

THE STATE OF TEXAS §

COUNTY OF TARRANT §

**PARKING LOT AGREEMENT**

This Parking Lot Agreement (the “Agreement”) is made this \_\_\_\_\_ day of September, 2023 by and between The City of Mansfield, Texas, a home rule municipality (“City”) and Open Range Properties, LLC, a Texas limited liability company (“Open Range”).

WHEREAS, Open Range owns real property located at 208 E. Broad St., Mansfield, Texas 76063, as substantially shown by the red outline on Exhibit “A”, attached hereto and incorporated herein for all legal purposes; and

WHEREAS, the above referenced real property owned by Open Range includes approximately sixty (60) parking spaces and the necessary ingress and egress thereto; and

WHEREAS, as part of the redevelopment effort of downtown Mansfield, the City wishes to increase the number of public parking spaces available in the area near the intersection of South Main and Broad Street in the City of Mansfield; and

WHEREAS, the City and Open Range have determined that it would be to their mutual benefit to enter this Parking Lot Agreement through which Open Range would lease portions of their property to the City to be used as public parking in return for the agreements made by the City herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Open Range agree as follows:

**ARTICLE I  
LEASE OF PROPERTY**

A. **Leased Premises.** Open Range hereby demises to the City and the City leases from Open Range the approximately sixty (60) parking spaces together with the necessary ingress and egress thereto, located on Open Range’s property located at 208 E. Broad St., Mansfield, Texas, 76063 (hereinafter the “Leased Premises”), under the terms and conditions contained in this Parking Lot Agreement. Under the terms and conditions of this Agreement, the spaces will be used solely for parking open to the general public.

B. **Quiet Enjoyment.** Open Range warrants that, during the term of this Agreement, so long as the City is not in default hereunder, the City shall have the quiet enjoyment of the Leased Premises and the uninterrupted right of use and possession thereof in accordance with the terms and conditions of this Agreement.

C. **Use of Leased Premises.** Open Range will allow public parking on the Leased Premises at all times, except for ten (10) of the spaces on the Leased Premises, as shown by the blue outline on Exhibit “A”, during the following periods of Open Range’s exclusive use:

1. Mondays thru Fridays from 4:30 p.m. – 9:00 p.m.; and

2. Saturdays from 9:30 a.m. – 12:30 p.m.

## **ARTICLE II OBLIGATIONS OF CITY**

- A. **Annual Fee.** City will pay Open Range an annual fee of Fourteen Thousand Three Hundred and no/100 (\$14,300.00), beginning thirty days after Open Range completes its obligations under Article III.A., and on the anniversary of that date in subsequent years throughout the term of this Agreement.
- B. **Free Parking.** The use of the Leased Premises is for free public parking only. City will not charge any fee to any person for parking on the Leased Premises.

## **ARTICLE III OBLIGATIONS OF OPEN RANGE**

- A. **Maintenance.** Open Range will undertake the maintenance as described on “Exhibit B”, attached hereto and incorporated herein for all legal purposes, by the vendor shown on Exhibit “B” or another vendor approved by City, no later than December 31, 2023. Open Range will be solely responsible for the maintenance described on Exhibit “B” and any and all future maintenance of the entire asphalt surface or partial repairs. The Leased Premises shall not be allowed to deteriorate to such a condition that it becomes a safety hazard.
- B. **Brush Clearing.** Open Range will undertake, only once at the onset of this Agreement, to clear out all the brush on the west side of the property line as shown in yellow on Exhibit “A”, no later than October 31, 2023 to the City’s satisfaction, which shall not be unreasonable.
- C. **Signage.** Open Range will erect signage to indicate the times the Leased premises is limited to Open Range’s exclusive use as noted above in Art. I.C. Such signage shall provide the public with sufficient notice of times and enforcement of exclusivity of parking.

## **ARTICLE IV TERM**

- A. **Term.** The term of this Agreement will be for a period of five (5) years commencing on the 15th day of September, 2023 and terminating on the 31st day of August, 2028. This Agreement is subject to renewal upon written approval by both parties at the same terms stated herein. Open Range understands ultimate approval for any renewals by the City lies with the City Council.
- B. **Early Termination.**
  1. Either Party may terminate this Agreement upon ninety (90) days written notice to the other of such intent to terminate.
  2. Upon such termination by either Party, Open Range will refund a prorated portion of the annual fee to City for the unused months of the year remaining after termination is effective.
- C. **Termination for Cause.** If at any time during the term of this Agreement, either Party shall fail to perform any of its obligations under this Agreement, then the non-defaulting Party shall have the right, if the defaulting Party shall not cure any such default after thirty (30)

days written notice thereof, to terminate this Agreement. Any such act by either Party shall not be deemed a waiver of any other right or remedy of that Party.

D. **Non-appropriation of Funds.** City, a political subdivision of the State of Texas, operates on a fiscal year October 1 through September 30. In the event sufficient funds shall not be appropriated for the payment of the annual fee required to be paid in the next occurring fiscal year, then City shall not be obligated to make payment of the annual fee provided for in this Agreement beyond the then current fiscal year. City agrees to deliver proof of non-appropriation and notice to Open Range of such termination at least thirty (30) days prior to the end of the then current fiscal year. However, failure to deliver such proof of non-appropriation and notice to Open Range shall not extend the term of this Agreement beyond the end of the then current fiscal year.

## **ARTICLE V INSURANCE**

A. **Insurance.** As a condition to the validity of this Agreement, the City shall procure and maintain in full force and effect, a policy or policies of insurance with the following coverage: Commercial General Liability insurance policy with \$1,000,000 combined single limit coverage for bodily injury, death and property damages on the parking lot, buildings and landscaping. Such coverage is and will be provided through the City's participation in the Texas Municipal League Joint Self Insurance Fund and the Texas Municipal League Intergovernmental Risk Pool.

The City will maintain said coverage and the City will provide a certificate or other evidence to show that such coverage has been procured and is being maintained upon request.

B. **Indemnification.** To the extent permitted by law, the City agrees to indemnify and hold Open Range harmless from any liability for property damages, or personal injuries occurring on the parking lot during the term of this Agreement, provided however, that such indemnity shall not apply to liability caused by the sole negligence or willful misconduct of Open Range, or their agents, servants or employees, or third parties. Nothing herein shall be construed to waive any governmental immunities available to the City.

## **ARTICLE VI NATURE OF RELATIONSHIP**

The City and Open Range agree that the nature of the relationship between them is one of landlords and tenant, and no other. Nothing contained in this Agreement shall be deemed or construed to create the relationship of principal and agent or that of partnership or of joint venture or of any association between the City and Open Range, and any intention to create a joint venture or partnership relationship between the Parties hereto is hereby expressly disclaimed. No provision contained in this Agreement, nor any acts of the Parties hereto shall be deemed to create any relationship between City and Open Range other than the relationship of landlords and tenant. City shall maintain exclusive control, direction and management of its employees, and Open Range shall have no rights with respect thereto.

**ARTICLE VII**  
**ASSIGNMENT OR SUBLETTING**

The City may not assign or sublet the Leased Premises or any portion thereof, nor may the City assign, transfer or delegate to any person City's rights or duties with respect to such property.

**ARTICLE VIII**  
**GENERAL PROVISIONS**

**A. Notices.** All notices required herein shall be sent to the respective Parties by certified mail, return receipt requested, at the following addresses:

To the City:                      City of Mansfield  
   Attn: City Manager  
   1200 E. Broad St.  
   Mansfield, Texas 76063

To Open Range:                Open Range Properties, LLC  
   2080 Cannon Dr.  
   Mansfield, Texas 76063

**B. Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors.

**C. Venue.** This Agreement is subject to and is to be construed, governed, and enforced under all applicable State of Texas and Federal laws. Situs of this Agreement is agreed to be Tarrant County, Texas, for all purposes, including performance and execution; and if legal action is necessary to enforce this Contract, exclusive venue will lie in Tarrant County, Texas.

**D. Third Party Beneficiaries.** The Parties do not intend to confer any right or remedy on any third party under this Agreement.

**E. Partial Invalidity.** If any 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 provision herein, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**F. Entire Agreement.** This instrument contains the entire agreement between the Parties relating to the subject matter herein. There are no other verbal or written understandings, promises, agreements, or representations relating to the subject matter of this Agreement which have not been included herein, and this Agreement supersedes any and all other agreements, either oral or written, between the Parties hereto with respect to the subject matter herein.

**G. Amendment.** This Agreement may not be altered, waived or otherwise modified, except where done in writing, and signed by both Parties.

**EXECUTED** this the \_\_\_\_\_ day of September, 2023, by the duly authorized representatives of City and Open Range.

“City”  
City of Mansfield

By: \_\_\_\_\_  
Joe Smolinski, City Manager

ATTEST:

\_\_\_\_\_  
Susana Marin, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Vanessa Ramirez, Assistant City Manager

“Open Range”  
Open Range Properties, LLC

By: \_\_\_\_\_  
Keziah Ferrar, Managing Member

By: \_\_\_\_\_  
Shane Ferrar, Managing Member

**CITY OF MANSFIELD**

**STATE OF TEXAS           §**

**COUNTY OF TARRANT §**

This instrument was acknowledged before me on the \_\_\_\_\_ day of September, 2023, by Joe Smolinski, City Manager of the City of Mansfield.

\_\_\_\_\_  
Notary Public in and for the State of Texas

**OPEN RANGE PROPERTIES, LLC**

**STATE OF TEXAS           §**

**COUNTY OF TARRANT §**

This instrument was acknowledged before me on the \_\_\_\_\_ day of September, 2023, by Keziah Ferrar and Shane Ferrar, Managing Members of Open Range Properties, LLC.

\_\_\_\_\_  
Notary Public in and for the State of Texas



Exhibit "A"





4819 El Campo Ave  
Fort Worth TX 76107



Ph: 817-962-8259  
precisionpavingtx.com

Proposal for:  
Rock Sheep Property Mgmt.  
Attn: Shane Farrar

Job Address:  
208 E Broad St  
Mansfield TX

*We propose hereby to furnish material and labor with specifications listed below. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications listed below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.*

**Scope of Work:**

**Asphalt Patching**

**1414 Sqft. Surface Patching**

Saw cut areas for patching and remove 2 inches of asphalt to base layer is exposed. Compact base. Tack area with ss-1 hot tack oil prior to asphalt application. Patch potholes in 5 areas in drive lanes and parking area. Patch areas with type D hot mix surface asphalt. Rake and level asphalt then roll and finish. Compact with 3 to 4 ton asphalt roller.

**Asphalt overlay 8634 Sqft**

Clean parking lot of all excess debris with Laymore Power broom, industrial blower and wire brooms, remove debris from site. Tack area with SS-1 hot tack oil prior to asphalt application. Install 2 inch of type D HMAC asphalt with paver. Compact with 4 -6 ton asphalt roller in both directions to achieve maximum compaction. Restriping all parking spaces, drive lanes, fire lanes and handicap spaces/zones and grids with heavy duty DOT approved traffic paint. 2 Year warranty on overlay work. See attached picture. Overlay in green area.)

**Seal Coating & Striping**

12350 Sqft.

Clean parking lot of all excess debris with industrial walk behind blowers, Laymore power brooms, and wire brooms, remove parking lot debris from site.

Apply 1 heavy coat of Gem Seal Coal Tar Emulsion asphalt sealer with silica sand and Tarmaxx additive at a flow rate of 60 sq. ft. per gallon. Tarmaxx is a sealer additive that increases drying time, is resistance to scuffing and power steering marks, improves aggregate bonding, and deeper-blacker color. Silica sand ratio is 3 lbs per gallon of sealer. Sealer concentrate is mixed at a 70/30 ratio.

Allow a minimum of 12hrs to dry and cure before restriping all parking spaces, drive lanes, fire lanes and handicap spaces/zones and grids with heavy duty DOT approved traffic paint. Stripe parking lot to existing layout.



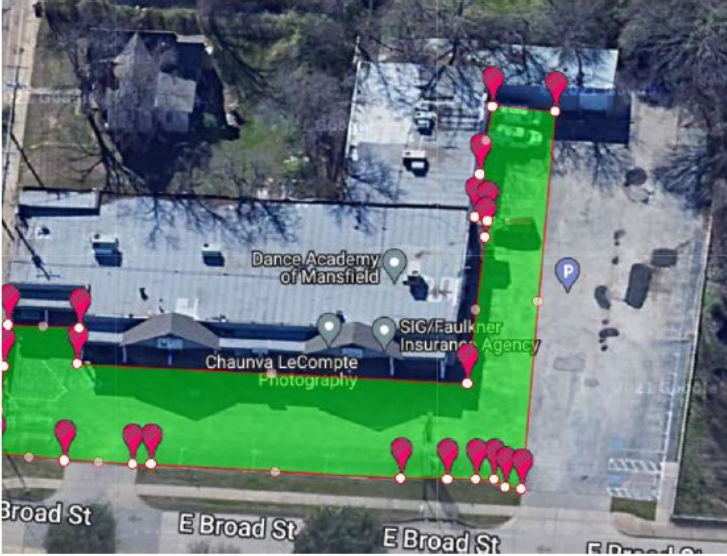
**Project Totals**

ASPHALT OVERLAY	\$ 17,266.00
ASPHALT SEAL COAT	\$ 3,211.00
ASPHALT PATCHING	\$ 2,828.00
ASPHALT DEMO	\$ 2,121.00
STRIPING LOT	\$ Included
<b>PROJECT TOTAL</b>	<b>\$ 25,456.00</b>

**Overlay Area**



**Seal Coating Area**



**Patching areas**



**Terms & Scheduling**

Project will take 3 to 4 days to complete. Payment due upon completion. Bid is valid for 40 days. Make checks payable to Precision Paving. NOTE: Owner, owners, and Representatives are responsible for having work area cleared by 8 AM on workdays.

**AAC Authorized Signature:** Calvin P. Shelby **Date** 6/27/2023

*By signing this contract, you certify that you are an authorized representative and have the authority to enter in this contract. The acceptance of this proposed contract, the above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. Precision Paving is not responsible for damage to underground utility services, pipes and wires within 18 inches of pavement surface and/or costs associated with repair/replacement of such. Disputes and/or claims resolved through Tarrant County. Accounts 30 days passed due are subject to 18% APR.*

**Signature of Acceptance:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Printed Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_