

AGENDA
CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS
2150 Universal City Blvd, Universal City, TX 78148
Regular Meeting, Tuesday, August 06, 2024 @ 6:30 P.M.

1. CALL TO ORDER: Mayor Tom Maxwell at 6:30 p.m.
2. QUORUM CHECK and VOTE TO CONSIDER THE EXCUSE OF ABSENT MEMBERS (if applicable):
3. INVOCATION and PLEDGE OF ALLEGIANCE:
4. STAFF REPORTS AND OTHER DISCUSSION ITEMS: Items in this section are not expected to require action by City Council and are generally for information only. However, any item listed in this section may become an action item without further notice with the consent of the Mayor at the request of any Councilmember.
 - a. CITY MANAGER'S REPORT:
 - b. STAFF REPORT:
5. CITIZENS TO BE HEARD: At this time, the public is invited to address the City Council and speak on any matter not specifically listed for public hearing elsewhere in this agenda. *PLEASE NOTE NO CITY COUNCIL DISCUSSION, RESPONSE, DELIBERATION, OR ACTION WILL BE TAKEN ON THIS TOPICS AT THIS TIME.* Please limit your comments to three minutes.
6. ANNOUNCEMENTS: With respect to items not listed elsewhere on this agenda, members may report on items of community interest e.g., community or employee awards, proclama, events, and recognitions. Members may also request specific information or a recitation of existing policy from Staff, or request placement of items on the agenda for discussion or action at a following meeting.
 - a. CITY MANAGER'S ANNOUNCEMENTS
 - b. MAYOR'S ANNOUNCEMENTS
 - c. COUNCILMEMBERS' ANNOUNCEMENTS
7. CONSENT AGENDA:

TAB A: All matters listed under this item are considered to be routine by City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and considered separately.

 - 11) [Consider the minutes of the Tuesday, 09 July 2024 Special Meeting – Budget Work Session.](#)
 - 22) [Ordinance 625-A-2024](#): New Non-Retroactive Repeating COLA option.
8. ACTION ITEMS:

NO TAB 1: Executive Session:

- aa) Pursuant to Texas Gov't Code Sec. 551.071, Consultation with Attorney, to discuss and deliberate pending litigation titled *C. Branford, Individually and as Next Friend of E.C., A Minor v. City of Universal City and Playcore, Inc.*, in the 45th Judicial District Court, Bexar County Texas.
- bb) Reconvene in Open Session and take action, if needed, on any item pertaining to or listed in the Executive Session section of this Agenda.

Library Policy Resolutions

TAB B: Resolution 889-J-2024: A resolution deleting in its entirety the 2012 Interlibrary Loan Policy; adopting a 2024 Interlibrary Loan Policy for the Municipal Library of the City of Universal City; establishing legislative findings; providing repeal and adoption; and setting an effective date.

TAB C: Resolution 889-K-2024: A resolution amending the Library Meeting Room Policy for the Municipal Library of the City of Universal City; establishing legislative findings; providing deletion and adoption; and setting an effective date.

TAB D: FY 2024-2025 Budget Presentation.

NO TAB 2: FY 2024 Tax Rate Presentation.

TAB E: Resolution 926-B-2024: A resolution amending the Property Assessed Clean Energy (PACE) Program Report to accommodate newly eligible properties.

TAB F: Interlocal Agreement with Harris County Department of Education (DBA Choice Partners) and the City of Universal City.

TAB G: Bid Acceptance of the CDBG Hillview Drive Street Improvements.

TAB H: Board and Commission Appointment – BOA.

9. ADJOURNMENT:

In accordance with the requirements of Texas Government Code section 551.127, a member of the governing body may participate in this meeting from a remote location. A quorum of the governing body as well as the presiding officer shall be physically present at the above posted location, which shall be open to the public. The video and audio feed of those participating remotely shall be visible and audible to the public for all open portions of the meeting. A member of a governmental body who participates in a meeting remotely as provided by law, shall be counted as present at the meeting for all purposes.

All items on the agenda are eligible for possible discussion and action. The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices,) and 551.086 (Economic Development).

This facility is wheelchair accessible & accessible parking spaces are available. Requests for accommodation or interpretive services must be made 72 hours prior to this meeting. Please contact the city clerk's office at (210) 619-0701 if these services are needed.

MINUTES
CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS
SPECIAL MEETING – Budget Work Session, Tuesday, 09 July 2024

1. CALL ORDER: Mayor Tom Maxwell at 4:54 P.M.

2. QUORUM CHECK and VOTE TO CONSIDER THE EXCUSE OF ABSENT MEMBERS (if applicable):

Maribel Garcia, Deputy City Clerk

Present:

Mayor Tom Maxwell
Mayor Pro Tem Christina Fitzpatrick
Councilmember Bear Goolsby
Councilmember Lori Putt
Councilmember Bernard Rubal

Absent:

Councilmember Ashton Bulman
Councilmember Phil Vaughan

Staff Present:

Kim Turner, City Manager
Christine Green, Finance Director
Mateo Garcia, Finance Manager
Michael Cassata, Economic Dev./Dev. Svcs. Director
Randy Luensmann, Public Works Director
Brandon Peterson, Assistant Public Works Director
Athena Ford, Utility Administrator
Johnny Siemens, Police Chief
Steve Mihalski, Assistant Police Chief
Todd Perna, Fire Chief
Justin Garcia, Assistant Fire Chief/Fire Marshal
Christina Blumenthal, Library Director
Brenda Haro, Court Administrator
Leigh Tollison, Human Resources Director
Katie Rein, Food & Beverage Director (OHGC)
Sal Garcia, Golf Operations Director (OHGC)
Jeremy Laake, Golf Superintendent (OHGC)
Maribel Garcia, Deputy City Clerk

Ms. Garcia confirmed a quorum was present.

Mayor Maxwell explained the absences of Councilmembers Bulman and Vaughan.

Councilmember Goolsby moved to excuse the absences. Mayor Pro Tem Fitzpatrick seconded the motion.

Vote: Yeas: Goolsby, Fitzpatrick, Putt, Rubal

Nays: None

Motion to excuse absences carried.

3. CITIZENS TO BE HEARD:

- Ken Taylor, 103 Terra Cotta, reminded Council to consider the big picture when examining the budget; he worried they would be too obsessed with the minor details. He asked them to see the budget as a planning document for the following fiscal year.

5. PURPOSE OF SPECIAL MEETING:

A. Present and discuss the proposed FY 2025 Budget.

Mrs. Turner thanked City Staff, which spent months working on the budget. She thanked all Councilmembers for taking time to meet with Staff to review the budget. She gave an overview of the budget process, including a timeline of the meeting and general budget process. The San Antonio River Authority (SARA) and HDR consultants would make presentations, before the Staff presentation of the budget, to go over rate changes for SARA and recommended rate changes for Universal City utilities. Subsequently, the City would present the budget and review items with Council. She reminded Council that this budget document was a working draft and would not be the final document.

SARA Presentation by Richard Trefzer

Mr. Trefzer informed Council that the SARA fiscal year (FY) would begin October 1st. He reviewed the rate creation model for SARA and funding strategies for capital projects and rate stabilization. He presented rates which would increase an average of 7.80% per 5,000 gallons a month. Mr. Trefzer reviewed wholesale and retail rates increases. The Salitrillo Treatment Plant expansion and other capital improvements were discussed. He noted new SARA projects to conduct system-wide flow monitoring. New rates and budget adoption would be proposed to the River Authority Board of Directors on September 18th, with rates becoming effective October 1st. Questions were answered regarding Equivalent Dwelling Units (EDUs) in relation to business connection fees.

HDR Presentation by Grady Reed

Mr. Reed reported expenses to be considered for rate changes to utilities services. For water and wastewater services, he reported the following expenses: water acquisition costs, bond projects, SARA and Cibolo Creek Municipal Authority (CCMA) rate increases, water and wastewater rehabilitation projects, capital improvements projects (CIPs), and debt obligations for capital improvements. Rate increases were recommended at 2% for both water and wastewater fees. He noted that the projected increase for FY 2025 presented last year was also 2%. For stormwater rates, he noted past increases and the goal of funding CIPs for FY 2026. He did not recommend an increase in rates for FY 2025, which was in line with the recommendation from last year.

Mr. Luensmann and Councilmember Rubal reviewed CIPs specifics including funding mechanisms and change in budget for one project after reassessment of the total cost.

Budget Presentation, primarily presented by Mateo Garcia and Christine Green

Mr. Garcia presented FY 2025 budget highlights including a proposed cost-of-living adjustment for existing staff of 5%, new staff budgeted for in the Utilities and General Fund budgets – these included new positions and moving an existing position to a different fund. A City Council department was also added to the General Fund along with a 5-year replacement schedule for the Capital Replacement Fund. It was explained that Special Revenue Funds were kept separate because of State mandated restrictions in use of funds. The Utility Fund had \$17,152,485 in Revenues and Expenditures. Expenditure totals were reviewed. The Stormwater Fund had an anticipated \$1,508,909 in total Revenues and Expenditures totaled \$1,442,633.

Debt Service and funding mechanisms were reviewed for the General and Utilities Fund. Revenues and funding sources under the General Fund included utilizing \$1,670,000 of Ad Valorem tax revenue anticipated, \$83,380 of Interest revenue, and a use of \$415,000 of the fund balance, totaling \$2,168,380 in anticipated revenues to be expended towards debt service. Debt Expenditures under the General Fund included Street Bonds totaling \$1,945,580 and a \$222,800 Library bond, totaling the

same \$2,168,380 funded by the General Fund revenues listed. The Utility Fund had anticipated revenues from water sales at \$1,437,095. This would fund debt service expenditures of \$532,193 in a Refunding Bonds, \$737,793 in Certificates of Obligation, and \$167,109 due to SARA – all totaling the same \$1,437,095 in anticipated revenues.

The Capital Improvements Fund had revenues and expenditures each totaling \$12,123,565 under the General Fund, total capital improvements at \$6,670,164 under the Utility Fund, and total capital improvements at \$959,415 under the Stormwater Fund. Mr. Garcia listed Special Revenue Funds: Court Technology, Court Security, Seized Assets (both Federal and State), Capital Replacement (both in the General and Utility Funds), PEG, Hotel Motel Tax, Sewer Impact Fees, Water Impact Fees, ARPA, Venue Tax and Child Safety. Following this, the floor was opened to Council for questions prior to recessing the meeting.

Councilmember Rubal asked that future presentations be organized in a manner consistent with the way funds were presented in the budget book – he referred to account numbers and line items. Ms. Green explained that the budget presentation only highlighted the major items, but an effort would be made to make them more easily trackable within the budget. He confirmed debt services paid by the City out of this budget were essentially \$3.6 million between the Utility and General Fund. It was clarified that these two were not combinable on a funding level due to Utility Fund being restricted.

Mayor Maxwell recessed the meeting at 5:54 PM. He reconvened the meeting into open session at 6:12 PM.

Mr. Garcia continued the budget presentation by giving an overview of General Fund Departments: City Council, Administration, Development Services, Human Resources, Finance, Municipal Court, Juvenile Case Management, General Services, Parks & Recreation, Police, Fire, Vehicle-Equipment Maintenance, Animal Shelter, Library, and Non-Departmental. Total Revenue was forecasted at \$19,928,122 with tax revenues representing 74% of the General Funds budget. Anticipated revenues included \$9,262,540 in Ad Valorem Tax, \$3,650,000 in Sales Tax, and \$1,415,000 in Franchise Fees.

Total Expenditures by department were listed as they are below:

- City Council	\$35,390
- Administration	\$576,947
- Development Services	\$1,305,770
- Human Resources	\$171,183
- Finance	\$537,975
- Municipal Court	\$229,207
- Juvenile Case Management	\$71,003
- General Services	\$2,368,832
- Parks & Recreation	\$1,860,200
- Police	\$4,882,646
- Fire Department	\$3,874,524
- Vehicle-Equipment Maintenance	\$450,900
- Animal Shelter	\$865,180
- Library	\$598,865
- Non-Departmental	\$2,099,500

Councilmember Rubal questioned the Council budget of \$35,390. He argued that the budget could arguably be made up of only \$4,610 to account for Council stipends and a few other things. He felt the budget for Council was too high with expenses that were not recorded in FY 2023 or 2024.

Ms. Green explained that there were no items to record in 2023 and 2024 since the Council Department did not exist. Council expenses were expensed out of the Administration budget either under Council Allowances, Training, Promotion/Development, or various other line items. She reviewed expenses budgeted for FY 2025 to create the Council budget, including Northeast Partnership Luncheons, Tri-County Chamber Luncheons, uniform accommodations, TML and AACOG trainings and conferences, parting gifts traditionally given at the end of terms, budget workshop food, printing, travel, transportation, technology and equipment such as their iPads, and subscriptions such as Xenforo and TML.

Councilmember Rubal wished to set the tone for review of the budget to prioritize it on four tiers: Tier 1 – items that funded essential services and personnel, Tier 2 – all basic resident services without amenities and enterprises, Tier 3 – expenses of personnel and resident amenities and non-essential enterprise operations, and Tier 4 – expenses of external staff training and significant needs anticipated for the next five years. He asked what essential training was included in the Council budget.

Ms. Green said what is considered “essential training” to Council would be determined by Council.

Councilmember Rubal felt that budgeted training should be discussed amongst Council, and given the lack of a uniform requirement, there were budget items unnecessary to include in the FY 2025 budget.

Mayor Maxwell clarified that there was a uniform requirement outside of meetings for events.

Essential versus non-essential training was discussed.

Councilmember Rubal emphasized his wish to determine essentials and non-essentials during the budget workshop, noting the will of many Councilmembers to lower the tax rate. He asked if a vote could be taken to determine Council priorities for the Council budget.

Ms. Green clarified that the workshop was most likely not the place to make decisions regarding budget prioritization and they would be better addressed during the budget presentation on August 6th. She also stated conversation regarding essential training was more suitable for the Mayor or Mrs. Turner. After Councilmember Rubal’s request that the next presentation of the budget be prioritized in the four tiers he listed, Mrs. Green stated it would be best to wait for the tax rates from Bexar County to determine what needed to be postponed to a future budget. However, without having the tax rates, it was difficult to determine how much needed to be postponed or reprioritized.

Councilmember Rubal was concerned that the budget was not prioritized in essentials and amenities as it would make decisions on what to cut more difficult.

Mayor Maxwell said the budget presented was full of what Staff needed to complete essential functions of the City. He wished to continue the presentation to gain a full picture of what Staff viewed as needs and discuss it after. He felt that everyone needed training, including Staff and Council.

Ms. Green continued with review of General Fund departments.

Mayor Maxwell received clarification regarding how Staff came to Budget totals.

Ms. Green explained that departments were provided with the prior year’s budget which was then reviewed and reformulated to determine estimates of the next year’s expenditures. These estimates

were reviewed by Mrs. Turner and Ms. Green to determine if the costs were viable, and line items were reviewed in depth by departments to determine where there could be cost savings. Ms. Garcia assisted in the consolidation of software to further reduce costs. Training was reviewed for cheaper alternatives either locally or online when possible. Ms. Green opined the budget was a lean budget with only a 3.3% increase from the prior year – in line with the Consumer Price Index. She commented on small increases which were offset by some decreases in other departments. She noted that 74% of the budget could be attributed to Public Works and Emergency Services in Police and Fire.

Mayor Pro Tem Fitzpatrick appreciated the effort to create parity between FY 2024 and FY 2025 budgets so as not to cause a large increase. Furthermore, she noted that all money set aside for the new Council budget had always been in the Administration Department budget in prior years. She appreciated that Capital Expenditures were noted and listed separately, and she felt that these big budget items should be where the City could save money by postponing if needed and if able.

Mrs. Turner explained that Staff followed direction from last year's budget process to not remove any items on the Capital Expenditures so that Council could be aware of them. She emphasized the budget was able to be reduced and Staff was prepared to do so if directed. She said that direction could be given to Staff to postpone items in the budget by a certain amount, but recommended only doing so after tax rates were received by the City. She hoped Council would allow Staff to revisit the budget after their tax rate goal is expressed to see, as a Staff, what could be postponed while still providing essential services. This would hopefully happen on August 6th when the City receives tax rates from Bexar County. She confirmed for Councilmember Putt that councilmembers would be able to schedule meetings with her and Ms. Green to review the budget in further detail.

Councilmember Rubal expressed concern at the high percentage increase of many line items and reviewed the General Services Department of the General Fund budget. He reported line items like Streets Maintenance, Training, Uniform Allowance, Hand Tools, etc. had increased over 100%.

Mr. Luensmann reviewed cost of individual items and projects which made up the totals of each budget line-item Councilmember Rubal questioned. Reasons for the increases were explained.

From a construction standpoint, cost of tools was explained to Councilmember Rubal by Councilmember Goolsby.

Mrs. Turner noted Mr. Luensmann was able to explain how his budget total was reached by explaining each cost estimate of individual items or projects that are housed under each budget line-item. All department heads had created their budgets with the same due diligence. She asked Council to trust that department heads had the expertise and attention to detail to convey what was necessary for them to perform their essential City functions. She also asked that Council schedule appointments with Staff to go over budget items in fine detail.

Councilmember Rubal asked if the workshop's purpose was to have the City present what they would like to have rather than have essential needs clearly identified.

Mrs. Turner stated all items in the budget were essential needs, otherwise they would not have been included.

Mayor Maxwell reiterated that the purpose of the workshop was for Staff to present their estimates of how much it would cost to provide essential needs of the City to perform their functions.

Councilmember Rubal expressed that his interest was for the residents in Universal City to live within their means in relation to the tax rate which would have to support the budget.

Moving on to Capital Replacements, Ms. Green noted an error caused by a 2026-2027 expenditure being included in the FY 2025 budget. She reviewed Capital Replacement items for FY 2025. It was clarified for Council that the items on the Capital Replacements document were not prioritized in the order they were listed. She explained that she asked departments to provide totals for replacements that were needed to operate and provide essential functions to residents. In the case Council decided they would pass a lower tax rate than would fund the items, it would be best for Council to direct Staff to lower the budget by a number or percentage. This would allow Staff to remove items they knew could be postponed and have internal deliberations to make a budget more amenable to Council. Without this flexibility, Council may decide to remove an item that is essential to the function of the City. In her experience working with other cities, it worked best for Council to allow staff to determine what could be postponed to a future year.

Mayor Maxwell and Ms. Green discussed the internal method of prioritization.

Councilmember Rubal and Mrs. Turner discussed vehicle replacements and noted that vehicles and equipment may be rotated to other departments that may need the equipment but maybe not at the functionality that the prior department needed the equipment.

Mr. Garcia continued with the presentation to present the Golf Course Fund. This fund included revenues anticipated at \$4,418,000 and expenditures at \$4,345,539.

Ms. Green reviewed Golf Course Fund revenues for Councilmember Rubal. Venue Tax Revenue was estimated at \$1.175 million; Greens Fees were estimated at \$1.68 million, and Interest Revenue was estimated at \$210,000.

Councilmember Rubal questioned whether the golf course could maintain itself without Venue Tax.

Ms. Green confirmed the golf course would not be profitable without Venue Tax Revenue at this point, but that it was making more profit than past years and golf course Staff had made conservative revenue estimates for FY 2025. They anticipated higher revenues with recent and near-future improvements.

Ms. Green and Mr. Rubal further discussed golf course operations, debts, and revenues. Ms. Green apologized for the poor record keeping of her predecessors, but assured Council that diligent record keeping, and transparency was being maintained at this point. The Venue Tax was being used as intended according to the ballot language under which it was passed.

Mrs. Turner added that the use of General Fund Revenue for the golf course in the past was presented to and approved by the City Council at the time. Golf Course Fund transfers to the General Fund were discussed. Other Golf Course Fund future projects were noted while mentioning that, nevertheless, golf course debt has been reduced. Mrs. Turner assured Council that the City was always looking for methods of improvement.

Councilmember Rubal, Ms. Green, and Mrs. Turner discussed the status of the Golf Course Fund as an enterprise fund and whether the City had a business plan for the golf course. Mrs. Turner clarified that the golf course does not have a formal business plan and that, if Council so decides, consultants could be hired to create one. Staff reiterated that all golf course expenses were paid for and the Venue Tax

was only being utilized for General Fund transfers, capital purchases, or leases related to capital. Mrs. Turner and Ms. Green received clarification from Councilmember Rubal that the question he was asking was for reconsideration of the Venue Tax through a ballot measure.

Mayor Maxwell asserted that a budget is a form of a business plan and that there are several municipal golf courses operating similarly. He also suggested that the workshop was not the place to bring the Venue Tax item forward.

Councilmember Rubal emphasized that the Venue Tax is divisive, and residents have the right to know if the golf course is self-sustaining without the Venue Tax.

Staff reiterated that has always been the goal.

Ms. Green continued her review of Golf Course Fund Revenues. She reiterated that revenues were estimated conservatively. Greens Fees would be updated.

Sal Garcia explained how new greens fees would be assessed. Rate discounts were discussed, including senior and resident rates. Approximately 90-95% of golfers at the golf course were from outside the City and brought in new income for sales tax and revenue. He explained that raising the greens fees too high would keep golfers away from the course.

Councilmember Rubal received clarification that the fee structure of the golf course does not cover all golf course expenses, but that the fee structure was only one part of golf course revenue, the other being food and beverage.

Staff and Councilmember Rubal discussed the determination of greens fees in relation to golf course amenities compared to other local golf courses.

Ms. Rein gave an overview of her strategy for increasing sales by targeting three different audiences: golfers, weddings, non-golfers who use food and beverage. She noted that golf course staff are always looking for new ways to attract more revenue to the golf course. They do regular price adjustments and reassessments. The average amount spent per golfer on food and beverage was approximately \$102 per round, which went down when the greens began having issues earlier this year. Wedding trends were reviewed, and Ms. Rein shared that wedding prices are increased yearly. Furthermore, non-golfer use of food and beverage included other non-wedding related events. She noted that cost of goods had increased, and that revenue was projected conservatively for this FY. She shared with Councilmember Rubal that the convention hall was used about 50% of the days out of the year, which was consistent with industry standards due to proclivity of events being booked on weekends.

Councilmember Putt commended Ms. Rein for the strategies and expertise she had displayed in bringing back revenue to the golf course. She felt her methods worked and her events were great.

Ms. Rein noted that the frequent transparency and reports of revenue from the Finance Department with Ms. Green starting to manage it had been an immense help. She also emphasized the importance and deep care Mr. Garcia, Mr. Laake, and herself felt toward the golf course's success.

Councilmember Putt appreciated the amount of time and care all Staff took in creating their budgets. She realized that cuts had already been made to the budget and that there was nothing in the budget that was not necessary.

Mrs. Turner and Ms. Green noted that in formulating the budget, they asked all departments to justify their expenses.

Mrs. Turner thanked Staff for their efforts, Council for their attention and consideration, and the audience for listening. She expressed her belief that Staff and Council all had the City's best interests in mind and were on the same team.

6. ADJOURNMENT: Mayor Maxwell adjourned the meeting at 7:58 P.M.

APPROVED:

Tom Maxwell, Mayor

ATTEST:

Maribel Garcia, Deputy City Clerk

CITY OF UNIVERSAL CITY

Date: 16 July 2024

TO: City Council

FROM: Kim M. Turner, City Manager

SUBJECT: Ordinance 625-A-2024: New Non-Retroactive Repeating COLA Option

Historical Background

In 1963, Universal City Council elected to participate in the State Department of Public Welfare to withhold Social Security from employee wages. In 1977, Universal City elected to participate in the State-wide Texas Municipal Retirement System (TMRS) as well. Since 1977, the Texas Legislature has updated the methods for determining Service Credits and the calculation of annual cost of living adjustments (COLA) for retirees. Effective 27 May 2023, the Texas Legislature amended the TMRS Act to provide participating cities with a new repeating non-retroactive COLA option. Instead of calculating the COLA going back to each individual retiree's retirement date, the calculation would be based on the Consumer Price Index (CPI) for the past 12 months. If City Council determines to adopt the new COLA calculation, it will become effective 01 January 2025 as provided by State law.

A Representative of TMRS will be present at the Council meeting to provide simplicity and clarity to the new legislation, and the benefit of the new legislation on the City's contribution rate.

Action Requested

Approve Ordinance 625-A-2024 adopting the New Non-Retroactive Repeating COLA Option for Retirees.

Procurement Methodology

This is a policy change only and requires no procurement.

Source and Amount of Funding

Employee Retirement is budgeted annually. The average monthly employee/city contribution is approximately \$190,000. New COLA calculation would decrease slightly beginning in FY 25/26.

Staff Recommendation

Staff recommends approval of Ordinance 625-A-2024.

ORDINANCE 625-A-2024

AN ORDINANCE REGARDING THE CITY OF UNIVERSAL CITY'S TEXAS MUNICIPAL RETIREMENT SYSTEM (TMRS) BENEFITS: (1) ADOPTING NON-RETROACTIVE REPEATING COLAS FOR RETIREES AND THEIR BENEFICIARIES UNDER TMRS ACT §853.404(f) and (f-1), AND (2) AUTHORIZING ANNUALLY ACCRUING UPDATED SERVICE CREDITS AND TRANSFER UPDATED SERVICE CREDITS.

Whereas, the City of Universal City, Texas (the "City") elected to participate in the Texas Municipal Retirement System (the "System" or "TMRS") pursuant to Subtitle G of Title 8, Texas Government Code, as amended (which subtitle is referred to as the "TMRS Act"); and

Whereas, House Bill 2464, 88th Texas Legislature, R.S., 2023 ("HB 2464"), added Subsections 853.404(f) and (f-1) to the TMRS Act and authorized cities participating in the System to provide certain retirees and their beneficiaries with an annually accruing ("repeating") annuity increase (also known as a cost of living adjustment, or "COLA") based on the change in the Consumer Price Index for All Urban Consumers for the one-year period that ends 12 months before the January 1 effective date of the applicable COLA (a "non-retroactive repeating COLA"); and

Whereas, new TMRS Act §853.404(f) and (f-1) allow participating cities to elect to provide non-retroactive repeating COLAs under certain circumstances, as further described by this Ordinance, by adopting an ordinance to be effective January 1 of 2024, 2025 or 2026, in accordance with TMRS Act §854.203 and §853.404; and

Whereas, TMRS Act §853.404(f-1) provides the non-retroactive repeating COLA option applies only to a participating city that, as of January 1, 2023, either (1) has not passed an annually repeating COLA ordinance under TMRS Act §853.404(c) or had previously passed a repeating COLA ordinance and then, before January 1, 2023, passed an ordinance rescinding such repeating COLA, or (2) does provide an annually repeating COLA under §853.404(c) and elects to provide a non-retroactive repeating COLA under §853.404(f) for purposes of maintaining or increasing the percentage amount of the COLA; and

Whereas, the City Council acknowledges that Universal City meets the above-described criteria under §853.404(f-1) and is eligible to elect a non-retroactive repeating COLA under §853.404(f) and that such election must occur before January 1, 2026, and after that date future benefit changes approved by the City may require reversion to a retroactive repeating COLA; and

Whereas, the City Council finds that it is in the public interest to: (1) adopt annually accruing non-retroactive COLAs for retirees and their beneficiaries under TMRS Act §853.404(f) and (f-1); and (2) in accordance with TMRS Act §853.404 and §854.203(h), reauthorize annually accruing Updated Service Credits and transfer Updated Service Credits, now:

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

1. SECTIONS 1-5-40 (1) Authorization of Updated Service Credits., 1-5-40 (2) Increase in Retirement Annuities., AND 1-5-40 (3) Dates of Allowances and Increases. SHALL BE REPLACED IN THEIR ENTIRETY WITH THE FOLLOWING LANGUAGE:

(1) Adoption of Non-Retroactive Repeating COLAs.

(a) On the terms and conditions set out in TMRS Act §854.203 and §853.404, the City authorizes and provides for payment of the increases described by this Section to the annuities paid to retired City employees and beneficiaries of deceased City retirees (such increases also called COLAs). An annuity increased under this Section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this Section is computed in accordance with TMRS Act §853.404(f) as the sum of the prior service and current service annuities, as increased in subsequent years under TMRS Act §854.203 or TMRS Act §853.404(c), of the person on whose service the annuities are based on the effective date of the annuity increase, multiplied by **70%** of the percentage change in the Consumer Price Index for All Urban Consumers during the 12-month period ending in December of the year that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation under this Section does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed under this Section.

(e) In accordance with TMRS Act §853.404(f-1)(2), an increase under this Section only applies with respect to an annuity payable to a TMRS member, or their beneficiary(ies), which annuity is based on the service of a TMRS member who retired, or who is deemed to have retired under TMRS Act §854.003, not later than the last day of December of the year that is 13 months before the effective date of the increase under this Section.

(f) The amount of an increase under this Section is an obligation of this City and of its account in the benefit accumulation fund of the System.

(g) The initial increase in annuities authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the Board of Trustees of the System ("Board"). Pursuant to TMRS Act §853.404, an increase in retirement annuities shall be made on January 1 of each subsequent year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

(2) Authorization of Annually Accruing Updated Service Credits and Transfer Updated Service Credits.

(a) As authorized by TMRS Act §854.203(h) and §853.404, and on the terms and conditions set out in TMRS Act §§853.401 through 853.404, the City authorizes each member of the System who on the first day of January of the calendar year immediately preceding the January 1 on which the Updated Service Credits will take effect (i) has current service credit or prior service credit in the System by reason of service to the City, (ii) has at least 36 months of credited service with the System, and (iii) is a TMRS-contributing employee of the City, to receive "Updated Service Credit," as that term is defined and calculated in accordance with TMRS Act §853.402.

(b) The City authorizes and provides that each employee of the City who (i) is eligible for Updated Service Credits under Subsection (a) above, and (ii) who has unforfeited prior service credit and/or current service credit with another System-participating municipality or municipalities by reason of previous employment, shall be credited with Updated Service Credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in TMRS Act §853.601 (also known as "Transfer USC"), both as to the initial grant and all future grants under this Ordinance.

(c) The Updated Service Credit authorized and provided under this Ordinance shall be **100%** of the "base Updated Service Credit" of the TMRS member calculated as provided in TMRS Act §853.402.

(d) Each Updated Service Credit authorized and provided by this Ordinance shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) The initial Updated Service Credit authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the System's Board. Pursuant to TMRS Act §853.404, the authorization and grant of Updated Service Credits in this Section shall be effective on January 1 of each subsequent year, using the same percentage of the "base Updated Service Credit" stated in Subsection (c) in computing Updated Service Credits for each future year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

2. SECTIONS 1-5-40 (4), (5), AND (6) SHALL REMAIN UNCHANGED. (Note to Municode--renumbering during codification permitted)

- 3. All other conflicting ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent they are in conflict.
- 4. If any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force or effect.
- 5. It is officially found and determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of public business to be considered at such meeting, including this Ordinance, was given, ass as required by chapter 551, as amended, Texas Government Code.
- 6. This Ordinance shall take effect immediately upon its passage, approval and official publication as provided by law.

FIRST READING PASSED AND APPROVED THIS 16TH DAY OF JULY 2024.

SECOND READING PASSED AND ADOPTED THIS 6TH DAY OF AUGUST 2024.

CITY OF UNIVERSAL CITY, TEXAS

APPROVED:

TOM MAXWELL, MAYOR

ATTEST:

APPROVED FOR LEGAL SUFFICIENCY:

Deputy City Clerk

Cynthia Trevino, Attorney
Denton Navarro Rodriguez Bernal Santee & Zech, P.C.



New Repeating COLA Option is Available for Cities

Effective May 27, 2023, the Texas Legislature amended the TMRS Act to provide participating cities with a new repeating COLA option.

Currently, a COLA must be calculated retroactively by looking back to the cumulative change in the Consumer Price Index (CPI) since each retiree's retirement date, commonly called the "catch-up." The retroactive calculation makes granting a COLA more expensive for cities that have never provided a COLA and for most cities that currently provide a COLA and are already "caught up."

The new non-retroactive repeating COLA option eliminates the retroactive calculation by only looking back to the change in the CPI for the one-year period that ends 12 months before the COLA's effective date (the "New COLA Option").

In almost every case, the New COLA Option will be slightly less expensive for a city than a repeating COLA calculated retroactively. While the impact of the New COLA Option on each retiree depends on many factors, no retiree's current monthly benefit will be reduced.

However, adopting any repeating COLA, with or without the retroactive calculation, is still expensive. Even without the retroactive expense, the city still must advance fund all COLAs for both current and future retirees.

A city does not have to adopt the New COLA Option. All current repeating or ad hoc COLA options with the retroactive calculation are still in place. Details about current COLA options can be found [here](#).

Following are key provisions and examples of the New COLA Option.

Key Provisions

- All repeating COLAs adopted using the non-retroactive option must be effective on January 1, 2024, 2025, or 2026. To adopt the New COLA Option, a city must pass an ordinance and provide it to TMRS by the December 31 preceding the January 1 effective date.
- Adopting the New COLA Option replaces any previous COLA and remains in effect until the city adopts any ordinance impacting COLAs.
- Because the New COLA Option is calculated based on the CPI during the year that ends 12 months before the COLA's effective date, each retiree will receive the same percentage increase to their monthly benefit. For example, if a city adopts a non-retroactive 50% repeating COLA effective January 1, 2024, each eligible retiree's benefit increase will be 3.23% (50% of 6.45% inflation during 2022).



- Cities can only use the New COLA Option to maintain or increase their COLA CPI percentage; they cannot decrease it.

If a city does not provide a repeating COLA

Cities that do not provide a repeating COLA as of January 1, 2023, can pass an ordinance to adopt a non-retroactive repeating COLA of 30%, 50%, or 70% of CPI.

The cost impact for cities that have never adopted a COLA will be modestly less under the New COLA Option as compared to the cost of the retroactive repeating COLA options of the same CPI percentage. The cost impact for cities that have previously adopted any COLA, will vary depending upon the city's COLA history.

If a city provides a repeating COLA

Cities that have a 30% or 50% retroactive repeating COLA as of January 1, 2023, can pass a new ordinance to maintain or increase the COLA percentage with the non-retroactive calculation. Whether the COLA cost for a city would decrease or increase depends on the city's COLA history.

Cities that have a 70% retroactive repeating COLA as of January 1, 2023, can pass a new ordinance to maintain the 70% COLA with the non-retroactive calculation. The non-retroactive repeating 70% COLA will be slightly less expensive than the retroactive repeating 70% COLA.

Request a COLA cost analysis from TMRS

To request a COLA cost analysis, email cityservices@tmrs.com. TMRS' plan change tool that calculates the cost of COLAs will be available in July.

CITY OF UNIVERSAL CITY

To: City Council

Date: 08/06/2024

From: Kim M. Turner, City Manager

RE: **RESOLUTION 889-J-2024**: A RESOLUTION DELETING IN ITS ENTIRETY THE 2012 INTERLIBRARY LOAN POLICY; ADOPTING A **2024 INTERLIBRARY LOAN POLICY** FOR THE MUNICIPAL LIBRARY OF THE CITY OF UNIVERSAL CITY; ESTABLISHING LEGISLATIVE FINDINGS; PROVIDING REPEAL AND ADOPTION; AND SETTING AN EFFECTIVE DATE.

AND

RE: **RESOLUTION 889-K-2024**: A RESOLUTION AMENDING THE **LIBRARY MEETING ROOM POLICY** FOR THE MUNICIPAL LIBRARY OF THE CITY OF UNIVERSAL CITY; ESTABLISHING LEGISLATIVE FINDINGS; PROVIDING DELETION AND ADOPTION; AND SETTING AN EFFECTIVE DATE.

Historical Background

The Library staff and the Library Advisory Commission have worked on revisions to several Library policies. The InterLibrary Loan Policy has not been updated since 2012 and is being replaced in its entirety. The Meeting Room Policy has modifications specifically to add clarity of room uses and user responsibilities. Additions to the Meeting Room Policy are in red; deletions have been ~~struck through~~.

Action Requested

Approve and adopt Resolution 889-J-2024 and Resolution 889-K-2024

Procurement Methodology

These are Policies only and requires no procurement by the City.

Source and Amount of Funding

The Policies require no funding.

Staff Recommendation:

Approve and adopt Resolution 889-J-2024 (2024 InterLibrary Loan Policy) and Resolution 889-K-2024 (Amended Library Meeting Room Policy)

RESOLUTION 889-J-2024

A RESOLUTION DELETING IN ITS ENTIRETY THE 2012 INTERLIBRARY LOAN POLICY; ADOPTING A 2024 INTERLIBRARY LOAN POLICY FOR THE MUNICIPAL LIBRARY OF THE CITY OF UNIVERSAL CITY; ESTABLISHING LEGISLATIVE FINDINGS; PROVIDING REPEAL AND ADOPTION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Universal City (the “City”) is a Home Rule municipality possessing the full power of local self-government, pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, as amended, and the City’s Home Rule Charter; and

WHEREAS, the City of Universal City, Texas is authorized by Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, as amended, and the City’s Home Rule Charter to adopt regulations to promote good governance and to amend said regulations when the City Council finds that it is in the best interest of the City to do so; and

WHEREAS, the City Council finds that it is in the best interest of the City to delete in its entirety the 2012 InterLibrary Loan Policy (ILL) and to adopt a new 2024 InterLibrary Loan Policy after following the procedures set forth in City’s Home Rule Charter and to adopt this policy through official Council action; and

WHEREAS, the City Council hereby finds and determines that it is necessary to formally adopt the 2024 InterLibrary Loan Policy referenced herein by resolution.

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

SECTION 1.

THAT the 2012 InterLibrary Loan Policy is hereby repealed in its entirety and the Library 2024 InterLibrary Loan Policy as fully attached as Exhibit A hereto and all actions taken by the City Council of the City of Universal City are hereby adopted, approved and RATIFIED.

SECTION 2.

THAT all provisions of the Universal City Public Library Policies of the City of Universal City not herein amended or repealed shall remain in full force and effect.

SECTION 3.

THAT all other resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4.

THAT if any provisions of this resolution shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5.

THIS resolution will take effect upon its passage, approval and publication as provided by law.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Universal City on this the 6th day of August 2024.

CITY OF UNIVERSAL CITY, TEXAS

APPROVED:

Tom Maxwell, Mayor

ATTEST:

Maribel Garcia, Deputy City Clerk

PROPOSED

EXHIBIT A Universal City Public Library InterLibrary Loan Policy

DEFINITION & PURPOSE

InterLibrary Loan (ILL) allows library patrons to obtain materials not owned by the Universal City Public Library (UCPL) from other libraries across the state and to lend materials found at UCPL to other libraries. ILL serves as a supplement to, not a substitute for, collection development at the local level.

WHO CAN USE INTERLIBRARY LOAN (ILL) SERVICES

ILL is currently offered to Universal City Public Library adult cardholders that reside within the limits of the City of Universal City. Borrowers must have a valid and active UCPL library card, be in good standing (no overdues, fines, or fees), and be an active member for at least 90 days. Patrons from other libraries wishing to borrow an item from the UCPL should make their requests through their own library.

WHAT MATERIALS CAN BE BORROWED & RESTRICTIONS

Lending libraries decide whether a particular item can be loaned. Generally, most libraries will not lend:

- Newly published material within the last 6-12 months.
- Old, rare, or valuable material
- Reference material
- Genealogical or Texana material
- Periodicals and newspapers
- Material in high demand
- Titles on the New York Times or Publisher's Weekly bestseller lists
- Multiple copies of a title
- Titles not yet published
- DVD's and Audiobooks

The lending library may impose restrictions on material loaned, including requiring that the material be used only in the borrowing library. Patrons are urged to keep this information in mind before making a request. Patrons are limited to five (5) active requests at a time. This

includes pending requests and items currently checked out. ILL checkouts count towards the twenty (20) item checkout limit.

HOW TO REQUEST AN INTERLIBRARY LOAN

Patrons can request an ILL in person, by e-mail, or via your online account. Generally, you will need to submit the following information:

- Author
- Title
- Year of publication
- Type of material (book, DVD, audiobook, etc.)

TURNAROUND TIME & LOAN PERIOD

The UCPL participates in the Texas Armadillo Network Interlibrary Loan system, serviced through the Texas State Library and Archives Commission. Requests are placed electronically and UCPL submits requests on behalf of the patron. Service is given as quickly and inexpensively as possible.

Depending on availability of the material, location of the lending library, and shipping method, some materials may take as few as two weeks or as many as twelve weeks to receive an item. Should a patron wish to cancel a request or if the item is no longer needed, notification must be received via email or telephone to the library.

The lending library determines the length of time for which the material is loaned. Generally, ILL materials may be borrowed from the UCPL for three (3) weeks and may not be renewed.

Patrons are urged to return ILL materials by the specified due date. ILL service will be suspended for those who abuse the privilege, including those who repeatedly fail to pick-up requested material or who fail to return materials on time.

FEES

UCPL does not charge fees to borrow items, but patrons are responsible for all fees/fines incurred if the material is lost or damaged. The lending library determines the replacement costs and fees. No replacements for the material are accepted. No refunds will be made for lost and paid ILL materials that are subsequently found. Refunds cannot be issued after payments have been processed.

Occasionally, other fees may be assessed by the lending library, such as for photocopies, postage, loan fees, etc. UCPL will obtain authorization from the patron before ordering material

for which there is a charge. Patrons that fail to claim the material borrowed for them will still be expected to pay any fees incurred.

PATRON NOTIFICATION OF ARRIVAL OF ILL

Patrons are notified by email or telephone when the material is ready for pick-up. Items are kept at the Circulation Desk for seven (7) business days after the patron is notified. Any materials not picked up within seven (7) business days after notification is given will be returned to the lending library at the patron's expense. A return postage fee at the current postal rate will be added to the patron's account for each item not picked up.

BORROWER RESPONSIBILITIES

Patrons utilizing ILL services are responsible for any materials lost or damaged while checked out to them. Charges for lost or damaged materials are determined by the lending library. No refunds will be made for lost and paid ILL materials that are subsequently found. No replacements are accepted.

LOANING TO OTHER LIBRARIES

ILL requests are accepted by other libraries depending on staff and resource availability. UCPL will not loan:

- Books published within the last 12 months
- Titles on the New York Times or Publisher's Weekly bestseller lists
- Materials designated as "high demand"
- Reference, Texana and local history materials
- Periodicals and newspapers
- Multiple copies of a title
- DVD's
- Audiobooks
- Rare or fragile items
- Titles not yet published

All materials will have a loan period of six (6) weeks. No materials may be renewed.

UCPL does not charge any fees for lending materials. If an item is lost or damaged, a replacement fee and processing fee of \$5.00 will be billed to the borrowing library. Refunds cannot be issued after payments have been received and processed.

RESOLUTION 889-K-2024

A RESOLUTION AMENDING THE LIBRARY MEETING ROOM POLICY FOR THE MUNICIPAL LIBRARY OF THE CITY OF UNIVERSAL CITY; ESTABLISHING LEGISLATIVE FINDINGS; PROVIDING DELETION AND ADOPTION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Universal City (the “City”) is a Home Rule municipality possessing the full power of local self-government, pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, as amended, and the City’s Home Rule Charter; and

WHEREAS, the City of Universal City, Texas is authorized by Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, as amended, and the City’s Home Rule Charter to adopt regulations to promote good governance and to amend said regulations when the City Council finds that it is in the best interest of the City to do so; and

WHEREAS, the City Council finds that it is in the best interest of the City to amend the Library Meeting Room Policy after following the procedures set forth in City’s Home Rule Charter and to adopt this policy through official Council action; and

WHEREAS, the City Council hereby finds and determines that it is necessary to formally adopt the amended Meeting Room Policy referenced herein by resolution.

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

SECTION 1.

THAT the Library Meeting Room Policy as fully attached as Exhibit A hereto and all actions taken by the City Council of the City of Universal City are hereby adopted, approved and RATIFIED.

SECTION 2.

THAT all provisions of the Universal City Public Library Policies of the City of Universal City not herein amended or repealed shall remain in full force and effect.

SECTION 3.

THAT all other resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent that they are in conflict.

SECTION 4.

THAT if any provisions of this resolution shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

SECTION 5.

THIS resolution will take effect upon its passage, approval and publication as provided by law.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Universal City on this the 6th day of August 2024.

CITY OF UNIVERSAL CITY, TEXAS

APPROVED:

Tom Maxwell, Mayor

ATTEST:

Maribel Garcia, Deputy City Clerk

TAB D: Budget Presentation

Please view the FY 2024-2025 Budget on the City Website

www.UCTX.gov/Budget-FY2025

CITY OF UNIVERSAL CITY

Date: 06 August 2024

TO: City Council

FROM: Kim M. Turner, City Manager

SUBJECT: Resolution 926-B-2024: Amended Property Assessed Clean Energy (PACE) Program Report

Historical Background

In 2021, The City entered into an interlocal agreement with the Alamo Area Council of Governments (AACOG) as it relates to the administration of the PACE Program. PACE is a State program that allows businesses to be able to take advantage of low-cost, long-term loans for 100% of the cost of energy-efficiency and water conservation improvements. Universal City is a designated area for PACE and AACOG implemented and administers the Program on behalf of the City. Housing and Urban Development (HUD) loans have been a sticking point for the program. PACE and HUD were both set up to be the first or priority lien on the property. The priority lien stalemate was preventing multifamily housing from participating in PACE. Almost all multifamily housing structures are back by HUD loans. AACOG has been successful in working with the State and HUD to allow PACE to be the priority lien for multifamily projects. The amended report for Resolution 926-B-2024 includes a change to accommodate newly eligible HUD and FHA properties

Action Requested

Approve and adopt Resolution 926-B-2024 to amend and improve the Universal City PACE Program report.

Procurement Methodology

PACE participation requires no procurement by the City.

Source and Amount of Funding

This Program requires no funding by the City.

Staff Recommendation

Staff recommends approval and adoption of Resolution 926-B-2024 to amend and improve the Universal City PACE Program Report.

RESOLUTION 926-B-2024
UNIVERSAL CITY PACE REPORT

STATE OF TEXAS §
 §
UNIVERSAL CITY §

WHEREAS, the 83rd Regular Session of the Texas Legislature enacted the Property Assessed Clean Energy Act, Texas Local Government Code Chapter 399 (the “PACE Act”), which allows the governing body of a local government, including a City or County, to designate an area of the territory of the local government as a region within which an authorized representative of a local government and the record owners of commercial, industrial, and large multifamily residential (5 or more dwelling units) real property may enter into written contracts to impose assessments on the property to repay the financing by the owners of permanent improvements fixed to the property intended to decrease energy or water consumption or demand;

WHEREAS, the installation or modification by property owners of qualified energy or water saving improvements to commercial, industrial, and large multifamily residential real property in Universal City furthers the goals of energy and water conservation without cost to the public;

WHEREAS, the City Council adopted a Resolution 926-A-2021 to establish a PACE program for Universal City on November 16, 2021, including the report on the proposed program prepared as required by Section 399.009 of the PACE Act and made the report available to the public;

WHEREAS, when initially established, U.S. Housing and Urban Development (“HUD”) and Federal Housing Administration (“FHA”) multifamily properties could not participate in the PACE program, but now are permitted to, and therefore a change in paperwork submitted to by a property owner to participate in the PACE program is required to accommodate newly eligible HUD and FHA properties; and

WHEREAS, adoption of this Resolution will serve to update the November 16, 2021, report and associated exhibits to reflect the necessary changes for FHA and HUD properties, improve language, and reduce the burden on the County’s Tax Office.

NOW THEREFORE, be it resolved by the City Council of Universal City of that:

1. Recitals. The recitals to this Resolution are true and correct and are incorporated into this resolution for all purposes.
2. Amendment of the Universal City PACE Program Report. Universal City hereby adopts this Resolution to amend the report required by Texas Local Government Code Section 399.009 for the Universal City Property Assessed Clean Energy Program (PACE) Program.

Adopted this 6TH day of AUGUST, 2024.

Honorable Tom Maxwell, Mayor

Honorable Christina Fitzpatrick
Mayor Pro Tem

Honorable Ashton Bulman
Councilmember

Honorable Bear Goolsby
Councilmember

Honorable Bernard Rubal
Councilmember

Honorable Lori Putt
Councilmember

Honorable Phil Vaughn
Councilmember

**AMENDED REPORT REQUIRED BY TEXAS LOCAL GOVERNMENT CODE
SECTION 399.009**

**FOR THE UNIVERSAL CITY PROPERTY ASSESSED CLEAN ENERGY (PACE)
PROGRAM**

This Amended Report is adopted by the City Council for Universal City, Texas (“**Local Government**”) Property Assessed Clean Energy (PACE) Program (**the “Program”**) in accordance with the requirements of the Property Assessed Clean Energy Act (**the “PACE Act”**) as set forth in Texas Local Government Code Chapter 399.

The Local Government and its constituents benefit when older existing buildings are modified, and new facilities constructed with new technology and equipment that increases energy efficiency and reduces water consumption. As described in this Report, the Local Government is establishing the commercial PACE Program to encourage private sector investment in energy efficiency and water conservation. The PACE Program will be offered to property owners on a strictly voluntary basis and will not require the use of any public funds or resources.

Authorized under the PACE Act enacted in 2013, the PACE program is an innovative financing program that enables private sector owners of privately owned commercial, industrial, and multi-family residential properties with five or more dwelling units to obtain low-cost, long-term loans to pay for water conservation, energy-efficiency improvements, and distributed generation. PACE loans provide up to 100% financing of all project costs, with little or no up-front out-of-pocket cost to the owner. The Local Government has chosen to follow the administrative principles, program processes, and model documents of the uniform Texas PACE in a Box model program.¹

Loans made under the PACE Program will be secured by assessments on the property that are voluntarily imposed by the owner. Assessments may be amortized over the projected life of the improvements. The utility cost savings derived from improvements financed with PACE loans are expected to equal or exceed the amount of the assessment. In turn, these improvements are able to generate positive cash flow upon installation because the debt service will be less than the savings.

PACE assessments are tied to the property and follow title from one owner to the next. Each owner is responsible only for payment of the assessments accruing during its period of ownership. When the property is sold, the payment obligation for the remaining balance of the assessment is transferred automatically to the next owner. As a result, the program will help

¹ <https://www.keepingpaceintexas.org/pace-in-a-box>

property owners overcome market barriers that often discourage investment in energy efficiency and water conservation improvements.

1. Eligible Properties

The Local Government PACE program is a strictly voluntary program. All private sector owners of Eligible Properties located within the Local Government PACE region may participate in PACE financing. ***“Eligible Properties”*** include commercial, industrial, and multi-family residential properties with five or more dwelling units. Government, residential², and undeveloped property and property undergoing development at the time of the assessment are not Eligible Properties.

2. Qualified Improvements

PACE financing may be used to pay for Qualified Improvements to Eligible Properties. ***“Qualified Improvements”*** are permanent improvements intended to decrease water or energy consumption or demand, including a product, device, or interacting group of products or devices on the customer’s side of the meter that use energy technology to generate electricity, provide thermal energy, or regulate temperature. Under the PACE Act, products or devices that are not permanently fixed to real property are not considered to be Qualified Improvements.

The following items may constitute Qualified Improvements:

- High efficiency heating, ventilating and air conditioning (“HVAC”) systems
- High efficiency chillers, boilers, and furnaces
- High efficiency water heating systems
- Energy management systems and controls
- Distributed generation systems
- High efficiency lighting system upgrades
- Building enclosure and envelope improvements
- Water conservation and wastewater recovery and reuse systems
- Combustion and burner upgrades
- Heat recovery and steam traps
- Water management systems and controls (indoor and outdoor)
- High efficiency irrigation equipment

3. Benefits of PACE to Property Owners

The PACE program will enable owners of Eligible Properties to overcome traditional barriers to capital investments in energy efficiency and water conservation improvements, such as unattractive returns on investment, split incentives between landlords and tenants, and uncertainty of recouping the investment upon sale of the property.

By financing Qualified Improvements through the program, property owners may achieve utility cost savings that exceed the amount of the assessment and reduce their exposure to utility price volatility. As a result, the value of the property will be enhanced, and the owner will only be

² This encompasses single family residential and any multi-family properties with fewer than five units.

obligated to pay the assessment installments that accrue during its period of ownership of the property. Additionally, by investing in energy efficiency and water conservation with PACE financing, property owners may also qualify for various rebate, tax credit, and incentive programs offered by utility providers and state or federal governmental authorities to encourage these types of investments.

4. Benefits of PACE to the Local Government

Among other things, projects financed through PACE will:

- Enable property owners and occupants to save substantial amounts in utility costs,
- Reduce demand on the electricity grid
- Mitigate greenhouse gas emissions associated with energy generation
- Enhance the value and efficiency of existing buildings
- Boost the local economy by creating new job opportunities and new business opportunities for contractors, engineers, commercial lenders, professionals, and equipment vendors and manufacturers
- Increase business retention and expansion in the PACE region by enabling cost-effective energy and water-saving updates to existing property
- Improve productivity through optimized energy usage
- Support the State's water conservation plan
- Better enable the Local Government to meet its water conservation goals

Finally, through the reduction in energy consumption as a result of the PACE program, there will be a decreased demand for power resulting in lower emissions from power plants. EPA regulations have significant impacts on air quality standards in Texas. Being non-attainment for priority pollutants in the Clean Air Act endangers federal transportation funding.

The PACE program requires minimal support from the Local Government. It is designed to be self-sustaining. Furthermore, because the PACE program is tax-neutral, it achieves all of the benefits listed in this Report without imposing a burden on the Local Government's general fund.

The 84th Texas Legislature added a provision that explicitly shields the Local Government and its employees, members of the governing body of a local government, employees of a local government, and board members, executives, employees, and contractors of a third party who enter into a contract with a local government to provide administrative services for a program under this chapter.³

5. The Benefits of PACE to Lenders

PACE loans are attractive to lenders because they are very secure investments. Like a property tax lien, the assessment lien securing the PACE loan has priority over other liens on the property.

³ TX. Local Gov't Code §399.019. In the 85th legislature, HB 2654 clarified that the personal immunity provisions apply to all elected officials performing rights and duties under chapter 399 of the Local Government Code.

Therefore, the risk of loss from non-payment of a PACE loan is low compared to most other types of loans. PACE assessments provide lenders with an attractive new product to assist existing and new customers in addressing an almost universal pent-up demand for needed commercial and industrial property equipment modernization. In order to protect the interests of holders of existing mortgage loans on the property, the PACE Act requires their written consent to the PACE assessment as a condition to obtaining a PACE loan.

6. The Benefits of PACE to Contractors, Engineers, and Manufacturers

PACE loans provide attractive sources of financing for water and energy-saving retrofits and upgrades, thereby encouraging property owners to make substantial investments in existing and new commercial and industrial buildings. As a result, PACE will unlock business opportunities for contractors, engineers, and manufacturers throughout the commercial and industrial sectors.

7. Administration of the Local Government PACE Program

Under the PACE Act, the establishment and operation of the program are considered to be governmental functions.⁴ The PACE Act further authorizes the Local Government to enter into a contract with a third party to provide administrative services for the PACE program (the “*Authorized Representative*”). The Local Government will delegate administration of the PACE program to the Alamo Area Council of Governments through an interlocal agreement.

The Authorized Representative’s role is to serve as an extension of the local government staff to provide oversight of the program to ensure best practices and consumer protections at the lowest possible cost to the property owner in a transparent and ethical manner and to provide education and outreach.

The Authorized Representative will be funded by administrative fees paid by the property owners establishing a PACE project, charitable grants or other authorized sources of revenue. The Authorized Representative will not receive compensation or reimbursement from the Local Government.

8. Eligible Lenders

The PACE Act does not set criteria for financial institutions or investors to be PACE lenders. The Local Government will follow best practices of the Texas PACE in a Box model program by recommending that lenders be:

- Any federally insured depository institution such as a bank, savings bank, savings and loan association and federal or state credit union;
- Any insurance company authorized to conduct business in one or more states;
- Any registered investment company, registered business development company, or a Small Business
- Small business investment company;
- Any publicly traded entity; or

⁴ TX Local Government Code §399.003(b)

- Any private entity that:
 - Has a minimum net worth of \$5 million; and
 - Has at least three years' experience in business or industrial lending or commercial real estate lending (including multifamily lending), or has a lending officer that has at least three years' experience in business or industrial lending or commercial real estate lending; and
 - Can provide independent certification as to availability of funds; and
- All lenders must have the ability to carry out, either directly or through a servicer, the bookkeeping and customer service work necessary to manage the assessment accounts.

Any lender can participate in the PACE program as long as it is a financially stable entity with the ability to carry out, either directly or through a servicer, the bookkeeping and customer service work necessary to manage the assessment accounts. The property owner, not the Local Government or the Authorized Representative, selects the lender.

The Authorized Representative will not guarantee or imply that funding will automatically be provided from a third-party lender, imply or create any endorsement of, or responsibility for, any lender; or create any type of express or implied favoritism for any eligible lender.

9. Components of the PACE Program

As required under Section 399.009 of the PACE Act, the following describes all aspects of the PACE Program:

- a. Map of Region. A map of the boundaries of the region included in the program is attached to this Report as Exhibit 1. The region encompasses the entire geographic area within the Local Government's jurisdictional boundaries.
 - b. Form Contract with Owner. A form contract between the Local Government and the record owner of the Eligible Property is attached as Exhibit 2. It specifies the terms of the assessment under the PACE program and the financing to be provided by an Eligible Lender of the property owner's choosing.
 - c. Form Contract with Lender. A form contract between the Local Government and the Eligible Lender chosen by a property owner is attached to this Report as Exhibit 3. It specifies the financing and servicing of the debt through assessments.
- Form Notice of Contractual Assessment Lien. A form Notice of Assessment Lien to be filed by the Local Government with the County Clerk is attached to this Report as Exhibit 4.
- d. Qualified Improvement. The following types of projects are qualified improvements that may be subject to contractual assessments under the PACE program:

Projects that (a) involve the installation or modification of a permanent improvement fixed to privately owned commercial, industrial or residential real property with five (5) or more dwelling units;⁵ and (b) are intended to decrease energy or water consumption or demand by installing a product, device, or interacting group of products or devices on the customer's side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature.⁶

A sample list of potential Qualified Improvements appears in Section 2 above.

The PACE program may not be used to finance improvements to undeveloped lots or lots undergoing development at the time of the assessment, or for the purchase or installation of products or devices not permanently fixed to real property.⁷

- e. Authorized Representative. HB 3187 was signed into law on June 16, 2015. It authorizes the Local Government to delegate administration of the PACE program to a third-party "Authorized Representative." The Local Government intends to delegate all official administrative responsibilities, such as the execution of individual contracts with property owners and lenders, to the Alamo Area Council of Governments as the Authorized Representative, through an interlocal agreement. This relationship will be monitored and maintained by the City Manager or his/her designee.
- f. Project Review. Track and provide a public overview with savings metrics for all PACE projects
- g. Plans for Insuring Sufficient Capital⁸. Lenders will extend loans to finance Qualified Improvements. Financing documents executed between owners and lenders will impose a contractual assessment on Eligible Property to repay the owner's financing of the Qualified Improvements. The lenders will ensure that property owners demonstrate the financial ability to fulfill the financial obligations to be repaid through contractual assessments.
- h. No Use of Bonds or Public Funds. The Local Government does not intend to issue bonds or use any other public monies to fund PACE projects. Property owners will obtain all financing from the Eligible Lenders they choose.
- i. Limit on Length of Loan. One of the statutory criteria of a PACE loan is that the assessment payment period cannot exceed the useful life of the Qualified

⁵ TX. Local Gov't Code §399.002(5).

⁶ TX. Local Gov't Code §399.002(3).

⁷ TX. Local Gov't Code §399.004.

⁸ The Texas PACE Authority's website (www.texaspaceauthority.org) offers a non-exhaustive list of interested and qualified lenders to assist property owners in funding PACE projects in Texas.

Improvement that is the basis for the loan and assessment. As part of the application process, the property owners will submit an independent third-party review prepared by a licensed engineer showing the water or energy baseline conditions and the projected water or energy savings. This review will aid the Authorized Representative in making a determination that the period of the requested assessment does not exceed the useful life of the Qualified Improvement.

- j. Application Process. The Authorized Representative will accept applications from property owners seeking to finance Qualified Improvements under the program. Each application must be accompanied by the required application fee and must include:
- (1) A description of the specific Qualified Improvements to be installed or modified on the property,
 - (2) A description of the specific real property to which the Qualified Improvements will be permanently fixed, and
 - (3) The total amount of financing, including any transaction costs, to be repaid through assessments.

Based on this information, the Authorized Representative may issue a preliminary letter indicating that, subject to verification of all requirements at closing, the proposed project appears to meet program requirements. Based on this preliminary letter, the property owner may initiate an independent third-party review of the project and submit the project to Eligible Lenders for approval of financing.

Once the above processes are completed, the property owner will submit the application to the Authorized Representative to obtain preliminary approval. The property owner is expected to produce the following documentation prior to closing on the PACE loan:

- (1) A Report conducted by a qualified, independent third-party reviewer, showing water or energy baseline conditions and the projected water or energy savings, or the amount of renewable energy generated attributable to the project;
 - (2) Such financial information about the owner and the property as the lender chosen by the owner deems necessary to determine that the owner has demonstrated the financial ability to fulfill the financial obligations to be paid through assessments; and
 - (3) All other information required by the Authorized Representative.
- k. Financial Eligibility Requirements. The Authorized Representative will determine whether the owner, the property and the improvements are eligible for financing under the program. The Eligible Lender chosen by the owner will determine whether the owner has demonstrated the financial ability to repay the financial obligations to be collected through contractual assessments. The

statutory method⁹ for ensuring such a demonstration of financial ability must be based on appropriate underwriting factors, including the following:

- (1) verification that the person requesting to participate in the program is the legal record owner of the benefitted property,
- (2) the applicant is current on mortgage and property tax payments,
- (3) the applicant is not insolvent or in bankruptcy proceedings,
- (4) the title of the benefitted property is not in dispute; and
- (5) there is an appropriate ratio of the amount of the assessment to the assessed value of the property. The Local Government determines that it will follow the Texas PACE in a Box model program recommendation for determining the appropriate loan to assessed value of the property.

The Local Government determines to be eligible for PACE financing, the projected savings derived from the Qualified Improvement must be greater than the cost of the PACE assessment and lien over the life of the assessment (i.e., the Savings to Investment Ratio (SIR) should be greater than one, $SIR > 1$). A third-party lender and a for profit-property owner may request a waiver in writing for a project with an $SIR < 1$ and address the interests of tenants and future property owners. The Authorized Representative may consider factors in a variance request including:

- (a). Are there other environmental benefits such as air or water quality or resiliency that are not captured in the SIR analysis;
- (b) Will the proposed qualifying improvements generate environmental marketable credits that can be monetized?
- (c). What is the SIR calculation for the project (how far below 1?);
- (d). If the SIR is < 1 over the term of the assessment, is the $SIR > 1$ over the useful life of the equipment?
- (e). What is the impact of a variance request on affected third parties? and
- (f) Other information the owner and lender wish to submit regarding the impact of the qualified improvements on the company and the community.

1. Mortgage Holder Notice and Consent. As a condition to the execution of a written contract between the Authorized Representative and the property owner imposing an assessment under the program, the holder of any mortgage lien on the property must be given notice of the owner's intention to participate in the program on or before the 30th day before the date the contract is executed, and the owner must obtain the written consent of all mortgage holders.¹⁰
- m. Imposition of Assessment. The Authorized Representative will enter into a written contract with the property owner, only after:
 - (1) The property owner delivers to the Authorized Representative written consent of all mortgage lien holders;

⁹ TX. Local Gov't Code §399.009(b).

¹⁰ TX. Local Gov't Code §399.010.

- (2) The Authorized Representative's determination that the owner and the property are eligible to participate in the program, that the proposed improvements are reasonably likely to decrease energy or water consumption or demand, and that the period of the requested assessment does not exceed the useful life of the Qualified Improvements; and
- (3) The Eligible Lender notifies the Authorized Representative that the owner has demonstrated the financial ability to fulfill the financial obligations to be repaid through contractual assessments.

The contract will impose a contractual assessment on the owner's Eligible Property to repay the lender's financing of the Qualified Improvements. The Authorized Representative will file a "Notice of Contractual Assessment Lien," in substantially the form in Exhibit 4 in the Official Public Records of the County in which the property is located, to serve as notice to the public of the assessment from the date of filing. The contract and the notice must contain the amount of the assessment, the legal description of the property, the name of the property owner, and a reference to the statutory assessment lien provided under the PACE Act.

- n. Collection of Assessments. The execution of the written contract between the Local Government and the property owner and recording of the Notice of Contractual Assessment Lien incorporate the terms of the financing documents executed between the property owner and the lender to repay the financing secured by the assessment. The third-party lender will advance financing to the owner, and the terms for repayment will be such terms as are agreed between the lender and the owner. Under the form lender contract attached as Exhibit 3, the lender or a designated servicer will agree to service the debt secured by the assessment.¹¹

With funds from the lender, the property owner can purchase directly the equipment and materials for the Qualified Improvement and contract directly, including through lease, power purchase agreement, or other service contract, for the installation or modification of the Qualified Improvements. Alternatively, the lender may make progress payments to the property owner as the Qualified Improvement is installed.

The lender will receive the owner's assessment payments to repay the debt and remit to the Authorized Representative any administrative fees. The lender will have the right to assign or transfer the right to receive the installments of the debt secured by the assessment, provided all of the following conditions are met:

- (1) The assignment or transfer is made to an Eligible Lender, as defined above;
- (2) The property owner and the Authorized Representative are notified in writing of the assignment or transfer and the address to which payment of

¹¹ The servicer will be responsible for maintaining payment records, account balances, and reporting to the Authorized Representative as required.

the future installments should be mailed at least 30 days before the next installment is due according to the schedule for repayment of the debt; and (3) The assignee or transferee, by operation of the financing documents or otherwise, written evidence of which shall be provided, assumes lender's obligations under the lender contract.

- o. Verification Review. After a Qualified Improvement is completed, the Authorized Representative will require the property owner to provide verification by a qualified independent third-party reviewer that the Qualified Improvement was properly completed and is operating as intended.¹² The verification report conclusively establishes that the improvement is a Qualified Improvement and the project is qualified under the PACE program.¹³
- p. Marketing and Education Services. The Program Administrator will provide online service provider training for contractors, engineers, property managers and other stakeholders, provide outreach and education for all stakeholders including presentations, conference booths and individual meetings, and provide written and electronic materials such as case studies, flyers, and webinars.

The Local Government may subsequently enter into agreements with one or more other local governments or non-profit organizations that promote energy and water conservation and/or economic development to provide marketing and education services for the PACE program.

- q. Quality Assurance and Antifraud Measures. The Authorized Representative will institute quality assurance and antifraud measures for the Program. The Authorized Representative will review each PACE application for completeness and supporting documents through independent review and verification procedures. The application and required attachments will identify and supply the information necessary to ensure that the property owner, the property itself, and the proposed project all satisfy PACE program underwriting and technical standard requirements. Measures will be put in place to provide safeguards, including a review of the energy and water savings baseline and certification of compliance with the technical standards manual from an independent third-party reviewer (ITPR), who must be a registered professional engineer, before the project can proceed. This review will include a site visit, report, and a letter from the ITPR certifying that he or she has no financial interest in the project and is an independent reviewer. After the construction of the project is complete, an ITPR will conduct a final site inspection and determine whether the project was completed and is operating properly. The reviewer's certification will also include a statement that the reviewer is qualified and has no financial interest in the project.

¹² TX Local Gov't Code §399.011.

¹³ TX Local Government Code §399.011(a-1)

- r. Delinquency. Under the terms of the form lender contract attached as Exhibit 3, if a property owner fails to pay an agreed installment when due on the PACE assessment, the lender will agree to take at least the following steps to collect the delinquent installment:
- (1) Mail to the owner a written notice of delinquency and demand for payment by both certified mail (return receipt requested) and first-class mail, and
 - (2) Mail to the owner a second notice of delinquency and demand for payment by both certified mail (return receipt requested) and first-class mail, at least 30 days after the date of the first notice if the delinquency is continuing.

If the owner fails to cure the delinquency within 30 days after mailing the second notice of delinquency, the lender may notify the Authorized Representative of the owner's default. Pursuant to Texas Local Government Code Section 399.014(c), the Authorized Representative will initiate steps for the Local Government to enforce the assessment lien in the same manner as a property tax lien against real property may be enforced, to the extent the enforcement is consistent with Section 50, Article XVI, of the Texas Constitution. Delinquent installments will incur penalties and interest in the same manner and at the same rate as delinquent property taxes, according to Texas Local Government Code Section 399.014(d), and such statutory penalties and interest will be due to the Local Government to offset the cost of collection.

If the Local Government files suit to enforce collection, the Local Government may also recover costs and expenses, including attorney's fees, in a suit to collect a delinquent installment of an assessment in the same manner and at the same rate as in suit to collect a delinquent property tax. If a delinquent installment of an assessment is collected after the filing of a suit, the Local Government will remit to the lender the net amount of the delinquent installments and contractual interest collected and remit to the Authorized Representative the amount of any administrative fees collected but will retain any statutory penalties, interest, and attorney's fees collected.

EXHIBIT 1

MAP OF CITY PACE REGION

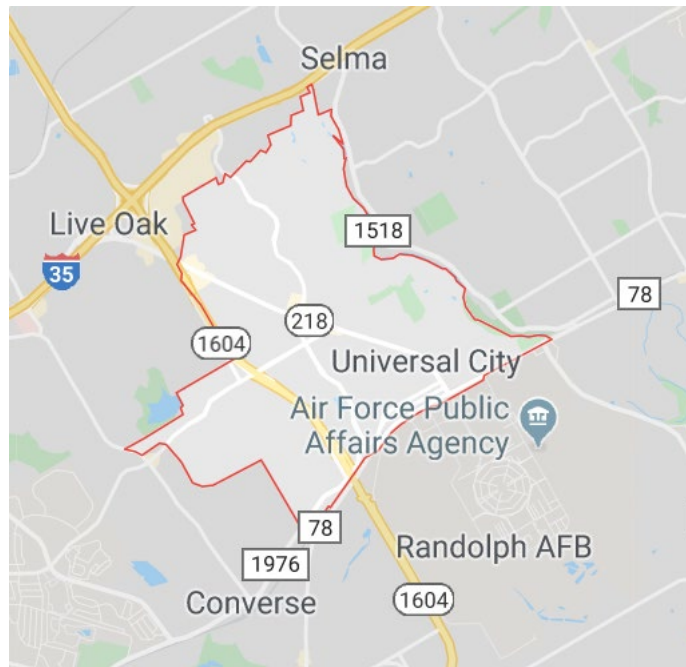


EXHIBIT 2
FORM OWNER CONTRACT

FORM PACE OWNER CONTRACT

THIS PROPERTY ASSESSED CLEAN ENERGY (“**PACE**”) OWNER CONTRACT including the attached exhibits (“**PACE Owner Contract**”) is made as of the _____ day of _____, _____ (“**Effective Date**”), by and between Universal City, Texas (“**Local Government**”), and _____ (“**Property Owner**”). Local Government and Property Owner are hereafter referred to collectively as “the parties” or individually as “party.”

RECITALS

A. The Property Assessed Clean Energy Act (“**PACE Act**”), Texas Local Government Code Chapter 399, authorizes the governing body of a local government to establish a program and designate a region within the local government’s jurisdiction within which an authorized representative of the local government may enter into written contracts with the record owners of privately owned commercial, industrial, and large multifamily residential (5 or more dwelling units) real property to impose assessments on the property to finance the cost of permanent improvements fixed to the property intended to decrease water or energy consumption or demand.

B. Local Government has established a program under the PACE Act pursuant to a resolution dated _____, adopted by the City Council of Universal City (“**PACE Program**”), and has designated Alamo Area Council of Governments (AACOG) as the representative of Local Government (“**Authorized Representative**”) authorized to enter into the written contracts with the owners of such property and the providers of such financing described herein, and has designated the entire territory within the boundaries of Universal City,, Texas jurisdiction as a region (the “**Region**”) within which the Authorized Representative and the record owners of such real property may enter into written contracts to impose assessments to repay the financing by owners of qualified improvements on the owner’s property pursuant to the PACE Program. Authorized Representative has designated Texas Property Assessed Clean Energy Authority, dba Texas PACE Authority as the administrator of the PACE Program (“**Program Administrator**”).

C. Property Owner is the sole legal and record owner of the qualified “real property,” as defined in Section 399.002 of the PACE Act, within the Region located at _____, _____, Texas _____ - _____ (the “**Property**”) (the Property being more particularly described in the Notice of Contractual Assessment Lien, attached hereto as Exhibit A).

D. Pursuant to Project Application Number _____, Property Owner has applied to Local Government to participate in the PACE Program by installing or modifying on the Property certain permanent improvements which are intended to decrease water or energy consumption or demand, and which are or will be fixed to the Property as “qualified improvements”, as defined in Section 399.002 of the PACE Act (“**Qualified Improvements**”). The installation or modification of such Qualified Improvements on the Property will be a “qualified project” as defined in Section 399.002 of the PACE Act (the “**Project**”). Property

Owner has requested that Local Government enter into this PACE Owner Contract pursuant to the PACE Act and the PACE Program and has requested Local Government to impose an assessment (the “**Assessment**”) on the Property as set forth in the Notice Of Contractual Assessment Lien Pursuant To Property Assessed Clean Energy Act to be filed in the real property records of the county in which the Property is located (the “**Notice of Contractual Assessment Lien**”), to repay the financing of such Qualified Improvements. A copy of the Notice of Contractual Assessment Lien is attached hereto as Exhibit A and made a part hereof. The Property, Qualified Improvements and Assessment are more fully described in the Notice of Contractual Assessment Lien.

E. Financing for the Project (“**Financing**”) shall be provided to Property Owner by _____ (“**Lender**”), a qualified lender selected by Property Owner, pursuant to a written contract executed by Lender and Local Government as required by Section 399.006(c) of the PACE Act (the “**PACE Lender Contract**”). The financing includes only those costs and fees for which an assessment may be imposed under Section 399.006(e) of the PACE Act. Local Government has agreed to maintain and continue the Assessment for the benefit of Lender until the Financing, all contractual interest due to Lender (“**Contractual Interest**”), any prepayment penalty, and any penalties, interest, fees, and costs due under or authorized by the PACE Act are paid in full and to release the Assessment upon notice from Lender of such payment, or to foreclose the lien securing the Assessment for the benefit of Lender upon notice from Lender of a default in payment by Property Owner.

F. As required by Section 399.010 of the PACE Act, Property Owner represents and warrants that it has notified the holder(s) of any mortgage lien on the Property at least thirty (30) days prior to the Effective Date of this PACE Owner Contract of Property Owner’s intention to participate in the PACE Program. The written consent of each mortgage holder to the Assessment was obtained on or prior to the Effective Date of this PACE Owner Contract and is attached hereto as Exhibit B and made a part hereof (“**Lender Consent(s)**”).

AGREEMENT

The parties agree as follows:

1. Imposition of Assessment. In consideration for the Financing advanced or to be advanced to Property Owner by Lender for the Project under the PACE Program pursuant to the PACE Lender Contract, Property Owner hereby requests and agrees to the imposition by Local Government of the Assessment in the principal amount of \$ _____, as set forth in the Notice of Contractual Assessment Lien. In the event the actual total of costs and fees for which an assessment may be imposed under the PACE Act is different from the stated amount or any other term requires correction, Authorized Representative on behalf of Local Government, Property Owner, and Lender agree to execute an amended Owner Contract and Lender Contract, and thereafter Program Administrator on behalf of Authorized Representative shall record an amended Notice of Contractual Assessment Lien. The Assessment includes the application and administration fees authorized by the PACE Program and Section 399.006(e) of the PACE Act. Property Owner promises and agrees to pay the Assessment, Contractual Interest thereon, any prepayment penalty, and all penalties, interest, fees, attorney’s fees, and costs due under or authorized by the PACE Act and the financing documents executed between Property Owner and

Lender (the “**Financing Documents**”) described in or copies of which are attached as Exhibit C attached hereto and made a part hereof by reference. Property Owner shall pay such amount in care of or as directed by Lender, in satisfaction of the Assessment imposed pursuant to this PACE Owner Contract and the PACE Act. Accordingly, Local Government hereby imposes the Assessment on the Property to pay the Financing of the Project, Contractual Interest, any prepayment penalty, and any penalties, interest, fees and costs due under or authorized by the PACE Act and the Financing Documents, in accordance with the requirements of the PACE Program and the provisions of the PACE Act.

2. Maintenance and Enforcement of Assessment. In consideration for Lender’s agreement to advance Financing to Property Owner for the Project pursuant to the Financing Documents, Local Government agrees to maintain and continue the Assessment on the Property for the benefit of Lender until the Assessment, Contractual Interest, any prepayment penalty, and any penalties, interest, fees, attorney’s fees, and costs, due under or authorized by the PACE Act, PACE Program, and the Financing Documents are paid in full, and to release the Assessment upon notice from Lender of such payment. Upon written request of Lender, and with the written consent of Property Owner, Authorized Representative on behalf of Local Government may execute a partial release of the assessment lien and Program Administrator on behalf of Authorized Representative shall record the partial release. Local Government agrees to enforce the assessment lien against the Property at the request of Lender in the event of a default in payment by Property Owner, in accordance with the provisions set forth in paragraph 5. Program Administrator shall deliver an annual notice of assessment to Property Owner by first-class mail or electronic mail each year until the Assessment is released. Any failure of Local Government, Authorized Representative, or Program Administrator to deliver an annual notice of assessment to Property Owner shall not affect the Assessment or Property’s Owner’s obligations under this PACE Owner Contract.

3. Installments. The Assessment and Contractual Interest thereon are due and payable to Lender in installments (“**Installments**”), according to the payment schedule set forth in the Financing Documents attached hereto as Exhibit C. The Assessment includes (1) an application fee paid by Property Owner to Program Administrator at closing of the Financing, and (2) a recurring administration fee paid by Property Owner to Program Administrator until the Assessment is released. The recurring administration fee amount shall be collected by Lender and paid to Program Administrator not later than thirty (30) days after receipt by Lender, unless otherwise agreed to in writing by Program Administrator.

(a) Notwithstanding the foregoing, in the event of a delinquency in the payment of any Installment, Lender shall, upon notice to Program Administrator, withhold payment of any administration fee due to Program Administrator in connection with such Installment until the Installment is paid. Property Owner agrees that any such temporary withholding shall not reduce the amount of the administration fees included in the Assessment or due to Program Administrator. The amounts due to Program Administrator are identified in Exhibit C hereto.

(b) If this is a US Department of Housing and Urban Development (“**HUD**”) assisted or a Federal Housing Administration (“**FHA**”) insured Project, then the Financing

Documents shall provide for Installments to be escrowed in a manner acceptable to HUD or FHA lender and paid to Lender.

(c) When the Assessment, Contractual Interest, any prepayment penalty, and any penalties, interest, fees and costs due under or authorized by the PACE Act and the Financing Documents, have been paid in full, Local Government's rights under this PACE Owner Contract shall cease and terminate, except for rights under Sections 18, 20, 21 and 22. Upon notice from Lender to Program Administrator that all amounts due have been paid in full, Authorized Representative on behalf of Local Government, shall execute a release of the Assessment and this PACE Owner Contract and Program Administrator on behalf of Authorized Representative shall record the release. As required by Section 399.009(a)(8) of the PACE Act, the period during which such Installments are payable does not exceed the useful life of the Project.

4. Assignment of Right to Receive Installments or Require Enforcement of Lien. Property Owner acknowledges that Lender has the right, without the consent of Property Owner, to assign or transfer the right to receive the Installments or require Local Government to enforce the assessment lien in the event of a default in payment, together with all corresponding obligations, provided that all of the following conditions are met:

(a) The assignment or transfer is made to a qualified lender as defined in the PACE Lender Contract;

(b) Property Owner, Program Administrator, the holder(s) of any mortgage lien on the Property, and HUD, if this is a HUD assisted or FHA insured Project are notified in writing of the assignment or transfer and the address to which payment of the future Installments should be mailed not less than 30 days before the next Installment is due according to the payment schedule included in the Financing Documents, and

(c) The assignee or transferee executes a written assumption agreement according to the Financing Documents of all of Lender's rights and obligations under the PACE Lender Contract related to the receipt of the Installments or the enforcement of the assessment lien and provides a copy of such assumption to Property Owner and Program Administrator not later than 10 days after execution of the agreement.

Lender may assign or transfer the right to receive the Installments or the right to require enforcement of the assessment lien separately. Upon written notice of an assignment or transfer that complies with all of the foregoing conditions, the assignor shall be released of all of the rights and obligations of the Lender under such PACE Lender Contract accruing after the effective date of the assignment that are specified in the assignment or transfer document, and all of such rights and obligations shall be assumed by and transferred to the assignee. Any attempt to assign or transfer the right to receive the Installments or require enforcement of the Assessment lien that does not comply with all of the foregoing conditions is void. Lender shall retain all of the rights and obligations of Lender under the PACE Lender Contract until such rights and obligations are assigned or transferred according to this section.

5. Lien Priority and Enforcement. Pursuant to Sections 399.014 and 399.015 of the PACE Act:

(a) Delinquent Installments shall incur penalties and interest on the principal of the Installment in the same manner and in the same amount as delinquent property taxes, pursuant to the statutes in effect at the time of default. Under current statutes, a delinquent Installment incurs a penalty of 6% of the principal amount of the Installment for the first calendar month it is delinquent plus 1% for each additional month or portion of a month the Installment remains unpaid prior to July 1 of the year in which it becomes delinquent. However, an Installment delinquent on July 1 incurs a total penalty of 12% of the principal amount of the delinquent Installment without regard to the number of months it has been delinquent. A delinquent Installment shall also accrue interest on the principal of the Installment at the rate of 1% for each month or portion of a month that the Installment remains unpaid. Subject to paragraph 16 below, penalties, interest, fees, and costs payable under this paragraph shall be retained by Local Government to compensate it for the cost of enforcing the Assessment. Additional interest at any default rate imposed by Lender pursuant to the Financing Documents, along with any other fees that become due pursuant to the Financing Documents, may be imposed and retained by Lender.

(b) The Assessment and any interest and penalties thereon,

(1) are a first and prior lien against the Property from the date on which the Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located as provided by Section 399.013 of the PACE Act, until the Assessment, interest, and penalty is paid; and

(2) such lien has the same priority status as a lien for any other ad valorem tax, pursuant to Section 399.014(a)(2) of the PACE Act.

(c) Pursuant to Section 399.014(b) of the PACE Act, the lien created by the Assessment runs with the land, and any portion of the Assessment that has not yet become due shall not be eliminated by sale or transfer of the Property, or by foreclosure of (i) a property tax lien, or (ii) the lien for a delinquent Installment of the Assessment. Accordingly, Installments may not be accelerated in the event of default. In the event of a sale or transfer of the Property by Property Owner, the obligation for the Assessment and the Property Owner's obligations under the Financing Documents shall be transferred to the succeeding owner without recourse to Lender, Local Government, Authorized Representative, or Program Administrator.

(d) In the event of a default by Property Owner in payment of an Installment called for by the Financing Documents or the filing of a case under the U.S. Bankruptcy Code by or against Property Owner, the lien created by the Assessment shall be enforced by Local Government for the benefit of Lender, in the same manner according to Texas Tax Code Secs. 33.41 to 34.23 that a property tax lien against real property may be enforced by a local government, to the extent the enforcement is consistent with Section 50, Article XVI, Texas Constitution.

(e) In a suit to collect a delinquent Installment of the Assessment, Local Government shall be entitled to recover costs and expenses, including attorney's fees in the amount of 15% of the total principal amount of the delinquent Installment, penalties, and interest due, in the same manner according to Texas Tax Code Sec. 33.48, as amended from time-to-time, as in a suit to collect a delinquent property tax. Lender shall be entitled to any additional sums due to it under the Financing Documents in connection with a suit to collect a delinquent Installment of the Assessment.

(f) As provided in Section 399.014(a-1) of the PACE Act, after the Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located, the lien created by the Assessment may not be contested on the basis that the improvement is not a “qualified improvement” or the Project is not a “qualified project”, as such terms are defined in Section 399.002 of the PACE Act.

6. Written Contract Required by PACE Act. This PACE Owner Contract constitutes a written contract for the Assessment between Property Owner and Local Government as required by Section 399.005 of the PACE Act. The Notice of Contractual Assessment Lien shall be recorded in the real property records of the county in which the Property is located as public notice of the contractual Assessment, in accordance with the requirements of Section 399.013 of the PACE Act.

7. Qualified Improvements. Property Owner agrees and warrants that all improvements purchased, constructed, or installed through the Financing obtained pursuant to this PACE Owner Contract shall be permanently affixed to the Property and shall transfer with the Property to the transferee in the event of a sale or transfer of the Property. Property Owner agrees to provide to Program Administrator within 30 days after the completion of the Project a verification by an Independent Third Party Reviewer (“ITPR”) that the Project was properly completed and is operating as intended. Property Owner agrees that Lender may retain the final advance of Financing until such verification is submitted or require Property Owner to pay liquidated damages for a failure to do so, according to paragraph 23 below.

8. Water or Energy Savings. For so long as the Assessment encumbers the Property, Property Owner agrees, on or before January 31st of each year, to report to Program Administrator the water or energy savings realized through the Project in accordance with the reporting requirements established by Program Administrator.

9. Construction and Definitions. This PACE Owner Contract is to be construed in accordance with and with reference to the PACE Program and PACE Act. Terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the PACE Program or the PACE Act.

10. Binding Effect. This PACE Owner Contract is binding upon and inures to the benefit of the parties hereto and their respective heirs, representatives, agents, successors, and assigns.

11. Notices. Unless otherwise specifically provided herein, all notices and other communications required or permitted by this PACE Owner Contract shall be in writing and

delivered by first-class mail or by electronic mail with written confirmation of receipt, addressed to the other party at the address stated below the signature of such party or at such other address as such party may from time to time designate in writing to the other party, and shall be effective from the date of receipt. Notices delivered to Program Administrator shall be addressed to the following:

Texas PACE Authority
P.O. Box 200368
Austin, TX 78720-0368
Email Address: admin@texaspaceauthority.org

12. Governing Law and Venue. This PACE Owner Contract shall in all respects be governed by and construed in accordance with the laws of the State of Texas without regard to Texas' choice of law provisions. Venue for any disputes or suits between the parties arising from or related to this PACE Owner Contract shall be in a state court located in the Region, and the parties consent to the personal and subject matter jurisdiction of such state court.

13. Entire Agreement. This PACE Owner Contract, including its exhibits, constitutes the entire agreement between Local Government and Property Owner with respect to the subject matter hereof and may not be amended or altered in any manner except by a document in writing executed by both parties. If this is a HUD assisted or FHA insured Project, then HUD or FHA must also consent in writing to any amendment or alteration of this PACE Owner Contract, for as long as the Project remains HUD assisted or FHA insured.

14. Captions. Paragraph and section titles are for convenience of reference only and shall not be of any legal effect.

15. Counterparts. This PACE Owner Contract may be executed in any number of counterparts, and each counterpart may be delivered on paper or by electronic transmission, all of which when taken together shall constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

16. Interest. Interest and penalties in the event of default, as provided above, are explicitly authorized by Section 399.014(d) of the PACE Act. However, in no event will the total amount of interest on the Assessment, including statutory interest payable to Local Government and Contractual Interest payable to Lender under the Financing Documents, exceed the maximum amount or rate of nonusurious interest that may be contracted for, charged, or collected under Texas law ("**Usury Limit**"). If the total amount of interest payable to Local Government and Contractual Interest payable to Lender exceeds the Usury Limit, the interest payable to Local Government shall be reduced and any interest in excess of the Usury Limit shall be credited to the amount payable to Local Government or refunded. This provision overrides any conflicting provisions in this PACE Owner Contract.

17. Costs. No provision of this PACE Owner Contract shall require Local Government to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder.

18. Inspection and Audits. Local Government's representatives may perform, or have performed, (a) audits of Property Owner's documents, books and records, and (b) inspections of all places where Qualified Improvements are undertaken in connection with this PACE Owner Contract. Property Owner shall keep its documents, books and records available for this purpose for at least three (3) years after this PACE Owner Contract terminates. This provision does not affect the applicable statute of limitations.

19. Further Assurances. Property Owner further covenants and agrees to do, execute and deliver, or cause to be done, executed, and delivered all such further acts for implementing the intention of this PACE Owner Contract as may be reasonably necessary or required.

20. Release. PROPERTY OWNER AGREES TO AND SHALL RELEASE THE LOCAL GOVERNMENT, ITS AUTHORIZED REPRESENTATIVES, AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES, INCLUDING PROGRAM ADMINISTRATOR (COLLECTIVELY THE "RELEASED PERSONS") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS PACE OWNER CONTRACT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE RELEASED PERSON'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE RELEASED PERSON'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, AND EVEN IF THE INJURY, DEATH, DAMAGE OR LOSS IS CAUSED BY THE RELEASED PERSON'S WRONGFUL ACTION OR INACTION.

21. Indemnification. TO THE MAXIMUM EXTENT ALLOWED BY LAW, PROPERTY OWNER SHALL INDEMNIFY AND HOLD LOCAL GOVERNMENT, ITS AUTHORIZED REPRESENTATIVES, AND THEIR RESPECTIVE AFFILIATES, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS, INCLUDING PROGRAM ADMINISTRATOR (EACH SUCH PERSON HEREIN REFERRED TO AS AN "INDEMNITEE") ABSOLUTELY HARMLESS FROM AND AGAINST ALL CLAIMS, LIABILITIES, LOSSES, DAMAGES, OBLIGATIONS OR RELATED EXPENSES INCURRED BY OR IMPOSED UPON OR ALLEGED TO BE DUE OF INDEMNITEE IN CONNECTION WITH THE EXECUTION OR DELIVERY OF THIS PACE OWNER CONTRACT, THE NOTICE OF CONTRACTUAL ASSESSMENT LIEN, THE FINANCING DOCUMENTS, AND ANY OTHER DOCUMENT OR ANY OTHER AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY OR THEREBY, THE PERFORMANCE BY THE PARTIES HERETO OF THEIR RESPECTIVE OBLIGATIONS HEREUNDER OR THEREUNDER, THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, OR, IN THE CASE OF ANY INDEMNITEE, THE ADMINISTRATION OF THIS PACE OWNER CONTRACT AND ANY OTHER AGREEMENTS RELATED TO THE PROJECT. However, If HUD later acquires title to all or any portion of Property pursuant to a foreclosure, deed in lieu of foreclosure, or otherwise, then notwithstanding anything in this PACE Owner Contract to the contrary, HUD shall not be obligated to indemnify any Indemnatee or entity or be liable for, or to carry out, any indemnity.

22. No Personal Liability. Pursuant to Section 399.019 of the PACE Act, the Property Owner acknowledges that the members of the governing body and employees of the Local

Government, and board members, executives, employees, and contractors of the Authorized Representative or Program Administrator are not personally liable as a result of exercising any rights or responsibilities under the PACE Program or any agreement in furtherance of the PACE Program.

23. Construction Terms. The Financing Documents executed by Lender and Property Owner must include a requirement that Lender shall withhold _____% of the Financing until verification that the Project was properly completed and is operating as intended is provided to Program Administrator by an ITPR or Property Owner shall pay liquidated damages to Lender of \$_____ per day for every day after 30 days following completion of the Project that such verification of completion is not provided. If verification of completion is not provided by Property Owner within 30 days after completion of the Project, such verification shall be submitted by Lender. If the PACE Lender Contract includes requirements related to the construction of the Project and disbursement of Financing, such requirements are set forth in Exhibit D attached hereto and incorporated herein by reference. Such requirements may include, among other things, (1) the disbursement schedule and (2) any holdback amount to be funded following verification of final Project completion.

PROPERTY OWNER:

By: _____

Name: _____

Title: _____

Address: _____

Email Address: _____

ACKNOWLEDGEMENT

STATE OF _____ §

COUNTY OF _____ §

This PACE Owner Contract pursuant to Property Assessed Clean Energy Act was
acknowledged before me on _____, _____ by _____,
_____, on behalf of _____.

_____ (print name)

NOTARY PUBLIC, STATE OF _____

Universal City, TX

By: _____

Name: CLIFFORD C. HERBERG

Title: EXECUTIVE DIRECTOR

Address: 2700 NE LOOP 410, STE. 101
SAN ANTONIO, TX 78217

Email Address: cherberg@aacog.com

STATE OF TEXAS §

COUNTY OF _____ §

This PACE Owner Contract pursuant to Property Assessed Clean Energy Act was acknowledged before me on _____, _____ by Clifford C. Herberg, Executive Director, Alamo Area Council of Governments, a political subdivision of the State of Texas, and as Authorized Representative for the Local Government.

(print name)

NOTARY PUBLIC, STATE OF TEXAS

PACE OWNER CONTRACT EXHIBIT A
NOTICE OF CONTRACTUAL ASSESSMENT LIEN
PURSUANT TO
PROPERTY ASSESSED CLEAN ENERGY ACT

PACE OWNER CONTRACT EXHIBIT B

LENDER CONSENT(S)

PACE OWNER CONTRACT EXHIBIT C

FINANCING DOCUMENTS

Assessment Payment Schedule

Assessment Total:

Payment Frequency:

Payment Date	Total Payment	Principal Paid	Interest Paid	Administration Fee	Remaining Balance

Financing Documents

Document Title	Parties	Date Executed

PACE OWNER CONTRACT EXHIBIT D

CONSTRUCTION TERMS

Retainage or Liquidated Damages:

Lender shall retain _____% of the Financing until a report of completion by a qualified Independent Third Party Reviewer (“ITPR”) is provided to Program Administrator.

OR

Property Owner shall pay liquidated damages to Lender of \$_____ per day for every day after 30 days following completion of the Project that such a report of completion is not provided. Lender shall then provide the report of completion to Program Administrator.

Additional Construction Terms

Date	Draw down Amount	Purpose

EXHIBIT 3
FORM LENDER CONTRACT

FORM PACE LENDER CONTRACT

THIS PROPERTY ASSESSED CLEAN ENERGY (“PACE”) LENDER CONTRACT including the attached exhibit (“**PACE Lender Contract**”) is made as of the _____ day of _____, _____, (“**Effective Date**”) by and between Universal City, Texas (“**Local Government**”) and _____ (“**Lender**”). Local Government and Lender are hereafter referred to collectively as “the parties” or individually as “party.”

RECITALS

A. The Property Assessed Clean Energy Act (“**PACE Act**”), Texas Local Government Code Chapter 399, authorizes the governing body of a local government to establish a program and designate a region within the local government’s jurisdiction within which an authorized representative of the local government may enter into written contracts with the record owners of privately owned commercial, industrial, and large multifamily residential (5 or more dwelling units) real property to impose assessments on the property to finance the cost of permanent improvements fixed to the property intended to decrease water or energy consumption or demand.

B. Local Government has established a program under the PACE Act pursuant to a resolution dated _____, adopted by the City Council of Universal City (“**PACE Program**”), and has designated Alamo Area Council of Governments (AACOG) as the representative of Local Government (“**Authorized Representative**”) authorized to enter into the written contracts with the owners of such property and the providers of such financing described herein, and has designated the entire territory within the boundaries of Universal City, Texas jurisdiction as a region (the “**Region**”) within which the Authorized Representative and the record owners of such real property may enter into written contracts to impose assessments to repay the financing by owners of qualified improvements on the owner’s property pursuant to the PACE Program. Authorized Representative has designated Texas Property Assessed Clean Energy Authority, dba Texas PACE Authority as the administrator of the PACE Program (“**Program Administrator**”).

C. Pursuant to Project Application Number _____, _____ (“**Property Owner**”), the sole legal and record owner of the following qualified “real property,” as defined in Section 399.002 of the PACE Act, within the Region has applied to Local Government to participate in the PACE Program with respect to certain real property located at _____, _____, Texas, _____ - _____ (the “**Property**”) (the Property being more particularly described in the Notice of Contractual Assessment Lien, attached hereto as Exhibit A to the PACE Owner Contract which appears below as Exhibit A to this PACE Lender Contract) by installing or modifying on the Property certain permanent improvements which are intended to decrease water or energy consumption or demand, and which are or will be fixed to the Property as “qualified improvements”, as defined in Section 399.002 of the PACE Act (“**Qualified Improvements**”). The installation or modification of such Qualified Improvements on the Property will be a “qualified project” as defined in Section 399.002 of the PACE Act (the “**Project**”).

D. Property Owner and Local Government have entered into a written contract as required by Section 399.005 of the PACE Act, a copy of which is attached hereto as Exhibit A and made a part hereof (the “**PACE Owner Contract**”), in which Property Owner has requested that Local Government impose an assessment (the “**Assessment**”) on the Property as set forth in the Notice Of Contractual Assessment Lien Pursuant To Property Assessed Clean Energy Act to be filed in the real property records of the county in which the Property is located (the “**Notice of Contractual Assessment Lien**”), to repay the financing of such Qualified Improvements. A copy of the Notice of Contractual Assessment Lien is attached as Exhibit A to the PACE Owner Contract which appears below as Exhibit A to this PACE Lender Contract and made a part hereof. The Property, Qualified Improvements, and Assessment are more fully described in the Notice of Contractual Assessment Lien.

E. Financing for the Project (“**Financing**”) shall be provided to Property Owner by Lender in accordance with financing documents which are described in or copies of which are attached as Exhibit C to the PACE Owner Contract attached hereto as Exhibit A and made a part hereof (“**Financing Documents**”). Such Financing includes only those costs and fees for which an assessment may be imposed under Section 399.006(e) of the PACE Act. This PACE Lender Contract is entered into between Local Government and Lender as required by Section 399.006(c) of the PACE Act to provide for repayment of the Financing secured by the Assessment.

F. As required by Section 399.010 of the PACE Act, Property Owner has notified the holder(s) of any mortgage lien on the Property at least thirty (30) days prior to the effective date of the PACE Owner Contract of Property Owner’s intention to participate in the PACE Program. The written consent of each mortgage lien holder to the Assessment was obtained on or prior to the effective date of the PACE Owner Contract, as shown by the copy of such consent(s) attached as Exhibit B to the PACE Owner Contract which appears below as Exhibit A to this PACE Lender Contract (“**Lender Consent(s)**”).

AGREEMENT

The parties agree as follows:

1. Maintenance and Enforcement of Assessment. Lender agrees to provide Financing for the Project in the total principal amount of \$_____, according to the terms set out in the Financing Documents attached hereto as Exhibit C to the PACE Owner Contract attached as Exhibit A. In the event the actual total of costs and fees for which an assessment may be imposed under the PACE Act is different from the stated amount or any other term requires correction, Authorized Representative on behalf of Local Government, Property Owner, and Lender agree to execute an amended Owner Contract and Lender Contract, and thereafter Program Administrator on behalf of Authorized Representative shall record an amended Notice of Contractual Assessment Lien. In consideration for the Financing provided or to be provided by Lender for the Project, and subject to the terms and conditions of this PACE Lender Contract, Local Government agrees to maintain and continue the Assessment for the benefit of Lender until the Assessment, all contractual interest due to Lender according to the Financing Documents (“**Contractual Interest**”), any prepayment penalty, and any penalties, interest, fees, attorney’s fees, and costs due under or authorized by the PACE Act and the Financing Documents are paid in full, and to release

the Assessment upon notice from Lender of such payment in full. Local Government shall not release, sell, assign or transfer the Assessment or the lien securing it without the prior written consent of Lender. Upon written request of Lender, and with the written consent of Property Owner, Authorized Representative on behalf of Local Government may execute a partial release of the assessment lien and Program Administrator shall record the partial release. Local Government agrees to enforce the assessment lien against the Property at the request of Lender in the event of a default in payment by Property Owner in accordance with the provisions set forth in paragraph 6 below. Local Government shall have no obligation to repurchase the Assessment and no liability to Lender should there be a default in the payment thereof or should there be any other loss or expense suffered by Lender or under any other circumstances.

2. Installments. The Assessment and Contractual Interest thereon are due and payable to Lender in installments (“**Installments**”) according to the payment schedule set forth in the Financing Documents attached hereto as Exhibit C to the PACE Owner Contract attached as Exhibit A. The Assessment includes (1) an application fee paid by Property Owner to Program Administrator at closing of the Financing and (2) a recurring administration fee paid by Property Owner to Program Administrator until the Assessment is released. The recurring administration fee amount shall be collected by Lender and paid to Program Administrator not later than thirty (30) days after receipt by Lender, unless otherwise agreed to in writing by Program Administrator. Notwithstanding the foregoing, in the event of delinquency in the payment of any Installment, Lender shall, upon notice to Program Administrator, withhold payment of any amounts due to Program Administrator in connection with such Installment until the Installment is paid. Lender agrees that any such temporary withholding shall not reduce the amount of administration fees included in the Assessment or due to Program Administrator. The amounts due to Program Administrator are identified in Exhibit C to the PACE Owner Contract attached hereto as Exhibit A. As required by Section 399.009(a)(8) of the PACE Act, the period during which such Installments are payable does not exceed the useful life of the Project.

3. Assignment of Right to Receive Installments or Require Enforcement of Lien. Lender has the right, without the consent of Property Owner, to assign or transfer the right to receive the Installments or require Local Government to enforce the assessment lien in the event of a default in payment, together with the corresponding obligations, provided that all of the following conditions are met:

(a) The assignment or transfer is made to a qualified lender, which may be one of the following:

(1) Any federally insured depository institution such as a bank, savings bank, savings and loan association and federal or state credit union;

(2) Any insurance company authorized to conduct business in one or more states;

(3) Any registered investment company, registered business development company, or a Small Business Administration small business investment company;

- (4) Any publicly traded entity; or
- (5) Any private entity that:
 - (i) Has a minimum net worth of \$5 million;
 - (ii) Has at least three years' experience in business or industrial lending or commercial real estate lending (including multifamily lending), or has a lending officer that has at least three years' experience in business or industrial lending or commercial real estate lending;
 - (iii) Can provide independent certification as to availability of funds; and
 - (iv) Has the ability to carry out, either directly or through a servicer, the bookkeeping and customer service work necessary to manage the assessment accounts.
- (6) A financially stable entity, whether or not from the list above, with the ability to carry out, either directly or through a servicer, the obligations of this PACE Lender Contract related to the receipt and accounting of the Installments or the enforcement of the assessment lien.

(b) Lender shall notify Property Owner and Program Administrator in writing of the assignment or transfer and the address to which payment of the future Installments should be mailed not less than 30 days before the next Installment is due according to the payment schedule included in the Financing Documents. The Lender shall also notify the holder(s) of any mortgage lien at the mailing address in the Lender Consent(s), or a subsequent address provided by any mortgage lien holder and, if this is a US Department of Housing and Urban Development (“HUD”) assisted or a Federal Housing Administration (“FHA”) insured Project, at the address below or a subsequent address provided by HUD.

US Department of Housing and Urban Development
Fort Worth Regional Office
307 W. 7th St., Suite 1000
Fort Worth, Texas 76102

(c) The assignee or transferee shall execute a written assumption agreement according to the Financing Documents of all of Lender's rights and obligations under this PACE Lender Contract related to the receipt of the Installments or enforcement of the assessment lien and provide a copy of such assumption to Property Owner and Program Administrator not later than 10 days after execution of the agreement. Lender may assign or transfer the right to receive the Installments or the right to require enforcement of the assessment lien separately.

Upon written notice of an assignment or transfer that complies with all of the foregoing conditions, the assignor shall be released of all of the rights and obligations of the Lender under this PACE Lender Contract accruing after the effective date of the assignment that are specified in the assignment or transfer document, and all of such rights and obligations shall be assumed by and transferred to the assignee. Any attempt to assign or transfer the right to receive the Installments or to require enforcement of the assessment lien that does not comply with all of the foregoing conditions is void. Lender shall retain all of the rights and obligations of Lender under this PACE Lender Contract until such rights and obligations are assigned or transferred according to this section.

4. Financing Responsibility. Lender assumes full responsibility for determining the financial ability of the Property Owner to repay the Financing, advancing the funds as set forth in the Financing Documents and performing Lender's obligations and responsibilities thereunder. In the event the assessment lien on the Property is enforced by foreclosure as provided below, Lender shall have no further obligations to Property Owner with respect to the Installments that were the subject of the foreclosure, but Lender shall retain the rights to enforcement of the lien for any Installments that are not eliminated by the foreclosure, and the succeeding owner of the Property shall be subject to such lien.

5. Lien Priority and Enforcement. As provided in the PACE Owner Contract and Sections 399.014 and 399.015 of the PACE Act:

(a) Delinquent Installments shall incur penalties and interest on the principal of the Installment in the same manner and in the same amount as delinquent property taxes, pursuant to the statutes in effect at the time of default. Under the current statutes a delinquent Installment incurs a penalty of 6% of the principal amount of the Installment for the first calendar month it is delinquent plus 1% for each additional month or portion of a month the Installment remains unpaid prior to July 1 of the year in which it becomes delinquent. However, an Installment delinquent on July 1 incurs a total penalty of 12% of the principal amount of the delinquent Installment without regard to the number of months it has been delinquent. A delinquent Installment shall also accrue interest on the principal of the Installment at the rate of 1% for each month or portion of a month that the Installment remains unpaid. Subject to paragraph 17 below, penalties, interest, fees, and costs payable under this paragraph shall be retained by Local Government to compensate it for the cost of enforcing the Assessment. Additional interest at any default rate imposed by Lender pursuant to the Financing Documents, along with any other fees and charges that become due pursuant to the Financing Documents may be imposed and retained by Lender.

(b) The Assessment and any interest and penalties thereon,

(1) are a first and prior lien against the Property from the date on which the Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located, as provided by Section 399.013 of the PACE Act, until the Assessment, interest, and penalty is paid; and

(2) such lien has the same priority status as a lien for any other ad valorem tax, pursuant to Section 399.014(a)(2) of the PACE Act.

(c) Pursuant to Section 399.014(b) of the PACE Act, the lien created by the Assessment runs with the land, and any portion of the Assessment that has not yet become due shall not be eliminated by foreclosure of (i) a property tax lien, or (ii) the lien for a delinquent Installment of the Assessment. Accordingly, Installments may not be accelerated in the event of default. In the event of a sale or transfer of the Property by Property Owner, the obligation for the Assessment and the Property Owner's obligations under the Financing Documents shall be transferred to the succeeding owner without recourse to Lender, Local Government, Authorized Representative, or Program Administrator.

(d) In the event of a default by Property Owner in payment of an Installment called for by the Financing Documents or the filing of a case under the U.S. Bankruptcy Code by or against Property Owner, the lien created by the Assessment shall be enforced by Local Government for the benefit of Lender according to paragraph 6(c) below in the same manner according to Texas Tax Code Secs. 33.41 to 34.23 that a property tax lien against real property may be enforced by a local government, to the extent the enforcement is consistent with Section 50, Article XVI, Texas Constitution.

(e) In a suit to collect a delinquent Installment of the Assessment, Local Government shall be entitled to recover costs and expenses, including attorney's fees in the amount of 15% of the total principal amount of the delinquent Installment, penalties, and interest due, in the same manner according to Texas Tax Code Sec. 33.48 as in a suit to collect a delinquent property tax. Lender shall be entitled to any additional sums due to it under the Financing Documents in connection with a suit to collect a delinquent Installment of the Assessment.

(f) As provided in Section 399.014(a-1) of the PACE Act, after written notice of the Assessment is recorded in the real property records of the county in which the Property is located, the lien created by the Assessment may not be contested on the basis that the improvement is not a "qualified improvement" or the Project is not a "qualified project", as such terms are defined in Section 399.002 of the PACE Act.

6. Servicing and Enforcement of Assessment.

(a) Servicing. The Installments and other amounts due under the Financing Documents shall be billed, collected, received, and disbursed in accordance with the procedures set out in the Financing Documents. Lender or its designee shall be responsible for all servicing duties other than those specifically undertaken by Local Government in this PACE Lender Contract. If this is a HUD assisted or FHA insured Project, then the Financing Documents (i) shall provide for Installments to be escrowed in a manner acceptable to HUD or FHA lender and paid to Lender, and (ii) not make Installments more frequent than semi-annually. Program Administrator shall deliver an annual notice of

assessment to Property Owner by first-class mail or electronic mail each year until the Assessment is released. Any failure of Local Government, Authorized Representative, or Program Administrator to deliver an annual notice of assessment to Property Owner shall not affect the Assessment or Property Owner's obligations under the PACE Owner Contract.

(b) Remittances. Each of the parties covenants and agrees to promptly remit to the other party any payments incorrectly received by such party with respect to the Assessment after the execution of this PACE Lender Contract.

(c) Default and Enforcement. In the event of a default in payment of any Installment according to the Financing Documents, Lender agrees to take at least the following steps to collect the delinquent Installment:

(1) Mail a written notice of delinquency and demand for payment to the Property Owner by both certified mail, return receipt requested, and first-class mail. Lender shall mail a copy of the first notice of delinquency to the holder(s) of any mortgage lien on the Property, to HUD if this is a HUD assisted or FHA insured Project; and to Freddie Mac if the lien is held by Freddie Mac.

(2) Mail a second notice of delinquency and demand for payment to the Property Owner by both certified mail, return receipt requested, and first-class mail at least 30 days after the date of the first notice if the delinquency is continuing; and Lender shall also mail a copy of the second notice of delinquency to the holder(s) of any mortgage lien on the Property, to HUD if this is a HUD assisted or FHA insured Project, and to Freddie Mac if the lien is held by Freddie Mac.

The holder(s) of any mortgage lien on the Property, HUD, if this is a HUD assisted or FHA insured Project, and Freddie Mac if the mortgage lien is held by Freddie Mac, shall have not less than a 60-day notice and right to cure the delinquency by paying the amount of the delinquent Installment.

If Property Owner or other parties with the right to cure under this contract fails to cure the delinquency on or before the 30th day after the mailing of the second notice of delinquency, Lender or its designee may notify Program Administrator in writing of a default in payment by Property Owner. Upon receipt of such notice and after doing its own due diligence, Program Administrator shall certify the default to Local Government, which shall then enforce the assessment lien for the benefit of Lender pursuant to Sec. 399.014(c) of the PACE Act, in the same manner as a property tax lien against real property may be enforced, to the extent the enforcement is consistent with Section 50, Article XVI, Texas Constitution. However, if a case under the U.S. Bankruptcy Code is filed by or against Property Owner or if the enforcement of the assessment lien is prevented by the order of a court, Local Government shall notify Program Administrator and shall file a proof of claim for the balance of the Assessment, accrued interest and penalties, and all costs and expenses, including attorney's fees, as authorized by Section 399.014 of the PACE Act. Program Administrator shall notify Lender of the filing of the proof of claim. Lender shall not be required to mail a notice of delinquency to Property Owner or a notice of default to Local Government.

Lender shall reimburse Local Government for any costs and expenses, including attorney's fees, required to file and present the claim.

(d) Priority. Pursuant to Sec. 399.014(a)(2) of the PACE Act, if the assessment lien is enforced by foreclosure or collected through a bankruptcy or similar proceeding, the delinquent Installment(s) and any interest, costs, and penalties on them shall have the same priority status as a secured claim for any other ad valorem tax. The parties understand that the assessment lien is a statutory tax lien under Sec. 399.014 of the PACE Act.

(e) Final Payment and Release. When the Assessment, Contractual Interest, any prepayment penalty, and any penalties, interest, fees, attorney fees, and costs due under or authorized by the PACE Act or the Financing Documents have been paid in full, Local Government's rights under the PACE Owner Contract shall cease and terminate. Upon notice from Lender to Program Administrator that all amounts due have been paid in full, Authorized Representative on behalf of Local Government, shall execute a release of the Assessment and the PACE Owner Contract and Program Administrator on behalf of Authorized Representative shall record the release.

(f) Limitations on Local Government's Actions. Local Government shall not enter into any amendment or modification of or deviation from the PACE Owner Contract without the prior written consent of Lender. Local Government, Authorized Representative, or Program Administrator shall not institute any legal action with respect to the PACE Owner Contract, the Assessment, or the assessment lien without the prior written request of Lender.

(g) Limitations of Local Government's Obligations. Local Government undertakes to perform only such duties as are specifically set forth in this PACE Lender Contract, and no implied duties on the part of Local Government are to be read into this PACE Lender Contract. Local Government shall not be deemed to have a fiduciary or other similar relationship with Lender. Local Government may request written instructions for action from Lender and refrain from taking action until it receives satisfactory written instructions. Local Government shall have no liability to any person for following such instructions, regardless of whether they are to act or refrain from acting.

(h) Costs. No provisions of this PACE Lender Contract shall require Local Government to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder.

7. Lender's Warranties and Representations. With respect to this PACE Lender Contract, Lender hereby warrants and represents that on the Effective Date of this PACE Lender Contract:

(a) Lender is a qualified lender under the PACE Program, as defined in paragraph 3(a) above, and is fully qualified under the PACE Program to enter into this PACE Lender Contract and the Financing Documents;

(b) Lender has independently and without reliance upon Local Government conducted its own credit evaluation, reviewed such information as it has deemed adequate and appropriate, and made its own analysis of the PACE Owner Contract, the Project, and Property Owner's financial ability to perform the financial obligations set out in the Financing Documents; and

(c) Lender has not relied upon any investigation or analysis conducted by, advice or communication from, or any warranty or representation by Local Government, Authorized Representative, Program Administrator, or any agent or employee of Local Government, Authorized Representative, or Program Administrator, express or implied, concerning the financial condition of the Property Owner or the tax or economic benefits of an investment in the Assessment.

8. Written Contract Required by the PACE Act. This PACE Lender Contract constitutes a written contract between Local Government and Lender, as required under Section 399.006(c) of the PACE Act.

9. Construction and Definitions. This PACE Lender Contract is to be construed in accordance with and with reference to the PACE Program and PACE Act. Terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the PACE Program, or the PACE Act.

10. Binding Effect. This PACE Lender Contract is binding upon and inures to the benefit of the parties hereto and their respective representatives, agents, successors, and assigns.

11. Notices. Unless otherwise specifically provided herein, all notices and other communications required or permitted hereunder shall be in writing and delivered by first-class mail or by electronic mail with written confirmation of receipt, addressed to the other party at the address stated below the signature of such party or at such other address as such party may from time to time designate in writing to the other party, and shall be effective from the date of receipt. Notices delivered to Program Administrator shall be addressed to the following:

Texas PACE Authority
P.O. Box 200368
Austin, TX 78720-0368
Email Address: admin@texaspaceauthority.org

12. Governing Law and Venue. This PACE Lender Contract shall in all respects be governed by and construed in accordance with the laws of the State of Texas without regard to Texas' choice of law provisions. Venue for any disputes or suits between the parties arising from or related to this PACE Lender Contract shall be in a state court located in the Region, and the parties consent to the personal and subject matter jurisdiction of such state court.

13. Entire Agreement. This PACE Lender Contract, including its exhibit, constitutes the entire agreement between Local Government and Lender with respect to the subject matter hereof and shall not be amended or altered in any manner except by a document in writing executed

by both parties. If this is a HUD assisted or FHA insured Project, then HUD or FHA must also consent in writing to any amendment or alteration of this PACE Lender Contract, for as long as the Project remains HUD assisted or FHA insured.

14. Further Assurances. Lender further covenants and agrees to do, execute and deliver, or cause to be done, executed, and delivered all such further acts for implementing the intention of this PACE Lender Contract as may be reasonably necessary or required.

15. Captions. Paragraph and section titles are for convenience of reference only and shall not be of any legal effect.

16. Counterparts. This PACE Lender Contract may be executed in any number of counterparts, and each counterpart may be delivered on paper or by electronic transmission, all of which when taken together shall constitute one agreement binding on the parties, notwithstanding that all parties are not signatories to the same counterpart.

17. Interest. Interest and penalties in the event of default, as provided above, are explicitly authorized by Section 399.014(d) of the PACE Act. However, in no event will the total amount of interest on the Assessment, including statutory interest payable to Local Government and Contractual Interest payable to Lender under the Financing Documents, exceed the maximum amount or rate of nonusurious interest that may be contracted for, charged, or collected under Texas law (the “**Usury Limit**”). If the total amount of interest payable to Local Government and Contractual Interest payable to Lender exceeds the Usury Limit, interest payable to Local Government shall be reduced and any interest in excess of the Usury Limit shall be credited to the amount payable to Local Government or refunded. This provision overrides any conflicting provisions in this PACE Lender Contract.

18. Certification. Local Government certifies that the PACE Program has been duly adopted and is in full force and effect on the Effective Date of this PACE Lender Contract. Property Owner has represented to Lender and Local Government that the Project is a “qualified project” as defined in the PACE Program and Section 399.002 of the PACE Act. The Assessment has been imposed on the Property as a lien in accordance with the PACE Owner Contract and the PACE Act. Local Government has not assigned or transferred any interest in the Assessment or the PACE Owner Contract.

19. Inspection and Audits. Local Government’s representatives may perform, or have performed, audits of Lender’s documents, books and records. Lender shall keep its documents, books and records available for this purpose for at least three (3) years after this PACE Lender Contract terminates. This provision does not affect the applicable statute of limitations.

20. No Personal Liability. Pursuant to Section 399.019 of the PACE Act, the Lender acknowledges that the members of the governing body and employees of the Local Government, and board members, executives, employees, and contractors of the Authorized Representative or Program Administrator are not personally liable as a result of exercising any rights or responsibilities under the PACE Program or any agreement in furtherance of the PACE Program.

21. Construction Terms. The Financing Documents executed by Lender and Property Owner must include a requirement that Lender shall withhold _____% of the Financing until verification is provided to Program Administrator by an Independent Third Party Reviewer (“ITPR”) that the Project was properly completed and is operating as intended, or Property Owner shall pay liquidated damages to Lender of \$_____ per day for every day after 30 days following completion of the Project that such verification of completion is not provided. If verification of completion is not provided by Property Owner on or before the 30th day after completion of the Project, such verification shall be submitted by Lender. If this PACE Lender Contract includes any additional requirements related to construction of the Project and disbursement of Financing, such requirements are set forth in Exhibit D of the PACE Owner Contract attached hereto as Exhibit A and incorporated herein by reference. Such requirements may include, among other things, (1) the disbursement schedule and (2) any holdback amount to be funded following verification of final Project completion.

LENDER:

By: _____

Name: _____

Title: _____

Address: _____

Email Address: _____

ACKNOWLEDGEMENT

STATE OF _____ §

COUNTY OF _____ §

This PACE Lender Contract pursuant to Property Assessed Clean Energy Act was
acknowledged before me on _____, _____ by _____,
_____, on behalf of _____.

_____(print name)

NOTARY PUBLIC, STATE OF _____

LOCAL GOVERNMENT:

Universal City, TX

By: ALAMO AREA COUNCIL OF GOVERNMENTS
AUTHORIZED REPRESENTATIVE
Pursuant to Tex. Local Gov't Code §399.006(b)

By: _____

Name: CLIFFORD C. HERBERG

Title: EXECUTIVE DIRECTOR

Address: 2700 NE LOOP 410, STE. 101
SAN ANTONIO, TX 78217

Email Address: cherberg@aacog.com

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF _____ §

This PACE Lender Contract pursuant to Property Assessed Clean Energy Act was acknowledged before me on _____, _____ by Clifford C. Herberg, Executive Director, Alamo Area Council of Governments, a political subdivision of the State of Texas, and as Authorized Representative for the Local Government.

(print name)

NOTARY PUBLIC, STATE OF TEXAS

PACE LENDER CONTRACT EXHIBIT A

PACE OWNER CONTRACT

EXHIBIT 4

FORM NOTICE OF CONTRACTUAL ASSESSMENT LIEN
PURSUANT TO PROPERTY ASSESSED CLEAN ENERGY ACT

**FORM NOTICE OF CONTRACTUAL ASSESSMENT LIEN
PURSUANT TO
PROPERTY ASSESSED CLEAN ENERGY ACT**

STATE OF TEXAS §
 §
City of Universal City §

RECITALS

A. The Property Assessed Clean Energy Act (“**PACE Act**”), Texas Local Government Code Chapter 399, authorizes the governing body of a local government to establish a program and designate a region within the local government’s jurisdiction within which an authorized representative of the local government may enter into written contracts with the record owners of privately owned commercial, industrial, and large multifamily residential (5 or more dwelling units) real property to impose assessments on the property to finance the cost of permanent improvements fixed to the property intended to decrease water or energy consumption or demand. Unless otherwise expressly provided herein, all terms used herein have the same meanings ascribed to them in the PACE Act.

B. Universal City, Texas (“**Local Government**”) has established a program under the PACE Act pursuant to a resolution dated _____, adopted by the City Council of Universal City (“**PACE Program**”), and has designated Alamo Area Council of Governments (AACOG) as the representative of Local Government (“**Authorized Representative**”) authorized to enter into the written contracts with the owners of such property and the providers of such financing described herein, and has designated the entire territory within the boundaries of Universal City, Texas jurisdiction as a region (the “**Region**”) within which the Authorized Representative and the record owners of such real property may enter into written contracts to impose assessments to repay the financing by owners of qualified improvements on the owner’s property pursuant to the PACE Program. Authorized Representative has designated Texas Property Assessed Clean Energy Authority, dba Texas PACE Authority as the administrator of the PACE Program (“**Program Administrator**”).

C. _____ (“**Property Owner**”) is the sole legal and record owner of the qualified “real property,” as defined in Section 399.002 of the PACE Act, within the Region located at _____, _____, Texas _____ - _____ and more fully described in Exhibit A attached hereto and made a part hereof (the “**Property**”).

D. Property Owner has applied to Local Government to participate in the PACE Program by installing or modifying on the Property certain permanent improvements described in Exhibit B attached hereto and made a part hereof, which are intended to decrease water or energy consumption or demand and which are or will be fixed to the Property as “qualified

improvements”, as defined in Section 399.002 of the PACE Act (“**Qualified Improvements**”). The installation or modification of such Qualified Improvements on the Property will be a “qualified project” as defined in Section 399.002 of the PACE Act (the “**Project**”). Property Owner has entered into a written contract (the “**PACE Owner Contract**”) with Local Government pursuant to the PACE Act and the PACE Program and has requested Local Government to impose an assessment on the Property to repay the financing of such Qualified Improvements.

E. The financing of such Qualified Improvements shall be provided to Property Owner by _____ (“**Lender**”), a qualified lender selected by Property Owner, pursuant to a written contract executed by Lender and Local Government as required by the PACE Program and Section 399.006(c) of the PACE Act (the “**PACE Lender Contract**”). Lender shall be responsible for all servicing duties other than those specifically undertaken by Local Government in the PACE Lender Contract.

THEREFORE, Local Government hereby gives notice to the public pursuant to Section 399.013 of the PACE Act that it has imposed an assessment on the Property in the principal amount of \$_____ (the “**Assessment**”). The Assessment includes only those costs and fees for which an assessment may be imposed under Section 399.006(e) of the PACE Act. In the event that the actual total of costs and fees for which an assessment may be imposed is different from the amount stated or any other term requires correction, Authorized Representative on behalf of Local Government, Property Owner, and Lender agree to execute an amended Owner Contract and Lender Contract, and thereafter Program Administrator on behalf of Authorized Representative shall record an amended Notice of Contractual Assessment Lien.

The Assessment and contractual interest thereon due to the Lender (“**Contractual Interest**”) are due and payable in installments (“**Installments**”) in accordance with the terms and payment schedule included in the financing documents executed between Property Owner and Lender that are described in or copies of which are attached hereto as Exhibit C (the “**Financing Documents**”).

Pursuant to Section 399.014 of the PACE Act,

1. The Assessment, including any interest, costs, fees, attorney fees, and penalties accrued thereon,
 - (i) are a first and prior lien against the Property from the date on which this Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located, until the Assessment, interest, and penalty is paid; and
 - (ii) such lien, if enforced by foreclosure or collected through bankruptcy or similar proceeding, has the same priority status as a lien for any other ad valorem tax, pursuant to Section 399.014(a)(2) of the PACE Act.
2. Pursuant to Section 399.014(b) of the PACE Act, the lien created by the Assessment runs with the land, and any portion of the Assessment that has not yet become due shall not be eliminated by foreclosure of: (i) a property tax lien, or (ii) the lien for a delinquent Installment of the Assessment. Accordingly, Installments may not be accelerated in the

event of default. In the event of a sale or transfer of the Property by Property Owner, the obligation for the Assessment and the Property Owner's obligations under the Financing Documents shall be transferred to the succeeding owner without recourse to Local Government, Authorized Representative, or Program Administrator.

3. As provided in Section 399.014(a-1) of the PACE Act, after this Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located, the lien created by the Assessment may not be contested on the basis that the improvement is not a "qualified improvement" or the Project is not a "qualified project", as such terms are defined in Section 399.002 of the PACE Act.

EXECUTED on _____, _____

LOCAL GOVERNMENT:

Universal City, TX

By: ALAMO AREA COUNCIL OF GOVERNMENTS
AUTHORIZED REPRESENTATIVE
Pursuant to Tex. Local Gov't Code §399.006(b)

By: _____

Name: CLIFFORD C. HERBERG

Title: EXECUTIVE DIRECTOR

Address: 2700 NE LOOP 410, STE. 101
SAN ANTONIO, TX 78217

Email Address: cherberg@aacog.com

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF _____ §

This Notice of Contractual Assessment Lien pursuant to Property Assessed Clean Energy Act was acknowledged before me on _____, _____ by Clifford C. Herberg, Executive Director, Alamo Area Council of Governments, a political subdivision of the State of Texas, and as Authorized Representative for the Local Government.

(print name)

NOTARY PUBLIC, STATE OF TEXAS

PACE NOTICE OF LIEN EXHIBIT A

PROPERTY DESCRIPTION

PACE NOTICE OF LIEN EXHIBIT B
QUALIFIED IMPROVEMENTS

PACE NOTICE OF LIEN EXHIBIT C

FINANCING DOCUMENTS

Assessment Payment Schedule

Assessment Total:

Payment Frequency:

Payment Date	Total Payment	Principal Paid	Interest Paid	Administration Fee	Remaining Balance

Financing Documents

Document Title	Parties	Date Executed

INDEXING INSTRUCTION:

Grantor: _____, Property Owner
Grantees: Universal City, TX Local Government
_____, Lender

After recording, return to: Texas PACE Authority
Charlene Heydinger
PO Box 200368
Austin, TX 78720-0368

CITY OF UNIVERSAL CITY

Date: 08/06/2024

TO: City Council
FROM: Kim M. Turner, City Manager
SUBJECT: Interlocal Agreement with Harris County Department of Education (DBA Choice Partners) and the City of Universal City.

Historical Background

The Texas Local Government Code allows counties and cities to establish purchasing and contract services with other governmental cooperatives. Harris County Department of Education is authorized to provide cooperative purchasing of programs and services in the State of Texas. There are several forthcoming construction projects for Universal City that can be placed on the list of the co-op to gain the interest of prequalified contractors. Specific projects to be submitted include the renovation of the utility administration office at City Hall and the construction of the awnings at the public works yard. City Council approval of the attached Interlocal Agreement is required to be a member of the purchase co-op.

Action Requested

City Council approval of the Interlocal Agreement with Harris County Department of Education. Requires one reading.

Procurement Methodology

This is an Agreement only and requires no procurement by the City.

Source and Amount of Funding

This is an Agreement only and requires no funding by the City.

Staff Recommendation

Staff recommends approval of the Interlocal Agreement with the Harris County Department of Education.

Interlocal Agreement
between Harris County Department of Education
& City of Universal City, Texas

Pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and Chapter 271, Subchapter F of the Texas Local Government Code, and other similar, applicable laws of other states, this Interlocal Agreement ("Agreement") is made and entered into by and between Harris County Department of Education ("HCDE"), located in Houston, Texas, and City of Universal City, Texas, a local governmental entity and/or political subdivision ("LGE"), located in Universal City (city), Texas (state), for the purpose of contracting for the performance of governmental functions and services. The undersigned may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

Preamble

HCDE is a local governmental entity established to promote education in Harris County, Texas and is duly authorized to provide programs and services in the State of Texas. Both HCDE and LGE desire to set forth, in writing, the terms and conditions of their agreement.

General Terms and Conditions

In consideration of the mutual covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **Term.** The term of this Agreement shall commence on the date of the first signature of this Agreement ("Effective Date") and shall automatically renew annually, unless either Party gives thirty (30) days prior written notice of non-renewal.
2. **Agreement.** The terms of this Agreement shall apply and will be considered a part of any addendum, purchase order, or contract for programs and services delivered by HCDE. This Agreement and the attached and incorporated addenda, purchase orders, or exhibits, if any, contain the entire agreement of the parties, and there are no representations, agreements, arrangements, or undertakings, oral or written, between the Parties to this Agreement other than those set forth in this Agreement and duly executed in writing.
3. **Purpose and Scope of Work.**
 - A. HCDE agrees to:**
 - Provide LGE with descriptive offerings of each of the programs and services that HCDE provides.
 - Provide programs and services upon LGE's submission of independent contracts or purchase orders to HCDE and HCDE's acceptance thereof. HCDE's obligations to provide programs and services is contingent on HCDE acquiring and maintaining sufficient staffing through reasonable efforts to satisfy HCDE's obligations under this Agreement and all similar obligations under its contracts with other local governmental entities.
 - Conduct, at a minimum, an annual audit or survey, as appropriate, for each of the programs and services that HCDE delivers.
 - B. LGE agrees to:**
 - Participate in any or all of the programs and services that HCDE offers, in LGE's sole discretion.

- Submit purchase order(s) or independent contract(s) for each of the HCDE programs and/or services that LGE desires to purchase and/or collaborate.
 - Agree to follow the terms and conditions of each independent contract or purchase order.
 - Designate a person to act as LGE's representative to each respective HCDE program and/or service delivered.
4. As is. HCDE makes this Agreement available to HCDE participating entities "as is" and is under no obligation to revise the terms, conditions, scope, prices, and/or any requirements of the Agreement for the benefit of LGE.
5. Master Contract. This Agreement can be utilized as a Master Contract. The general terms and conditions in this Agreement will serve to outline the working relationship between HCDE and LGE.

LGE agrees to adhere to the specific terms and conditions set forth for the HCDE programs and/or services as contracted by LGE. In the case of a conflict between this Agreement and any addendum, purchase order, or individual contract for a specific HCDE program or service, the provisions of the addendum, purchase order, or individual contract will govern.

6. Payments. The Parties agree that all payments made under this Agreement will be in an amount that fairly compensates the performing Party for the services or functions performed under this Agreement. The Parties further agree that each Party paying for the performance of governmental functions or services pursuant to this Agreement must make those payments from current revenues available to the paying Party.
7. Invoices. HCDE will invoice LGE for the HCDE programs and services that LGE purchases from HCDE. LGE agrees to remit payment to HCDE within thirty (30) days after the later of the following: (1) the date LGE receives the goods; (2) the date the performance of the service is completed; or (3) the date LGE receives an invoice for the goods or service. If LGE makes a payment to HCDE with a credit card, LGE agrees to pay to HCDE a surcharge fee consisting of any applicable credit card fees and/or costs incurred by HCDE, including, without limitation, the processing fee(s) charged to HCDE by the credit card company(ies).
8. Participation in HCDE's Cooperative Purchasing Program. If LGE elects to participate in HCDE's cooperative purchasing program, Choice Partners, LGE shall be permitted to purchase goods and services using the contracts competitively procured by HCDE. HCDE does not assess a fee to LGE for participation in Choice Partners. LGE shall make payments directly to vendors. LGE shall be responsible for ordering, inspecting, and accepting the goods and services purchased through Choice Partners. LGE shall further be responsible for the vendors' compliance with provisions relating to the specific quality of goods and services delivered and terms of delivered, as set forth between LGE and the vendor. HCDE is not responsible or liable for the performance of any vendor used by LGE as a result of this Agreement or LGE's participation in Choice Partners.
9. Compliance with Laws. Each Party is responsible for complying with applicable laws and regulations relating to this Agreement and any purchase made under this Agreement.

10. Termination. This Agreement may be terminated prior to the expiration of the Term hereof as follows:

- By either Party, with or without cause, upon thirty (30) days' prior written notice;
- By mutual written agreement of the Parties; or
- By either Party immediately if the other Party commits a material breach of any of the terms of this Agreement and no remedial action can be agreed upon by the Parties.

Termination of this Agreement by a Party shall not terminate an existing purchase order or individual contract between HCDE and LGE or between LGE and an HCDE cooperative purchasing program vendor. In the event of termination of this Agreement or any purchase order or individual contract, LGE shall be responsible for compensating HCDE for programs and services provided by HCDE up to the effective date of termination.

11. Assignment. Neither this Agreement nor any duties or obligations entered in subsequent contracts because of this agreement shall be assignable by either party without the prior written acknowledgment and authorization of both parties.

12. Conflict of Interest. During the Term of HCDE's service to LGE, LGE, its personnel and agents, shall not, directly or indirectly, whether for LGE's own account or with any other person or entity whatsoever, employ, solicit or endeavor to entice away any person who is employed by HCDE.

13. Contract Amendment. This Agreement may be amended only by the mutual agreement of all Parties, in writing, to be attached to and incorporated into this Agreement.

14. Notice. Any notice provided under the terms of this Agreement by either party to the other shall be in writing and shall be sent by **certified mail, return receipt requested**. Notice to shall be sufficient if made or addressed as follows:

Harris County Department of Education
Attn: James Colbert, Jr.
County School Superintendent
6300 Irvington Blvd.
Houston, Texas 77022
713-694-6300

City of Universal City ("LGE")
Attn: Kim M. Turner
Title: City Manager
Address: 2150 Universal City Blvd
City, State, Zip: Universal City, TX 78148
Phone: 210-619-0705
Email: CityManager@uctx.gov

15. Relation of Parties. It is the intention of the parties that LGE is independent of HCDE and not an employee, agent, joint venturer, or partner of HCDE and nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between HCDE and LGE or HCDE and any of LGE's representatives.

16. Non-Exclusivity of Services. Nothing in this Agreement may be construed to imply that HCDE has exclusive right to provide LGE with programs or services. During the Term of this Agreement, LGE reserves the right to use all available resources to procure other programs and services as needed and, in doing so, will not violate any rights of HCDE.

17. Disclaimer. HCDE DOES NOT WARRANT THAT THE OPERATION OR USE OF HCDE PROGRAMS AND/OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. HCDE HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO ANY INFORMATION, PRODUCT, PROGRAM, OR SERVICE FURNISHED UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
18. Limitation of Liability. Without waiver of the Disclaimer in Article 17 of this Agreement, the Parties agree that:
- Neither Party waives any immunity afforded to it under applicable law; and
 - Neither Party shall be liable to the other Party for special, incidental, or exemplary damages with regard to any lawsuit or formal adjudication arising out of or relating to this Agreement.
19. Severability. In the event that 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, illegality, or unenforceable provision had never been contained in it.
20. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of laws provisions. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be in Houston, Harris County, Texas.
21. No Waiver. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or equity to a Party, including the defense(s) of immunity. No failure on the part of either Party at any time to require the performance by the other Party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such Party's right to enforce such term, and no waiver on the part of either Party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of the Parties hereto.
22. Benefit for Signatory Parties Only. Neither this Agreement, nor any term or provisions hereof, not any inclusion by reference, shall be construed as being for the benefit of any party not in signatory hereto.
23. Authorization. Each party acknowledges that the governing body of each Party to the Agreement has authorized and approved this Agreement.
24. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original constituting one and the same instrument.

In witness whereof, HCDE and LGE have executed this Agreement to be effective on the date specified in Article 1. Term above:

City of Universal City

Name of Local Governmental Entity

Harris County Department of Education

Authorized Signature

Printed Name

Kim M. Turner

Title

08/06/2024

Date

James Colbert, Jr.

County School Superintendent

Date

Type of Local Governmental Entity (*select one*):

- | | |
|---|---|
| ☐ School District | ☐ Charter School |
| ☐ County | ☒ City/Municipality |
| ☐ University | ☐ College |
| ☐ State Entity | |
| ☐ Governmental entity/other: _____ | |

CITY OF UNIVERSAL CITY

Date: 08/06/2024

TO: City Council**FROM:** Kim M. Turner, City Manager**SUBJECT:** Consider Bid Acceptance of the CDBG Hillview Drive Street ImprovementsHistorical Background

On March 19, 2024, City Council approved Resolution 896-D-2024: A resolution authorizing the filing of a grant application with the Bexar County Community Development Block Grant (CDBG) Program Year 2023 for an Infrastructure Construction Grant; authorizing the City Manager to act on behalf of the City in all matters related to the application; and pledging that if a grant is received, the City will comply with the grant requirements of the Community Development Block Grant. The City is receiving Federal CDBG grant funds for this project which requires a City balance fund match and requires City Council authorization of this project to receive federal grant funds

Action Requested

Awarding the Base Bid totaling \$710,056.17 to D&D Contractors. The cost is in line with the budget for this project. Voting in favor of this item will allow the Mayor and City Manager to execute the contract for the Hillview Drive Street Improvements and proceed with project scheduling.

Procurement Methodology

The Public Works Department advertised for bids and received a total of five (5) responsive bids with D&D Contractors as the lowest responsive responsible bidder. Please reference the attached engineers' letter of recommendation and bid tabulation sheet.

Source and Amount of Funding

The Hillview Drive Street Improvements CDBG matching grant funds were provided in this year's General fund CIP Budget for the Street improvements in the amount of \$600,000. The City also received a CDBG grant award of \$300,000.00 for Hillview Drive street improvements totaling \$900,000.00 for this project.

Staff Recommendation

Staff recommends approval of the low base bid in the amount of \$710,056.17 to D&D Contractors for the Hillview Drive Street Improvements.



515 Busby Drive, Suite 101 San Antonio, Texas 78209
TBPE No. F-2573

July 18, 2024

Mr. Randy Luensmann, Public Works Director
The City of Universal City
2150 Universal City Boulevard
Universal City, Texas 78148

Re: **Low Bid Verification & Contractor Recommendation**
Hillview Drive Street Improvements
Project No. UNIV-013B

Dear Mr. Luensmann:

Thirty-three (33) general contractors and four (4) plan rooms obtained plans and specifications for the project. Subsequently five (5) bids were received for the bid opening that occurred on July 9, 2024. See the results below:

Contractor	Base Bid Reported	Base Bid Calculated
Alamo City Constructors	\$ 742,770.50	\$ 742,770.50
D. Plata Construction Company, LLC	\$ 711,629.56	\$ 711,629.56
E-Z Bel Construction, LLC	\$ 745,229.90	\$ 745,229.90
D&D Contractors, INC	\$ 710,056.17	\$ 710,056.17
J3 Company, LLC	\$ 752,995.00	\$ 752,995.00
Givler Engineering (Opinion of Cost)	n/a	\$ 624,262.34

The low base bid provided by D&D Contractors, INC (D&D) by is about 13% higher than Givler Engineering's Opinion of Cost. There were also no errors in D&D's bid.

D&D successfully completed the Ivy Lane Street Improvements project on time and to the satisfaction of the city. Based on this we have full confidence in D&D's capability in successfully completing the Hillview Drive Street Improvements. We also understand that Mr. Luensmann has had extensive experience working with D&D on other projects for Universal City and that he is satisfied with D&D's prior performance. Please see Mr. Luensmann's letter containing his recommendation concerning D&D.

July 18, 2024

Based on the above information and Mr. Luensmann's letter, we recommend that the City Council accept the bid and award the project to D&D Contractors Inc. to perform the base bid for a total amount of **\$710,056.17**.

Please be aware that unknown conditions may be encountered during construction. Normally we recommend adding 15% to the construction budget for contingencies. Therefore, we recommend budgeting **\$816,564.60** for construction and contingencies.

Sincerely,



Chris R. Martinez, EIT
Givler Engineering, Inc.

Attachments: Bid Tabulation





515 Busby Drive, Suite 101, San Antonio, Texas 78209
TBPE No. F-2573

Bid Opening Summary

Project: Hillview Drive Street Improvements
Date: Tuesday, July 9, 2024
Location: Universal City Hall

Project No.: UNIV-013B
Time: 2:00 PM

Contractor	Base Bid Reported	Base Bid Calculated
Alamo City Constructors	\$ 742,770.50	\$ 742,770.50
D. Plata Construction Company, LLC	\$ 711,629.56	\$ 711,629.56
E-Z Bel Construction, LLC	\$ 745,229.90	\$ 745,229.90
D&D Contractors, INC	\$ 710,056.17	\$ 710,056.17
J3 Company, LLC	\$ 752,995.00	\$ 752,995.00
Givler Engineering (Opinion of Cost)	n/a	\$ 624,262.34

Note:

Bid Tabulation - Base Bid				GEI GIVLER ENGINEERING, INC. Givler Engineering, Inc. 515 Busby Dr., Suite 101 San Antonio, Texas 78209					
Bid Date: Tuesday, July 9, 2024									
City of Universal City									
Hillview Drive Street Improvements									
Project No. UNIV-013B									
Item No.	DESCRIPTION	QTY.	UNIT	Alamo City Constructors			D. Plata Construction Company, LLC		
				Unit Price Given by Bidder	Extension Given By Bidder	Extension Calc. By GEI	Unit Price Given by Bidder	Extension Given By Bidder	Extension Calc. By GEI
1	Mobilization	1	LS	\$ 33,000.00	\$ 33,000.00	\$ 33,000.00	\$ 38,150.00	\$ 38,150.00	\$ 38,150.00
2	Insurance & Bond	1	LS	\$ 14,000.00	\$ 14,000.00	\$ 14,000.00	\$ 54,500.00	\$ 54,500.00	\$ 54,500.00
3	Storm Water Pollution Prevention Plan	1	LS	\$ 18,000.00	\$ 18,000.00	\$ 18,000.00	\$ 8,175.00	\$ 8,175.00	\$ 8,175.00
4	Traffic Control & Protection	1	LS	\$ 17,000.00	\$ 17,000.00	\$ 17,000.00	\$ 8,840.40	\$ 8,840.40	\$ 8,840.40
5	Remove Concrete Header Curb.	1,379.1	LF	\$ 5.00	\$ 6,895.50	\$ 6,895.50	\$ 5.73	\$ 7,902.24	\$ 7,902.24
6	Remove sidewalk	656.0	SY	\$ 7.00	\$ 4,592.00	\$ 4,592.00	\$ 19.16	\$ 12,568.96	\$ 12,568.96
7	Remove entry sidewalk	25.6	SY	\$ 30.00	\$ 768.00	\$ 768.00	\$ 19.16	\$ 490.50	\$ 490.50
8	Remove Driveway apron including flush curb	581.7	SY	\$ 10.00	\$ 5,817.00	\$ 5,817.00	\$ 20.25	\$ 1,179.43	\$ 11,779.43
9	Remove & Store Mailboxes	28.0	EA	\$ 100.00	\$ 2,800.00	\$ 2,800.00	\$ 130.41	\$ 3,651.48	\$ 3,651.48
10	Remove & Store Pavers	9.3	SY	\$ 100.00	\$ 930.00	\$ 930.00	\$ 123.87	\$ 1,151.99	\$ 1,151.99
11	Roadway Excavation Incl. Hauling	2,132.1	CY	\$ 42.00	\$ 89,548.20	\$ 89,548.20	\$ 22.27	\$ 47,481.87	\$ 47,481.87
12	Remove and Relocate Residential Water Meters (Meters to be provided by City)	29.0	EA	\$ 1,200.00	\$ 34,800.00	\$ 34,800.00	\$ 1,199.00	\$ 34,771.00	\$ 34,771.00
13	Install 4' Wide Concrete Sidewalk	759.2	SY	\$ 77.00	\$ 58,458.40	\$ 58,458.40	\$ 62.62	\$ 47,541.10	\$ 47,541.10
14	Install Concrete Curb and Gutter	1,486.9	LF	\$ 36.00	\$ 53,528.40	\$ 53,528.40	\$ 25.92	\$ 38,540.45	\$ 38,540.45
15	Install Concrete Residential Entry Sidewalk	25.6	SY	\$ 80.00	\$ 2,048.00	\$ 2,048.00	\$ 64.80	\$ 1,658.88	\$ 1,658.88
16	Install Concrete Driveway Aprons Including Laydown Curb	621.9	SY	\$ 90.00	\$ 55,971.00	\$ 55,971.00	\$ 74.98	\$ 46,630.06	\$ 46,630.06
17	Replace Pavers	9.3	SY	\$ 800.00	\$ 7,440.00	\$ 7,440.00	\$ 123.87	\$ 1,151.99	\$ 1,151.99
18	Adjust Existing Sanitary Sewer Manholes to Proposed Grade	2.0	EA	\$ 1,600.00	\$ 3,200.00	\$ 3,200.00	\$ 8,060.00	\$ 16,120.00	\$ 16,120.00
19	Lime Stabilize Subgrade	3,829.0	SY	\$ 16.00	\$ 61,264.00	\$ 61,264.00	\$ 13.26	\$ 50,772.54	\$ 50,772.54
20	Install TENSAR GEOGRID TX-5 on Lime-Stabilized Subgrade	3,829.0	SY	\$ 6.00	\$ 22,974.00	\$ 22,974.00	\$ 6.54	\$ 25,041.66	\$ 25,041.66
21	Embankment	50.0	CY	\$ 65.00	\$ 3,250.00	\$ 3,250.00	\$ 31.83	\$ 1,591.50	\$ 1,591.50
22	Install Crushed Moisture Conditioned Limestone Flexible Base (6" Compacted Depth)	3,829.0	SY	\$ 14.00	\$ 53,606.00	\$ 53,606.00	\$ 14.25	\$ 54,563.25	\$ 54,563.25
23	Prime Coat	600.0	GAL	\$ 6.00	\$ 3,600.00	\$ 3,600.00	\$ 6.90	\$ 4,140.00	\$ 4,140.00
24	Install Asphalt Treated Base (4" Compacted Depth)	3,166.0	SY	\$ 33.00	\$ 104,478.00	\$ 104,478.00	\$ 29.11	\$ 92,162.26	\$ 92,162.26
25	Pave 2" Type "D" HMAC 70-22 Virgin Mix	3,166.0	SY	\$ 17.00	\$ 53,822.00	\$ 53,822.00	\$ 19.62	\$ 62,116.92	\$ 62,116.92
26	Restore Mailboxes	29.0	EA	\$ 350.00	\$ 10,150.00	\$ 10,150.00	\$ 212.16	\$ 6,152.64	\$ 6,152.64
27	Sodding & Topsoil	1,162.0	SY	\$ 15.00	\$ 17,430.00	\$ 17,430.00	\$ 28.12	\$ 32,675.44	\$ 32,675.44
28	Project Sign	1.0	EA	\$ 3,400.00	\$ 3,400.00	\$ 3,400.00	\$ 1,308.00	\$ 1,308.00	\$ 1,308.00
Total Price Calculated By GEI				\$ 742,770.50			\$ 711,629.56		
Total Price Given By Bidder				\$ 742,770.50			\$ 711,629.56		
Difference (Total Price Calculated By GEI-Total Price Given By Bidder)				\$ -			\$ (0.00)		
	Typo by Bidder								
	Calculation error by Bidder								

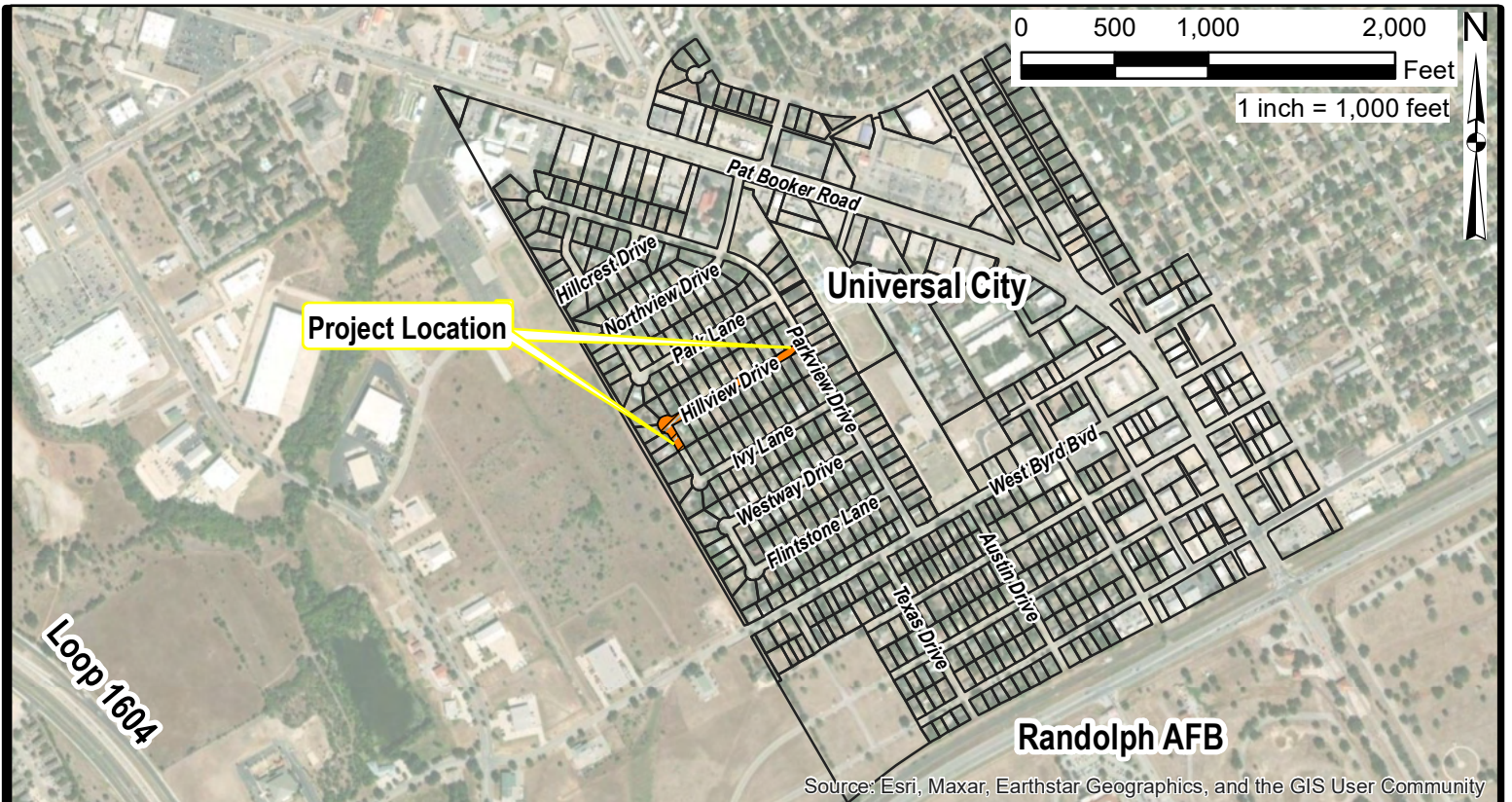
This professional opinion of cost is authorized by L. David Givler, MSCE, TX PE 73842 for the purposes of planning, budgeting, and evaluating contractor bids. TBPE Firm No. F-2573.

Bid Tabulation - Base Bid				GEI GIVLER ENGINEERING, INC. Givler Engineering, Inc. 515 Busby Dr., Suite 101 San Antonio, Texas 78209					
Bid Date: Tuesday, July 9, 2024									
City of Universal City									
Hillview Drive Street Improvements									
Project No. UNIV-013B									
Item No.	DESCRIPTION	QTY.	UNIT	E-Z Bel Construction, LLC			D&D Contractors, INC		
				Unit Price Given by Bidder	Extension Given By Bidder	Extension Calc. By GEI	Unit Price Given by Bidder	Extension Given By Bidder	Extension Calc. By GEI
1	Mobilization	1	LS	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 48,062.68	\$ 48,062.68	\$ 48,062.68
2	Insurance & Bond	1	LS	\$ 7,200.00	\$ 7,200.00	\$ 7,200.00	\$ 14,078.42	\$ 14,078.42	\$ 14,078.42
3	Storm Water Pollution Prevention Plan	1	LS	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 8,817.06	\$ 8,817.06	\$ 8,817.06
4	Traffic Control & Protection	1	LS	\$ 1,420.00	\$ 1,420.00	\$ 1,420.00	\$ 2,984.52	\$ 2,984.52	\$ 2,984.52
5	Remove Concrete Header Curb.	1,379.1	LF	\$ 3.00	\$ 4,137.30	\$ 4,137.30	\$ 3.57	\$ 4,923.39	\$ 4,923.39
6	Remove sidewalk	656.0	SY	\$ 11.00	\$ 7,216.00	\$ 7,216.00	\$ 16.18	\$ 10,614.08	\$ 10,614.08
7	Remove entry sidewalk	25.6	SY	\$ 63.00	\$ 1,612.80	\$ 1,612.80	\$ 8.89	\$ 227.58	\$ 227.58
8	Remove Driveway apron including flush curb	581.7	SY	\$ 19.00	\$ 11,052.30	\$ 11,052.30	\$ 17.19	\$ 9,999.42	\$ 9,999.42
9	Remove & Store Mailboxes	28.0	EA	\$ 99.00	\$ 2,772.00	\$ 2,772.00	\$ 98.09	\$ 2,746.52	\$ 2,746.52
10	Remove & Store Pavers	9.3	SY	\$ 150.00	\$ 1,395.00	\$ 1,395.00	\$ 52.23	\$ 485.74	\$ 485.74
11	Roadway Excavation Incl. Hauling	2,132.1	CY	\$ 25.00	\$ 53,302.50	\$ 53,302.50	\$ 31.59	\$ 67,353.04	\$ 67,353.04
12	Remove and Relocate Residential Water Meters (Meters to be provided by City)	29.0	EA	\$ 780.00	\$ 22,620.00	\$ 22,620.00	\$ 334.61	\$ 9,703.69	\$ 9,703.69
13	Install 4' Wide Concrete Sidewalk	759.2	SY	\$ 153.00	\$ 116,157.60	\$ 116,157.60	\$ 77.24	\$ 58,640.61	\$ 58,640.61
14	Install Concrete Curb and Gutter	1,486.9	LF	\$ 41.00	\$ 60,962.90	\$ 60,962.90	\$ 26.45	\$ 39,328.51	\$ 39,328.51
15	Install Concrete Residential Entry Sidewalk	25.6	SY	\$ 150.00	\$ 3,840.00	\$ 3,840.00	\$ 115.07	\$ 2,945.79	\$ 2,945.79
16	Install Concrete Driveway Aprons Including Laydown Curb	621.9	SY	\$ 180.00	\$ 111,942.00	\$ 111,942.00	\$ 117.61	\$ 73,141.66	\$ 73,141.66
17	Replace Pavers	9.3	SY	\$ 75.00	\$ 697.50	\$ 697.50	\$ 189.69	\$ 1,764.12	\$ 1,764.12
18	Adjust Existing Sanitary Sewer Manholes to Proposed Grade	2.0	EA	\$ 3,500.00	\$ 7,000.00	\$ 7,000.00	\$ 2,659.67	\$ 5,319.34	\$ 5,319.34
19	Lime Stabilize Subgrade	3,829.0	SY	\$ 11.00	\$ 42,119.00	\$ 42,119.00	\$ 17.36	\$ 66,471.44	\$ 66,471.44
20	Install TENSAR GEOGRID TX-5 on Lime-Stabilized Subgrade	3,829.0	SY	\$ 5.00	\$ 19,145.00	\$ 19,145.00	\$ 5.22	\$ 19,987.38	\$ 19,987.38
21	Embankment	50.0	CY	\$ 42.00	\$ 2,100.00	\$ 2,100.00	\$ 19.97	\$ 998.50	\$ 998.50
22	Install Crushed Moisture Conditioned Limestone Flexible Base (6" Compacted Depth)	3,829.0	SY	\$ 8.00	\$ 30,632.00	\$ 30,632.00	\$ 17.34	\$ 66,394.86	\$ 66,394.86
23	Prime Coat	600.0	GAL	\$ 40.00	\$ 24,000.00	\$ 24,000.00	\$ 5.12	\$ 3,072.00	\$ 3,072.00
24	Install Asphalt Treated Base (4" Compacted Depth)	3,166.0	SY	\$ 24.00	\$ 75,984.00	\$ 75,984.00	\$ 32.00	\$ 101,312.00	\$ 101,312.00
25	Pave 2" Type "D" HMAC 70-22 Virgin Mix	3,166.0	SY	\$ 15.00	\$ 47,490.00	\$ 47,490.00	\$ 20.48	\$ 64,839.68	\$ 64,839.68
26	Restore Mailboxes	29.0	EA	\$ 850.00	\$ 24,650.00	\$ 24,650.00	\$ 194.71	\$ 5,646.59	\$ 5,646.59
27	Sodding & Topsoil	1,162.0	SY	\$ 11.00	\$ 12,782.00	\$ 12,782.00	\$ 16.06	\$ 18,661.72	\$ 18,661.72
28	Project Sign	1.0	EA	\$ 500.00	\$ 500.00	\$ 500.00	\$ 1,535.83	\$ 1,535.83	\$ 1,535.83
Total Price Calculated By GEI						\$ 745,229.90	\$ 710,056.17		
Total Price Given By Bidder						\$ 745,229.90	\$ 710,056.17		
Difference (Total Price Calculated By GEI-Total Price Given By Bidder)						\$ -	\$ (0.00)		
	Typo by Bidder								
	Calculation error by Bidder								

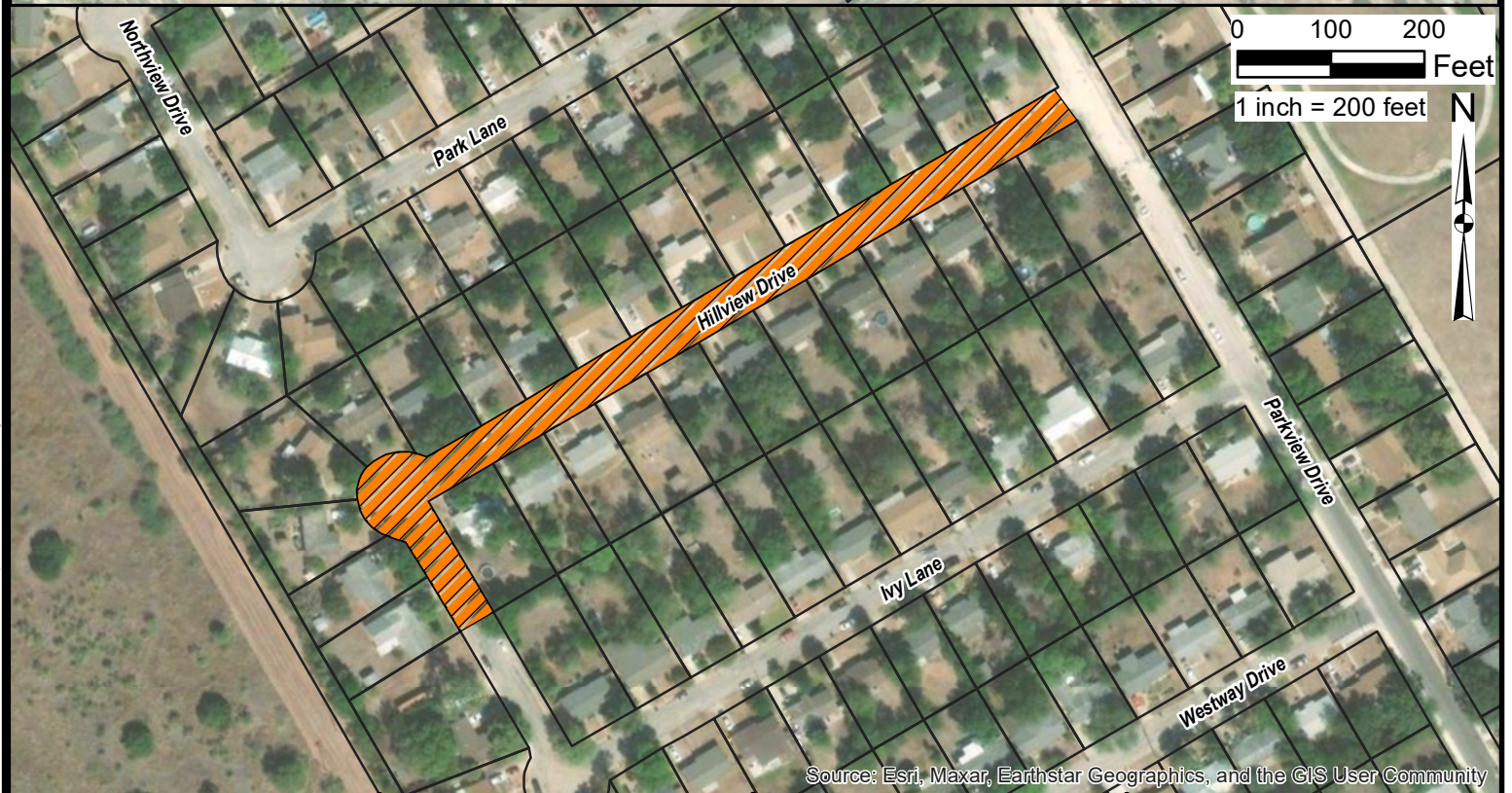
This professional opinion of cost is authorized by L. David Givler, MSCE, TX PE 73842 for the purposes of planning, budgeting, and evaluating contractor bids. TBPE Firm No. F-2573.

Bid Tabulation - Base Bid				GEI GIVLER ENGINEERING, INC. Givler Engineering, Inc. 515 Busby Dr., Suite 101 San Antonio, Texas 78209				
Bid Date: Tuesday, July 9, 2024								
City of Universal City Hillview Drive Street Improvements Project No. UNIV-013B								
Item No.	DESCRIPTION	QTY.	UNIT	J3 Company, LLC			Givler Engineering (Opinion of Cost)	
				Unit Price Given by Bidder	Extension Given By Bidder	Extension Calc. By GEI	Unit Price	Extension
1	Mobilization	1	LS	\$ 64,000.00	\$ 64,000.00	\$ 64,000.00	\$ 50,884.21	\$ 50,884.21
2	Insurance & Bond	1	LS	\$ 12,500.00	\$ 12,500.00	\$ 12,500.00	\$ 22,014.54	\$ 22,014.54
3	Storm Water Pollution Prevention Plan	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 21,167.83	\$ 21,167.83
4	Traffic Control & Protection	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,353.68	\$ 20,353.68
5	Remove Concrete Header Curb.	1,379.1	LF	\$ 7.00	\$ 9,653.70	\$ 9,653.70	\$ 5.00	\$ 6,895.50
6	Remove sidewalk	656.0	SY	\$ 20.00	\$ 13,120.00	\$ 13,120.00	\$ 15.00	\$ 9,840.00
7	Remove entry sidewalk	25.6	SY	\$ 40.00	\$ 1,024.00	\$ 1,024.00	\$ 15.00	\$ 384.00
8	Remove Driveway apron including flush curb	581.7	SY	\$ 20.00	\$ 11,634.00	\$ 11,634.00	\$ 15.00	\$ 8,725.50
9	Remove & Store Mailboxes	28.0	EA	\$ 75.00	\$ 2,100.00	\$ 2,100.00	\$ 150.00	\$ 4,200.00
10	Remove & Store Pavers	9.3	SY	\$ 50.00	\$ 465.00	\$ 465.00	\$ 15.00	\$ 139.50
11	Roadway Excavation Incl. Hauling	2,132.1	CY	\$ 22.00	\$ 46,906.20	\$ 46,906.20	\$ 40.00	\$ 85,284.00
12	Remove and Relocate Residential Water Meters (Meters to be provided by City)	29.0	EA	\$ 400.00	\$ 11,600.00	\$ 11,600.00	\$ 50.00	\$ 1,450.00
13	Install 4' Wide Concrete Sidewalk	759.2	SY	\$ 57.00	\$ 43,274.40	\$ 43,274.40	\$ 60.00	\$ 45,552.00
14	Install Concrete Curb and Gutter	1,486.9	LF	\$ 33.00	\$ 49,067.70	\$ 49,067.70	\$ 30.00	\$ 44,607.00
15	Install Concrete Residential Entry Sidewalk	25.6	SY	\$ 250.00	\$ 6,400.00	\$ 6,400.00	\$ 50.00	\$ 1,280.00
16	Install Concrete Driveway Aprons Including Laydown Curb	621.9	SY	\$ 110.00	\$ 68,409.00	\$ 68,409.00	\$ 80.00	\$ 49,752.00
17	Replace Pavers	9.3	SY	\$ 60.00	\$ 558.00	\$ 558.00	\$ 15.00	\$ 139.50
18	Adjust Existing Sanitary Sewer Manholes to Proposed Grade	2.0	EA	\$ 1,600.00	\$ 3,200.00	\$ 3,200.00	\$ 900.04	\$ 1,800.08
19	Lime Stabilize Subgrade	3,829.0	SY	\$ 25.00	\$ 95,725.00	\$ 95,725.00	\$ 9.00	\$ 34,461.00
20	Install TENSAR GEOGRID TX-5 on Lime-Stabilized Subgrade	3,829.0	SY	\$ 4.00	\$ 15,316.00	\$ 15,316.00	\$ 3.00	\$ 11,487.00
21	Embankment	50.0	CY	\$ 65.00	\$ 3,250.00	\$ 3,250.00	\$ 25.00	\$ 1,250.00
22	Install Crushed Moisture Conditioned Limestone Flexible Base (6" Compacted Depth)	3,829.0	SY	\$ 18.00	\$ 68,922.00	\$ 68,922.00	\$ 15.00	\$ 57,435.00
23	Prime Coat	600.0	GAL	\$ 5.00	\$ 3,000.00	\$ 3,000.00	\$ 5.00	\$ 3,000.00
24	Install Asphalt Treated Base (4" Compacted Depth)	3,166.0	SY	\$ 28.00	\$ 88,648.00	\$ 88,648.00	\$ 25.00	\$ 79,150.00
25	Pave 2" Type "D" HMAC 70-22 Virgin Mix	3,166.0	SY	\$ 19.00	\$ 60,154.00	\$ 60,154.00	\$ 15.00	\$ 47,490.00
26	Restore Mailboxes	29.0	EA	\$ 700.00	\$ 20,300.00	\$ 20,300.00	\$ 100.00	\$ 2,900.00
27	Sodding & Topsoil	1,162.0	SY	\$ 14.00	\$ 16,268.00	\$ 16,268.00	\$ 10.00	\$ 11,620.00
28	Project Sign	1.0	EA	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00
Total Price Calculated By GEI				\$ 752,995.00			\$ 624,262.34	
Total Price Given By Bidder				\$ 752,995.00			n/a	
Difference (Total Price Calculated By GEI-Total Price Given By Bidder)				\$ -			n/a	
	Typo by Bidder							
	Calculation error by Bidder							

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Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Legend

 Project Limits

REVISION	DATE



TX Registration #F-002573
515 Busby Drive
San Antonio, Texas 78209
Phone: (210) 342-3991

CLIENT:	Universal City
PROJECT NAME:	Hillview Drive Street Improvements
PHASE:	Construction
PROJECT LOCATION:	Universal City, Texas
PROJECT NUMBER:	UNIV-013B

DESIGNED BY: CRM	CHECKED BY: LDG	DRAWN BY: CRM
DATE:	7/19/2024	
SHEET TITLE:	Project Location Map	
SHEET NUMBER:	01 OF 01	

CITY OF UNIVERSAL CITY

Date: 08/06/2024

TO: City Council
FROM: Tom Maxwell, Mayor
SUBJECT: Board and Commission Appointment – BOA

Historical Background

Annually, City Council approves the appointment and/or reappointment of residents to the City's boards and commissions. The length of service is governed by Resolution 850: 2-year terms with a limit of 3 consecutive terms. Time served as an alternate and or during partial/unexpired terms count toward the term limit. All appointees must reside within Universal City.

When appointments were made at the Regular Council Meeting of July 16, 2024, there was still one vacancy unaccounted for on the Board of Adjustment (BOA). Mary Flack was listed as a backup appointee recommendation for the BOA.

Action Requested

Approve the recommendation for appointment of Mary Flack to the BOA to fill the vacant seat.

Procurement Method

For all boards and commissions, applications were accepted starting from 2 years ago until July 9th. The initial deadline for applications was June 1, but the deadline was extended to meet the need of filling open positions. Applicants met with Mayor Maxwell for 15-minute interviews from July 1st to July 11th to make his recommendations. Applicants who did not respond to the request for interviews were not able to be considered for appointment. Mary Flack was interviewed on July 9th.

Source and Amount of Funding

The UC City Charter states that board and commission appointees are appointed on a volunteer basis and serve without compensation.

Attachments

- Mayor's Recommendations
- Board and Commission Application

Mayor's Recommendations:

“ – R” indicates the applicant would be reappointed to their current seat.

“ – N” indicates the applicant is a new appointee to the seat.

BOARD/ COMMISSION	# of Seats Expiring	Applications Received	Mayor's Recommendation to Appoint	
Board of Adjustments/ Appeals	5	Scott Dagg Richard Edwards Thomas England Mary Flack ** Kayleigh Phung * J. Sue Svalberg	Thomas England – R Ron Jackson – R* J. Sue Svalberg – R Richard Edwards – N Mary Flack – N Mary Andrews (Alternate) – N	Coronado Olympia Red Horse Rose Garden Olympia Copano

* Ineligible due to lack of response to a request for interview or otherwise disqualified due to living outside City limits.

* Current Appointee moved to permanent position on BOA.

**Backups for the commissions they are listed under.

Print

Board and Commission Application Form - Submission #12772

Date Submitted: 5/5/2024

PLEASE READ BEFORE PROCEEDING

Please complete the form below to submit an application for the Board(s) and Commission(s) in which you would like to participate.

Applications submitted by June 1st before Council action on the new term of appointment will be considered for said term of appointment. Applications that are submitted after June 1st will be considered the following year.

Applications are only valid for two years in order to keep application information current.

Contact Information

Full Name:*

Mary Flack

Address:*

[REDACTED]

Phone Number:*

[REDACTED]

Email Address:*

[REDACTED]

I Am Interested In Serving On The Following Board(s)*



Board of Adjustment



Library Advisory Commission



Parks & Recreation Commission



Planning & Zoning Commission

Please explain why you are interested in applying to the groups chosen above.

*

Want to a part of the growth of Universal City.

Please list any training, education, or experience that you believe would assist you in performing duties on the Board/Commission to which you applied.

*

I have live in UC since 2013. I have been in food service sales for 13 year, managed the Woman's club of San Antonio for 10 years. Built my home in SchulenburgTx. I volunteer with UC police academy and have worked at many city events. I also volunteer when the UC has court.

Date of Application*

5/5/2024

08:07 PM

Resume/Letter of Interest

Choose File No file chosen

You are welcome to submit a resume and/or letter of interest, though it is not requires.

Please be aware that you should NOT include any sensitive personal information such as Drivers License Number or Birth Date in these documents.