

## LEASE AGREEMENT

This Lease is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, between THE CITY OF LUBBOCK, a Texas home rule municipal corporation ("Tenant"), and LUSKEY BROTHERS INVESTMENTS ("Landlord").

### ARTICLE 1. DEMISE OF LEASED PREMISES

Section 1.01. Leased Premises. In consideration of the mutual covenants and agreements of this Lease, and other good and valuable consideration, Landlord demises and leases to Tenant, and Tenant leases from Landlord, the premises situated at 5034 Frankford Avenue in Lubbock, Lubbock County, Texas, legally described on Exhibit "A" attached to this Lease, and made a part of this Lease for all purposes (collectively referred to as "the premises" or "the leased premises" in this Lease).

Tenant is to have and to hold the premises, together with all rights, privileges, easements, appurtenances, and immunities belonging to or in any way appertaining to them, including, but not limited to any easements, rights, title, and privileges of Landlord, existing now or at any time during the Lease term, in, to, or under adjacent streets, sidewalks, alleys, party walls, and property contiguous to the premises and reversions that may later accrue to Landlord as owner of the premises by reason of the closing of any street, sidewalk, or alley.

### ARTICLE 2. LEASE TERM

Section 2.01. Term. The term of this Lease is five (5) years (the "Primary Term") beginning on the date of execution of this Lease by the Landlord, unless terminating sooner as provided in this Lease.

This Lease may be extended upon the mutual agreement of both Landlord and Tenant for one additional five (5) year period (the "Option Period"). The Landlord and/or Tenant may elect to not extend the term of this Lease in their sole discretion.

Section 2.02. Termination. This Lease will terminate without further notice when the term specified in §2.01 expires, and any holding over by Tenant after that term expires will not constitute a renewal of the Lease or give Tenant any rights under the Lease in or to the premises.

Section 2.03. Holdover. If Tenant holds over and continues in possession of the premises after the Lease term (or any extension) expires, Tenant shall be considered to be occupying the premises on an at will tenancy, subject to all the terms of this Lease.

### ARTICLE 3. RENT

Section 3.01. Rent. Tenant shall pay Landlord one hundred and twenty-three thousand, six hundred and No/100 Dollars (\$123,600.00) per year during the first three (3) years of the Primary Term of this Lease.

Tenant shall pay Landlord one hundred and forty-eight thousand, three hundred and twenty and No/100 Dollars (\$148,320.00) per year during the fourth and fifth year of the Primary Term of this Lease.

In the event this Lease is extended by the agreement of Landlord and Tenant, Tenant shall pay Landlord one hundred and sixty thousand, six hundred and eighty and No/100 Dollars (\$160,680.00) per year during the first and second year of the Option Period.

Tenant shall pay Landlord one hundred seventy-three thousand, forty and No/100 Dollars (\$173,040.00) per year during the third and fourth years of the Option Period.

Tenant shall pay Landlord one hundred eighty-five thousand, four hundred and No/100 Dollars (\$185,400.00) during the final year of the Option Period.

Section 3.02. Time of Payment. Tenant shall pay equal monthly payments to Landlord in advance on the first (1<sup>st</sup>) day of each month as rental for the lease of the Leased Premises during the term of this lease. The first payment being due, contemporaneously with the execution of this lease as of September 1, 2019.

In the event this Lease is extended by the agreement of Landlord and Tenant, Tenant shall continue to pay equal monthly payments to Landlord in advance on the first (1<sup>st</sup>) day of each month as rental for the lease of the Leased Premises during the Option Period term of this lease. Payments must be in lawful money of the United States in a form acceptable to the Landlord.

Section 3.03. Interest. Rent installments unpaid for thirty (30) days shall bear interest at the rate of twelve percent (12%) annually, beginning on the day after each such installment was due and continuing until the installment is paid. Nothing in this Lease shall be construed as providing for Landlord receiving, collecting and/or demanding a rate of interest greater than provided for under Texas law. In the event Landlord receives interest in excess of the highest lawful rate, such funds shall be applied to the next year's rental payment, or in the event no further rental payments are due, refunded to Tenant.

Section 3.04. Additional Rent. In addition to the base monthly rent, Tenant will pay Landlord all other amounts, as provided by the attached Commercial Lease Addendum for Expense Reimbursement (TAR-2103).

#### ARTICLE 4. TAXES

Section 4.01. Taxes. Unless otherwise agreed by the parties, Landlord will pay all real property ad valorem taxes assessed against the Leased Premises.

## ARTICLES. UTILITIES

Section 5.01. Utilities. Tenant shall pay or cause to be paid all charges for water, heat, gas, electricity, sewers, and all other utilities used on the premises throughout the Lease term, including any connection fees.

## ARTICLE 6. USE OF PREMISES

### Section 6.01. Use of Premises.

a. Tenant may use the premises for the purpose of operating Library related programs of the Tenant, and for no other purpose without the written consent of the Landlord. Landlord will not unreasonably withhold consent to a change of use so long as it is consistent with Library or other City of Lubbock purposes.

b. Under no circumstances during the term of this Lease shall Tenant use, or cause to be used in any way, manner or form, in or on the premises any hazardous or toxic substances or materials, including without limitation, hazardous substances, as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.S. §9601 (14)) and/or asbestos, in any form, or store or dispose of any such substances or materials in, on or under the premises.

Section 6.02. Illegal Use. Tenant may not use all or any part of the premises or any building situated on them for any use or purpose that violates any valid and applicable law, regulation, or ordinance of the United States, the State of Texas, the County of Lubbock, the City of Lubbock, or any other lawful authority with jurisdiction over the premises.

Section 6.03. Defects. Tenant shall inspect, on as frequent a basis as necessary, the premises to identify any and all premise defects and shall promptly remedy any and all premise defects located upon the premises.

## ARTICLE 7. CONSTRUCTION BY TENANT

Section 7.01. General Conditions. Tenant may not, absent the prior written consent of Landlord in principle to the proposed activities, erect, maintain, alter, remodel, reconstruct, rebuild, replace, and/or remove buildings and other improvements on the premises, or correct and change the contour of the premises. In the event Landlord shall consent in principle to the proposed activities of Tenant, such activities of Tenant are subject to the following:

- a. Tenant bears the cost of any such work.
- b. The premises must at all times be kept free of mechanics' and materialmen's liens.
- c. Landlord must be notified of the time for beginning, and the general nature of, any such work, other than routine maintenance of existing buildings or improvements, at the time the work begins.

- d. The conditions of §7.02 concerning Landlord's approving plans must be followed.

Section 7.02. Approval of Plans. In the event Tenant shall obtain the consent in principle of Landlord to the proposed activities of Tenant, the following rules govern the approval of construction, additions, and alterations of buildings or other improvements on the premises:

a. *Written Approval Required*. No existing building or improvement may be added to or altered and no building or other improvement may be constructed on the premises (collectively referred to herein as, "Construction") unless the plans, specifications, and proposed location of same has received Landlord's written approval and the Construction complies with the approved plans, specifications, and proposed location.

b. *Submission of Plans*. Tenant must, at its own expense, engage a licensed architect or engineer to prepare plans and specifications for such construction. Tenant must submit two (2) copies of detailed working drawings, plans, and specifications for such Construction.

c. *Landlord's Approval*. Landlord will promptly review and approve all plans submitted under subparagraph b above or note in writing any required changes or corrections that must be made to the plans. Any required changes or corrections must be made, and the plans resubmitted to Landlord, within thirty (30) days after the corrections or changes have been noted.

d. *Exception to Landlord's Approval*. The following items do not require submission to and approval by, Landlord, but a copy of the plans and specifications for such Construction must be furnished to Landlord.

- i. Minor repairs and alterations necessary to maintain existing structures and improvements in a useful state of repair and operation.
- ii. Changes and alterations required by an authorized public official with authority or jurisdiction over the buildings or improvements, to comply with legal requirements.

e. *Effect of Approval*. Landlord's approval of any plans and specifications applies only to the conformity of the plans and specifications to the general architectural plan for the premises. Landlord's approval does not constitute approval of the architectural or engineering design.

Section 7.03 Ownership. Any buildings, improvements, additions, alterations, and fixtures (except furniture and trade fixtures) constructed, placed, located or maintained on any part of the leased premises during the Lease term are considered part of the real property of the premises and must remain on the premises and become Landlord's property when the Lease terminates.

Section 7.04. Right to Remove Improvements. Tenant may, prior to the termination or expiration of this Lease, remove any furniture, machinery, equipment, or other trade fixtures owned or placed by Tenant, in, under, or on the premises, or acquired by Tenant, whether before or during the Lease term. Before the Lease terminates, Tenant must repair any damage to any

buildings or improvements on the premises resulting from the removal. Any such items not removed by the Lease termination date will become Landlord's property on that date.

#### ARTICLE 8. ENCUMBRANCE OF LEASEHOLD ESTATE

Section 8.01. No Encumbrance. Tenant shall not encumber the leasehold interest by deed of trust, mortgage, or other security instrument, without obtaining Landlord's consent. In the event Landlord shall so consent, such encumbrance shall not, in any event, constitute a lien on Landlord's fee title. The indebtedness secured by the encumbrance will, at all times, be and remain inferior and subordinate to all the conditions, covenants, and obligations of this Lease and to all Landlord's rights under this Lease.

#### ARTICLE 9. REPAIRS, MAINTENANCE, AND RESTORATION

Section 9.01. Duty to Maintain and Repair. At all times during the Lease term, Tenant shall keep and maintain, or cause to be kept and maintained, all buildings and improvements erected on the premises in a good state of appearance and repair (except for reasonable wear and tear) at Tenant's own expense.

Section 9.02. Damage or Destruction. If any building or improvement located and/or constructed on the premises is damaged or destroyed by fire or any other casualty, regardless of the extent of the damage or destruction, Tenant must, within six (6) months from the date of the damage or destruction, begin to repair, reconstruct, or replace the damaged or destroyed building or improvement and pursue the repair, reconstruction, or replacement with reasonable diligence so as to restore the building to substantially the condition it was in before the casualty. But if beginning or completing this restoration is prevented or delayed by war, civil commotion, acts of God, strikes, governmental restrictions or regulations, or interferences, fire or other casualty, or any other reason beyond Tenant's control, whether similar to any of those enumerated or not, the time for beginning or completing the restoration (or both) will automatically be extended for the period of each such delay.

During the period from the date of such casualty until the premises are repaired in accordance with this Section 9.02, Tenant's obligation to pay rent hereunder shall abate. The abatement shall be in the proportion that the destroyed or untenable portion of the premises bears to the total leased premises.

#### ARTICLE 10. MECHANICS' LIENS

Section 10.01. Mechanic's Liens. Tenant shall not cause or permit any mechanics' liens or other liens to be filed against the fee of the premises or against Tenant's leasehold interest in the land or any buildings or improvements on the premises by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding the premises or any part of them through or under Tenant. If such a mechanic's lien or materialman's lien is recorded against the premises or any buildings or improvements on them, Tenant must either cause it to be removed or, if Tenant in good faith wishes to contest the lien, take timely action to do so, at Tenant's sole expense.

## ARTICLE 11. CONDEMNATION

Section 11.01. Taking. If the premises or any part of them are taken for public or quasi-public purposes by condemnation as a result of any action or proceeding in eminent domain, or are transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, this article governs Landlord's and Tenant's interests in the award or consideration for the transfer and the effect of the taking or transfer on this Lease.

Section 11.02. Total Taking. If the entire premises are taken or so transferred as described in §11.01, this Lease and all of the rights, titles, and interests under it will cease on the date that title to the premises or part of them vests in the condemning authority, and the proceeds of the condemnation will be the property of Landlord.

Section 11.03. Partial Taking. If only part of the premises is taken or transferred as described in §11.01, this Lease will terminate if, in Landlord's opinion, the remainder of the premises is in such a location, or is in such form, shape, or reduced size, that Tenant's business cannot be effectively and practicably operated on the remaining premises. In that event, this Lease and all rights, title, and interest under it will cease on the date that title to the portion of the premises taken or transferred vests in the condemning authority. The proceeds of the condemnation will be the property of Landlord.

Section 11.04. Voluntary Conveyance. Nothing in this article prohibits Landlord from voluntarily conveying all or part of the premises to a public utility, agency, or authority under threat of a taking under the power of eminent domain. Any such voluntary conveyance will be treated as a taking within the meaning of this article.

## ARTICLE 12. INSURANCE AND INDEMNIFICATION

Section 12.01 Indemnity and Release. The parties expressly acknowledge that Tenant's authority to indemnify and/or hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution and any provision which purports to require indemnification by the Tenant is invalid.

Section 12.02. Insurance. Tenant shall procure and carry, at its sole cost and expense through the life of this Lease, insurance protection as hereinafter specified, in form and substance satisfactory to the Landlord, carried with an insurance company authorized to transact business in the State of Texas, covering all foreseeable aspects and operations in connection with this Lease. A Certificate of Insurance specifying each and all coverages, and a copy of such policy shall be submitted to the Landlord prior to the execution of this Lease. Tenant shall provide to the Landlord proof of the below-described insurance on or before fourteen (14) days prior to the expiration date of each expiring policy.

- A. *Comprehensive General Liability Insurance*. Tenant shall have comprehensive general liability insurance, with limits of \$1,000,000.00 combined single limit in the aggregate and per occurrence. The Landlord shall be named as an additional insured in such policy.

- B. *Owner's Protective or Contingent Public Liability Insurance and Property Damage Liability Insurance.* Tenant and/or its contractor(s) shall obtain an Owner's Protective or Contingent Public Liability Insurance policy in the amount of, for bodily injuries, including accidental death and/or property damage, \$1,000,000.00 combined single limit. This insurance coverage shall include coverage against casualty or damage. Including, but not limited to, damage caused by fire and/or vandalism, to any and all other buildings and/or improvements located on the leased premises, and shall name the Landlord as an additional insured.

#### ARTICLE 13. ASSIGNMENT AND SUBLEASE

Section 13.01. No Assignment. Tenant shall not sell or assign its leasehold estate in its entirety or any portion of it, nor may it sublet the premises or any portion of them or any portion of any building or other improvement erected on the premises without the prior written consent of Landlord.

#### ARTICLE 14. REPRESENTATIONS, WARRANTIES AND GENERAL PROTECTIVE PROVISIONS

Section 14.01. Authority of Tenant. Tenant represents and warrants to Landlord that it has the authority to execute and perform all obligations under this Lease and the execution hereof has been duly authorized by all necessary actions of Tenant and any and all other parties having jurisdiction and authority over the Tenant and/or the operation of premises. Tenant shall, in its occupation and/or operation of the leased premises, comply with all applicable federal, state and local statutes, rules, regulations and ordinances, including without limitation, rules and regulations of HUD, relating, in any way, manner or form, to the Tenant and/or its occupation and/or operation of the leased premises (collectively, the "Applicable Law"). Tenant represents and warrants that it has complied with all Applicable Law in entering into this Lease.

Section 14.02. Right of Entry. Tenant must permit Landlord or its agents, representatives, or employees to enter the premises for the purposes of inspection; determining whether Tenant is complying with this Lease; maintaining, repairing, or altering the premises; or showing the premises to prospective tenants, purchasers, mortgagees, or beneficiaries under trust deeds.

Section 14.03. No Partnership. The relationship between Landlord and Tenant is at all times solely that of landlord and tenant and shall not be deemed a partnership or a joint venture.

Section 14.04. Force Majeure. If curing any Event of Default, as defined below, (other than failure to pay rent, insurance premiums, or ad valorem taxes) or performing any other covenant or term is delayed by reason of war, civil commotion, act of God, governmental restrictions, regulations, or interference, fire or other casualty, or any other circumstances beyond Tenant's control or that of the party obligated or permitted under this Lease to do or perform the term or covenant, regardless of whether the circumstance is similar to any of those enumerated or not, each party so delayed is excused from performance during the delay period.

Section 14.05. Bankruptcy. Bankruptcy, insolvency, assignment for the benefit of creditors, or the appointment of a receiver will not affect this Lease as long as Tenant and Landlord or their respective successors or legal representatives continue to perform all covenants of this Lease.

Section 14.06. No Waiver. No waiver by either party of any default or breach of any covenant or term of this Lease may be treated as a waiver of any subsequent default or breach of the same or any other covenant or term of this Lease.

Section 14.07. Release of Landlord. If Landlord sells or transfers all or part of the premises and as a part of the transaction assigns its interest as Landlord in this Lease, then as of the effective date of the sale, assignment, or transfer, Landlord will have no liability under this Lease to Tenant, whenever occurring or accruing.

Section 14.08. Security. Tenant shall take any and all actions necessary to protect the leased premises and all persons who enter upon same. Tenant shall inspect, on as frequent a basis as necessary, the leased premises to identify and remedy any and all premise defects, upon or affecting the leased premises.

#### ARTICLE 15. DEFAULT AND REMEDIES

Section 15.01. Termination on Default. If Tenant fails to perform or comply with any covenant, agreement or term of this Lease, or any representation of Tenant is or shall become untrue (collectively, an "Event of Default"), and does not correct the Event of Default within fifteen (15) days after receipt of written notice from Landlord to Tenant, Landlord may declare this Lease, and all rights and interests created by it, terminated. If Landlord elects to terminate, this Lease will cease as if the day of Landlord's election were the day originally fixed in the Lease for its expiration. Landlord or its agent or attorney may resume possession of the premises and relet them for the remainder of the term at the best rent obtainable.

Section 15.02. Remedies Cumulative. Any termination of this Lease as provided in this article shall not relieve Tenant from paying any sum or sums due and payable to Landlord under this Lease at the time of termination, or any claim for damages then or previously accruing against Tenant under this Lease. Further, in the event of termination, any such termination shall not prevent Landlord from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, equity, contract or otherwise, or from recovering damages from Tenant for any default under the Lease. All Landlord and Tenant's rights, options, and remedies under this Lease will be construed to be cumulative, and no one of them is exclusive of the other. Landlord and/or Tenant may pursue any or all such remedies or any other remedy or relief provided by law, whether or not stated in this Lease. Landlord and Tenant reserve the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. No waiver by Landlord and/or Tenant of a breach of any of the covenants, agreements or conditions of this Lease, or any other Event of Default under this Lease may be construed a waiver of any succeeding or preceding breach of the same or any other covenant, agreement or condition of this Lease, or any other Event of Default under this Lease.



## ARTICLE 16. MISCELLANEOUS

Section 16.01. Delivery of Rents and Notices. All rents or other sums, notices, demands, or requests from one party to another may be personally delivered or sent by mail, certified or registered, postage prepaid, to the addresses stated in this section and are considered to have been given at the time of personal delivery or of mailing.

Landlord:

Luskey Brothers Investments  
113 N. Houston Street  
Fort Worth, Texas 76102  
Telephone: (817) 946-4553

Tenant:

City of Lubbock  
Assistant City Manager for Facilities Management  
P.O. Box 2000  
Lubbock, Texas 79457  
Telephone: (806) 775-2003

Section 16.02. Multiple Parties. If this Lease names more than one Landlord or Tenant, service of any notice on any one Tenant or Landlord is considered service on all Tenants or Landlords, respectively.

Section 16.03. Parties Bound. This agreement binds and inures to the benefit of the parties to this Lease and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns.

Section 16.04. Applicable Law. This Lease is to be construed under Texas law and all obligations of the parties created by this Lease are performable in Lubbock County, Texas.

Section 16.05. Construction. If any one or more of the provisions contained in this Lease are for any reason held to be invalid, illegal or unenforceable in any respect the invalidity, illegality, or unenforceability will not affect any other provision of the Lease, which will be construed as if it had not included the invalid, illegal or unenforceable provision.

Section 16.06. Prior Agreements. This Lease constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter.

Section 16.07. Amendment. No amendment, modification, or alteration of this Lease is binding unless in writing, dated subsequent to the date of this Lease, and duly authorized and executed by the parties.

Section 16.08. Rights and Remedies Cumulative. The rights and remedies provided by this Lease are cumulative, and either party's using or resorting to any right or remedy will not preclude or waive its right to use any other remedy. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

Section 16.09. Attorney's Fees. If, as a result of either party's breaching this Lease, the other party employs an attorney to enforce its rights under this Lease, then the breaching or defaulting party will pay the other party the reasonable attorney's fees and costs incurred to enforce the Lease.

Section 16.10. Rights and Remedies Reserved. The Parties reserve the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the Parties shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Lease, the former shall control.

Section 16.11. Time of Essence. Time is of the essence of this Lease.

THIS LEASE has been executed by the parties on the date and year first above written.

TENANT: CITY OF LUBBOCK

LANDLORD: LUSKEY  
BROTHERS INVESTMENTS

\_\_\_\_\_  
DANIEL M. POPE, MAYOR

By:         *ALVIN LUSKEY*        

Print:         ALVIN LUSKEY        

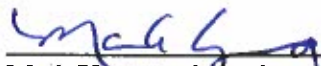
Title:         PRESIDENT

**ATTEST:**

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Rebecca Garza, City Secretary

**APPROVED AS TO CONTENT:**



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Mark Yearwood, Assistant City Manager

**APPROVED AS TO FORM:**



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Ryan Brooke, Assistant City Attorney



**TEXAS ASSOCIATION OF REALTORS®  
COMMERCIAL LEASE ADDENDUM FOR EXPENSE REIMBURSEMENT**

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.  
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**ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT 5034 Frankford Ave., Lubbock, Texas 79424**

In addition to rent stated in the lease, Tenant will pay Landlord the additional rent described in this addendum. Tenant will pay the additional rent each month at the time the base-monthly rent in the lease is due.

**A. Definitions:**

- (1) "Tenant's pro rata share" is 100.00 %.
- (2) "CAM" means all expenses reasonably incurred to maintain, repair, operate, manage, and secure the Property (for example, security, lighting, painting, cleaning, decorations, utilities, trash removal, pest control, promotional expenses, and other expenses reasonably related the Property's operations).
- (3) "Insurance" means Landlord's costs to insure the leased premises and the Property including but not limited to insurance for casualty loss, general liability, and reasonable rent loss.
- (4) "Taxes" means the real property ad valorem taxes assessed against the leased premises and Property inclusive of all general and special assessments and surcharges.
- (5) "Structural" means all of Landlord's expenses reasonably incurred to maintain, repair, and replace the roof, foundation, exterior walls, load bearing walls and other structural components of the Property.

**B. Method:** The additional rent will be calculated under the following method:

*Note: "CAM" does not include taxes and insurance costs.*

- (1) **Base-year expenses:** Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed the amount of the monthly base-year expenses for the calendar year \_\_\_\_\_ for:  taxes;  insurance;  CAM;  structural; and  \_\_\_\_\_
- (2) **Expense stop:** Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed \$ \_\_\_\_\_ per square foot per year for:  taxes;  insurance;  CAM;  structural; and  \_\_\_\_\_
- (3) **Net:** Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property for:  taxes;  insurance;  CAM;  structural; and  SEE SPECIAL PROVISIONS FOR CAM COST

**C. Projected Monthly Expenses:** On or about December 31 of each calendar year, Landlord will project the applicable monthly expenses (those that Tenant is to pay under this addendum) for the following calendar year and will notify Tenant of the projected expenses. The projected expenses are based on Landlord's estimates of such expenses. The actual expenses may vary.

(TAR-2103) 1-26-10      Initialed for Identification by Landlord: [Signature] and Tenant: \_\_\_\_\_

Expense Reimbursement Addendum concerning \_\_\_\_\_

**Notice:** The applicable projected expenses at the time which the above-referenced lease commences are shown in the table below. The total area of the Property presently used by Landlord for calculating expense reimbursements is 12,630 rentable square feet (including any add on factor for common areas).

Projected Expenses	
\$ Monthly Rate	\$ Annual Rate
.34 /rsf / month	4.08 /rsf / year

D. **Reconciliation:** Within a reasonable time after the end of each calendar year, Landlord will notify Tenant of the actual costs of the applicable expenses (those that Tenant is to pay under this addendum) for the previous year. If the actual costs of the applicable expenses exceed the amounts paid or owed by Tenant for the previous year, Tenant must pay the deficient amount to Landlord within 30 days after Landlord notifies Tenant of the deficient amount. If the actual costs of the applicable expenses are less than the amounts paid by Tenant for the previous year, Landlord will refund the excess to Tenant or will credit the excess to Tenant's next rent payment. Tenant may audit or examine those items in Landlord's records that relate to Tenant's obligations under this addendum. Landlord will promptly refund to Tenant any overpayment revealed by an audit or examination. If the audit or examination reveals an error of more than 5% over the amounts Landlord collected in a calendar year from Tenant under this addendum, Landlord will pay the reasonable cost of the audit or examination. Landlord may not seek a deficiency from Tenant under this paragraph if Landlord fails to timely provide the required notice.

E. **Special Provisions:**

Tenant shall be solely responsible for all CAM cost as outlined in Paragraph A.(2) or other cost as deemed necessary by Tenant.

Such cost will be paid directly by Tenant as those cost are incurred.

CAM cost will not be amortized into the Lease amount paid to Landlord by Tenant.

Landlord: Luskey Brothers Investments

Tenant: City of Lubbock

By: \_\_\_\_\_

By: \_\_\_\_\_

By (signature): [Signature]  
Printed Name: ALVIN LUSKEY  
Title: PRESIDENT

By (signature): \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

By (signature): [Signature]  
Printed Name: MIKE LUSKEY  
Title: VICE-PRESIDENT

By (signature): \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_