failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except City from any liability whatsoever. City is under no obligation to provide notice to Developer that Developer's notice is insufficient. City reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after Developer's receipt of notice.

(s) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

If intended for ODC to:

Norma Aguilar
ODC Secretary
P.O. Box 4398, Odessa, Texas 79760-4398
(432) 335-3276 | cs@odessa-tx.gov

If intended for Developer to:

ABE Medical, PLLC
Attn.: Araceli Romero
523 N. Alleghany Ave. Odessa, Tx, 79761
(432) 225-7600 | Araceli@abemedicalpllc.com

(t) **Public Information.** To the extent that this Agreement is a contract described by Texas Government Code Section 552.371, Developer agrees as follows in accordance with Texas Government Code Section 552.372(b): The requirements of Texas Government Code Chapter 552 Subchapter J may apply to this Agreement, and Developer agrees that the Agreement can be terminated if Developer knowingly or intentionally fails to comply with a requirement of that subchapter.

(u) **Records Retention and Production of Information.** To the extent that this Agreement is a contract described by Texas Government Code Section 552.371, Developer shall: (i) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to City for the duration of this Agreement; (ii) promptly provide to City any contracting information related to the Agreement that is in the custody or possession of Developer on request of City; and (iii) on completion of the Agreement, either: (a) provide at no cost to City all contracting information related to the Agreement that is in the custody or possession of Developer; or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to City.

(v) **RELEASE. NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED HEREIN DEVELOPER HEREBY RELEASES, ACQUITS, RELINQUISHES, AND FOREVER DISCHARGES CITY, ITS AGENTS, COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, LAWSUITS, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT DEVELOPER HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING, BUT NOT LIMITED TO, BREACH OF AGREEMENT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE OR GROSS NEGLIGENCE. THE PROVISIONS AND OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

(w) **Representation.** Developer represents that no ODC board member, City officer, employee, or agent has been compensated in any way with respect to this Agreement and its consideration. In no event will Developer pay a fee to or in any other manner compensate any ODC board member, City officer, employee, or agent in connection with the approval of this Agreement. A breach under this provision shall result in automatic termination of this Agreement.

(x) **Severability.** If one or more of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision were never contained herein.

(y) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

(z) **Undocumented Workers.** Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120th day after the date ODC notifies Developer of the violation.

(aa) **WAIVER OF ATTORNEY FEES. BY EXECUTING THIS AGREEMENT, DEVELOPER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION, OR BREACH OF THIS AGREEMENT. DEVELOPER SPECIFICALLY AGREES THAT IF DEVELOPER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY, OR BREACH OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR TEXAS LOCAL GOVERNMENT CODE CHAPTER 271, DEVELOPER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH DEVELOPER MIGHT OTHERWISE BE ENTITLED.**

DEVELOPER AGREES THAT THIS IS A VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. DEVELOPER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THIS AGREEMENT. DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN CITY AND DEVELOPER. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY AND SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

DEVELOPER IS RELYING ON ITS OWN JUDGMENT AND HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION. THE OBLIGATIONS AND PROVISIONS IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

[Signature Pages Follow]

THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS PERFORMANCE AGREEMENT, AND THE PARTIES AGREE TO ITS TERMS. THIS PERFORMANCE AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

ODC:

ODESSA DEVELOPMENT CORPORATION,
a Texas non-profit corporation

By: _____
Thomas Blackstone, President

Date Signed: _____

ATTEST:

Norma Aguilar, Secretary

FOR APPROVAL ONLY: CITY OF ODESSA

By: _____
Aaron Smith, City Manager

Date Signed: _____

APPROVED ONLY AS TO FORM:

James D. Parker, City Attorney

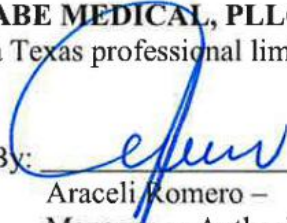
STATE OF TEXAS §
 §
COUNTY OF ECTOR §

This instrument was acknowledged before me on the ____ day of _____
20__, by Thomas Blackstone, President of the Odessa Development Corporation, a Texas non-profit corporation, on behalf of said Texas non-profit corporation.

Notary Public, State of Texas

DEVELOPER:

ABE MEDICAL, PLLC,
a Texas professional limited liability company

By: 
Araceli Romero –
Manager or Authorized member

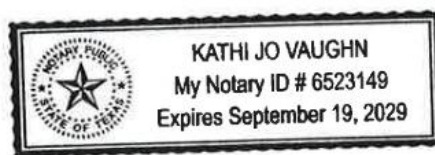
Date Signed: 6.15.20

STATE OF TEXAS
COUNTY OF ECTOR

§
§
§

This instrument was acknowledged before me on the 15th day of June, 2020, by Araceli Romero – manager or authorized member of ABE Medical, PLLC, a Texas professional limited liability company, on behalf of said professional limited liability company.


Notary Public, State of Texas



Downtown Odessa, Inc. Facade Improvement Program

Company Name: ABE MEDICAL

Company Address: 523 N Alleghaney Odessa, TX 79761

Owner Name: Araceli Romero

FAÇADE INVESTMENT		
IMPROVEMENT	EXPLANATION OF WORK	COST ESTIMATE
Outdoor Signage	Purchase and installation of new signage	\$6,663.73
INVESTMENT TOTAL:		\$6,663.73

ADDITIONAL OWNER INVESTMENT		
ITEMS NOT COVERED BY GRANT	OWNER OUT OF POCKET	
ADDITIONAL OWNER INVESTMENT TOTAL:		\$0.00

TOTAL PROJECT COST/ INVESTMENTS:	\$6,663.73
----------------------------------	------------

GRANT REQUEST		
TIER LEVEL		
1	100% OF ALLOWABLE GRANT FUNDS	
	Maximum Allowable Grant Funds	\$5,330.98
	Grant Fund Request	
2	75% OF ALLOWABLE GRANT FUNDS	
	Maximum Allowable Grant Funds	\$3,998.24
	Grant Fund Request	\$6,663.73

Performance Agreement - ABE Medical, PLLC
Attachment "A"



**Performance Agreement - ABE Medical, PLLC
Attachment "B"**

CHECKLIST

The following is a list of documents that Grantee shall provide to the ODC for verification purposes, depending on the type of Agreement. This list is not inclusive of all documentation that may be required.

Payment

1. Written payment request including the amount of payment requested
2. Completed W-9 form for the current year

Full-Time Equivalent (FTE) Jobs

1. Listing of employees for the reporting period, which should include the following information for each employee:
 - Employee name, employee ID and address.
 - Employment status (active/inactive/leave).
 - Hire date.
 - Termination date, if applicable
 - Number of hours worked during the reporting period.
 - Wages paid for the reporting period.
2. List of Owners $\geq 20\%$ ownership
3. List of Subsidiary FTEs working fulltime at the Property
4. Texas Workforce Commission (TWC) reports containing payroll data for the reporting period.
5. If available, reconciliation tying quarterly Texas Workforce Commission (TWC) wage reports to the payroll expense accounts recorded in the General Ledger, including explanations for all variances (e.g., timing differences, non-taxable earnings, accruals).
6. Quarterly hours and pay by employee for the reporting period.
7. IRS Forms 941 for the reporting period.
8. Payroll payment codes and pay code descriptions.

Capital Expenditures

1. Records supporting capital investment expenditures, e.g., invoices, purchase orders, cancelled checks, etc.
2. Detailed General Ledger (GL) expense activity related to the Project's capital investment for the first year of the Agreement, including account-level detail, invoices, check numbers, transaction descriptions, dates, amounts, and vendor names.

Payroll

Payroll expense documentation (salaries support) for expenditures related to Workforce Initiative (Workforce Training and Advanced Manufacturing Center and the Innovation Center/Incubator/Makerspace) for the reporting period.

Training

Records showing the courses, curriculum, and required number of students for training.

Insurance

Certificate(s) of Insurance

1. Commercial General Liability
2. Business Automobile Liability

Taxes and Minimum Assessed Value

Proof of timely payment of all ad valorem taxes and required personal property renditions to the City and other taxing authorities for the period.

Any delay in providing the requested documents from this list will delay the requested payment to the Grantee.



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 5.1.2
Strategic Plan: N/A
From: Lura D. Cotton, Director of Equipment Services
Subject: Consider a resolution to approve the transfer of budgeted funds in the amount of \$45,000 from the Billing and Collections Department Fund to Equipment Services for the lease of a new vehicle.

Summary

Authorization is requested to transfer \$45,000 in budgeted funds, from the Billing and Collection Department to Equipment Services for the lease of a new vehicle. The vehicle is needed to support daily operational requirements and maintain reliable service levels. This item approves the budget authority. Council will need to authorize the vehicle lease in the next agenda item.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Approve the resolution for the transfer of budgeted funds in the amount of \$45,000 from the Billing and Collection Department Fund to Equipment Services for the lease of a new vehicle.

Fiscal Impact

Funds are available in the amount of \$45,000 within the Billing and Collection Department FY 2025-26 Operating Budget and will be transferred to Equipment Services to support the lease acquisition of a new vehicle.

Attachments

1. 3 r-147 Transfer Funds for New Fleet Vehicle [5.1.2.1 - 2 pages]

RESOLUTION NO. 2026R-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, AUTHORIZING THE TRANSFER OF BUDGETED FUNDS IN THE AMOUNT OF \$45,000 FOR A NEW VEHICLE; AUTHORIZING THE CITY MANAGER TO SIGN ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW AND DECLARING AN EFFECTIVE DATE

WHEREAS, city staff are requesting authorization to transfer budgeted funds in the amount of \$45,000.00 from the Billing and Collection Fund to the appropriate fund for Equipment Services as intergovernmental revenue to fund the costs for the lease of a new fleet vehicle for the Billing and Collection Department; and

WHEREAS, due to surplus of funds and the needs of the City, funds in the amount of \$45,000.00 appropriated to and for the Billing and Collection Department Fund should be transferred to the appropriate fund for Equipment Services to reflect the actual needs of the City; and

WHEREAS, there is a need to approve an inter-departmental transfer of budgeted funds in the amount of \$45,000.00 from the Billing and Collection Fund to Equipment Services and to approve an appropriation of these funds for municipal purposes; and

WHEREAS, the City Council is authorized by state law to make changes to the municipal budget for municipal purposes, and the inter-departmental transfer of budgeted funds will not result in increased expenditures or in an increase in the total amount of appropriated funds as reflected in municipal budget; and

WHEREAS, authorization is also requested to appropriate the \$45,000.00 in budgeted funds to the appropriate Equipment Services Fund to fund the lease of a new vehicle for the Billing and Collection Department; and

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

Section 1. That the statements of fact in the Preamble are found to be true and correct and are approved as the City Council's legislative findings of fact.

Section 2. That the City Council hereby approves and authorizes the inter-departmental transfer of budgeted funds in the amount of \$45,000.00 from the Billing and Collection Fund to the Equipment Services Fund to fund the lease of a new fleet vehicle for the Billing and Collection Department and the City Council further approves of the appropriation of these funds as necessary to fulfill the intent of this resolution.

Section 3. That the City Manager or his designee is hereby authorized to execute any documents necessary to implement this resolution.

Section 4. That this resolution shall be effective at the time of its adoption

The foregoing resolution was approved and adopted on the 14th day of July, A.D., 2026,
by the following vote:

Eddie Mitchell	_____
Steven P. Thompson	_____
Gilbert Vasquez	_____
Greg Connell	_____
Chris Hanie	_____
Raymon C. Stoker IV	_____
Benard Calvin Hendrick VII	_____

Approved the 14th day of July, A.D., 2026.

Benard Calvin Hendrick VII, Mayor

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James D. Parker, City Attorney



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 5.1.3
Strategic Plan: S-2: Deliver responsive, high-quality city services.
From: Lura D. Cotton, Director of Equipment Services
Subject: Consider a resolution authorizing a lease agreement with Sewell Fleet Management for the lease of a new vehicle for the Billing and Collection Department.

Summary

The prior agenda item approves the budget transfer for this lease. This vehicle is a new addition to the Billing and Collection fleet and will be incorporated into Equipment Services' fleet replacement schedule beginning in FY 2027. The lease agreement will include total lease payment of \$45,967.32, with a residual value of \$8,520.00 at the end of the lease term. Current and future payments will be funded through the Equipment Services budget.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Approve a lease agreement with Sewell Fleet Management for the acquisition of one (1) new vehicle for the Billing and Collections Department.
2. Authorize funding of the current and future lease payments through the Equipment Services budget in accordance with the annual budget process.

Fiscal Impact

The lease agreement is for a vehicle with a purchase price of \$42,600.00. Total lease payments over the term of the agreement will be \$45,967.32, with a residual value of \$8,520.00 at the end of the lease term. The FY 2025-26 lease payments are \$5,107.48 and will be funded through the Equipment Services budget. Remaining lease payments will be budgeted annually through the Equipment Services budget for the duration of the lease.

Attachments

1. 3 r-146 Approving Lease Agreement Sewell Fleet [5.1.3.1 - 2 pages]
2. City of Odessa 27 F-150 REG 2 WD B& C [5.1.3.2 - 1 page]
3. Lease Numbers for B&C Unit [5.1.3.3 - 1 page]

RESOLUTION NO. 2026R-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, AUTHORIZING A LEASE AGREEMENT WITH SEWEL FLEET MANAGEMENT FOR A NEW VEHICLE; AUTHORIZING THE CITY MANAGER TO SIGN ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW AND DECLARING AN EFFECTIVE DATE

WHEREAS, city staff request approval of a lease agreement with Sewell Fleet Management for the lease of a new vehicle for the Billing and Collections Department fully funded through the Billing and Collections Department's approved supplemental budget in the Capital Outlay account and is a new addition to the fleet; and

WHEREAS, as authorized by resolution of the City Council, sufficient funds have been appropriated for the lease of the new vehicle; and

WHEREAS, of the total amount of funds for the lease of the new vehicle, \$5,107.48, will be appropriated within the Equipment Services budget for the current fiscal year's lease payments with the remaining lease obligations being appropriated in future budget periods as part of the Equipment Services budget; and

WHEREAS, the vehicle will be incorporated into Equipment Services replacement schedule beginning in fiscal year 2027.

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

Section 1. That the statements of fact in the Preamble are found to be true and correct and are approved as the City Council's legislative findings of fact.

Section 2. That the City Council hereby approves a lease agreement with Sewell Fleet Management for the lease of a new vehicle for the Billing and Collections Department fully funded through the Billing and Collections Department's approved supplemental budget where said funds were transferred to the Equipment Services Fund and appropriated as set forth by separate resolution of the City Council.

Section 3. That funds in the amount of \$5,107.48 will be appropriated within the Equipment Services budget for the current year's lease payments.

Section 4. That the City Manager or his designee is hereby authorized to execute any documents necessary to implement this resolution.

Section 5. That this resolution shall be effective at the time of its adoption.

The foregoing resolution was approved and adopted on the 14th day of July, A.D., 2026,
by the following vote:

Eddie Mitchell	_____
Steven P. Thompson	_____
Gilbert Vasquez	_____
Greg Connell	_____
Chris Hanie	_____
Raymon C. Stoker IV	_____
Benard Calvin Hendrick VII	_____

Approved the 14th day of July, A.D., 2026.

Benard Calvin Hendrick VII, Mayor

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James D. Parker, City Attorney

SEWELL

FAMILY OF COMPANIES

SEWELL CHEVROLET		QUOTE #:	260302BH
COOP:	BUYBOARD 724-23	DATE:	27-May
PRODUCT DESCRIPTION:	2027 FORD F150 2WD REG CAB	SALES PERSON:	BILLY HUGHES
END USER:	CITY OF ODESSA	EMAIL:	billy.hughes@teamsewell.com
ADDRESS:		CONTACT:	LURA COTTON
		PHONE #:	
		EMAIL:	

BID SERIES:			BASE PRICE: \$ 42,375.00		
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
F1K	26 F150 REG 2WD	INCL.		INFOTAINMENT SYSTEM	INCL.
	5.0L V8 GAS ENGINE	INCL.		POWER WINDOWS	INCL.
	FRONT LICENSE PLATE KIT	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
18B	BLACK PLATFORM RUNNING BOARDS	INCL.		BACK UP CAMERA	INCL.
				BLUETOOTH	INCL.
				KEYLESS ENTRY	INCL.

EXTERIOR COLOR:	WHITE
INTERIOR COLOR:	BLACK/DARK SLATE

ADDITIONAL ITEMS:	GOVERNMENT ORDER
EQUIPMENT VENDOR:	
EQUIPMENT VENDOR:	
INSPECTION, PAPERWORK, POSTAGE COST:	
DELIVERY COST \$1.75 PER MILE	0 MILES
SUB TOTAL:	
QUANTITY:	1
CO OP FEE:	BUYBOARD. 724-23
TOTAL:	

\$	-
\$	-
	225
	0
\$	42,600.00
\$	42,600.00
\$	400
\$	43,000.00

Re: EXTERNAL Billing and Collections F150 build

From David Gomez <david.gomez@teamsewell.com>

Date Wed 5/27/2026 1:30 PM

To Lura D. Cotton <lcotton@odessa-tx.gov>

Hey Lura,

Please see below. I also removed the Buyboard fee since we're going through the TIPs contract & that's a fee per PO which we already have on file.

Vehicle Cost	\$	42,600.00
Term in Months		36
Residual Amount	\$	8,520.00
Payment Timing		
Estimated Monthly Payment	\$	1,276.87
Sales Tax Included (Yes or No)	No	
Amount Due at Lease Inception	TTL & 1st Payment	

Thank you,



David Gomez
Fleet Director

📞 432-498-0486 | 🌐 sewellfleetmanagement.com

📍 4400 Parks Legado Rd, Odessa, TX, 79765



*This message contains confidential information and is intended for the individual named. If you are not the named addressee you should not disseminate, distribute, or copy this email. Please notify the sender immediately via e-mail if you have received this message by mistake. Next, please delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender, therefore, does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission. If verification is required, please request a hard-copy version. Sewell Fleet Management 4400 Parks Legado Dr, Odessa TX. 79765.



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 5.1.4
Strategic Plan: G-1: Operate with transparency, consistency, and accountability to the community.
From: Marisa Rodriquez, Director of Purchasing
Subject: Consider a resolution approving an interlocal agreement with Ector County Independent School district (ECISD) for crossing guard services to jointly fund, administer, and operate a School Crossing Guard Program.
(Resolution)

Summary

The City of Odessa requested submissions for #26-52120-08 School Crossing Guard Services. The selected contractor will be responsible for supplying crossing guards at designated locations determined by the City and School District. An estimated thirty-eight (38) school crossing guard locations will require coverage.

The City and the ECISD agree to jointly fund, administer, and operate the School Crossing Guard Program for public schools located within the city limits. ECISD shall assume full responsibility for providing and funding crossing guard services at public schools located outside the city limits.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Approve the Interlocal Agreement between the City and the School District to jointly fund, administer, and operate a School Crossing Guard Program which serves public schools in the city, and authorize the City Manager to execute the agreement.

Fiscal Impact

The estimated annual cost of the School Crossing Guard Program for FY 2026–2027 is \$574,287.00. Under the proposed two-year agreement, the City and the School District will each be responsible for their respective share of the program costs. The FY 2026–2027 annual cost reflects a decrease of \$17,865.75. The FY 2025–2026 annual cost was \$592,152.75.

Available Funds	Budget	Est/Actual Cost	Difference
This Agenda Item: \$574,287.00	\$574,287.00	\$259,129.50	\$315,157.50

Attachments

1. 5 r-316 Interlocal Agreement ECISD - School Crossing Guard [**5.1.4.1** - 2 pages]
2. Interlocal Agreement ECISD - School Crossing Guard (2026) [**5.1.4.2** - 6 pages]

RESOLUTION NO. 2026R-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, APPROVING AN INTERLOCAL AGREEMENT WITH ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT (ECISD) FOR CROSSING GUARD SERVICES; AUTHORIZING THE CITY MANAGER TO SIGN ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City has developed and implemented a School Crossing Guard Program (the "Program") through which Ector County Independent School District ("ECISD") agrees to reimburse the City for certain costs associated with the Program; and

WHEREAS, ECISD would like to participate in the Program for its school campuses located within the city limits of the City; and

WHEREAS, the City of Odessa will enter into an Agreement for Crossing Guard Services with All City Management Services, Inc. in the amount of \$574,287.00 per year for the purpose of supplying crossing guards at designated locations determined by the City and ECISD; and

WHEREAS, an Interlocal Agreement between the City and ECISD applying the Program to school campuses within the city limits will promote the parties' valid governmental interest in protecting the health, safety, and welfare of children traveling to and from school in the region; and

WHEREAS, the total cost of the Program is \$574,287.00 per year; and

WHEREAS, the City's responsibility is one-half of the cost for all schools located inside the City limits.

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

Section 1. That the statements of fact in the preamble are found to be true and correct and are approved as the City Council's legislative findings of fact.

Section 2. That the City Council hereby approves an Interlocal Agreement for Crossing Guard Services with Ector County Independent School District.

Section 3. That the City Manager or his designee is hereby authorized to execute any documents necessary to implement this resolution.

Section 4. That this resolution shall be effective at the time of its adoption.

The foregoing resolution was approved and adopted on the 14th day of July, A.D., 2026, by the following vote:

Eddie Mitchell	_____
Steven P. Thompson	_____
Gilbert Vasquez	_____
Greg Connell	_____
Chris Hanie	_____
Raymon C. Stoker IV	_____
Benard Calvin Hendrick VII	_____

Approved the 14th day of July, A.D., 2026.

Benard Calvin Hendrick VII, Mayor

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James D. Parker, City Attorney

INTERLOCAL AGREEMENT FOR SCHOOL CROSSING GUARDS

This Interlocal Agreement for School Crossing Guards (the "Agreement") is made and entered into by and between the City of Odessa, a Texas home-rule municipal corporation (the "City") and Ector County Independent School District (the "District"), hereinafter referred to as a "Party" and collectively as the "Parties."

WHEREAS, the Interlocal Cooperation Act, Chapter 791, of the Texas Government Code authorizes governmental entities to enter into local agreements to perform governmental functions and services under the terms thereof; and

WHEREAS, the City has developed and implemented a School Crossing Guard Program (the "Crossing-Guard Program" or the "Program") through which the District agrees to reimburse the City for certain costs associated with the Program; and

WHEREAS, the District would like to participate in the Program for its school campuses located within the city limits of the City; and

WHEREAS, an Interlocal Agreement between the City and District applying the Program to school campuses within the city limits will promote the Parties' valid governmental interest in protecting the health, safety, and welfare of children traveling to and from schools in the region; and

NOW, THEREFORE, for and in consideration of the mutual premises, covenants, obligations, and benefits in this Agreement, including the above recitals, the Parties hereby agree as follows.

ARTICLE I. SCOPE OF AGREEMENT

The City and District shall fund, administer and operate a program to provide for school crossing guards for public schools of the District within the city limits pursuant to the terms and conditions contained herein.

ARTICLE II. TERM

The term of this Agreement shall be from the final date of acceptance and full execution of this Agreement by all Parties hereof and shall terminate July 14, 2031, unless terminated by either party by written notice on or before July 1 of the preceding year. This Agreement may be renewed on a year-to-year basis, without further action by the respective governing bodies, for a total of three (3) successive years, unless terminated earlier in accordance with the terms of this Agreement.

ARTICLE III. EMPLOYMENT OF SCHOOL CROSSING GUARDS

The City shall assume the following responsibilities and duties:

3.1 The City is solely responsible for the selection and appointment, of School Crossing Guards pursuant to the "Agreement for Crossing Guard Services," herein referenced and attached as Exhibit "A." The City may modify the "Agreement for Crossing Guard Services" from time to time when considered by the City to be reasonable and necessary after providing the District with prior written notice.

3.2 Under no circumstance shall the School Crossing Guards be considered or construed as being employees of the City of Odessa or the District.

3.3 The City, after consulting with appropriate District officials, shall determine the specific intersections at which those School Crossing Guards shall be assigned. The specific locations may change from year to year based on the District's annual evaluation of intersections around school campuses.

ARTICLE IV. FUNDING FOR SCHOOL CROSSING GUARDS

The Crossing-Guard Program shall be funded in the following way:

4.1 At least sixty (60) days prior to the commencement of the City's or the District's fiscal year, whichever occurs first, the City Manager and the District's School Superintendent shall recommend a proposed budget and submit to the City Council and Board of Trustees for approval and appropriation of funds.

.1 The budget shall include the funds to pay for crossing guards, and any similar contractual expenses as provided under the Agreement for Crossing Guard Services.

.2 The District agrees to reimburse the City in an amount equal to one-half (1/2) the share of the actual costs expended in the Program for all school campuses located within the city limits of the City of Odessa.

.3 For any school campuses located outside the city limits, but located in Ector County, the District will pay 100% of all expenses incurred by the City under the Agreement for Crossing Guard Services in advance of the City incurring such costs.

4.2 The District shall make payments to the City within thirty (30) days after receipt of invoice by the City. The City shall invoice the District annually in November. In the event the District accrues any further financial liability under the terms of this Agreement or for any services provided under this Agreement after the November invoice has been sent, the City will invoice for the additional balance in July of the following year.

ARTICLE V. WAIVER OF CLAIMS; RELEASE

Each party agrees to waive all claims against, to release, and to hold harmless the other party and its officials, officers, agents, and employees, in both their public and private capacities, for any and all liability, claims, suits, demands, losses, damages, attorney's fees, including all expenses of litigation or settlement, or causes of action that may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement. In the event that a claim is filed, each party is responsible for its proportionate share of liability.

In the execution of this Agreement, the Parties do not waive or intend to waive any immunity or defense available against any claims arising in the exercise of governmental powers and functions pursuant to the Texas Tort Claims Act or other applicable state laws, rules, or regulations. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those obligations set forth herein, and this Agreement does not create any rights in parties who are not signatories to this Agreement.

ARTICLE VI. GENERAL CONDITIONS

The following general provisions shall apply to this Agreement and any amendments hereto.

6.1 **Amendments or Modifications.** This Agreement, and any attachments, exhibits, or addenda, may be amended or modified only by a written instrument executed by all Parties. If there are any conflicts between the Amendment and a previous version of this Agreement, the terms of the Amendment will prevail.

6.2 **Authorized Official.** Both City and District shall furnish each other with the name, title, address and telephone number of an employee or official who may make administrative decisions on behalf of the City and District regarding the Crossing-Guard Program.

6.3 **Binding Obligation; Assignment.** This Agreement shall be binding upon the Parties hereto and their successors and assigns; and, it may not be assigned by any Party without the prior written consent of the other.

6.4 **Consideration.** The Parties hereby agree and acknowledge that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

6.5 **Current Revenues.** Except to the extent as expressly agreed under this Agreement, each Party paying for performance under this Agreement, shall pay those payments from current revenues available to the paying Party.

6.6 **Entire Agreement.** This Agreement, including all attachments, exhibits, and addenda, embodies the complete agreement of the Parties hereto, superseding all oral or written, previous and contemporaneous agreements between the Parties relating to matters in this Agreement. In the event of conflicting provisions between this Agreement and the attachments, exhibits, or addenda, the provisions of this Agreement shall be controlling.

6.7 **Governmental Regulation.** In its performance of this Agreement, District and City agree to comply with all federal, state, and local laws. It is not a violation of this Agreement to withhold compliance pending an appeal of any governmental regulation in good faith.

6.8 **Independent Contractor.** Both City and District shall be in the relationship of an Independent Contractor, and the relationship shall not be that of a joint venture. A Party's employees and officers and subcontractors shall in no way be considered as employees, officers, or subcontractors of the other Party.

6.9 **Interlocal Agreement.** This Agreement shall satisfy any requirements for an Interlocal Agreement and shall rescind and supersede any prior agreements of the Parties that are in conflict. Both Parties find that the services provided by each Party are of equal value and providing of such services constitutes a fair exchange of consideration.

6.10 **No Third-Party Rights.** Nothing within this Agreement shall be deemed to waive, modify, or alter any legal or equitable defense available to any Party, or to create any legal or equitable right or claim on behalf of any third party.

6.11 **Notices.** All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage repaid, addressed to such party. All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either Party hereto may change their address by sending written notice of such change to the other Party in the manner provided herein.

If intended for City, to: City of Odessa
Attn.: City Manager
PO Box 4398, Odessa, Texas 79760
(432) 335-4107 | cm@odessa-tx.gov

With a copy to: City of Odessa
Attn.: City Attorney
PO Box 4398, Odessa, Texas 79760
(432) 335-3228 | legal@odessa-tx.gov

If intended for District, to: Ector County ISD
Attn: Superintendent
802 N. Sam Houston Ave., Odessa, Texas 79761
Phone: (432) 456-0000
Email: keeley.boyer@ectorcountyisd.org

With a copy to: Atkins Hollmann Jones Peacock Lewis & Lyon
Attn: Mike Atkins
3800 East 42nd St., Ste. 500, Odessa, Texas 79762
Phone: (432)
Email:

6.12 **Severability.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein

6.13 **Venue.** If any legal action is necessary to enforce this Agreement, exclusive venue shall lie in Ector County, Texas.

6.14 **Waiver by Party.** Unless otherwise provided in writing by the waiving Party, a waiver by any of the Parties to this Agreement of any covenant, term, condition, agreement, right, or duty that arises under this Agreement shall not be considered or construed to be a waiver of any other, subsequent, additional, or succeeding default thereof nor shall such ever be construed as a waiver of any other covenant, term, condition, agreement, right, or duty that arises under this Agreement.

[SIGNATURE PAGES TO FOLLOW]

**THE PARTIES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT
AND AGREEING TO ITS TERMS DO HEREBY EXECUTE THIS AGREEMENT ON
THE ____ DAY OF _____, 2026.**

CITY:

CITY OF ODESSA, TEXAS,
a Texas home-rule municipal corporation

By: _____
Aaron Smith, City Manager

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James Parker, City Attorney

STATE OF TEXAS

§
§
§

COUNTY OF ECTOR

This instrument was acknowledged before me on the ____ day of _____,
20____, by Aaron Smith, City Manager of the City of Odessa, a Texas home-rule municipal
corporation on behalf of said corporation.

Notary Public in and for the State of Texas

DISTRICT:

ECTOR COUNTY INDEPENDENT SCHOOL
DISTRICT,

By: _____
Keeley Boyer, Superintendent

ATTEST:

, ECISD Clerk/Secretary

APPROVED AS TO FORM:

, ECISD Attorney

STATE OF TEXAS

§
§
§

COUNTY OF ECTOR

This instrument was acknowledged before me on the _____ day of _____,
20____, by Keeley Boyer, Superintendent of Ector County Independent School District on behalf
of said district.

Notary Public in and for the State of Texas



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 5.1.5
Strategic Plan: S-2: Deliver responsive, high-quality city services.
From: Marisa Rodriquez, Director of Purchasing
Subject: Consider a resolution awarding the proposal to and approve a contract with All City Management Services Inc. in the amount of \$574,287.00 for School Crossing Guard Services. (Resolution)

Summary

Consider a resolution awarding the proposal to and approve a contract with All City Management Services Inc. in the amount of \$574,287.00 for School Crossing Guard Service.

The City of Odessa received a proposal from All City Management Services Inc. #26-52120-08. A total of (3) three proposals were received. The selected contractor will be responsible for supplying crossing guards at designated locations determined by the City and ECISD. An estimated thirty-eight (38) school crossing guard locations will require coverage.

Approval of the proposed two-year agreement will ensure the continued provision of school crossing guard services at designated locations throughout the City, promoting the safety of students during school arrival and dismissal times. The recommended contractor is the current service provider.

The City and ECISD agree to jointly fund the School Crossing Guard Program. Each party shall be responsible for its respective share of the program costs.

City of Odessa = \$259,129.50
ECISD = \$315,157.50
Total Bid Cost = \$574,287.00

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Award a contract for School Crossing Guard Services to All City Management Services Inc.

Fiscal Impact

Under the proposed two-year agreement, the total cost is a not to exceed amount of \$574,287.00. The contract is a shared cost with the Ector County ISD. ECISD will provide \$315,157.50 for their portion of FY 2026-2027. Funding to be appropriated with the FY 2026-2027 budget approval. The new FY 2026-2027 contract reflects a decrease of \$17,865.75. Under the old contract, the FY 2025-2026 annual cost was \$592,152.75.

Available Funds	Budget (expense)	Est/Actual Cost	Difference
This Agenda Item: 0	0	\$259,129.50	\$259,129.50
	Budget (revenue)	Est/Actual Cost	Difference
	0	\$315,157.50	\$315,157.50

Attachments

1. 5 r-315 ACMS School Crossing Guard Agreement [**5.1.5.1** - 2 pages]
2. All City Management Services (school crossing guard agreement 2026-28) [**5.1.5.2** - 7 pages]
3. RFP Award Recommendation [**5.1.5.3** - 1 page]

RESOLUTION NO. 2026R-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, AWARDED THE PROPOSAL AND APPROVING AN AGREEMENT FOR CROSSING GUARD SERVICES WITH ALL CITY MANAGEMENT SERVICES, INC.; AUTHORIZING THE CITY MANAGER TO SIGN ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City of Odessa published Request for Proposals (RFP) #26-52120-08 for school crossing guard services; and

WHEREAS, the City received three (3) responses to the RFP and after review of the responses and application of the selection criteria included in the RFP, City staff recommends selection and award of a contract to the selected contractor, All City Management Services, Inc.; and

WHEREAS, the selected contractor will be responsible for supplying crossing guards at designated locations determined by the City and ECISD; and

WHEREAS, approval of this agreement will ensure continued school crossing guard coverage at designated locations throughout the City, promoting the safety of students during school arrival and dismissal times; and

WHEREAS, this will be a two (2) year contract and the cost will be \$574,287.00 per year.

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

Section 1. That the statements of fact in the preamble are found to be true and correct and are approved as the City Council's legislative findings of fact.

Section 2. That the City Council hereby approves and authorizes an Agreement for Crossing Guard Services with All City Management Services, Inc., in the amount of 574,287.00 per year.

Section 3. That the City Manager or his designee is hereby authorized to execute any documents necessary to implement this resolution.

Section 4. That this resolution shall be effective at the time of its adoption.

The foregoing resolution was approved and adopted on the 14th day of July, A.D., 2026, by the following vote:

Eddie Mitchell	_____
Steven P. Thompson	_____
Gilbert Vasquez	_____
Greg Connell	_____
Chris Hanie	_____
Raymon C. Stoker IV	_____
Benard Calvin Hendrick VII	_____

Approved the 14th day of July, A.D., 2026.

Benard Calvin Hendrick VII, Mayor

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James D. Parker, City Attorney



AGREEMENT FOR CROSSING GUARD SERVICES

This AGREEMENT FOR CROSSING GUARD SERVICES (the “Agreement”) is made and effective on July ____, 2026, (“Effective Date”) and is between the CITY OF ODESSA, a Texas home-rule municipal corporation (hereinafter called the “City”), and ALL CITY MANAGEMENT SERVICES, INC., a California corporation (hereinafter called the “Contractor”).

The parties hereto have mutually covenanted and agreed as follows:

1. This Agreement is for a term which commences on the Effective Date and ends on June 30, 2028, and for such term thereafter as the parties may agree upon.
2. The Contractor will provide Crossing Guard Services for schools located within the City limits of the City of Odessa, Texas, which shall include providing a sufficient number of personnel as necessary to provide the crossing guard services as described in this Agreement and shall include ensuring the personnel are reasonably equipped and trained in appropriate procedures for crossing pedestrians (crossing guard services) in marked crosswalks. (Collectively, the Services”). Such personnel shall be herein individually referred to as a “Crossing Guard”.
3. The Contractor shall be considered an independent contractor under this Agreement and the Crossing Guards to be furnished by Contractor under the terms of this Agreement shall at all times be the employees of the Contractor and shall not be considered as employees of the City. Neither the Contractor or any of Contractor’s employees, agents, and representatives shall for any reason or purpose be considered or construed to be employees of the City.
4. The City agrees to pay the Contractor for the Services rendered pursuant to this Agreement the sum of Five Hundred Seventy-Four Thousand Two Hundred Eighty-Seven and No/100 Dollars (\$574,287.00) per year, unless Contractor fails to perform the Service or any portion thereof.
5. Payment is due within thirty (30) days of receipt of Contractor’s properly prepared invoice.
6. Contractor may request a contract price increase during the term of this Agreement due to any increase in costs incurred by the Contractor that could not have been reasonably foreseen by the Contractor as of the Effective Date of this Agreement. Contractor shall provide City with 60 days-notice of its request to increase pricing for the Services provided under this Agreement. City agrees to review and respond to said notice within 30 days of receipt.
7. The laws of the State of Texas shall govern, construe and enforce all rights and duties of the Parties, including, but not limited to, tort claims and any contractual claims or disputes arising from or relating in any way to the subject matter of this Contract, without regard to conflict of laws and

rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Contract shall be deemed to have occurred in Ector County, Texas. The obligations and undertakings of each of the Parties shall be deemed to have occurred in Ector County, Texas. The State Courts of Texas shall have sole and exclusive jurisdiction over all controversies with respect to the execution, interpretation, or performance of this Contract, and the Parties waive any other venue to which they may be entitled by virtue of domicile or otherwise. City and Contractor are hereby contractually agreeing to waive their right to remove a case from state to federal court. Sole and exclusive venue for any claim, suit, or other action arising from or connected in any way to this Agreement shall be in the State of Texas Courts in Ector County, Texas.

8. The City's representative in dealing with the Contractor shall be designated by the City of Odessa.
9. All notices, communications, and reports required or permitted under this Agreement shall be personally delivered, delivered by electronic means, or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below. Mailed notices shall be deemed communicated as of five (5) days after mailing.

If intended for City, to:

City of Odessa
Attn.: Director of Purchasing
411 W. 8th Street
Odessa, Texas 79761
Phone: (432) 335-3252
mrodriquez@odessa-tx.gov

If intended for Company, to:

All City Management Services
Attn: D. Farwell, Corporate Secretary
10440 Pioneer Blvd. Suite 5
Santa Fe Springs, California 90670
Phone: (310) 202-8284 Ext. 107
david@thecrossingguardcompany.com

10. The City shall determine the locations where Crossing Guards shall be furnished by the Contractor. The Contractor shall provide at each designated location personnel properly trained as herein specified for the performance of duties as a Crossing Guard. The Contractor shall provide supervisory personnel to see that Crossing Guard activities are taking place at the required places and times, and in accordance with the terms of this Agreement.
11. The Contractor shall maintain adequate reserve personnel to be able to furnish alternate Crossing Guards in the event that any person fails to report for work at the assigned time and location and agrees to provide immediate replacement.
12. In the performance of its duties the Contractor and all employees of the Contractor shall conduct themselves in accordance with the conditions of this Agreement and all applicable laws and codes of the State of Texas and Ector County.

13. Persons provided by the Contractor as Crossing Guards shall be trained in all applicable laws of the State of Texas and Ector County pertaining to general pedestrian safety in school crossing areas.
14. The Services” shall be provided by the Contractor at the designated locations on all days in which school is in session in the area within City’s jurisdiction. The Contractor also agrees to maintain communication with the designated schools to maintain proper scheduling.
15. The Contractor shall provide all Crossing Guards with apparel by which they are readily visible and easily recognized as Crossing Guards. Such apparel shall be uniform for all persons performing the duties of Crossing Guards and shall be worn at all times while performing said duties. This apparel must be appropriate for weather conditions. The Contractor shall also provide all Crossing Guards with hand-held Stop signs and any other safety equipment which may be necessary.
16. The Contractor shall at all times provide workers’ compensation insurance covering its employees. The City, Ector County Independent School District (ECISD), and their officials, officers, and employees shall be named as additional insureds to and under all insurance policies required by this Agreement. Such insurance shall include commercial general liability with a combined single limit of not less than \$2,000,000.00 per occurrence and in aggregate for property damage and bodily injury. Such insurance shall be primary with respect to any insurance maintained by the City and ECISD and shall not call on their insurance contributions. Such insurance shall be contain endorsements providing for the City and ECISD to be additionally insured as provided for in this Agreement and shall further be endorsed for contractual liability and personal injury and shall include the City, ECISD, and their officers, agents and interest of the City and ECISD, with waiver of subrogation in favor of City, ECISD, and their officers, agents and interest of the City and ECISD. Such insurance as required under this Agreement shall not be canceled, reduced in coverage or limits or non-renewed except after thirty (30) days written notice has been given to the City of Odessa. In the event of such insurance cancellation or non-renewal, Contractor shall obtain replacement insurance coverage that complies with this Agreement. Contractor shall provide City with a Certificate of Insurance in a form that complies with Texas law. Both parties agree that ECISD is a third-party beneficiary to this Agreement.
17. Contractor agrees to and shall defend, indemnify and hold harmless the City, ECISD, its officers, employees, agents and representatives, from and against any and all actions, claims for damages to persons or property, penalties, obligations or liabilities (each a “Claim” and collectively, the “Claims”) that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the sole negligent acts or omissions, or willful misconduct, of Contractor, its agents, employees, subcontractors, representatives or invitees.
 - a. Contractor will defend City from and against any action or actions (to expressly include claims or lawsuits) filed in connection with any of said claims, damages, penalties,

obligations or liabilities and Contractor will pay all costs and expenses including attorney's fees incurred in connection herewith.

- b. Contractor will promptly pay any judgement rendered against the City, its officers, agents or employees for any such claims, damages, penalties, obligations or liabilities.
 - c. In the event the City, ECISD its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the sole negligence of Contractor hereunder, Contractor agrees to pay City, ECISD, its officers, agents, or employees, any and all costs and expenses incurred by the City, ECISD its officers agents or employees in such action or proceeding, including, but not limited to, reasonable attorney's fees.
 - d. In the event that a court determines that liability for any Claim was caused or contributed to by the negligent act or omission or the willful misconduct of City, only to the extent as permitted under the Texas Tort Claims Act, liability will be apportioned between Contractor and City based upon the parties' respective degrees of culpability, as determined by the court, and Contractor's duty to indemnify City will be limited accordingly.
 - e. Only to the extent Contractor complies fully with all insurance and additionally insured endorsements, and all other insurance requirements under this Agreement, Contractor's indemnification obligation to City for Claims under this Agreement will be limited to the maximum combined aggregate of Contractor's general liability and umbrella insurance policies in the amount of \$5,000,000 (Five Million Dollars).
18. Notwithstanding any terms or provisions contained within this Agreement, by executing this Agreement City is not waiving its right of governmental immunity. City is retaining its immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
19. Either party to this Agreement shall have the right to terminate this Agreement by providing sixty (60) days written notice of termination to the other party.
20. The Contractor shall not have the right to assign this Agreement to any other person or entity except with the prior written consent of the City.
21. The City shall have an option to renew this Agreement. In the event this Agreement is extended beyond the end of the term set forth above, the compensation and terms for the Services shall be established by mutual consent of both parties.
22. This Agreement constitutes the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof and supersedes all prior written or oral statements among the parties, including any prior statements, warranties, or representations. This Agreement is binding upon and will inure to the benefit of the parties hereto and their respective heirs, administrators, executors, successors, and assigns. Any amendments, modifications, or alterations

to this Agreement must be in writing and signed by all parties. There will be no presumption against any party on the ground that such party was responsible for preparing this Agreement or any part of it. Each provision of this Agreement is severable from the other provisions. If any provision of this Agreement is declared invalid or contrary to existing law, the inoperability of that provision will have no effect on the remaining provisions of the Agreement which will continue in full force and effect.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year written below.

CITY

City of Odessa

CONTRACTOR

All City Management Services, Inc.

By: _____
Aaron Smith, City Manager

By: _____
D. Farwell, Corporate Secretary

Date signed: _____

Date signed: _____

ATTEST:

By: _____
Norma Aguilar, City Secretary

APPROVED AS TO FORM:

By: _____
James D. Parker, City Attorney

CITY OF ODESSA

STATE OF TEXAS §
 §
COUNTY OF ECTOR §

 This instrument was acknowledged before me on the _____ day of _____,
20____, by Aaron Smith, City Manager of the City of Odessa, Texas.

Notary Public in and for the State of Texas

ALL CITY MANAGEMENT SERVICES, INC.

STATE OF _____§
 §
COUNTY OF _____§

 This instrument was acknowledged before me on the _____ day of _____,
20____, by D. Farwell, Corporate Secretary of All City Management Service, Inc.

Notary Public in and for the State of _____

School Crossing Guard Service

Purpose:

The goal of this proposal is to secure qualified school crossing guard services to enhance pedestrian safety by providing trained personnel at designated locations in coordination with the city and ECISD.

Term of contract – June 30, 2028



RFP Award Recommendation

- RFP Number #26-52120-08
- Advertisement Date: May 13, 2026
- Responses Received : 3
- Evaluation Committee: 5 member

Evaluation Criteria

- Qualifications and Experience
- Operational Plan and Service Approach
- Staffing Plan and Personnel Management
- Cost Proposal
- References and Past Performance

Evaluation Results

Top-Ranked Firm: All City Management Services

Agreement Information

The City and ECISD agree to jointly fund the School Crossing Guard Program. Each party shall be responsible for its respective share of the program costs. Schools located outside the City limits are not included in the city cost.

City of Odessa = \$259,129.50

ECISD = \$315,157.50

Total Bid Cost = \$574,287.00



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 5.1.6
Strategic Plan: I-3: Invest in public facilities and community assets.
S-1: Build a fully staffed, well-resourced public safety system.
From: Marisa Rodriquez, Director of Purchasing
Subject: Consider a resolution approving a professional services agreement with Martinez Architects LP for the Design-Bid-Build of Odessa Fire Station No. 10 (RFQ) 25-52210-27

The city issued a Request for Qualifications (RFQ) 25-52210-27 Architectural, Engineering, And Construction Administration Services for Design-Bid-Build Odessa Fire Station #10 for services related to the development of a new fire station. A total of seven (7) qualifications were received and evaluated based on the established criteria outlined in the RFQ. An evaluation committee reviewed and ranked the submissions and selected the top-ranked firm. Following the selection, staff completed contract negotiations with the highest-ranked firm, and the proposed agreement is now presented to City Council for review.

Approval of this item will authorize the execution of the agreement in accordance with the negotiated terms with the selected architectural firm Martinez Architects LP, allowing for the design of the fire station.

Design cost for the station is \$985,000.00.
Reimbursable expenses \$15,000
Potential Additional Services \$40,000
Not to exceed \$1,040,000.00

Funds to design, bid, build and equip this fire station are fully budgeted.

Previous Work Session: No

Recommendation:

It is recommended that the City Council makes a motion to:

1. Move to approve the contract with Martinez Architects LP, in an amount not to exceed \$1,040,000.00 for Odessa Fire Station #10 and authorize the City Manager to execute all necessary documents related to the project.

Fiscal Impact

Approval of this contract will authorize an expenditure not to exceed \$1,040,000.00. The project is funded through the approved \$15,000,000 total project budget, consisting of \$11,000,000 from the 2019 Bond Program proceeds and \$4,000,000 from an approved FY 2026 supplemental appropriation. Sufficient funding is available within the project budget to support this expenditure.

Attachments

1. 3 r-119 Award Contract Martinez Architects [**5.1.6.1** - 2 pages]
2. PSA - Martinez Architects Fire Station #10 [**5.1.6.2** - 34 pages]
3. RFQ Award Recommendation [**5.1.6.3** - 1 page]

RESOLUTION NO. 2026R-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ODESSA, TEXAS, APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MARTINEZ ARCHITECTS, LP FOR THE DESIGN OF ODESSA FIRE STATION #10; AUTHORIZING THE CITY MANAGER TO SIGN ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City published a Request for Qualifications (RFQ) #25-52210-27 Architectural, Engineering, and Construction Administration Services for Design-Bid-Build Odessa Fire Station #10 for services related to the development of a new fire station; and

WHEREAS, the City received seven (7) responses to the RFQ which were evaluated based on the established criteria outlined in the RFQ with the evaluation committee reviewing and ranking the submissions and selecting the top-ranking firm; and

WHEREAS, the evaluation committee selected the architectural firm of Martinez Architects, LP; and

WHEREAS, approval of this item will authorize the execution of a Professional Services Agreement with Martinez Architects, LP, in an amount not to exceed \$1,040,000.00 for the design of the Odessa Fire Station #10; and

WHEREAS, funds for this Professional Services Agreement are available in the Capital Projects account.

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

Section 1. That the statements of fact in the Preamble are found to be true and correct and are approved as the City Council's legislative findings of fact.

Section 2. That the City Council hereby approves a Professional Services Agreement with Martinez Architects, LP in an amount not to exceed \$1,040,000.00 for the design of Odessa Fire Station No. 10.

Section 3. That funds from the Capital Projects account will be used for the Professional Services Agreement.

Section 4. That the City Manager or his designee is hereby authorized to execute any documents necessary to implement this resolution.

Section 5. That this resolution shall be effective at the time of its adoption.

The foregoing resolution was approved and adopted on the 14th day of July, A.D., 2026,
by the following vote:

Eddie Mitchell	_____
Steven P. Thompson	_____
Gilbert Vasquez	_____
Greg Connell	_____
Chris Hanie	_____
Raymon C. Stoker IV	_____
Benard Calvin Hendrick VII	_____

Approved the 14th day of July, A.D., 2026.

Benard Calvin Hendrick VII, Mayor

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO FORM:

James D. Parker, City Attorney

THE CITY OF ODESSA
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Odessa, Texas, a home-rule municipal corporation hereinafter referred to as “City,” and Martinez Architects, LP, hereinafter referred to as “Consultant.” City and Consultant are at times individually referred to as a “Party” and collectively referred to as the “Parties.”

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which Consultant shall provide the design-bid services for the design and construction of a new fire station, Fire Station Number 10 (collectively the design bid services to be performed and provided under this Agreement will be referred to as the “Services”) for City. The Services are more particularly described in the attached Exhibit A, which is attached and incorporated into to this Agreement. Additional attachments attached and incorporated into this Agreement are Exhibit B, Payment Schedule, Exhibit C, Consultant’s Drug-Free Workplace Certification, Exhibit D, Reimbursable Expenses, and Exhibit E, Project Time Schedule. The attached exhibits are subordinate to the terms of this Agreement as provided as in Section 6.6.

ARTICLE II. SERVICES TO BE PERFORMED

Consultant shall work under the direction of the Director of Public Works. Consultant shall provide the Services in a manner consistent with the same level of skill and care as other professionals that perform similar services for similar projects in approximately the same region and at approximately the same point in time. Consultant represents that any employee who performs the Services shall be fully qualified and competent to perform the Services.

Any amendment to the scope of services must be agreed to in writing as an amendment to this Agreement. Such amendment shall be fully executed by all Parties prior to any additional Services being performed.

ARTICLE III. CONTRACT PRICE

City agrees to pay Consultant an amount not to exceed \$1,040,000.00 for the performance of the Services in accordance with the attached Payment Schedule. City agrees to pay Consultant according to the schedule set forth in the attached Exhibit B upon presentation of a monthly invoice. The monthly invoice shall set forth all service fees for the month and those expenses described in Exhibit A that Consultant incurs during the previous month for which Consultant receives advanced written approval from the City Manager. All additional and/or reimbursable expenses must be approved by the City Manager prior to incurring such expenses.

Within thirty (30) days of the date Consultant’s invoice is received by City, City shall pay the full amount of such invoice; provided, however, that if City objects to any portion of an invoice, City shall notify Consultant of City’s objection and the grounds therefor within fifteen (15) days of the date of receipt of the invoice, and the Parties shall immediately make every effort to settle the disputed portion of the invoice. Notwithstanding the foregoing, City shall pay every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from the final date of acceptance and full execution of this Agreement by all Parties hereof (“Effective Date”) through February 29, 2028, unless the Services are completed sooner or the Agreement is terminated as provided below.

ARTICLE V. OWNERSHIP AND CONFIDENTIALITY OF DOCUMENTS AND OTHER WORK PRODUCT

All reports, information and other data (“Instruments of Service”) given to, prepared or assembled by Consultant under this Agreement, and any other related document or item shall become the sole and exclusive property of City. The Instruments of Service shall be promptly delivered, without restriction, to City and such other persons or entities as City may designate; provided, however, that Consultant may make copies of the Instruments of Service for its files. Any modifications made by the City to any of the Consultant’s documents, or any reuse of the documents without written authorization or adaptation by the Consultant will be at the City’s sole risk and without liability to the Consultant.

ARTICLE VI. GENERAL PROVISIONS

6.1 **Amendments, Modifications, Alterations.** No amendment, modification, or alteration of this Agreement shall be binding unless such is evidenced in writing, dated subsequent to the date of this Agreement, and duly executed by the Parties.

6.2 **Anti-Boycott Statutes.** To the extent that Texas Government Code Sections 2271.002 and 2274.002, and 2276.002 (collectively, the “Anti-Boycott Statutes”) apply to this Contract, Consultant hereby verifies that:

- Consultant does not boycott Israel and will not boycott Israel during the term of this Contract;
- Consultant does not boycott energy companies and will not boycott energy companies during the term of this Contract; and
- Consultant does not have a practice, policy, guidance, or directive that discriminates against firearm entity or firearm trade association and will not discriminate during the term of this Contract against a firearm entity or firearm trade association.

To the extent that the Anti-Boycott Statutes do not apply to this Contract, such verification is not required, and Consultant shall be deemed to have not made such verification.

6.3 **Assignment.** Consultant shall not, either directly or indirectly, assign all or any part of this Agreement, or any interest, right or privilege herein, without the prior written consent of City. The issue of whether to grant such consent shall be in the sole and absolute discretion of City.

6.4 **Authority to Execute Agreement.** Each individual representative who signs this Agreement on behalf of a Party to this Agreement, expressly warrants and represents to the other Party that they each are duly and properly authorized, or have otherwise been granted permission and authority to sign this Agreement. Therefore, each representative of a Party who executes this Agreement on behalf of a Party to this Agreement warrants and represents that their acts are taken on behalf of that Party and they are granted the express authority to sign this Agreement and thereby bind the Party to the terms of this Agreement.

6.5 Compliance With Disclosure Requirements. Consultant shall comply with Texas Government Code Section 2252.908 (applicable to the requirement to submit Form 1295 prescribed by the Texas Ethics Commission as required by Section 2252.908), et seq., as amended, and Texas Local Government Code Section 176.006, et seq., as amended.

6.6 Conflict of Terms. If a conflict of terms or language exists between: (i) any of the provisions of this Agreement; and (ii) any of the provisions contained in any exhibit(s) attached to this Agreement, precedence shall be given to the provisions of this Agreement. For the avoidance of any doubt, the provisions contained in this Agreement shall supersede and take priority over any and all conflicting provisions contained in any exhibit(s) attached to this Agreement. Furthermore, the Parties acknowledge and agree that any provision contained in an exhibit(s) attached to this Agreement that imposes an additional express or implied obligation on City or conflicts with any terms of covenants contained in this Agreement, is hereby made void and of no force or effect. City's sole and exclusive obligations under this Agreement are contained in the provisions of this Agreement that precede the signature pages, which evidences the Parties' execution and acceptance hereof.

6.7 Consideration. The terms of this Contract are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

6.8 COVENANT NOT TO SUE. EXCEPT FOR A CLAIM FOR NON-PAYMENT FOR SERVICES PROVIDED TO THE CITY UNDER THIS AGREEMENT, CONSULTANT HEREBY KNOWINGLY, VOLUNTARILY, AND FOREVER COVENANTS AND AGREES NOT TO BRING SUIT IN LAW OR EQUITY ARISING OUT OF OR IN ANY WAY RELATED TO THE EXECUTION, PERFORMANCE, INTERPRETATION, OR BREACH OF THIS CONTRACT. CONSULTANT AGREES THAT THE PLAIN LANGUAGE OF THIS COVENANT DOES BAR ANY AND ALL FUTURE SUITS AND CLAIMS, EXCEPT FOR A CLAIM FOR NON-PAYMENT FOR SERVICES ACTUALLY PROVIDED TO THE CITY UNDER THIS AGREEMENT. THIS LANGUAGE IS BROAD ENOUGH TO COVER ALL CLAIMS FOR FUTURE DIRECT DAMAGES AND CONSEQUENTIAL DAMAGES. CONSULTANT HAS REVIEWED AND UNDERSTANDS THIS PROVISION AND COVENANT AND AGREES THAT THE TERMS OF THIS PROVISION ARE COMMERCIALY REASONABLE FOR THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT.

6.9 Employment Eligibility Verification. To the maximum extent required by law, Consultant shall verify the identity and employment eligibility of its employees who perform work under this Contract, including completing the Employment Eligibility Verification Form (I-9). Upon request by City, Consultant shall provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Contract. Consultant shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any Consultant employee who is not legally eligible to perform such services. Consultant shall indemnify City and hold City harmless from any penalties, liabilities, or losses due to violations of this paragraph by Consultant, Consultant's employees, subcontractors, agents, or licensees. City, upon written notice to Consultant, shall have the right to immediately terminate this Contract for violations of this provision by Consultant.

6.10 Funding. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for contract payments due under this Contract, then this

Contract shall terminate on the last day of the fiscal period for which full appropriations were made, without penalty or expense to City of any kind whatsoever.

6.11 Governing Law and Venue. The laws of the State of Texas shall govern, construe and enforce all rights and duties of the Parties, including, but not limited to, tort claims and any contractual claims or disputes arising from or relating in any way to the subject matter of this Agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Ector County, Texas. The obligations and undertakings of the Parties shall be deemed to have occurred in Ector County, Texas. The State Courts of Texas shall have sole and exclusive jurisdiction over all controversies with respect to the execution, interpretation, or performance of this Contract, and the Parties waive any other venue to which they may be entitled by virtue of domicile or otherwise. City and Consultant are hereby contractually agreeing to waive their right to remove a case from state to federal court. Sole and exclusive venue for any claim, suit, or other action arising from or connected in any way to this Agreement shall be in the State of Texas Courts in Ector County, Texas.

6.12 Governmental Immunity. By executing this Agreement, City is not waiving its right of governmental immunity. City is retaining its immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

6.13 Headings and Titles. The article and section headings and titles provide context and can help describe and inform the meaning of the sections they label, and courts should construe contractual provisions in a manner that is consistent with the labels the Parties have given them.

6.14 Indemnification. Consultant covenants and agrees to INDEMNIFY and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, or liability for damages caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Consultant or the Consultant's agent, Consultant under contract, or another entity over which the Consultant exercises control. Such acts may include personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Consultant's activities under this Agreement, including any negligent or intentional acts or omissions of Consultant, any agent, officer, director, representative, employee, consultant or subcontractor of Consultant, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. In no event shall the indemnification obligation extend beyond the date with when the institution of legal or equitable proceedings for the professional negligence would be barred by any applicable statute of repose or statute of limitations.

.1 The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Consultant shall advise the City in writing within 24 hours of any claim or demand against

the City or Consultant known to Consultant related to or arising out of Consultant's activities under this Agreement.

.2 Duty to Defend – Consultant covenants and agrees to hold a DUTY TO DEFEND the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually and collectively, from and against any and all claims, liens, proceedings, actions or causes of action, other than claims based wholly or partly on the negligence of, fault of, or breach of contract by the City, the City's agent, the City's employee or other entity, excluding the Consultant or the Consultant's agent, employee or sub-consultant, over which the City exercises control. Consultant is required under this provision and fully satisfies this provision by naming the City and those representatives listed above as additional insured under the Consultant's general liability insurance policy and providing any defense provided by the policy upon demand by City.

.3 Consultant is required to perform services to the City under the standard of care provided for in Texas Local Government Code § 271.904 (d)(1-2).

.4 Employee Litigation – In any and all claims against any Party indemnified hereunder by any employee of Consultant, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Consultant or any subcontractor under worker's compensation or other employee benefit acts.

6.15 Independent Contractor. Consultant shall perform the Services as an independent contractor and not as an officer, agent, servant, or employee of City. Consultant shall have exclusive control of and the exclusive right to control the details of the Services and all persons performing the same. Consultant shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors. The Parties acknowledge and agree that the doctrine of respondeat superior shall not apply as between City and Consultant, its officers, agents, employees, contractors, and subcontractors. Nothing in this Agreement shall be construed as creating a partnership or joint enterprise between City and Consultant. No person performing the Services shall be considered an officer, agent, servant, or employee of City. Further, it is specifically understood and agreed that nothing in this Agreement is intended nor shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability.

Consultant shall be an independent contractor under this Agreement and shall assume all rights, obligations, and liabilities applicable to it as an independent contractor hereunder. City does not have the power to direct the order in which the Services are performed. City shall not have the right to control the means, methods, or details of Consultant's work. Consultant shall assume exclusive responsibility for performing the Services, and is entirely free to perform the Services in its own way.

6.16 Insurance.

.1 General Requirements.

- (a) Prior to the commencement of any work under this Agreement, Consultant shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City, which shall be clearly labeled to

apply to the Project in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City. No officer or employee, other than the City Attorney, shall have authority to waive this requirement.

- (b) The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City Attorney based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.
- (c) A Consultant's financial integrity is of interest to the City; therefore, subject to Consultant's right to maintain reasonable deductibles in such amounts as are approved by the City, Consultant shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII).
- (d) Consultant performing work on City property or public right-of-way for the City of Odessa shall provide the City a certificate of insurance evidencing the coverage provisions identified herein. Consultant shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverage as required herein or that the subcontractors are included under the contractor's policy. The City, at its own discretion, may require a certified copy of the policy.
- (e) All insurance companies and coverage must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City. The City reserves the right to amend or require additional types and amounts of coverage or provisions depending on the nature of the work.
- (f) The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Consultant shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes.

.2 Required Coverage.

- (a) Listed below are the types and amounts of insurance required. The City reserves the right to amend or require additional types and amounts of coverage or provisions depending on the nature of the work:

Type of Insurance	Amount of Insurance	Provisions
Commercial General (Public) Liability to include coverage for: Premises/Operations Products/Completed Operations Independent Contractors Personal Injury Contractual Liability	1,000,000 per occurrence 2,000,000 general aggregate Or 2,000,000 combined single coverage limit	City to be listed as additional insured and provide 30 days' notice of cancellation or material change in coverage City to be provided a waiver of subrogation City to be provided a waiver prefers that insurer be rated B+VI or higher by A.M. Best of A or higher by Standard & Poors
Business Auto Liability	1,000,000 combined single limit	City to be provided a waiver to be provided a waiver of subrogation
Workers' Compensation & Employers Liability	Statutory Limits 1,000,000 each accident	City to be provided a waiver to be provided a waiver of subrogation
Professional Liability	1,000,000	

- (b) Consultant agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- (i) Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement under terms satisfactory to the City, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies.
 - (ii) Provide for an endorsement that the "other insurance" clause shall not apply to the City where the City is an additional insured shown on the policy.
 - (iii) Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
 - (iv) Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

- (c) As for the Professional Liability Policy, Consultant shall obtain the required Professional Liability Policy or ensure that its design professionals and consultants obtain and maintain a professional liability policy that meets the minimum requirements as provided in this Agreement.
- (d) The Business Automobile Liability policy shall cover any vehicle for bodily injury and property damage, including owned vehicles, hired and non-city vehicles, and employee non-ownership, covering any vehicle used for the execution of the Services. This policy shall name and cover City as an additional insured and waive subrogation in favor of the City.
- (e) The Workers' Compensation policy shall inure to the benefit of employees injured during the course and scope of their employment by Contractor pursuant to this Agreement. The Workers' Compensation policy shall waive all rights of subrogation in favor of City.
- (f) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- (g) In addition to any other remedies the City may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Consultant to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.
- (h) Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractors' performance of the work covered under this Agreement.
- (i) It is agreed that, excepting Professional Liability, Consultant's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this Agreement.
- (j) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.
- (k) Consultant and any of its Subcontractors are responsible for all damage to their own equipment and/or property.
- (l) Consultant shall contractually require all contractors, subcontractors, and sub-subcontractors that perform the Services to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of City and that name City as an additional insured on a claims-

occurred basis except on the Workers' Compensation policy and the Professional Liability policy).

- (m) Prior to the execution of the Agreement, Consultant shall provide one or more certificates of insurance specifically stating that requirements of this Section have been met, which shall be subject to the approval of the City. The City shall not be required to provide any insurance pursuant to this Agreement.
- (n) By executing this Agreement, Consultant certifies that the certificate of insurance provided pursuant to this Section complies with the requirements of Texas Insurance Code Chapter 1811. Consultant shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law and this Agreement is the sole and exclusive responsibility of Contractor.
- (o) Failure of City to demand certificates of insurance or other evidence of the Consultant's full compliance with these insurance requirements, or failure of City to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the Consultant's obligation to obtain and maintain such insurance.

6.17 Interpretation. By executing this Agreement, the Parties acknowledge and agree that this Agreement shall not be interpreted or construed against any Party solely because such Party or its legal counsel drafted this Agreement. The Parties have read, understood, and approve of the language and terms set forth herein.

6.18 Iran, Sudan and Foreign Organizations. Section 2252.151 of the Texas Government Code defines a "governmental contract" as a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment, and provides that the term includes a contract to obtain a professional or consulting service subject to Chapter 2254 of the Texas Government Code. Consultant represents, to the current actual knowledge of the Consultant and Consultant's agent, Consultant's representative and/or officers, in his or her representative capacity on behalf of the Consultant, that, as of the date of this Agreement, to the extent this Agreement constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of ensuring compliance with Subchapter F of Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, neither the Consultant nor any wholly owned subsidiary, majority-owned subsidiary, parent Consultant, or affiliate of the Consultant is an entity listed by the Texas Comptroller of Public Accounts under 2252.153 and Chapter 2270 of the Texas Government Code. The term "foreign terrorist organization" in this paragraph has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

6.19 No Third-Party Beneficiary. City's approval of this Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third-party beneficiary or other rights hereunder.

6.20 Nondiscrimination. Consultant covenants that it will take all necessary actions to ensure that, in its performance of the Work, Consultant, its associates and subcontractors will comply fully with all Civil Rights Acts and specifically will not discriminate against any person based on

race, color, national origin, sex, age, religion, or by reason of being disabled. In this regard, Consultant shall keep, retain, and safeguard all records relating to this Contract or work performed hereunder for a minimum period of three (3) years from final Contract completion, and to the extent authorized by law, authorized representatives of City will be granted full access, upon request, for purposes of evaluating compliance with this and other provisions of the Contract. City, upon written notice to Consultant, shall have the right to immediately terminate this Contract for violations of this provision by Consultant.

6.21 Notice of Alleged Breach; Statutory Prerequisites. The adjudication of claims procedures set forth under Subchapter I, of Chapter 271 of the Texas Local Government Code apply to this Agreement. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Consultant or its legal representative shall give the City Manager, or any other reasonable official of City, written notice (consisting of one (1) original and seven (7) copies of such notice attached to a copy of this Agreement) of such duly-verified damages within one hundred fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where, and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Consultant will settle, the physical and mailing addresses of Consultant at the time and date the claim was presented, the physical and mailing addresses of Consultant for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Consultant relies to establish its claim. Consultant's failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except City from any liability whatsoever. City is under no obligation to provide notice to Consultant that Consultant's notice is insufficient. City reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after Consultant's receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Texas Local Government Code Section 271.154 and Texas Government Code Section 311.034. Notwithstanding any contrary provision contained herein, Consultant's failure to comply with the requirements of this section shall perpetually bar Consultant's claim for damages under Texas Local Government Code Chapter 271 and Texas Government Code Section 311.034, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages. Consultant agrees that the requirements of this entire Agreement are reasonable. The provisions and obligations of this section shall survive the termination of this Agreement.

6.22 Notices. All notices, communications, and reports required or permitted under this Contract shall be personally delivered, delivered by electronic means, or mailed to the respective Parties by depositing same in the United States mail, postage prepaid, at the addresses shown below. Mailed notices shall be deemed communicated as of five (5) days after mailing.

If intended for City, to:

City of Odessa
Attn.: City Manager
PO Box 4398, Odessa, Texas 79760-4398
(432) 335-3286 | cm@odessa-tx.gov

If intended for Consultant, to: Martinez Architects, L.P.
Attn: Ricardo Martinez, AIA, Partner
900 Rockmead, Suite 250
Kingwood, Texas 77339
Email: ricardom@martinez-architects.com

The parties hereto may change the above-designated addresses by giving notice pursuant to the terms of this section.

6.23 Prompt Pay Act. The Parties agree that Texas Government Code Chapter 2251, Payment for Goods and Services does not waive the City's governmental immunity.

6.24 Public Information. To the extent that this Agreement is a contract described by Texas Government Code Section 552.371, Consultant agrees as follows in accordance with Texas Government Code Section 552.372(b): The requirements of Texas Government Code Chapter 552 Subchapter J may apply to this contract, and Consultant agrees that the contract can be terminated if Consultant knowingly or intentionally fails to comply with a requirement of that subchapter.

6.25 Records Retention and Production of Information. To the extent that this Agreement is a contract described by Texas Government Code Section 552.371, Consultant shall: (i) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to City for the duration of the agreement; (ii) promptly provide to City any contracting information related to the Agreement that is in the custody or possession of Consultant on request of City; and (iii) on completion of the Agreement, either (a) provide at no cost to City all contracting information related to the Agreement that is in the custody or possession of Consultant, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to City.

6.26 RELEASE. EXCEPT FOR A CLAIM ON NON-PAYMENT FOR THE SERVICES PROVIDED TO CITY UNDER THIS AGREEMENT, NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED HEREIN, CONSULTANT HEREBY RELEASES, ACQUITS, RELINQUISHES, AND FOREVER DISCHARGES CITY, ITS AGENTS, COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT CONSULTANT HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF AGREEMENT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE OR GROSS NEGLIGENCE. THE PROVISIONS AND OBLIGATIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT. CONSULTANT EXPRESSLY RELEASES AND WAIVES ANY RIGHT OR CLAIM TO AND FOR CONSEQUENTIAL DAMAGES, SPECIAL DAMAGES, DELAY DAMAGES, CLAIMS FOR LOST PROFITS, DAMAGES FOR OVERHEAD (OVERHEAD DAMAGES), AND EXEMPLARY DAMAGES.

6.27 Severability. If one or more of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision were never contained herein.

6.28 **Termination at Will.** City may terminate this Agreement at will, for any or no reason, upon giving Consultant at least one hundred eighty (180) days' written notice. The Parties understand and agree that it is in City's sole and absolute discretion to cancel this Agreement during the term set forth in Article IV without penalty to City. Consultant has no expectation and has received no guarantees that this Agreement will not be terminated during the Agreement's term. The Parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of this Agreement. All Services shall be suspended upon termination of the Agreement becoming effective.

6.29 **Waiver.** No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

6.30 WAIVER OF ATTORNEY FEES. BY EXECUTING THIS AGREEMENT, CONSULTANT AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS AGREEMENT OR THE CONSTRUCTION, INTERPRETATION, OR BREACH OF THIS AGREEMENT. CONSULTANT SPECIFICALLY AGREES THAT IF CONSULTANT BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED) OR TEXAS LOCAL GOVERNMENT CODE CHAPTER 271, CONSULTANT AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CONSULTANT MIGHT OTHERWISE BE ENTITLED.

CONSULTANT AGREES THAT THIS IS A VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. CONSULTANT ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THIS AGREEMENT. CONSULTANT FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN CITY AND CONSULTANT. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

CONSULTANT IS RELYING ON ITS OWN JUDGMENT AND HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION. THE OBLIGATIONS AND PROVISIONS IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

[Signature Pages Follow]

THE PARTIES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT AND AGREEING TO ITS TERMS DO HEREBY EXECUTE THIS AGREEMENT ON THE ____ DAY OF _____, 20____.

CITY:

CITY OF ODESSA, TEXAS,
a Texas home-rule municipal corporation

APPROVED:

By: _____
Aaron Smith, City Manager

ATTEST:

Norma Aguilar, City Secretary

APPROVED AS TO CONTENT AND COMPLETENESS:

Jason Cotton, Fire Chief

APPROVED ONLY AS TO FORM:

James D. Parker, City Attorney

STATE OF TEXAS §
 §
COUNTY OF ECTOR §

This instrument was acknowledged before me on the ____ day of _____
20____, by Aaron Smith, City Manager of the City of Odessa, a Texas home-rule municipal
corporation on behalf of said corporation.

Notary Public in and for the State of Texas

CONSULTANT:

MARTINEZ ARCHITECTS LP,
a Texas limited partnership

By: _____
Ricardo Martinez, Partner

STATE OF TEXAS §
 §
COUNTY OF ECTOR §

This instrument was acknowledged before me on the _____ day of _____
20____, by Ricardo Martinez, Partner of Martinez Architects LP, a Texas limited partnership, on
behalf of said company.

Notary Public in and for the State of Texas

EXHIBIT A

BASIC SERVICES

- 1.0.** The ARCHITECT'S Basic Services consist of the design of a New Fire Station described in Paragraphs 1.1 through 1.7, and more fully described in **Exhibit E**, to include normal civil, landscaping, structural, plumbing, mechanical and electrical engineering services. Any changes required in the performance of the ARCHITECT'S Basic Services due to the ARCHITECT'S error, omission, or creation of inconsistencies, and not based on misinformation from the OWNER, shall be made by the ARCHITECT as a Basic Service at no additional cost to the Owner. The ARCHITECT shall obtain the written approval of the OWNER before beginning each subsequent phase described below. The OWNER shall be entitled to terminate or delay the project with written notification and in accordance with Article 11.
- 1.1. PROGRAMMING (5%)**
- 1.1.1** The ARCHITECT shall review all documents furnished by the OWNER to ascertain the requirements of the PROJECT and shall review the understanding of such requirements with the OWNER.
- 1.1.2** The ARCHITECT shall coordinate with engineering consultants to obtain site investigations including Boundary and Topographical Surveys. Surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Temporary Project Benchmark.
- 1.2. SCHEMATIC DESIGN PHASE (15%)**
- 1.2.1** The ARCHITECT shall review the existing design of local aesthetics and massing. The ARCHITECT shall try to integrate existing building materials and/or features into the new design as is practical and/or appropriate, or as required by ordinance.
- 1.2.2** The ARCHITECT shall provide a preliminary evaluation for the PROJECT and PROJECT budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 6.1.1.
- 1.2.3** The ARCHITECT shall review with the OWNER alternative approaches to the final design and construction of the PROJECT.
- 1.2.4** Based on the mutually agreed upon PROJECT description and PROJECT budget requirements, the ARCHITECT shall prepare, for approval by the OWNER, Schematic Design Documents as described in **Exhibit E** consisting of drawings

EXHIBIT A

and other documents illustrating the scale and relationship of PROJECT components.

1.2.5 Upon completion of Schematic Design, the ARCHITECT shall provide a detailed estimate of the PROJECT Construction Cost as described in ARTICLE 6.

1.2.6 The ARCHITECT shall obtain from the OWNER written approval of the work in this phase before proceeding to the next phase.

1.3. DESIGN DEVELOPMENT PHASE (15%)

1.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the OWNER in the PROJECT budget, the ARCHITECT shall prepare, for approval by the OWNER, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire PROJECT as to architectural, structural, plumbing, mechanical and electrical systems, civil utility and site design, type of structure, materials and such other elements as may be appropriate.

1.3.2 The ARCHITECT shall conduct design phase coordination with the City of Odessa and other authorities having jurisdiction over design and/or implementation of the PROJECT. In preparing the design, the ARCHITECT will take into consideration (1) existing site and the size and layout of surrounding structures, (2) recommendations for the design program made to the ARCHITECT by the City of Odessa Representative(s), and (3) the fixed limit of construction cost (PROJECT budget).

1.3.3 The ARCHITECT shall employ only those engineering firms for landscape, civil, structural, plumbing, mechanical, electrical, or other portions of the work contained here within and approved by the OWNER. All architectural and engineering firms employed by the ARCHITECT shall comply with the provisions of the Texas Occupations Code Chapters 1001 through 1071, as applicable.

1.3.4 The ARCHITECT shall provide written criteria from design consultants for structural system proposed, including the rationale for determinations, design loads for floor, roof, wind, etc.

1.3.5 The ARCHITECT shall provide written criteria from design consultants for HVAC system proposed.

1.3.6 The ARCHITECT shall provide electrical design criteria from design consultants including design and reserve capacity, general layout, orientation, and performance design criteria.

1.3.7 The ARCHITECT shall provide written criteria from design consultants for the Telecom, Datacom, and AV/Security Infrastructure proposed and include all proposed items and locations in the design documents.

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- 1.3.8** The ARCHITECT shall prepare for the City of Odessa review and approval, copies of manufacturers' illustrations of materials and equipment proposed to be specified for the PROJECT.
- 1.3.9** Upon completion of Design Development Documents, the ARCHITECT shall provide a detailed estimate of the PROJECT Construction Cost as described in ARTICLE 6.
- 1.3.10** The ARCHITECT shall obtain from the OWNER written approval of the work in this phase before proceeding to the next phase.

1.4. CONSTRUCTION DOCUMENTS PHASE (30%)

- 1.4.1** Based on the approved Design Development Documents and any further adjustments in the scope or quality of the PROJECT or in the PROJECT budget authorized by the OWNER, the ARCHITECT shall prepare, for approval by the OWNER, Construction Documents consisting of the Bidding Documents and the Specifications and Drawings setting forth in detail the work required for the architectural, structural, plumbing, mechanical, electrical, service-connected equipment and site work. The Construction Documents must be complete, with all details shown.
- 1.4.2** The ARCHITECT shall, consistent with the professional Standard of Care (defined below in Section 3.2), include in the design and construction documents, the requirements of the statutory provisions for handicapped persons as required by Title III of the Americans with Disabilities Act (ADA) and Chapter 469 of the Texas Government Code. The ARCHITECT will have all documents properly reviewed for compliance and submit all required documents to the Texas Department of Licensing and Regulation for registration and inspection. The ARCHITECT shall coordinate all phases of work with the City of Odessa representative(s) regarding the specifications for the materials and equipment necessary to carry out design intent and the form and manner in which the work is presented in the Construction Documents.
- 1.4.3** Throughout the Construction Documents Phase, the ARCHITECT shall provide a detailed estimate of the PROJECT Construction Cost as described in ARTICLE 6.
- 1.4.4** The ARCHITECT shall file in a timely manner one complete set of proposed final Construction Documents with the OWNER for appropriate review and official approval by the OWNER prior to advertisement of bids for the construction of the PROJECT. Upon completion of the Construction Documents, and prior to their issuance for bidding, the A/E shall obtain the City of Odessa written approval of said documents. Following approval, the ARCHITECT shall prepare the final approved Construction Documents necessary for bidding purposes.
- 1.4.5** The ARCHITECT shall advise the OWNER of any adjustments to previous Statements of Probable Construction Cost or Construction Cost Estimates indicated by changes in requirements.

EXHIBIT A

- 1.4.6** The ARCHITECT shall submit all documents required for the approval of governmental authorities having jurisdiction over the PROJECT. The ARCHITECT is responsible for all corrections to the Construction Documents as is necessary to obtain approval for a Building Permit. The ARCHITECT is not responsible for changes required because of revisions or additions to any code or ordinance after the issuance of the Building Permit.

1.5. CONTRACT BIDDING AND AWARD PHASE (5%)

- 1.5.1** The ARCHITECT shall assist the OWNER to solicit the PROJECT by means of Competitive Sealed Proposal delivery method.
- 1.5.2** The ARCHITECT shall provide responses to all RFI's and/or issue addendum(s) as required during the bidding process.
- 1.5.3** The ARCHITECT shall coordinate the OWNER access to the Construction Documents in electronic format. OWNER, if required, shall pay for the reproduction of copies as a direct expense.
- 1.5.4** The ARCHITECT, following the completion of the Construction Documents and OWNERS approval, shall assist the OWNER in obtaining public bids and shall timely respond to all RFI's and/or issue all addendum(s) as required during the bidding process. In case the lowest acceptable bid/proposal exceeds the funds allocated for construction, OWNER and ARCHITECT shall proceed as stated in Subparagraph 6.1.5. The ARCHITECT shall further assist the OWNER in awarding and reviewing the Construction Contract(s).

1.6. CONSTRUCTION PHASE-ADMINISTRATION OF THE CONSTRUCTION CONTRACT(S) (25%)

- 1.6.1** The Construction Phase will commence with the award of the Construction Contract(s) and, together with the ARCHITECT's obligation to provide Basic Services under this Agreement, will terminate sixty (60) days after the Date of Final Completion of the Work.
- 1.6.2** The ARCHITECT shall perform professional observation to determine in general if the work is being performed in a manner indicating that the work, when fully completed, would be in accordance with the performance and design features as well as the technical and functional requirements of the design concept expressed in the ARCHITECT's portion of the Contract Documents, as expressed in their instruments of service. The ARCHITECT shall, consistent with the professional Standard of Care (as defined in Section 3.2), provide proper and periodic observations covering all phases of work, including all mechanical and electrical phases. Duties shall include, but not be limited to, all functions described in Section 2166.351(3) and Section 2166.355, Texas Government Code, applicable to an architect's professional inspection. Nothing in this section 1.6.2 shall be construed as creating a heightened duty of inspection equivalent to independent inspection services provided by a licensed contractor.

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- 1.6.2.1** ARCHITECT and/or engineers shall visit the site of the Work no less than once every month to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work is being performed in a manner indicating that the Work when completed will be in accordance with the Contract Documents.
- 1.6.2.2** The ARCHITECT shall visit the site when special conditions or requests for information require visual inspection at the PROJECT site.
- 1.6.2.3** The ARCHITECT shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.
- 1.6.2.4** Additional site visits or more extensive site representation are agreed to as an Additional Service, as described in Article 2 and **Exhibit E**.
- 1.6.3** On the basis of on-site observations as an architect, the ARCHITECT shall keep the OWNER informed of the progress and quality of the Work and shall exercise the care and diligence exercised by a careful and prudent architect in discovering and promptly reporting to the OWNER any known or observed defects or deficiencies in the work of the CONTRACTOR or any subcontractor. ARCHITECT shall not be responsible for the CONTRACTOR's schedules or failure to carry out the Work in accordance with the Contract Documents. The ARCHITECT shall be responsible for the ARCHITECT's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the CONTRACTOR or of any other persons or entities performing portions of the Work.
- 1.6.4** The ARCHITECT shall be the final authority concerning design intent and interpretation of the Contract Documents in the administration of the construction contract.
- 1.6.5** The ARCHITECT shall obtain approval of the OWNER's representative for any contemplated construction change prior to preparing any change documents, prepare drawings and/or specifications for approved proposed changes and submit them to the CONTRACTOR for his price proposal. The ARCHITECT shall review CONTRACTOR's proposal and recommend approval or disapproval to the OWNER based upon the proposal.
- 1.6.6** During construction, the ARCHITECT and/or engineers shall submit monthly reports to the OWNER covering overall job progress, a thorough description of work completed since the previous report, contract and projected completion dates, percentage of completion, observed deficiencies, status of revisions, existing or potential problem areas and status of Construction Record Documents.
- 1.6.7** The ARCHITECT shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures. Notwithstanding any contrary or potentially ambiguous description

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of the ARCHITECT'S services, the ARCHITECT shall neither have control over or charge of, nor be responsible for safety precautions and programs in connection with the work, since these shall solely be the CONTRACTOR's rights and responsibilities under the Contract Documents. The ARCHITECT shall not have control over or charge of acts or omissions of the CONTRACTOR, Subcontractors, or their agents or employees, or of any persons performing portions of the Work that are not observed by the ARCHITECT.

- 1.6.8** The ARCHITECT shall at all times have access to the Work wherever it is in preparation or progress.
- 1.6.9** The ARCHITECT shall determine the amounts owing to the CONTRACTOR based on observations at the site and on evaluation of the CONTRACTOR's Applications for Payment and shall after receiving written approval from OWNER issue Certificates for Payment in such amounts, as provided in the Contract Documents.
- 1.6.10** The issuance of a Certificate for Payment shall constitute a representation by the ARCHITECT to the OWNER, that the WORK has progressed to the point indicated and that, to the best of the ARCHITECT's professional knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to minor deviations from the Contract Documents correctable prior to completion); and that the Contractor is entitled to payment in the amount certified. The issuance of a Certificate for Payment shall not be a representation that the ARCHITECT has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, or (3) ascertained how or for what purpose the CONTRACTOR has used money previously paid on account of the Contract Sum. The ARCHITECT shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.
- 1.6.11** The ARCHITECT shall recommend to the OWNER to reject WORK that does not conform to the Contract Documents. Whenever, in the ARCHITECT's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the ARCHITECT will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed or completed. However, OWNER shall have the option to accept non-conforming Work.
- 1.6.12** The ARCHITECT shall review and approve or take other appropriate action upon the CONTRACTOR's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for

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installation or performance of equipment or systems, all of which remain the responsibility of the CONTRACTOR as required by the Contract Documents. The ARCHITECT's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the ARCHITECT, of any construction means, methods, techniques, sequences or procedures. The ARCHITECT's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

If professional design services by a design professional related to systems, materials, or equipment are specifically required of the CONTRACTOR by the Contract Documents, the ARCHITECT shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed by the design professional retained by the CONTRACTOR shall bear such professional's written approval (or professional seal if such is required) when submitted to the Architect. The ARCHITECT's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the ARCHITECT's portion of the Contract Documents, as expressed in their instruments of service. The ARCHITECT shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certification, or approvals performed by such design professionals.

- 1.6.13** The ARCHITECT shall review the CONTRACTOR's proposed change orders prior to the OWNER's approval. The ARCHITECT and the OWNER shall also determine whether said change orders violate the provisions of the CONTRACTOR's surety bond providing for change orders. If the change orders are in conflict with and violate the CONTRACTOR's surety bond, said orders shall not be given by the ARCHITECT to CONTRACTOR nor shall CONTRACTOR execute said orders until after the CONTRACTOR's surety has approved said orders.
- 1.6.14** Upon receipt of notification by the CONTRACTOR that the work has been completed, the ARCHITECT shall conduct a meeting with the OWNER and the appropriate members of its staff and subconsultants to review facility operations and performance. As a result of this review, the ARCHITECT shall prepare a list of known or observable items requiring correction. After the CONTRACTOR has performed the required corrections, the ARCHITECT shall notify the OWNER that CONTRACTOR's work is ready for Final Inspection, which shall be scheduled by the OWNER. The ARCHITECT shall accompany the OWNER on the Final Inspection to generally confirm the completeness of the work to be completed or corrected. ARCHITECT neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish or perform the work in accordance with the Contract Documents. The ARCHITECT shall receive and forward to the OWNER for the OWNER'S records written warranties and related documents required by the Contract Documents. After determining that the building was constructed in general conformance with the plans and specifications per the best of the

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ARCHITECT'S knowledge, information, and belief, the ARCHITECT shall certify the CONTRACTOR's Final Application for Payment.

- 1.6.15** Final installation must meet all OWNER requirements. If, after OWNER inspection, corrective measures are required, ARCHITECT will provide necessary documents to design those corrections. If such corrective measures are necessary as a result of the negligent acts or omissions of the ARCHITECT, the ARCHITECT will provide the necessary documents to design those corrections at no additional cost to the OWNER. If such corrective measures are necessary as a result of the act or omission of the CONTRACTOR, OWNER shall pay the ARCHITECT in accordance with Attachment D to provide the necessary documents to design those corrections.

1.7. RECORD DRAWINGS AND CLOSEOUT PHASE (5%)

- 1.7.1** Upon completion of construction and prior to a request for final payment, the ARCHITECT shall furnish to OWNER as-designed record drawings based upon the ARCHITECT's observations and RFI's and Supplemental Information provided to the CONTRACTOR that reflect changes in the original construction drawings and shall furnish to OWNER digitally delivered electronic files of all design and/or construction documents prepared on this PROJECT. OWNER understands and acknowledges that the ARCHITECT is not in a position to evaluate or verify the accuracy or completeness of information that will be furnished to the ARCHITECT by other parties (including the contractor's markups) and incorporated into the as-designed record drawings. Accordingly, the ARCHITECT shall not be responsible for any inaccuracies, errors, omissions, ambiguities, or conflicts that may be introduced into the as-designed record drawings as a result of the ARCHITECT's reliance on such information.
- 1.7.2** The ARCHITECT shall, at its expense and at least 30 days before the completion of the CONTRACTOR's one-year warranty period for the PROJECT, conduct a meeting with the OWNER to review the facility operations and performance. The ARCHITECT shall, as an accommodation to the Owner, assist in developing a list of known or observable warranty repair items for submittal to the OWNER and CONTRACTOR. However, the ARCHITECT shall have no responsibility to inspect the quantity or quality of the Work, or for the discovery of any workmanship or defect issues with the construction, equipment, or systems.
- 1.7.3** The ARCHITECT shall, as an Additional Service, unless the parties otherwise agree in writing, assist the OWNER in the resolution of warranty items and/or latent defects.

ARTICLE 2

ADDITIONAL SERVICES

- 2.0.** The following Services more fully described in Exhibit E are not included in Basic Services. The services described in Subparagraphs 2.1 and 2.2 shall be provided, and they shall be paid for by the OWNER as provided in this Agreement, in addition to the

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compensation for Basic Services. The services in Paragraph 2.2 shall be provided if authorized in writing by the OWNER.

2.1. CONTINGENT ADDITIONAL SERVICES

2.1.1 Platting of Parcel or Amendment to existing Plat

2.1.2 Easement Preparation

2.1.3 Traffic Control Planning and Traffic Signalization

2.1.4 Tree Inventory

ARTICLE 3

TIME AND STANDARD OF CARE

3.0. TIME. The ARCHITECT shall perform its services under this Agreement in accordance with the PROJECT TIME SCHEDULE, which is attached as **Exhibit D**.

3.1 Time is a material element of this contract. In the event performance by the ARCHITECT of its obligations under this Agreement shall be interrupted, or delayed by, or as a consequence of, acts of God or of the public enemy, acts of the OWNER or third parties, fires, floods, pandemics or epidemics, quarantine restrictions, strikes or labor actions, boycotts, freight embargoes, unusually severe weather for the location of the Project, war, insurrection, civil disturbance, or act of state (hereinafter, each a "Force Majeure Event"), the ARCHITECT shall be excused from such performance for the period of time such Force Majeure Event lasts or such period as is reasonably necessary. The period of time reasonably necessary to resume performance shall be as determined by the agreement of the parties, which agreement shall be negotiated and arrived at in good faith. The ARCHITECT shall notify the OWNER per Section 12.2. Upon such notice, the ARCHITECT and the OWNER shall consult and cooperate as to measures which may be taken to overcome the interference or as to alternative measures which may be undertaken by the parties with a view to the continued performance. The scheduled completion date shall be adjusted to account for any delay associated with a Force Majeure Event.

3.2 STANDARD OF CARE. Notwithstanding any clause in this Agreement to the contrary, ARCHITECT expressly disclaims all express or implied warranties and guarantees with respect to the performance of professional services, and it is agreed that the quality of such services shall be judged solely as to whether the ARCHITECT performed its services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (the "Standard of Care"). The parties acknowledge that no set of plans and specifications is entirely free of errors and omissions and that the existence of an error or omission does not automatically constitute a breach of the Standard of Care. Nothing in this Agreement shall be construed to establish a fiduciary relationship between the parties.

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DESCRIPTION OF SERVICES

SECTION 1.01: PROJECT DESCRIPTION

1.01: PROJECT DESCRIPTION

The scope of work shall include the design and construction administration of a new fire station and all related utility work required. The ARCHITECT shall provide full Design Services including Pre-Design Services through final Warranty Period of Construction.

BASIC SERVICES shall include all industry standard services necessary to provide a complete design package. Scope of Work shall include Programming, Schematic Design, Design Development, and Construction Documents. The OWNER shall approve each phase for the ARCHITECT to proceed onto the next milestone. ARCHITECT shall assist with bid phase activities and administer construction through project close-out.

1.02 PROJECT BUDGET

Budget will be developed in coordination with the City as building program is refined. The current assumption for basis of this proposal is a Construction Cost Limitation of **\$10,000,000.00 - \$12,000,000.00**. Budget increase due to cost of construction shall not increase the fee for architectural/engineering design services. Any increase in design fees will be as a result of change in scope only.

1.03 ANTICIPATED PROJECT SCHEDULE

Major Milestones:

- Programming
 - Confirm Program Requirements
 - (2) Two Weeks
- Schematic Design
 - 100% Schematic Design
 - (6) Six Weeks
 - Owner Review and Cost Estimating
 - (2) Two Weeks
- Design Development
 - 100% Design Development
 - (6) Six Weeks
 - Owner Review and Cost Estimating
 - (2) Two Weeks
- Construction Documents
 - 50% Construction Documents
 - (5) Five Weeks
 - Owner Review and Cost Estimating
 - (2) Two Weeks
 - 90% Construction Documents
 - (5) Five Weeks
 - Owner Review and Cost Estimating

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- (2) Two Weeks
 - 100% Construction Documents
 - (3) Three Weeks
- Permit Plan Review & Sub-Contractor Bidding
 - Submit to City and any other Authority Having Jurisdiction for Permit Plan Review.
 - Issue for bidding
 - Design Team compiles Issue for Construction Drawings and Specifications, incorporating bid-phase Addenda and Permitting Comments.
- Commencement of Construction Administration Services
 - Upon Contract approval, Approval of Permit, and Contractor mobilization
- Substantial Completion
 - Estimated at Fourteen (14) Months after Notice-to-Proceed with Construction.
 - If construction administration services extend beyond Eighteen (18) months of no fault of the ARCHITECT, the ARCHITECT and OWNER shall negotiate for additional services.

1.04 Scope of Work

Our fee proposal is inclusive of full Architectural and Engineering Services necessary from Pre-Design Service through Construction Administration Services during construction. Within the scope of work, we will provide the following services:

- Coordination and Review of the following **Owner-Provided Scope**:
 - Construction Materials Testing
 - Platting (included as Supplemental Service if desired to be coordinated and paid for by the ARCHITECT on behalf of the OWNER)
 - Station Alerting – Coordinate infrastructure rough-in with Fire Department's current vendor.
- Provide complete Architectural and Engineering Service Construction Drawings and Specifications to permit, bid and construct the programmed facility through the following disciplines and deliverables:
 - **Programming**
 - Project Meetings
 - OWNER/ARCHITECT to coordinate meetings to discuss and program the project
 - Provide regular updates of progress
 - Provide Topographic & Boundary Survey

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- Provide Phase I Environmental Survey
- **Schematic Design**
 - Project Meetings
 - OWNER/ARCHITECT to coordinate meetings for Design Review
 - Provide regular updates of progress
 - Provide Geotechnical Soils Report
 - Sub-Consultant Coordination
 - ARCHITECT to work with MEP, Technology, Structural, Civil, Surveying, Landscape, and Geotechnical engineering and design sub-consultants to develop narratives and design concepts for each discipline.
- **Design Development**
 - Project Meetings
 - OWNER/ARCHITECT to coordinate meetings for Design Review
 - Provide regular updates of progress
 - Sub-Consultant Coordination
 - ARCHITECT to work with MEP, Technology, Structural, Civil, and Landscape and design sub-consultants to develop details for Design Development phase.
 - Proposed Consultants:
 - Civil Engineering: Maverick Engineering
 - Surveying/Platting: Dunaway
 - Landscape/Irrigation: Dunaway
 - Structural Engineering: Matrix Engineering
 - Mechanical Engineering: Emerald Engineering
 - Plumbing Engineering: Emerald Engineering
 - Electrical Engineering: Emerald Engineering
 - Security/Technology Design: Combs Design Group
 - Interior Design: Martinez Architects, LP
- **Construction Documents**
 - Project Meetings
 - OWNER/ARCHITECT to coordinate meetings for Design Review

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- Provide regular updates and progress of construction document completion
- Landscaping and Irrigation
 - Provide Landscape Plan specifying the treatment of all exterior landscaping areas within the limits of the property boundary. Calculations conforming to the requirements of the authority having jurisdiction.
 - Design Irrigation Plan for a fully operational system. System shall be designed to conserve water and limit operational and maintenance costs.
- Topographical Survey
 - If requested to provide by the OWNER, Design Team shall provide a topographical survey in AutoCAD format for the use of engineering and permitting.
- Domestic and Sanitary Utilities
 - Design Team shall provide utility tie-ins within the rights-of-way the extent of the property line of the project site.
 - Coordination with the authorities having jurisdiction for water and wastewater utilities.
- Electrical and Gas Utilities
 - Design Team shall provide utility tie-ins within the rights-of-way along the extent of the property line of the project site.
 - Coordination with the authorities having jurisdiction for electrical and gas utilities.
- Civil Construction Plans
 - Prepare a dimensioned site plan and prepare construction plans for the following:
 - Grading plan to establish finish floor elevations and to establish paving elevations on driveways and parking areas.
 - Identify storm water calculations for the preparation of construction plans for storm sewer design
 - Prepare and issue final signed and sealed construction plans for permitting by Civil Engineer licensed by the State of Texas to Authorities having Jurisdiction.
- Building Structure

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- Design Team shall provide site plan, floor plan, elevations, building section, wall sections, interior elevations, schedules, and details.
- Structural Plans to be provided by a licensed engineer and shall include foundation plans and details, structural components to support all components of building including collateral and lateral loads, dead loads, etc.
- Prepare and issue final signed and sealed construction plans for permitting by Structural Engineer licensed by the State of Texas to Authorities having Jurisdiction.
- Building Systems
 - Design of systems within the facilities including Mechanical, Electrical, Plumbing, Security and Technology systems. Systems shall be coordinated and compatible with existing systems incorporated into city facilities.
 - Prepare and issue final signed and sealed construction plans for permitting by Engineer licensed by the State of Texas to Authorities having Jurisdiction, including Comcheck reports for energy-code compliance.
- Permitting
 - Coordinate ADA/TAS review and inspection of the facility with the State of Texas.
 - Coordinate all permitting submission(s) as required with the Authority having Jurisdiction
 - All Permitting Fees, if required, shall be reimbursed by the OWNER.
- Building Commissioning
 - ARCHITECT will contract to provide building commissioning of HVAC systems.
 - No LEED Green Building scope of services included.
- **Bidding**
 - Coordinate with OWNER for solicitation for Bid Proposals to general contractors.
 - Competitive Sealed Proposal delivery method
 - Respond to Contractor Requests for Information during Bidding and issue Addenda as required.

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- **Construction Administration**
 - Architect participation in all OAC meetings (online or in-person)
 - A/E staff in-person on-site at regular intervals of construction, and not less than once per month.
 - Site Observation visits, in addition to Punch List Inspections:
 - Architect: At Regular intervals during Construction
 - Structural Engineer: (2) total
 - Civil Engineer: (2) total
 - M/E/P Engineer: (4) total
 - Technology Consultant: (2) total
- **Potential Supplemental Services**
 - Platting of Parcel or Amendment to existing Plat
 - Traffic Control Plan and Traffic Signalization
 - Tree Inventory

1.05 Design Fees

Our fee proposal is inclusive of full Architectural and Engineering Services as outlined in Section 1.04 at a fixed fee total of **\$985,000.00**. If Construction Costs increase, without increase in project scope, the fixed fee will remain fixed at the total proposed fee.

- Reimbursable Expenses: Not to exceed \$15,000 and will be invoiced at cost with no mark-up by the ARCHITECT. Anticipated Reimbursement Expenses may include:
 - TDL&R registration and inspection fees
 - Physical models or professional photography requested by the Owner
 - Project websites required for use by owner
 - FedEx, couriers, print-shop reproduction, and other printing costs associated with project presentation
 - Postage, handling, and delivery
 - Permitting Fees (if directed by the OWNER) will be reimbursed directly by the OWNER and not included in the Anticipated Reimbursable Expense

1.06 Invoicing

Invoicing shall be submitted on a monthly basis based on PROJECT progress and by PROJECT milestone. OWNER shall provide approval for ARCHITECT to advance at each milestone.

- Invoicing Schedule:

Programming	5%
Schematic Design	15%
Design Development	15%
Construction Documents	30%
Permitting/Bidding	5%
Construction Administration	25%

EXHIBIT A

As-Builts and Warranty Phase	5%
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- **Hourly Billing Rates:**

Principal	\$250/hr
Project Manager	\$200/hr
Project Architect	\$175/hr
Technical Personnel	\$100/hr
Clerical Personnel	\$75/hr

EXHIBIT B

PAYMENT SCHEDULE

Progress payments for BASIC SERVICES in each phase shall total the following portions of the total Basic Compensation:

PROGRAMMING PHASE (5%)	\$49,250
SCHEMATIC DESIGN PHASE (15%)	\$147,750
DESIGN DEVELOPMENT PHASE (15%)	\$147,750
CONSTRUCTION DOCUMENTS PHASE (30%)	\$295,500
BIDDING PHASE (5%)	\$49,250
CONSTRUCTION PHASE (25%)	\$246,250
<u>AS-BUILTS AND CLOSEOUT PHASE (5%)</u>	<u>\$49,250</u>

BASIC SERVICES TOTAL:	\$985,000
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REIMBURSABLE EXPENSES:	\$15,000
POTENTIAL ADDITIONAL SERVICES:	\$40,000

TOTAL CONTRACT AMOUNT:	\$1,040,000
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EXHIBIT C

DRUG-FREE WORKPLACE ACT CERTIFICATION

1. ARCHITECT certifies that it will provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that unlawfully manufacturing, distributing, dispensing, possessing or using a controlled substance at the PROJECT worksite is prohibited and specifying the actions that will be taken against employees for violation of such prohibition.
 - (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace or at the PROJECT worksite;
 - (2) The ARCHITECT's policy of maintaining a drug-free workplace, including work performed at the PROJECT worksite;
 - (3) Any drug counseling, rehabilitation, and employee assistance programs that are available; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring at the PROJECT worksite.
 - (c) Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a).
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring at the PROJECT worksite no later than five (5) days after such a conviction.
 - (e) Notifying the City of (NAME) within ten (10) days after receiving notice under subparagraph (d)(2), from an employee or otherwise receiving actual notice of such conviction.
 - (f) Taking one of the following actions within thirty (30) days of receiving notice under subparagraph (d)(2) with respect to any employee so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
 - (g) Making a good faith effort to continue to maintain a drug-free PROJECT worksite through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
2. The ARCHITECT's headquarters is located at the following address. The addresses of all other workplaces maintained by the ARCHITECT are provided on an accompanying list.

Firm Name: Martinez Architects, LP
Street Address: 900 Rockmead, Suite 250
City: Kingwood County: Montgomery
State: Texas Zip Code: 77339

SIGNED BY: _____

Print Name & Title: Ricardo Martinez, AIA - Partner

Date Signed: _____

EXHIBIT D

REIMBURSABLE EXPENSES

Reimbursable Expenses are set forth in Exhibit A of this Agreement.

Reimbursable Expenses, other than what is specified in Exhibit A, must be approved by OWNER.

- Texas Department of Licensing and Regulations for Application, Review and Inspection Fees for the PROJECT.
- Permitting Fees (if applicable) paid for by the ARCHITECT on behalf of the OWNER and the PROJECT. This will be a direct reimbursement and not included in the estimated reimbursement expense.

EXHIBIT E

PROJECT TIME SCHEDULE

Upon approval to commence full BASIC SERVICES, the Construction Documents Phase (through the 100% Final Design Submittal) for all components must be completed within 8 Months of the "Notice to Proceed" from the City of Odessa to the ARCHITECT. The Notice to Proceed will be given after the contract has been executed by both the OWNER and ARCHITECT.

The anticipated Bidding Duration schedule is as follows: (4) Four Weeks

The anticipated Construction Phase schedule is as follows:
Construction Duration: (14) Fourteen Months

OWNER and the ARCHITECT may revise this PROJECT time schedule by mutual written agreement.

Architectural , Engineering and Construction administration services for Design-Bid-Build Odessa Fire Station #10

Purpose:

The goal of this proposal for Odessa Fire Department is to select qualified architectural and engineering professionals to design a new fire station that meets current operational needs and supports future growth. Work will include planning, facility design, and preparation of construction documents to deliver a modern, safe, and efficient station for firefighters, staff, and the community.

*Construction is anticipated to begin within approximately 14 months.



RFQ Award Recommendation

- RFQ Number #25-52210-27
- Advertisement Date: December 17, 2025
- Responses Received : 7
- Evaluation Committee: 5 member

Evaluation Criteria

- Project Understanding & Approach
- Design Team Qualifications
- Design Quality & Innovation
- Project Timeline & Schedule
- Project Management & Communication Plan
- References & Past Performance

Evaluation Results

Top-Ranked Firm: Martinez Architects LP

Agreement Information

Basic Service Total \$985,000

Reimbursable expenses \$15,000

Potential Additional Services \$40,000

Not to exceed \$1,040,000.00



CITY COUNCIL MEETING AGENDA

Meeting Date: July 14, 2026
Item Number: 5.2.1
Strategic Plan: N/A
From: Norma Aguilar, City Secretary
Subject: Discuss and consider all City of Odessa commissions and board members including appointment, re-appointment, removing, or modification including the following:

Amy Bell Sports Foundation

- Vacant - Council member Thompson appointment – Term Expires July 31, 2027

Animal Shelter Advisory Committee – Council Appointment

- Another veterinarian can be appointed – Term expires March 31, 2028

Summary

Amy Bell Sports Foundation

- Vacant - Council member Thompson appointment – Term Expires July 31, 2027

Animal Shelter Advisory Committee – Council Appointment

- Another veterinarian can be appointed – Term expires March 31, 2028

Previous Work Session: Yes

Recommendation:

It is recommended that the City Council makes a motion to:

1. Appoint or reappoint members to be on boards