



AGENDA CITY COUNCIL MEETING

August 1, 2024 | 6:30 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

Notice is hereby given that a meeting of the Lucas City Council will be held on Thursday, August 1, 2024, beginning at 6:30pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002-7651, at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting. Pursuant to Texas Government Code 551.127, one or more members of the governing body may appear via videoconference call. The presiding officer and a quorum of the City Council will be physically present at this meeting.

If you would like to watch the meeting live, you may go to the City's live streaming link at <https://www.lucastexas.us/departments/public-meetings/>.

How to Provide Input at a Meeting:

Speak In Person: Request to Speak forms will be available at the meeting. Please fill out the form and give to the City Secretary prior to the start of the meeting. This form will also allow a place for comments.

Submit Written Comments: If you are unable to attend a meeting and would like to submit written comments regarding a specific agenda item, email City Secretary Toshia Kimball at tkimball@lucastexas.us by no later than 3:30 pm the day of the meeting. The email must contain the person's name, address, phone number, and the agenda item(s) for which comments will be made. Any requests received after 3:30 pm will not be included at the meeting.

Call to Order

- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

Citizen Input

1. Citizen Input.

Community Interest

Pursuant to Section 551.0415 of the Texas Government Code, the City Council may report on the following items: 1) expression of thanks, congratulations or condolences; 2) information about holiday schedules; 3) recognition of individuals; 4) reminders about upcoming City Council events; 5) information about community events; and 6) announcements involving imminent threat to public health and safety.

2. Items of Community Interest.

- A. Recognizing Alana Cohen, Human Resources Manager, for receiving the 2024 Rising Star Award of Honor (population under 25,000) from the Texas Human Resources Management Association (TMHRA).

Consent Agenda

All items listed under the consent agenda are considered routine and are recommended to the City Council for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

3. Consent Agenda:

- A. Approval of the minutes of the July 18, 2024, City Council meeting.
- B. Consider authorizing the renewal of the Communications Facilities and License Agreement between Towerstream I, Inc. as successor in Interest to Big Wave Wireless, LLC and the City, for the Wireless Internet facilities at Winningkoff Tower and McGarity Tower with such renewal period beginning on 9/6/2024 through 9/15/2025.
- C. Consider authorizing the City Manager to execute the First Amendment to Communications Facilities License Agreement between Skybeam, LLC d/b/a Rise Broadband and the City, for communications facilities located at McGarity Water Tower and East Winningkoff Water Tower for a period of 5 years.
- D. Authorize the City Manager to enter into an agreement for Information Technology Support and Maintenance between Baxter I.T. Consulting Services and the City of Lucas.
- E. Authorize the Mayor to enter into an interlocal agreement between the City of Lucas and Collin County for jail services for a one-year period beginning October 1, 2024, through September 30, 2025.

Regular Agenda

- 4. Consider authorizing the City Manager to enter into an agreement with BCC Engineering, LLC for the following:
 - 1. Plans and details for the proposed West Lucas Road Reconstruction and Widening from Angel Parkway to Country Club Road, Alternative 2 Revision from Angel Parkway to Muddy Creek for necessary revisions to the drainage and alignment of the western end of West Lucas Road in the amount of \$420,000 using funds to be allocated from account 21-8210-491.136, West Lucas Road.
 - 2. Plans and details for the replacement of the existing eight-inch force main located along West Lucas Road in the amount of \$41,450 to be allocated from Unrestricted Water Fund Reserves.
 - 3. Plans and details for the construction of an eight-foot-wide sidewalk/trail running from the existing sidewalk/trail at the southeast corner of Wal-Mart Lucas Addition and continuing along the north side of West Lucas Road to its intersection with Country Club Road in an additional amount to be determined.
(Presenter: CIP Manager Patrick Hubbard)

Executive Session

5. Executive Session:

The City Council will convene into Executive Session pursuant to Section 551.074(a)(1) of the Texas Government Code, Personnel Matters, for Boards and

Commissions candidate review for the Planning and Zoning Commission and Board of Adjustments.

6. Reconvene from Executive Session and take any action necessary as a result of Executive Session.
7. Adjournment.

Certification

I do hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, TX 75002 and on the City's website at www.lucastexas.us on or before 5:00 p.m. on July 26, 2024.

Toshia Kimball, City Secretary

In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to City Secretary Toshia Kimball at 972.912.1211 or by email at tkimball@lucastexas.us at least 48 hours prior to the meeting.



City of Lucas

City Council Agenda Request

August 1, 2024

Item No. 01

Requester: Mayor Dusty Kuykendall

Agenda Item Request

Citizen Input.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

City Council Agenda Request

August 1, 2024

Requester: Mayor Dusty Kuykendall

Agenda Item Request

Items of Community Interest.

Background Information

The City of Lucas proudly announces that Alana Cohen, Human Resources Manager, has been honored with the 2024 Rising Star Award of Honor (population under 25,000) by the Texas Human Resources Management Association (TMHRA). The award, presented at the annual TMHRA conference in Denton, Texas, recognizes new members in the first five years of their career who show exceptional promise, leadership, and contribution to the profession.

Alana's dedication to high-quality service delivery and innovative problem-solving has made a significant impact on her team and the community. This prestigious recognition reflects her passion and resilience in public sector human resources management.

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

City Council Agenda Request

August 1, 2024

Item No. 03

Requester: Development Services Director Joe Hilbourn
City Secretary Toshia Kimball

Agenda Item Request

Consent Agenda:

- A. Approval of the minutes of the July 18, 2024, City Council meeting.
- B. Consider authorizing the renewal of the Communications Facilities and License Agreement between Towerstream I, Inc. as successor in Interest to Big Wave Wireless, LLC. and the City, for the Wireless Internet facilities at Winningkoff Tower and McGarity Tower with such renewal period beginning on 9/6/2024 through 9/15/2025.
- C. Consider authorizing the City Manager to execute the First Amendment to Communications Facilities License Agreement between Skybeam, LLC d/b/a Rise Broadband and the City, for communications facilities located at McGarity Water Tower and East Winningkoff Water Tower for a period of 5 years.
- D. Authorize the City Manager to enter into an Agreement for Information Technology Support and Maintenance between Baxter I.T. Consulting Services and the City of Lucas.
- E. Authorize the Mayor to enter into an interlocal agreement between the City of Lucas and Collin County for jail services for a one-year period beginning October 1, 2024, through September 30, 2025.

Background Information

- C. Big Wave Wireless entered into a facilities agreement with the city of Lucas in September of 2019 for the transmission and reception of communication signals at the East Winningkoff tower site located at 745 East Winningkoff Road. In March of 2022, the Big Wave wireless facilities agreement was assigned to Towerstream. In July of 2024 the city received a letter from Towerstream requesting to extend the agreement for a period of one year, 9/16/2024 to 9/15/2025 per the terms of the original agreement Article 1 term, section 1.2 the parties may mutually agree to renew this agreement for two (2) additional terms of one (1) year each (each a renewal term).
- D. In 2016 the city entered into an Agreement with Rise Broadband to permit the installation of equipment and antennas at the Winningkoff tower. In 2017 the agreement was amended to add and remove equipment and amended the fee to reflect the additional equipment. The purpose of the new amendment is to extend the agreement an additional 5 years and to clean up minor errors in the original agreement.



City of Lucas

City Council Agenda Request

August 1, 2024

Attachments/Supporting Documentation

1. Minutes of the July 18, 2024, City Council meeting.
2. Tower Stream assignment doc from Big Wave Tower Contract 293
3. Tower Stream original contract with Big Wave
4. Tower Stream Renewal Letter
5. 2016 Rise Broadband Communications Facilities License Agreement
6. 2017 First Amendment to the 2016 Rise Broadband Communications Facilities License Agreement
7. Lucas Rise Broadband Second Amendment to Communications Facilities Agreement
8. Agreement for Information Technology Support and Maintenance between Baxter I.T. Consulting Services and City of Lucas.
9. City of Lucas and Collin County for jail services interlocal agreement

Budget/Financial Impact

NA

Recommendation

City staff recommends approval of the Consent Agenda.

Motion

I make a motion to approve the Consent Agenda as presented.



MINUTES

CITY COUNCIL REGULAR MEETING

July 18, 2024 | 6:05 PM or immediately following the
Lucas Fire Control, Prevention and EMS Board Meeting
Council Chambers
City Hall | 665 Country Club Road, Lucas, Texas

City Councilmembers Present:

Mayor Dusty Kuykendall
Mayor Pro Tem Debbie Fisher
Councilmember Chris Bierman
Councilmember Brian Stubblefield
Councilmember Neil Peterson
Councilmember Tim Johnson
Councilmember Phil Lawrence

City Staff Present:

City Manager John Whitsell
City Secretary Toshia Kimball
Development Services Director Joe Hilbourn
Finance Director Liz Exum
Fire Chief Ted Stephens
Assistant Fire Chief Aaron Alderdice
Assistant Fire Chief Lance Gant
CIP Manager Patrick Hubbard
Public Works Supervisor Jeremy Bogle
Human Resources Manager Alana Cohen
Deputy Daniel Brown

The regular City Council meeting was called to order at 6:08 pm.

Citizen Input

1. Citizen Input

There were no members of the public wishing to address the City Council.

Community Interest

2. Items of Community Interest

Mayor Kuykendall gave items of community interest including:

- Lucas Farmers Market
- Public Lands Trail Cleanup
- Boards and Commissions

Consent Agenda

3. Consent Agenda:

- Approval of the City of Lucas Quarterly Investment Report ended March 2024.**
- Approval of the City of Lucas Quarterly Investment Report ended June 2024.**
- Approval of setting the date for the public hearing regarding the City of Lucas Fiscal year 24/25 budget for August 15, 2024.**
- Approval of the minutes of the June 20, 2024, City Council meeting.**

MOTION: A motion was made by Councilmember Johnson, seconded by Councilmember Peterson, to approve the Consent Agenda as corrected. The motion passed unanimously by a 7 to 0 vote.

Regular Agenda

4. **Discuss the proposed City of Lucas budget for Fiscal Year 24/25.**

MOTION: There is no motion required for this item.

5. **Discuss and consider updates to R#2013-05-00397 Lucas City Council Rules of Order and Procedures**

The city attorney will update the rules of order, Section II – Agenda Preparation #2, and present it for City Council approval.

MOTION: There is no motion required on this item.

Executive Agenda

6. **Executive Session:**

As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting. This meeting is closed to the public as provided in the Texas Government Code.

There was no executive session during this meeting.

7. **Reconvene from Executive Session and take any action necessary as a result of the Executive Session.**

There was no executive session during this meeting.

8. **Adjournment.**

MOTION: A motion was made by Councilmember Johnson, seconded by Councilmember Lawrence, to adjourn the meeting at 9:33 pm. The motion passed unanimously by a 7 to 0 vote.

APPROVED:

ATTEST:

Mayor Dusty Kuykendall

Toshia Kimball, City Secretary

LEASE / LICENSE ASSIGNMENT AND CONSENT AGREEMENT

THIS LEASE / LICENSE ASSIGNMENT AND CONSENT AGREEMENT (the "*Assignment*") is made and executed, effective as of March 10, 2022 (the "*Effective Date*"), by Big Wave Wireless, LLC ("*Assignor*") in favor of Towerstream I, Inc ("*Assignee*").

RECITALS:

A. Assignor and City of Lucas, Texas, on its own behalf and on behalf of its wholly-owned or indirect subsidiaries ("*Lessor*") are parties to that certain Lease / License Agreement, dated September 11, 2019 along with any amendments thereto listed on Appendix 1 hereto (the "*Lease / License*"), under which Licensor has licensed to Assignor a portion of the site described therein.

B. Pursuant to that certain Asset Purchase Agreement dated effective March 10, 2022 by and between Assignor and Assignee (the "*Purchase Agreement*"), (i) Assignor has agreed to assign to Assignee all of Assignor's right, title, and interest under the Lease / License; and (ii) Assignee has expressly assumed, and become bound by, all of Assignor's obligations under the License.

C. Assignor is executing this Assignment in order to effectuate such assignment to Assignee of all of Assignor's right, title, and interest under the License.

AGREEMENTS:

NOW, THEREFORE, Assignor, intending to be legally bound, does hereby execute this Assignment in order to effectuate such assignment.

1. Assignment. Assignor does hereby (a) assign, transfer, set over and convey to Assignee all of Assignor's right, title, and interest under the License, and (b) direct Licensor to treat Assignee as the sole "Licensee" under the License. This Assignment is intended to effectuate, and shall not be deemed to modify, the terms of the Purchase Agreement.

2. Acceptance and Assumption by Assignee. Assignee hereby accepts the foregoing assignment of all right, title and interest of Assignor in and to the Lease / License attached hereto and assumes and agrees to become bound by all of Assignor's obligations under the Lease / License.

3. Miscellaneous.

- a) Upon the request of Lessor / Licensor or Assignee, the undersigned shall make, execute, and deliver such documents and instruments, and shall take such other actions as may be reasonably necessary to carry into effect the assignment described in this Assignment of Lease / License Agreement. If at any time any provision of this Assignment is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the remainder of the provisions of this Assignment will remain in full force and effect.
- b) A copy of this Assignment that is email shall be binding upon Assignor to the same extent as a copy hereof containing Assignor's original signature.

c) Assignee Notice and Contact Information:

Leasing Department

leasing@towerstream.com

Accounts Payable Department

accountspayable@towerstream.com

Mailing Address

Towerstream

76 Hammarlund Way, Middletown, RI 02842

Attention: Leasing Department

401-608-8412

Signatures on following page.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed, effective as of the Effective Date set forth above.

ASSIGNOR

By: 

Print Name: Amye K. Mercer

Title: President/Owner

ASSIGNEE

By: Michael S Connors

Print Name: Michael Connors

Title: VP Operations

LESSOR / LICENSOR

I / we consent to this Assignment and all terms therein.

By: 

Print Name: Joni Clarke

Title: City Manager

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

**COMMUNICATIONS FACILITIES
LICENSE AGREEMENT**

This Communications Facilities License Agreement ("Agreement") is made by and among the City of Lucas, Texas ("City") and Big Wave Wireless, LLC, a fixed wireless internet service provider, with its principal offices located at 950 Honeysuckle Lane, Lucas, Texas, 75002 ("Licensee") (collectively referred to as "Parties" and individually as a "Party"), for use of certain premises and/or facilities according to the following terms and transactions.

**Article I
Term**

1.1 The Initial Term of this Agreement shall commence on the last day of execution hereof (the "Commencement Date") and continue for a period of five (5) years, unless sooner terminated as provided herein.

1.2 Upon expiration of the Initial Term, the Parties may mutually agree to renew this Agreement for two (2) additional terms of one (1) year each (each a "Renewal Term").

**Article II
Premises**

City is the owner of parcels of land and the Water Tower known as the Winningkoff Tower located at 745 Winningkoff Road (collectively referred to as "Water Towers" and individually referred to as "Facility") located in the City of Lucas, Collin County, Texas, (the Water Towers and Land are collectively referred to as the "Property" or the "Premises"). The Property is more particularly described in Exhibit "A" through "C", which is attached hereto and incorporated herein. City hereby leases to Lessee, and Lessee hereby leases from City, space on the Water Towers and all access and utility easements, if any, (collectively referred to as the "Premises").

**Article III
Permitted Use**

The Premises may be used by Licensee only for permitted uses, which are (i) the transmission and reception of communications signals; (ii) the construction, alteration, maintenance, repair, replacement and relocation of related facilities, towers, antennas, equipment and buildings; and, (iii) activities related to any of the foregoing.

**Article IV
Rent**

4.1 Upon the Commencement Date, Licensee shall pay Rent to City in the following amount:

Winningkoff Tower	Five Hundred Dollars (\$500) per month.
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4.2 Rent shall be payable on the first day of the month, in advance, to City, at the following address: City of Lucas, Attention: City Manager, 665 Country Club Road, Lucas, Texas 75002.

Article V Improvements; Utilities; Access

5.1 Licensee has the right to erect, maintain and operate on the Premises antennae facilities, including without limitation utility lines, transmission lines, electronic equipment, connecting cables and supporting equipment and structures thereto ("Licensee Facilities"), which facilities are depicted in the schematic or diagrams shown on the attached Exhibit "C." All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner. Title to the Licensee Facilities shall be held by Licensee. All of Licensee Facilities shall remain Licensee's personal property and are not fixtures. Licensee has the right to remove all Licensee Facilities at its sole expense on or before the expiration or earlier termination of the Agreement; provided Licensee repairs any damage to the Premises caused by such removal. Licensee shall not damage, injure or impair any facilities or equipment on the Towers and Premises in the erection, installation, construction or maintenance of Licensee's Facilities and shall indemnify, hold harmless and defend City from any and all loss, damage or injury caused in whole or in part by Licensee or its agents, representatives or employees in this regard.

5.2 Licensee, Licensee's employees, agents and subcontractors shall have access to the Premises with prior notice to City twenty-four (24) hours a day, seven (7) days a week. If City is contacted by Licensee after City's normal business hours, Licensee shall reimburse City for the actual cost of any City personnel necessary for Licensee's access.

5.3 City shall maintain existing access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. City shall be responsible for maintaining and repairing such roadways, at its sole expense, except for any damage caused by Licensee's use of such roadways.

5.4 City reserves the right to perform maintenance on the Water Towers, both structural and cosmetic (paint), at whatever intervals as may be required to assure the integrity and longevity of the Water Towers. If maintenance work is required, City agrees to provide Licensee with reasonable notice of not less than ninety (90) days prior to commencing such work to allow Licensee time to remove any and all of Licensee's antennas and equipment as may be necessary provided City makes best efforts to provide Licensee with sufficient notification of the intended work and the opportunity, at Licensee's cost and expense, to temporarily relocate and continue to operate its antennas and equipment, or otherwise to secure the antennas or the communication facilities generally, to protect them from damage and allow Licensee to continue to operate. Licensee shall be permitted to install any type of temporary facility necessary to keep its Communication Facility operational. Further, any maintenance will be conducted by City as diligently and expeditiously as possible. However, subject to the above, City shall not be responsible for system outages of up to thirty (30) days resulting from City's need for unusually

extensive maintenance and any inability of City to accommodate a relocation of Licensee's antennas to keep them operational.

5.5 City reserves the right to require Licensee to relocate its Facilities to another location on the Water Towers. Licensee shall complete the relocation of its Facilities within ninety (90) days after written notice from City. The relocation shall be at Licensee's expense, unless City's relocation requirement results from City's desire to lease space on the Water Towers to non-governmental third-party users. In that case, the third-party user shall be obligated to reimburse Licensee the reasonable relocation costs of Licensee.

Article VI Interference

6.1 Licensee shall not interfere with the operation of (i) any radio equipment of City presently situated on the Water Towers or the Property or (ii) equipment situated on the Water Towers or the Property by other operators of radio equipment at the Water Towers site which is employed in Permitted Uses, including water systems, and which are in existence on the Commencement Date of this Agreement ("Present Operators") ("Harmful Interference"). Licensee shall coordinate with City and all Present Operators to ensure that Licensee's frequencies and antenna locations will be compatible with those of City and Present Operators.

6.2 In the event City desires to install new or additional radio communications equipment at the Water Towers site in the future, Licensee agrees to cooperate with City in the remedying of any radio interference with said radio equipment, however, in no event shall Licensee be required to cease its activities or move its antennas or equipment on the Water Towers site or relocate the equipment shelter unless such interference is sufficient to disrupt police, fire, public works, any City communications or other emergency communications ("Emergency Interference").

6.3 In the event there is Harmful Interference to said electronic equipment, Licensee shall promptly take all steps necessary to identify the problem, and, if caused by Licensee's equipment, to take all reasonable steps to eliminate said Harmful Interference within ten (10) days after notice from City or such other operator to Licensee advising of the Harmful Interference. If said Harmful Interference cannot be eliminated within thirty (30) days after notice thereof, Licensee agrees to suspend operations (transmissions) at the site while the Harmful Interference problems are studied, and a means found to mitigate them. If said Harmful Interference cannot be eliminated, then Licensee shall, without penalty or further liability, terminate this Agreement upon immediate notice to City and remove its equipment shelter and its Antenna Facilities, concrete pad, cables and any other Licensee owned equipment from City's property.

6.4 In the event there is Emergency Interference to said electronic equipment, Licensee shall immediately suspend operations (transmissions) at the Water Towers site and promptly take all steps necessary to identify the problem, and, if caused by Licensee's equipment, to take all such steps as are necessary to eliminate said Emergency Interference. If said Emergency Interference cannot be eliminated within sixty (60) days, then Licensee may, at its sole election and without

penalty or further liability, terminate this Agreement upon immediate notice to City and remove its equipment shelter and its Antenna Facilities from the Property.

6.5 During the term of this Agreement and any extension thereof, City shall from time to time lease additional space on the Water Towers site and Property and may grant to such licensees the same non-exclusive easements for access and utilities as are above granted to Licensee. Such licensees' intended use of the property leased to them may be similar or substantially the same as the above described use by Licensee. City shall not be responsible to Licensee for the activities of any other such user as such may affect Licensee. However, City shall cause all subsequent users of the Water Towers site to agree to a clause similar to this Article VII herein, promising to immediately eliminate interference if said user's equipment should interfere with that of Licensee, or any other user of the Water Towers site and providing that all then existing licensees and Present Operators on the Water Towers site and at the Premises are third-party beneficiaries of such agreement which may be enforced directly by Licensee and/or any other licensee or user. In the event any such interference does not cease promptly, the Parties acknowledge that continuing interference may cause irreparable injury to Licensee and, therefore, Licensee shall have the right, in addition to any other rights that it may have at law or in equity, to bring action against the interfering party to enjoin such interference. In the event Licensee and the interfering party fail to eliminate such interference, Licensee shall have the right to terminate this Agreement upon ten (10) days written notice to City with no further obligation or liability between City and Licensee.

6.6 Licensee shall have the sole burden of, and be responsible for all costs associated with, alleging and proving that another user, including City owned equipment of the Premises is causing significant interference, or for otherwise enforcing Licensee's rights under this Agreement. City shall not be responsible for the costs associated with the resolution of any dispute between users of the Premises or enforcement of any of Licensee's rights under this Agreement.

Article VII Taxes

Licensee shall be responsible for and pay any taxes directly attributable to the Licensee Facilities or Licensee's use of the Property.

Article VIII Condition of Site

Licensee accepts the Premises as is, in its current condition, and City makes no representations or warranties, and hereby disclaims any and all such representations or warranties, express or implied, of any kind or nature, with regard to the Facilities and Premises. City shall maintain the Premises in compliance with all applicable statutes, regulations and rules, and in a manner which will not interfere with Licensee's reasonable use of the site. Upon expiration, cancellation, or termination of this Agreement, Licensee shall remove its equipment, antenna systems and structures from the Premises at Licensee's sole cost and expense. However, upon vacation of this site, Licensee shall surrender the Premises in substantially the same condition as received, except for ordinary wear and tear, as determined by City. If, as determined by City, the

Premises are not surrendered in satisfactory condition, Licensee shall be liable to City for an amount representing the actual cost to restore the Premises to substantially the same condition as received. In the event of Licensee's timely failure to remove its equipment, antenna systems, and structures, City may do so at its expense and retain and sell any such equipment, antenna systems, and structures in compensation for any past due obligations. Licensee hereby grants and conveys a lien on all equipment, antenna systems and structures installed and used at the Premises for such purposes, enforceable without judicial intervention, perfected by written notice to Licensee to cure its default within ten (10) days of such notice. Any permanent improvements or fixtures installed on the Premises by Licensee shall become the property of City upon the expiration of this Agreement.

Article IX Termination

9.1 This Agreement, or any individual Facility, may be terminated without further liability on ninety (90) days prior written notice as follows:

- (a) by either Party upon a default of any covenant or term hereof by the other Party, which default is not cured within sixty (60) days of receipt of written notice of default, provided that the grace period for any monetary default is twenty (20) business days from receipt of notice;
- (b) by Licensee if it is unable to obtain or maintain any license, permit, or other governmental approval necessary for the construction and/or operation of Licensee's Facilities, or if the Facility is no longer financially appropriate for Licensee's business operations;
- (c) by City if City decides in its sole discretion and for any reason, to redevelop the Premises and/or discontinue use of the Water Towers;
- (d) by City if it determines, in its sole discretion and for any reason, that the Water Towers are structurally unsound or otherwise not suitable for Licensee's use, including but not limited to consideration of age of the structure, damage or destruction of all or part of the Water Towers from any source, or factor relating to condition of the Water Towers;
- (e) by City if it determines in its sole discretion that continued use of the Water Towers by Licensee is in fact a threat to health, safety or welfare or violates applicable laws or ordinances; or
- (f) by City at its sole discretion if Licensee loses its license to provide service for any reason, including, but not limited to, nonrenewal, expiration, or cancellation of its license.

9.2 Notice of Licensee's termination pursuant to paragraph X(a) shall be given to City in writing by certified mail, return receipt requested, and shall be effective upon receipt of such

notice. All rentals paid for the License of the Premises prior to said termination date shall be retained by City. Upon such termination, this Agreement shall become null and void and the Parties shall have no further obligations to each other, except, if terminated for reason of Licensee default, that rental payments to City shall continue as liquidated damages for the remainder of the term of this Agreement, not to exceed 150% of the annual rent for the year in which such termination occurs.

Article X Destruction or Condemnation

If the Premises or Licensee Facilities are materially damaged, abandoned, removed, destroyed, condemned or transferred in lieu of condemnation, City or Licensee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to the other Party not more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If City undertakes to rebuild the Water Towers, City agrees to use its reasonable efforts to permit Licensee to place temporary transmission and reception facilities on the Property at no additional Rent until such time as Licensee is able to secure a replacement transmission location or the reconstruction of Licensee's Facilities is completed.

Article XI Insurance

Licensee, at Licensee's sole cost and expense, shall procure and maintain on the Premises and on the Licensee Facilities, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Licensee, its employees and agents arising out of or in connection with Licensee's use of the Premises, all as provided for herein. City shall be named as an additional insured on Licensee's policy. Licensee shall provide to City a certificate of insurance evidencing the coverage within thirty (30) days prior to the Commencement Date.

Article XII Warranty of Title and Quiet Enjoyment

City warrants that: (i) City owns the Property in fee simple and has rights of access thereto and the Property is free and clear of all liens, encumbrances and restrictions; (ii) City has full right to make and perform this Agreement; and (iii) City covenants and agrees with Licensee that upon Licensee paying the Rent and observing and performing all the terms, covenants and conditions on Licensee's part to be observed and performed, Licensee may peacefully and quietly enjoy the Premises.

Article XIII Repairs

Licensee shall not be required to make any repairs to the Premises or Property unless such repairs shall be necessitated by reason of the default or neglect of Licensee. Except as set forth in Article VI(a) above, upon expiration or termination hereof, Licensee shall restore the Premises to the condition in which it existed upon execution hereof, reasonable wear and tear and loss by casualty or other causes beyond Licensee's control excepted.

Article XIV Hazardous Substances

Licensee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. City and Licensee agree to assume all duties, responsibilities and liabilities at their sole cost and expense for payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) each Party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property and activities conducted by the Party thereon, unless the environmental conditions are caused by the other Party. The provisions of this section shall survive the expiration or termination of this Agreement.

Article XV Liability and Indemnity

15.1 Licensee shall at all times comply with all laws and ordinances and all rules and regulations of municipal, state and federal government authorities relating to the installation, maintenance, height, location, use, operation, and removal of the equipment, antenna systems, and other alterations or improvements authorized herein, and shall fully indemnify City against any loss, damage, cost, or expense which may be sustained or incurred by City as a result of Licensee's installation, operation, or removal of said improvements, except where caused in whole or in part by the gross negligence or willful misconduct of City, its agents, servants or employees.

15.2 Licensee agrees and is bound to indemnify, defend, and hold City whole and harmless against any and all claims for any loss or damages that may arise out of the use, maintenance, and occupancy of Licensee's Facilities and use of the Premises by Licensee, except where caused in whole or in part by the gross negligence or willful misconduct of City, its agents, servants or employees.

15.3 Licensee agrees that Licensee shall indemnify, defend, release, acquit, and hold free and harmless City, its agents, representatives and employees from and against any and all claims, demands, causes of action, liabilities, losses, and damage, whether asserted by Licensee, its agents, representatives or employees, or any third party which in any way relates to or arises from Licensee's Facilities or the installation or maintenance thereof, or from Licensee's entry onto and

utilization of the Property, including but not limited to claims or causes of action alleging that loss, injury or damage were caused in whole or in part by City's negligence.

Article XVI
Water Towers Marking and Lighting Requirements

City acknowledges that it, and not Licensee, shall be responsible for compliance with all Water Towers marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC. Should Licensee be cited by either the FCC or FAA because the Water Towers are not in compliance due to Licensee's Facilities and, should Licensee fail to cure the conditions of noncompliance within the time frame allowed by the citing agency, City may terminate this Agreement.

Article XVII
Public Emergency

The Parties understand and agree that the primary function of the Property is to serve as a water tower for City and that the interests of Licensee are superseded by the public health, safety, and welfare of the citizens of the City of Lucas served by the Water Towers. In the event that the City Council or City Manager declare a public emergency or there exists a threat to the Water Towers or potable water supply that would detrimentally impact public health, safety and welfare such that immediate action is necessary, Licensee shall immediately remove its improvements from the Premises. In the event Licensee is not able to immediately respond, City may remove Licensee's improvements without incurring liability for damages of any type. Costs of removal and reattachment of improvements shall be borne by Licensee.

Article XVIII
Miscellaneous

18.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

18.2 Assignment/Subletting. Licensee may not assign nor sublet this Agreement in whole or in part without the prior written consent of City. In the event of an assignment or sublet by Licensee to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

18.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

18.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

18.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

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

18.7 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City:

Joni Clarke
City Manager
City of Lucas, Texas
665 Country Club Road
Lucas, Texas 75002
Telephone: 972-727-8999

With Copy to:

Joseph J. Gorfida, Jr.
Nichols, Jackson, Dillard,
Hager & Smith, LLP
1800 Ross Tower
500 North Akard
Dallas, Texas 75201
Telephone: 214.965.9900

If intended for Professional:

Big Wave Wireless
Attn: Amye Mercer, President
950 Honeysuckle Lane
Lucas, Texas 75002
Telephone: 214-728-3718

18.8 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

18.9 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

18.10 Force Majeure. No Party will be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, acts of terrorism or any similar cause beyond the reasonable control of such Party, provided that

the non-performing Party is without fault in causing such default or delay. The non-performing Party agrees to use commercially reasonable efforts to recommence performance as soon as possible.


18.11 Compliance with Federal, State & Local Laws. Licensee shall comply in performance of services under the terms of this Agreement with all applicable laws, ordinances and regulations, judicial decrees or administrative orders, ordinances, and codes of federal, state and local governments, including all applicable federal clauses.

18.12 Prohibition of Boycott Israel. Licensee verifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

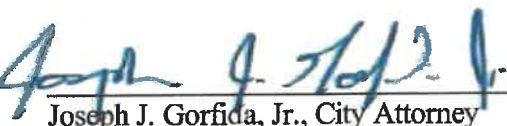
(Signature Page to Follow)

EXECUTED this 11 day of September, 2019.

City of Lucas, Texas

By: 
Joni Clarke
City Manager

Approved as to form:

By: 
Joseph J. Gorfida, Jr., City Attorney
(08-27-2019:TM110379)

EXECUTED this 16th day of September, 2019.

Big Wave Wireless, LLC


By: 
Name: Amye Mercer
Title: President

Exhibit "A"
Winningkoff Water Tower Legal Description

Being a tract of land situated in the Calvin Boles Survey, Abstract No. 28, Collin County, Texas, and being part of a 224.497 acre tract covered to the North Texas Municipal Water District by deed recorded in Volume 1326, Page 253, of the deed records of Collin County, Texas, and being more particularly described as follows:

Beginning at a point for comer located North 89° 37' 10" West 1599.37 feet and North 0° 40' 50" West a distance of 285.00 feet to a point for comer;

Thence South 89° 3 7' 1 0" East a distance of 152.84 feet to a point for comer;

Thence South 0° 40' 50" East a distance of 285.00 feet to a point for comer located 35.00 feet from the south line of said 224.497 acre tract;

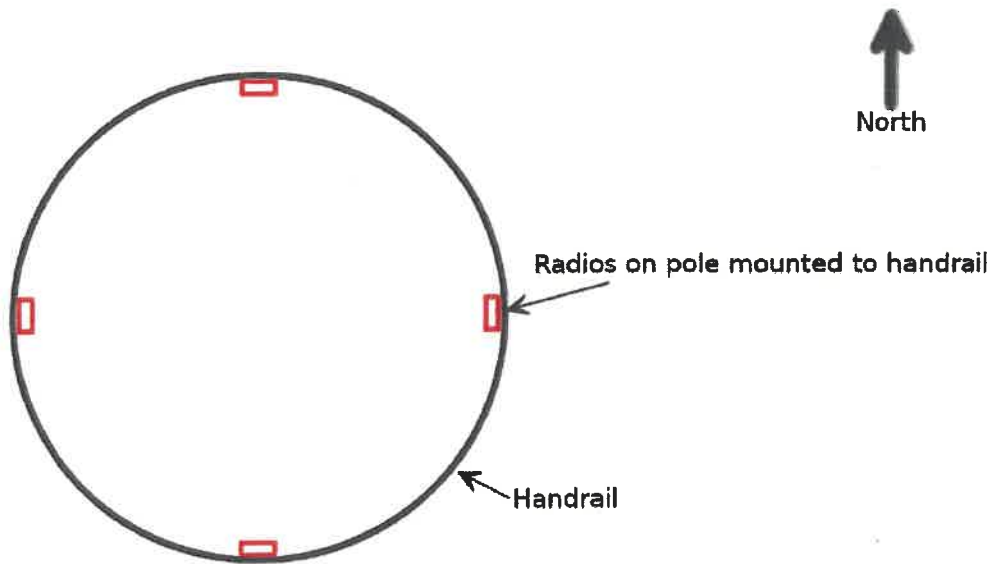
Thence North 89° 37' 10" West 35.00 feet from and parallel to said south line a distance of 152.84 feet to the point of beginning and containing 1.00 acres of land.

Exhibit "B"
Winningkoff Water Tower
License Facilities
Big Wave Wireless, LLC

Equipment on tower				
	Sector 1	Sector 2	Sector 3	Sector 4
Type	PtMP	PtMP	PtMP	PtMP
Quantity	1	2	3	4
Manufacturer	Radwin	Radwin	Radwin	Radwin
Model	Jet Pro	Jet Pro	Jet Pro	Jet Pro
Weight	7.3 lbs	7.3 lbs	7.3 lbs	7.3 lbs
Dimensions	14" x 9"	14" x 9"	14" x 9"	14" x 9"
RAD Center AGL	160	160	160	160
Mount Type	pole on handrail	pole on handrail	pole on handrail	pole on handrail
Azimuth	45°	135°	225°	315°
Mech Tilt	0°	0°	0°	0°
Licensed/unlicensed	unlicensed	unlicensed	unlicensed	unlicensed
TX Frequency	5.8 GHz	5.8 GHz	5.8 GHz	5.8 GHz
RX Frequency	5.8 GHz	5.8 GHz	5.8 GHz	5.8 GHz
Antenna Gain (dB)	20 dBi	20 dBi	20 dBi	20 dBi
# Lines per Antenna	1	1	1	1
Line Manufacturer	Radwin	Radwin	Radwin	Radwin
Line Type	CAT5e	CAT5e	CAT5e	CAT5e
Line Diameter	0.36"	0.36"	0.36"	0.36"
Conduit	yes	yes	yes	yes

Exhibit "C"
Winningkoff Water Tower
License Facilities
Big Wave Wireless, LLC

Lucas Winningkoff Water Tower – 745 E Winningkoff Rd





Office: 866-848-5848

Web: www.Towerstream.com

7/9/2024

City of Lucas
665 Country Club Road
Lucas, TX 75002

RE: Notice of Renewal of Communications Facilities License Agreement between Towerstream I, Inc, as successor in interest (“Licensee”), and the City of Lucas (“City”), dated September 16, 2019 (“Agreement”), for the installation and operation of wireless internet facilities at Winningkoff Tower and McGarity Tower

Please accept this letter as Licensee’s notice of intent to renew the Agreement for a renewal period of one (1) year per Article 1 of the Agreement, and subsequent First Amendment, for the above noted sites. Said renewal period shall begin on 9/16/2024 and end on 9/15/2025.

Should you have any questions regarding this notice, please do not hesitate to contact Towerstream Leasing at (866) 848-5848 x 461 or email the Leasing department at leasing@towerstream.com.

Sincerely,

Towerstream Real Estate Department

EXHIBIT "A"

STATE OF TEXAS

**COMMUNICATIONS FACILITIES
LICENSE AGREEMENT**

COUNTY OF COLLIN

This Communications Facilities License Agreement ("Agreement") is made by and among the City of Lucas, Texas (the "City") and SKYBEAM, LLC d/b/a RISE BROADBAND ("Licensee") (collectively, the "Parties"), acting by and through their duly authorized representatives.

**Article I
Term**

The Term of this Agreement shall be one (1) year, commencing on the date this Agreement is signed by all parties (the "Commencement Date"), and terminating at Midnight on the last day of the twelfth full month following the Commencement Date.

**Article II
Premises**

The City is the owner of parcels of land and three (3) Water Towers known as (1) the McGarity Tower located at 2295 McGarity Lane; (2) the Winningkoff Tower located on East Winningkoff Road, 1440 east of Winningkoff Road; and (3) the Public Works Tower located at 325 W. Lucas Road (all collectively referred to as "Water Towers" and individually referred to as "Facility") located in the City of Lucas, Collin County, State of Texas, (the Water Towers and Land are collectively, the "Property" or the "Premises"). The Property is more particularly described in Exhibits "A" through "C," which are attached hereto and incorporated herein. The City hereby leases to Lessee, and Lessee hereby leases from the City, space on the Water Towers and all access and utility easements, if any, (collectively, the "Premises").

**Article III
Permitted Use**

The Premises may be used by Licensee only for permitted uses, which are (i) the transmission and reception of communications signals; (ii) the construction, alteration, maintenance, repair, replacement and relocation of related facilities, towers, antennas, equipment and buildings; and, (iii) activities related to any of the foregoing.

**Article IV
Rent**

Upon the Commencement Date, Licensee shall pay to the City, as rent, Four Hundred Dollars (\$400.00), per month ("Rent") per Facility. Rent shall be payable on the first day of the

month, in advance, to the City, at the following address: City of Lucas, Attention: City Manager, 665 Country Club Road, Lucas, Texas 75002-7651.

Article V
Improvements; Utilities; Access

(a) Licensee has the right to erect, maintain and operate on the Premises antennae facilities, including without limitation utility lines, transmission lines, electronic equipment, connecting cables and supporting equipment and structures thereto ("Licensee Facilities"), which facilities are depicted in the schematic or diagrams shown on the attached Exhibit "D." All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner. Title to the Licensee Facilities shall be held by Licensee. All of Licensee Facilities shall remain Licensee's personal property and are not fixtures. Licensee has the right to remove all Licensee Facilities at its sole expense on or before the expiration or earlier termination of the Agreement; provided Licensee repairs any damage to the Premises caused by such removal. Licensee shall not damage, injure or impair any facilities or equipment on the Towers and Premises in the erection, installation, construction or maintenance of Licensee's Facilities and shall indemnify, hold harmless and defend the City from any and all loss, damage or injury caused in whole or in part by Licensee or its agents, representatives or employees in this regard.

(b) Licensee, Licensee's employees, agents and subcontractors shall have access to the Premises with prior notice to the City twenty-four (24) hours a day, seven (7) days a week. If the City is contacted by Licensee after normal business hours of the City, the Licensee shall reimburse the City for the actual cost of any the City's personnel necessary for Licensee's access.

(c) The City shall maintain existing access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. The City shall be responsible for maintaining and repairing such roadway, at its sole expense, except for any damage caused by Licensee's use of such roadways.

(d) The City reserves the right to perform maintenance on the Water Towers, both structural and cosmetic (paint), at whatever intervals as may be required to assure the integrity and longevity of the Water Towers. If maintenance work is required, the City agrees to provide Licensee with reasonable notice of not less than ninety (90) days prior to commencing such work to allow Licensee to remove any and all of Licensee's antennas and equipment as may be necessary provided the City makes best efforts to provide Licensee with sufficient notification of the intended work and the opportunity, at Licensee's cost and expense, to temporarily relocate and continue to operate its antennas and equipment, or otherwise to secure the antennas or the communication facilities generally, to protect them from damage and allow Licensee to continue to operate. Licensee will be permitted to install any type of temporary facility necessary to keep its Communication Facility operational. Further, any maintenance will be conducted by the City as diligently and expeditiously as possible. However, subject to the above, the City will not be responsible for system outages of up to thirty (30) days resulting from the City's need for unusually extensive maintenance and any inability of the City to accommodate a relocation of Licensee's antennas to keep them operational.

(e) The City reserves the right to require Licensee to relocate its Facilities to another location on the Water Towers. Licensee shall complete the relocation of its Facilities within thirty (30) days after written notice from the City. The relocation shall be at Licensee's expense, unless the City's relocation requirement results from the City's desire to lease space on the Water Towers to non-governmental third-party users. In that case, the third-party user shall be obligated to reimburse Licensee the reasonable relocation costs of Licensee.

Article VI Interference

(a) Licensee shall not interfere with the operation of (i) any radio equipment of the City presently situated on the Water Towers or the Property or (ii) equipment situated on the Water Towers or the Property by other operators of radio equipment at the Water Towers site which is employed in Permitted Uses, including water systems, and which are in existence on the Commencement Date of this Agreement ("Present Operators") ("Harmful Interference"). Licensee shall coordinate with the City and all Present Operators to insure that Licensee's frequencies and antenna locations will be compatible with those of the City and Present Operators.

(b) In addition, in the event the City desires to install new or additional radio communications equipment at the Water Towers site in the future, Licensee agrees to cooperate with the City in the remedying of any radio interference with said radio equipment, however, in no event shall Licensee be required to cease its activities or move its antennas or equipment on the Water Towers site or relocate the equipment shelter unless such interference is sufficient to disrupt police, fire, public works, any City communications or other emergency communications ("Emergency Interference").

(c) In the event there is Harmful Interference to said electronic equipment, Licensee will promptly take all steps necessary to identify the problem, and, if caused by Licensee's equipment, to take all reasonable steps to eliminate said Harmful Interference within ten (10) days after notice from the City or such other operator to Licensee advising of the Harmful Interference. If said Harmful Interference cannot be eliminated within thirty (30) days of notice thereof, Licensee agrees to suspend operations (transmissions) at the site while the Harmful Interference problems are studied and a means found to mitigate them. If said Harmful Interference cannot be eliminated, then Licensee shall, without penalty or further liability, terminate this Agreement upon immediate notice to the City and remove its equipment shelter and its Antenna Facilities, concrete pad, cables and any other Licensee owned equipment from the City's property.

(d) In the event there is Emergency Interference to said electronic equipment, Licensee shall immediately suspend operations (transmissions) at the Water Towers site and promptly take all steps necessary to identify the problem, and, if caused by Licensee's equipment, to take all such steps as are necessary to eliminate said Emergency Interference. If within sixty (60) days said Emergency Interference cannot be eliminated, then Licensee may, at

its sole election and without penalty or further liability, terminate this Agreement upon notice to the City and remove its equipment shelter and its Antenna Facilities from the Property.

(e) During the term of this Agreement and any extension thereof, the City shall from time to time lease additional space on the Water Towers site and on the Property and may grant to such licensees the same non-exclusive easements for access and utilities as are above granted to Licensee. Such licensees' intended use of the property leased to them may be similar or substantially the same as the above described use by Licensee. The City shall not be responsible to Licensee for the activities of any other such user as such may affect Licensee. However, the City shall cause all subsequent users of the Water Towers site to agree to a clause similar to this Article VII herein, promising to immediately eliminate interference if said user's equipment should interfere with that of Licensee, or any other user of the Water Towers site and providing that all then existing licensees and Present Operators on the Water Towers site and at the Premises are third-party beneficiaries of such agreement which may be enforced directly by Licensee and/or any other licensee or user. In the event any such interference does not cease promptly, the Parties acknowledge that continuing interference may cause irreparable injury to Licensee and, therefore, Licensee shall have the right, in addition to any other rights that it may have at law or in equity, to bring action against the interfering party to enjoin such interference. In the event Licensee and the interfering party fail to eliminate such interference, Licensee shall have the right to terminate this Agreement upon ten (10) days written notice to the City with no further obligation or liability between the City and Licensee.

(f) Licensee shall have the sole burden of, and be responsible for all costs associated with alleging and proving that another user, including city owned equipment of the Premises is causing significant interference, or for otherwise enforcing Licensee's rights under this Agreement. The City shall not be responsible for the costs associated with the resolution of any dispute between users of the Premises or enforcement of any of Licensee's rights under this Agreement.

Article VII Taxes

Licensee shall be responsible for and pay any taxes directly attributable to the Licensee Facilities or Licensee's use of the Property.

Article VIII Condition of Site

Licensee accepts the Premises as is, in its current condition, and the City makes no representations or warranties, and hereby disclaims any and all such representations or warranties, express or implied, of any kind or nature, with regard to the Facilities and the Premises. The City shall maintain the Premises in compliance with all applicable statutes, regulations and rules, and in a manner which will not interfere with Licensee's reasonable use of the site. Upon expiration, cancellation, or termination of this Agreement, the Licensee shall remove its equipment, antenna systems and structures from the Premises at Licensee's sole cost and expense. However, upon vacation of this site, Licensee shall surrender the Premises in substantially the same condition as received, except for ordinary wear and tear, as determined by the City. If, as determined by the

City, the Premises are not surrendered in satisfactory condition, the Licensee shall be liable to the City for an amount representing the actual cost to restore the Premises to substantially the same condition as received. In the event of Licensee's timely failure to remove its equipment, antenna systems, and structures, the City may do so at its expense and retain and sell any such equipment, antenna systems, and structures in compensation for any past due obligations. Licensee hereby grants and conveys a lien on all equipment, antenna systems and structures installed and used at the Premises for such purposes, enforceable without judicial intervention, perfected by written notice to Licensee to cure its default within ten (10) days of such notice. Any permanent improvements or fixtures installed on the Premises by Licensee shall become the property of the City upon the expiration of this Agreement.

Article IX Termination

(a) This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows:

- (i) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default, provided that the grace period for any monetary default is twenty (20) business days from receipt of notice;
- (ii) by the Licensee if it is unable to obtain or maintain any license, permit, or other governmental approval necessary for the construction and/or operation of Licensee's Facilities;
- (iii) by City if the City decides in its sole discretion and for any reason, to redevelop the Premises and/or discontinue use of the Water Towers;
- (iv) by City if it determines, in its sole discretion and for any reason, that the Water Towers are structurally unsound or otherwise not suitable for Licensee's use, including but not limited to consideration of age of the structure, damage or destruction of all or part of the Water Towers from any source, or factor relating to condition of the Water Towers;
- (v) by City if it determines in its sole discretion that continued use of the Water Towers by Licensee is in fact a threat to health, safety or welfare or violates applicable laws or ordinances; or
- (vi) by City at its sole discretion if Licensee loses its license to provide service for any reason, including, but not limited to, nonrenewal, expiration, or cancellation of its license.

(b) Notice of Licensee's termination pursuant to paragraph X(a) shall be given to City in writing by certified mail, return receipt requested, and shall be effective upon receipt of such notice. All rentals paid for the Lease of the Premises prior to said termination date shall be

retained by City. Upon such termination, the Agreement shall become null and void and the parties shall have no further obligations to each other, except that rental payments to the City shall continue as liquidated damages for the remainder of the term of this Agreement, not to exceed 150% of the annual rent for the year in which such termination occurs.

Article X Destruction or Condemnation

If the Premises or Licensee Facilities are materially damaged, abandoned, removed, destroyed, condemned or transferred in lieu of condemnation, the City or Licensee may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to the other party no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If the City undertakes to rebuild the Water Towers, the City agrees to use its reasonable efforts to permit Licensee to place temporary transmission and reception facilities on the Property at no additional Rent until such time as Licensee is able to secure a replacement transmission location or the reconstruction of Licensee's Facilities is completed.

Article XI Insurance

Licensee, at Licensee's sole cost and expense, shall procure and maintain on the Premises and on the Licensee Facilities, bodily injury and property damage insurance with a combined single limit of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Such insurance shall insure, on an occurrence basis, against liability of Licensee, its employees and agents arising out of or in connection with Licensee's use of the Premises, all as provided for herein. The City shall be named as an additional insured on Licensee's policy. Licensee shall provide to the City a certificate of insurance evidencing the coverage within thirty (30) days prior to the Commencement Date.

Article XII Warranty of Title and Quiet Enjoyment

The City warrants that: (i) the City owns the Property in fee simple and has rights of access thereto and the Property is free and clear of all liens, encumbrances and restrictions; (ii) the City has full right to make and perform this Agreement; and (iii) the City covenants and agrees with Licensee that upon Licensee paying the Rent and observing and performing all the terms, covenants and conditions on Licensee's part to be observed and performed, Licensee may peacefully and quietly enjoy the Premises.

Article XIII Repairs

Licensee shall not be required to make any repairs to the Premises or Property unless such repairs shall be necessitated by reason of the default or neglect of Licensee. Except as set forth in Article VI(a) above, upon expiration or termination hereof, Licensee shall restore the

Premises to the condition in which it existed upon execution hereof, reasonable wear and tear and loss by casualty or other causes beyond Licensee's control accepted.

**Article XIV
Hazardous Substances**

Licensee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Land in violation of any law or regulation. City and Licensee agree to assume all duties, responsibilities and liabilities at their sole cost and expense for payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to

(i) each party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or
(ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property and activities conducted by the party thereon, unless the environmental conditions are caused by the other party. The provisions of this section will survive the expiration or termination of this Agreement.

**XV
Liability and Indemnity**

(a) Licensee shall at all times comply with all laws and ordinances and all rules and regulations of municipal, state and federal government authorities relating to the installation, maintenance, height, location, use, operation, and removal of the equipment, antenna systems, and other alterations or improvements authorized herein, and shall fully indemnify the City against any loss, damage, cost, or expense which may be sustained or incurred by the City as a result of Licensee's installation, operation, or removal of said improvements, except where caused in whole or in part by the gross negligence or willful misconduct of the City, its agents, servants or employees.

(b) Licensee agrees and is bound to indemnify, defend, and hold the City whole and harmless against any and all claims for any loss or damages that may arise out of the use, maintenance, and occupancy of Licensee's Facilities and use of the Premises by Licensee, except where caused in whole or in part by the gross negligence or willful misconduct of the City, its agents, servants or employees.

(c) Licensee agrees that Licensee shall indemnify, defend, release, acquit, and hold free and harmless the City, its agents, representatives and employees from and against any and all claims, demands, causes of action, liabilities, losses, and damage, whether asserted by Licensee, its agents, representatives or employees, or any third party which in any ways relates to or arises from Licensee's Facilities or the installation or maintenance thereof, or from Licensee's entry onto and utilization of the Property, including but not limited to claims or causes of action alleging that loss, injury or damage were caused in whole or in part by the City's negligence.

Article XVI
Water Towers Marking and Lighting Requirements.

The City acknowledges that it, and not Licensee, shall be responsible for compliance with all Water Towers marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC. Should Licensee be cited by either the FCC or FAA because the Water Towers are not in compliance due to Licensee's Facilities and, should Licensee fail to cure the conditions of noncompliance within the time frame allowed by the citing agency, City may terminate this Agreement.

Article XVII
Public Emergency

The Parties understand and agree that the primary function of the Property is to serve as a water tower for the City and that the interests of Licensee are superseded by the public health, safety, and welfare of the citizens of the City of Lucas served by the Water Towers. In the event that the City of Lucas City Council or the City Manager declare a public emergency or there exists a threat to the Water Towers or potable water supply that would detrimentally impact public health, safety and welfare such that immediate action is necessary, Licensee shall immediately remove its improvements from the Leased Premises. In the event Licensee is not able to immediately respond, the City may remove Licensee's improvements without incurring liability for damages of any type. Costs of removal and reattachment of improvements shall be borne by Licensee.

Article XVIII
Miscellaneous

18.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings written or oral agreements between the parties with respect to this subject matter.

18.2 Assignment/Subletting. Licensee may not assign nor sublet this Agreement in whole or in part without the prior written consent of City. In the event of an assignment or sublet by Licensee to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

18.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

18.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

18.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

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

18.7 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City,
to: City of Lucas
Attn: City Manager 665
Country Club Road Lucas,
Texas 75002 Facsimile:
(972) 727-0091

With a copy to:
Joe Gorfida Jr.
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Lincoln Plaza, 500 N. Akard
Dallas, Texas 75201
Facsimile: 214.965.0010

SKYBEAM, LLC d/b/a RISE BROADBAND
Attn: Contract Administration
61 Inverness Dr. E, Suite 250
Englewood, Colorado 80112

18.8 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

18.9 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

18.10 Force Majeure. No Party will be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, acts of terrorism or any similar cause beyond the reasonable control of such party, provided that the non-performing party is without fault in causing such default or delay. The non-performing Party agrees to use commercially reasonable efforts to recommence performance as soon as possible.

18.11 Compliance with Federal, State & Local Laws. Licensee shall comply in performance of services under the terms of this Agreement with all applicable laws, ordinances and regulations, judicial decrees or administrative orders, ordinances, and codes of federal, state and local governments, including all applicable federal clauses.

EXHIBIT A
McGarity Water Tower Legal Description

EXHIBIT "A"

Being a 2.000 acre tract of land situated in the WILLIAM SNYDER SURVEY, ABSTRACT NO. 821, City of Lucas, Collin County, Texas and being part of a tract of land conveyed to G. Ward Paxton, by deed recorded in County Clerk File No. 94-0011304, of the Deed Records of Collin County, Texas (D.R.C.C.T.), and being more particularly described as follows:

COMMENCING at a 1/2" iron rod found at the northeast corner of said G. Ward Paxton tract, said iron rod also located in the south Right Of Way Line of F.M. Highway No. 2170;

THENCE S 00° 52'08" E, departing the said south Right Of Way Line of F.M. Highway No. 2170, and along the east line of said G. Ward Paxton tract and the west line of a tract of land conveyed to Robert Kubicek, by deed recorded in Volume 2441, Page 616, of the Deed Records of Collin County, Texas (D.R.C.C.T.), a distance of 606.60 feet to a 1/2" iron rod found for corner;

I HENCE S 00° 51'14" E, passing at a distance of 1699.07 feet a 1/2" iron rod set, in all a distance of 1994.27 feet to a 1/2" iron rod found for the southeast corner of the said G. Ward Paxton tract, said point also located in the north Right Of Way Line of McGarity Lane, and the POINT OF BEGINNING for the herein described 2.000 acre tract;

THENCE S 89° 34'11" W, along the north line of said McGarity Lane and the south line of said G. Ward Paxton tract, a distance of 296.25 feet, to a 1/2" iron rod set for corner,

THENCE N 00° 25'49" W, departing the north line of said McGarity Lane and the south line of said G. Ward Paxton tract, a distance of 295.16 feet, to a 1/2" iron rod set for corner;

THENCE N 89° 34'11" E, a distance of 294.07 feet, to a 1/2" iron rod set for corner, said point located in the east line of said G. Ward Paxton tract and the west line of a tract of land conveyed to Juliette Fowler Homes by deed recorded in Volume 816, Page 165, of the Deed Records of Cain County, Texas (D.R.C.C.T.);

THENCE S 00° 51'14" E, along the east line of said G. Ward Paxton tract and the west line of the said Juliette Fowler Homes tract, a distance of 295.17 feet, to the POINT OF BEGINNING and containing 2.000 acres, or 87,120 square feet of land more or less.

EXHIBIT B
Winningkoff Water Tower Legal Description

Being a tract of land situated in the Calvin Boles Survey, Abstract No. 28, Collin County, Texas, and being part of a 224.497 acre tract conveyed to the North Texas Municipal Water District by deed recorded in Volume 1326, Page 253, of the deed records of Collin County, Texas, and being more particularly described as follows:

Beginning at a point for corner located North 89° 37' 10" West 1599.37 feet and North 0° 40' 50" West a distance of 285.00 feet to a point for corner;

Thence South 89° 37' 10" East a distance of 152.84 feet to a point for corner;

Thence South 0° 40' 50" East a distance of 285.00 feet to a point for corner located 35.00 feet from the south line of said 224.497 acre tract;

Thence North 89° 37' 10" West 35.00 feet from and parallel to said south line a distance of 152.84 feet to the point of beginning and containing 1.00 acres of land.

EXHIBIT C
Public Works Water Tower Legal Description

SITUATED in Collin County, Texas, in the James Lovelady Survey, Abstract No. 538 and being a resurvey of a one acre tract reputed to have been conveyed by J. E. Stratton to Collin County by unrecorded deed less a strip about 30 feet wide off the north end of same conveyed to the State of Texas for Highway right-of-way:

BEGINNING at an iron stake by an old Bois d'arc corner post at the southeast corner of said 1.00 acre;

THENCE North 89° -38' West, with an established fence, 211.0 feet to an iron pipe driven in the base of a Bois d'arc tree at the southwest corner of said 1.00 acre;

THENCE North 0° -20' East 184.5 feet to a point in the south line of F. M. Highway 1378; from which an iron stake for reference bears South 5.0 feet;

THENCE South 89° -14' East, with the Highway south line, 210.0 feet to an iron stake therein and in the East line of said 1.00 acre;

THENCE South 0° -39' East, with an established fence line, 183.0 feet to the place of **BEGINNING**:

CONTAINING 0.89 acres

EXHIBIT D
License Facilities

Lucas McGarity 2295 McGarity Ln

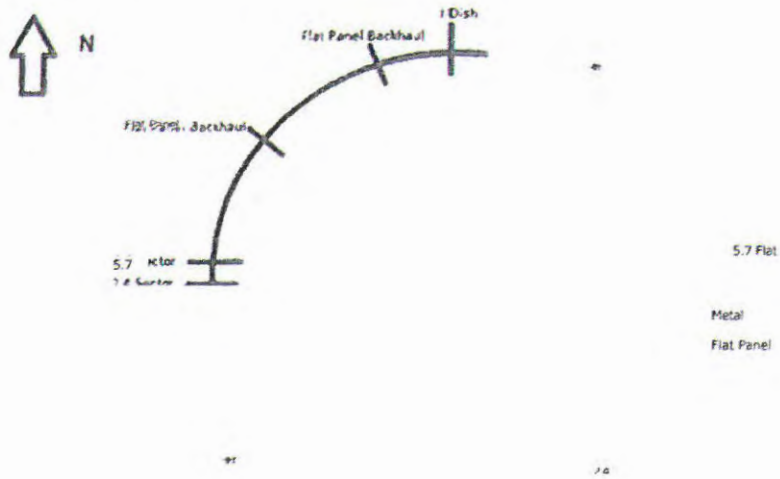
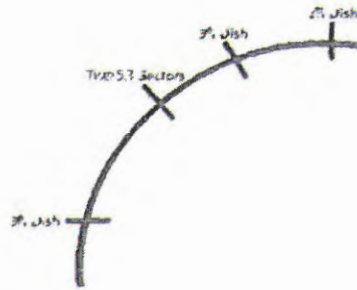


EXHIBIT D License Facilities

Lucas Winningkoff- 745 E Winningkoff Rd

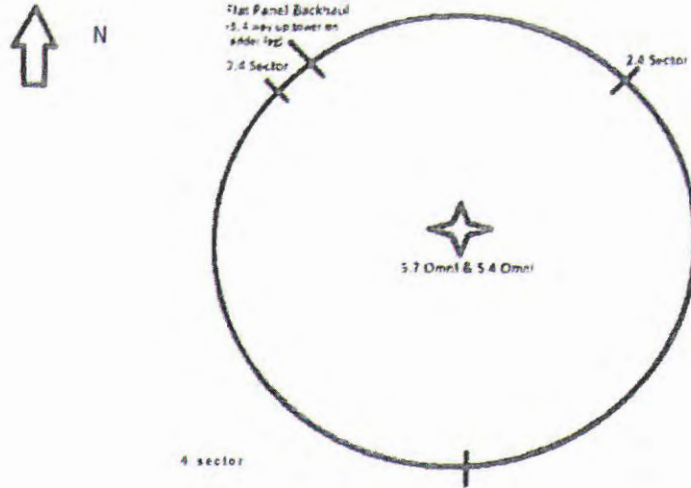


Two 5.7 Sectors

7
2.4

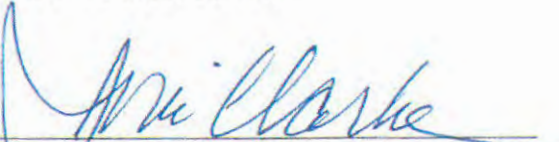
EXHIBIT D
License Facilities

Lucas Public Works- 325 W Lucas Rd

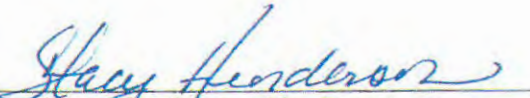


SIGNED AND AGREED, this 21st day of April, 2016.

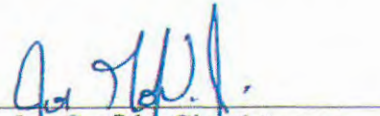
CITY OF LUCAS, TEXAS

By: 
Joni Clarke, City Manager

ATTEST:

By: 
Stacy Henderson, City Secretary

APPROVED AS TO FORM:

By: 
Joe Gorfida, City Attorney

Lessee:
Skybeam, LLC d/b/a Rise Broadband

By: 

Name: Martin Garrity
VP Network Planning, Engineering and Construction

Date: 6/17/16



FIRST AMENDMENT TO THE LEASE AGREEMENT

THIS FIRST AMENDMENT (the "Amendment") is made and entered into as of the 15th day of May, 2017 (the "Amendment Effective Date"), between the City of Lucas ("Lessor"), and Skybeam, LLC d/b/a Rise Broadband, on behalf of itself and its subsidiaries ("Lessee").

RECITALS

WHEREAS, Lessor and Lessee are parties to that certain Communications Facilities License Agreement dated the 17th day of June, 2016 (the "Agreement"), whereby Lessor granted to Lessee certain rights to use of the property located at 2295 McGarity Lane, Lucas, TX, as more specifically described in the Agreement and any attachments thereto (the "Property"); and

WHEREAS, Lessor and Lessee desire to amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth in this Amendment and in the Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. **Rent.** As of the Amendment Effective Date, Article IV of the Agreement is hereby modified with the following:

PAYMENTS. In consideration for Lessee's use of the McGarity Water Tower, Lessee will pay to Lessor a monthly lease payment of **\$500.00** (the "Monthly Payment"), such payments to be made on or before the 5th of each month. Lessor grants Lessee permission to make the following equipment changes on this site:

- Addition of 2' Radiowaves dish w/ Cambium 820S antenna
- Addition of 2' SAF dish/radio
- Removal of 2' PTP230 dish/antenna

2. **Miscellaneous.**

- a. Except as expressly defined in this Amendment, each defined term used herein has the same meaning given to such term in the Agreement.
- b. Except as otherwise expressly provided for in this Amendment, all other terms and conditions of the Agreement remain unchanged and in full force and effect.
- c. This Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.
- d. In the case of any inconsistency between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall govern and control.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Amendment as of the latest dated signature below and acknowledge that they have read, understand, and agree to uphold the terms and provisions above.

Lessee:
Skybeam, LLC d/b/a Rise Broadband

By: Martin Garrity
Name: Martin Garrity
Title: VP Network Deployment
Date: 7/7/17

Lessor:
City of Lucas

By: Joni Clarke
Name: Joni Clarke
Title: city manager
Date: 6/6/17

<p>STATE OF TEXAS</p> <p>COUNTY OF COLLIN</p>	<p>§</p> <p>§</p> <p>§</p>	<p>SECOND AMENDMENT TO</p> <p>COMMUNICATIONS FACILITIES</p> <p>LICENSE AGREEMENT</p>
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THIS SECOND AMENDMENT (the "Amendment") is made and entered into as of the ____ day of ____, ____ (the "Amendment Effective Date"), between the City of Lucas ("City"), and Skybeam, LLC d/b/a Rise Broadband, a Colorado limited liability company, with its principal offices located at 61 Inverness Drive East, Suite 250, Englewood, Colorado 80112 ("Licensee").

RECITALS

WHEREAS, City and Licensee are parties to a certain Communications Facilities License Agreement dated the 9th day of April, 2018 (the "Agreement"), whereby City granted to Licensee certain rights to use of the properties located at 2295 McGarity Lane (Rise Site OKF-LUM) and 745 Winningkoff Road (Rise Site OKF-LUW), City of Lucas, Collin County, Texas, as more specifically described in the Agreement and any attachments thereto (the "Property");

WHEREAS, Parties desire to renew the term of the Agreement;

WHEREAS, Parties desire correcting the address of the East Winningkoff Water Tower;

WHEREAS, Parties desire correcting the title of Exhibit "C"; and

WHEREAS, City and Licensee desire to amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth in this Amendment and in the Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, City and Licensee hereby agree as follows:

1. Article II Premises is replaced in its entirety with the following:

1.1 The Initial Term of this Agreement shall commence on the last day of execution hereof (the "Commencement Date") and continue for a period of five (5) years, unless sooner terminated as provided herein.

1.2 Upon expiration of the Initial Term, this Agreement shall automatically renew for two (2) additional terms of one (1) year each (each a "Renewal Term") unless either Party provides the other with written notice that it intends to terminate the Agreement at least one hundred twenty (120) days prior to the end of the then-current Renewal Term.

2. Article II Premises is replaced in its entirety with the following:

City is the owner of two (2) parcels of land and the water towers known as 1) McGarity Water Tower at 2295 McGarity Lane and 2) East Winningkoff Water Tower at 745 East Winningkoff Road (collectively referred to as "Water Towers" and individually as "East Winningkoff Facility" and "McGarity Facility") located in the City of Lucas, Collin County, Texas, (the

Water Towers and City owned land within the fenced enclosures are collectively referred to as “Properties”). The Properties are more particularly described in Exhibits “A” through “D”, which is attached hereto and incorporated herein. City hereby license to the Licensee, and the Licensee hereby pays rent to the City for, space on the Water Towers and all access and utility easements, if any, (collectively referred to as the “Premises”).

3. Exhibit “C” Winningkoff Tower License Facilities is replaced in its entirety with the following:

**Exhibit “D”
Winningkoff Tower
Licensee Facilities**

PART I - CURRENT EQUIPMENT ON TOWER														
	Antennas Sector 1	Antennas Sector 2	Antenna 1 Radio	Antenna 2 Radio	Microwave BH 1	Microwave/BH 2	Microwave/BH 3	Microwave/BH 4	BH Radio 1	BH Radio 2	BH Radio 3	BH Radio 4	Microwave BH 5	BH Radio 5
Type					1	1	1	1	1	2	1	1	1	1
Quantity	4	5		5	1	1	1	1	1	2	1	1	1	1
Manufacturer	Cambium	MTI		Canopy	Radio Wave	Radio Wave	Radiowave	Powerbeam	Dragonwave	Cambium	Cambium	Ubiquiti	Radio Waves	Cambium
Model	5083HH	RD4307100C /A		PMP450	HP3-11	HP3-18	HP3-11	400mm RAD beam	Compact	820C	820C	Rocket M5	HP2-11	820C
Weight	31 lbs	2.2kg		5.5lbs	50lbs	50lbs	50lbs	2.65lbs	11lbs	14lbs	14lbs	11b	27lbs	14lbs
Dimensions	52x65x11cm	436x250x10 mm		10x8x2	3x3x2	3x3x2	3x3x2	12x12x10	4x9x9	9x9x3	9x9x3	160x80x30m m	24x24x16	9x9x3
RAD Center AGL	140'	140ft		140ft	140ft	140ft	140ft	140ft	140ft	140ft	140ft	140ft	140ft	140ft
Mount Type	Platform with hand rails	Platform with hand rails		Platform with hand rails		Platform with hand rails	Platform with hand rails	Platform with hand rails		Platform with hand rails	Platform with hand rails	Platform with hand rails	Platform with hand rails	
Azimuth	60, 150, 240, 330	0, 90, 180, 225, 270		0, 90, 180, 225, 270	245°	297°	69°	6°	245°	297°	69°	6°	168°	168°
Mech Tilt														
Licensed/Unlicensed														
Tx Frequency	5 ghz	5.4		5.4	11	18	11	5	11	18	11	5	18ghz	18ghz
Rx Frequency	5 ghz	5.4		5.4	11	18	11	5	11	18	11	5	18ghz	18ghz
Antenna Gain (dB)	17	16		16	35	35	35		35	35	35		38	38
#Lines per Antenna	1			1					1	3	3	1		3
Line Manufacturer	Belden			Belden					Belden	Belden	Belden	Belden		Belden
Line Type	Cat5e			Cat5e					Cat5e	Cat5e	cat5e	Cat5e		Cat5e
Line Diameter	0.25"			0.25					0.25	0.25"	0.25	0.25"		0.25"
Conduit														

4. Article V Improvements; Utilities; Access replace Section 5.1 with the following:

5.1 Licensee has the right to erect, maintain and operate on the Premises antennae facilities, including without limitation utility lines, transmission lines, electronic equipment, connecting cables and supporting equipment and structures thereto ("Licensee Facilities"). Which facilities are described in Exhibit "D". All of Licensee's construction and installation work shall be performed at Licensee's sole cost and expense and in a good and workmanlike manner. Title to the Licensee Facilities shall be held by Licensee. All of Licensee Facilities shall remain Licensee's personal property and are not fixtures. Licensee has the right to remove all Licensee Facilities at its sole expense on or before the expiration or earlier termination of the Agreement; provided Licensee repairs any damage to the Premises caused by such removal. Licensee shall not damage, injure or impair any facilities or equipment on the Towers and Premises in the erection, installation, construction or maintenance of Licensee's Facilities and shall indemnify, hold harmless and defend City from any and all loss, damage or injury caused in whole or in part by Licensee or its agents, representatives or employees in this regard.

5. Article IX Termination replace Section 9.1 (b) with the following:

9.1 (b) by Licensee if it is unable to obtain or maintain any license, permit, or other governmental approval necessary for the construction and/or operation of Licensee's Facilities, or if the Facility is no longer financially appropriate for Licensee's business operations. Licensee shall have the option to terminate one or both of the Facilities and the Rent shall be appropriately adjusted by the Rent amounts listed in Article IV;

6. General Terms and Conditions.

- (a) Except as hereby amended, all other provisions of the License Agreement will remain in full force and effect as originally written, and the License Agreement is hereby confirmed as to all provisions contained therein. In the event of any conflict between the terms of this First Amendment and the terms of the License Agreement, the First Amendment shall control.
- (b) All capitalized terms used in this First Amendment, unless otherwise defined herein, will have the same meaning as the terms contained in the License Agreement.
- (c) Each of the Parties represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this First Amendment.
- (d) This First Amendment shall become effective on the last date of execution hereof.

IN WITNESS WHEREOF, City and Licensee have duly executed this Amendment as dated above and acknowledge that they have read, understand, and agree to uphold the terms and provisions of this Amendment.

(signature to follow)

EXECUTED this _____ day of _____, _____.

City of Lucas, Texas

By: _____
John Whitsell
City Manager

Approved as to form:

By: _____
Joseph J. Gorfida, Jr., City Attorney

EXECUTED this _____ day of _____, _____.

(Skybeam, LLC d/b/a Rise Broadband)

By: _____
Name: _____
Title: _____

Exhibit A
Equipment List

PART I - CURRENT EQUIPMENT ON TOWER - McGarity Tower (OKF-LUM)						
	Antennas Sector 1	Antenna 1 Radio	Antenna 2 Radio	Microwave dish/BH 1	Microwave dish/BH 2	BH Radio 1
Type	450 5Ghz 60	450 5Ghz		DW 3' 11GHZ		DW Compact 11ghz
Quantity	4	4		1		1
Manufacturer	MTI	Cambium		Radiowave		Dragonwave
Model	MT-484026/NVH/C	C054045A002A		HP3-11D		CHHP11B2C
Weight	5 lbs	5.5 lbs		50lb		7.5 lbs
Dimensions	17.25 x 9.8 x .5 in	10.6 x 8.3 x 2.8"		38 x 38 x 22"		4 x 9.6 x 8.7 in
RAD Center AGL	140'			140'		
Mount Type	Platform with hand rails	Direct to antenna		Platform with hand rails		Direct to Dish
Mount Model	BC-35-14			BC-35-14		
Azimuth (in degrees)	0, 90, 180, 270	0, 90, 180, 270		65°		65°
Mech Tilt	0			0		
Licensed/Unlicensed	Unlicensed	Unlicensed		Licensed		Licensed
Tx Frequency	5.4 & 5.7 ghz	5.4-5.7 Ghz		11GHZ		11GHZ
Rx Frequency	5.4 & 5.7 ghz	5.4-5.7 Ghz		11GHZ		11GHZ
Antenna Gain (dB)	16			37		
# Lines per Antenna	0	1				1
Line Manufacturer	(Jumper to Radio)	Primus				Primus
Line Type	0	CAT5e				CAT5
Line Diameter	0	5/16"				5/16"
Conduit	no					

Exhibit B
Equipment Exhibit

PART I - CURRENT EQUIPMENT ON TOWER - Winningkoff Tower (OKF-LUW)																		
	Antennas Sector 1	Antennas Sector 2	Antenna 1 Radio	Antenna 2 Radio	Antenna 5 Radio	Microwave dish/BH 1	Microwave dish/BH 2	Microwave dish/BH 3	Microwave dish/BH 4	Microwave dish/BH 5	Microwave dish/BH 6		BH Radio 1	BH Radio 2	BH Radio 3	BH Radio 4	BH Radio 5	BH Radio 6
Type	450M 5ghz Integrated	450 5Ghz 60	450M 5Ghz Integrated	450 5Ghz		820 3' 18GHZ	820 2' 18GHZ	820 3' 11GHZ	820 1' 18GHZ	UBNT 2ft Rocket Dish	Saf 1' dish		820C 18Ghz	820C 11Ghz	DW Compact 11ghz	820S 18Ghz	PTP450i Connectorized	SAF Free mile
Quantity	7	1		1		1	1	2	1	1	1		3	2	1	1	1	
Manufacturer	Cambium	MTI	0	Cambium		Radiowave	Radiowave	Radiowave	Radiowave	Ubiquiti	SAF		Cambium	Cambium	Dragonwave	Cambium	Cambium	0
Model	C050045 A102A	MT-484026/N VHC	(integrated into antenna)	C054045 A002A		HP3-18G2	HP2-18G2	HP3-11G2	HPLP-18G2	5G30	HAA2403_09Z-R1		820C	820C	CHHP11B2C	820S	C050045 B003A	(integrated into antenna)
Weight	31 lbs	5 lbs	0	5.5 lbs		50lb	27lb	50lb	17lb	21.61lbs	15lbs		2.2 lbs	2.2 lbs	7.5 lbs	2.2 lbs	4.5 lbs	0
Dimensions	20 x 26 x 5 in	17.25 x 9.8 x .5 in	0	10.6 x 8.3 x 2.8"		38 x 38 x 22"	24x24x17"	38 x 38 x 22"	18x18x19"	25.6x25.6 x12"	14x14x7		5.28 x 7.48 x 2.44 in	5.28 x 7.48 x 2.44 in	4 x 9.6 x 8.7 in	5.28 x 7.48 x 2.44 in	10.25 x 5.25 x 3.25 in	0
RAD Center AGL	160'	160'				160'	160'	160'	160'	160'	160'							
Mount Type	Platform with hand rails	Platform with hand rails		Direct to antenna		Platform with hand rails	Platform with hand rails	Platform with hand rails	Platform with hand rails	Platform with hand rails	Platform with hand rails		Direct to Dish	Direct to Dish	Direct to Dish	Direct to Dish	0	0
Mount Model	BC-35-14	BC-35-14				BC-35-14	BC-35-14	BC-35-14	BC-35-14	BC-35-14	BC-35-14							
Azimuth (in degrees)	60, 135, 150, 225, 240, 315, 330	270°		270°		297°	169°	69, 245	134°	272°	283°		297, 297, 169	69, 69	245°	134°	272°	
Mech Tilt	0	0				0	0	0	0	0	0							
Licensed/Unlicensed	Unlicensed	Unlicensed	0	Unlicensed		Licensed	Licensed	Licensed	Licensed	Unlicensed	Unlicensed		Licensed	Licensed	Licensed	Licensed	Unlicensed	0
Tx Frequency	5.4 & 5.7 ghz	5.4 & 5.7 ghz	0	5.4-5.7 Ghz		17.7-19.7GHZ	17.7-19.7GHZ	11GHZ	17.7-19.7GHZ	4.9 - 5.8ghz	24.05 - 24.25		18GHZ	11GHZ	11GHZ	18GHZ	5.1-5.8ghz	0
Rx Frequency	5.4 & 5.7 ghz	5.4 & 5.7 ghz	0	5.4-5.7 Ghz		17.7-19.7GHZ	17.7-19.7GHZ	11GHZ	17.7-19.7GHZ	4.9 - 5.8ghz	24.05 - 24.25		18GHZ	11GHZ	11GHZ	18GHZ	5.1-5.8ghz	0
Antenna Gain (dB)	16	16				43	38	37	34	30	0							
# Lines per Antenna	1	0	0	1									3	3	1	2	1	0
Line Manufacturer	Primus	(Jumper to Radio)	0	Primus									Primus	Primus	Primus	Primus	Primus	0
Line Type	Cat5e	0	0	CAT5e									Cat5e	Cat5e	CAT5	Cat5e	CAT5	0
Line Diameter	5/16"	0	0	5/16"									5/16"	5/16"	5/16"	5/16"	5/16"	0
Conduit	no	no																

4871-3598-5874, v. 1



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

Baxter I.T. Technical Support Agreement

Between: Baxter I.T. Consulting Services (“Baxter I.T.”) and the City of Lucas (“City”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

Date: October 1st, 2024

Purpose

This Agreement outlines the terms and conditions for the provision of proactive and reactive technical support services, managing all inventoried systems, software, and devices. Additionally, Baxter I.T. will monitor and manage the cyber and physical security systems including recommendations and implementation of secure digital strategies for Information Technology (I.T.) management.

Baxter I.T Quality

Baxter I.T. stands at the forefront of I.T. services within the DFW Metroplex, especially in serving local government entities. Our expertise encompasses a comprehensive understanding of local government infrastructure, advanced software applications, and cutting-edge hardware solutions. We prioritize security and trust: our team undergoes rigorous FBI background checks prior to employment, and each of our engineers consistently maintains CJIS compliance, passing stringent security assessments every year.

Our specialized focus on local government I.T. services empower us to integrate the collective insights from various cities, enabling us to deliver superior solutions, applications, and security measures tailored specifically for the City.

Addendums Attached

This agreement has an Addendum included at the bottom of this Agreement to further clarify this agreement regarding the scope of work Baxter I.T. is responsible for.

1. Addendum: INVENTORIED TECHNOLOGY OF THE CITY

Scope of Services

Baxter I.T. agrees to provide the following services to City:

1. **Around the Clock Support**
24/7 support for Fire and Public Works Departments.
2. **Proactive technical support**
Baxter I.T. will monitor and maintain the performance and stability of the City’s technology systems, software, devices, and take preventative measures to avoid potential problems. Baxter I.T. will inform the City if a system or device needs to be replaced to maintain the stability of a system.
3. **Reactive technical support**
Baxter I.T. will respond to and resolve any technical issues or problems that arise in the City’s technology systems, software, devices, in a timely and efficient manner.



4. **Cyber Security Preventative Maintenance**

Baxter I.T. recognizes the importance of maintaining strong cyber security measures to protect the City's technology systems, software, devices, and data. As such, Baxter I.T. will perform the following preventative maintenance measures on a regular basis:

1. **Security Updates:** Baxter I.T. will keep security software and operating systems updated with security patches and upgrades.
2. **Firewall Maintenance:** Baxter I.T. will monitor and maintain the firewall to ensure that it is properly configured and functioning to protect against unauthorized access.
3. **Antivirus Updates:** Baxter I.T. will keep antivirus software updated and perform regular scans to detect and remove any viruses or malware.
4. **Backups:** Baxter I.T. will regularly perform backup and disaster recovery procedures to ensure that the City's data is protected in the event of a system failure.
5. **User Management:** Baxter I.T. will monitor and manage user accounts and permissions to ensure that only authorized personnel have access to sensitive information.
6. Baxter I.T. will also perform any additional cyber security preventative maintenance measures deemed necessary to ensure the security of the City's technology systems, software, devices, and data.
7. Baxter I.T. agrees to immediately inform City if any security breach occurs, and to work with City to promptly resolve any security issue to the best of its abilities.
8. Baxter I.T. shall maintain all information relating to security issues in strict confidence and shall use all reasonable efforts to prevent any unauthorized access, use, alteration, or destruction of such information.
9. Baxter I.T. will inform the City of any potential risks it finds in a timely manner and Baxter I.T.'s recommendation for remediation.



5. Technology Budgeting Services

Baxter I.T. shall provide the City with technology budgeting services specifically related to the analysis of existing technology inventoried items and new proposed technology. Baxter I.T. shall conduct a thorough review of the City's current technology assets and analyze end of life and licensing information to provide the City with a comprehensive technology budget plan. Baxter I.T. shall use reasonable care and skill in performing the technology budgeting services and shall comply with any industry standards applicable to technology budgeting. The City shall provide Baxter I.T. with all necessary information and access to records required for the performance of the technology budgeting services.

6. Inventory Tracking

Baxter I.T. will provide and maintain an inventory for City to manage its technology systems, software, devices, and staff.

7. Scope of Technology Assets

The attached addendum lists the technology assets for which Baxter I.T. will provide proactive and reactive technical support to City. The technology assets included in the scope of this Agreement are as follows:

1. All Inventoried Systems: This includes technology items that incorporate a collection of different software, hardware, and licensing components. City Systems are the critical backbone of I.T. Operations
2. Software: This includes software applications and operating systems that are used by City, including but not limited to, specialized City applications, Microsoft Office, web browsers, email, and security software.
3. Devices: This includes peripherals and devices, such as printers, scanners, and other external devices that are used in conjunction with City's technology systems.
4. Staff: This includes employed staff and non-employed staff who use the technology assets and require technical support with the help of the City's HR department.

Support and Training

Baxter I.T. agrees to promptly respond to requests for technical support and to use reasonable efforts to resolve any issues as quickly as possible. Baxter I.T. also agrees to provide training and support to City on the use of the technology assets, as needed, and to perform preventative maintenance and security measures to ensure the reliability and security of the technology assets.



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

Additional Project Work

Project work is defined as major enhancements of existing Inventoried items or new hardware, software, systems. Baxter I.T. will scope this work as Project Work and bill for this separately. Baxter I.T. will provide technical work related to projects for City at an hourly rate of \$145.00 per hour. This rate includes all necessary labor, to complete the work. The City will be responsible for payment of any expenses incurred such as materials, software, hardware, licensing, by Baxter I.T. in connection with this work.

Typical Work Week

Baxter I.T. is committed to providing exceptional technical support, including on-site assistance as needed. To ensure optimal service, Baxter I.T. will schedule a Technical Engineer to be on-site one day per week excluding extenuating circumstances. Additionally, we will work simultaneously on other reactive, proactive, management, project, and security tasks remotely 5-7 days a week. Baxter I.T. will respond promptly to all requests and tasks, prioritizing Fire and Public Works (First Responders) with a special emphasis.

Cyber Security and Keeping the City of Lucas Safe

Baxter I.T. will advise on potential strategies, software, and hardware solutions to enhance the digital security of the City's I.T. infrastructure. Upon approval by the City, these strategies will be implemented with the aim of fortifying the digital environment against cyber threats. However, it is important to note that while these measures are intended to strengthen security, Baxter I.T. does not provide a guarantee against cyber-attacks, whether from internal staff or external third-party actors.

Additionally, Baxter I.T. will offer guidance on physical security measures for the City's I.T. hardware and infrastructure. These recommendations are designed to support the City in safeguarding their physical assets without implying an absolute assurance against all possible security breaches.

This Agreement reflects our commitment to assist the City in enhancing their I.T. security posture through expert advice and approved implementations, while acknowledging the inherent challenges and limitations in completely preventing cyber and physical security incidents.



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

Payment Terms

The City shall make monthly payments to Baxter I.T. for the technology support services as outlined in this Agreement. The monthly fee shall be \$6,602.00. Payment shall be due on the first business day of each month and shall be considered late if not received by the end of each month. The City shall be responsible for any late fees or interest charges incurred as a result of late payment. Baxter I.T. shall provide the City with an invoice for the technology support services on a monthly basis.

Baxter I.T. reserves the right to increase the fees charged for the technical support services annually, based on a combination of the expansion of the City's inventoried systems, software, staff, and devices, plus annual cost of living.

Baxter I.T. will provide written notice to the City of any fee increase at least 30 days prior to the effective date of the increase. Baxter I.T. will work with the city to align any service cost increases with the annual budget cycle.

Agreement Term

This agreement between Baxter I.T. and the City is established for an initial term of two years. Upon the conclusion of this initial period, the agreement may be renewed on an annual basis, with each renewal term lasting one year, subject to the mutual consent of both parties.

Recitals

WHEREAS Baxter I.T. and Client are currently parties to an Agreement dated [Original Agreement Date] (the "Original Agreement"), under which Baxter I.T. has agreed to provide certain services to the Client; WHEREAS the parties wish to establish the terms under which the Original Agreement may be terminated; NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Notice of Termination

Either party may terminate the Original Agreement by providing the other party with a written notice of termination. Such notice shall specify the date of termination, which shall be no less than one hundred and twenty (120) days from the date the notice is delivered.

Obligations During Notice Period

During the notice period, both parties shall continue to fulfill their obligations under the Original Agreement. Baxter I.T. shall continue to provide the services outlined in the Original Agreement, and the Client shall continue to make timely payments for services rendered.

Effect of Termination

Upon the expiration of the notice period, the Original Agreement shall be considered terminated, and neither party shall have any further obligations to the other under the terms of the Original Agreement, except for those obligations that, by their nature, are intended to survive termination.



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

Confidentiality

Both parties agree to maintain the confidentiality of the terms of this Agreement and the Original Agreement, except as required by law or as necessary for the enforcement of this Agreement.

Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

Notice

Any notice required or permitted to be delivered hereunder may be sent by first class mail or courier to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery or on the day actually received if sent by courier or otherwise hand delivered:

If intended for City, to:
Attn: John Whitsell
City Manager
City of Lucas, Texas
665 Country Club Road
Lucas, Texas 75002

With a copy to:
Attn: Joseph J. Gorfida, Jr.
Nichols | Jackson L.L.P.
500 North Akard Street, Suite 1800
Dallas, Texas 75201

If intended for Baxter I.T.:
Attn: Joe Golgoun
Baxter I.T. Consulting Services
372 City Place
Fairview, Texas 75069

Insurance

During the course of performing services under this Agreement, Baxter I.T. agrees to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000.00; (b) Automobile Liability of at least \$1,000,000.00; (c) Professional Liability of at least \$1,000,000.00; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$2,000,000.00. Baxter I.T. will add City as an additional insured, and obtain an endorsement waiving subrogation against City, to our Commercial General Liability, Automobiles Liability, and Excess/Umbrella policies. Baxter I.T. will provide City with copies of certificates of insurance upon City's written request.



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

Availability of Funds

If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, this Agreement shall be canceled and Baxter I.T. may only be compensated for the reasonable value of any non-recurring costs incurred but not amortized in the price of services delivered under this Agreement or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations for such purposes.

Indemnification

BAXTER I.T. AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, BOTH PAST AND PRESENT, FROM AND AGAINST LIABILITY FOR ANY AND ALL CLAIMS, LIENS, SUITS, DEMANDS AND ACTIONS FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGE (INCLUDING LOSS OF USE) AND EXPENSES (INCLUDING COURT COSTS, ATTORNEYS' FEES AND OTHER REASONABLE COSTS OF LITIGATION) ARISING OUT OF OR RESULTING FROM BAXTER I.T.'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH OR INCIDENTAL TO THIS AGREEMENT AND FROM ANY LIABILITY ARISING OUT OF OR RESULTING FROM INTENTIONAL ACTS OR NEGLIGENCE OF BAXTER I.T, INCLUDING ALL SUCH CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL OR STATUTORY LAW, OR BASED IN WHOLE OR IN PART UPON THE NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF BAXTER I.T., INCLUDING BUT NOT LIMITED TO ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES AND OTHER PERSONS.

3rd Party Vendor Applications and Services Indemnification

Baxter I.T. is not responsible for any downtime or loss that may occur due to the use of third-party applications or services. Essentially, this clause protects Baxter I.T. from any liabilities that may arise from the failure or malfunction of applications or services provided by a third-party vendor. Baxter I.T. is not responsible for any consequences resulting from the use of these third-party applications or services and will not be held accountable for any damages or losses incurred by the customer as a result of their use.

3rd Party Commitments

The City remains responsible for honoring its commitments with third-party licensing agreements and any associated payments and fees with said commitments. This obligation ensures compliance with the terms and conditions agreed upon in these contracts. It is essential to uphold these agreements to avoid any potential breaches of contract and ensure seamless continuity of services provided by third-party vendors.

Confidentiality

Baxter I.T. agrees to maintain the confidentiality of all confidential information of City and to use such information only for the purposes of this Agreement.

Governing Law; Venue

The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in Collin County, Texas, unless the subject matter of the dispute is required to be filed in federal court, in which case the venue shall be in the United States District Court for the Northern District of Texas (Dallas Division).



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

No Waiver

No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof.

Force Majeure

Neither Party shall be required to perform any term, condition or covenant of this Agreement to the extent such performance is delayed or prevented by labor difficulties, governmental orders, civil commotions, pandemics, acts of God, or other conditions or circumstances beyond either Party's reasonable control. Baxter I.T. shall not be liable for interruptions caused by failure of equipment or services not provided by Baxter I.T., failure of communications, power outages, or other interruptions not within Baxter I.T.'s complete control, and Baxter I.T. shall not be liable for performance deficiencies caused or created by City's equipment. Baxter I.T. shall not be liable if changes in operation, procedures, or the Services require modification or alteration of City's equipment, render the same obsolete or otherwise affect its performance. The foregoing shall not excuse either Party from the payment of any monies due pursuant to this Agreement.

Severability

Each provision of this Agreement is intended to be severable. In the event that any 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.

No Third Party Beneficiaries

Nothing in this Agreement is meant to create or creates any rights, obligations, or benefits directly or indirectly to any party that is not a signatory of this Agreement.

Relationship

The sole relationship between Baxter I.T. and City is that of independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary relationship, or employment relationship between the Parties.

Conflict of Interest

Baxter I.T. represents that no official or employee of the City has any direct or indirect pecuniary interest in this Agreement.

No Waiver of Immunity

Baxter I.T. and City agree that City has not waived immunity by entering into and performing their respective obligations under this Agreement.

Compliance with Federal, State & Local Laws

Baxter I.T. shall comply in performance of services under the terms of this Agreement with all applicable laws, ordinances and regulations, judicial decrees or administrative orders, ordinances, and codes of federal, state, and local governments, including all applicable federal clauses.



Multiple Originals; Authorized Signatures

This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each Party represents to the other that the signatory set forth below is duly authorized to bind that Party to this Agreement.

Boycott Israel; Boycott Energy Companies; And Prohibition of Discrimination Against Firearm Entities and Firearm Trade Associations

(a) Baxter I.T. verifies that it does not Boycott Israel and agrees that during the term of this Agreement it will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

(b) Baxter I.T. verifies that it does not Boycott Energy Companies and agrees that during the term of this Agreement it will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended.

(c) Baxter I.T. verifies that (i) it does not have a practice, policy, guidance, or directive that discriminates against a Firearm Entity or Firearm Trade Association as those terms are defined in Texas Government Code Section 2274.001, as amended; and (ii) will not discriminate during the term of this Agreement against a Firearm Entity or Firearm Trade Association.

(d) This Section does not apply if Baxter I.T. is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if (i) Baxter I.T. has ten (10) or more fulltime employees and (ii) this Agreement has a value of One Hundred Thousand Dollars (\$100,000.00) or more to be paid under the terms of this Agreement.

No Excluded Nation or Foreign Terrorist Organization

Baxter I.T. certifies that Baxter I.T. is not engaged in active business operations within the Sudan, Iran, or a foreign terrorist organization and is not listed on the list of prohibited entities prepared and maintained by the Texas Comptroller of Public Accounts pursuant to Texas Government Code §§806.051, 807.051, or 2252.153.

Entire Agreement

This Agreement constitutes the entire agreement between the parties and supersedes all prior understandings or agreements, whether written or verbal, relating to the subject matter of this Agreement. This Agreement may not be amended or modified except in writing signed by both parties. IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

(signature page to follow)



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

EXECUTED this _____ day of _____, 2024.

City of Lucas, Texas

By: _____
John Whitsell, City Manager

Approved as to form:

By: _____
Joseph J. Gorfida, Jr., City Attorney
(XX-XX-2024: ND 4891-8490-5928, v. 1)

EXECUTED this _____ day of _____, 2024.

Baxter I.T. Consulting Services

By: 
Name: Joe Golgoun
Title: President



BAXTER I.T. CONSULTING SERVICES

Next Generation Technology Services

ADDENDUM #1: INVENTORIED TECHNOLOGY OF THE CITY

As of DATE: 6-7-2024

Technology Type	Description	Count
Devices	Computers, Cameras, Printers, etc.	136
Software	Major Software; ICS, O365, Exchange, etc.	9
Staff	Employed and non-employed approved workers	78
Physical Security Systems	Card Access, City Video Camera System	2
City Network Systems	WiFi, ISP's, VPN Tunnels, Routers, Switches, etc.	26
Telephone System	RingCentral	1
Fire Systems	Apparatus Units, Application Systems	13
Backup Systems	Local, Cross-Site, Cloud Backup Systems	3
Printer Network Systems	Workgroup Printer Systems (Scan, Print, Fax) Etc.	4
Cyber Security Systems	Patch Management, Active Directory, Antivirus, Firewall, Email and Data Protection Services	5



Contract Modification Document

Office of the Purchasing Agent
Collin County Administration Building
2300 Bloomdale Rd, Ste 3160
McKinney, TX 75071
972-548-4165

Vendor: City of Lucas
665 Country Club
Lucas, TX 75002

Contract No. 2020-363
Contract: Jail Services, City of Lucas

YOU ARE DIRECTED TO MAKE THE FOLLOWING MODIFICATION TO THIS CONTRACT

Item #1: The agreement will be renewed for a period of one (1) year, beginning October 1, 2024, through and including September 30, 2025.

Item #2: Charges for fiscal year 2025: \$127.80 per day, per inmate

Item #3: Update Section 8 Civil Liability clause of the agreement to the following -

The City and County ("Parties") agree through this contract that the Parties are individually responsible for any civil liability that arises from their provision of services under this Agreement. See Gov't Code, § 791.006(b).

This provision falls under subsection (b) of sections 5 and 7 of article XI of the Texas Constitution.

For purposes of this section 8, "County" includes its officials, officers, deputies, employees, insurers, and agents. "City" includes its officials, officers, deputies, employees, insurers, and agents.

With regard to the provision of a defense under this paragraph, the Parties will reasonably cooperate with the one another in defending a claim or suit, including providing reasonable access to, and copies of, documents, electronic or magnetic data, and access to witnesses or other persons with discoverable knowledge such as detention officers, employees, or other persons under the Parties' supervision or control.

FROM:

The City is responsible for any civil liability that arises from the County's provision of services under this Agreement. See Gov't Code, § 791.006(b). The City will defend, indemnify, and hold harmless the County from and against all demands, claims, damages, losses and liabilities, including reasonable attorney's fees and litigation expenses, that arise directly or indirectly from the County's performance of this Agreement. This provision falls under subsection (b) of sections 5 and 7 of article XI of the Texas Constitution.

For purposes of this section 8, "County" includes its officials, officers, deputies, employees, insurers, and agents.

With regard to the provision of a defense under this paragraph, the County will reasonably cooperate with the City in defending a claim or suit, including providing reasonable access to, and copies of, documents, electronic or magnetic data, and access to witnesses or other persons with discoverable knowledge such as detention officers, employees, or other persons under the County's supervision or control.

Except as provided herein, all terms and conditions of the contract remain in full force and effect and may only be modified in writing signed by both parties.

Amendment No. 4 has been accepted and authorized on _____ by authority of the Collin County Commissioners Court by Court Order No. _____, to be effective on October 1, 2024.

ACCEPTED BY:

SIGNATURE

(Print Name)

TITLE: _____

DATE: _____

SIGNATURE

Michelle Charnoski, NIGP-CPP, CPPB

(Print Name)

TITLE: Purchasing Agent

DATE: _____

HISTORICAL INFORMATION

Awarded by Court Order No. 2020-692-08-03

Amendment	<u>No. 1</u>	Court Order No.	<u>2021-606-06-28</u>	Summary	<u>One year renewal; fees updated</u>
Amendment	<u>No. 2</u>	Court Order No.	<u>2022-994-09-26</u>	Summary	<u>One year renewal; fees updated</u>
Amendment	<u>No. 3</u>	Court Order No.	<u>2023-892-09-25</u>	Summary	<u>One year renewal; fees updated</u>
Amendment	<u>No. 4</u>	Court Order No.	<u></u>	Summary	<u>Renewal, Fees, Sec. 8 updated</u>



City of Lucas

City Council Agenda Request

August 1, 2024

Item No. 04

Requester: Development Services Director Joe Hilbourn
Capital Improvement Projects Manager Patrick Hubbard

Agenda Item Request

Consider authorizing the City Manager to enter into an agreement with BCC Engineering, LLC in the amount of \$596,450 for the following:

1. Plans and details for the proposed West Lucas Road Reconstruction and Widening from Angel Parkway to Country Club Road, Alternative 2 Revision from Angel Parkway to Muddy Creek for necessary revisions to the drainage and alignment of the western end of West Lucas Road in the amount of \$420,000 using funds to be allocated from account 21-8210-491.136, West Lucas Road.
2. Plans and details for the replacement of the existing eight-inch force main located along West Lucas Road in the amount of \$41,450 to be allocated from Unrestricted Water Fund Reserves.
3. Plans, specifications and cost estimate for the construction of an eight-foot-wide sidewalk/trail running from the existing sidewalk/trail at the southeast corner of Wal-Mart Lucas Addition and continuing along the north side of West Lucas Road to its intersection with Country Club Road in the amount of \$135,000 using funds to be allocated from account 21-8210-491.136, West Lucas Road.

Background Information

On September 21, 2023, the Lucas City Council received a presentation of four design alternatives for West Lucas Road and selected Alternative 2 for a re-design of the segment of West Lucas Road located between Angel Parkway and Muddy Creek. Alternative 2 features a flush shoulder with open drainage located on both sides of the street and the addition of a box culvert in the median of the street that carries water from Walmart to Muddy Creek.

The City of Lucas executed an Advance Funding Agreement (AFA) with TxDOT on April 4, 2024, for the construction of West Lucas Road to include design modifications and to cover additional construction and right-of-way costs for the project. The source of this funding is the Regional Toll Revenue (RTR) program. Since that time, Lucas and BCC Engineering have planned and established a scope and options for the completion of this and additional design work on the project.

The city is also considering the relocation of the eight-inch wastewater force main located on West Lucas Road because there are segments of the line that will be under pavement following the widening of the roadway if it is left in its present location. The additional cost of plans for the relocation of this line as an optional service to be included in the construction contract for the roadway is \$41,450. This will need to be funded separately from the roadway project funding. Staff propose that it be allocated from unrestricted water fund reserves. The initial estimate of the construction cost to relocate the line based on average cost per linear foot for similar work is between \$865K and \$1M dollars.

The City of Lucas Trails Master Plan shows a trail at this location; therefore, staff believe it is prudent to plan and design this trail segment at this time. Staff recommend directing BCC Engineering, LLC, to provide plans for the construction of an eight-foot-wide sidewalk/trail spanning the full length of



City of Lucas

City Council Agenda Request

August 1, 2024

Item No. 04

this project along with any revisions to the overall construction plans that the addition of this sidewalk/trail necessitate. This would position the city to construct desired segments of this trail either at the time of the road widening or at a future date if so desired. There is an existing eight-foot-wide concrete sidewalk located along West Lucas Road in front of the Wal-Mart Lucas Addition.

It is more efficient and practical to have the sidewalk/trail designed and included in the plans for the overall road to solve any design conflicts between the roadway, drainage, utilities and sidewalk/trail segment. The scope for this optional service was still being modified at the time of packet publication. An updated project scope reflecting the addition of this item will be provided prior to the City Council meeting.

Attachments/Supporting Documentation

1. Proposed Scope – West Lucas Road Reconstruction and Widening Project Revision
2. West Lucas Road Reconciliation Worksheet (Projected Budget and Revenue Sources)

Budget/Financial Impact

The proposed professional services agreement with BCC Engineering is as follows:

Design and Post Design Services Fee (Lump Sum):

\$420,000.00	Design and Post Design Services
\$ 41,450.00	Optional Services (8" FM Replacement Design)
<u>\$135,000.00</u>	<u>Optional Services (Eight-foot Sidewalk)</u>
\$596,450.00	Total

Recommendations

Staff recommends authorizing the City Manager to enter into an agreement with BCC Engineering, LLC to include all of the necessary revisions to the West Lucas Road plans for alternative 2, the relocation of the wastewater force main, and the addition of a sidewalk/trail on the north side of the road including any necessary revisions to the overall plans to accommodate said sidewalk/trail.



Item No. 04

City of Lucas
City Council Agenda Request
August 1, 2024

Motion

I make a motion to approve/deny authorizing the City Manager to enter into an agreement with BCC Engineering, LLC in a total amount of \$596,450 for the following:

1. Plans and details for the proposed West Lucas Road Reconstruction and Widening from Angel Parkway to Country Club Road, Alternative 2 Revision From Angel Parkway to Muddy Creek for necessary revisions to the drainage and alignment of the western end of West Lucas Road in the amount of \$420,000 using funds to be allocated from account 21-8210-491.136, West Lucas Road.
2. Plans and details for the replacement of the existing eight-inch force main located along West Lucas Road in the amount of \$41,450 to be allocated from Unrestricted Water Fund Reserves.
3. Plans, specifications and cost estimate for the construction of an eight-foot-wide sidewalk/trail running from the existing sidewalk/trail at the southeast corner of Wal-Mart Lucas Addition and continuing along the north side of West Lucas Road to its intersection with Country Club Road in the amount of \$135,000 using funds to be allocated from account 21-8210-491.136, West Lucas Road.

SCOPE OF SERVICES

West Lucas Road Reconstruction and Widening
from Angel Parkway to Country Club Road
Alternative 2 Revision
From Angel Parkway to Muddy Creek

Prepared for:



The City of Lucas, Texas

Prepared by:



BCC Engineering, LLC.
1903 Central Drive, Suite 100
Bedford, Texas 76021

July 2024

Project:

West Lucas Road Reconstruction and Widening Project Revision

Limits:

Angel Parkway to Muddy Creek

Purpose:

The objective of the project is for BCC Engineering, LLC (BCC) to produce updated construction plans, specifications and cost estimates for the reconstruction and widening of the roadway and associated drainage improvements. BCC will create a complete set of contract documents, supporting engineering analysis, calculations, and bid package in accordance with City of Lucas (City) policies, procedures, and requirements as well as meeting minimum criteria for Collin County (County). BCC will provide post-design services as required to answer RFI's. Plans and specifications to be based on TxDOT standards and specifications and will be verified to meet City and County requirements.

Project Description:

West Lucas Road will be reconstructed and widened from the existing 3-lane section to 4-lane divided section with considerations for a potential ultimate 6-lane divided section. The roadway will consist of concrete pavement with two lanes each way, divided by a 14ft grassed median, and various left/right turn lanes. The project will include a culvert crossing at Muddy Creek to replace the existing culvert. The project will also upgrade all pavement markings and all ground-mounted signs. The drainage system along the roadway will be primarily an open system along West Lucas Road. Drainage from the Walmart detention pond will be contained in a closed system with an outfall at Muddy Creek. Driveway connections and access will be maintained and improved where impacted by construction. Temporary traffic control for phased construction will be included in the plans; traffic will be maintained at least one lane in each direction without the use of long-term detours. Temporary closures with flaggers providing one-lane, two-way traffic, or short duration detours may be provided during off-peak hours. This scope is limited to the revision of the completed design for the project within the limits listed above, Angel Parkway to Muddy Creek.

Scope:

Roadway Analysis

Pavement Design:

The approved pavement design from the initial phase of the design will be used.

Horizontal and Vertical Alignment:

Design the geometrics using the design standards that are most appropriate with proper consideration given to the design traffic volumes, design speed, capacity and levels of service, functional classification, adjacent land use, design consistency and driver expectancy, aesthetics, pedestrian and bicycle concerns, ADA requirements, access management, and scope of work.

Traffic Control Analysis:

Design a safe and effective Traffic Control Plan to move vehicular and pedestrian traffic during all phases of construction. The design shall consider construction phasing of

Scope of Services
West Lucas Road Reconstruction and Widening Project
City of Lucas, Texas

roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, detours, roadway pavement, drainage structures, ditches, front slopes, back slopes, and drop offs within clear zone. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be maintained at all times. The design shall include construction phasing of roadways to accommodate the construction or relocation of utilities as necessary.

Roadway Plans

Prepare Roadway, Traffic Control, Utility Adjustment Sheets, plan sheets, notes, and details. The plans shall include the following sheets necessary to convey the intent and scope of the project for the purposes of construction.

- Key Sheet
- Summary of Quantities
- Typical Sections and Details
- General Notes
- Project Layout
- Plan/Profile
- Intersection Details
- Driveway Details
- Cross Sections
- Temporary Traffic Control Plan
- Project Network Control

Drainage Analysis

Analyze and document Drainage Tasks in accordance with all applicable manuals, guidelines, standards, handbooks, and procedures memorandums. Design a drainage and stormwater management system. All design work shall comply with the requirements of the City of Lucas Drainage Design Manual and all related Collin County Standards.

- Drainage Calculations

Drainage Plans

Prepare Drainage plan sheets, notes, and details. The plans shall include the following sheets necessary to convey the intent and scope of the project for the purposes of construction:

- Drainage Map
- Lateral Culvert Plan/Profile
- Lateral Culvert Cross Section
- Special Ditch Plan/Profile
- Erosion Control Plan

Environmental Permits and Compliance

Permit Applications:

All required permit applications have been completed with the previous project. Prepare permit sketches, plans and support documentation for the permit package should changes be required. USACE Nationwide Permit (NWP) 14 Preconstruction Notification has been submitted and will be modified as necessary.

Signing and Pavement Marking Analysis

Analyze and design Signing and Pavement Markings in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums.

Signing and Pavement Marking Plans

Prepare a set of Signing and Pavement Marking Plans in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums that includes the following:

- Plan Sheets
- Details

Survey

Utilize existing survey information from the initial phase of the project. Engineer will update the tree survey from the previous design with any changes of the impacted area. Any additional survey information required will be negotiated with the City before performing survey services.

Subsurface Utility Investigation

Utilize existing subsurface utility information from the initial phase of the project. Any additional utility information required will be negotiated with the City before performing survey services.

Geotechnical

Utilize existing geotechnical information from the initial phase of the project. Any additional geotechnical information required will be negotiated with the City before performing survey services.

Utility Coordination

Identify utility facilities and secure agreements, utility work schedules, and plans from the Utility Agency Owners (UAO) ensuring all conflicts that exist between utility facilities and the City's construction project are addressed. Review and include all utility information received from utility agencies. Include all available existing utility information in the plans. Include as optional services design and plans for replacement of City of Lucas 8" Force Main from line FM STA 0+00 to (+/-) 59+57.83

- Utility Adjustment Plan
- 8" Force Main Replacement Plans and Details (Optional Services)

Project Common and General Tasks

Cost Estimates:

Provide a construction cost estimate at project milestones. Review and update the cost estimate when scope changes occur.

Technical Special Provisions:

Provide Technical Special Provisions for all items of work modified or not covered by TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges

Field Reviews:

Visit the project site to obtain necessary data for all elements of the project.

Coordination:

Coordinate with all disciplines of the project to produce a final set of construction documents.

Public Involvement:

Assist the City by attending public meetings and providing a current electronic set of design plans for use at the meeting. Additional services, such as notifications, presentations, and exhibits will be provided at hourly rates and negotiated with the City prior to commencing the work.

Additional Printed Materials:

Deliverables include three hardcopy final signed and sealed plan sets. Additional materials, such as hardcopies for bid packages and large format prints will be provided at an additional cost upon request from the City.

Other Agency Meetings:

Provide the City with project data for meetings with other governmental and permitting agencies as required for project coordination and approval. Meeting attendance and preparation of additional materials, such as response letters, presentations, exhibits, will be provided at hourly rates and negotiated with the City prior to commencing the work.

Post Design Services

Post Design Services include producing a bid package and contract documents in coordination with the City. Shop drawing review and response to (10 maximum) RFI's and/or RFM's. Revisions to plans as requested: includes a maximum of 10 sheets or 3 revisions. Attendance at the pre-construction meeting at the City and three site visits/on-site meetings are included.

Scope of Services
West Lucas Road Reconstruction and Widening Project
City of Lucas, Texas

Schedule:

Nine (9)	Months from Notice to Proceed to 100% Design
<u>One (1)</u>	Month for Optional Services
Ten (10)	Months Total

Design and Post Design Services Fee (Lump Sum):

\$420,000.00	Design and Post Design Services
<u>\$ 41,450.00</u>	Optional Services (8" FM Replacement Design)
\$461,450.00	Total

Invoices will be submitted monthly.

**WEST LUCAS ROAD
RECONCILIATION WORKSHEET**

REVENUE SOURCES

<u>Funding Source</u>	<u>Design</u>	<u>Right of Way Acquisition</u>	<u>Construction</u>	<u>Total</u>
State (TxDOT) RTR	\$ 600,000	\$ 3,000,000	\$ 4,000,000	\$ 7,600,000
Collin County				\$ 8,365,180
Interest Collin County Funding				\$ 115,428
City of Lucas 2019 CO				\$ 6,470,513
Interest 2019 CO				\$ 126,729
TOTAL REVENUE SOURCES				\$ 22,677,850

PROJECTED BUDGET

	<u>CC 3/4/2021 & 5/19/2022 Budget</u>	<u>CC 4/15/2021</u>	<u>CC 6/15/2023 Design Alt</u>	<u>Additional Costs Alternate 2 Flush Shoulders</u>	<u>Contingency</u>	<u>Projected Budget</u>
Design	\$ 1,383,490		\$ 44,150	\$ 420,000	\$ 285,850	\$ 2,133,490
ROW/Easements	\$ 826,000			\$ 2,200,000	\$ 1,550,000	\$ 4,576,000
Construction	\$ 10,932,851			\$ 2,100,000	\$ 1,974,919	\$ 15,007,770
Material Testing	\$ 190,000					\$ 190,000
Inspection	\$ 143,590			\$ 135,000		\$ 278,590
Project Management	\$ 430,770		\$ (44,150)			\$ 386,620
Survey and Mapping		\$ 105,380				\$ 105,380
TOTAL	\$ 13,906,701	\$ 105,380	\$ -	\$ 4,855,000	\$ 3,810,769	\$ 22,677,850

EXPENSES BY FISCAL YEAR

FY 20/21	\$ 789,256
FY 21/22	\$ 701,794
FY 22/23	\$ 38,220
FY 23/24	
TOTAL PROJECT EXPENSE	\$ 1,529,270



City of Lucas City Council Agenda Request August 1, 2024

Requester: City Council

Agenda Item Request

Executive Session:

- A. The City Council will convene into Executive Session pursuant to Section 551.074(a)(1) of the Texas Government Code, Personnel Matters, for Boards and Commissions candidate review for the Planning and Zoning Commission and Board of Adjustments.

Background Information

The meeting is closed to the public as authorized by Section 551.074(a)(1) of the Texas Government Code.

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas City Council Agenda Request August 1, 2024

Item No. 06

Requester: City Council

Agenda Item Request

Reconvene from Executive Session and take any action necessary as a result of the Executive Session.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA