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# Board Binder Open Session

September 13, 2021

# Agenda



**MIDLAND DEVELOPMENT CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS  
LOCAL GOVERNMENT CODE**

**NOTICE OF PUBLIC MEETING**

In accordance with Chapter 551, Texas Government Code, as amended, notice is hereby given to the public that the Board of Directors of the Midland Development Corporation will meet in regular session, open to the public, in the Midland Chamber of Commerce board room, 303 West Wall Street, Suite 200, Midland, Texas, and via videoconference at 10:00 a.m. on September 13, 2021. A quorum of the Board of Directors of the Midland Development Corporation intends to be physically present at the aforementioned location.

**Videoconference Information**

Join Zoom Webinar

<https://us02web.zoom.us/j/89407909926?pwd=TGdKZjlyUE1id3kxNkVHWWQrSDFTUT09>

Passcode: 250003

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 9128 or +1 301 715 8592 or +1 312 626 6799  
or +1 646 558 8656

Webinar ID: 894 0790 9926

Passcode: 250003

International numbers available: <https://us02web.zoom.us/j/kmcP6Ru6N>

At such meeting, the Board of Directors may discuss, consider, and take action on any of the following items:

1. Call meeting to order.
2. Motion approving the minutes of the August 2, 2021, meeting of the Midland Development Corporation.
3. Resolution authorizing the execution of a promotional agreement with the Permian Basin Area Foundation to advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises.
4. Presentation on the August 2021 monthly expenses and economic development activity report from the Midland Development Corporation Executive Director.
5. Pursuant to Texas Government Code §551.101, the Board of Directors will hold an Executive Session, which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

a. Section 551.072 Deliberation Regarding Real Property

200 North Loraine Street Suite 610 | Midland, TX 79701  
432.686.3579 Direct | 432.687.8214 Fax | 1.855.824.6435 Toll Free  
[www.midlandtxedc.com](http://www.midlandtxedc.com)

- i. Discuss the sale, exchange, lease or value of real property described as an approximate 53.62-acre tract of land out of Section 11, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas.
- ii. Discuss the sale, exchange, lease or value of real property described as an approximate 374-acre tract of land out of Section 33, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas.
- iii. Discuss the sale, exchange, lease or value of real property described as Lots 5 and 6, Block Thirty-Five 35, Original Town of Midland, an addition to the City of Midland, Midland County, Texas.
- iv. Discuss the sale, exchange, lease or value of real property described as Lots 1A and 9-12, Block 35, Original Town of Midland, an addition to the City of Midland, Midland County, Texas.

b. Section 551.087 Deliberation Regarding Economic Development Negotiations

- i. Discuss business prospects that the Midland Development Corporation seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives, and discuss contract compliance on the part of businesses.

Posted this 10th day of September 2021.

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Amy M. Turner  
City Secretary

# August 2<sup>nd</sup> Minutes

# MIDLAND DEVELOPMENT CORPORATION

## MINUTES

August 2, 2021

The Board of Directors of the Midland Development Corporation convened in regular session at the Midland Chamber of Commerce conference room, 303 W. Wall Street, Suite 200, Midland, Texas, at 10:00 a.m. on August 2, 2021.

Board Members present: Chairman Wesley Bownds, Director Stephen Lowery, Director Berry Simpson, Director Lourcey Sams, Director Chase Gardaphe, and Director Brad Bullock, Director Jill Pennington

Board Members absent: None

Staff Members present: Assistant City Manager Tina Jauz, Assistant City Attorney Nicholas Toulet-Crump and Deputy City Secretary Vanessa White

Council Member(s) present: Mayor Patrick Payton, Council member Michael Trost and Council member Lori Blong

MDC Staff Members present: Executive Director Sara Harris, Marketing and Administrative Coordinator Kendall Gray

### 1. Call meeting to order.

Chairman Bownds called the meeting to order at 10:01 am

### 2. Motion approving the minutes of the July 12, 2021, meeting of the Midland Development Corporation.

Director Gardaphe moved to approve the minutes of the July 12, 2021 meeting of the Midland Development Corporation; seconded by Director Bullock. The motion carried by the following vote: AYE: Bownds, Lowery, Simpson, Sams and Pennington. NAY: None. ABSTAIN: None. ABSENT: None.

### 3. Presentation from MOTRAN Alliance, Inc. on infrastructure projects and initiatives in Midland and the Permian Basin.

MOTRAN Alliance, Inc. President, James Beauchamp presented upcoming infrastructure projects and initiatives in the Permian Basin to the MDC Board including the Yukon Corridor in Midland County that runs from highway 191 to Loop 40; Interstate 20 Road project 2022-2026; and the re-designation of I-14 from its current path of Brady to I-10 along US 190, to San Angelo and Midland-Odessa via US 87 and SH 158.

4. Resolution authorizing the execution of an economic development agreement with MOTRAN Alliance, Inc.

Director Simpson moved to approve Resolution ED-386 authorizing the execution of an economic development agreement with MOTRAN Alliance, Inc; seconded by Director Lowery. The motion carried by the following vote: AYE: Bownds, Bullock, Sams, Gardaphe and Pennington. NAY: None. ABSTAIN: None. ABSENT: None.

5. Resolution authorizing the execution of an interlocal agreement with the University of Texas Permian Basin to advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises.

Director Gardaphe moved to approve Resolution ED-387 authorizing the execution of an interlocal agreement with the University of Texas Permian Basin to advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises; seconded by Director Bullock. The motion carried by the following vote: AYE: Bownds, Lowery, Simpson, Sams and Pennington. NAY: None. ABSTAIN: None. ABSENT: None.

6. Resolution authorizing the execution of a promotional agreement with Higher Orbits to advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises.

Director Simpson moved to approve Resolution ED-388 authorizing the execution of a promotional agreement with Higher Orbits to advertise and publicize the City of Midland for the purpose of developing new and expanded business enterprises; seconded by Director Lowery. The motion carried by the following vote: AYE: Bownds, Sams, Gardaphe, Bullock and Pennington. NAY: None. ABSTAIN: None. ABSENT: None.

7. Resolution authorizing the execution of a consulting services agreement with Kimley-Horn and Associates, Inc., for the airspace modeling services related to the integration of a round-trip, point-to-point flight of a reusable launch vehicle between Midland International Air & Space Port and Spaceport of America.

Director Sams moved to approve Resolution ED-389 authorizing the execution of a consulting services agreement with Kimley-Horn and Associates, Inc., for the airspace modeling services related to the integration of a round-trip, point-to-point flight of a reusable launch vehicle between Midland International Air & Space Port and Spaceport of America; seconded by Director Gardaphe. The motion carried by the following vote: AYE: Bownds, Lowery, Simpson, Bullock and Pennington. NAY: None. ABSTAIN: None. ABSENT: None.

8. Resolution authorizing the execution of a second amendment to that certain economic development agreement between the Midland Development Corporation and Susie's South Forty Confections, Inc..

9. Director Sams moved to approve Resolution ED-390 authorizing the execution of a second amendment to that certain economic development agreement between the Midland Development Corporation and Susie's South Forty Confections, Inc.; seconded by Director Lowery. The motion carried by the following vote: AYE: Bownds, Gardaphe, Simpson, Bullock and Pennington. NAY: None. ABSTAIN: None. ABSENT: None.

10. Resolution authorizing the execution of an amendment to that certain lease agreement between the Midland Development Corporation and Loraine at Texas Office Tower Ltd., DBA Centennial Tower, LTD., regarding real property located at 200 North Loraine, Midland, Texas 79701. .

Director Bullock moved to approve Resolution ED-390 authorizing the execution of an amendment to that certain lease agreement between the Midland Development Corporation and Loraine at Texas Office Tower Ltd., DBA Centennial Tower, LTD., regarding real property located at 200 North Loraine, Midland, Texas 79701.; seconded by Director Simpson. The motion carried by the following vote: AYE: Bownds, Lowery, Gardaphe, Simpson, Sams and Pennington. NAY: None. ABSTAIN: None. ABSENT: None.

11. Presentation on the June 2021 monthly expenses and economic development activity report from the Midland Development Corporation Executive Director.

Sara Harris reported no significant disbursements for economic development agreements, and a sales tax increase of 3.7% as compared to the same month in 2020.

**Board recessed into executive session at 11:06 a.m.**

12. Pursuant to Texas Government Code §551.101, the Board of Directors will hold an Executive Session, which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

- a. Section 551.072 Deliberation Regarding Real Property
  - i. Discuss the purchase, exchange, lease or value of real property described as Lots Five (5), Six (6), Seven (7), and Eight (8), Block Thirty-Five (35), Original Town of Midland, an addition to the City of Midland, Midland County, Texas.
- b. Section 551.087 Deliberation Regarding Economic Development Negotiations
  - i. Discuss business prospects that the Midland Development Corporation seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives, and discuss contract compliance on the part of the businesses.



**Board reconvened into open session at 11:47 a.m.**

All the business at hand having been completed, Chairman Bownds adjourned the meeting at 11:48 a.m.

Respectfully submitted,

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Vanessa White, Deputy City Secretary

PASSED AND APPROVED the 13<sup>th</sup> Day of September 2021.

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Berry Simpson, Secretary

Permian Basin  
Area Foundation  
Promotional  
Agreement

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION AUTHORIZING THE EXECUTION OF A PROMOTIONAL AGREEMENT WITH THE PERMIAN BASIN AREA FOUNDATION TO ADVERTISE AND PUBLICIZE THE CITY OF MIDLAND FOR THE PURPOSE OF DEVELOPING NEW AND EXPANDED BUSINESS ENTERPRISES**

**WHEREAS**, the Midland Development Corporation is authorized to expend promotional funds in order to advertise and publicize the City of Midland (the “City”) for the purpose of developing new and expanded business enterprises pursuant to Section 504.105 of the Texas Local Government Code; and

**WHEREAS**, the Board of Directors finds that a promotional agreement with the Permian Basin Area Foundation, which provides for the expenditure of promotional funds to advertise and publicize the City for the purpose of developing new and expanded business enterprises, will thereby enhance and promote economic development within the City and the State of Texas; and

**WHEREAS**, the Board of Directors finds it to be in the public interest to authorize the execution of a promotional agreement with the Permian Basin Area Foundation for the purposes described herein;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MIDLAND DEVELOPMENT CORPORATION:**

**SECTION ONE.** That the Chairman and Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the Midland Development Corporation, a promotional agreement with the Permian Basin Area Foundation. Said agreement being in a form substantially similar to Exhibit A, which is attached hereto and incorporated herein for all purposes.

**SECTION TWO.** That the City Comptroller of the City of Midland is hereby authorized and directed to pay the Permian Basin Area Foundation, in accordance with the terms of said agreement, an amount not to exceed \$240,000.00 per year from funds available

in the Midland Development Corporation Promotions Project (800705) upon receipt of proper invoices or statements.

On motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, the above and foregoing resolution was adopted by the Board of Directors of the Midland Development Corporation at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, AD, 2021, by the following vote:

Directors voting "AYE":

Directors voting "NAY":

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WESLEY BOWNDS,  
Chairman of the Midland  
Development Corporation

ATTEST:

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BERRY SIMPSON,  
Secretary for the Midland  
Development Corporation

APPROVED AS TO FORM ONLY:

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JOHN OHNEMILLER,  
Attorney for the Midland  
Development Corporation

## PROMOTIONAL AGREEMENT

THIS PROMOTIONAL AGREEMENT (“*Agreement*”) is made and effective the 14th day of September, 2021, by and between the MIDLAND DEVELOPMENT CORPORATION (“*MDC*”), an economic development corporation existing under the authority of Chapter of 504 of the Texas Local Government Code, and Permian Basin Area Foundation, a Texas nonprofit corporation (“*Foundation*”). In this Agreement, MDC and Foundation are sometimes individually referred to as a “*Party*” and collectively referred to as the “*Parties*.”

### WITNESSETH:

WHEREAS, MDC is authorized to expend promotional funds in order to advertise or publicize the City of Midland for the purpose of developing new and expanded business enterprises pursuant to Section 504.105 of the Texas Local Government Code;

WHEREAS, as of the date hereof, Foundation and the City of Midland (the “*City of Midland*”) have entered into that certain Fiscal Sponsorship Agreement (the “*Fiscal Sponsorship Agreement*”), a copy of which is attached hereto as Exhibit A.

WHEREAS, pursuant to the terms of the Fiscal Sponsorship Agreement, Foundation will carry out certain services in support of the Sponsored Charitable Program (as defined in the Fiscal Sponsorship Agreement) being carried out by the City of Midland, and such services and the Sponsored Charitable Program will help publicize the City of Midland for the purpose of developing new and expanded business enterprises, and will thereby enhance and promote economic development within the City of Midland;

WHEREAS, in connection with entering into the fiscal sponsorship arrangement set forth in the Fiscal Sponsorship Agreement, Foundation generally charges an administrative charge (the “*Administrative Charge*”) and such Administrative Charge ordinarily would be paid by the City of Midland;

WHEREAS, MDC desires to expend promotional funds to cover the Administrative Charge that would otherwise be payable by the City of Midland under the Fiscal Sponsorship Agreement;

WHEREAS, MDC’s expenditure of promotional funds for the services performed by Foundation pursuant to the Fiscal Sponsorship Agreement will assist in publicizing the City of Midland for the purpose of developing new and expanded business enterprises by helping to attract and retain workers in the City of Midland, and will thereby enhance and promote economic development within the City of Midland; and

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits which will accrue to the Parties, as well as the general citizenry of the City of Midland, the Parties have agreed and do hereby agree as follows:

## I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which MDC will pay the Administrative Charge in consideration for the services performed by Foundation under the Fiscal Sponsorship Agreement. MDC recognizes that Foundation would not enter into the Fiscal Sponsorship Agreement with the City of Midland but for MDC's agreement to enter into this Agreement and pay the Administrative Charge. MDC recognizes that the Sponsored Charitable Program and the services performed by Foundation pursuant to the Fiscal Sponsorship Agreement will help develop new and expanded business enterprises in the City of Midland and thereby enhance and promote economic development within the City of Midland.

## II. OBLIGATIONS OF THE PARTIES

**A. MDC Payment.** MDC agrees to pay the Administrative Charge, which shall consist of an annual aggregate amount of \$240,000, which shall be paid each year during the term of this Agreement in equal \$60,000 quarterly installments on January 1st, April 1st, July 1st, and October 1st. The Parties covenant and agree that all funds provided by MDC under this Agreement are in exchange for Foundation's services set forth in the Fiscal Sponsorship Agreement and such services will, together with the Sponsored Charitable Program, help promote the City of Midland.

**B. Foundation Services.** Foundation shall use commercially reasonable efforts to provide those services described in the Fiscal Sponsorship Agreement set forth on Exhibit A, which is attached hereto and incorporated herein for all purposes. Foundation shall perform all services in a workmanlike manner.

**C. Foundation Report.** During the term of this Agreement, at a time and place mutually agreed to by the Parties, MDC shall be entitled to receive a copy of any reports provided by the City of Midland to Foundation pursuant to the terms of the Fiscal Sponsorship Agreement and Foundation shall cooperate with MDC to provide any other information reasonably requested by MDC to enable MDC to evaluate how Foundation's services provided pursuant to the Fiscal Sponsorship Agreement are helping to promote new and expanded business enterprises within the City of Midland.

## III. NO PARTNERSHIP; NO AGENCY; ETC.

Nothing in this Agreement shall constitute the naming of either Party hereto as an agent or legal representative of the other Party for any purpose whatsoever except as specifically and to the extent set forth herein. This Agreement shall not be deemed to create any relationship of agency, employment, partnership, or joint venture between the Parties hereto and each of MDC and Foundation shall make no such representation to anyone. It is the intention of the Parties that all employees, contractors, and advisors for Foundation will be employed or engaged directly by Foundation and not MDC. Foundation shall have exclusive control of, and the exclusive right to control, the details of the work to be performed pursuant to the Fiscal Sponsorship Agreement and all personnel performing the same, and shall be solely responsible for the acts and omissions of its

officers, members, agents, employees or contractors. In no event shall any person participating in or performing any of Foundation's duties or responsibilities hereunder be considered an officer, agent, or employee of MDC. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control," which would give rise to vicarious liability. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of Foundation's work under the Fiscal Sponsorship Agreement and Foundation assumes exclusive responsibility for its work.

#### **IV. TERM OF AGREEMENT**

Upon execution by the Parties, this Agreement becomes effective September 14, 2021, and shall terminate on the date that the Fiscal Sponsorship Agreement terminates in accordance with the terms thereof, or when terminated earlier as a result of a material breach of this Agreement by one of the Parties hereto, as further provided herein. Foundation shall provide MDC prompt written notice of any termination of the Fiscal Sponsorship Agreement and no further Administrative Charge shall be payable by MDC for any work performed by Foundation after the date of such termination.

#### **V. THIRD-PARTY BENEFICIARY; CITY OF MIDLAND**

MDC recognizes that (i) Foundation would not enter into the Fiscal Sponsorship Agreement with the City of Midland but for MDC's agreement to enter into this Agreement and pay the Administrative Charge in lieu of the City of Midland being required to pay the Administrative Charge, (ii) the City of Midland is relying on MDC to pay the Administrative Charge, (iii) MDC's failure to timely pay the Administrative Charge in accordance with the terms of this Agreement will result in a termination of the Fiscal Sponsorship Agreement and cause material harm to the City of Midland, and (iv) in light of the foregoing, the Parties and the City of Midland intend for the City of Midland to be a third-party beneficiary of this Agreement.

#### **VI. GENERAL TERMS**

**A. Entire Agreement.** This Agreement, together with the Fiscal Sponsorship Agreement set forth on Exhibit A, embodies the complete agreement of the Parties, superseding all oral or written, previous and contemporary agreements between the Parties relating to matters in this Agreement; and except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the Parties.

**B. Termination.** As provided in Section 5 of this Agreement, the Parties intend for the term of this Agreement to be co-extensive with the term of the Fiscal Sponsorship Agreement. However, either Party may terminate this Agreement earlier in the event that the other Party materially breaches the terms of this Agreement upon providing written notice of such breach and provided that the breaching party fails to correct the breach within thirty (30) days of receiving such written

notice. The Parties agree that Foundation's failure to perform its obligations under the terms of the Fiscal Sponsorship Agreement shall constitute a material breach of this Agreement by Foundation.

**C. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

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

**E. Notices.** All notices to either Party required under this Agreement shall be sent by certified U.S. mail, postage prepaid, addressed to such Party at its respective address shown below. All notices shall be deemed given on the date so deposited in the mail, unless otherwise provided herein. Either Party hereto may change the address below by sending written notice of such change to the other Party.

*If to MDC:*

Executive Director  
Midland Development Corp.  
200 N. Loraine St., Suite 610  
Midland, Texas 79701

*If to FOUNDATION:*

President & Chief Executive Officer  
Permian Basin Area Foundation  
3312 Andrews Highway  
Midland, Texas 79703

**F. Assignment.** This Agreement shall be binding upon the Parties and their successors and assigns. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

**G. Release. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, FOUNDATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH FOUNDATION HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR MDC'S NEGLIGENCE.**

**H. Amendments.** This Agreement may be amended by written instrument executed by both Parties expressly stating the intention to amend this Agreement; provided, however, that the City of Midland must provide written consent to any amendment to this Agreement that would alter MDC's obligations to pay the Administrative Charge before such amendment may become effective.



**I. Governmental Immunity.** By executing this agreement, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

**J. Waiver of Attorney Fees.** By executing this Agreement, **THE PARTIES AGREE TO WAIVE AND DO HEREBY WAIVE ANY CLAIM THEY HAVE OR MAY HAVE AGAINST THE OTHER PARTY REGARDING THE AWARD OF ATTORNEY FEES, WHICH ARE IN ANY WAY RELATED TO THIS AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION, OR BREACH OF THIS AGREEMENT. THE PARTIES SPECIFICALLY AGREE THAT IF EITHER PARTY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), THAT PARTY AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH IT MIGHT OTHERWISE BE ENTITLED.**

**K. Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the Parties shall be deemed to have occurred in Midland County, Texas.

**L. Third-Party Beneficiary.** Except as otherwise expressly provided in Section 5 of this Agreement, MDC's approval of this Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement other than the City of Midland. No person other than the City of Midland who is not a Party to this Agreement shall have any third-party beneficiary or other rights hereunder.

**M. Governmental Function.** MDC and Foundation hereby acknowledge and agree that the entirety of MDC's performance and obligations under this Agreement are governmental functions. By entering into this Agreement, Foundation releases MDC from any present or future claims asserting that MDC's performance or obligations under this Agreement are not governmental functions.

*[Signature Pages Follow]*

EXECUTED by the duly authorized officials of the Parties as of the day and year first above written.

**MIDLAND DEVELOPMENT  
CORPORATION**

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Wesley Bownds, Chairman

ATTEST:

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Berry Simpson, Secretary

**PERMIAN BASIN  
AREA FOUNDATION**

By \_\_\_\_\_

Name Guy McCrary

Title President & Chief Executive Officer

THE STATE OF TEXAS           §  
  §  
COUNTY OF MIDLAND       §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of the PERMIAN BASIN AREA FOUNDATION.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public, State of Texas

# Exhibit A

## FISCAL SPONSORSHIP AGREEMENT

This Fiscal Sponsorship Agreement (this “**Agreement**”) is entered into by and between Permian Basin Area Foundation, a Texas nonprofit corporation (“**Sponsor**”), and the City of Midland, Texas (“**Grantee**”). This Agreement shall be effective as set out below at Section 1.

### RECITALS

**A.** Sponsor is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), and has an Internal Revenue Service (“**IRS**”) determination letter of qualification under Section 501(c)(3) of the Code, and is further classified as a public charity under Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code;

**B.** Grantee is a political subdivision of the State of Texas within the meaning of Section 170(c)(1) of the Code. Grantee desires to operate a charitable program (the “**Sponsored Charitable Program**”) as described in Exhibit A to this Agreement;

**C.** Grantee desires to have Sponsor act as its fiscal sponsor for the purpose of receiving gifts, grants, and contributions (collectively, “**Donations**”) and distributing such funds to Grantee, subject to Sponsor’s oversight, to be used exclusively in support of the Sponsored Charitable Program.

**D.** In connection with entering into this Agreement, Sponsor and Midland Development Corporation, an economic development corporation existing under the authority of Chapter of 504 of the Texas Local Government Code (“**MDC**”), are entering into that certain written Promotional Agreement in the form attached hereto as Exhibit B (the “**MDC Agreement**”), pursuant to which MDC will pay the Administrative Charge set forth therein in lieu of Grantee being required to pay such Administrative Charge under the terms of this Agreement.

**E.** Sponsor’s Board of Governors has determined that the Sponsored Charitable Program furthers Sponsor’s tax-exempt charitable purposes within the meaning of Section 501(c)(3) of the Code. Sponsor’s Board of Governors has authorized Sponsor to enter into a fiscal sponsorship agreement with Grantee whereby Sponsor will receive Donations on its own behalf and disburse such funds to Grantee in support of the Sponsored Charitable Program, in accordance with the terms and conditions of this Agreement.

**NOW, THEREFORE**, the parties hereby agree as follows:

**1. Effective Date.** This Agreement shall become effective on August 25, 2021.

**2. Fiscal Sponsorship.**

**a. Sponsored Charitable Program Activities.** Grantee’s City Manager (or the City Manager’s designee) shall act as principal coordinator of the Sponsored Charitable Program. Sponsor retains oversight authority to ensure that the funds disbursed by Sponsor to Grantee in support of the Sponsored Charitable Program are used for their intended charitable purposes.

**b. Receipt and Disbursement of Funds; Variance Power.** In connection with its sponsorship of Grantee's Sponsored Charitable Program, Sponsor agrees to receive Donations that are designated as made in support of the Sponsored Charitable Program ("**Sponsored Charitable Program Funds**") from donors unless Sponsor determines in its sole discretion that any such proposed Donation is in violation of Sponsor's Gift Acceptance Policies (as in effect at the time of the Donation) or that acceptance of the Donation would otherwise be materially harmful to Sponsor. Sponsor anticipates granting Sponsored Charitable Program Funds to Grantee, in furtherance of the Sponsored Charitable Program. Upon request by Grantee, Sponsor will disburse Sponsored Charitable Program Funds to Grantee, assuming sufficient funds are available; provided, however, that in order to receive further disbursements Grantee must be in compliance with all of its obligations under this Agreement, including specifically the reporting requirements set forth in Section 5 of this Agreement, and further provided that the date and amount of each disbursement of Sponsored Charitable Program Funds shall be within the discretion and control of Sponsor. Sponsor and Grantee both hereby agree that they intend that this Agreement be interpreted to provide Sponsor with variance powers necessary to enable Sponsor to treat the Sponsored Charitable Program Funds as Sponsor's assets while this Agreement is in effect for U.S. federal income tax purposes. Accordingly, Sponsor, in its sole discretion, shall have the right to withhold, withdraw, or demand the immediate return of any Sponsored Charitable Program Funds if Sponsor determines that Grantee has materially breached this Agreement or cannot accomplish the Section 501(c)(3) charitable purposes of the Sponsored Charitable Program. Grantee hereby irrevocably agrees that the failure of MDC to timely pay the Administrative Charge pursuant to the terms of the MDC Agreement shall constitute a material breach of this Agreement by Grantee for purposes of all provisions of this Agreement. Sponsor retains the right, in its sole discretion, to redirect the Sponsored Charitable Program Funds to a different charitable purpose or beneficiary if the purpose of the Sponsored Charitable Program becomes unnecessary or incapable of fulfillment or otherwise fails to accomplish a charitable purpose within the meaning of Section 501(c)(3) of the Code.

**c. Substantiation of Charitable Donations.** Sponsor agrees that all Sponsored Charitable Program Funds will be reported for U.S. federal income tax purposes as contributions to Sponsor and further agrees to acknowledge receipt of such Sponsored Charitable Program Funds in writing to donors, as required under U.S. federal income tax law, and to furnish evidence of Sponsor's status as an organization qualified under Section 501(c)(3) of the Code to donors on request.

**d. Net Funds; Contributions of Non-Publicly Traded Property.** For the avoidance of doubt, the amount of any Sponsored Charitable Program Funds received by Sponsor shall be determined net of any credit card fees, brokerage fees, or similar charges imposed in connection with any donor making a contribution or Sponsor liquidating any non-cash contribution. Sponsor anticipates that the majority of the contributions received in support of the Sponsored Charitable Program will be in the form of monetary contributions or contributions of publicly traded securities. Sponsor and Grantee hereby acknowledge that accepting, owning, and liquidating contributions of property other than publicly traded securities ("**Non-Publicly Traded Property**") may involve unique costs and considerations. Accordingly, prior to accepting any contribution of Non-Publicly Traded Property, Sponsor and Grantee shall communicate in good faith to determine the terms upon which the Sponsor may accept such contribution. Further, Sponsor and Grantee hereby agree that the amount of the cash proceeds received by Sponsor upon

a liquidation of Non-Publicly Traded Property and any other income received in respect of such Non-Publicly Traded Property shall be determined net of any costs associated with owning or liquidating such Non-Publicly Traded Property and only such net cash amount shall be treated as Sponsored Charitable Program Funds. For the avoidance of doubt, Sponsor shall have sole discretion to determine whether to accept or reject any proposed contribution of Non-Publicly Traded Property.

**e. Administrative Charge.** MDC will pay the Administrative Charge to Sponsor pursuant to the terms of the MDC Agreement. Sponsor and Grantee covenant and agree that (i) all Administrative Charges paid by MDC to Sponsor under the MDC Agreement are in exchange for Sponsor's services set forth in this Agreement, (ii) such Administrative Charges are being paid by MDC to Sponsor in lieu of the comparable administrative charges Sponsor otherwise would require Grantee to pay as a condition to entering into this Agreement, and (iii) such Administrative Charges are consistent with the customary fees charged by sponsoring charities under fiscal sponsorship agreements and do not constitute unrelated business taxable income to Sponsor. Pursuant to the terms of the MDC Agreement, Grantee is a third-party beneficiary to the MDC Agreement.

**3. Review by Sponsor.** Sponsor and its representatives shall be given full access to the books, records, and senior management and financial personnel of Grantee with respect to the Sponsored Charitable Program as Sponsor may reasonably request. Sponsor may, at its own expense, conduct an independent financial audit and/or program audit of Grantee's books and records in relation to the charitable activities for which Sponsor has disbursed Sponsored Charitable Program Funds.

**4. Financial Accounting and Reporting.** Sponsor and Grantee will maintain books and financial records for the Sponsored Charitable Program in accordance with generally accepted accounting principles, and shall retain records as long as required by law and make records available to auditors as required by law.

**5. Grantee Reporting Requirements.** Grantee shall submit full and complete quarterly reports to Sponsor on the progress of the Sponsored Charitable Program. Such reports shall be due within thirty (30) days of the end of each calendar quarter, for so long as this Agreement remains in effect. Such reports shall describe Grantee's use of the Sponsored Charitable Program Funds, compliance with the terms of all grants made to Sponsor pursuant to this Agreement, and the progress made by Grantee in accomplishing the purposes of the Sponsored Charitable Program. If any funding source of Donations in support of the Sponsored Charitable Program imposes financial reporting requirements on Sponsor as a condition to such funding source making the Donation, Sponsor and Grantee shall work together in good faith to provide such funding source with the requested financial reports. To the extent Sponsor determines such financial reports required by any potential funding source are materially more onerous than the financial reports already required to be provided by Grantee to Sponsor pursuant to this Section 5, Sponsor shall consult with Grantee prior to accepting Donations from such funding source.

**6. Notices.** All notices or reports under this Agreement shall be addressed as follows:

**If to Sponsor:**

Permian Basin Area Foundation  
Attn: President and CEO  
3312 Andrews Highway  
Midland, Texas 79703

**If to Grantee:**

City of Midland  
Attn: City Manager  
300 N. Loraine Street, Suite 310  
Midland, Texas 79701

Such addresses may be changed by written notice or email notice given by such party to the other or by other form of notice agreed to by the parties.

**7. Restrictions on Use of Sponsored Charitable Program Funds.**

**a. Tax-Exempt Purposes.** Grantee shall use the funds it receives from Sponsor solely for the charitable purposes of the Sponsored Charitable Program and shall not use such funds in any way that will jeopardize the tax-exempt status of Sponsor as a charitable organization described in Section 501(c)(3) of the Code. Grantee agrees to comply with any written request by Sponsor to cease activities that, in Sponsor's reasonable judgment, might jeopardize the tax-exempt status of Sponsor, and further agrees that Sponsor's obligation to make funds available to Grantee from the Sponsored Charitable Program Funds pursuant to this Agreement shall be automatically suspended in the event that Grantee fails to comply with any such request.

**b. Prohibited Activities.** No portion of the Sponsored Charitable Program Funds shall be used in any attempt to influence legislation. No portion of the Sponsored Charitable Program Funds shall be used to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, induce or encourage violations of law or public policy, cause private inurement or improper private benefit to occur, support terrorist activities, terrorist organizations or individuals who engage in or support terrorist activities, or take any other action inconsistent with qualification under Section 501(c)(3) of the Code.

**8. Relationship of the Parties.** Nothing in this Agreement shall constitute the naming of either party hereto as an agent or legal representative of the other party for any purpose whatsoever except as specifically and to the extent set forth herein. This Agreement shall not be deemed to create any relationship of agency, employment, partnership, or joint venture between the parties hereto and Grantee shall make no such representation to anyone. It is the intention of the parties that all employees, contractors, and advisors for Grantee will be employed or engaged directly by Grantee and not by Sponsor.

**9. Indemnification.** Grantee hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless Sponsor, its officers, governors and/or directors, trustees, employees and agents, from and against any and all claims,

liabilities, losses and expenses (including reasonable attorneys' fees) directly, indirectly, wholly or partially arising from or in connection with any act or omission of Grantee, its employees or agents, in applying for, accepting, expending or applying Sponsored Charitable Program Funds, or in carrying out the Sponsored Charitable Program, except to the extent that such claims, liabilities, losses or expenses arise from or in connection with any act or omission of Sponsor or its officers, governors and/or directors, trustees, employees or agents that constitutes gross negligence or willful misconduct as reasonably determined by Grantee after consulting with competent legal counsel and submitting a written reasoned basis to Sponsor supporting such determination.

**10. Representations by Grantee.** Grantee hereby represents that it is duly authorized to enter into this Agreement and has obtained all necessary approvals required under applicable federal, state, or local law to enter into this Agreement. Grantee shall only use Sponsored Charitable Program Funds in a manner that is consistent with the purposes set forth on Exhibit A to this Agreement and charitable purposes as defined in Section 501(c)(3) of the Code.

**11. Fundraising.** All solicitation materials that use the name of Sponsor or its affiliates, including both written solicitation materials and scripts for oral solicitation communications, shall be subject to Sponsor's advance approval. Grantee shall comply with all laws and regulations concerning the solicitation of charitable contributions. All original letters of inquiry and grant proposals that use the name of Sponsor or any of its affiliates shall be subject to Sponsor's advance approval in its sole discretion and shall be signed by an officer or executive level employee of Sponsor. All written grant agreements, pledges, or other commitments with funding sources desiring to make Donations to the Sponsored Charitable Program shall be subject to Sponsor's advance written approval in its sole discretion and shall be signed by an officer or executive level employee of Sponsor.

**12. Publicity.** Any and all use of Sponsor's name in media communications and fundraising materials with respect to the Sponsored Charitable Program shall be subject to Sponsor's prior review and approval. Grantee shall provide Sponsor with reasonable advance notice with respect to any proposed use of Sponsor's name in order to allow for such prior review.

**13. Duration of Agreement.** This Agreement shall remain in effect until the earliest of the following:

**a.** Grantee notifies Sponsor that (i) a nonprofit corporation has been organized and shall be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Code, such nonprofit corporation desires to carry out the Sponsored Charitable Program, and such nonprofit corporation has received a determination letter from the IRS recognizing the nonprofit corporation as a Section 501(c)(3) charitable organization further classified as a public charity (a "**Successor Charity**"), or (ii) Grantee has entered into a binding fiscal sponsorship agreement with another charitable organization recognized as a tax-exempt charitable organization under Section 501(c)(3) of the Code and further classified as a public charity within the meaning of Section 509(a) of the Code (a "**Successor Fiscal Sponsor**"); or

**b.** Sponsor or Grantee terminates this Agreement pursuant to the provisions of Section 14 below.



**14. Termination.** Either party may terminate this Agreement without cause by giving forty-five (45) days' written notice to the other party.

**15. Disposition of Sponsored Charitable Program Funds in Termination.** If there are any Sponsored Charitable Program Funds remaining after this Agreement has terminated, the following terms and conditions shall apply, subject to Sponsor's variance power set forth above at Section 2b:

**a.** If a Successor Charity has received a determination letter from the IRS of its qualification under Section 501(c)(3) of the Code, upon Grantee's written request Sponsor shall transfer the balance of all Sponsored Charitable Program Funds, net of any liabilities incurred by Sponsor in connection with the Sponsored Charitable Program, to such Successor Charity for use in the Sponsored Charitable Program.

**b.** If Grantee has entered into a written fiscal sponsorship agreement with a Successor Fiscal Sponsor, upon Grantee's written request Sponsor shall transfer the balance of any Sponsored Charitable Program Funds, net of any liabilities that Sponsor has incurred in connection with the Sponsored Charitable Program, to such Successor Fiscal Sponsor for use in the Sponsored Charitable Program.

**c.** In the event that Grantee has not directed Sponsor to transfer the balance of any Sponsored Charitable Program Funds, net of any liabilities incurred by Sponsor in connection with the Sponsored Charitable Program, to a Successor Charity or a Successor Fiscal Sponsor, Sponsor shall have complete discretion to allocate the Sponsored Charitable Program Funds in any manner that furthers charitable purposes within the meaning of Section 501(c)(3) of the Code and is consistent with any applicable charitable trust laws.

**16. Miscellaneous Provisions.**

**a. Amendments.** This Agreement may not be amended or modified, except in writing signed by both Sponsor and Grantee.

**b. Dispute Resolution.** In the event of a dispute under this Agreement, Sponsor and Grantee shall make a good faith effort to resolve such dispute cooperatively before seeking to resolve any dispute by arbitration or otherwise proceeding with any remedy available at law or in equity.

**c. Choice of Forum.** The parties agree that venue in any suit, proceeding, arbitration, mediation, or other action arising out of this Agreement shall be in Midland County, Texas.

**d. Consent to Jurisdiction.** For all purposes related to this Agreement, the parties hereby consent to personal jurisdiction in the state courts in and for the State of Texas.

**e. Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof; it supersedes any prior agreement and understandings between the parties as to such matters, oral or written, all of which are hereby cancelled.

**f. Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas without regard to any choice of law provisions.

**g. Severability.** Each provision of this Agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision.

**h. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

**i. Attorneys' Fees.** In the event of any controversy, claim, or dispute between the parties arising out of or related to this Agreement, or the alleged breach thereof, the prevailing party shall, in addition to any other relief, be entitled to recover its reasonable attorneys' fees and related legal costs (such as court filing fees).

**Remainder of page intentionally left blank**

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized their respective representatives to execute this Agreement effective as of the day and year set out in Section 1 of this Agreement.

**SPONSOR**

Permian Basin Area Foundation

---

Guy McCrary, President and Chief  
Executive Officer

**GRANTEE**

City of Midland

---

Robert Patrick, City Manager

## EXHIBIT A

### DESCRIPTION OF SPONSORED CHARITABLE PROGRAM

Project Scope: Hogan Park (the “**Park**”) is a community park covering approximately 600 acres in the City of Midland (the “**City**”), which received the real estate that comprises the Park through a gift several decades ago. The Park provides facilities for baseball, softball, soccer, run by volunteer leagues and associations, and playgrounds for children and dogs. A group of citizens working with the City have envisioned a new design for the Park, which includes improved facilities, as well as new enhancements that would attract families from around the West Texas region and large organized sports tournaments.

- The City will retain ownership of the Park throughout the term of this Agreement. The City contemplates that a new tax-exempt organization that will function as a “conservancy” for the Park may eventually be incorporated as a nonprofit corporation and apply for recognition from the IRS of its status as a tax-exempt organization described in Section 501(c)(3) of the Code and further classified as a public charity within the meaning of Section 509(a) of the Code. However, in the interim, the City will carry out the activities necessary to operate and maintain grounds, facilities, and amenities, at the Park.
- Grants made by Permian Basin Area Foundation pursuant to the terms of the written Fiscal Sponsorship Agreement with the City shall be used by the City solely for the payment of invoices from consultants, contractors, and other vendors or service providers, as well as other reasonable expenses related to the construction, operation, and maintenance of the Park and the improved facilities located thereon. The City shall not use any such grants in a manner that is inconsistent with charitable purposes, as such term is defined in Section 501(c)(3) of the Code.

**EXHIBIT B**

**FORM OF PROMOTIONAL AGREEMENT WITH  
MIDLAND DEVELOPMENT CORPORATION**

Exhibit B to Fiscal Sponsorship Agreement

## FISCAL SPONSORSHIP AGREEMENT

This Fiscal Sponsorship Agreement (this “**Agreement**”) is entered into by and between Permian Basin Area Foundation, a Texas nonprofit corporation (“**Sponsor**”), and the City of Midland, Texas (“**Grantee**”). This Agreement shall be effective as set out below at Section 1.

### RECITALS

**A.** Sponsor is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), and has an Internal Revenue Service (“**IRS**”) determination letter of qualification under Section 501(c)(3) of the Code, and is further classified as a public charity under Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code;

**B.** Grantee is a political subdivision of the State of Texas within the meaning of Section 170(c)(1) of the Code. Grantee desires to operate a charitable program (the “**Sponsored Charitable Program**”) as described in Exhibit A to this Agreement;

**C.** Grantee desires to have Sponsor act as its fiscal sponsor for the purpose of receiving gifts, grants, and contributions (collectively, “**Donations**”) and distributing such funds to Grantee, subject to Sponsor’s oversight, to be used exclusively in support of the Sponsored Charitable Program.

**D.** In connection with entering into this Agreement, Sponsor and Midland Development Corporation, an economic development corporation existing under the authority of Chapter of 504 of the Texas Local Government Code (“**MDC**”), are entering into that certain written Promotional Agreement in the form attached hereto as Exhibit B (the “**MDC Agreement**”), pursuant to which MDC will pay the Administrative Charge set forth therein in lieu of Grantee being required to pay such Administrative Charge under the terms of this Agreement.

**E.** Sponsor’s Board of Governors has determined that the Sponsored Charitable Program furthers Sponsor’s tax-exempt charitable purposes within the meaning of Section 501(c)(3) of the Code. Sponsor’s Board of Governors has authorized Sponsor to enter into a fiscal sponsorship agreement with Grantee whereby Sponsor will receive Donations on its own behalf and disburse such funds to Grantee in support of the Sponsored Charitable Program, in accordance with the terms and conditions of this Agreement.

**NOW, THEREFORE**, the parties hereby agree as follows:

**1. Effective Date.** This Agreement shall become effective on August 25, 2021.

**2. Fiscal Sponsorship.**

**a. Sponsored Charitable Program Activities.** Grantee’s City Manager (or the City Manager’s designee) shall act as principal coordinator of the Sponsored Charitable Program. Sponsor retains oversight authority to ensure that the funds disbursed by Sponsor to Grantee in support of the Sponsored Charitable Program are used for their intended charitable purposes.

**b. Receipt and Disbursement of Funds; Variance Power.** In connection with its sponsorship of Grantee's Sponsored Charitable Program, Sponsor agrees to receive Donations that are designated as made in support of the Sponsored Charitable Program ("**Sponsored Charitable Program Funds**") from donors unless Sponsor determines in its sole discretion that any such proposed Donation is in violation of Sponsor's Gift Acceptance Policies (as in effect at the time of the Donation) or that acceptance of the Donation would otherwise be materially harmful to Sponsor. Sponsor anticipates granting Sponsored Charitable Program Funds to Grantee, in furtherance of the Sponsored Charitable Program. Upon request by Grantee, Sponsor will disburse Sponsored Charitable Program Funds to Grantee, assuming sufficient funds are available; provided, however, that in order to receive further disbursements Grantee must be in compliance with all of its obligations under this Agreement, including specifically the reporting requirements set forth in Section 5 of this Agreement, and further provided that the date and amount of each disbursement of Sponsored Charitable Program Funds shall be within the discretion and control of Sponsor. Sponsor and Grantee both hereby agree that they intend that this Agreement be interpreted to provide Sponsor with variance powers necessary to enable Sponsor to treat the Sponsored Charitable Program Funds as Sponsor's assets while this Agreement is in effect for U.S. federal income tax purposes. Accordingly, Sponsor, in its sole discretion, shall have the right to withhold, withdraw, or demand the immediate return of any Sponsored Charitable Program Funds if Sponsor determines that Grantee has materially breached this Agreement or cannot accomplish the Section 501(c)(3) charitable purposes of the Sponsored Charitable Program. Grantee hereby irrevocably agrees that the failure of MDC to timely pay the Administrative Charge pursuant to the terms of the MDC Agreement shall constitute a material breach of this Agreement by Grantee for purposes of all provisions of this Agreement. Sponsor retains the right, in its sole discretion, to redirect the Sponsored Charitable Program Funds to a different charitable purpose or beneficiary if the purpose of the Sponsored Charitable Program becomes unnecessary or incapable of fulfillment or otherwise fails to accomplish a charitable purpose within the meaning of Section 501(c)(3) of the Code.

**c. Substantiation of Charitable Donations.** Sponsor agrees that all Sponsored Charitable Program Funds will be reported for U.S. federal income tax purposes as contributions to Sponsor and further agrees to acknowledge receipt of such Sponsored Charitable Program Funds in writing to donors, as required under U.S. federal income tax law, and to furnish evidence of Sponsor's status as an organization qualified under Section 501(c)(3) of the Code to donors on request.

**d. Net Funds; Contributions of Non-Publicly Traded Property.** For the avoidance of doubt, the amount of any Sponsored Charitable Program Funds received by Sponsor shall be determined net of any credit card fees, brokerage fees, or similar charges imposed in connection with any donor making a contribution or Sponsor liquidating any non-cash contribution. Sponsor anticipates that the majority of the contributions received in support of the Sponsored Charitable Program will be in the form of monetary contributions or contributions of publicly traded securities. Sponsor and Grantee hereby acknowledge that accepting, owning, and liquidating contributions of property other than publicly traded securities ("**Non-Publicly Traded Property**") may involve unique costs and considerations. Accordingly, prior to accepting any contribution of Non-Publicly Traded Property, Sponsor and Grantee shall communicate in good faith to determine the terms upon which the Sponsor may accept such contribution. Further, Sponsor and Grantee hereby agree that the amount of the cash proceeds received by Sponsor upon

a liquidation of Non-Publicly Traded Property and any other income received in respect of such Non-Publicly Traded Property shall be determined net of any costs associated with owning or liquidating such Non-Publicly Traded Property and only such net cash amount shall be treated as Sponsored Charitable Program Funds. For the avoidance of doubt, Sponsor shall have sole discretion to determine whether to accept or reject any proposed contribution of Non-Publicly Traded Property.

e. **Administrative Charge.** MDC will pay the Administrative Charge to Sponsor pursuant to the terms of the MDC Agreement. Sponsor and Grantee covenant and agree that (i) all Administrative Charges paid by MDC to Sponsor under the MDC Agreement are in exchange for Sponsor's services set forth in this Agreement, (ii) such Administrative Charges are being paid by MDC to Sponsor in lieu of the comparable administrative charges Sponsor otherwise would require Grantee to pay as a condition to entering into Agreement, and (iii) such Administrative Charges are consistent with the customary fees charged by sponsoring charities under fiscal sponsorship agreements and do not constitute unrelated business taxable income to Sponsor. Pursuant to the terms of the MDC Agreement, Grantee is a third-party beneficiary to the MDC Agreement.

3. **Review by Sponsor.** Sponsor and its representatives shall be given full access to the books, records, and senior management and financial personnel of Grantee with respect to the Sponsored Charitable Program as Sponsor may reasonably request. Sponsor may, at its own expense, conduct an independent financial audit and/or program audit of Grantee's books and records in relation to the charitable activities for which Sponsor has disbursed Sponsored Charitable Program Funds.

4. **Financial Accounting and Reporting.** Sponsor and Grantee will maintain books and financial records for the Sponsored Charitable Program in accordance with generally accepted accounting principles, and shall retain records as long as required by law and make records available to auditors as required by law.

5. **Grantee Reporting Requirements.** Grantee shall submit full and complete quarterly reports to Sponsor on the progress of the Sponsored Charitable Program. Such reports shall be due within thirty (30) days of the end of each calendar quarter, for so long as this Agreement remains in effect. Such reports shall describe Grantee's use of the Sponsored Charitable Program Funds, compliance with the terms of all grants made to Sponsor pursuant to this Agreement, and the progress made by Grantee in accomplishing the purposes of the Sponsored Charitable Program. If any funding source of Donations in support of the Sponsored Charitable Program imposes financial reporting requirements on Sponsor as a condition to such funding source making the Donation, Sponsor and Grantee shall work together in good faith to provide such funding source with the requested financial reports. To the extent Sponsor determines such financial reports required by any potential funding source are materially more onerous than the financial reports already required to be provided by Grantee to Sponsor pursuant to this Section 5, Sponsor shall consult with Grantee prior to accepting Donations from such funding source.

6. **Notices.** All notices or reports under this Agreement shall be addressed as follows:

**If to Sponsor:**



Permian Basin Area Foundation  
Attn: President and CEO  
3312 Andrews Highway  
Midland, Texas 79703

**If to Grantee:**

City of Midland  
Attn: City Manager  
300 N. Loraine Street, Suite 310  
Midland, Texas 79701

Such addresses may be changed by written notice or email notice given by such party to the other or by other form of notice agreed to by the parties.

**7. Restrictions on Use of Sponsored Charitable Program Funds.**

**a. Tax-Exempt Purposes.** Grantee shall use the funds it receives from Sponsor solely for the charitable purposes of the Sponsored Charitable Program and shall not use such funds in any way that will jeopardize the tax-exempt status of Sponsor as a charitable organization described in Section 501(c)(3) of the Code. Grantee agrees to comply with any written request by Sponsor to cease activities that, in Sponsor's reasonable judgment, might jeopardize the tax-exempt status of Sponsor, and further agrees that Sponsor's obligation to make funds available to Grantee from the Sponsored Charitable Program Funds pursuant to this Agreement shall be automatically suspended in the event that Grantee fails to comply with any such request.

**b. Prohibited Activities.** No portion of the Sponsored Charitable Program Funds shall be used in any attempt to influence legislation. No portion of the Sponsored Charitable Program Funds shall be used to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, induce or encourage violations of law or public policy, cause private inurement or improper private benefit to occur, support terrorist activities, terrorist organizations or individuals who engage in or support terrorist activities, or take any other action inconsistent with qualification under Section 501(c)(3) of the Code.

**8. Relationship of the Parties.** Nothing in this Agreement shall constitute the naming of either party hereto as an agent or legal representative of the other party for any purpose whatsoever except as specifically and to the extent set forth herein. This Agreement shall not be deemed to create any relationship of agency, employment, partnership, or joint venture between the parties hereto and Grantee shall make no such representation to anyone. It is the intention of the parties that all employees, contractors, and advisors for Grantee will be employed or engaged directly by Grantee and not by Sponsor.

**9. Indemnification.** Grantee hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless Sponsor, its officers, governors and/or directors, trustees, employees and agents, from and against any and all claims,

liabilities, losses and expenses (including reasonable attorneys' fees) directly, indirectly, wholly or partially arising from or in connection with any act or omission of Grantee, its employees or agents, in applying for, accepting, expending or applying Sponsored Charitable Program Funds, or in carrying out the Sponsored Charitable Program, except to the extent that such claims, liabilities, losses or expenses arise from or in connection with any act or omission of Sponsor or its officers, governors and/or directors, trustees, employees or agents that constitutes gross negligence or willful misconduct as reasonably determined by Grantee after consulting with competent legal counsel and submitting a written reasoned basis to Sponsor supporting such determination.

**10. Representations by Grantee.** Grantee hereby represents that it is duly authorized to enter into this Agreement and has obtained all necessary approvals required under applicable federal, state, or local law to enter into this Agreement. Grantee shall only use Sponsored Charitable Program Funds in a manner that is consistent with the purposes set forth on Exhibit A to this Agreement and charitable purposes as defined in Section 501(c)(3) of the Code.

**11. Fundraising.** All solicitation materials that use the name of Sponsor or its affiliates, including both written solicitation materials and scripts for oral solicitation communications, shall be subject to Sponsor's advance approval. Grantee shall comply with all laws and regulations concerning the solicitation of charitable contributions. All original letters of inquiry and grant proposals that use the name of Sponsor or any of its affiliates shall be subject to Sponsor's advance approval in its sole discretion and shall be signed by an officer or executive level employee of Sponsor. All written grant agreements, pledges, or other commitments with funding sources desiring to make Donations to the Sponsored Charitable Program shall be subject to Sponsor's advance written approval in its sole discretion and shall be signed by an officer or executive level employee of Sponsor.

**12. Publicity.** Any and all use of Sponsor's name in media communications and fundraising materials with respect to the Sponsored Charitable Program shall be subject to Sponsor's prior review and approval. Grantee shall provide Sponsor with reasonable advance notice with respect to any proposed use of Sponsor's name in order to allow for such prior review.

**13. Duration of Agreement.** This Agreement shall remain in effect until the earliest of the following:

**a.** Grantee notifies Sponsor that (i) a nonprofit corporation has been organized and shall be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Code, such nonprofit corporation desires to carry out the Sponsored Charitable Program, and such nonprofit corporation has received a determination letter from the IRS recognizing the nonprofit corporation as a Section 501(c)(3) charitable organization further classified as a public charity (a "**Successor Charity**"), or (ii) Grantee has entered into a binding fiscal sponsorship agreement with another charitable organization recognized as a tax-exempt charitable organization under Section 501(c)(3) of the Code and further classified as a public charity within the meaning of Section 509(a) of the Code (a "**Successor Fiscal Sponsor**"); or

**b.** Sponsor or Grantee terminates this Agreement pursuant to the provisions of Section 14 below.

**14. Termination.** Either party may terminate this Agreement without cause by giving forty-five (45) days' written notice to the other party.

**15. Disposition of Sponsored Charitable Program Funds in Termination.** If there are any Sponsored Charitable Program Funds remaining after this Agreement has terminated, the following terms and conditions shall apply, subject to Sponsor's variance power set forth above at Section 2b:

**a.** If a Successor Charity has received a determination letter from the IRS of its qualification under Section 501(c)(3) of the Code, upon Grantee's written request Sponsor shall transfer the balance of all Sponsored Charitable Program Funds, net of any liabilities incurred by Sponsor in connection with the Sponsored Charitable Program, to such Successor Charity for use in the Sponsored Charitable Program.

**b.** If Grantee has entered into a written fiscal sponsorship agreement with a Successor Fiscal Sponsor, upon Grantee's written request Sponsor shall transfer the balance of any Sponsored Charitable Program Funds, net of any liabilities that Sponsor has incurred in connection with the Sponsored Charitable Program, to such Successor Fiscal Sponsor for use in the Sponsored Charitable Program.

**c.** In the event that Grantee has not directed Sponsor to transfer the balance of any Sponsored Charitable Program Funds, net of any liabilities incurred by Sponsor in connection with the Sponsored Charitable Program, to a Successor Charity or a Successor Fiscal Sponsor, Sponsor shall have complete discretion to allocate the Sponsored Charitable Program Funds in any manner that furthers charitable purposes within the meaning of Section 501(c)(3) of the Code and is consistent with any applicable charitable trust laws.

**16. Miscellaneous Provisions.**

**a. Amendments.** This Agreement may not be amended or modified, except in writing signed by both Sponsor and Grantee.

**b. Dispute Resolution.** In the event of a dispute under this Agreement, Sponsor and Grantee shall make a good faith effort to resolve such dispute cooperatively before seeking to resolve any dispute by arbitration or otherwise proceeding with any remedy available at law or in equity.

**c. Choice of Forum.** The parties agree that venue in any suit, proceeding, arbitration, mediation, or other action arising out of this Agreement shall be in Midland County, Texas.

**d. Consent to Jurisdiction.** For all purposes related to this Agreement, the parties hereby consent to personal jurisdiction in the state courts in and for the State of Texas.

**e. Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof; it supersedes any prior agreement and understandings between the parties as to such matters, oral or written, all of which are hereby cancelled.

**f. Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas without regard to any choice of law provisions.

**g. Severability.** Each provision of this Agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision.

**h. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

**i. Attorneys' Fees.** In the event of any controversy, claim, or dispute between the parties arising out of or related to this Agreement, or the alleged breach thereof, the prevailing party shall, in addition to any other relief, be entitled to recover its reasonable attorneys' fees and related legal costs (such as court filing fees).

**Remainder of page intentionally left blank**

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized their respective representatives to execute this Agreement effective as of the day and year set out in Section 1 of this Agreement.


**SPONSOR**

Permian Basin Area Foundation

By:   
Its: President & CEO

**GRANTEE**

City of Midland

  
Robert Patrick, City Manager

## EXHIBIT A

### DESCRIPTION OF SPONSORED CHARITABLE PROGRAM

Project Scope: Hogan Park (the “**Park**”) is a community park covering approximately 600 acres in the City of Midland (the “**City**”), which received the real estate that comprises the Park through a gift several decades ago. The Park provides facilities for baseball, softball, soccer, run by volunteer leagues and associations, and playgrounds for children and dogs. A group of citizens working with the City have envisioned a new design for the Park, which includes improved facilities, as well as new enhancements that would attract families from around the West Texas region and large organized sports tournaments.

- The City will retain ownership of the Park throughout the term of this Agreement. The City contemplates that a new tax-exempt organization that will function as a “conservancy” for the Park may eventually be incorporated as a nonprofit corporation and apply for recognition from the IRS of its status as a tax-exempt organization described in Section 501(c)(3) of the Code and further classified as a public charity within the meaning of Section 509(a) of the Code. However, in the interim, the City will carry out the activities necessary to operate and maintain grounds, facilities, and amenities, at the Park.
- Grants made by Permian Basin Area Foundation pursuant to the terms of the written Fiscal Sponsorship Agreement with the City shall be used by the City solely for the payment of invoices from consultants, contractors, and other vendors or service providers, as well as other reasonable expenses related to the construction, operation, and maintenance of the Park and the improved facilities located thereon. The City shall not use any such grants in a manner that is inconsistent with charitable purposes, as such term is defined in Section 501(c)(3) of the Code.

**EXHIBIT B**

**FORM OF PROMOTIONAL AGREEMENT WITH  
MIDLAND DEVELOPMENT CORPORATION**

Exhibit B to Fiscal Sponsorship Agreement

# Income Statement



**MIDLAND DEVELOPMENT CORPORATION**  
**INCOME STATEMENT FOR THE 11 MONTHS ENDED**  
**August 31, 2021**

	Aug-21	YTD	Budgeted Amount
<b>Revenue</b>	<b>\$1,258,254.61</b>	<b>\$11,603,103.71</b>	<b>\$9,000,000.00</b>
40100 - State Sales Tax	\$1,176,070.55	\$10,688,472.12	\$9,000,000.00
40600 - Public ROW Use Fees	\$0.00	\$3,858.40	\$0.00
43000 - Interest	\$184.72	\$3,209.08	\$0.00
43010 - Interest - Nonpooled Invest	\$612.34	\$12,307.11	\$0.00
46190 - Miscellaneous Rentals	\$81,387.00	\$895,257.00	\$0.00
4235150 - Midland Dvlpmt Corp Revenue	\$1,258,254.61	\$11,603,103.71	\$9,000,000.00

<b>Expense</b>	<b>\$1,281,890.86</b>	<b>\$12,873,345.71</b>	<b>\$22,656,815.00</b>
51010 - Base Salary	\$19,020.84	\$464,215.37	\$692,150.00
51090 - Fica MDC Portion	\$1,455.10	\$29,295.71	\$65,456.00
51110 - Health Insurance	\$1,424.74	\$26,927.21	\$55,460.00
51135 - ACCE Profit Sharing	\$0.00	\$24,895.47	\$48,451.00
52010 - Office Supplies	\$419.62	\$2,943.92	\$11,000.00
52110 - Motor Vehicle Supplies	\$0.00	\$257.95	\$1,000.00
52115 - Minor Furniture & Fixtures	\$0.00	\$0.00	\$500.00
52155 - Minor Computer Hrdwre & Periph	\$0.00	\$0.00	\$5,000.00
52160 - Computer Software & Supplies	\$0.00	\$16,739.07	\$30,000.00
52620 - Postage	\$25.75	\$145.75	\$700.00
53010 - Communication	\$1,359.30	\$15,533.46	\$17,000.00
53030 - Light & Power	\$8.89	\$89.25	\$150.00
53110 - Insurance-External	-\$9.78	\$39,774.60	\$190,000.00
53212 - Equipment Rental-External	\$345.34	\$3,796.34	\$5,000.00
53220 - Advertising	\$7,581.24	\$200,174.41	\$200,000.00
53370 - Grounds Maintenance	\$985.00	\$9,842.87	\$5,000.00
53405 - Software Maintenance	\$1,112.53	\$13,719.12	\$12,000.00
53440 - External Audit Fees	\$0.00	\$22,218.00	\$20,000.00
53450 - Consulting Fees	\$65,555.93	\$428,613.74	\$500,000.00
53510 - Travel & Entertainment	\$523.51	\$2,596.51	\$15,000.00
53520 - Dues & Subscriptions	\$4,103.90	\$18,236.65	\$20,000.00
53530 - Training,Registration Fees,Etc	\$150.00	\$1,674.89	\$10,000.00
53905 - Economic Development Incentive	\$1,002,000.00	\$8,350,318.23	\$18,553,329.00
53907 - Business Recruitment & Retentn	\$3,877.31	\$34,133.99	\$50,000.00
53920 - Rent	\$6,094.00	\$65,865.68	\$75,000.00
54010 - Building Maintenance	\$476.93	\$93,734.13	\$45,000.00
55120 - Maint. - Instruments & Appara.	\$90.45	\$446.09	\$3,000.00
56188 - MOTRAN	\$0.00	\$137,000.00	\$137,000.00
56202 - General Fund Services	\$32,557.08	\$358,127.88	\$390,619.00
56410 - Payment of Principal	\$0.00	\$0.00	\$60,000.00
56420 - Interest Expense	\$0.00	\$0.00	\$12,000.00
56910 - Depreciation Expense	\$37,344.26	\$373,442.65	\$0.00
56995 - Project Non Capital - Promotions	\$65,000.00	\$368,932.70	\$27,000.00
57000 - Capital Land Purchases	\$0.00	\$20,812.50	\$0.00
57001 - Capital Buildings & Structures	\$0.00	\$843,191.20	\$0.00
57002 - Capital Improve Other Than Bldg	\$0.00	\$143,416.97	\$1,400,000.00
57070 - Construction in Process	\$30,388.92	\$762,233.40	\$0.00
235235 - Midland Development Corp	\$1,281,890.86	\$12,873,345.71	\$22,656,815.00

**August 2021 Net Income: (\$23,636.25)**

**Year-to-Date Net Income: (\$1,270,242.00)**

# Balance Sheet

MIDLAND DEVELOPMENT CORPORATION  
BALANCE SHEET FOR THE PERIOD ENDED  
August 31, 2021  
(Used for Internal Purposes Only)

ASSETS

Current Assets

Cash and cash equivalents	22,660,811	
Sales tax receivable	2,186,318	
Prepaid expenses	107,133	
Accounts receivable	-	
	-	24,954,261

Non-Current Assets

Capital Assets, net	21,901,119	
Forgivable Loans		
Made to Primary Government	-	
Made to Other	506,579	
Total Forgivable Loans	506,579	
		22,407,698

Total Assets		\$ 47,361,959
--------------	--	---------------

LIABILITIES AND NET POSITION

Liabilities

Accounts payable	-	
Retainage Payable	36,612	
Capital Leases payable	173,698	
Commitments payable		
Due within one year	7,068,493	
Due in more than one year	9,922,962	
Total Commitments Payable	16,991,455	
		17,201,766

Net Position

Net investment in capital assets	21,901,119	
Restricted for Forgivable Loans	506,579	
Restricted for Capital Leases	173,698	
Promotions	1,843,275	
Unrestricted	5,735,521	
	30,160,193	

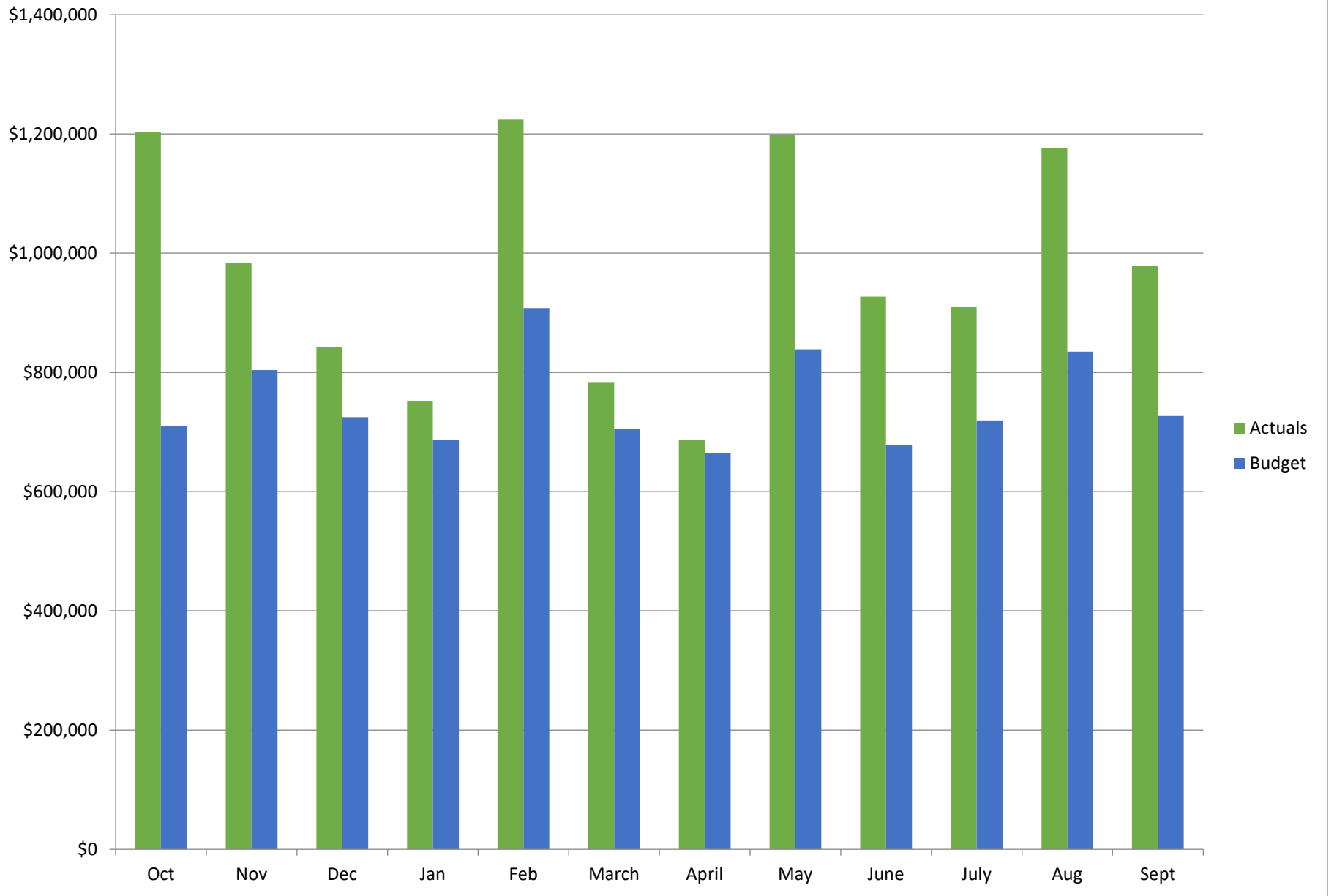
Total Liabilities and Net Position		\$ 47,361,959
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# Sales Tax

### Sales Tax Variance

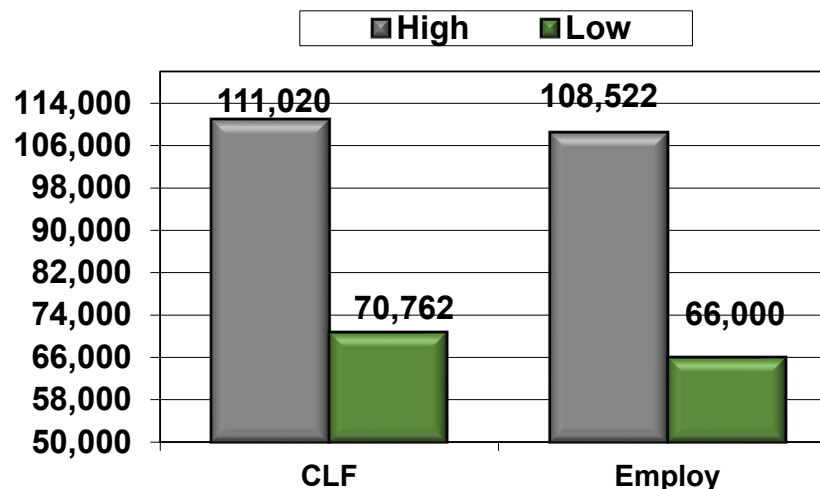
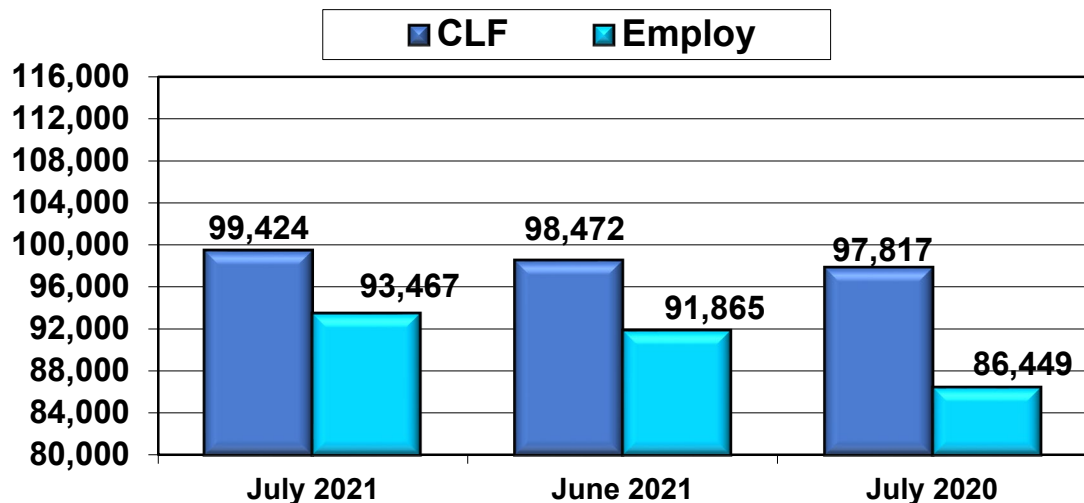
	2018-2019	2019-2020	% Change	2019-2020	2020-2021	% Change	YTD Change
<b>October</b>	\$1,168,778.63	\$1,219,993.44	4.38%	\$1,219,993.44	\$1,203,058.10	-1.39%	-1.39%
<b>November</b>	\$1,315,318.62	\$1,266,357.10	-3.72%	\$1,266,357.10	\$983,259.60	-22.36%	-12.07%
<b>December</b>	\$1,185,882.84	\$1,263,226.93	6.52%	\$1,263,226.93	\$843,087.27	-33.26%	-19.21%
<b>January</b>	\$1,143,749.27	\$1,036,178.70	-9.41%	\$1,036,178.70	\$752,584.05	-27.37%	-20.97%
<b>February</b>	\$1,442,774.27	\$1,279,615.49	-11.31%	\$1,279,615.49	\$1,224,314.99	-4.32%	-17.46%
<b>March</b>	\$1,209,440.03	\$966,824.94	-20.06%	\$966,824.94	\$783,914.25	-18.92%	-17.66%
<b>April</b>	\$1,135,613.41	\$1,006,559.17	-11.36%	\$1,006,559.17	\$687,198.37	-31.73%	-19.42%
<b>May</b>	\$1,381,858.75	\$1,251,139.57	-9.46%	\$1,251,139.57	\$1,198,336.79	-4.22%	-17.38%
<b>June</b>	\$1,175,734.10	\$897,050.21	-23.70%	\$897,050.21	\$927,060.71	3.35%	-15.55%
<b>July</b>	\$1,242,133.20	\$876,285.08	-29.45%	\$876,285.08	\$909,387.44	3.78%	-14.02%
<b>August</b>	\$1,359,171.41	\$1,074,175.26	-20.97%	\$1,074,175.26	\$1,176,070.55	9.49%	-11.94%
<b>September</b>	\$1,315,787.31	\$834,182.16	-36.60%	\$834,182.16	\$978,956.15	17.36%	-10.06%
<b>Annual Total</b>	<b>\$15,076,241.84</b>	<b>\$12,971,588.05</b>	-13.96%	<b>\$12,971,588.05</b>	<b>\$11,667,228.27</b>	-10.06%	-10.06%

## Sales Tax Actuals vs Budget Estimates



# Activity Report

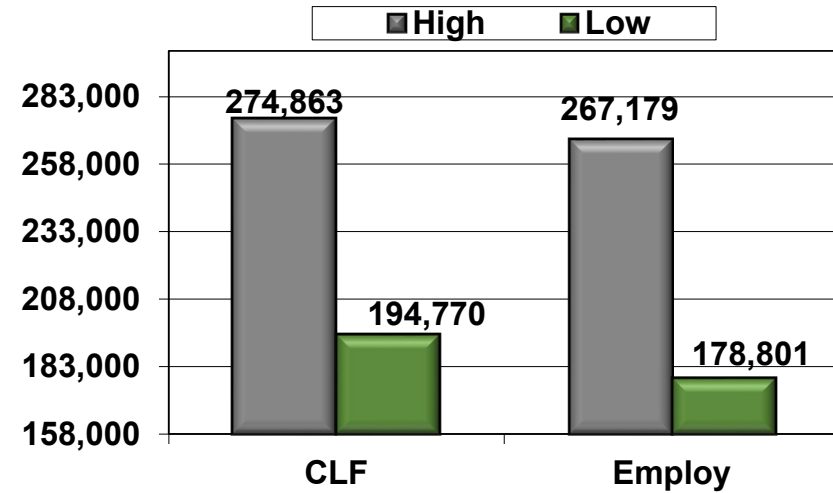
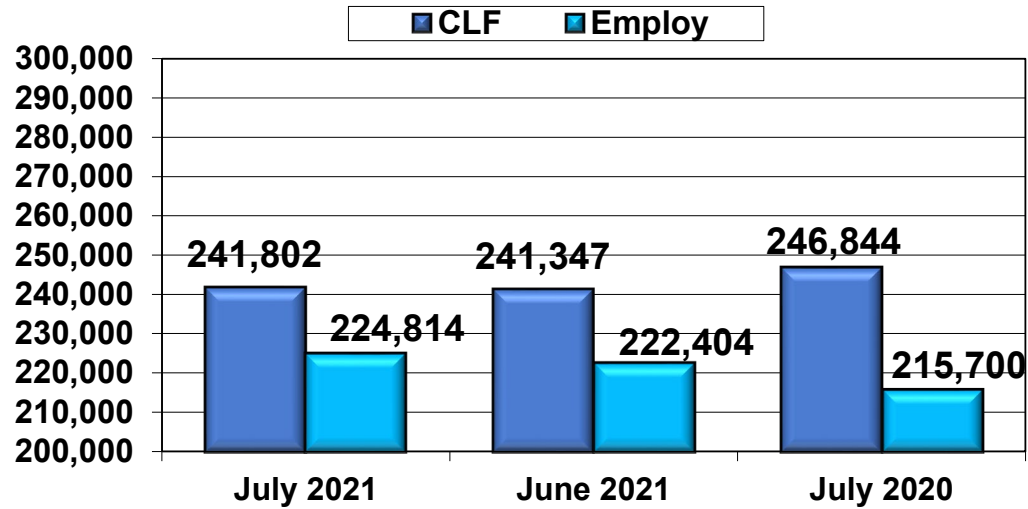
## July 2021 Midland MSA Employment Information



	July 2021	June 2021	July 2020	High	Low
Civilian Labor Force	<b>99,424</b>	98,472	97,817	<b>111,020</b> (Feb 2020)	<b>70,762</b> (Jan 2010)
Employment	<b>93,467</b>	91,865	86,449	<b>108,522</b> (Dec 2019)	<b>66,000</b> (Jan 2010)
Unemployment	<b>5,957</b>	6,607	11,358	11,912 (May 2020)	1,788 (May 2019)
Unemployment Rate	<b>6.0%</b>	6.7%	11.6%	12.3% (May 2020)	1.7% (Apr 2019)



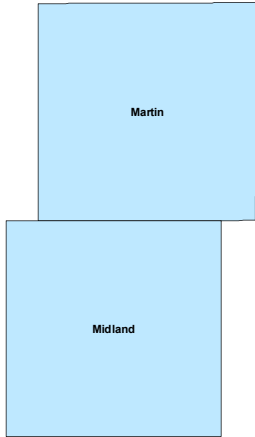
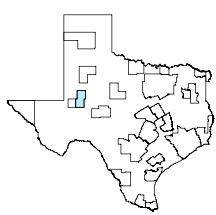
## July 2021 Permian Basin Workforce Development Area Employment Information



	July 2021	June 2021	July 2020	High	Low
Civilian Labor Force	<b>241,802</b>	241,347	246,844	<b>274,863 (Feb 2020)</b>	<b>194,770 (Jan 2010)</b>
Employment	<b>224,814</b>	222,404	215,700	<b>267,179 (Feb 2020)</b>	<b>178,801 (Jan 2010)</b>
Unemployment	<b>16,988</b>	18,943	31,144	32,215 (May 2020)	5,115 (Apr 2019)
Unemployment Rate	<b>7.0%</b>	7.8%	12.6%	13.2% (May 2020)	1.9% (Apr 2019)

## Midland MSA

July 2021



MSA Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	99,424	98,472	97,817	1,607
Employed	93,467	91,865	86,449	7,018
Unemployed	5,957	6,607	11,368	-5,411
Unemployment Rate	6.0%	6.7%	11.6%	-5.6%

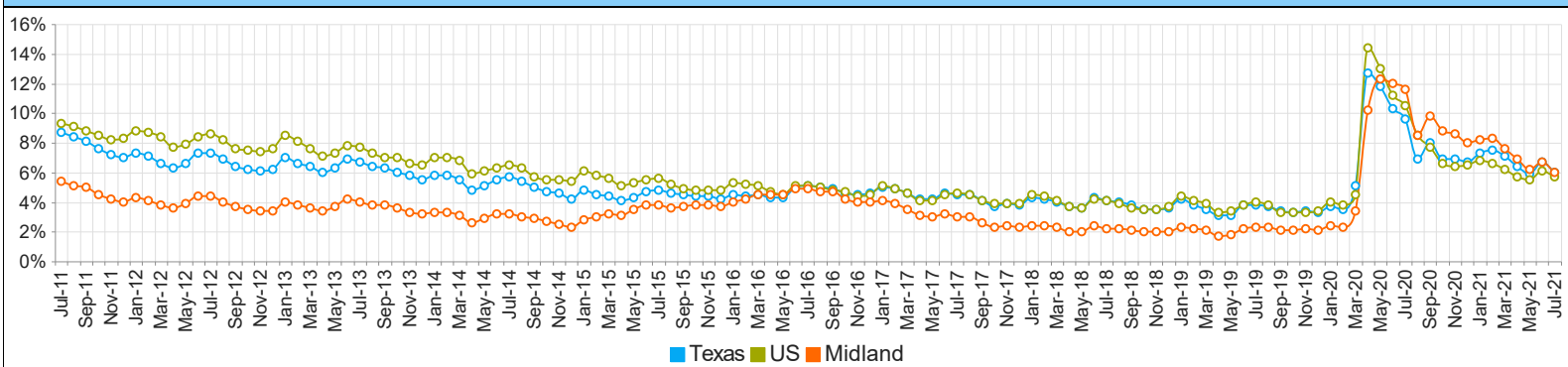
  

Texas Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	14,192,398	14,126,847	14,010,729	181,669
Employed	13,340,757	13,186,927	12,661,727	679,030
Unemployed	851,641	939,920	1,349,002	-497,361
Unemployment Rate	6.0%	6.7%	9.6%	-3.6%

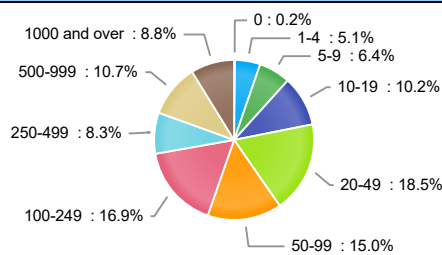
  

US Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	162,817,000	162,167,000	161,374,000	1,443,000
Employed	153,596,000	152,283,000	144,492,000	9,104,000
Unemployed	9,221,000	9,883,000	16,882,000	-7,661,000
Unemployment Rate	5.7%	6.1%	10.5%	-4.8%

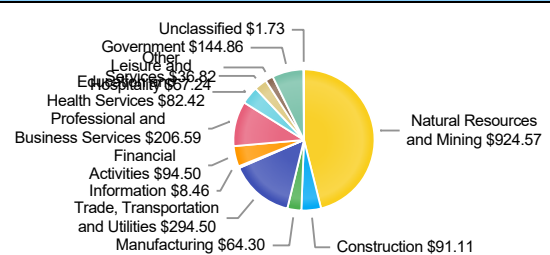
### Historical Unemployment Rates



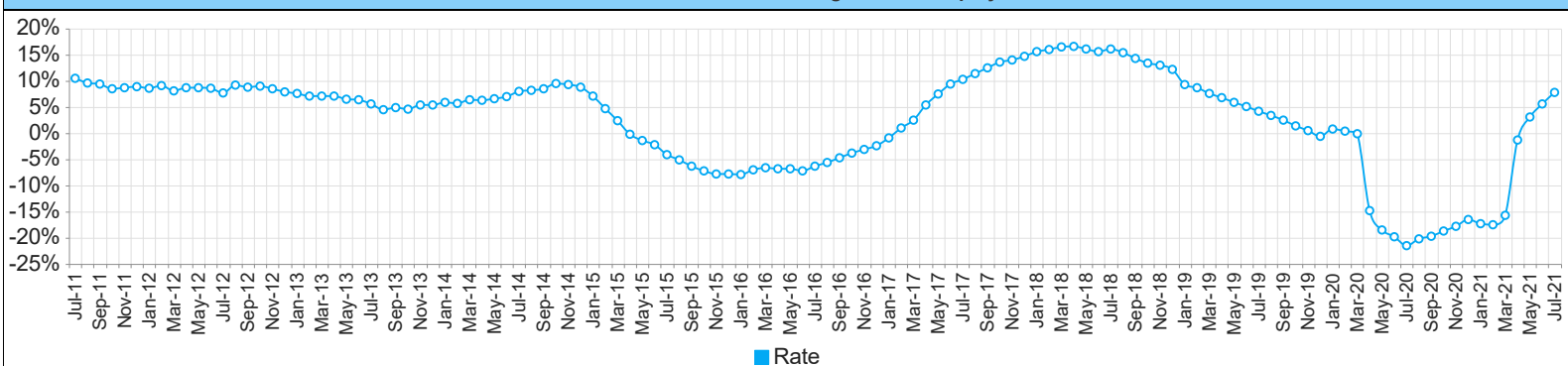
### Employment by Size Class (1st Quarter 2021)



### Wages by Industry (in millions) (1st Quarter 2021)



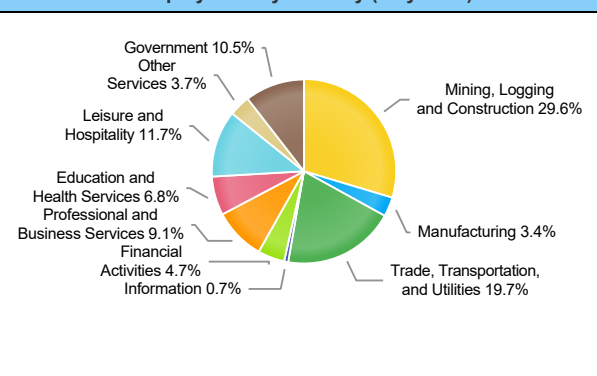
### Annual Growth Rate Total Non-agricultural employment



### Employment by Industry (July 2021)

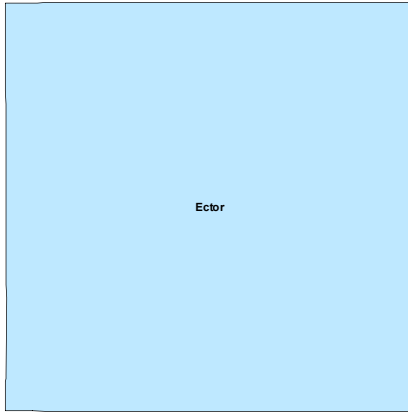
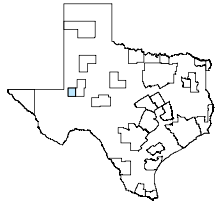
Industry	Current Month Employment	% Monthly Change	% Yearly Change
Total Nonfarm	97,300	0.4%	7.8%
Mining, Logging and Construction	28,800	0.3%	12.5%
Manufacturing	3,300	3.1%	3.1%
Trade, Transportation, and Utilities	19,200	-2.0%	3.2%
Information	700	0.0%	0.0%
Financial Activities	4,600	0.0%	4.5%
Professional and Business Services	8,900	1.1%	-1.1%
Education and Health Services	6,600	1.5%	1.5%
Leisure and Hospitality	11,400	1.8%	21.3%
Other Services	3,600	2.9%	2.9%
Government	10,200	1.0%	8.5%

### Employment by Industry (July 2021)



## Odessa MSA

July 2021



MSA Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	78,405	78,555	81,848	-3,443
Employed	71,588	70,947	69,164	2,424
Unemployed	6,817	7,608	12,684	-5,867
Unemployment Rate	8.7%	9.7%	15.5%	-6.8%

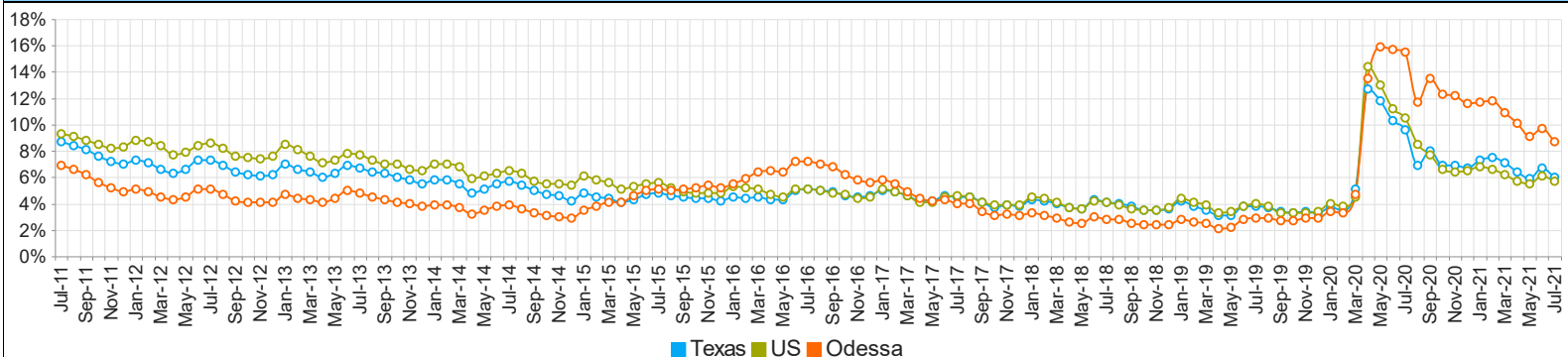
  

Texas Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	14,192,398	14,126,847	14,010,729	181,669
Employed	13,340,757	13,186,927	12,661,727	679,030
Unemployed	851,641	939,920	1,349,002	-497,361
Unemployment Rate	6.0%	6.7%	9.6%	-3.6%

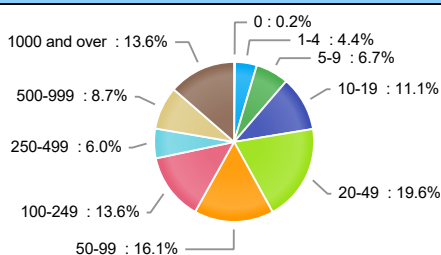
  

US Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	162,817,000	162,167,000	161,374,000	1,443,000
Employed	153,596,000	152,283,000	144,492,000	9,104,000
Unemployed	9,221,000	9,883,000	16,882,000	-7,661,000
Unemployment Rate	5.7%	6.1%	10.5%	-4.8%

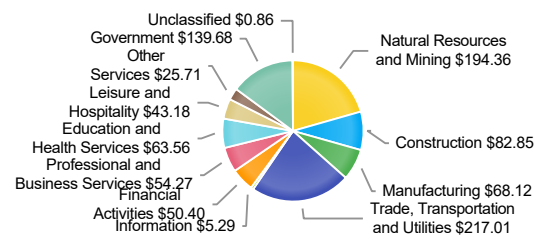
### Historical Unemployment Rates



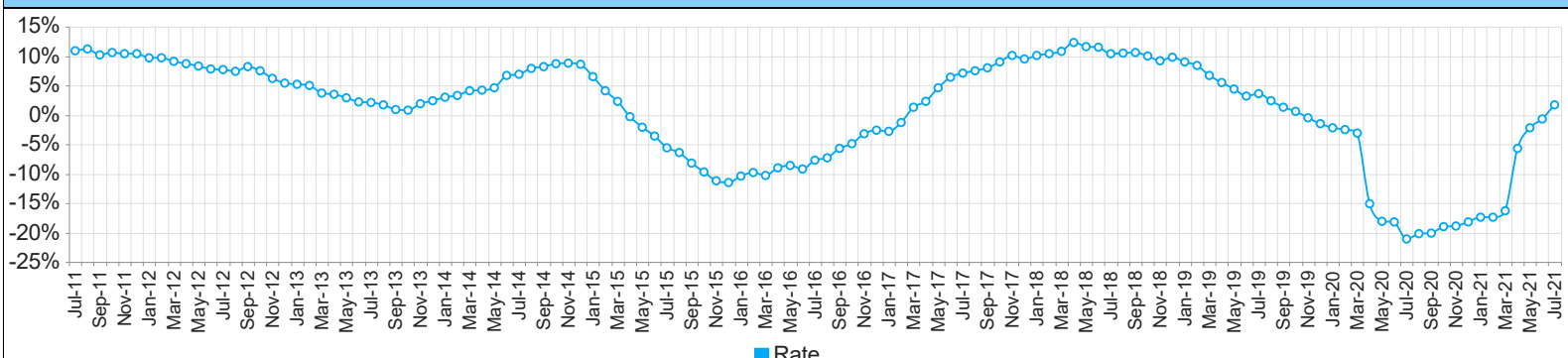
### Employment by Size Class (1st Quarter 2021)



### Wages by Industry (in millions) (1st Quarter 2021)



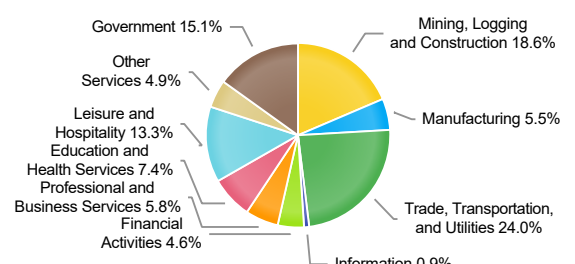
### Annual Growth Rate Total Non-agricultural employment



### Employment by Industry (July 2021)

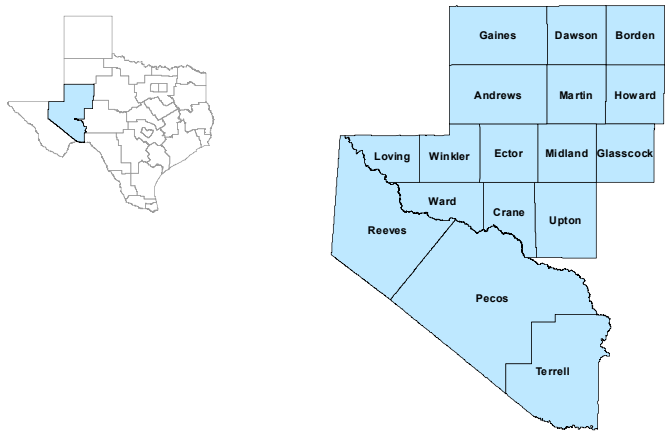
Industry	Current Month Employment	% Monthly Change	% Yearly Change
Total Nonfarm	67,600	-1.0%	1.7%
Mining, Logging and Construction	12,600	0.0%	-5.3%
Manufacturing	3,700	0.0%	-2.6%
Trade, Transportation, and Utilities	16,200	-1.8%	0.0%
Information	600	0.0%	20.0%
Financial Activities	3,100	3.3%	3.3%
Professional and Business Services	3,900	0.0%	2.6%
Education and Health Services	5,000	0.0%	0.0%
Leisure and Hospitality	9,000	1.1%	13.9%
Other Services	3,300	0.0%	3.1%
Government	10,200	-5.6%	4.1%

### Employment by Industry (July 2021)



## Permian Basin Workforce Development Area

July 2021



WDA Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	241,802	241,347	246,844	-5,042
Employed	224,814	222,404	215,700	9,114
Unemployed	16,988	18,943	31,144	-14,156
Unemployment Rate	7.0%	7.8%	12.6%	-5.6%

Texas Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	14,192,398	14,126,847	14,010,729	181,669
Employed	13,340,757	13,186,927	12,661,727	679,030
Unemployed	851,641	939,920	1,349,002	-497,361
Unemployment Rate	6.0%	6.7%	9.6%	-3.6%

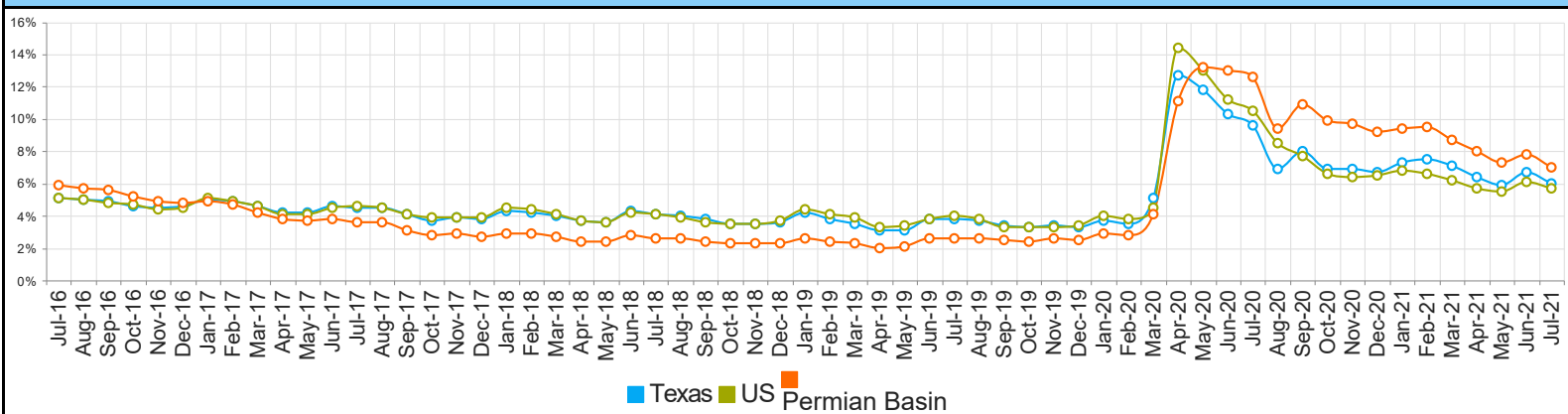
  

US Labor Force Statistics				
	Jul-21	Jun-21	Jul-20	Yearly Change
Civilian Labor Force	162,817,000	162,167,000	161,374,000	1,443,000
Employed	153,596,000	152,283,000	144,492,000	9,104,000
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Unemployment Rate	5.7%	6.1%	10.5%	-4.8%

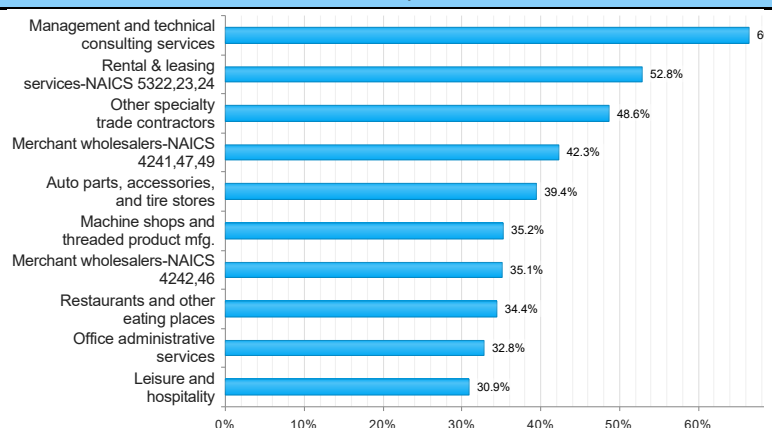
  

Continued Claims for the Week of the 12th				
	Jul-21	Jun-21	Jul-20	Yearly Change
WDA	1,985	2,084	25,027	-23,042
Texas	134,829	137,658	954,004	-819,175

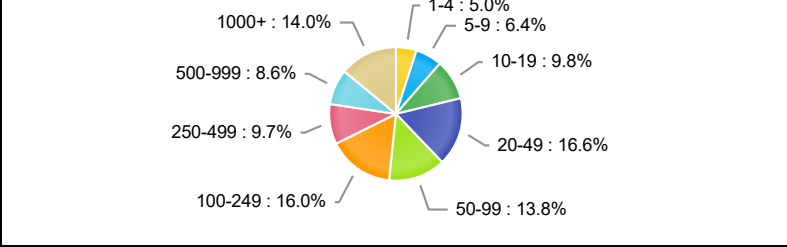
## Historical Unemployment Rates



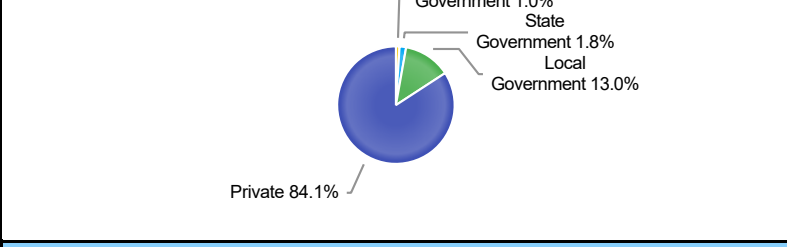
## Projected Top Ten Fastest Growing Industries in WDA (% Growth 2018-2028)



## Employment by Size Class (1st Quarter 2021)



## Employment by Ownership (1st Quarter 2021)



Average Weekly Wage (1st Quarter 2021)					
	Q1 2021	Q4 2020	Q1 2020	Quarterly Change	Yearly Change
WDA	\$1,335	\$1,354	\$1,387	-\$19	-\$52
Texas	\$1,261	\$1,294	\$1,231	-\$33	\$30
US	\$1,289	\$1,339	\$1,221	-\$50	\$68

## Employment by Industry (1st Quarter 2021, Percent Change)

Industry	Employment	% of Total	% Quarterly Change	% Yearly Change
Natural Resources and Mining	40,366	18.9%	3.4%	-27.2%
Construction	15,680	7.3%	0.2%	-25.1%
Manufacturing	8,684	4.1%	4.9%	-19.0%
Trade, Transportation and Utilities	47,029	22.0%	-0.9%	-11.4%
Information	1,481	0.7%	-7.1%	-33.0%
Financial Activities	9,468	4.4%	3.5%	-11.0%
Professional and Business Services	15,836	7.4%	5.5%	-10.5%
Education and Health Services	38,660	18.1%	1.3%	-1.0%
Leisure and Hospitality	22,566	10.6%	-1.3%	-9.0%
Other Services	6,238	2.9%	0.2%	-12.2%
Public Administration	7,407	3.5%	-0.8%	-0.8%

## Employment by Industry (1st Quarter 2021)

