



HORIZON CITY

Incorporated 1988

**AGENDA
PUBLIC MEETING
REGULAR CITY COUNCIL MEETING
THE TOWN OF HORIZON CITY, TEXAS
Tuesday, April 11, 2023, 6:00 PM**

Notice is hereby given that a Regular City Council Meeting of the Town of Horizon City, Texas will be held on **Tuesday, April 11, 2023 at 6:00 PM** at City Council Chambers Room, 15001 Darrington Road, Horizon City, TX 79928, at which time the following will be discussed and considered:

Meeting Video:

<https://horizoncity.webex.com/recordingservice/sites/horizoncity/recording/playback/cc32a3aebaf2103bbb7b005056819107>

Meeting Password: Horizon123!

- 1. **Call to order; Pledge of Allegiance; Establishment of Quorum**
- 2. **Open Forum:**

CONSENT AGENDA

All matters listed under the CONSENT AGENDA are considered routine and will be enacted in one motion. There will be no separate discussion of these items unless a member(s) of the City Council requests one or more items be removed from the CONSENT AGENDA to the REGULAR AGENDA for separate discussion and action prior to the City Council's vote to adopt the CONSENT AGENDA.

- 3. **Approval of Minutes from:** **4**
3/14/23 Regular City Council Meeting.
- 4. **Discussion and Action:** **7**
Mayor/CIP Manager
On an update on the Capital Improvement Program.
- 5. **Request to Excuse Absent Council Members:**
- 6. **Approval of Consent Agenda Items:**
REGULAR AGENDA
- 7. **Presentation:**
Mayor/Robert Campion
On an update from Elite Medical Transport on EMS operations for the quarter ending 3/31/23.
- 8. **Announcement:**
Mayor/Chief Vargas
On a Proclamation declaring April 9 - April 15, 2023 as Public Safety Telecommunicators Week.
- 9. **Presentation:**
Mayor/Chief Vargas
On the promotion of Bryan Avitia to Corporal.
- 10. **Discussion and Action:** **30**
Mayor/Chief Vargas

On a request to authorize the issuance of purchase orders to GT Distributors Inc. (BuyBoard Contract 603-20) for police equipment as listed in attached quote, not to exceed \$100,333.42 and authorizing the Mayor or designee to sign the necessary documents.

11. Discussion and Action: **32**

Mayor/Lt. Ortega

On a resolution that the City Council of the Town of Horizon City approves submitting the GRANT APPLICATION FOR OPERATIONS STONEGARDEN Grant Program OPSG to the Office of the Governor and designates the Mayor as the Authorized Official with the authority to apply for, accept, reject, alter or terminate the grant.

12. Discussion and Action: **34**

Mayor/Lt. Ortega

On a resolution that the City Council of the Town of Horizon City approve submitting the grant application for the Local Border Security Grant Program (LBSP) which operates from 9/1/23 to 8/31/24 and designates the Mayor as the Authorized Official, with the authority to apply for, accept, reject, alter or terminate the grant.

13. Discussion and Action:

Mayor/Finance Director

On the acceptance of findings of Town of Horizon City audit prepared by SBNG, PC for FY 2022.

14. Discussion and Action: **36**

Mayor/Finance Director

On a Resolution authorizing the Mayor to sign the Interlocal Agreement with the City of El Paso for Public Health and Environmental Services for the Town of Horizon City and the HIPAA Business Associate Agreement.

Compensation for these services provided by the City of El Paso will be \$174,467.00 for the FY 2022/2023 Contract. The term of the Agreement is September 1, 2022 through August 31, 2023.

15. Discussion and Action: **74**

Mayor/CIP Manager

On authorizing the Mayor to execute change order #12 to Hawk Construction for a net decrease of \$80,675.45 on Golden Eagle Park and to execute a project closeout agreement.

16. Discussion: **86**

Mayor/Planner

1st Reading of Ordinance No. _____, An Ordinance adopting a zoning change within the municipal limits of the Town of Horizon City, Texas; rezoning one parcel from A-1 (Apartments) to R-2 (Single-Family Dwelling); containing approximately 13.27 acres; being a portion of Section 32, Block 78, Township 3, Texas and Pacific Railroad Surveys, Horizon City, El Paso County, Texas; located North of Horizon Blvd. and east of Rifton Rd.; and authorizing the notation of the change on the official zoning map of the City; providing for the following: findings of fact; repealer; severability; and proper notice and hearing.

17. Announcement:

Mayor

Declaring May 12, 2023 as Town of Horizon City Employee Appreciation Day and an invitation from Mayor Ruben Mendoza to City employees and members of City Council to attend a luncheon he is hosting on Friday May 12, 2023 as a token of appreciation for 8 years of support and friendship during his term.

18. Executive Session

The City Council of the Town of Horizon City reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices,) and 551.086 (Economic Development) and will adjourn into executive session to discuss the following matters:

A. .

Right of way and drainage facility acquisition for the N. Darrington Reconstruction Project and possible use of eminent domain proceedings - Government Code Section 551.071 Consultation with Attorney and 551.072 deliberations about real property.

B. .
TMD DEFENSE AND SPACE, LLC, v. TOWN OF HORIZON CITY, TEXAS, et al - Government Code
Section 551.071 Consultation with Attorney.

If any action is required after Executive Session, it will be taken after Council reconvenes in open session.

Adjournment:

Motion to Adjournment: _____ 2nd _____

Dated this Friday, 4/7/2023

By: _____
Elvia Schuller, City Clerk

I, the undersigned authority, hereby certify that the above notice of the Regular City Council Meeting of the Town of Horizon City, Texas is a correct copy of this notice, and that I posted this notice at least seventy-two (72) hours preceding the scheduled meeting at the City Hall Bulletin Boards of the Town of Horizon City, Texas on this Friday, 4/7/2023 by 5:00 p.m.

Agenda Removed: _____ Time _____ By _____

In compliance with the Americans with Disabilities Act, the Town of Horizon City will provide for reasonable accommodations for persons attending meetings. Requests for auxiliary aids and services must be made 48 hours prior to this meeting by calling the City Clerk at (915) 852-1046.

**MINUTES
AGENDA
PUBLIC MEETING
REGULAR CITY COUNCIL MEETING
THE TOWN OF HORIZON CITY, TEXAS
Tuesday, March 14, 2023, 6:00 PM**

Notice is hereby given that a Regular City Council Meeting of the Town of Horizon City, Texas was held on **Tuesday, March 14, 2023 at 6:00 PM**, at City Council Chambers Room, 15001 Darrington Road, Horizon City, TX 79928, at which time the following was discussed and considered:

1. Call to order; Pledge of Allegiance; Establishment of Quorum

Meeting called to order at 6:00 pm. Alderman Quiroz was absent. Alderman Miller arrived after item #6 was taken. Quorum Established.

2. Open Forum:

No one signed up to speak.

CONSENT AGENDA

All matters listed under the CONSENT AGENDA are considered routine and will be enacted in one motion. There will be no separate discussion of these items unless a member(s) of the City Council requests one or more items be removed from the CONSENT AGENDA to the REGULAR AGENDA for separate discussion and action prior to the City Council's vote to adopt the CONSENT AGENDA.

3. Approval of Minutes from:

2/14/2023 Regular City Council Meeting and 2/21/23 Special City Council Agenda.

4. Discussion and Action:

Mayor/CIP Manager

On an update on the Capital Improvement Program.

5. Request to Excuse Absent Council Members:

6. Approval of Consent Agenda Items:

A motion was made by Alderman Duran and seconded by Alderman Renteria to approve the consent agenda. Alderman Duran amended his motion to include excusing absent Council Members Miller and Quiroz. Alderman Renteria seconded the amended motion. The CITY CLERK polled the Council: MILLER – Not present; QUIROZ – Absent; ORTEGA – Aye; RENTERIA – Aye; DURAN – Aye; PADILLA – Aye; CORRAL – Aye. Motion passed.

REGULAR AGENDA

7. Discussion and Action:

Mayor/Chief Vargas

On the presentation and acceptance of the 2022 annual police report.

Police Chief, Marco Vargas, Asst. Police Chief, Manuel Rico, Communications Mgr, Elva Ramos and Lt. Casey Valdez spoke regarding this item.

A motion was made by Alderwoman Corral and seconded by Alderman Duran to accept the presentation and the 2022 annual police report. The CITY CLERK polled the Council: MILLER – Aye; QUIROZ – Absent; ORTEGA – Aye; RENTERIA – Aye; DURAN – Aye; PADILLA – Aye; CORRAL – Aye. Motion passed.

8. Discussion and Action:

Mayor/Planner

On the partial acceptance of Delake Drive right-of-way improvements and street light improvements on Emigrant Road as constructed with the Horizon Country Club Estates Unit Two Replat "A" subdivision for maintenance and to accept the required maintenance bond.

Planning Director, Michelle Padilla spoke regarding this item.

A motion was made by Alderman Duran and seconded by Alderman Ortega to approve the partial acceptance of Delake Drive right-of-way improvements and street light improvements on Emigrant Road as constructed with the Horizon Country Club Estates Unit Two Replat "A" subdivision for maintenance and to accept the required maintenance bond contingent to Engineer's recommendations. The CITY CLERK polled the Council: MILLER – Aye; QUIROZ – Absent; ORTEGA – Aye; RENTERIA – Aye; DURAN – Aye; PADILLA – Aye; CORRAL – Aye. Motion passed.

9. Discussion and Action:

Mayor/Planner

On the acceptance of the roadway and drainage improvements as constructed with the West Eastlake Estates Unit Two subdivision for maintenance, to accept the required maintenance bond, and approve the Subdivision Construction Agreement for the future permanent drainage improvements.

Planning Director, Michelle Padilla spoke regarding this item.

A motion was made by Alderman Padilla and seconded by Alderman Renteria to accept the roadway and drainage improvements as constructed with the West Eastlake Estates Unit Two subdivision for maintenance, to accept the required maintenance bond, and approve the Subdivision Construction Agreement for the future permanent drainage improvements. The CITY CLERK polled the Council: MILLER – Aye; QUIROZ – Absent; ORTEGA – Aye; RENTERIA – Aye; DURAN – Aye; PADILLA – Aye; CORRAL – Aye. Motion passed.

10. Discussion and Action:

Mayor/CIP Manager

Regarding a Resolution authorizing the Mayor to sign the First Amendment to the Interlocal Agreement between the Town of Horizon City and the Camino Real Regional Mobility Authority for the Darrington Road Improvement Project dated August 9, 2022.

CIP Manager, Terry Quezada spoke regarding this item.

A motion was made by Alderman Padilla and seconded by Alderman Duran to approve the Resolution authorizing the Mayor to sign the First Amendment to the Interlocal Agreement between the Town of Horizon City and the Camino Real Regional Mobility Authority for the Darrington Road Improvement Project dated August 9, 2022. The CITY CLERK polled the Council: MILLER – Aye; QUIROZ – Absent; ORTEGA – Aye; RENTERIA – Aye; DURAN – Aye; PADILLA – Aye; CORRAL – Aye. Motion passed.

11. Discussion and Action:

Mayor/CIP Manager

On a Resolution declaring expectation to reimburse expenditures with proceeds of future debt.

CIP Manager, Terry Quezada spoke regarding this item.

A motion was made by Alderman Duran and seconded by Alderman Miller to approve the Resolution declaring expectation to reimburse expenditures with proceeds of future debt. The CITY CLERK polled the Council: MILLER – Aye; QUIROZ – Absent; ORTEGA – Aye; RENTERIA – Aye; DURAN – Aye; PADILLA – Aye; CORRAL – Aye. Motion passed.

12. **Discussion and Action:**

Mayor/CIP Manager

Regarding a Resolution ratifying the action taken by council on February 14, 2023 authorizing the Mayor to sign an Amendment to the Advance Funding Agreement for N. Darrington Reconstruction and to correct the CSJ Number to 0924-06-597.

CIP Manager, Terry Quezada spoke regarding this item.

A motion was made by Alderman Duran and seconded by Alderman Miller to approve the Resolution ratifying the action taken by council on February 14, 2023 authorizing the Mayor to sign an Amendment to the Advance Funding Agreement for N. Darrington Reconstruction and to correct the CSJ Number to 0924-06-597. The CITY CLERK polled the Council: MILLER – Aye; QUIROZ – Absent; ORTEGA – Aye; RENTERIA – Aye; DURAN – Aye; PADILLA – Aye; CORRAL – Aye. Motion passed.

13. **Executive Session**

The City Council of the Town of Horizon City reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices,) and 551.086 (Economic Development).

ADJOURNMENT

A motion was made by Alderman Duran and seconded by Alderman Miller to adjourn at 7:19 PM.

Approved this ____ day of _____, 20__.

Attest:

Elvia Schuller, City Clerk

Ruben Mendoza, Mayor

Town of Horizon City Capital Improvement Program

April 11, 2023
Council Meeting

Oxbow & Pawling Street Improvements

- Preparing contract documents
- Construction start in early 2023

Municipal Facilities – Phase 1

- Part of FY 2023 CIP and Certificate of Obligation Issuance
- Preparing to advertise in late spring 2023
- Construction Award scheduled for summer 2023

Municipal Facilities – Phase 1



Rendering from Exigo Architecture – December 2020

Golden Eagle Park

Final change order on today's agenda for Council's consideration.

Regional Park

- Preparing to appraise proposed park site
- Design for regional recreation facility is proposed as part of 2023 Certificate of Obligation Issuance

Street Maintenance Fund

2022-2023 Street Maintenance Program

- City staff evaluating scope and estimates to determine final scope of work
- Design and bid preparation during spring 2023
- Construction mid-2023

Federally- & State-Funded Project Updates

N. Darrington Reconstruction

- Project scheduled for construction award in **FY 2023**
- Town staff continues working with TXDOT and design team to develop project
- Town staff and TXDOT working on Utility Coordination
 - HRMUD facilities are part of joint bid with N. Darrington construction
 - HRMUD will relocate their facilities along Horizon Blvd. in anticipation of TXDOT contractor
 - Texas Gas Service expected to request reimbursement for their relocations on N. Darrington per franchise agreement
 - Project requires encroachment on Texas Gas Service easement – Town staff and legal team finalizing agreement

N. Darrington Reconstruction

- Planning public meeting with TXDOT to update residents on project
- TXDOT planning to construct Horizon/Darrington intersection and N. Darrington Rd. Reconstruction concurrently
- Pending Council consideration:
 - Temporary speed reduction on N. Darrington Rd. during construction
 - Encroachment agreement with Texas Gas Service
 - Reimbursement agreement for facility relocations with Texas Gas Service

N. Darrington Reconstruction – ROW Acquisition

- Offer letters sent to most property owners
- Negotiations ongoing with 11 property owners for acquisitions
- Negotiations ongoing with 2 property owners for temporary construction easements
- Team continues to work on title issues and out-of-country property owners

Safety Projects

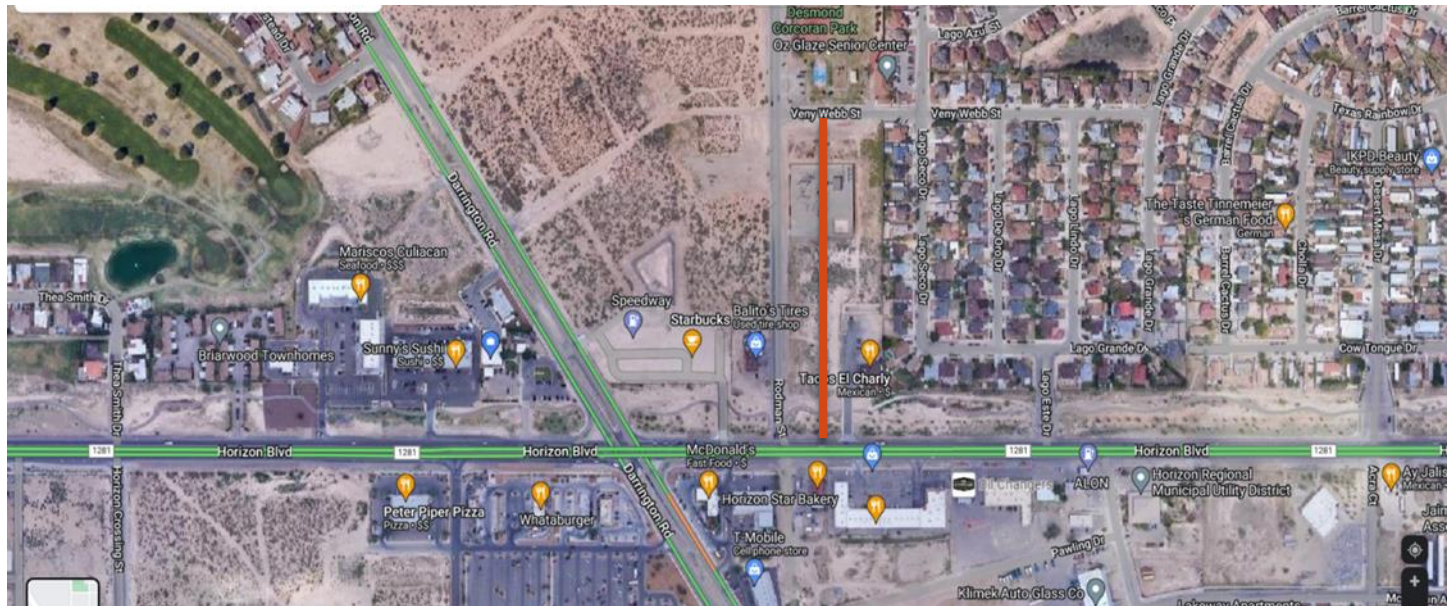
- **S. Darrington Safety Lighting** from Alberton to LTV Rd. – FY 2023 - project awarded March 2023
- Project start – mid-2023
- **N. Kenazo Safety Lighting** from Eastlake to Horizon Blvd. – FY 2022
- Project start – April 2023

Delays in project starts are due to long lead times for lighting fixture poles.

Transportation Alternative Set-Aside (TASA)

- Rodman multi-use path from Horizon Blvd. to Veny Webb approved for TASA funding by the Transportation Policy Board.
- Proposing to enter into Interlocal Agreement with CRRMA for project design and construction

Rodman Multi-Use Path



Funding Updates

2023 Certificates of Obligation

- Workshop with Hilltop Securities, the City's financial advisor, scheduled for May 9, 2023, Council Meeting

Town of Horizon City Preliminary Listing

FY 2023 - 2026 Priority Capital Projects

Updated: January 19, 2023

Project Category/Project	Totals	FY 2023 Issuance	Future Issuance
Street and Infrastructure Projects			
N. Darrington Reconstruction Gap	\$ 2,000,000	\$ 2,000,000	\$ -
Match for TXDOT Projects	\$ 3,000,000	\$ 2,000,000	\$ 1,000,000
Street and Drainage projects	\$ 3,250,000	\$ 1,500,000	\$ 1,750,000
Total Street and Infrastructure	\$ 8,250,000	\$ 5,500,000	\$ 2,750,000
Regional Recreation Facility	\$ 22,000,000	\$ 2,500,000	\$ 19,500,000
ADA Implementation	\$ 5,000,000	\$ 2,500,000	\$ 2,500,000
Municipal Facilities - Phase 1	\$ 15,000,000	\$ 15,000,000	\$ -
Totals	\$ 50,250,000	\$ 25,500,000	\$ 24,750,000

TIRZ/TOD Update

TOD Updates

Removing Barriers Grant

- Submitted grant application to conduct housing supply and planning and zoning study in TOD area in October 2022. Horizon City's proposal was not funded.

Dilley, Delake and Transit Plaza

- Funding will be made available through HUD and Economic Development
- Staff is reviewing funding agreement and will be working with grant specialist assigned by HUD
- Staff is developing scope of work for transit plaza location as a pre-design activity

TIRZ Participation Agreements

HRMUD

- Initial discussions - July 6, 2022, HRMUD Board meeting
- Working with HRMUD legal counsel and engineering consultant

Town of Horizon City Capital Improvement Program

April 11, 2023
Council Meeting

Interoffice Memorandum



TO: Chief M. Vargas
FROM: Off. E. Delgadillo #190
RE: Assault III VP Shields
DATE: 03/17/2023

Good Evening Sir,

I'm requesting to make the following Purchase Order from GT Distributors Inc. The following items we are requesting from GT Distributors under quote # QTE0170085 (18) Assault III VP, (18) Protech Fox Furry LED shield Light, (18) Protech Shield Carry Bag Large and (18) Protech Shield Hood Large. Quote # QTE0170085 from GT Distributors reflects BuyBoard Contract 603-20, contract period 04/01/22-03/31/2023. This equipment will be paid by Horizon City, and it will be reimbursed by the State of Texas Bullet-Resistant Shield Grant Program that was approved on 03/14/2023.

The total amount for this items will be \$100,333.42.

Sincerely,

Officer E. Delgadillo #190



GT Distributors - Austin
 1124 New Meister Ln., Ste 100
 Pflugerville TX 78660
 (512) 451-8298 Ext. 0000

Quote	QTE0170085
Date	3/16/2023
Page:	1

Bill To:

Ship To:

Horizon City, Town of (TX)
 Attn: Accts Payable
 14999 Darrington Rd
 Horizon City TX 79928

Horizon City Police Dept (TX)
 14999 Darrington Rd
 Horizon City TX 79928

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
230316 SHIELD QUOT	007701	CH		NET 15	0/0/0000	2,727,752

Quantity	Item Number	Description	UOM	Unit Price	Ext. Price
18	PTA-1354910*	Assault III VP™ 20X36 Foxfury B70 Integrated I	EA	\$4,833.05	\$86,994.90
18	PTA-1186181*	Protech FoxFurry LED Shield Light	EA	\$535.71	\$9,642.78
18	PTA-1002758*	Protech Shield Carry Bag Large, 48"	EA	\$108.97	\$1,961.46
18	PTA-1156828*	Protech Shield Hood Large 18X27	EA	\$82.46	\$1,484.28
1	NOTE		Each	\$0.00	\$0.00
Quotation reflects BuyBoard Contract 603-20. Contract period 04/01/22-03/31/23. Email BuyBoard PO's to info@buyboard.com					

**QUOTE IS GOOD FOR 30 DAYS. IN ORDER TO RECEIVE QUOTED PRICE
 PLEASE PRESENT A COPY OF QUOTE AT POINT OF SALE IN STORES OR
 REFERENCE QUOTE NUMBER ON PO OR REQUISITION**

Your salesperson is Craig Hancock.
 Eric Delgadillo <edegadillo@horizoncity.org>
 Thank you for your business!

Subtotal	\$100,083.42
Misc	\$0.00
Tax	\$0.00
Freight	\$250.00
Total	\$100,333.42



MEMO

TO: Mayor Ruben Mendoza and City Council
CC: Marco Vargas Chief Of Police
FROM: Jesus Ortega Patrol Lieutenant
RE: FY 2021 Operation StoneGarden OPSG Program Grant Resolution
DATE: April 6, 2023

Background

Each year, we are presented with the opportunity to participate in the Operation StoneGarden (OPSG) grant program. This grant reimburses the police department for personnel costs and fringe benefits. The program is designed to enhance border security, cooperation, and coordination between federal, state, and local law enforcement agencies.

Request

We present this request to the City Council to approve the 2022 (OPSG) Operation Stone Garden resolution 3007408. For this grant, there are no matching funds required. If we are allowed to participate, we are scheduled to receive \$59,113 in reimbursements.

Recommendation

Discussion and Action: On a recommendation, the City Council authorizes the Mayor to sign the 2019 Operation StoneGarden Grant resolution. (Mayor/Lieutenant Jesus Ortega)

RESOLUTION

**OFFICE OF THE GOVERNOR, HOMELAND SECURITY GRANTS DIVISION
HS-HOMELAND SECURITY GRANT PROGRAM (HSGP) 2022 (3007408)**

WHEREAS, the Town of Horizon City finds that this grant will enhance the capability to detect, prevent, and deter terrorists, weapons of mass effect, transnational gangs, smuggling of contraband, and human trafficking, and

WHEREAS, the Town of Horizon City finds it in the best interest of the citizens of the Town of Horizon City to submit the grant application for the Homeland Security Grant Program (HSGP) project to the Office of the Governor, Homeland Security Grants Division, and

WHEREAS, The Town of Horizon City acknowledges that the Office of the Governor, Homeland Security Grants Division does NOT require matching funds or an in-kind match; and

WHEREAS, The Town of Horizon City agrees that in the event of loss or misuse of the Office of the Governor, Homeland Security Grants Division funds, the Town of Horizon City assures that the funds will be paid back in full; and

WHEREAS, The Town of Horizon City agrees that the existence of an award will not be used to offset or decrease total salaries, expenses and allowances that the city receives or provides to its Police Department at or after the grant is awarded; and

WHEREAS, The Town of Horizon City designates the Mayor as the Authorized Official, and the Authorized Official is given the power to apply for, accept, reject, alter or terminate the grant.

NOW THEREFORE, BE IT RESOLVED that the Town of Horizon City, Council has approved submission of the grant application for the Homeland Security Grant Program (HSGP).

Adopted on the 11th day of April 2023.

Ruben Mendoza
Mayor
Horizon City, Texas

ATTEST:

Elvia Schuler
City Clerk
Horizon City, Texas



MEMO

TO: Mayor Ruben Mendoza and City Council
CC: Marco Vargas Chief of Police
FROM: Jesus Ortega Patrol Lieutenant
RE: FY 2023 Local Border Security Program Grant Resolution
DATE: April 6, 2023

Background

Each year, we are presented with the opportunity to participate in the Local Border Security grant program. This grant reimburses the police department for personnel costs and fringe benefits. The program is designed to enhance border security, cooperation, and coordination between federal, state, and local law enforcement agencies.

Request

We present this request for the City Council to approve the 2023 (LBSP) Local Border Security resolution. For this grant, there are no matching funds required. If we are allowed to participate, we have applied to receive up to \$95,000.00 in reimbursements.

Recommendation

Discussion and Action: On a recommendation the City Council authorize the Mayor to sign the 2023 Local Border Security Grant resolution **2999509**. (Mayor/Lieutenant Jesus Ortega)

RESOLUTION

OFFICE OF THE GOVERNOR, HOMELAND SECURITY GRANTS DIVISION

OPERATION BORDER SECURITY (LBSP) 2023 (GRANT 2999509)

WHEREAS, the Town of Horizon City finds that this grant will enhance the capability to detect, prevent, and deter terrorists, weapons of mass effect, transnational gangs, smuggling of contraband, and trafficking, and

WHEREAS, the Town of Horizon City finds it in the best interest of the citizens of the Town of Horizon City to submit the grant application for the FY 2023 Local Border Security (LBSP) project to the Office of the Governor, Homeland Security Grants Division, and

WHEREAS, The Town of Horizon City acknowledges that the Office of the Governor, Operation Border Security Grants Division does NOT require matching funds or an in-kind match; and

WHEREAS, The Town of Horizon City agrees that in the event of loss or misuse of the Office of the Governor, Operation Border Security Grants Division funds, the Town of Horizon City assures that the funds will be paid back in full; and

WHEREAS, The Town of Horizon City agrees that the existence of an award will not be used to offset or decrease total salaries, expenses and allowances that the city receives or provides to its Police Department at or after the grant is awarded; and

WHEREAS, The Town of Horizon City designates the Mayor as the Authorized Official, and the Authorized Official is given the power to apply for, accept, reject, alter or terminate the grant.

NOW THEREFORE, BE IT RESOLVED that the Town of Horizon City, Council has approved submission of the grant application for the Local Border Security Grant Program (LBSP) the operates from 09/01/2023 to 08/31/2024.

Adopted on this 11th day of April 2023.

Ruben Mendoza

Mayor

Horizon City, Texas

ATTEST:

Elvia Schuler

City Clerk

Horizon City, Texas

RESOLUTION

That the Mayor be authorized to sign the Interlocal Agreement between the City of El Paso (“El Paso”) and the Town of Horizon City (“Horizon”) in order for El Paso to provide public health services to Horizon for FY 2023 and to serve as Horizon’s health authority; and

That Horizon will pay an amount not to exceed \$174,467.00 to El Paso in quarterly installments of \$43, 616.75 each; and

That the Mayor also be authorized to sign the HIPAA Business Associate Agreement attached to the Interlocal Agreement as Appendix C.

PASSED AND APPROVED the 11th day of April, 2023.

Town of Horizon City

By: _____
Ruben Mendoza, Mayor

ATTEST:

By: _____
Elvia Schuller, City Clerk

APPROVED AS TO FORM:

By: _____
Sylvia Borunda Firth
Assistant City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO)

INTERLOCAL AGREEMENT

THIS AGREEMENT is entered into on the last listed approved date below between the CITY OF EL PASO, TEXAS (“City of El Paso”) and the Town of Horizon City, TEXAS (“Town of Horizon City”) by and through its duly authorized officials, pursuant to the Interlocal Cooperation Act.

RECITALS

WHEREAS, the City of El Paso and Town of Horizon City are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Chapter 791, Texas Government Code; and

WHEREAS, the City of El Paso has a Department of Public Health; and

WHEREAS, this Agreement for interlocal cooperation for the City of El Paso to provide certain public health services to Town of Horizon City is necessary for the mutual advancement of the health and general welfare of the citizens of all jurisdictions concerned; and

WHEREAS, Town of Horizon City desires to have the City of El Paso’s appointed health authority serve as Town of Horizon City ’s health authority; and

WHEREAS, Town of Horizon City will make available and/or transfer to the City of El Paso certain information, in conjunction with goods or services that are being provided by the City of El Paso to Town of Horizon City, which is confidential and must be afforded special treatment and protection; and

WHEREAS, the City of El Paso will also have access to and/or receive from Town of Horizon City certain information that can be used or disclosed only in accordance with this Agreement, the Texas Medical Records Privacy Act and the HHS Privacy Regulations; and

WHEREAS, the City of El Paso will include Town of Horizon City in public health research projects, to examine health conditions in Town of Horizon City, when funded by the State of Texas or the federal government and when research protocols are indicated for areas beyond the urban borders of the City of El Paso.

FOR THESE REASONS, and in consideration of the mutual promises contained in this Agreement, Town of Horizon City and the City of El Paso mutually agree as follows:

1. **SCOPE OF SERVICES.**

1.1 The City of El Paso shall perform the following public health related services by and through its Department of Public Health under the terms and conditions hereinafter stated, and Town of Horizon City hereby accepts and agrees to the following terms and conditions:

1.1.1 The City of El Paso will issue permits and provide inspection services of food establishments at a frequency and in accordance with recommended protocols as established by the Texas Department of State Health Services (DSHS). The City will provide enforcement of applicable State laws and regulations as appropriate to help reduce the risk of food borne illnesses in said establishments. Appropriate and customary fees will be charged to the establishments, as permitted by law.

1.1.1.1 The City will provide food handler and food manager training in accordance with the Texas Food Establishment Rules found at 25 TAC 228.

1.1.2 The City of El Paso will provide public health related complaint investigation/enforcement services as determined to be appropriate by City of El Paso staff for those conditions that violate the Texas Health and Safety Code and applicable Town of Horizon City ordinances.

1.1.3 The City of El Paso will provide communicable disease investigation services for the purpose of tracking communicable diseases and helping to reduce transmission in accordance with appropriate epidemiological intervention. Services will be provided in a manner and at a frequency that is consistent with standard public health practices.

1.1.4 The City of El Paso will provide immunization services to residents of Town of Horizon City to include but not be limited to adult, adolescent and childhood immunizations as recommended by the Texas DSHS. Appropriate and customary fees will be charged to those receiving these services.

- 1.1.5 The City of El Paso will provide tuberculosis and sexually transmitted disease control services to residents of Town of Horizon City. Services may include testing, treatment and investigation of contacts, as appropriate. Appropriate and customary fees will be charged to those receiving these services.
- 1.1.6 The City of El Paso will provide Women, Infants and Children (WIC) Nutrition services to residents of Town of Horizon City in accordance with Texas DSHS requirements. Services may include medical health assessment, nutrition, breast-feeding promotion, social service referral, and food benefit issuances, as appropriate.
- 1.1.7 The City will provide pediatric dental services to residents living in Town of Horizon City in accordance with Texas Title V requirements and in accordance with Texas Medicaid waiver guidelines. Services may be provided in the Department of Public Health's licensed dental facility in the City of El Paso or by use of the City of El Paso's Mobile Dental clinic beyond the City limits.
- 1.1.8 The City of El Paso will provide informational programs including but not limited to injury prevention, asthma, diabetes, abstinence, maturation/puberty, and tobacco use prevention. These services are generally provided to Town of Horizon City's residents at local school facilities through the City of El Paso's Health Education Program.
- 1.1.9 The City of El Paso will provide Family Planning Services to qualified individuals in accordance with US Health and Human Services/Office of Population Affairs Title X, which encompasses reproductive and sexual wellness education; infertility counseling; basic wellness checks; breast exam, annual pelvic exam, Pap smear, and pregnancy testing for women; hormonal and barrier birth control methods; testing and treatment for Sexually Transmitted Infections (STIs); HIV testing and linkage to care, referral to vasectomy services for men; Pre-Exposure Prophylaxis (PrEP) HIV prevention; Hepatitis C (HCV) testing and linkage to care; referral to primary care and diagnostics; and patient navigation/social services. These clinical and social services are provided through a sliding fee scale at the

City of El Paso Department of Public Health Main Campus. Services will not be denied based on the client's inability to pay.

1.1.10 The City of El Paso will provide Family Planning community health education in accordance with US Health and Humans Services/Office of Population Affairs Title X, which encompasses, but not limited to, human anatomy, reproductive health, birth control, prevention and treatment of STIs, effective communication and coercion avoidance for adults and youth. Family Planning community health education may be provided at various pre-determined safe community locations upon request.

1.2 The City of El Paso shall perform the following environmental services by and through its Department of Environmental Services under the terms and conditions hereinafter stated, and Town of Horizon City hereby accepts and agrees to the following terms and conditions:

1.2.1 The City of El Paso **will not** provide mosquito control services to Town of Horizon for vector services such as provide mosquito services, including but not limited to, collecting and identifying mosquito species, larviciding, adulticiding, providing enforcement of violations that create mosquito harborage as appropriate, tracking of vector-borne disease, and educating the public regarding disease prevention strategies.

1.2.2 The City of El Paso will include the jurisdictional areas of Town of Horizon City within its programs and services for the purpose of the enhancement of the air quality, to include but not be limited to, routine ambient air monitoring, analysis of gasoline samples to ensure compliance with oxygen content, and investigation and enforcement of air related nuisances and other requirements as set forth by the Texas Commission on Environmental Quality and/or the United States Environmental Protection Agency as appropriate.

1.3 The City of El Paso agrees that in accordance with the provisions of any and all grants from federal and state agencies that are awarded on a county-wide basis, the City of

El Paso will provide services in the jurisdictional areas of the Town of Horizon City as required under these grant provisions. Provided, however, nothing in this Agreement shall obligate the City of El Paso to perform services if the grant funds relating to a particular grant are not currently being paid to the City of El Paso, and, in any such instances, the Director of the City of El Paso's Department of Public Health shall give written notice to Town of Horizon City that the City of El Paso is not providing the particular services for the reason that it has not received funding under the applicable grant. The City of El Paso will provide written notice to Town of Horizon City of grant funding which becomes discontinued or terminated, and any election by the City of El Paso not to seek the renewal of grants existing at the effective date of this Agreement.

- 1.4 To the extent allowed by law, Town of Horizon City agrees to pass all ordinances and resolutions necessary to give the City of El Paso and City of El Paso personnel jurisdiction to provide public health and environmental service functions in Town of Horizon City pursuant to the terms of this Agreement, including its extraterritorial jurisdiction, if any, where the providing of public health and other services is authorized by law, and including the power to issue citations for violations of any ordinances pertaining to the protection of the public health and that pertain to services the City of El Paso agrees to render in accordance with the terms of this Agreement.
- 1.5 The City of El Paso agrees that it will file citations, complaints and violations occurring within the territorial limits of Town of Horizon City through Town of Horizon City Municipal Court. It is agreed that the appropriate personnel from the City of El Paso will be administratively directed to be present at such times as court sessions are set and cases involving the City of El Paso are on the court's docket, without the necessity for the issuance of a subpoena. Town of Horizon City Municipal Court will provide reasonable notice of any case settings to the City of El Paso.
- 1.6 The City of El Paso will provide necessary training for employees utilized in providing services under this Agreement, as may be required by law or determined to be appropriate by the City of El Paso, and shall require all such personnel to maintain all required licenses and certifications in accordance with State and Federal laws.

- 1.7 Nothing within the terms of this Agreement shall require the City of El Paso to purchase additional equipment or hire additional personnel in order to comply with the terms of this Agreement.
- 1.8 The City of El Paso agrees that it will keep accurate records of all services provided to Town of Horizon City pursuant to this Agreement as part of its routine data collection processes and shall report such activities in its standardized records format to Town of Horizon City officials, as requested. However, the City of El Paso will not be required to furnish copies of any reports that are maintained on the City’s website and available to Town of Horizon City from the website.
- 1.9 On or before July 31, 2023, the City of El Paso shall provide to Town of Horizon City an initial projection based on the City Manager’s filed proposed budget of Town of Horizon City’s potential costs for a new Interlocal Agreement that, if agreed upon, would be effective September 1, 2023. The provision of this initial projection of potential costs will be used solely for the purposes of facilitating the budgeting process for the Town of Horizon City for its FY2024 budget.
- 1.10 It is understood and agreed to between the parties that any portion of this Agreement providing for the delivery of public health services for which Town of Horizon City does not grant legal authority shall be null and void and of no force and effect, and the City of El Paso shall not be obligated to provide those services.

2. **LOCATION OF PERFORMANCE.** The place where most services are to be performed is in Town of Horizon City, Texas, and any extraterritorial jurisdiction thereof where the City of El Paso may lawfully provide public health and environmental services as delegated and authorized under this Interlocal Agreement (jurisdictional areas of Town of Horizon City). Certain health services involving medical testing, treatment and laboratory analysis shall be performed at City Department of Public Health locations within the City of El Paso.

3. **APPOINTMENT OF HEALTH AUTHORITY.** The Parties agree that the individual appointed to serve as health authority for the City of El Paso will serve as the health authority for Town of Horizon City, in accordance with Section 121.028(c), Texas Health and Safety Code.

4. **TIMES OF PERFORMANCE.** The City of El Paso shall commence the provision of its services on the 1st day of September 2022, and shall terminate on the 31st day of August 2023, regardless of the date of execution of this Agreement.

4.1 In the event of a public health, such as, but not limited to, a disaster declaration of Town of Horizon City, requiring, as a result of the emergency, specific health services from the City of El Paso after August 31, 2022, and prior to the signing of a subsequent Interlocal for health services between the parties to this Agreement, the required services shall be provided by the City of El Paso to Town of Horizon City at the rate described in the present Agreement, and Town of Horizon City shall pay for said services at said rate within thirty (30) days of receipt of an invoice from the City of El Paso for said services.

5. **COMPENSATION.**

5.1 The Town of Horizon City agrees to pay the amount not to exceed ONE HUNDRED SEVENTY FOUR THOUSAND FOUR HUNDRED SIXTY SEVEN DOLLARS AND NO/100 (\$174,467.00) for services rendered in accordance with this Agreement, excluding the services described in Section 4.1. Payments shall be made in equal quarterly installments, each in the amount of FORTY THREE THOUSAND SIX HUNDRED SIXTEEN DOLLARS AND 75/100 (\$43,616.75) with the first payment becoming due and payable on the 1st day of September 2022 or within 10 days after the date that Town of Horizon City signs this Agreement, whichever is later. The quarterly installment described in this Section 5.1 does not include the services described in Section 4.1. The Cost Model attached hereto as Appendix A and Appendix B identifies the total cost of services offered by the City of El Paso to Town of Horizon City pursuant to this Agreement.

5.2 The Parties acknowledge that the funds paid by the Town of Horizon City pursuant to Section 5.1 above may not be sufficient in the event of an unexpected occurrence such as an outbreak, epidemic (i.e. Zika, cholera), or intervention of emerging or new diseases or public health threats (chemical or biological) in the jurisdictional areas of Town of Horizon City. The Town of Horizon City shall name a person to serve as a point of contact to discuss these types of threats, their intervention, and any additional costs that the Town of Horizon City will need to pay to defray the resulting expenses. Such contact person shall be designated and disclosed to the Director of the Department of Public Health and the Director of Environmental Services as of the signing of this Agreement, as applicable.

6. **PAYMENTS PURSUANT TO THIS AGREEMENT.** Payments submitted under this Agreement shall be made payable to the City of El Paso, Attn: Comptroller, PO Box 1890, El Paso, TX 79950-1890. In addition to the compensation provided for herein, the City of El Paso shall receive all proceeds received from inspection and permit fees collected in the Town of Horizon City. Such fees, when set or revised by Town of Horizon City and to the extent allowed by law, shall be set in the same amounts as the fees for the identical services or charges as made by the City of El Paso. All fees that Town of Horizon City collects for this purpose shall be paid to the City of El Paso on a quarterly basis, within 30 days of the conclusion of the quarter. Town of Horizon City shall also provide the City of El Paso with a report indicating the amount of fees collected and the time period associated with such collection. In event that Town of Horizon City accrues an arrearage on payment, the City of El Paso Comptroller or any collection agency retained by the City to collect delinquent accounts may add a collection fee of 21% to the account receivable if owing to the City for more than 60 days, pursuant to the El Paso City Code, Ordinance 14700.

7. **LAW GOVERNING CONTRACT.** The governing law for this Agreement shall be the laws of the State of Texas. The venue shall be in El Paso County, Texas.

7.1 *Authority of the City of El Paso.* Town of Horizon City expressly agrees that the City of El Paso shall have authority to enforce all laws and ordinances applicable to those public health and environmental services covered in this agreement, within the incorporated city limits and extraterritorial jurisdiction of Town of Horizon City, Texas. Town of Horizon City further agrees that, in the absence of any conflicting city ordinance, the City of El Paso shall have authority to enforce the laws of the State of Texas and the County of El Paso applicable to those public health and environmental services covered in this agreement, within the incorporated city limits and extraterritorial jurisdiction of Town of Horizon City, Texas. Town of Horizon City shall provide certified copies of all Town of Horizon City, Texas Ordinances affecting public health and environmental regulation upon execution of this Agreement and as requested by the City of El Paso, and to provide copies of all such newly adopted or amended ordinance within 10 days after adoption or amendment. Copies of such ordinances shall be sent to the Director of the City of El Paso Department of Public Health and to the Director of the City of El Paso Department of Environmental Services, as applicable.

7.2 *Privileges and Immunities.* All privileges and immunities from liability, exemptions from laws, ordinances and rules, pension, relief, disability, worker's compensation,

and other benefits which apply to the activities of officers, agents, or employees of the City of El Paso when performing a function shall apply to such officers, agents, or employees to the same extent while engaged in the performance of any of their functions and duties under the terms and provisions of this Agreement. Each party reserves, and does not waive, its rights of sovereign immunity and rights under the Texas Tort Claims Act.

7.3 *Governmental Function.* The Parties expressly agree that, in all things relating to this Agreement, the City of El Paso is performing a governmental function, as defined by the Texas Tort Claims Act. The Parties further expressly agree that every act or omission of the City of El Paso, which, in any way, pertains to or arises out of this Agreement falls within the definition of governmental function.

7.4 *Exclusion of Incidental and Consequential Damages.* Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE PARTY'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND including lost profits, loss of business, or other economic damage, and further including injury to property, mental anguish and emotional distress AS A RESULT OF BREACH OF ANY TERM OF THIS AGREEMENT, REGARDLESS OF WHETHER THE CITY WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.

7.5 *Intentional Risk Allocation.* Each of the Parties acknowledges that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions associated with this Agreement. The disclaimers and limitations in this Agreement are intended to limit the circumstances of liability. The remedy limitations, and the limitations of liability, are separately intended to limit the forms of relief available to the Parties.

8. **HHS PRIVACY REGULATIONS.** The Health Insurance Portability and Accountability Act (HIPAA) *Standards for Privacy of Individually Identifiable Health Information* (Privacy

Rule). See 45 CFR Part 160 and Subparts A and E of Part 164, requires that the City of El Paso offer assurances to Town of Horizon City that the City of El Paso will safeguard any protected health information received or created on behalf of Town of Horizon City. Pursuant to this requirement, the parties further agree to the terms and conditions of the standard HIPAA Business Associate Agreement set forth in Appendix C and incorporated herein as if fully set forth.

Town of Horizon City continues its authorization for the City of El Paso to possess and maintain any protected health information received or created on behalf of Town of Horizon City and previously possessed or maintained by the El Paso City-County Health and Environmental District, in accordance with the terms of the standard Business Associate Agreement set forth in Appendix C.

9. **TERMINATION.** This Agreement may be terminated in whole or in part by either party upon sixty days written notice to the other party at the following addresses, or at a new address as provided in writing to the nonmoving party by a party which has moved its physical location within thirty (30) days of said relocation without the necessity of amending this contract:

CITY OF EL PASO: City of El Paso
Attn: City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

Town of Horizon City: Town of Horizon City
Attn: Mayor
14999 Darrington Road
Horizon, Texas 79928

All payments by Town of Horizon City under this Agreement are payable only out of current Town of Horizon City revenues. In the event that funds relating to this Agreement do not become available, such as by Town of Horizon City City Council not appropriating the funds, Town of Horizon City shall have no future obligation to pay or perform any future services related herein to the City of El Paso for Town of Horizon City's fiscal year during which time such funding is not available or appropriated; however, all services that have been provided by the City of El Paso shall be paid in accordance with Sections 5 and 6 of this Agreement. Should Town of Horizon City experience a funding unavailability related to the services described in this Agreement, Town of Horizon City shall immediately provide written notification to the City of El Paso of such case and either party may

choose to terminate the Agreement subject to this Section 9. In the event that Town of Horizon City notifies the City of El Paso that Town of Horizon City is experiencing a funding unavailability related to this Agreement, the City of El Paso shall immediately cease providing the services described in this Agreement to Town of Horizon City except as required by related grant funding requirements to which the City of El Paso must adhere.

10. **INDEPENDENT CONTRACTORS.** The City of El Paso and Town of Horizon City are independent legal entities. Except to the extent required by section 437.009 of the Health and Safety Code, nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither the City of El Paso nor Town of Horizon City nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.

13. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

14. **HEADINGS.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

15. **ENTIRE AGREEMENT; AMENDMENTS.** This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and no amendment, modification or alteration of the terms shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto. The parties reserve the right to amend this Agreement in the event either party should experience an unforeseen, significant impact to their respective budget allocated for the services addressed in this Agreement.

(Signature pages follow)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

INTERLOCAL AGREEMENT

Signature page for the City of El Paso, Interlocal Agreement between the City of El Paso and Town of Horizon City.

APPROVED this _____ day of _____, 2023.

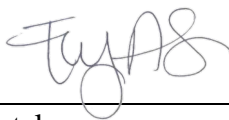
CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Evy A. Sotelo
Assistant City Attorney

APPROVED AS TO CONTENT:



Hector Ocaranza, M.D.
Interim Director, Department of Public Health



Joyce Garcia
Assistant City Attorney



Nicholas Ybarra, P.E.,
Managing Director
Environmental Services Department

(Signatures continue on the following page)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

INTERLOCAL AGREEMENT

Signature page for Town of Horizon City, Interlocal Agreement between the City of El Paso and Town of Horizon City.

APPROVED this _____ day of _____, 202__.

TOWN OF HORIZON CITY

Mayor
Printed Name: _____

ATTEST:

APPROVED AS TO FORM:

Printed Name: _____
City Clerk, Town of Horizon City

Printed Name: _____
Attorney, Town of Horizon City

City of El Paso, Texas
Summary Results- For Direct Departments
Based on 2023 Preliminary Budgeted Expenditures

FY23-EXCLUDES HORIZON	El Paso	Anthony	Clint	Horizon	Socorro	El Paso County	San Elizario	Vinton	Total Operational Cost
Vector Control	\$ 875,249	\$ 6,679	\$ -	\$ -	\$ 42,891	\$ 107,225	\$ 11,342	\$ 2,523	\$ 1,045,909
Air Quality (per capita)	\$ 233,107	\$ 1,830	\$ 380	\$ 6,716	\$ 11,752	\$ 29,380	\$ 3,108	\$ 691	\$ 286,965
Grand Total	\$ 1,108,356	\$ 8,509	\$ 380	\$ 6,716	\$ 54,643	\$ 136,605	\$ 14,450	\$ 3,215	\$ 1,332,874
Percent of Total Cost	83.16%	0.64%	0.03%	0.50%	4.10%	10.25%	1.08%	0.24%	100.00%

FY23-ORIGINAL	El Paso	Anthony	Clint	Horizon	Socorro	El Paso County	San Elizario	Vinton	Total Operational Cost
Vector Control	\$ 850,738	\$ 6,679	\$ -	\$ 24,512	\$ 42,891	\$ 107,225	\$ 11,342	\$ 2,523	\$ 1,045,909
Air Quality (per capita)	\$ 233,107	\$ 1,830	\$ 380	\$ 6,716	\$ 11,752	\$ 29,380	\$ 3,108	\$ 691	\$ 286,965
Grand Total	\$ 1,083,845	\$ 8,509	\$ 380	\$ 31,228	\$ 54,643	\$ 136,605	\$ 14,450	\$ 3,215	\$ 1,332,874
Percent of Total Cost	81.32%	0.64%	0.03%	2.34%	4.10%	10.25%	1.08%	0.24%	100.00%

Percentage of Change	-0.43%	52.06%	15.91%	359.84%	37.18%	-35.56%	195.92%	114.82%	100.00%
Previous Allocation	1,088,527	5,596	328	6,791	39,834	211,993	4,883	1,496	-
\$ Change	\$ (4,682)	\$ 2,913	\$ 52	\$ 24,437	\$ 14,810	\$ (75,389)	\$ 9,567	\$ 1,718	\$ 1,332,874

APPENDIX C

STATE OF TEXAS)
)
COUNTY OF EL PASO)

HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is entered into on _____, 2022, by and between the CITY OF EL PASO, TEXAS (“CITY”), as the Covered Entity, and Town of Horizon City (“BUSINESS ASSOCIATE”) by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information (“PHI”) and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as “HIPAA”). Covered Entity and Business Associate may be referred to herein individually as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, CITY has engaged BUSINESS ASSOCIATE to perform services or provide goods, or both;

WHEREAS, CITY possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA;

WHEREAS, BUSINESS ASSOCIATE may receive such information from CITY, or create and receive such information on behalf of CITY, in order to perform certain of the services or provide certain of the goods, or both; and

WHEREAS, CITY wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

NOW THEREFORE, CITY and BUSINESS ASSOCIATE agree as follows:

A. HIPAA Terms

1. **Definitions.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.
 - a. **Agreement** shall refer to this document.
 - b. **Business Associate** means Town of Horizon City.

c. **HHS Privacy Regulations** shall mean the Code of Federal Regulations (“C.F.R.”) at Title 45, Sections 160 and 164, in effect, or as amended.

d. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term “individual” is defined in 45 C.F.R. 164.501.

e. **Information** shall mean any “health information” provided and/or made available by the CITY to BUSINESS ASSOCIATE, and has the same meaning as the term “health information” as defined by 45 C.F.R. 160.102.

f. **Parties** shall mean the CITY and BUSINESS ASSOCIATE.

g. **Secretary** shall mean the Secretary of the Department of Health and Human Services (“HHS”) and any other officer or employee of HHS to whom the authority involved has been delegated.

h. **Catch-all definition:** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.

2. **Limits on Use and Disclosure Established by Terms of Agreement.** BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the CITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)

3. **Stated Purposes for which BUSINESS ASSOCIATE May Use or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from CITY for the following stated purposes: To provide public health, research, and related support services (service) to the community of the CITY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CITY (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)

4. **Use of Information for Management, Administrative and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).

5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from CITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
 - a. The disclosure is required by law; or
 - b. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).
6. **Data Aggregation Services.** BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of CITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).
7. **BUSINESS ASSOCIATE OBLIGATIONS:**
 - a. **Limits on Use and Further Disclosure Established by Agreement and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the CITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
 - b. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
 - c. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to CITY **within two (2) days of discovery** any use or disclosure of Information not provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).
 - d. **Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the

same terms, conditions and restrictions on the use and disclosure of Information as contained in this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).

(i) **45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2).** In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS ASSOCIATE with respect to such Information.

e. **Right of Access to Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of Section 181.102 of the Texas Health and Safety Code, requiring that not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).

f. **Correction of Health Information by Individuals.** BUSINESS ASSOCIATE shall, upon receipt of notice from the CITY, amend or correct protected health information (PHI) in its possession or under its control.

g. **Amendment and Incorporation of Amendments.** BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).

h. **Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(G)).

i. **Access to Books and Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to

the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the CITY, available to the Secretary or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).

- j. Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
- k. Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
- l. Sanction Procedures.** BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement of the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(e)(1)).
- m. Subpart E of 45 C.F.R. Part 164.** To the extent BUSINESS ASSOCIATE is to carry out one or more of CITY'S obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to CITY in the performance of such obligation(s).
- n. Prohibition against the Sale of Protected Health Information.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
- o. Notice and Authorization Required for Electronic Disclosure of PHI.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.154, and any amendments of that section, regarding the requirement of providing notice to an Individual for whom the BUSINESS ASSOCIATE creates or receives protected health information if the Individual's PHI is subject to electronic disclosure.
- p. State Law on Medical Records Privacy.** The BUSINESS ASSOCIATE shall abide by the requirements set forth in Texas Health and Safety Code Section 181.001 et. seq., and any amendments of that chapter.

8. **Property Rights.** The Information shall be and remain the property of the CITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
9. **Modifications.** The CITY and BUSINESS ASSOCIATE agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth in Title 45, Parts 160 and 164, (Subparts A and E the “Privacy Rule” and Subparts A and C the “Security Rule”) of the Code of Federal Regulations.
10. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

B. Term and Termination

1. **Term.** The Term of this Agreement shall be effective as of September 1, 2022, and shall terminate on August 31, 2023, or on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
2. **Termination for Cause.** Upon the CITY’s knowledge of a material breach by BUSINESS ASSOCIATE, the CITY shall:
 - a. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach or end the violation within the time specified by the CITY.
 - b. Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this Business Associate Agreement and cure is not possible.
 - c. Notify the Secretary of HHS if termination is not possible.
3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, BUSINESS ASSOCIATE, with respect to protected health information received from CITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of CITY, shall:
 - a. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;

- b. Return to CITY, or, if agreed to by CITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the CITY that the Information has been destroyed;
- c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;
- d. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
- e. Return to CITY or, if agreed to by CITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
- f. Survival. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.

C. Remedies. If CITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, CITY may, at its option, pursue any and all of the following remedies:

- 1. Exercise any of its rights of access and inspection under Section A.7.e. of this Agreement;
- 2. Take any other reasonable steps that CITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or
- 3. Terminate this Agreement immediately.
- 4. Injunction. CITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to CITY. Accordingly, in addition to any other remedies available to CITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, CITY shall be entitled to an injunction or other decree of

specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.

5. Indemnification. BUSINESS ASSOCIATE shall indemnify, hold harmless and defend CITY from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of BUSINESS ASSOCIATE in connection with the representations, duties and obligations of BUSINESS ASSOCIATE under this Agreement. The parties' respective rights and obligations under this Section 5 shall survive termination of the Agreement.

D. Miscellaneous

1. **Regulatory References.** A reference in this Agreement to a HIPAA section means the section as in effect or as amended.
2. **Amendment.** CITY and BUSINESS ASSOCIATE agree that amendment of this Agreement may be required to ensure that CITY and BUSINESS ASSOCIATE comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. CITY may terminate this Agreement upon 60 days written notice in the event that BUSINESS ASSOCIATE does not promptly enter into an amendment that CITY, in its sole discretion, deems sufficient to ensure that CITY will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
4. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso
Attn: City Manager
P. O. Box 1890
El Paso, Texas 79950-1890

COPY TO: City of El Paso
Department of Public Health
Attention: Director
5115 El Paso Drive
El Paso, TX 79905

BUSINESS ASSOCIATE: Town of Horizon City
Attn: Mayor
14999 Darrington Road
Horizon, Texas 79928

5. **Non-Waiver.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
6. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
7. **Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, with venue in El Paso County, Texas.
8. **Compliance with Laws.** BUSINESS ASSOCIATE agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, BUSINESS ASSOCIATE reserves the right to notify CITY in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
9. **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.

10. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and BUSINESS ASSOCIATE, and their respective successors and assigns, any rights, obligations, remedies or liabilities.

11. **Entire Agreement; Counterparts.** This Agreement constitutes the entire Agreement between CITY and BUSINESS ASSOCIATE regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

(Signatures follow on next page)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

HIPAA BUSINESS ASSOCIATE AGREEMENT


Signature Page

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the _____ day of _____, 2022.

CITY OF EL PASO


Tomás González
City Manager

APPROVED AS TO FORM:



Evy A. Sotelo
Assistant City Attorney

APPROVED AS TO CONTENT:



Dr. Hector I. Ocaranza, M.D.,
Interim Director
Department of Public Health

TOWN OF HORIZON

Signature: _____
Name Printed: _____
Title: _____

APPENDIX C

STATE OF TEXAS)
)
COUNTY OF EL PASO) **HIPAA BUSINESS ASSOCIATE AGREEMENT**

THIS AGREEMENT is entered into on _____, 2022, by and between the CITY OF EL PASO, TEXAS (“CITY”), as the Covered Entity, and Town of Horizon City (“BUSINESS ASSOCIATE”) by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information (“PHI”) and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as “HIPAA”). Covered Entity and Business Associate may be referred to herein individually as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, CITY has engaged BUSINESS ASSOCIATE to perform services or provide goods, or both;

WHEREAS, CITY possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA;

WHEREAS, BUSINESS ASSOCIATE may receive such information from CITY, or create and receive such information on behalf of CITY, in order to perform certain of the services or provide certain of the goods, or both; and

WHEREAS, CITY wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

NOW THEREFORE, CITY and BUSINESS ASSOCIATE agree as follows:

A. HIPAA Terms

1. **Definitions.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.
 - a. **Agreement** shall refer to this document.
 - b. **Business Associate** means Town of Horizon City.

c. **HHS Privacy Regulations** shall mean the Code of Federal Regulations (“C.F.R.”) at Title 45, Sections 160 and 164, in effect, or as amended.

d. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term “individual” is defined in 45 C.F.R. 164.501.

e. **Information** shall mean any “health information” provided and/or made available by the CITY to BUSINESS ASSOCIATE, and has the same meaning as the term “health information” as defined by 45 C.F.R. 160.102.

f. **Parties** shall mean the CITY and BUSINESS ASSOCIATE.

g. **Secretary** shall mean the Secretary of the Department of Health and Human Services (“HHS”) and any other officer or employee of HHS to whom the authority involved has been delegated.

h. **Catch-all definition:** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.

2. **Limits on Use and Disclosure Established by Terms of Agreement.** BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the CITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)

3. **Stated Purposes for which BUSINESS ASSOCIATE May Use or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from CITY for the following stated purposes: To provide public health, research, and related support services (service) to the community of the CITY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CITY (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)

4. **Use of Information for Management, Administrative and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).

5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from CITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
 - a. The disclosure is required by law; or
 - b. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).
6. **Data Aggregation Services.** BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of CITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).
7. **BUSINESS ASSOCIATE OBLIGATIONS:**
 - a. **Limits on Use and Further Disclosure Established by Agreement and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the CITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
 - b. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
 - c. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to CITY **within two (2) days of discovery** any use or disclosure of Information not provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).
 - d. **Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the

same terms, conditions and restrictions on the use and disclosure of Information as contained in this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).

(i) **45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2).** In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS ASSOCIATE with respect to such Information.

e. **Right of Access to Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of Section 181.102 of the Texas Health and Safety Code, requiring that not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).

f. **Correction of Health Information by Individuals.** BUSINESS ASSOCIATE shall, upon receipt of notice from the CITY, amend or correct protected health information (PHI) in its possession or under its control.

g. **Amendment and Incorporation of Amendments.** BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).

h. **Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(G)).

i. **Access to Books and Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to

the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the CITY, available to the Secretary or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).

- j. Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
- k. Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
- l. Sanction Procedures.** BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement of the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(e)(1)).
- m. Subpart E of 45 C.F.R. Part 164.** To the extent BUSINESS ASSOCIATE is to carry out one or more of CITY'S obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to CITY in the performance of such obligation(s).
- n. Prohibition against the Sale of Protected Health Information.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
- o. Notice and Authorization Required for Electronic Disclosure of PHI.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.154, and any amendments of that section, regarding the requirement of providing notice to an Individual for whom the BUSINESS ASSOCIATE creates or receives protected health information if the Individual's PHI is subject to electronic disclosure.
- p. State Law on Medical Records Privacy.** The BUSINESS ASSOCIATE shall abide by the requirements set forth in Texas Health and Safety Code Section 181.001 et. seq., and any amendments of that chapter.

8. **Property Rights.** The Information shall be and remain the property of the CITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
9. **Modifications.** The CITY and BUSINESS ASSOCIATE agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth in Title 45, Parts 160 and 164, (Subparts A and E the “Privacy Rule” and Subparts A and C the “Security Rule”) of the Code of Federal Regulations.
10. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

B. Term and Termination

1. **Term.** The Term of this Agreement shall be effective as of September 1, 2022, and shall terminate on August 31, 2023, or on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
2. **Termination for Cause.** Upon the CITY’s knowledge of a material breach by BUSINESS ASSOCIATE, the CITY shall:
 - a. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach or end the violation within the time specified by the CITY.
 - b. Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this Business Associate Agreement and cure is not possible.
 - c. Notify the Secretary of HHS if termination is not possible.
3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, BUSINESS ASSOCIATE, with respect to protected health information received from CITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of CITY, shall:
 - a. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;

- b. Return to CITY, or, if agreed to by CITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the CITY that the Information has been destroyed;
- c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;
- d. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
- e. Return to CITY or, if agreed to by CITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
- f. Survival. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.

C. Remedies. If CITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, CITY may, at its option, pursue any and all of the following remedies:

- 1. Exercise any of its rights of access and inspection under Section A.7.e. of this Agreement;
- 2. Take any other reasonable steps that CITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or
- 3. Terminate this Agreement immediately.
- 4. Injunction. CITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to CITY. Accordingly, in addition to any other remedies available to CITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, CITY shall be entitled to an injunction or other decree of

specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.

5. Indemnification. BUSINESS ASSOCIATE shall indemnify, hold harmless and defend CITY from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of BUSINESS ASSOCIATE in connection with the representations, duties and obligations of BUSINESS ASSOCIATE under this Agreement. The parties' respective rights and obligations under this Section 5 shall survive termination of the Agreement.

D. Miscellaneous

1. **Regulatory References.** A reference in this Agreement to a HIPAA section means the section as in effect or as amended.
2. **Amendment.** CITY and BUSINESS ASSOCIATE agree that amendment of this Agreement may be required to ensure that CITY and BUSINESS ASSOCIATE comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. CITY may terminate this Agreement upon 60 days written notice in the event that BUSINESS ASSOCIATE does not promptly enter into an amendment that CITY, in its sole discretion, deems sufficient to ensure that CITY will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
4. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso
Attn: City Manager
P. O. Box 1890
El Paso, Texas 79950-1890

COPY TO: City of El Paso
Department of Public Health
Attention: Director
5115 El Paso Drive
El Paso, TX 79905

BUSINESS ASSOCIATE: Town of Horizon City
Attn: Mayor
14999 Darrington Road
Horizon, Texas 79928

5. **Non-Waiver.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
6. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
7. **Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, with venue in El Paso County, Texas.
8. **Compliance with Laws.** BUSINESS ASSOCIATE agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, BUSINESS ASSOCIATE reserves the right to notify CITY in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
9. **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.

10. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and BUSINESS ASSOCIATE, and their respective successors and assigns, any rights, obligations, remedies or liabilities.

11. **Entire Agreement; Counterparts.** This Agreement constitutes the entire Agreement between CITY and BUSINESS ASSOCIATE regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

(Signatures follow on next page)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

HIPAA BUSINESS ASSOCIATE AGREEMENT


Signature Page

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the _____ day of _____, 2022.

CITY OF EL PASO


Tomás González
City Manager

APPROVED AS TO FORM:



Evy A. Sotelo
Assistant City Attorney

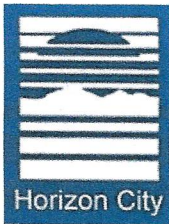
APPROVED AS TO CONTENT:



Dr. Hector I. Ocaranza, M.D.,
Interim Director
Department of Public Health

TOWN OF HORIZON

Signature: _____
Name Printed: _____
Title: _____



TOWN OF HORIZON CITY
MEMORANDUM

Date: April 6, 2023
To: Honorable Mayor and Members of City Council
From: Teresa Quezada, CIP Manager
SUBJECT: Discussion and Action: On authorizing the Mayor to execute change order #12 to Hawk Construction for a net decrease of \$80,675.45 on Golden Eagle Park and to execute a project closeout agreement.

Teresa Quezada
4/6/2023

Change Order No. 12 for the Golden Eagle Park Improvements project has a net decrease effect on the contract **amount by \$80,675.45 bringing the contract amount to \$1,934,331.54.** The contract time is not changed by this change order.

The change items address the cost, without overhead or profit to repair the pump station and decreases the contract amount by the amount of the contract retainage (5%) after the pump repair as liquidated damages.

The change order items and amounts and day requests were negotiated by the design consultant and construction manager, MCI, Inc., Horizon City staff and consultants, and Hawk Construction and are detailed in the following table.

Change Item	Amount
#1 – Pump repair at cost with no overhead and profit.	\$21,131.47
#2 – Liquidated Damages	\$101,806.92
Total Change Order	\$80,675.45

Total change orders to date account for a **17.43% decrease to the original contract value.**

The *Project Closeout and Release Agreement* details the liquidated damages, final amount due to the contractor and stipulates the contractor agrees to the final payment as full payment for the completion of the project.

Staff recommends approval of both Change Order #12 and the *Project Closeout and Release Agreement*.

Attachment: Change Order Form and Agreement



Contract Change Order No. Twelve (12) FINAL

PROJECT:	DATE OF ISSUANCE:
Golden Eagle Park Improvements	March 31, 2023
OWNER:	BID No:
The Town of Horizon City 14999 Darrington Road Horizon City, TX 79928 (915) 852-1046	CIP 18 – 101
CONTRACTOR:	ENGINEER/CONSTRUCTION MANAGER:
Hawk Construction 12779 Azogue Ave. El Paso, TX 79938 (915) 526-9116	Moreno Cardenas Inc. 2505 E. Missouri Avenue El Paso, TX 79903 (915) 532-2091

YOU ARE DIRECTED TO MAKE THE FOLLOWING CHANGES TO THE CONTRACT:

Contractor is instructed to proceed with the work required by the Contract Documents. In addition, remove and/or modify the various bid items below. This change order **decreases** the contract amount as detailed below for the various bid items.

Change Item No. 1 – Pump repair. Increases contract amount by **\$21,131.47** due to the pump repairs.

Change Item No. 2 – Liquidated Damages Adjustment. After accounting for previous change orders and all project cost, the retainage for the final payapplication was determined to be \$101,806.92. The retainage will be applied as liquidated damages charged to the Contractor for the project. This item will Decrease the contract amount by **\$101,806.92**.

PURPOSE OF CHANGE ORDER:

Change Item No. 1 – Pump Repair. Hawk Construction repaired the pump station due to flooding and/or rain events. Backup is provided for the repair which indicate direct cost only, with no overhead and profit. **The Contract amount is INCREASED by \$21,131.47. The contract time is INCREASED by 0 calendar days.**

Change Item No. 2 – Liquidated Damages Adjustment. As per negotiation with Hawk Construction, it was agreed that the expected retainage in the final payment application will be applied as liquidated damages for the Project. The total contract amount after all Changes Orders is \$2,036,138.46. The retainage of for the project was 5%; therefore, the final retainage for the project was determined to be \$101,806.46. **The Contract amount DECREASED by \$101,806.46. The contract time is INCREASED by 0 calendar days.**

Contract amount	\$	2,342,805.58
All Change Orders	\$	(306,667.12)
Current contract amount (after Change Order 12 FINAL)	\$	2,036,138.46
Total completed and stored	\$	2,036,138.46
Retainage (5%)	\$	101,806.92

Additional information on the calculated vs the agreed liquidated damages is shown under Memorandum of Negotiation.



**TOWN OF
HORIZON CITY**

14999 DARRINGTON ROAD
HORIZON CITY, TX 79928
915-852-1046

CONTRACT CHANGE SUMMARY:

DECREASE contract amount by **\$80,675.45**
INCREASE to contract time by **0 calendar days.**

ATTACHMENTS:

ATTACHMENT A - *Memorandum of Negotiation by Construction Manager*



Contract Change Order No. Twelve (12)

CHANGE IN CONTRACT AMOUNT	CHANGE IN CONTRACT TIME
<u>ORIGINAL</u> CONTRACT AMOUNT	<u>ORIGINAL</u> CONTRACT TIME
\$2,342,805.58	<i>Substantial Completion: 210 days Due Date: June 1, 2020</i> <i>Final Completion: 240 days Due Date: July 1, 2020</i>
CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER	CONTRACT TIME PRIOR TO THIS CHANGE ORDER
\$2,015,006.99	<i>Substantial Completion: 379 days Due Date: November 17, 2020</i> <i>Final Completion: 409 days Due Date: December 17, 2020</i>
NET <u>INCREASE/DECREASE</u> -OF THIS CHANGE ORDER	NET <u>INCREASE/DECREASE</u> OF THIS CHANGE ORDER
\$80,675.45	<i>Substantial Completion: +0 Calendar-days</i> <i>Final Completion: +0 Calendar-days</i>
CONTRACT AMOUNT WITH ALL APPROVED CHANGE ORDERS	CONTRACT TIME WITH ALL APPROVED CHANGE ORDERS
\$1,934,331.54	<i>Substantial Completion: 379 days Due Date: November 17, 2020</i> <i>Final Completion: 409 days Due Date: December 17, 2020</i>

The amount indicated above shall be considered full and equitable adjustment for any claims, past and future, for the work described and shall include all costs, direct and indirect, including extended overhead.

NOT VALID UNTIL SIGNED BY THE CONSTRUCTION MANAGER, CONTRACTOR AND OWNER.

Moreno Cardenas Inc.

HAWK Construction

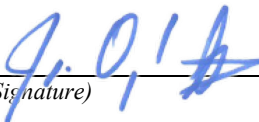
Town of Horizon City

CONSTRUCTION MANAGER

CONTRACTOR

OWNER


BY (Signature)


BY (Signature)

BY (Signature)

Saul Trejo, P.E.
(Printed Name)

Jorge Ojeda
(Printed Name)

(Printed Name)

4/7/2023
DATE

4/7/2023
DATE

DATE



TOWN OF
HORIZON CITY
14999 DARRINGTON ROAD
HORIZON CITY, TX 79928
915-852-1046

Engineer's Cost Summary

PROJECT: Golden Eagle Park Improvements

DATE OF ISSUANCE: March 31, 2023

BID No: CIP 18-101

CHANGE ORDER No. 12 (FINAL)

TOTAL CHANGE IN CONTRACT AMOUNT: Decrease \$80,675.45

TOTAL CHANGE IN CONTRACT TIME: Increase of 0 calendar days

Classification of Change Order

Change Item No. 1	Pump Repair
Classification	Owner Ordered
Impact to Cost	Increase contract amount by \$21,131.47
Impact to Time	0 calendar day
Justification	See Purpose of Change Order.
Cost Summary	Negotiated – See Attachments A.
Change Item No. 2	Liquidated Damages Adjustment
Classification	Owner Ordered
Impact to Cost	Decrease contract amount by \$101,806.92
Justification	See Purpose of Change Order
Cost Summary	Negotiated – See Attachments A



**TOWN OF
HORIZON CITY**

14999 DARRINGTON ROAD
HORIZON CITY, TX 79928
915-852-1046

Contract Change Order Summary

Original Contract Amount	\$2,342,805.58
Change Order No. 1 Amount	\$-397,981.26
Change Order No. 2 Amount	\$15,325.19
Change Order No. 3 Amount	(\$546.21)
Change Order No. 4 Amount	\$8,924.10
Change Order No. 5 Amount	\$829.89
Change Order No. 6 Amount	\$4,821.91
Change Order No. 7 Amount	\$10,117.41
Change Order No. 8 Amount	\$6,166.99
Change Order No. 9 Amount	\$8,976.68
Change Order No. 10 Amount	\$5,101.20
Change Order No. 11 Amount	\$10,465.51
Change Order No. 12 Amount	(\$80,675.50)
Revised Contract Amount	\$1,934,331.49
Cumulative Change Order Percent of Original Contract Amount	-17.43%

CHANGE ORDER CLASSIFICATION	PREVIOUS CHANGE ORDER	THIS CHANGE ORDER	TOTAL
Liquidated Damages	0.00%	-4.35%	-4.35%
Adjusted Final Quantities	-0.63%	0.00%	-0.63%
Unforeseen Subsurface	0.00%	0.00%	0.00%
Unforeseen Condition (Other)	1.68%	0.00%	1.68%
Owner Ordered	-15.33%	0.90%	-14.43%
Repay Owner	-0.05%	0.00%	-0.05%
Errors	0.00%	0.00%	0.00%
Omissions	0.00%	0.00%	0.00%
Other	0.34%	0.00%	0.34%



TOWN OF
HORIZON CITY

14999 DARRINGTON ROAD
HORIZON CITY, TX 79928
915-852-1046

ATTACHMENT A
(Memorandum of Negotiation by Construction Manager – Change Order No. 12
FINAL)



Memorandum of Negotiation by Engineer Change Order No. 12 (FINAL)

Change Item #1 –Pump Repair: The cost increase as provided by Hawk Construction is proposed to the City as direct cost from the contractor with no overhead of profit. This proposal was accepted. Below is a summary of timelines as discussed with Hawk Construction and agreed to.

Contractor’s proposals were found to be fair and reasonable at \$21,131.47

Change Item #2 –Liquidated Damages Adjustment: Below is the justification for the liquidated damages based on actual dates of completion for this project.

Modified Contract Time Summary						
	Original dates as per contract	Contract dates as per Change Order 12	Actual Dates	Days Exceeding Last Change Order	Stop Time	Days Up to October 15, 2021
Substantial Completion	6/1/2020	11/17/2020	3/31/2023	864	October 15, 2021	332
Final Completion	7/1/2020	12/17/2020	3/31/2023	834		302

Liquidated Damages Summary					Agreed Liquidated Damages Amount
	Liquidated Damages Assessed	Days Exceeding Last Change Order	Days Up to October 15, 2021	Credit due to “Stop Time”	
Substantial Completion	\$1,150.00/day	\$993,600.00	\$381,800.00	\$611,800.00	\$101,806.46
Final Completion	\$750.00/day	\$625,500.00	\$226,500.00	\$399,000.00	
TOTALS		\$1,619,100.00	\$608,300.00	\$1,010,800.00	

Liquidated Damages are accepted at \$101,806.46

PROJECT CLOSEOUT AND RELEASE AGREEMENT

The parties to this Project Closeout and Release are as follows:

“CONTRACTOR” is Hawk Construction located in El Paso County, Texas, including its successors in interest, agents, officials, employees and assigns.

“OWNER” is, the Town of Horizon City, Texas a home-rule municipality located in El Paso County, Texas, including its successors in interest, agents, officials, employees and assigns.

“PARTIES” are the CONTRACTOR and OWNER referred to jointly.

RECITALS

WHEREAS, the PARTIES entered into an agreement for the construction of a project known as the Golden Eagle Park (“Project”) on September 16, 2019 (“Construction Contract”);

WHEREAS, in accordance with the terms of the Construction Contract the Project was required to be completed on July 1, 2020;

WHEREAS, the onset of the COVID 19 pandemic resulted in delays beyond the control of the CONTRACTOR and the parties entered into change orders to extend the date for substantial completion;

WHEREAS, there were additional delays resulting from design changes with regard to an irrigation pump system and the PARTIES signed additional change orders to allow for adequate compensation and extension of time for to the Contractor complete the project by December 17, 2020 (“Extended Completion Date”);

WHEREAS, the Project was not completed by the Extended Completion Date which resulted in the assessment of liquidated damages in accordance with the terms of the Construction Contract as extended by agreement of the PARTIES;

WHEREAS, the PARTIES have executed Final Change Order Number 12 to document the final payment to CONTRACTOR reduced by the amount of liquidated damages assessed in as negotiated ;

WHEREAS, the PARTIES desire to enter into this Project Closeout and Release Agreement to document full settlement and discharge of all claims and counterclaims (if any) which have, or might be made, by reason of the matters described above.

NOW, THEREFORE, the CONTRACTOR and OWNER agree as follows:

1.0 Liquidated Damages: The PARTIES agree that the Project was not completed by the Extended Completion Date as specified in the terms of the Construction Contract as amended by the approved Change Orders and the OWNER is entitled to \$\$101,806.92 as liquidated damages.

2.0 Compensation Due to Contractor: The PARTIES agree that the sum of \$54,450.06 is due to the CONTRACTOR as final payment in accordance with the Construction Contract and approved Change Orders 1-12.

3.0 Closeout of Contract: The PARTIES agree that after deducting the liquidated damages due to the OWNER from the final payment due to CONTRACTOR, the Owner is entitled to retain the amount of \$101,806.92 (“Closeout Amount”). The OWNER agrees to accept the Closeout Amount as a full discharge of the liquidated damages due to OWNER and CONTRACTOR agrees the OWNER may retain the Closeout Amount. By signing Change Order Number 12, CONTRACTOR has agreed it has received full and final payment due to CONTRACTOR for the completion of the Project in accordance with the terms of the Construction Contract and Change Orders 1-12.

4.0 Release and Discharge

A. Each PARTY is hereby released and forever discharged from any and all past, present or future claims, counterclaims, demands, obligations, actions, causes of action, rights, damages, costs, losses of services, expenses and compensation which each PARTY now has, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way grow out of the scope of this matter, as described in above, including without limitation, any and all known or unknown claims alleged by the PARTIES.

B. This Release and discharge shall specifically apply to OWNER, its past, present and future agents, servants, representatives, employees, subsidiaries, affiliates, successors in interest and assigns.

C. This Release on the part of CONTRACTOR shall be a fully binding and complete settlement by CONTRACTOR including its agents, employees, representatives, subsidiaries, affiliates, subcontractors, successors and assigns.

D. CONTRACTOR further agrees that it accepts payment of the sum of money shown on the Change Orders and other good and valuable consideration specified herein as a complete compromise of matters described above.

5.0 Acknowledgment of Settlement Terms & Conditions

- A. In entering into this Project Closeout and Release Agreement, CONTRACTOR and OWNER represent that the terms of this Project Closeout and Release Agreement are fully understood and voluntarily accepted by CONTRACTOR and OWNER.
- B. CONTRACTOR and OWNER represent that they have consulted with or been given the opportunity to consult with their attorneys before executing this Project Closeout and Release Agreement.

6.0 Warranty of Capacity to Execute Agreement

- A. The PARTIES represent, warrant, and contract that no other person, attorney, law firm or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Project Closeout and Release Agreement, except as otherwise set forth herein or that if any such interest exists, it will be fully satisfied with this agreement; and that the PARTIES have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Project Closeout and Release Agreement.

7.0 Governing Law

- A. This Settlement and Release Agreement shall be construed and interpreted in accordance with the laws of the State of Texas. Venue shall be El Paso County, Texas.

8.0 Additional Documents

- A. The PARTIES agree to cooperate fully and execute any and all supplementary documents and to take all additional action which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Project Closeout and Release Agreement.

9.0 Effectiveness

- A. This Project Closeout and Release Agreement shall become effective immediately following execution by the PARTIES and completion of all terms set forth in Section 2.0 herein.

Accepted and Agreed:

TOWN OF HORIZON, TEXAS

By: _____
Ruben Mendoza, Mayor

By: _____
_____, **President**

THE STATE OF TEXAS §
§
COUNTY OF EL PASO §

BEFORE ME, the undersigned Notary Public, on this the ____ day of _____, 2023, personally appeared _____, President of _____ who being by me duly sworn on his oath deposed and said that he has read the above and foregoing a Project Closeout and Release Agreement and that every statement contained therein is within his/her personal knowledge and true and correct.

Date: _____, 2023 _____

Notary Public, State of Texas



**TOWN OF HORIZON CITY
MEMORANDUM**

Date: April 11, 2023
To: Honorable Mayor and Members of City Council
From: Art Rubio, Planner
SUBJECT: **1st Reading of Ordinance No. _____**, An Ordinance adopting a zoning change within the municipal limits of the Town of Horizon City, Texas; rezoning one parcel from A-1 to R-2; containing approximately 13.27 acres; being a portion of Section 32, Block 78, Township 3, Texas and Pacific Railroad Surveys, Horizon City, El Paso County, Texas; located North of Horizon Blvd. and east of Rifton Rd.; and authorizing the notation of the change on the official zoning map of the City; providing for the following: findings of fact; repealer; severability; and proper notice and hearing.

On March 20, 2023, the Planning and Zoning Commission voted unanimously to recommend that the City Council approve the rezoning of the subject property from A-1 (Apartments) zone to R-2 (Single-Family Dwelling) zone.

The applicant's request to rezone the property to R-2 Residential is to accommodate a 66-unit single-family residential subdivision.

The staff recommendation to the Planning and Zoning Commission was to approve the rezoning request as it is consistent with the City's Vision 2020: Comprehensive and Strategic Plan. The future land use map in the comprehensive plan designates this area for public use; however, the surrounding zoning districts and use are primarily residential.

Attached for your review is the draft Ordinance and the staff report that was presented to the Planning and Zoning Commission.



TOWN OF HORIZON CITY
Planning and Zoning Commission Staff Report

Case No.: **RZ-002503-2022**
Proposed Desert Breeze Unit III Subdivision

Application Type: **Rezoning**

P&Z Hearing Date: March 20, 2023

Staff Contact: Art Rubio
 915-852-1046; arubio@horizoncity.org

PID No.: X57800033203000

Address/Location: North of Horizon Blvd. and east of Rifton Rd.

Legal Description: A portion of Section 32, Block 78, Township 3, Texas and Pacific Railroad Surveys, Horizon City, El Paso County, Texas

Property Owner: Hunt Communities Holding

Applicant: H2O-Terra

Acreage: 13.272-Acres ±

Nearest Park: Horizon Mesa Park

Nearest School: Horizon High School

SURROUNDING PROPERTIES:

	Zoning	Land Use
N	R-2 (Single-Family Residential)	Vacant
E	ETJ	Mixed Use
S	C-2(Heavy Commercial)/R-2(Single-Family Residential)	Vacant
W	R-2 (Single-Family Residential)	Horizon High School

LAND USE AND ZONING:

	Existing	Proposed
Land Use	Vacant	Single-Family Residential
Zoning	A-1 (Apartment)	R-2 (Single-Family Residential)

Application Description:

The applicant is requesting to change the zone of approximately 13.2744-acres of vacant land from A-1 (Apartment) zoning district to R-2 (Residential) zoning district in accordance with the attached proposed subdivision. The request proposes R-2 (single-family residential) for a proposed sixty-six lot residential subdivision. The subject property is directly adjacent to Horizon High School and the ETJ to the east. This item was previously before the P&Z with a request to rezone from R-2 to R-3; however, staff has since discovered an oversight on the zoning map, that shows the current zoning to be A-1 not R-2.

Notice:

In accordance with Section 211.007 of the Texas Local Government Code and Horizon City Municipal Code Section 101.6 Rezoning, Paragraph C. Public Hearings; notice; notices of the March 20, 2023, public hearing was sent to the school district of jurisdiction and to those property owners within two hundred feet of the subject property on February 9, 2023, and posted in the El Paso Times Newspaper on February 2, 2023. In addition, the applicant is required to erect signs notifying the public of the proposed rezoning on the site proposed

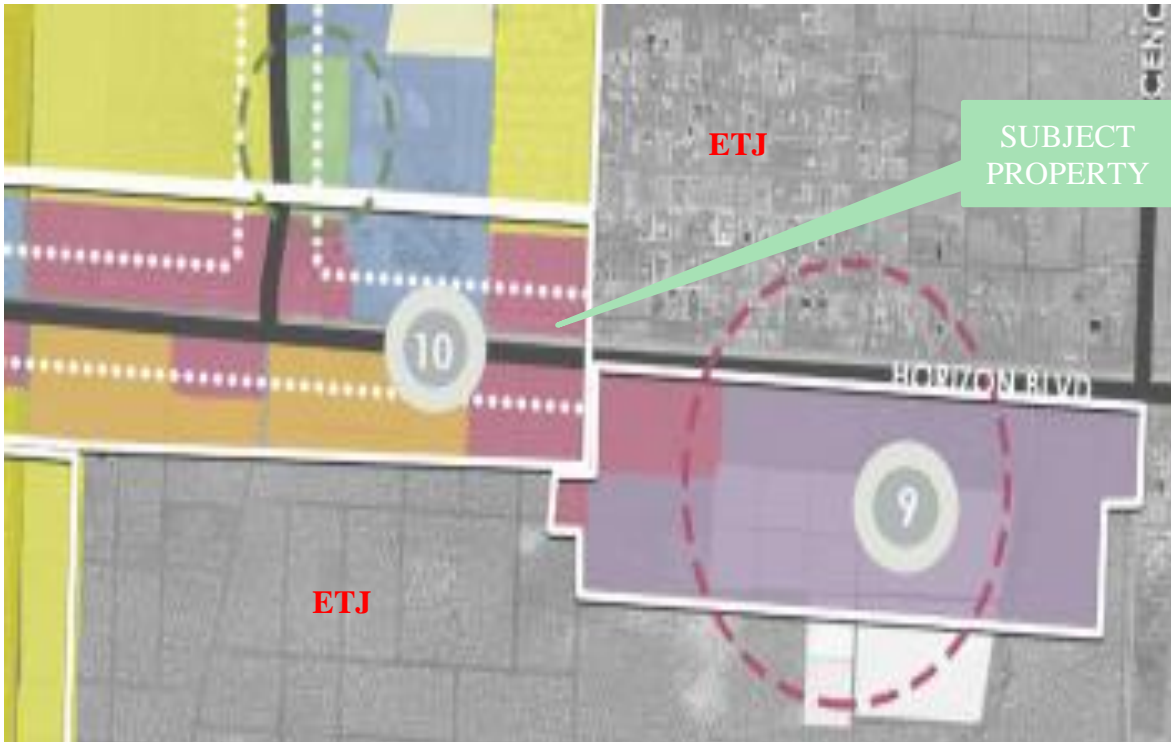
for rezoning fifteen (15) days prior to the Planning and Zoning Commission public hearing. Sign requirements have been satisfied by the applicant.

Public Input:










To date, staff has not received any communication in support or opposition of the requested rezoning.

Vision 2020 – Future Land Use Map Designation:

Horizon City Vision 2020 Strategic Master Plan designates this area for the following uses: commercial; public; parks and open space in accordance with the map and legend below. The developer is proposing single-family residential.



LEGEND

LAND USE DESIGNATIONS	
	Low Density - Single Family
	Medium Density - Single Family
	High Density - Single Family
	Multi-Family
	Mixed Use
	Commercial
	Industrial
	Public
	Parks and Open Space

Staff Recommendation:

Staff recommends **approval** of the request to rezone to **R-2** (Residential) in support of the proposed 66 lot residential subdivision.

Planning Division Comments:

This development proposes R-2 (single-family residential) development throughout and is directly adjacent to Horizon High School to the west, residential to the north, a mixed-use development area to the south, currently vacant and mixed-use development area to the east within the ETJ. The proposed development consists of a minimum lot size of 6,000 sq. ft. where the smallest lot allowed with the current zoning is 6,000 sq. ft. and the largest is 9,784 sq. ft. The City's Comprehensive Plan calls for commercial, public and parks in the area; however, there has been in transition to single-family residential in the area. According to the Horizon City Vision 2020 Strategic Master Plan, "boundaries of these districts and areas are conceptual in nature providing the Town the flexibility to define these boundaries as development occurs." "The rest of Horizon City would develop in a similar fashion as the current development patterns with mainly residential development and reduced amount of strip commercial development."

Approving this development's land use plan and rezoning request will increase the single-family residential dwelling inventory within Horizon City.

Planning and Zoning Commission Options:

The Planning and Zoning Commission may consider the following options and additional requirements that it may identify when reviewing this rezoning application:

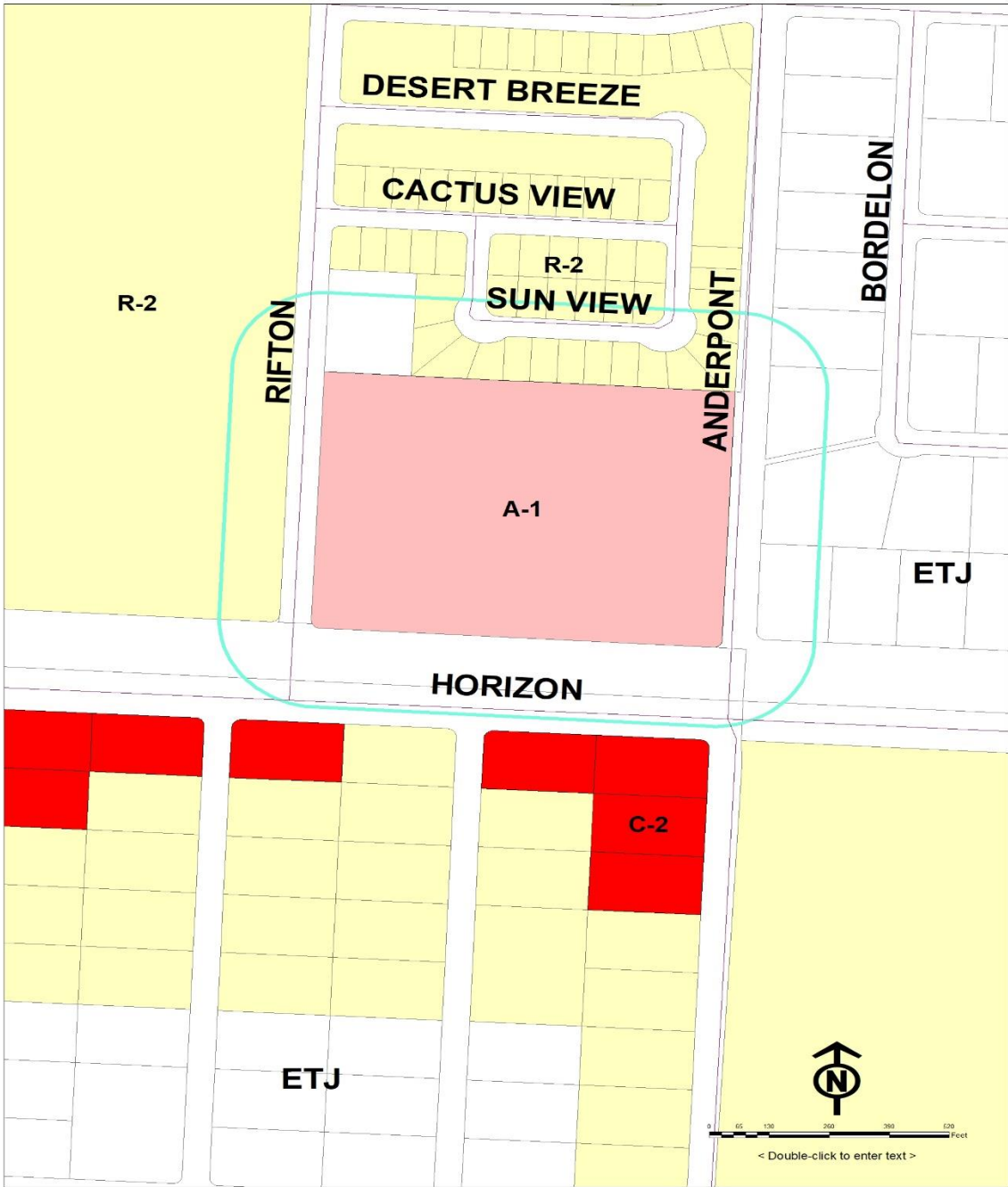
1. Recommend **approval** of the Applicant's request for change of zone classification as stated and forward a recommendation for approval for the change of zone classification to the City Council.
2. Recommend **denial** of the Applicant's request for change of zone classification and forward a recommendation for denial of the requested rezoning to the City Council.

Attachments:

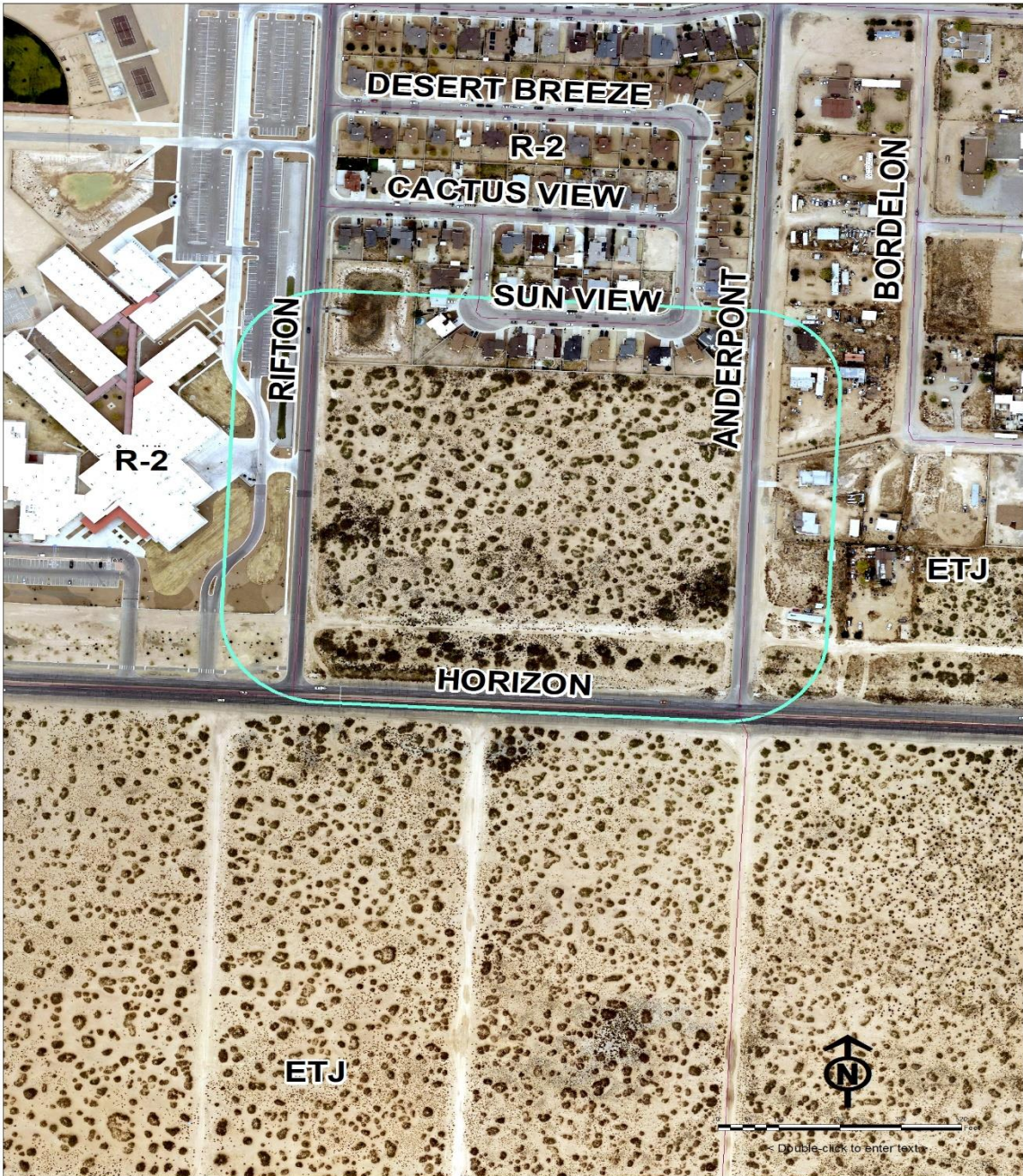
- 1 – Current Zoning Designation Map**
- 2 – Aerial Map**
- 3 - Future Land Use Map (Comp Plan)**
- 4 - Application**
- 5 – Boundary Survey**
- 6 – Proposed Subdivision Plat**

Attachment 1: Current Zoning Designation Map

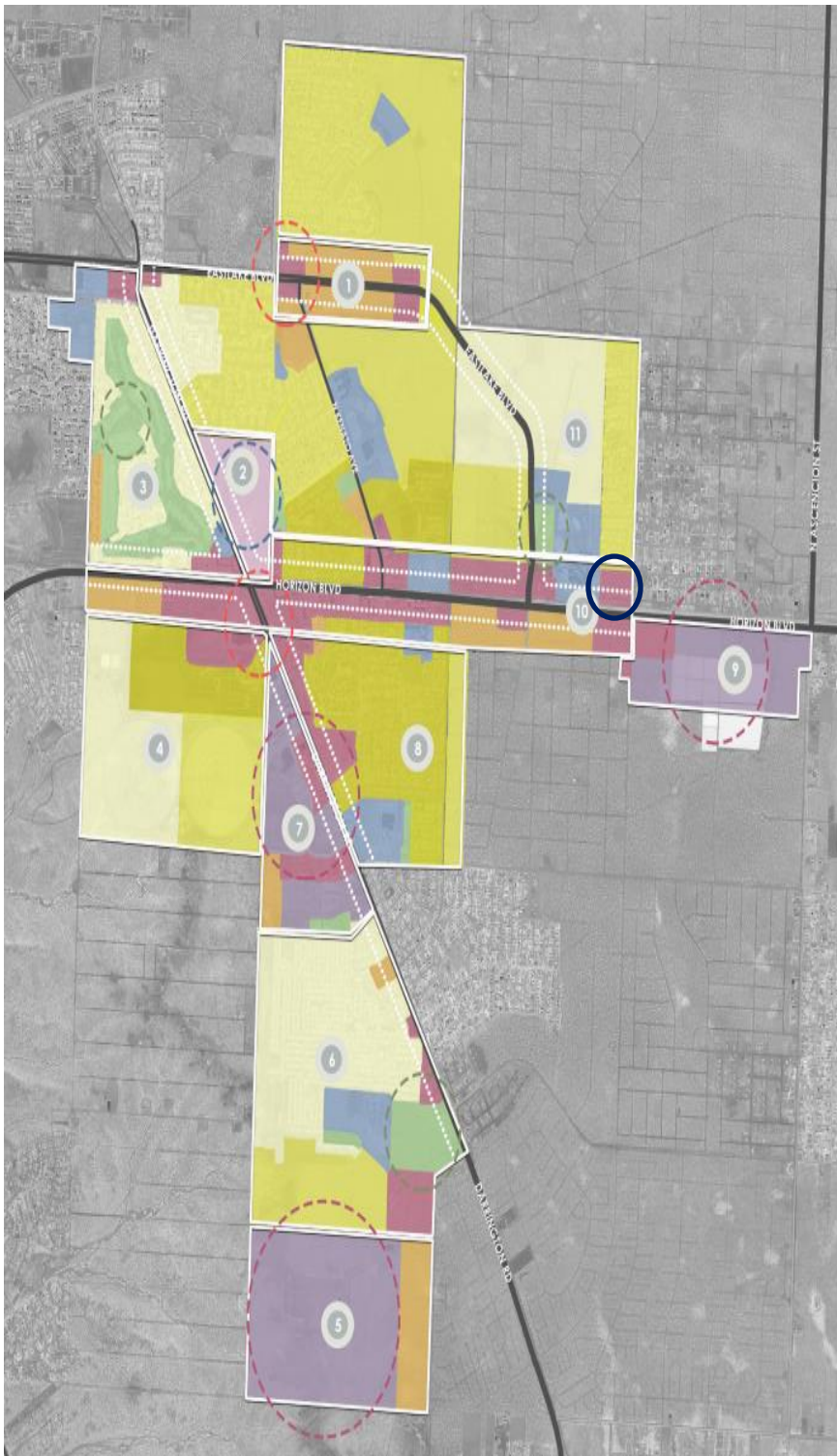
**PLANNING & ZONING COMMISSION
CASE NO. RZ- 002520 - 2023
ZONE CHANGE**



**PLANNING & ZONING COMMISSION
CASE NO. RZ- 002520 - 2023
ZONE CHANGE**



Attachment 3: Future Land Use Map



LEGEND

LAND USE DESIGNATIONS

- Low Density - Single Family
- Medium Density - Single Family
- High Density - Single Family
- Multi-Family
- Mixed Use
- Commercial
- Industrial
- Public
- Parks and Open Space
- Districts
- Corridors

CENTERS

- Civic
- Recreation
- Market
- Employment

1 EASTLAKE DISTRICT	7 CENTRAL INDUSTRIAL PARK DISTRICT
2 TRANSIT-SUPPORTED TOWN CENTER DISTRICT	8 EAST RESIDENTIAL DISTRICT
3 GOLF COURSE DISTRICT	9 EAST INDUSTRIAL PARK DISTRICT
4 WEST RESIDENTIAL DISTRICT	10 HORIZON BLVD DISTRICT
5 BUSINESS PARK DISTRICT	11 NORTH RESIDENTIAL DISTRICT
6 SOUTH RESIDENTIAL DISTRICT	

Attachment 4: Application



TOWN OF HORIZON CITY
 14999 Darrington Road
 Horizon City, Texas 79928
 Phone 915-852-1046 Fax 915-852-1005

REZONE APPLICATION

1. Owner of Record HUNT COMMUNITES HOLDING LP 70% & HORIZCO LP 30%
 4401 N MESA ST EL PASO TX 79902-1150
 (ADDRESS) (ZIP) (PHONE) (EMAIL)

2. Applicant H2O Terra, LLC. Is applicant also the Owner? Yes No
 Contact Person Francisco Solis
 2020 E. Mills 79901 (915) 533-1418 fsolis@h2o-terra.com
 (ADDRESS) (ZIP) (PHONE) (EMAIL)

3. PARCEL ONE
 Site Address/Location Property ID: X57800033203000
 Legal Description: 78 TSP 3 SEC 32 T & P ABST 5472 TR 4 (13.2744 AC)
 (Lot) (Block) (Subdivision Name)

PARCEL TWO
 Site Address/Location _____
 Legal Description: _____
 (Lot) (Block) (Subdivision Name)

If the legal description of the complete tracts or if plat is not available, attached are the **required** Metes & Bounds Description & survey map(s)? Yes No

4. Briefly explain why you request to rezone? Proposed subdivision with lots between 5,500 and 5,999 sq.ft.

5. Land's Presents Use: Vacant Zone R-2
 Land Vacant Lot size 1.2744AC Structure Structure's size _____ Last known date the structure was occupied? _____
 Land's Proposed Use: Single family dwelling avg. lot size of 5,500 sq.ft. - subdivision Proposed Zone Use R-3

Will you be making any improvements to the existing lot or structure? Yes No This request includes *Site Development Plans* for approval? Yes No

NOTICE: Applicant is responsible for all expenses incurred by the City in connection with the Rezone Application request, including but not limited to attorney's fees, engineering fees and publication. Additional charges will be invoiced separately and shall be paid to the Town prior to City Council action.
 Applicant's Signature _____

6. Signatures:
 (OWNER'S SIGNATURE)  Jose Lares Date Received 07/20/2022
 (OWNER'S PRINTED NAME) _____
 (APPLICANT'S SIGNATURE)  Francisco Solis Date Submitted 07/20/2022
 (APPLICANT'S PRINTED NAME) _____

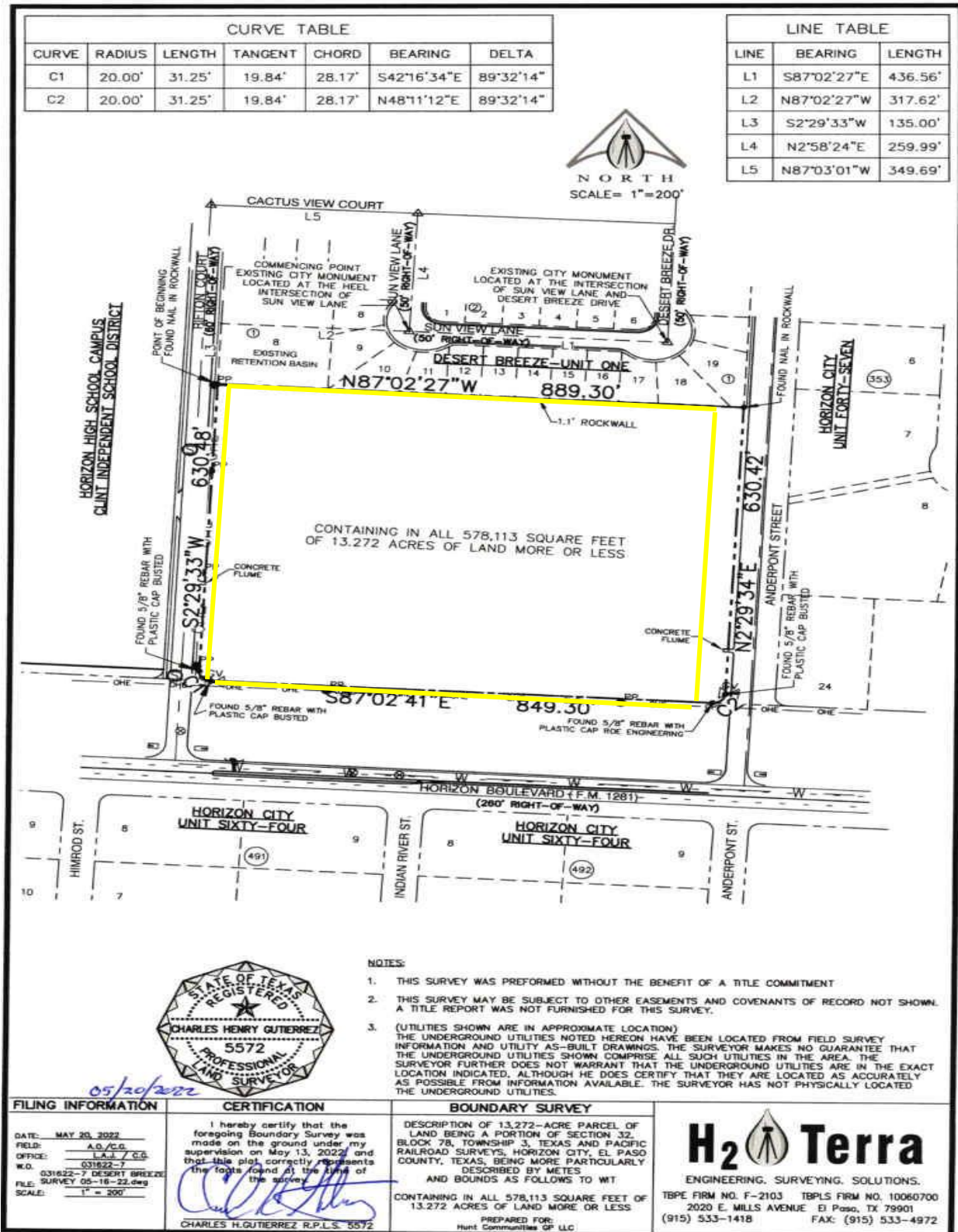
FEE SCHEDULE: (NON-REFUNDABLE)

\$300 - UP TO 1.0 ACRES	\$450 - 30.1 ACRES TO 50 ACRES
\$350 - 1.1 ACRES TO 10 ACRES	\$500 - 50.1 ACRES TO 75 ACRES
\$400 - 10.1 ACRES TO 30 ACRES	\$600 - 75.1 ACRES AND UP
EL PASO TIMES PUBLISHING FEE APPROXIMATELY \$460	ENGINEERING FEE APPROXIMATELY \$60 PER 1/2 HOUR

Application & Submittals Due Date: 07/21/2022
 P&Z Scheduled Mtg. Date: 08/15/2022
 City Council Scheduled Date: 09/13/2022
 Application Received By: ARF RUBIN
 Date Application Rec'd: 07/21/2022

Please see reverse side for list of items required at time of submitting REZONING application.

Attachment 5: Survey Map



ORDINANCE NO. _____

AN ORDINANCE ADOPTING A ZONING CHANGE WITHIN THE MUNICIPAL LIMITS OF THE TOWN OF HORIZON CITY, TEXAS; REZONING ONE PARCEL FROM A-1 (APARTMENTS) TO R-2 (SINGLE-FAMILY DWELLING); CONTAINING APPROXIMATELY 13.27 ACRES; BEING A PORTION OF, SECTION 32, BLOCK 78, TOWNSHIP 3, TEXAS AND PACIFIC RAILROAD COMPANY SURVEYS, TOWN OF HORIZON CITY, EL PASO COUNTY, TEXAS; NORTH OF HORIZON BOULEVARD AND EAST OF RIFTON DRIVE; AND AUTHORIZING THE NOTATION OF THE CHANGE ON THE OFFICIAL ZONING MAP OF THE TOWN; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; REPEALER; SEVERABILITY; AND PROPER NOTICE AND HEARING.

WHEREAS, an application was made to change a designated zone for a parcel of property as identified herein within the municipal limits of the Town of Horizon City; and

WHEREAS, said application was forwarded to and considered by the Town of Horizon City Planning and Zoning Commission; and

WHEREAS, the Planning and Zoning Commission has complied with all state and local laws affecting the changing of zones and held a public hearing to obtain public comments; and

WHEREAS, the Planning and Zoning Commission has recommended that the zoning on the parcel of property be rezoned to R-2 Residential; and

WHEREAS, the City Council of the Town of Horizon City ("Town Council") seeks to promote safe, orderly and consistent use and development of real property; and

WHEREAS, the notice required by the Texas Local Government Code has been published in the official newspaper and given to adjacent property owners; and

WHEREAS, public hearings have been held by the Town Council as required by law; and

WHEREAS, all written and oral protests (if any) submitted against the proposed zoning change have been reviewed and considered; and

WHEREAS, the Town Council in its decision for rezoning finds that such rezoning is in the public interest of the Town of Horizon City, Texas; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the Town has general authority to adopt an ordinance or police regulation that is for the good

government, peace or order of the Town and is necessary or proper for carrying out a power granted by law to the Town; and

WHEREAS, pursuant to Texas Local Government Code Chapter 211, the Town is authorized to promulgate and enforce zoning regulations; and

WHEREAS, the Town Council finds that it is necessary and proper for the good government, peace and order of the Town of Horizon City to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HORIZON CITY, TEXAS. THAT:

I. REZONING

The zoning be changed from A-1 (Apartments) to R-2 (Single-Family Dwelling) within the meaning of the Zoning Ordinance contained in Chapter 14 on the Horizon City Municipal Code, for approximately 13.27 acres, more or less, and legally described by Metes and Bounds Description, Exhibit "A" attached hereto and by reference included herein.

II. ZONING MAP

The zoning map for the Town of Horizon City shall be modified to include the zoning changes directed by this ordinance.

III. FINDINGS OF FACT

That this ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinance, and such is evidenced by the signatures below; and further that the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

IV. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the effect of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

V. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with

jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

VI. PROPER NOTICE AND MEETING

It is officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52, Texas Local Government Code.

PASSED AND APPROVED this the ___ day of _____, 2023, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the Town Council of Horizon City, Texas.

Town of Horizon City

By: _____
Ruben Mendoza, Mayor

ATTEST:

By: _____
Elvia Schuller, TRMC, City Clerk

APPROVED AS TO FORM:

Sylvia Borunda Firth, City Attorney

First Reading: 04/11/2023
Second Reading: 05/09/2023

Prepared For: Hunt Communities GP LLC
Date: 5-20-22
Section 32, Block 78, Township 3, Texas and Pacific Railroad Surveys,
Horizon City, El Paso County, Texas
W.O. # 031622-7

METES AND BOUNDS DESCRIPTION

Description of 13,272-acre parcel of land being a portion of Section 32, Block 78, Township 3, Texas and Pacific Railroad Surveys, Horizon City, El Paso County, Texas, being more particularly described by metes and bounds as follows to wit:

Commencing at an existing City monument at the heel intersection of Sun View Lane (50-foot Right-of-Way, in front of Lot 9, Block 1, Desert Breeze Subdivision Unit One Book 80. Page 23, Plat Records, El Paso County, Texas) from which another City monument at the intersection of Sun View Lane and Desert Breeze Drive (50-foot right-of-way) bears South $87^{\circ}02'27''$ East, a distance of 436.56 feet; Thence, North $87^{\circ}02'27''$ West, a distance of 317.62 feet to a point on the easterly right-of-way of Rifton Street (60-foot right-of-way) Thence, South $02^{\circ}29'33''$ West, along said right-of-way line, a distance of 135.00 feet to a nail set on a rock wall being the Point of Beginning of this description;

Thence, South $02^{\circ}29'33''$ West, along said right-of-way line 630.48 feet to a found $5/8''$ rebar with cap stamped Roe Engineering;

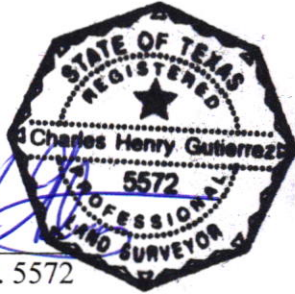
Thence, 31.25 feet continuing along said right-of-way line, along the arc of a curve to the left, having a radius of 20.00 feet, a central angle of $89^{\circ}32'14''$, and a chord which bears South $42^{\circ}16'34''$ East, a distance of 28.17 feet to a found $5/8''$ rebar on the northerly right-of-way line of Horizon Boulevard (260-foot right-of-way);

Thence, South $87^{\circ}02'41''$ East, along said right-of-way line, a distance of 849.30 feet to a to a found $5/8''$ rebar with cap stamped "Roe Engineering";

Thence, 31.25 feet along the arc of a curve to the left, having a radius of 20.00 feet, a central angle of $89^{\circ}32'14''$, and a chord which bears North $48^{\circ}11'12''$ East, a distance of 28.17 feet to a found $5/8''$ rebar with cap stamped Roe Engineering;

Thence, North $02^{\circ}29'34''$ East, a distance of 630.42 feet to a nail set on a rock wall;

Thence North 87°02'27" West, along said boundary line, a distance of 889.30' feet, to the Point of Beginning and containing in all 578,113 square feet or 13.272 acres of land more or less.



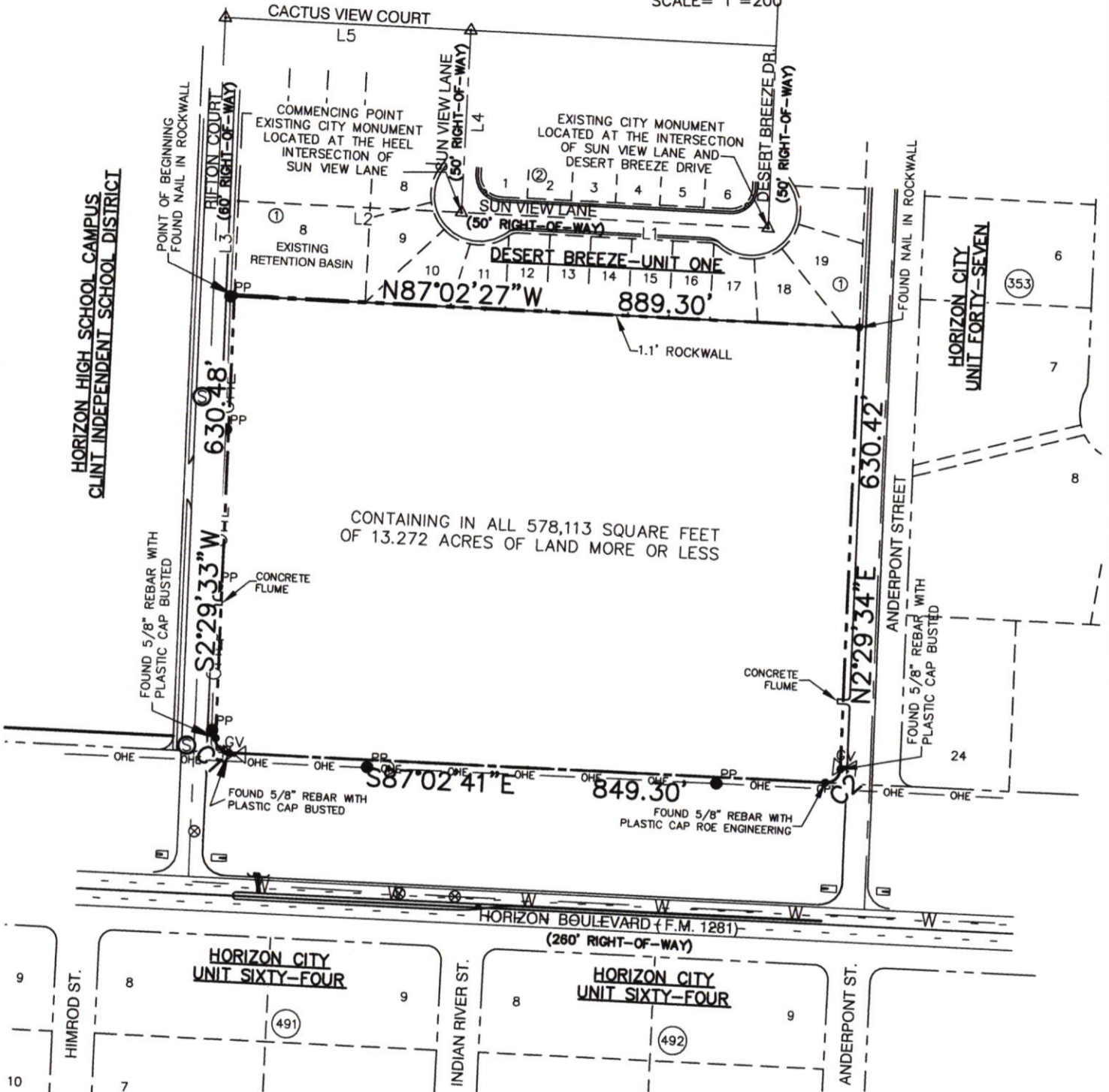
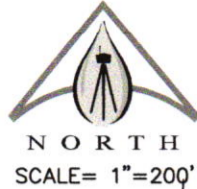
05/20/2022 *Charles H. Gutierrez*
CHARLES H. GUTIERREZ R.P.L.S. 5572
H2O-Terra

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	20.00'	31.25'	19.84'	28.17'	S42°16'34"E	89°32'14"
C2	20.00'	31.25'	19.84'	28.17'	N48°11'12"E	89°32'14"

LINE TABLE

LINE	BEARING	LENGTH
L1	S87°02'27"E	436.56'
L2	N87°02'27"W	317.62'
L3	S2°29'33"W	135.00'
L4	N2°58'24"E	259.99'
L5	N87°03'01"W	349.69'



NOTES:

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT
2. THIS SURVEY MAY BE SUBJECT TO OTHER EASEMENTS AND COVENANTS OF RECORD NOT SHOWN. A TITLE REPORT WAS NOT FURNISHED FOR THIS SURVEY.
3. (UTILITIES SHOWN ARE IN APPROXIMATE LOCATION)
THE UNDERGROUND UTILITIES NOTED HEREON HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND UTILITY AS-BUILT DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.



05/20/2022

FILING INFORMATION
 DATE: MAY 20, 2022
 FIELD: A.O./C.G.
 OFFICE: L.A.J. / C.G.
 W.O. 031622-7
 FILE: 031622-7 DESERT BREEZE
 SCALE: 1" = 200'

CERTIFICATION
 I hereby certify that the foregoing Boundary Survey was made on the ground under my supervision on May 13, 2022 and that this plat correctly represents the facts found at the time of the survey.

 CHARLES H. GUTIERREZ R.P.L.S. 5572

BOUNDARY SURVEY
 DESCRIPTION OF 13,272-ACRE PARCEL OF LAND BEING A PORTION OF SECTION 32, BLOCK 78, TOWNSHIP 3, TEXAS AND PACIFIC RAILROAD SURVEYS, HORIZON CITY, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS TO WIT
 CONTAINING IN ALL 578,113 SQUARE FEET OF 13.272 ACRES OF LAND MORE OR LESS
 PREPARED FOR:
 Hunt Communities GP LLC

H₂ Terra
 ENGINEERING. SURVEYING. SOLUTIONS.
 TBPE FIRM NO. F-2103 TBPLS FIRM NO. 10060700
 2020 E. MILLS AVENUE El Paso, TX 79901
 (915) 533-1418 FAX: (915) 533-4972